LBNL-PUB-201-2010

Regulations and Procedures Manual (RPM)

September 30, 2010

RPM
Regulations and Procedures Manual

Approved by:

James T. Krupnick

Associate Laboratory Director for Operations

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Lawrence Berkeley National Laboratory / University of California

PUB-201

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RPM

Regulations and Procedures Manual

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Foreword

The purpose of the Regulations and Procedures Manual (RPM) is to provide Laboratory personnel with a reference to University and Lawrence Berkeley National Laboratory policies and regulations by outlining the normal practices and answering most policy questions that arise in the day-to-day operations of Laboratory departments. Much of the information in this manual has been condensed from detail provided in Laboratory procedure manuals, Department of Energy (DOE) directives, and Contract DE-AC02-05CH11231. This manual is not intended, however, to replace any of those documents.

The sections on personnel apply only to employees who are not represented by unions. Personnel policies pertaining to employees represented by unions may be found in their labor agreements.

Questions concerning policy interpretation should be directed to the department responsible for the particular policy. A link to the Managers Responsible for RPM Sections is available on the RPM home page. If it is not clear which department should be called, please contact the Associate Laboratory Director of Operations.

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Definition of Terms in the RPM

Rev. 10/09

In using the Regulations and Procedures Manual, the user should interpret the following terms as indicated below:

1. *University*. The University of California, represented by The Regents of the University of California and/or the University officers.
2. *DOE or Contracting Officer*. The United States Department of Energy (DOE), represented by the Manager of the Office of Science Berkeley Site Office or his/her or her designated alternates.
3. *Lawrence Berkeley National Laboratory, Berkeley Lab, or the Laboratory*. These terms are used interchangeably, and all mean Lawrence Berkeley National Laboratory of the University of California.
4. *DOE/LBNL Contract*.The contract between the Regents of the University of California and DOE for operating Berkeley Lab is Contract No. DE-AC02-05CH11231. The term "the DOE/LBNL Contract" refers to this contract.
5. *Employee and Guest Categories*. Throughout the RPM, references are made to various types of individuals, primarily in terms of personnel matters, site access, pay, and travel. Generally, these individuals are either employees or guests. The following lists consolidate the various definitions and cite the sections containing each definition:

Employment-Related Terms

Confidential Employees. Employees who hold positions requiring access to confidential information used for meeting and conferring. See RPM §2.19(B)(2) (*Definitions*).

Exempt Employees. Exempt employees are defined as employees who, based on duties performed and manner of compensation, shall be exempt from the Fair Labor Standards Act (FLSA) minimum wage and overtime provisions. Because of hourly pay practices, an employee appointed to work a variable-time schedule in an exempt title shall be treated as a non-exempt employee subject to FLSA minimum wage and overtime provisions.

Exempt employees shall be paid an established monthly or annual salary and are expected to fulfill the duties of their positions regardless of hours worked. Exempt employees are not eligible to receive overtime compensation or compensatory time off, and are not required to adhere to strict time, record keeping, and attendance rules for pay purposes. Exempt titles are identified in University-wide title and pay plans.

Managers. Employees responsible for formulating or administering policies and programs of the Laboratory. See RPM §2.19(B)(1) (*Definitions*).

Non-exempt Employees. Non-exempt employees are defined as employees who, based on duties

performed and manner of compensation, shall be subject to all FLSA provisions. Because of hourly pay practices, an employee appointed to work a variable time schedule in an exempt job classification shall be treated as a non-exempt employee subject to FLSA minimum wage and overtime provisions.

Non-exempt employees shall be required to account for time worked on an hourly and fractional hourly basis and are to be compensated for qualified overtime hours at the premium (time-and-one-half) rate. Non-exempt titles are identified in title and pay plans.

Represented Employees. Employees in classifications represented by an agreement negotiated with a union and not excluded as managerial, supervisory, or confidential employees (see respective labor agreements for terms and conditions of employment).

Supervisory Employees. Individuals, regardless of job description or title, who directly supervise two or more employees and who have (1) authority in the interest of the employer to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees or (2) responsibility to direct them, adjust their grievances, or effectively recommend such action if, in connection with the foregoing, the exercise of such authority is not of a merely routine or clerical nature but requires the use of independent judgment. See RPM §2.19(B)(3) (*Definitions*).

Guests

Casual Visitors. Individuals visiting the Laboratory for one week or less who are not engaged in Laboratory research or use of Laboratory facilities. See RPM §1.06(A)(2) (*Casual Visitors*). Included in this category are those who are giving or attending seminars, those who are visiting the Laboratory for limited scientific discussions or as nonparticipants solely to observe research in progress, radiotherapy patients, job seekers, tour groups, employee family/friends, retired employees with occasional reason to visit the site, and the press.

Interviewees. Job applicants visiting the Laboratory for the purpose of a personal interview as part of the selection process for employment. See RPM §11.08(N)(1) (Non-Laboratory Personnel/Interviewees).

Invited Guests. Individuals invited to attend a meeting, present a lecture, or conduct a seminar at the Laboratory who will receive an honorarium or payment for travel expenses. See the Financial Policies and Procedures Manual for specific information on Honoraria and Non-Employee Stipends.

Participating Guests. Non-Laboratory employees who are engaged on site in Laboratory activities and who fall into one or more of the following categories:

1. **Users.** Individuals visiting the Laboratory to use Laboratory User Facilities, defined as "designated user facilities" or "other user resources" by DOE's Office of Science.

2. **NERSC Users.** Individuals using National Energy Research Scientific Computing Center (NERSC) facilities either remotely or while visiting the Laboratory.

3. **Scientific Collaborators.** Individuals visiting the Laboratory who are engaged in Laboratory-approved research, testing, or analysis either through "hands-on" activities or collaborative discussions with Laboratory employees. Included in this category are faculty and students from

other University of California facilities and other educational institutions, fellowship students, postdoctoral fellows, research fellows, and other professionals having adequate training and experience and meeting high professional standards in their fields.

4. **Student Guests.** Individuals who are students attending an accredited high school, college, or university and are under the direct supervision of a host division.

5. **Nonscientific.** Individuals who have been assigned to Berkeley Lab as their place of work either as employees of temporary employment services/agencies or as contract labor employees.

6. **Consultants.** Individuals who have entered into a consultant agreement with Berkeley Lab under the terms of RPM §11.04 (*Consultants to Lawrence Berkeley National Laboratory*).

7. **Guest Researchers**. Research personnel and students in cooperative work programs, including foreign nationals, invited to participate in a Laboratory project as nonemployees. See RPM §1.06(A)(3) (*Participating Visitors*).

RPM Changes

DISCLAIMER: The CSO/RPM staff does not create or interpret policy for the RPM. Responsible Managers initiate all changes, except when an annual "snapshot" edit is being performed by CSO to look for errors in the existing RPM content.

The following terms and definitions are useful for LBNL managers who are responsible for the policies contained in the RPM:

1. **Responsible Manager.** LBNL employees who are responsible for formulating and administering policies of the Laboratory, and ensuring that the RPM sections describing these policies are accurate and up to date.

2. **CSO/RPM Editor.** The writer and editor from the Creative Services Office who, at the request and approval of responsible managers and Operations, is responsible for updating RPM sections, archiving changes to the RPM Web document, reviewing the RPM during the annual Snapshot, and editing quarterly Policy and Procedure memos for publication in *Today at Berkeley Lab*.

3. **CSO/RPM Managing Editor.** Coordinates the policy manual with responsible managers to maintain policies that are current, and to make sure the Lab has an up-to-date manual, at any time. Generates RPM status reports on request. Works with RPM Editor to refine and monitor RPM processes.

4. **Major Change.** Major changes affect Laboratory policies, and therefore require the Associate Laboratory Director of Operations' approval before they are sent to the CSO/RPM Editor for publication in the RPM.

   The following are examples of major changes:

   - The addition of a new RPM chapter (e.g., Chapter 11) or section (e.g., Section 2.28) to

implement a new policy or policy revisions. The new policy or policy revisions may impact other policies cited in the RPM or other Laboratory policy manuals (e.g., The Health and Safety Manual (PUB-3000), the Financial Policies and Procedures Manual, etc.).

- The removal of an RPM chapter, section, or policies and procedures described in an RPM chapter or section to another RPM chapter or section, or to another LBNL institutional document, e.g., The Health and Safety Manual (PUB-3000), the Finance Policies and Procedures Manual, etc.

- The deletion of an RPM chapter or section.

- The revision of an existing chapter or section to implement a new policy or policy revisions. The new policy or policy revisions may impact other policies cited in the RPM or other Laboratory policy manuals (e.g., The Health and Safety Manual (PUB-3000), the Financial Policies and Procedures Manual, etc.).

5. **Major Change Requiring a 30-Day Notice.** Major changes that involve HR policy and have an affect on employment terms need to be announced in *Today at Berkeley Lab (TABL)*. Employees are given 30 calendar days from the date the notice was published in *TABL* to review the proposed changes, and to send their comments and questions to the HR policy contact person. Major changes that require a 30-day notice also require the Associate Laboratory Director of Operations' approval before they are sent to the CSO/RPM Editor for publication in the RPM.

6. **Minor Change.** Minor changes do not affect policies, and therefore do not require the Associate Laboratory Director of Operations' approval before being sent to the CSO/RPM Editor for publication in the RPM. Minor changes are made to reflect current practices, responsibilities in reporting, department names, etc.

   The following are examples of minor changes:

   - Updates to data, tables, or figures in an RPM chapter, section, or paragraph.

   - The addition or revision of a few sentences or paragraphs to existing RPM chapters, sections, or paragraphs to clarify policy that's already been approved by the Associate Laboratory Director of Operations.

Guide to Using the On-Line RPM

The basic unit of the on-line RPM is the section, e.g., RPM §1.02 (*Administrative Announcements and Directories*). The revision date for each section appears below the title block at the beginning of the section and applies to the entire section. Subsections are called paragraphs.

Printing from the Web

Before you print from your browser, you may have to change the size of the browser window. If the window is too wide, text along the right-hand edge will be cut off. Even the default window width in many browsers will cut off text in printing. If this occurs, narrow the width of the browser window (drag the window's lower right-hand corner to the left) and try again.

You can easily print an entire section of the RPM with your Web browser. To do so, do not specify a page range in the print dialog box. You may also be able to print individual parts of a section by specifying a page range, but be aware: the results will depend on such things as your printer driver and your printer. If your browser will only print entire sections, you can still print a specific part of a section by copying that part into a word-processing file and printing it through your word processor. Here's how:

1. Select the text you want to print by highlighting it. Remember that the revision date for the section occurs only below the title block at the beginning of the section.
2. Copy the selection to the clipboard.
3. Open a new document with a word-processing program.
4. Paste the contents of the clipboard (the text you selected) into the new document.
5. Print the new document.

Searching Web Version of RPM

At the bottom of this page and on the RPM Title Page, the Search the RPM link provides access to a tool that can search the Web version of the RPM for specific strings of characters. Some tips follow:

- Do not use punctuation in the search string.
- Make your search string fewer than 30 characters long.
- Type AND or OR in your search string to look for places where two different strings both occur or where one or the other occurs. Click on the Search the RPM link for directions.
- Type # in your search string to allow variability in that position of the string. For example, if you type "lead#s," the search engine will find strings containing "leads," "leaders," "leadership," and "lead time is." Click on the Search the RPM link for more information.

Changes to Web Version of RPM

The Web version of the RPM is updated frequently. The date of the last revision appears in the window's title bar and below the title block. The following flags are used to show where the latest changes can be found:

Denotes a rewritten or new section

Denotes the beginning of changed text within a section

Denotes the end of changed text within a section

Denotes deleted text

For questions or comments about updating an RPM section or about the RPM Web site, contact the RPM editors in the Creative Services Office:

Julie Chao
E-mail: JHChao@lbl.gov
Berkeley Lab
One Cyclotron Road, Mail Stop 46R0125
Berkeley, CA 94720
Telephone: (510) 486-6491
Fax: (510) 486-5333

Theresa Duque
E-mail: tnduque@lbl.gov
Berkeley Lab
One Cyclotron Road, Mail Stop 46R0125
Berkeley, CA 94720
Telephone: (510) 486-2418
Fax: (510) 486-5333

For technical questions about the World Wide Web or your browser, contact the Help Desk at 510-486-HELP (486-4357) or visit their web site at http://www.lbl.gov/cs/help/.

Procedures for Submitting Changes to Update the RPM

Revised 03/07

Responsible Managers initiate updates when there are (1) changes in applicable laws, regulations, directives, or University of California policies; or (2) changes in Berkeley Lab organizations, operational activities, or business approach. There are three types of changes. Click on the appropriate type to view the procedures for making these changes:

1. Workflow for RPM Major Changes
   Go here to see a definition of a Major Change.

2. Workflow for Human Resources' RPM Major Changes Requiring 30-Day Notice to Lab Employees
   Go here to see a definition of a Major Change Requiring 30-Day Notice.

3. Workflow for Minor Changes
   Go here to see a definition of a Minor Change.

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1. Workflow for RPM Major Changes

Go here to see a definition of a Major Change.

RPM §_____

Responsible Manager/Designee (RM/D)_____

Who	Action	Date	Comments
RM/D	1. Change drafted.		Reason for change:_____ _____ _____
	2. Offices contacted whose policies might be affected by the change:		
	3. Archived electronic approval signature from Associate Laboratory Director of Operations (ALDO).		

	4. Change sent to CSO editor.		
CSO	5. Uploaded Responsible Manager's requested changes to the **RPM Hold** page.		
RM/D	6. Finalized change with CSO editor.		
	7. If required, send TABL blurb announcing policy change to CSO.		
CSO	8. With approval from RM/D, upload edited change to the RPM Web document.		
	9. If required, send edited TABL blurb to TABL editor. Confirm publication date.		
	10. Documented change in the RPM Update Log.		

2. Workflow for Human Resources' RPM Major Changes Requiring 30-Day Notice to Lab Employees

Go here to see a definition of a Major Change Requiring 30-Day Notice.

RPM §_____

Responsible Manager/Designee (RM/D)_____

Who	Action	Date	Comments
RM/D	1. Change drafted.		Reason for change:_____ _____ _____
	2. Offices contacted whose policies might be affected by the change:		

	3. Archived electronic approval signature from Associate Laboratory Director of Operations (ALDO).		
	4. Proposed change sent to CSO editor.		
CSO	5. Uploaded Responsible Manager's requested changes to the **RPM Hold** page.		
RM/D	6. Finalized change with CSO editor.		
	7. Sent TABL blurb announcing proposed policy change to CSO editor.		
CSO	8. Sent edited notice to TABL editor, and confirmed publication date.		
	9. Uploaded change to the **Proposed Policy** page.		
	10. Tracked the beginning and ending date of 30-calendar-day notice, and sent dates to RM/D.		
RM/D	11. Significant changes needed due to employee feedback? Yes/No If yes, ALDO must review and approve new changes.		
	12. Finalized change with CSO editor when 30-calendar-day notice ends.		
	13. Sent TABL blurb announcing new policy to CSO editor.		
CSO	As directed by RM/D when the 30-calendar-day notice ends:		
	14. Uploaded change to the RPM Web		

	document.		
	15. Sent edited TABL announcement to TABL editor. Confirmed publication date.		
	16. Documented change in the RPM Update Log.		

3.Workflow for RPM Minor Changes

Go here to see a definition of a Minor Change.

RPM §_____

Responsible Manager/Designee (RM/D)_____

Who	Action	Date	Comments
RM/D	1. Change drafted.		Reason for change:_____ _____ _____
	2. If necessary, archived documents that show reason for minor change.		
	3. Change sent to CSO editor.		
CSO	4. Uploaded Responsible Manager's requested changes to the **RPM Web document.**		
	5. Documented change in the RPM Update Log.		

Managers Responsible for RPM Sections

Section	Section Title	Position Title	Approver
§1.01	Manuals, Handbooks, and Similar Publications	Chief Information Officer	Rosio Alvarez
§1.02	Administrative Announcements and Directories [section deleted 09/07]	Chief Information Officer	Rosio Alvarez
§1.03	Plant Construction, Maintenance, and Service	Facilities Division Director	Jennifer Ridgeway
§1.04	Operation and Parking of Motor Vehicles and Bicycles	Manager, Security & Emergency Operations	Dan Lunsford
§1.05	Use of Official Vehicles	Facilities Division Director	Jennifer Ridgeway
§1.06	Laboratory Site Access	Manager, Security & Emergency Operations	Dan Lunsford
§1.07	Laboratory-Hosted (Funded) Meetings [Moved to §11.01 on 4/12/07]	Operations Manager, Office of the Chief Financial Officer	Anil Moré
§1.08	Laboratory-Hosted (Funded) Conferences [Moved to §11.02 on 4/12/07]	Operations Manager, Office of the Chief Financial Officer	Anil Moré
§1.09	Open Meetings [Section deleted 06/08]	Chief Human Resources Officer	Vera Potapenko
§1.10	Conference Rooms	Facilities Division Director	Jennifer Ridgeway
§1.11	Notary Public Service [Section deleted 03/08]	Chief Human Resources Officer	Vera Potapenko
§1.12	Health Services	Environment, Health, and Safety Division Director	Doug Fleming
§1.13	Food Services	Facilities Division Director	Jennifer

			Ridgeway
§1.14	Credit Unions [Section deleted 03/08]	Chief Human Resources Officer	Vera Potapenko
§1.15	Employee Activities Association [Section deleted 06/08]	Chief Human Resources Officer	Vera Potapenko
§1.16	Campus Facilities [Section deleted 03/08]	Chief Human Resources Officer	Vera Potapenko
§1.17	Archives and Records Management	Chief Information Officer	Rosio Alvarez
§1.18	Solicitation and Acceptance of Gifts	Office of Sponsored Projects and Industry Partnerships Manager	Jeffrey Weiner
§1.19	Use of Laboratory Mail System	Facilities Division Director	Jennifer Ridgeway
§1.20	Space Management	Associate Laboratory Director for Operations	James Krupnick
§1.21	Berkeley Lab Stationery and Logos	Public Affairs Department Head	Jeff Miller
§1.22	Forms Management [section deleted 09/07]	Chief Information Officer	Rosio Alvarez
§1.23	Organizational Membership	Associate Laboratory Director for Operations	James Krupnick
§1.24	Metric Usage	Associate Laboratory Director for Operations	James Krupnick
§1.25	Institutional Committees	Acting Deputy Laboratory Director	Jay Keasling
§1.26	Financial Business [Moved to §11.03 on 4/12/07]	Chief Financial Officer	Jeffrey Fernandez
§1.27	Unified Project Call Process	Facilities Division Director	Jennifer Ridgeway
§2.01	Hiring Policies and Procedures	Chief Human Resources Officer	Vera Potapenko

§2.02	Transfer, Promotion, and Other Changes in Status [Moved to §2.01(C)(1) and §2.06 in 12/08]	Chief Human Resources Officer	Vera Potapenko
§2.03	Employee Evaluations	Chief Human Resources Officer	Vera Potapenko
§2.04	Education and Employee Development	Chief Human Resources Officer	Vera Potapenko
§2.05(A)	Employee Relations/Areas of Responsibility	Chief Human Resources Officer	Vera Potapenko
§2.05(B)	Employee Relations/Early Problem Resolution	Chief Human Resources Officer	Vera Potapenko
§2.05(C)	Employee Relations/Corrective Action and Dismissal	Chief Human Resources Officer	Vera Potapenko
§2.05(D)	Employee Relations/Employee Complaint Resolution	Chief Human Resources Officer	Vera Potapenko
§2.05(E)	Employee Relations/University of California Procedures for Responding to Reports of Sexual Harassment	Chief Human Resources Officer	Vera Potapenko
§2.05(F)	Employee Relations/Violence in the Workplace	Chief Human Resources Officer	Vera Potapenko
§2.05(G)	Employee Relations/Employee Assistance Program	Chief Human Resources Officer	Vera Potapenko
§2.05(H)	Employee Relations/Reasonable Accommodation [Note: This section has been moved to §2.01(B)(4).]	Chief Human Resources Officer	Vera Potapenko
§2.05(I)	Employee Relations/Integrity in Research	Research and Institutional Integrity Manager	Meredith Montgomery
§2.05(J)	Employee Relations/Reporting and Investigating Allegations of Suspected Improper Governmental Activities (Whistleblower Policy)	Research and Institutional Integrity Manager	Meredith Montgomery
§2.05(K)	Employee Relations/Protection of Whistleblowers from Retaliation and Guidelines for Reviewing Retaliation Complaints (Whistleblower Protection Policy)	Research and Institutional Integrity Manager	Meredith Montgomery
§2.05(L)	Employee Relations/Unauthorized Absences and Job Abandonment	Chief Human Resources Officer	Vera Potapenko
§2.06	Compensation Program	Chief Human Resources	Vera

		Officer	Potapenko
§2.07	Professional Research Staff	Chief Human Resources Officer	Vera Potapenko
§2.08	Vacation Leave	Chief Human Resources Officer	Vera Potapenko
§2.09	Sick Leave	Chief Human Resources Officer	Vera Potapenko
§2.10	Holidays	Chief Human Resources Officer	Vera Potapenko
§2.11	Miscellaneous Leave With Pay	Chief Human Resources Officer	Vera Potapenko
§2.12	Leave of Absence Without Pay	Chief Human Resources Officer	Vera Potapenko
§2.13	Family Care and Medical Leave	Chief Human Resources Officer	Vera Potapenko
§2.14	Military Leave	Chief Human Resources Officer	Vera Potapenko
§2.15	Workers' Compensation Insurance	Environment, Health, and Safety Division Director	Doug Fleming
§2.16	Group Insurance and Retirement Plans [Section deleted 4/1/08]	Chief Human Resources Officer	Vera Potapenko
§2.17	Employee Records	Chief Human Resources Officer	Vera Potapenko
§2.18	Regulations Implementing University of California Policies Applying to Campus Activities, Organizations, and Students	Chief Human Resources Officer	Vera Potapenko
§2.19	Rules and Regulations on Relations with Employee Organizations	Chief Human Resources Officer	Vera Potapenko
§2.20	Outside Employment and Business Activities [Moved to §10.02 in 08/06]		
§2.21	Terminations	Chief Human Resources Officer	Vera Potapenko

§2.22	Severance Payments [Moved to §2.06(C)(4) in 12/08]	Chief Human Resources Officer	Vera Potapenko
§2.23	Miscellaneous	Chief Human Resources Officer	Vera Potapenko
§2.24	Consultants to Lawrence Berkeley National Laboratory [Moved to §11.04 on 4/12/07]	Procurement and Property Manager	Derrol Hammer
§2.25	Honoraria and Stipends for Laboratory Guests [Honoraria moved to §11.29, and Stipends for Laboratory Guests to §11.33 on 4/12/07]	Controller, Office of the Chief Financial Officer	Jeanne Kissel
§2.26	Catastrophic Leave Sharing	Chief Human Resources Officer	Vera Potapenko
§2.27	Upper Laboratory Management	Chief Human Resources Officer	Vera Potapenko
§2.28	Postdoctoral Fellows	Chief Human Resources Officer	Vera Potapenko
§2.29	Work Deferment Policy	Chief Human Resources Officer	Vera Potapenko
§3.01	Definitions [moved to "Definition of Terms in the RPM" and §2.06 in 12/08]	Chief Human Resources Officer	Vera Potapenko
§3.02	Time Reporting [Moved to §11.05 in 04/07]	Controller, Office of the Chief Financial Officer	Jeanne Kissel
§3.03	Overtime	Chief Human Resources Officer	Vera Potapenko
§3.04	Special Pay Provisions [Moved to §2.06 in 12/08]	Chief Human Resources Officer	Vera Potapenko
§3.05	Pay Periods, Computations, and Deductions [Moved to §11.06 on 4/12/07]	Controller, Office of the Chief Financial Officer	Jeanne Kissel
§3.06	Paydays and Check Distributions [Moved to §11.07 on 4/12/07]	Controller, Office of the Chief Financial Officer	Jeanne Kissel
§4.01	Relocation Policy	Chief Human Resources Officer	Vera Potapenko
§4.02	Relocation [section moved to §4.01 on 5/16/08]	Chief Human Resources	Vera

		Officer	Potapenko
§4.03	Shipment of Household Goods [section deleted on 5/16/08]	Chief Human Resources Officer	Vera Potapenko
§5.01	Public Information and External Relations	Public Affairs Department Head	Jeff Miller
§5.02	Scientific and Technical Publications	Chief Information Officer	Rosio Alvarez
§5.03	Patents	Technology Transfer and Intellectual Property Management Department Head	Cheryl Fragiadakis
§5.04	Printing	Public Affairs Department Head	Jeff Miller
§5.05	Licensing Income Distribution	Technology Transfer and Intellectual Property Management Department Head	Cheryl Fragiadakis
§5.06	Proprietary Information from External Sources	Technology Transfer and Intellectual Property Management Department Head	Cheryl Fragiadakis
§5.07	Disclosure of Laboratory Proprietary Information	Technology Transfer and Intellectual Property Management Department Head	Cheryl Fragiadakis
§5.08	Document Management and Control	Chief Information Officer	Rosio Alvarez
§6.01	Obtaining Goods and Services [Moved to §11.38 on 4/12/07]	Procurement and Property Manager	Derrol Hammer
§6.02	Use of Laboratory Property and Supplies [Moved to §11.39 on 4/12/07]	Property Manager	John Morgan
§6.03	Property Management [Moved to §11.40 on 4/12/07]	Property Manager	John Morgan
§7.01	Environment, Safety, and Health	Environment, Health, and Safety Division Director	Doug Fleming

§8.01	Quality Assurance	Assurance and Quality Program Manager	Melanie Gravois
§8.02	Business Continuity Policy	Business Continuity Program Manager	Linda Smith
§9.01	Computing and Communications	Chief Information Officer	Rosio Alvarez
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§10.08	Technology Transfer/Cooperative Research and Development Agreement (CRADA)	Research and Institutional Integrity Manager	Meredith Montgomery
§10.09	Human Subjects Conflict of Interest	Lead Compliance Specialist, HARC	Chris Byrne
§10.10	Disclosure of Laboratory Proprietary Information	Technology Transfer and Intellectual Property Management Department Head	Cheryl Fragiadakis
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		Head	
§10.12	Acceptance of Gifts or Favors	Research and Institutional Integrity Manager	Meredith Montgomery
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§11.08	Travel Policy	Controller, Office of the Chief Financial Officer	Jeanne Kissel
§11.09	Nonstandard Financial Billing and Payment Terms for Work for Others	Controller, Office of the Chief Financial Officer	Jeanne Kissel
§11.10	Laboratory Food Service (Meals and/or Refreshments)	Operations Manager, Office of the Chief Financial Officer	Anil Moré
§11.11	Financial Management Roles and Responsibilities	Manager, Field Operations	Doug Goodman
§11.12	Account Reconciliations	Controller, Office of the	Jeanne

		Chief Financial Officer	Kissel
§11.13	Accounting for Excess Stores Inventory	Controller, Office of the Chief Financial Officer	Jeanne Kissel
§11.14	Accrued Liabilities	Controller, Office of the Chief Financial Officer	Jeanne Kissel
§11.15	Advance Payment Requirement for Non-Federal Work for Others (WFO) Sponsors	Field Operations Manager, Office of the Chief Financial Officer	Doug Goodman
§11.16	Allowance for Doubtful Accounts	Controller, Office of the Chief Financial Officer	Jeanne Kissel
§11.17	Allowance for Loss on Stores Inventory	Controller, Office of the Chief Financial Officer	Jeanne Kissel
§11.18	Audit Resolution and Follow-Up	Operations Manager, Office of the Chief Financial Officer	Anil Moré
§11.19	Bridge Funding	Budget Officer, Office of the Chief Financial Officer	Minh Agon Huebner
§11.20	Capital Equipment Fabrications	Controller, Office of the Chief Financial Officer	Jeanne Kissel
§11.21	Compensation above Salary Limits for WFO Agreements	Controller, Office of the Chief Financial Officer	Jeanne Kissel
§11.22	Construction Work in Progress (CWIP) Policy	Controller, Office of the Chief Financial Officer	Jeanne Kissel
§11.23	Cost Allowability	Controller, Office of the Chief Financial Officer	Jeanne Kissel
§11.24	Financial Certifications by Laboratory Officials for Select Work for Others Award Documents	Controller, Office of the Chief Financial Officer	Jeanne Kissel
§11.25	Financial Management of Contractor Supporting Research (CSR) Program	Controller, Office of the Chief Financial Officer	Jeanne Kissel
§11.26	Financial Management of Monetary Gifts	Controller, Office of the Chief Financial Officer	Jeanne Kissel
§11.27	Financial Systems Data Field Changes	Operations Manager, Office of the Chief Financial	Anil Moré

		Officer	
§11.28	G&A Expenses	Budget Officer, Office of the Chief Financial Officer	Minh Agon Huebner
§11.29	Honoraria	Controller, Office of the Chief Financial Officer	Jeanne Kissel
§11.30	Invoice Cancellation	Controller, Office of the Chief Financial Officer	Jeanne Kissel
§11.31	Invoice Certifications	Controller, Office of the Chief Financial Officer	Jeanne Kissel
§11.32	Miscellaneous Invoice Requests	Controller, Office of the Chief Financial Officer	Jeanne Kissel
§11.33	Stipends for Non-Employee	Controller, Office of the Chief Financial Officer	Jeanne Kissel
§11.34	Office of Homeland Security Charge	Budget Officer, Office of the Chief Financial Officer	Minh Agon Huebner
§11.35	Organization Burden	Budget Officer, Office of the Chief Financial Officer	Minh Agon Huebner
§11.36	Business System Ownership	Operations Manager, Office of the Chief Financial Officer	Anil Moré
§11.37	Write Off Accounts Receivable	Controller, Office of the Chief Financial Officer	Jeanne Kissel
§11.38	Obtaining Goods and Services	Procurement and Property Manager	Derrol Hammer
§11.39	Use of Laboratory Property and Supplies	Property Manager	John Morgan
§11.40	Property Management	Property Manager	John Morgan
§11.41	Recharges	Budget Officer, Office of the Chief Financial Officer	Minh Agon Huebner
§11.42	Resource Adjustments	Controller, Office of the Chief Financial Officer	Jeanne Kissel

§11.43	Signature Authority for Financial Transactions	Controller, Office of the Chief Financial Officer	Jeanne Kissel
§11.44	Office of Sponsored Projects and Industry Partnerships (SPIP)	Office of Sponsored Projects and Industry Partnerships Manager	Jeffrey Weiner
§11.45	Stop Work Process for Funds Control Compliance	Budget Officer, Office of the Chief Financial Officer	Minh Agon Huebner
§11.46	Technology Transfer Courses	Controller, Office of the Chief Financial Officer	Jeanne Kissel
§11.47	WN Funding Requests	Budget Officer, Office of the Chief Financial Officer	Minh Agon Huebner
§11.48	Workers' Compensation	Budget Officer, Office of the Chief Financial Officer	Minh Agon Huebner
§11.49	FMS User Access Control	Operations Manager, Office of the Chief Financial Officer	Anil Moré

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RPM Update Log for 2010

The table below lists changes and additions made to the Web version of the RPM from January 1, 2010, through the present.

Changes made to the RPM before January 1, 2010, can be found in the **RPM Archive Log**.

Section / Paragraph No.	Section / Paragraph Name(s)	Change	Revision Date
§1.01	Manuals, Handbooks, and Similar Publications	Revised to update reference to the Personal Property Policy Manual.	1/22/10
§1.18	Solicitation and Acceptance of Gifts	Revised to clarify policy regarding the ownership of gifts.	1/22/10
§1.25	Institutional Committees	Revised to document existing committees.	8/3/10
§1.27	Unified Project Call Process	Note inserted (after the revision date) to explain that Section 1.27 is currently being revised.	3/5/10
§2.01(B)(1)(a)	Employment / Nondiscrimination and Harassment / Nondiscrimination and Harassment Policy	Revised to be in compliance with the Federal Genetic Information Nondiscrimination Act and with UC PPSM 12 Nondiscrimination in Employment policy.	7/19/10
§2.07(C)	Types of Professional Research Staff Positions	Updated Berkeley Lab Scientific Career Path chart.	5/21/10
§2.07(C)(10)	Professional Research Staff / Types of Professional Research Staff Positions / Project Scientist/Engineer	Revised to clarify policy.	1/14/10
§2.10(D)	Holidays / Holidays During Leave Without Pay	Revised to clarify policy.	1/14/10
§2.26	Voluntary Leave Donation / Program Details	Reference to "Catastrophic Leave Policy" revised to "Voluntary Leave policy."	2/12/10
§10.01	Conflict of Interest—General	Revised to reflect current policy.	1/5/10

§10.02	Outside Business and Professional Activities	Chapter revised to reflect current policy. Chapter title changed from "Outside Employment and Employee Business Activities" to "Outside Business and Professional Activities."	1/5/10
§10.03	Self-Disqualification and Conflict of Interest for Designated Officials	Revised to reflect current policy.	8/2/10
§10.06	Federal Financial Disclosure	Revised to reflect current policy.	1/22/10
§10.07	State of California Financial Disclosure	Revised to reflect current policy.	1/22/10
§11.05	Time Reporting	Moved to the Financial Policy and Procedure Web site.	7/13/10
§11.05(E)	Time Reporting / Certification of Time Reports	Clarified policy as it relates to the Joint Bioenergy Institute.	5/6/10
§11.09	Special Financial Terms and Conditions for Work for Others	Policy entitled "Nonstandard Financial Billing and Payment Terms for Work for Others" replaced with "Special Financial Terms and Conditions for Work for Others"	4/9/10
§11.38	Obtaining Goods and Services	Revised throughout to streamline and update policy.	2/17/10
§11.39	Use of Laboratory Property and Supplies	Entire section revised to reflect current policy.	2/3/10
§11.40	Personal Property Management	Entire section revised to reflect current policy.	2/3/10
§11.55	ARRA Reporting Requirements	New OCFO policy.	5/25/10

ARCHIVE
Policy Notices

2008-2009
2007-2008
2006-2007
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2008-09

	Policy Type	P&P Title	Date Posted
1st Qtr			
1	Reminder	Outside Business Activities	10/8/08
2	New	Document Management and Control	10/21/08
3	Reminder	Violence in the Workplace	11/4/08
4	Reminder	Licensing Income Distribution	11/4/08
5	Reminder	Substance Abuse in the Workplace	11/5/08
6	Reminder	Contact with State and Federal Officials	11/7/08
7	Reminder	Patent Requirements for Outside Consulting	11/11/08
8	Revised	Compensation Policy	12/19/08
2nd Qtr			
9	Proposed	Postdoctoral Fellows Policy	1/22/09
3rd Qtr			
10	Reminder	Nondiscrimination and Affirmative Action Policy	5/15/09
11	Reminder	Patent Requirements for Outside Consulting	5/29/09
12	Reminder	Licensing Income Distribution	6/1/09
13	Reminder	Sexual Harassment Policy	6/23/09
14	Proposed	Catastrophic Leave Sharing	6/24/09
4th Qtr			

15	Reminder	Outside Business and Professional Activities	7/31/09
16	Proposed	Catastrophic Leave Sharing	9/23/09

2007-08

	Policy Type	P&P Title	Date Posted
1st Qtr			
		Note: Policy memos were not published during the first quarter.	
2nd Qtr			
1	Revision	Research Misconduct Policy	2/29/08
2	Revision	Employment Policy	3/12/08
3	Reminder	Policy on Sexual Harassment	3/27/08
4	Reminder	Policy on Affirmative Action and Equal Employment Opportunity	3/28/08
3rd Qtr			
5	Proposed	Extension to Supplement Military Pay	5/5/08
6	Proposed	Work Deferment Policy	6/25/08
4th Qtr			
7	New	Work Deferment Policy	8/18/08
8	Proposed	Policy on Compensation, Scheduling, and Work Location	9/29/08

2006-07

	Policy Type	P&P Title	Date Posted
1st Qtr			
1	Revised	Change to Reduction-in-Force Policy	10/24/06
2	Revised	Change to Unauthorized Absences and Job Abandonment Policies	11/2/06
3	Revised	Changes to Corrective Action and Complaint Resolution Policies	12/11/06
4	Proposed	Changes to Lab Employment Policy	12/11/06
5	Reminder	Sexual Harassment Policy	12/13/06
2nd Qtr			

6	Reminder	Affirmative Action/Equal Employment Opportunity	1/12/07
7	Proposed	S&E Job Classifications	3/2/07
3rd Qtr			
8	Reminder	Outside Consulting and Employment	4/4/07
9	Revised	S&E Job Classifications	4/16/07
10	Reminder	Violence in the Workplace	5/14/07
11	Reminder	Substance Abuse in the Workplace	5/15/07
12	Reminder	Patent Requirements for Outside Consulting	5/16/07
13	Reminder	Contacts with State and Federal Officials	5/17/07
14	Reminder	Public Information and External Relations	5/22/07
4th Qtr			
15	Reminder	Licensing Income Distribution	09/26/07

2005-06

	Policy Type	**P&P Title**	**Date Posted**
1st Qtr			
1	Proposed	Proposed Changes to Flex Work Policy	10/20/05
2	Reminder	Sexual Harrassment Policy	12/16/05
3	Reminder	Affirmative Action and Equal Employment Opportunity Policy	12/22/05
2nd Qtr			
4	Reminder	Use of Laboratory Equipment and Supplies	03/27/06
5	Reminder	Moving Laboratory Equipment Offsite	03/29/06
6	Proposed	Amendment to Laboratory Vacation Policy	03/30/06
3rd Qtr			
7	Proposed	Proposed Extension to Policy on Supplement to Military Pay	04/24/06
8	Proposed	Proposed Changes to Reasonable Accommodation and Medical Separation Policies	05/04/06
9	Revision	Revision to Vacation Policy	05/09/06
4th Qtr			

10	Revision	UC Extends Supplement to Military Pay	07/13/06
11	Revision	Clarification of Tuition Reimbursement Policy	08/03/06
12	Reminder	Substance Abuse in the Workplace	08/08/06
13	Revision	Conflict of Interest Policies	08/09/06
14	Reminder	Licensing Income Distribution	08/10/06
15	Reminder	Contacts with State and Federal Officials	08/10/06
16	Reminder	Moving Traffic Violations	08/14/06
17	Proposed	Revision to Reduction-in-Force Policy	08/14/06
18	Reminder	Public Information and External Relations	08/15/06
19	Reminder	Proper Usage of Lab Corporate Travel Cards	08/16/06
20	Reminder	Violence in the Workplace	08/18/06
21	Reminder	Patent Requirements for Outside Consulting	08/22/06
22	Revision	Reasonable Accommodation and Medical Separation	09/01/06
23	Proposed	Revisions to Unauthorized Absences and Job Abandonment Policies	09/06/06
24	Proposed	Revisions to Corrective Action and Dismissal, and Complaint Resolution Policies	09/08/06

2004-05

	Policy Type	**P&P Title**	**Date Posted**
1st Qtr			
1	Proposed	Proposed Changes to Nonsmoking Policy	12/06/04
2	Reminder	Affirmative Action & EEO Policy	12/22/04
2nd Qtr			
3	Revised	Nonsmoking Policy	01/25/05
4	Revised	Sexual Harassment & Complaint Procedure (UC)	02/24/05
5	Revised	Time Reporting Policy	03/01/05
6	Reminder	Conflicts of Interest	03/28/05
7	Reminder	Use of Lab Property and Supplies	03/29/05
8	Reminder	Equipment Movement Offsite	03/30/05
3rd Qtr			
9	Revision	Personal Phone Calls from Lab Phones	04/21/05

10	Reminder	Violence in the Workplace	05/02/05
11	Reminder	Substance Abuse in the Workplace	06/22/05
12	Reminder	Contacts with State and Federal Officials	06/23/05
13	Reminder	Patent Requirements for Outside Consulting	06/24/05
14	Reminder	Public Information and External Relations	06/27/05
15	Reminder	Corporate Travel Card	06/28/05
4th Qtr			
16	Reminder	Whistleblower	07/06/05
17	Revised	Background Check	07/14/05
18	Proposed	UC-Proposed Extension To Military Pay Policy	07/15/05 and 07/18/05
19	Revised	Paid Holiday	07/28/05
20	Reminder	Outside Consulting and Employment	08/22/05
21	Reminder	Licensing Income Distribution	08/23/05
22	Reminder	Moving Traffic Violations	08/26/05
23	Revised	Military Pay Policy	09/02/05

2003-04

Quarter	Policy Type	P&P Title	Date Posted
1st Qtr (Oct–Dec)			
1	Proposed, Revision	UC Proposed and Revised Policies Conflicts of Interest Created by Consensual Relationships and Revised Policy on Sexual Harassment and Procedures for Responding to Reports of Sexual Harassment	10/17/03
2	Revision	Policy Change: Domestic Partners Employment of Near Relatives and Domestic Partners	11/17/03
3	Reminder	Use of Lab Property and Supplies	12/4/03
4	Reminder	Equipment Movement	12/8/03
5	Reminder	Stopping Unsafe Work Activities	12/11/03
6	Reminder	Sexual Harassment	12/15/03
7	Reminder	Affirmative Action/EEO	12/19/03
2ndQtr (Jan–March)			
8	Reminder	Conflict of Interest Issues	2/27/04
9	Reminder	Corporate Travel Cards	3/2/04
10	Reminder	Whistleblower Protection	3/5/04
11	Reminder	Violence in the Workplace	3/9/04

3rd Qtr (April–June)			
12	Reminder	Public Information and External Relations	4/30/04
13	Reminder	Patent Requirements for Outside Consulting	5/25/04
14	Reminder	Substance Abuse in the Workplace	5/28/04
15	Proposed	Military Leave	6/1/04
16	Reminder	Contacts with State and Federal Officials (Lobbying)	6/3/04
17	Revision	Licensing Income Distribution	6/21/04
4th Qtr (July-Sept)			
18	Reminder	Holiday Schedule and Policy Reminder	7/21/04
19	Reminder	Outside Employment	8/17/04
20	Revision	Unified Call	8/18/04
21	Reminder	Moving Traffic Violations	9/29/04

2002-03

1st Quarter (Oct-Dec)	**Policy Type**	**P&P Title**	**Date Posted**
1	Revision	Modification of RPM §§2.21(B) (Reductions in Force), 2.01(B) (Recruitment), and 2.01 (K) (Types of Appointments), and the addition of 2.21(D) (Release of Term Employees)	10/28/02
2	Revision	Change in Holiday Schedule and Implementation Guidance	11/5/02
3	Reminder	Affirmative Action/EEO	12/02/02
4	Reminder	Sexual Harassment	12/13/02
5	Reminder	Stopping Unsafe Work	12/16/02
6	Reminder	Equipment Movement	12/19/02
7	Reminder	Use of Laboratory Property and Supplies	12/23/02
8	Proposed	Proposed Changes in RPM 2.20 (Outside Employment and Employee Business Activities)	12/6/02
9	Revision	Changes to RPM 2.23(F) (Conflicts of Interest)	11/25/02
2nd Qtr (Jan–Mar)			
10	Reminder	Conflict-of-Interest/Ethics	3/13/03
11	Reminder	Corporate Travel Credit Cards	3/12/03
12	Revision	Changes in RPM §2.20 (Outside Employment and Employee Business Activities)	2/11/03
13	New	Violence in the Workplace	2/20/03
14	Proposed	Proposed Modification to Family Care and Medical Leave Policy (FMLA) RPM Section 2.13(B)	3/6/03
3rd Qtr (Apr—June)			
		<Note: #15 not assigned>	
16	Reminder	Substance Abuse in the Workplace	5/6/03

17	Reminder	Public Information and External Relations	5/13/03
18	Revision	Changes to RPM §2.13 (B) and (D), Family Care and Medical Leave (FMLA)	4/22/03
19	Reminder	Patent Requirements for Outside Consulting	5/1/03
20	Revision	Changes to Laboratory-Hosted Meetings Policy	5/23/03
21	Revision	Changes to Whistleblower and Whistleblower Protection Policies	5/22/03
22	Proposed	Proposed Changes to Chapter 2	5/21/03
4th Qtr (July-Sept)			
23	Revision	Modifications to Policies, RPM Chapter 2	8/25/03
24	Reminder	Outside Employment	9/11/03
25	Reminder	Reminder of Moving Traffic Violations Policy	9/26/03
26	Reminder	Holiday Schedule and Policy Reminder	9/30/03
27	Reminder	Emergency Command Center Operations (Level 3 distribution only)	8/28/03
28	Proposed	Proposed Policy Change: Domestic Partners	9/29/03

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Berkeley Lab Proposed Policies

A new Laboratory policy affecting the terms and conditions of employment that has been proposed appears below:

- Catastrophic Leave Sharing
  Section 2.26

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Chapter 1
General Administration and Services

Table of Contents

§1.01 Manuals, Handbooks, and Similar Publications

§1.02 Administrative Announcements and Directories [Section deleted 09/07]

§1.03 Plant Construction, Maintenance, and Service

§1.04 Operation and Parking of Motor Vehicles and Bicycles

§1.05 Use of Official Vehicles

§1.06 Laboratory Site Access

§1.07 Laboratory-Hosted (Funded) Meetings (Moved to RPM §11.01)

§1.08 Laboratory-Hosted (Funded) Conferences (Moved to RPM §11.02)

§1.09 Open Meetings [Section deleted 06/08]

§1.10 Conference Rooms

§1.11 Notary Public Service [Section deleted 03/08]

§1.12 Health Services

§1.13 Food Services

§1.14 Credit Unions [Section deleted 03/08]

§1.15 Employee Activities Association [Section deleted 06/08]

§1.16 Campus Facilities [Section deleted 03/08]

§1.17 Archives and Records Management

§1.18 Solicitation and Acceptance of Gifts

§1.19 Use of Laboratory Mail System

§1.20 Space Management

§1.21 Berkeley Lab Stationery and Logos

§1.22 Forms Management [Section deleted 09/07]

§1.23 Organizational Membership

§1.24 Metric Usage

§1.25 Institutional Committees

§1.26 Financial Management (Moved to RPM §11.03 and the Financial Policy and Procedures Manual)

§1.27 Unified Project Call Process

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Denotes a rewritten or new section

Denotes the beginning of changed text within a section

Denotes the end of changed text within a section

Denotes deleted text

§1.01
Manuals, Handbooks, and Similar Publications

Responsible Manager

Rev. 01/10

- **A. General**
- **B. Contract Number DE-AC02-05CH11231 (the DOE/LBNL Contract)**
- **C. Regulations and Procedures Manual (RPM)**
- **D. Procurement Policy and Standard Practices Manual**
- **E. Safety Manuals**
- **F. Emergency Plans**
- **G. Personal Property Policy Manual**
- **H. Security Program Plans**
- **I. Laboratory Operating and Quality Management Plan**
- **J. Laboratory Environment, Safety, and Health Self-Assessment**

A. GENERAL

This section describes core policy and program documents of Lawrence Berkeley National Laboratory. Documents in this section are considered controlled documents and must be managed in accordance with Laboratory Document Control Procedures. As noted in the Foreword to the RPM, internal policy documents do not replace governing Directives, the Prime Contract, or applicable Law.

B. CONTRACT NUMBER DE-AC02-05CH11231 (THE DOE/LBNL CONTRACT)

The DOE/LBNL Contract is the performance based management and operating contract between the Department of Energy (DOE) and the Regents of the University of California for the management of Berkeley Lab. It is the primary governing document that sets the mission of the Laboratory, provides the basis for Berkeley Lab's policies and procedures, and includes:

- DOE directives (orders) that pertain to the Laboratory.
- The contractual terms and conditions governing the Laboratory's operations in areas such as human resources; finance; procurement; environment, safety, and health; technology; facilities; and legal (e.g., intellectual property).
- The annual performance measures against which Berkeley Lab is evaluated by DOE.

The DOE/LBNL Contract is available online from the University of California Office of the President's Laboratory Administration Office. It is controlled via a modification process defined in the Contract.

C. REGULATIONS AND PROCEDURES MANUAL (RPM)

This Regulations and Procedures Manual (RPM) serves as a reference for guidelines, rules, and general business

practices for Laboratory personnel and is available on the Web. Questions concerning policy interpretation, regulation applicability, or allowability of activities should be directed to the manager responsible for the particular RPM section, as designated in Managers Responsible for RPM Sections.

D. PROCUREMENT POLICY AND STANDARD PRACTICES MANUAL

The University of California Laboratory Procurement Standard Practices Manual implements policies of the University of California and sets forth the standard practices for the Laboratory's procurement system. The purpose of the procurement system is to ensure that goods and services required by the Laboratory are obtained in an economical, efficient, and timely manner while meeting the requirements of the Laboratory's Prime Contract. The purpose of the Standard Practices (SPs) is to ensure consistent application of the policies and procedures of the University of California.

Laboratory personnel who perform procurement functions must be thoroughly familiar with this manual. Questions pertaining to the guide should be referred to the Office of the Chief Financial Officer/Procurement.

E. SAFETY MANUALS

1. Laboratory-wide Regulations

Laboratory-wide safety regulations are contained in the Health and Safety Manual (LBNL/PUB-3000). This manual contains statements on safety policy; chemical safety; electrical safety; the design, installation, and test of hazardous research equipment; and general safety recommendations for fire and accident prevention. Questions should be referred to the Environment, Health, and Safety Division.

2. Safety Documentation

Safety documentation for individual facilities is contained in Safety Analysis Documents (SADs), which describe mitigation and activities within the facility, and identify hazards. SADs are prepared by the operating division; reviewed by the Environment, Health, and Safety Division; and kept in the facility notebook.

F. EMERGENCY PLANS

1. Master Emergency Plan

The Master Emergency Plan describes how the Laboratory's resources are organized to respond to disasters such as a significant earthquake. The Master Emergency Plan is available online. The point of contact is the Laboratory Emergency Manager.

2. Business Continuity Plan

The Berkeley Lab Business Continuity Plan describes how key services will operate after the initial response to a major disaster. The Business Continuity Plan is available from the Business Continuity Program Manager.

G. PERSONAL PROPERTY POLICY MANUAL

The Personal Property Policy Manual (PPPM) describes the Laboratory's system for ensuring responsible

stewardship of property used for DOE mission–driven work at the Laboratory. The PPPM and associated training are key to successfully managing property throughout its life cycle. It serves as a division property staff resource and provides information for the broader community. The PPPM is searchable and downloadable from the Property Management Web site.

H. SECURITY PROGRAM PLANS

1. Site Security Plan

The Laboratory Site Security Plan describes the Lab's approach to physical security. The point of contact is the Security Manager.

2. Computer Security Program Plan

The Computer Security Program Plan describes the Lab's approach to cyber security. The point of contact is the Computer Protection Program Manager. A summary is available.

I. LABORATORY ASSURANCE AND QUALITY MANAGEMENT PLANS

1. Operating and Quality Management Plan

The Operating and Quality Management Plan (PUB-3111) specifies the Quality Assurance and Conduct of Operations requirements for all divisions of the Laboratory. Copies of this publication are available from the Office of Institutional Assurance (OIA). This Office will answer questions concerning the applicability of the Operating and Quality Management Program to particular activities.

2. University of California Assurance Plan

The University of California Assurance Plan (PUB-5520) is a set of operating systems used to ensure that LBNL organizations achieve reliable and safe performance in their work activities, and are in compliance with regulatory and contractual requirements. These systems apply to all Laboratory staff, participating guests, students, and subcontractors.

J. LABORATORY ENVIRONMENT, SAFETY, AND HEALTH SELF-ASSESSMENT PROGRAM IMPLEMENTATION PLAN

The Environment, Safety, and Health Self-Assessment Program (LBNL/PUB-5344) describes the Laboratory's program for ensuring compliance with environmental, safety, and health requirements, and for achieving quality assurance/conduct of operations performance objectives. This publication contains the procedures divisions must follow to implement the self-assessment program. The point of contact is the Office of Contract Assurance (OCA).

The Environment, Safety, and Health Self-Assessment Manual contains Berkeley Lab's self-assessment objectives and criteria and the procedures followed by divisions to develop their self-assessment programs. The point of contact is the the Office of Contract Assurance.

§1.02
Administrative Announcements and Directories

Responsible Manager

Section §1.02 deleted 09/07.

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§1.03
Plant Construction, Maintenance, and Service

Responsible Manager

Rev. 04/09

- **A. Plant Construction and Alterations**
- **B. Repair and Maintenance Work**
  - **1. General**
  - **2. Special Research Equipment**
- **C. Miscellaneous Services**
- **D. Response to Power Reduction Alerts**
- **E. Categorization of Lock and Key Levels**

A. PLANT CONSTRUCTION AND ALTERATIONS

The Facilities Division is responsible for all construction and alterations to Laboratory buildings, infrastructure, utilities, and building systems except for those systems specifically assigned to other divisions/departments (e.g., telephone and ProxCard). Requests for plant construction and alteration work are made to the Facilities Division's Work Request Center.

B. REPAIR AND MAINTENANCE WORK

1. General

The Facilities Division is responsible for maintenance and repair of plant facilities and equipment, including buildings, grounds, utility systems, roadways, walks, fences, and plant mechanical and electrical equipment. Requests for such work are made to the Facilities Division's Work Request Center.

2. Special Research Equipment

The Facilities Division performs maintenance and repair work on specialized research equipment when requested by a responsible member of the group having charge of the equipment. Requests for such work are made to the Facilities Division's Work Request Center.

C. MISCELLANEOUS SERVICES

Service functions are assigned to the divisions shown in RPM Table 1.03(C) (*Service Functions*).

Table 1.03(C)
Service Functions

Type of service	Division responsible
Vehicle Fleet Operations	Facilities
Bus Service	Facilities
Nonstandard Vehicle Operator's Certification	Environment, Health, and Safety
Locksmith and Key Issuance and Records	Facilities* (see note below)
Electric Light Service	Facilities
Building Custodial Service	Facilities
Groundskeeping	Facilities
Refuse Disposal	Facilities
Parking Permit Issuance and Records	Environment, Health, and Safety
Transportation	Facilities
Mail Services	Facilities
Central Stores	Facilities

*The issuance of all level III locks and keys must be approved by the LBNL Security Manager (see Paragraph (E)(*Categorization of Lock and Key Levels*) below.

D. RESPONSE TO POWER REDUCTION ALERTS

The Facilities Division is responsible for implementing the Laboratory's response plan to Stage I, II, and III electrical emergency alerts issued by California's Independent System Operator and communicated to Berkeley Lab by the Western Area Power Administration. The Facilities Division is also responsible for updating the Laboratory's response plan.

E. CATEGORIZATION OF LOCK AND KEY LEVELS

DOE M 470.4-2, Physical Protection categorizes locks and keys into four levels.

Levels I and II are only required for facilities that have significant quantities of special nuclear materials (SNM) and/or classified matter. LBNL is a fundamental research facility with small quantities of Category IV SNM so Level I and II keys and locks are not required.

Level III locks and keys are used for security purposes on the exterior access doors and gates of LBNL Property Protection Areas (PPA) for emergency use only.

- The LBNL Security Manager designates and approves all PPAs and is responsible for the control and accountability of all Level III locks and keys.
- The LBNL locksmith fabricates Level III keys, documents unique identification, and maintains the inventory of key blanks and cores.

- The Site Access Manager verifies required training and facilitates issuance of Level III keys approved by the Security Manager.
- Lost, missing, or stolen Level III keys must be reported to the LBNL Security Manager, who is required to file a security incident report to the Department of Energy.

Level IV locks and keys, including Great Grand Master (GGM), Grand Master/Building Master (GM/BM), and all other keys, are used for administrative purposes on most LBNL buildings and interior offices for business or safety controls.

- The LBNL locksmith fabricates all Level IV keys, documents unique identification, and maintains the inventory of key blanks and cores.
- The Site Access Manager verifies required training and facilitates issuance of Level IV GGM and GM/BM keys only. All other keys are managed and issued by the LBNL locksmith.

§1.04
Operation and Parking of Motor Vehicles and Bicycles

Responsible Manager

Rev. 2/08

- **A. General**
- **B. Motor Vehicle and Bicycle Parking**
  - **1. General**
    - ***Table 1.04(B)(1) — Eligibility for an LBNL Parking Permit***
    - ***Table 1.04(B)(2) — Ineligibility for an LBNL Parking Permit***
  - **2. Types of Parking Permits and Parking Spaces**
  - **3. Parking Regulations**
  - **4. Modes of Transportation Prohibited at the Laboratory**
- **C. Emergency Off-Hour Automotive Assistance**
  - **1. Availability**
  - **2. Nonavailability**
- **D. Commuting Alternatives**

A. GENERAL

Berkeley Lab presents many unique challenges for motor vehicle, bicycle, and pedestrian safety. The roadways are narrow, can be crowded and under construction, traverse steep terrain, and intersect in many different ways. It is critically important for all individuals who share the roadways at the Laboratory to exercise caution at all times for their own safety and the safety of others. Bicyclists, drivers, and pedestrians must be especially aware of safety considerations and be more vigilant when in close proximity to one another.

All individuals operating motor vehicles or bicycles on Laboratory property must comply with the California Vehicle Code (CVC) and Berkeley Lab traffic and parking regulations. Permission to operate a vehicle or bicycle on Laboratory property is subject to the control of the Laboratory Security Manager and may be revoked at any time. Because of the steep terrain, all skateboards, scooters, electronic personal assisted-mobility devices (such as Segways), and in-line skates are prohibited from operating on Laboratory property. Employees may also be subject to discipline up to and including dismissal for traffic and parking violations. In the absence of any special conditions or regulations applicable to traffic or parking, all provisions of the California Vehicle Code relating to traffic or parking apply. The maximum speed limit on all Laboratory property is 25 miles per hour (for all but emergency vehicles), or slower as conditions require.

B. MOTOR VEHICLE AND BICYCLE PARKING

1. General

Limited on-site vehicle parking is provided for certain employees and visitors. For a list of eligible and ineligible persons, see RPM Table 1.04(B)(1) (*Eligibility for Parking Permit*) and Table 1.04 (B)(2) (*Ineligibility for Parking*

Permit). The Badge Office issues valid Laboratory parking permits. Some parking spaces are open to unreserved parking, while others are reserved. Maps indicating parking areas are available at the entry gates, or the Badge Office. Only one parking permit is issued to an eligible person who requests a parking permit. Exceptions are made for motorcycle, motor scooter, and bicycle permits, which may be issued in addition to an automobile permit.

PARKING PERMIT VIOLATIONS

a. Use of Laboratory parking permit by a person other than the one to whom it was originally issued is prohibited.
b. The sale, transfer, alteration, or loan of Laboratory parking permits is prohibited.
c. All vehicles parked on Laboratory property must display a valid (hanging) Laboratory parking permit suspended from the rearview mirror.
d. Orange Circle spaces are for the use of Laboratory Directors, and other personnel designated by the Laboratory Directorate. Orange Circle parking spaces are reserved on a 24-hour, 7-day-a-week basis, and parking in Orange Circle spaces is prohibited.
e. Spaces designated as Blue Triangle are reserved for Senior Staff and Senior Scientists between the hours of 6:00 a.m. and 3:00 p.m., Monday through Friday. (At times and days other than those specified, Blue Triangle parking spaces and lots revert to General Parking spaces and lots.)
f. Parking spaces for persons with a disability are reserved (for those persons) at all times.
g. Parking in spaces designated for government vehicles is prohibited.
h. Parking of cars for a period of more than three days is prohibited without first receiving a Prolonged Parking Pass signed by the Site Access Manager.
i. Parking outside of marked parking spaces or designated parking strips along roadways is prohibited. Parking restrictions must be observed in posted areas.
j. Parking in a manner that encroaches on or blocks an adjacent parking space or traffic way is prohibited, except in specific stack-parking areas. (All stack parking guidelines must be followed.)
k. Parking in a way as to project a vehicle over a parking lane or end line is prohibited.
l. Backing into parking spaces is prohibited in all areas so posted.
m. Parking of vehicles in spaces designated for motorcycle parking is prohibited.

Table 1.04 (B)(1) Eligibility for an LBNL Parking Permit	
EMPLOYEES	
Career	Individuals who have an appointment established at a fixed percentage of time at 50 percent or more of full time for an indefinite period.
Visiting Faculty	University or college faculty members who have dual employment between a university or college and the Laboratory, and are approved by the cognizant Division Director.
Term Appointments	Scientific and nonscientific individuals who are employed to work on a specific project of clearly limited duration of six months or more.

Rehired Retirees	Employees, including retirees under special UC/state provisions and those rehired from layoff status, who were formerly eligible for parking.
Participating Retirees	Specific class of employees rehired from layoff status, who were formerly eligible for parking.
Limited Appointment	Individuals employed to work for less than 1,000 hours in a 12-month period.
Graduate Students	Registered graduate students who are affiliated with the Laboratory as student employees. Parking upgrades can be granted by the Site Access Manager for graduate students who commute from campuses outside the Bay Area.
Student Assistants	Registered college or university students whose affiliation with the Laboratory is as a student employee. Parking upgrades can be granted by the Site Access Manager for students who commute from campuses outside of the Bay Area.
Disabled	Disabled persons working at the Laboratory (including non-employees engaged in on-site services)
NONEMPLOYEES	
Participating Guests	
Professionals	Professionals and their associates engaged in Laboratory-approved research, including (1) individuals using the Laboratory using the Laboratory National User Facilities, (2) personnel currently employed at other University of California facilities, and (3) other professionals when the Laboratory and the participant have mutual interests and the individuals have adequate training and experience to meet high professional standards in their fields. NSF, DOE participants in NSF, DOE, or similarly sponsored programs in which the Laboratory is participating (e.g., faculty on programs of Associated Western Universities or postdoctoral fellows).
Contract Employees	Employees of companies that have a formal contractual agreement with the Laboratory.
Consultants	Recognized experts in a specific field of scientific, engineering, technical, or administrative interest who primarily furnish advice or express views or opinions about problems or questions presented by the Laboratory.
DOE Employees (Berkeley Site Office)	Employees of the Department of Energy's Berkeley Site Office.
Students not on Laboratory payroll	Students who are comparable to graduate student research assistants but who are not on Laboratory payroll, including those participating in NSF, DOE, or similarly sponsored programs in which the Laboratory is

	participating.
Casual Visitors	Individuals visiting the Laboratory for a week or less who are not engaged in Laboratory research or use Laboratory facilities.
Vendors (Service Contractors)	Employees of service contractors (i.e., food services, computer services)

Table 1.04(B)(2) Ineligibility for a Berkeley Lab Parking Permit	
NONEMPLOYEES	
Participating Guests	
Agency (Temp) Personnel	Employees of a temporary-help agency; contract labor employees.
Nonparticipating Guests	
Contract Employees	Employees of contactors, unless the employee's vehicles are necessary to the job.
Subcontractor Employees	Employees of subcontactors, unless the employee's vehicles are necessary to the job and can be parked inside the agreed-upon contractors' "laydown" area. Special permit must be issued by the Site Access Manager.

The Site Access Manager may make exceptions to the parking policy. For extenuating circumstances that require an exception to the policy, requests should be made directly to the Site Access Manager.

2. Types of Parking Permits and Parking Spaces

Authorized Laboratory permits hang on the vehicle's rearview mirror. (Decal-type permits are used for motorcycles, scooters, motorbikes, mopeds, and bicycles.) In addition, the Badge Office issues temporary hanging-type parking permits for all participating guests and other noncareer eligible employees.

a. **Orange Circle:** Allows parking in Orange Circle permit parking spaces, Blue Triangle parking spaces, or any General parking spaces. Eligible Orange Circle permit holders are determined by the Laboratory Deputy Director for Operations.

b. **Blue Triangle (Permanent):** Issued to Career and UC Faculty Employees. Allows parking in Blue Triangle parking spaces or unreserved General parking spaces. Determination for Blue Triangle Permanent parking is based on a yearly set salary minimum.

c. **Blue Triangle (Temporary):** Issued to noncareer Laboratory and certain UC Faculty personnel. Allows parking in Blue Triangle spaces or unreserved General parking spaces. Determination for Blue Triangle Temporary parking is based on job classification.

d. **General (Permanent & Temporary):** Allows parking in all designated parking spaces not otherwise restricted or marked.

e. **Off-Hours (After-Hours):** For employees who do not have regular parking. Allows parking only during off-hours between 3 p.m. and 6 a.m., Monday–Friday, and all day Saturdays, Sundays, and holidays.

f. **Medical Parking (Blue Triangle or Reserve status):** When requested by the Laboratory, Medical Department Medical Parking is issued for 30 days to someone who has a medical situation or is recovering from a medical injury and, due to restricted general mobility, needs to park close to his/her office or place of work.

g. **Vendor Parking: (Blue Triangle status):** Issued to vendor companies who service the Laboratory on a regular basis.

h. **Disabled Person Permit:** Allows parking for disabled persons through a special permit that is issued in addition to a regular Laboratory Parking permit.

- State of California Disabled Person Permit (special license plate or placard issued by the State Department of Motor Vehicles (DMV)). This permit allows the Holder to park in spaces designated by an official State blue-and-white logo or in any unreserved parking space.

- Temporary Medical Parking Permit is issued to give the requester time to apply for and receive a DMV permit.

i. **Visitor Permit:** Paper permit issued at Laboratory entry points or by Site Access for parking spaces that are reserved for visitors only and are not for use by regular or temporary employees.

j. **Official Vehicle:** An official vehicle permit is designated by license plate (United States Government or State of California) or by a special placard issued by the Laboratory Motor Pool only, to identify vehicles leased or rented for official business. For the complete policy statement on the use of official vehicles, see RPM §1.05 (*Use of Official Vehicles*).

k. **Stack Parking:** Because Laboratory policy encourages the use of stack parking for commuter vehicles, stack-parking areas have been established. Movement of a vehicle in stack parking may be necessary to accommodate unforeseen circumstances. Employees are encouraged to use stack parking. If they do not observe the following regulations, they may be subject to the penalty provisions of Paragraph (B)(3), below:

- Park as close as possible to the vehicle, stop line, or barrier in front of you (maintain less than a 30-inch gap between vehicles).

- Display your standard Berkeley Lab parking permit.

- Display a stack-parking card. This card must include:

  i. Your name

  ii. Your parking permit number

  iii. Your normal location

  iv. Your Laboratory telephone number

  v. If different from (iv), the Laboratory telephone number of the person in custody of your vehicle keys

Stack parking cards are available on request from the Badge Office (ext. 4551).

3. Parking Regulations

a. **Forgotten Permit.** Persons who forget their hanging permit may request a temporary one-day parking permit at the entry gate. The issuance of a temporary parking permit will be reported to Site Access. Abuses of the temporary permit provisions are subject to the penalties noted in Paragraph (C), below.

b. **Replacement of Lost or Stolen Parking Permits.** To replace a lost or stolen parking permit contact the Badge Office.

c. **Penalties for Abuse of Parking Privileges**. To ensure that the parking policy is enforced equitably throughout Berkeley Lab on-site parking areas, the Laboratory has instituted a point system for parking violations by which various parking offenses are assigned penalty points within a period of time, and after six points are accumulated within a six-month period, parking privileges are suspended. If a continual pattern of abuse is detected, further disciplinary action may be taken (see Parking Enforcement System).

d. **Return of Parking Permit on Termination of Employment.** Parking permits are the property of the Laboratory and must be returned to the employee's Division Office or the Badge Office no later than the last day of employment. If the permit holder leaves after hours, parking permits can also be turned in to the security officer at the entry gates.

4. Modes of Transportation Prohibited at the Laboratory

The following modes of transportation are prohibited at the Laboratory:

a. In-line skates (Rollerblades)
b. Roller skates
c. Segways (two-wheel motorized vehicles)
d. Skateboards
e. All other modes of transportation, motorized or non-motorized, that may be considered unsafe by the

Laboratory Directorate.

C. EMERGENCY OFF-HOUR AUTOMOTIVE ASSISTANCE

1. Availability

Emergency off-hour (night and weekend) automotive assistance for employees who encounter difficulties with their personal automobiles may be obtained by contacting the Maintenance and Operations Group between 4:30 p.m. and 7 a.m., as well as weekends and Laboratory holidays. The Laboratory will provide (a) a battery charge to start an employee's car or (b) one gallon of fuel (unleaded gasoline or diesel fuel, for $2). If an employee's car cannot be started with Laboratory assistance and commercial service is not available, the responding Laboratory person is authorized to take the stranded employee to the nearest public transportation.

2. Nonavailability

During normal business hours (7 a.m.–4:30 p.m.), employees are expected to use their choice of commercial emergency service available in the area. Laboratory facilities, supplies, or equipment may not be used for the repair or maintenance of employee vehicles.

D. COMMUTING ALTERNATIVES

Because of the limited parking available on site, employees are encouraged to use public and other transportation options whenever available. Options are described on the Site Access Web Site, or call the Site Access Office at ext. 4551 for more information.

§1.05
Use of Official Vehicles

Responsible Manager

Rev. 09/07

A. General
  1. Transportation Services
  2. Division Directors' and Department Heads' Responsibilities
B. Authorized and Unauthorized Uses of Vehicles
  1. Transportation to Residence, Lodging, or Eating Places
  2. Personal Use
  3. Use of Rental Vehicles
  4. Use by Nonemployees
C. Operator's Liability
  1. Vehicle Costs
  2. Disciplinary Action and Penalties
  3. Public Liability
  4. Traffic Citations
D. License Requirements
  1. Laboratory-Furnished Standard Vehicles
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  3. Training Courses
  4. License Suspension or Revocation
  5. Required Drug and Alcohol Testing for Certain Classes of Driver
E. Drivers' Public Driving Records
  1. General Requirements
  2. Coverage
  3. Participation in DMV Notification Process
  4. Notification to Laboratory Employees and Applicants
  5. Response to Information Received from DMV
F. Suspension or Revocation of Driving Privileges
G. Vehicle-Use Records
  1. Passenger Vehicles
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H. Accidents
I. Painting or Modification of Laboratory Vehicles
  1. General
  2. Painting
  3. Modification or Addition of Accessories
  4. Signs, Logos, or Other Identification

A. GENERAL

1. Transportation Services

The Laboratory Facilities Division provides bus and other transportation services, including vehicles from Fleet Operations for individual and divisional use. Laboratory vehicles are for official use only, i.e., for the performance of Laboratory work and business. Passengers in Laboratory-furnished vehicles must be directly associated with the official University business for which the vehicle is assigned or with other official business of the Laboratory. Bus service is provided around the Laboratory and to and from the University of California at Berkeley campus and local rapid transit locations.

2. Division Directors' and Department Heads' Responsibilities

a. Each division director and department head is responsible for restricting the use of Laboratory vehicles to official Laboratory business by properly authorized personnel, as described in Paragraph (D), below, and for informing all authorized drivers regarding misuse of such vehicles and personal liability for costs involved in cases of misuse. Copies of RPM §1.05 may be obtained from Fleet Operations for distribution as needed.

b. Questions concerning any use of an official vehicle should be referred to the Fleet Operations office.

B. AUTHORIZED AND UNAUTHORIZED USES OF VEHICLES

1. Transportation to Residence, Lodging, or Eating Places

a. Laboratory-furnished vehicles may properly be used for transportation between an individual's place of work, residence, lodging, or eating place only when at least one of the following circumstances exists:

- The nature of the work requires a vehicle at or near an employee's residence or lodging in order to respond to emergencies or expected off-hour calls.
- A vehicle is necessary to perform special hauling or other services for the Laboratory between an employee's place of work and a location at, near, or en route to his or her residence or lodging.
- An employee is required to depart on or return from a field trip at unusually early or late hours.
- Public transportation is not practicable or reasonably available while an employee is on a field trip or official travel.
- Special or emergency situations required by Laboratory work, such as unexpected overtime, make it unreasonable to expect an employee to use other transportation to his or her residence or lodging.

b. Use of an official vehicle in any of the above circumstances must be authorized by use of Form RL-2749 (*Request for Overnight Use of Official Vehicle*) or Stock Form 7600-55366 (*Request and Authorization for Official Travel*).

2. Personal Use

Use of an official vehicle for an employee's personal convenience or benefit constitutes misuse and is prohibited. Misuse includes the following specific examples:

a. Trips to service stations or repair shops in connection with the servicing or repair of any individual's private

car.

b. While on special assignment or official travel, side trips for meals that involve significant extra time or distance to satisfy a personal preference when other reasonable and adequate eating places are more convenient to the employee's lodging, place of work, or direct route of official travel.

c. Local stops for personal shopping or other business, even if such stops are on a direct route of travel on an official trip.

d. Trips within the Laboratory for personal convenience (e.g., to the cafeteria).

3. Use of Rental Vehicles

a. The restrictions on the use of Laboratory vehicles also apply to rental vehicles used for official business. Because the agreement signed by an individual for rental of a vehicle is a contract between the individual and the rental company, rental vehicles may also be used for personal convenience or business as long as the individual pays for any additional costs for, e.g., mileage, day charges, and insurance fees resulting from personal use.

b. The University is self-insured for the deductible provision in the collision insurance normally included in rental agreements for vehicles used on official business. If an individual uses a rental vehicle for personal uses, University insurance does not apply. Individuals who wish to use a rental vehicle for personal business should pay the additional fee for full insurance coverage on the vehicle. This fee is not reimbursable by the Laboratory.

4. Use by Non-Employees

a. Non-employees are normally not authorized to use Laboratory-furnished vehicles. They may be authorized to use Laboratory vehicles, however, when they are engaged in contract work and when it would be economically beneficial to the Laboratory for them to do so. Approval by the responsible division director or department head must be made in writing to the non-employee individual, with copies to Fleet Operations and the Environment, Health, and Safety Division.

b. Non-employee operators must be licensed as specified in Paragraph (D), below.

C. OPERATOR'S LIABILITY

1. Vehicle Costs

Operators of Laboratory-furnished vehicles are personally liable for the costs of any damages incurred due to their misuse of such vehicles. Misuse means unauthorized use, use for an improper purpose, gross negligence in the care and operation of an official vehicle, or not adhering to traffic safety regulations.

2. Disciplinary Action and Penalties

Employees who knowingly misuse Laboratory vehicles are subject to disciplinary action such as written reprimand, temporary suspension without pay, or dismissal. They may also be subject to criminal penalties under 18 United States Code §641 that provide for a fine of not more than $10,000, up to 10 years in jail, or both.

3. Public Liability

The use of Laboratory vehicles, including rental vehicles, for unofficial business may expose the driver to public liability in the event of an accident, particularly if the accident is found to be caused by the driver's negligence. If the use of a vehicle is not official or the driver stops en route or deviates from a direct route to conduct personal affairs while on official business, he or she may be found to have departed from the scope of employment. In such a case, the University and the government would disclaim liability, and the driver would be financially responsible.

4. Traffic Citations

Operators of Laboratory-furnished vehicles are personally responsible for the payment of any fines levied by any public law enforcement agency and will receive parking violation points levied as a result of any violation of Laboratory parking regulations, except when the violation is a direct result of a failure of the vehicle and that malfunction was reported immediately to the Laboratory Fleet Office.

D. LICENSE REQUIREMENTS

1. Laboratory-Furnished Standard Vehicles

All individuals whose duties require them to drive University-owned or government-owned (e.g., DOE or GSA) vehicles must possess a valid license, as specified in the California Vehicle Code. Generally, this means a valid State of California license of the appropriate class. When it is in the interest of Laboratory business, however, a nonresident of California may drive a Laboratory-furnished vehicle if that person meets the requirements of the California Vehicle Code. Non-employees must also have written authorization to drive Laboratory-furnished vehicles as specified in Paragraph (B)(4), above.

2. Laboratory-Furnished Nonstandard Vehicles

Personnel who operate nonstandard vehicles must carry certificates for operation of the specific type of nonstandard vehicles. Training and certification are required before operation of mobile or bridge cranes, earth-moving equipment, and forklift trucks. The Environment, Health, and Safety Division will provide detailed information concerning appropriate certification. Operator certification may be revoked if there is evidence of failure to follow safe operating procedures.

3. Training Courses

All professional drivers and selected incidental drivers must attend training courses, as required by policy or departmental practice.

4. License Suspension or Revocation

If an employee whose duties involve operation of an official vehicle has his or her state driver's license revoked or suspended, the employee must notify his or her supervisor. Division directors or department heads must ensure that no one operates an official vehicle without a valid license (and certification, when required).

5. Required Drug and Alcohol Testing for Certain Classes of Driver

Drivers holding commercial driver's licenses (classes A and B) and who operate vehicles of 26,001 lbs. gross vehicle weight (GVW) or more, or who operate any vehicle carrying hazardous material for which the vehicle is placarded, will be enrolled in the DOT-mandated Laboratory Driver Drug and Alcohol Testing Program, as specified in RPM §2.23(C)(4) (*Substance Abuse in the Workplace*).

E. DRIVERS' PUBLIC DRIVING RECORDS

1. General Requirements

The California Commercial Motor Vehicle Safety Act requires employers of drivers of certain types of vehicles to obtain reports of their public driving record from the Department of Motor Vehicles (DMV). A public driving record includes incidents occurring while driving on and off the employer's place of business. Under the California Vehicle Code, there are criminal penalties for employing or continuing to employ as drivers those persons who have had disqualifying actions taken against their licenses or certificates.

This law applies to the Laboratory with regard to drivers who (a) drive a vehicle requiring a class A or class B driver's license and (b) must obtain special certificates to drive the following vehicles: ambulances, private school buses, farm labor vehicles, special construction equipment, youth buses, vehicles transporting radioactive materials, vehicles transporting hazardous wastes, and vehicles with tank configurations. Students, unless hired primarily as drivers, and van pool drivers are not included. Vehicle Code §12810.5 also specifies the number of violation points assigned by the DMV that will result in a presumption that a driver is a negligent operator of a motor vehicle.

The Laboratory could be liable if a negligent driver is permitted to continue driving for the Laboratory and is involved in an accident.

2. Coverage

This policy applies to (a) Laboratory employees hired primarily as drivers; (b) any Laboratory employee who, in the course of employment, drives a vehicle requiring a class A or class B driver's license; and (c) any employee who must obtain a special license or certificate to drive any of the vehicles listed above.

Laboratory employees in the following classifications are also covered by this policy:

Title Code	Classification
345.0	Assistant Fire Chief
345.1	Fire Chief
566.2	Material Handler (Mailroom)
566.3	Material Handler (Mailroom)
644.0	Firefighter
644.1	Fire Captain
737.1	Garage Attendant

738.1	Bus Driver
738.2	Senior Bus Driver
741.0	Health and Safety Technician, Trainee
741.1	Health and Safety Technician
741.2	Health and Safety Technician, Senior
741.3	Health and Safety Technician, Principal
741.4	Health and Safety Technical Specialist
741.6	Health and Safety Technician, Apprentice
745.1	Truck Driver, Light
745.2	Truck Driver
745.3	Lead Truck Driver

At the discretion of the involved division director or department head and with approval of the Head of the Human Resources Department or designee, additional titles or positions may be covered as required.

3. Participation in DMV Notification Process

a. The Laboratory has requested and been assigned a Requester Code Number for participation in the DMV Pull Notice System. This system provides the employer with a report showing each driver's current public record and the status of any required driver's certification. The Human Resources Department will initiate individual additions to or deletions from the DMV Pull Notice System.

b. To protect confidentiality, DMV reports are maintained in a secure location by the Human Resources Department and destroyed once their legitimate use has ended.

c. Applicants for positions covered by this policy are required to provide a satisfactory current report on the status of their driver's license from the DMV as a condition of employment. No appointment may be made until appropriate documentation from the DMV has been received.

d. On termination of a driver's employment, the Human Resources Department will notify the DMV to cancel future reports for the individual.

4. Notification to Laboratory Employees and Applicants

a. Each Laboratory employee covered by the policy will be notified by letter from the Human Resources Department, with a copy to the responsible division director, stating that:

- The Laboratory receives reports of his or her public driving record from the DMV.
- These reports may be used as a basis for discipline up to and including dismissal.
- He or she is responsible for maintaining his or her required driver's license and, if applicable, driver's certification in good standing.

- He or she is responsible for immediately informing his or her supervisor of any change in the status of his or her driver's license and/or driver's certification.
- Revocation or suspension of his or her driver's license and/or driver's certification may result in loss of employment with the Laboratory.
- He or she is required to acknowledge receipt of the letter by dating and signing it and returning it to the Human Resources Department.

b. Postings of job vacancies for positions covered by this policy must inform applicants that, as a condition of employment, they are required (1) to provide a satisfactory current report on the status of their public driving record from the DMV and (2) to acknowledge receipt of the letter described in Paragraph (4)(a), above, by dating and signing it and returning it to the Human Resources Department.

5. Response to Information Received from DMV

a. On receipt of a report of conviction, failure to appear, accident, driver's license suspension, revocation, or other action taken against a Laboratory employee, the Human Resources Department will communicate the nature of the offense to the responsible division director.

b. The Vehicle Code states that the Laboratory is liable for criminal penalties if, after receiving a driving record, it continues to employ as a driver any person against whom a disqualifying action (suspension or revocation) has been taken regarding his or her driver's license and/or driver's certificate.

c. The Vehicle Code states that a driver will be presumed to be a negligent operator of a motor vehicle if his or her driving record shows a violation point count of four or more points in 12 months, six or more points in 24 months, or eight or more points in 36 months.

d. Whenever a report for an employee driver is received indicating that one or more points have been assigned to the employee by the DMV, a written warning (notice of corrective action) may be issued by the responsible manager or supervisor following consultation with the Human Resources Department.

e. Whenever a report for an employee driver is received indicating that a disqualifying action (suspension or revocation) has been taken regarding his or her driving privilege and/or driver's certificate, or that he or she is presumed by the DMV to be a negligent operator of a motor vehicle based on a violation point count, disciplinary action (up to and including dismissal) may be taken by the responsible department head following consultation with the Human Resources Department.

f. In addition, whenever a report for an employee driver is received indicating that any other serious driving violation has occurred (even though a disqualifying action has not been taken or the violation point count is not sufficient to cause the driver to be presumed by the DMV to be a negligent operator of a motor vehicle), disciplinary action (up to and including dismissal) may be taken by the responsible department head following consultation with the Human Resources Department.

F. SUSPENSION OR REVOCATION OF DRIVING PRIVILEGES

Individual driving privileges may be refused, revoked, or suspended by the responsible department/division or the

Traffic Safety Committee whenever Laboratory policy is violated.

G. VEHICLE-USE RECORDS

1. Passenger Vehicles

Each use of a passenger vehicle (car or station wagon) will be recorded at the time of use in a vehicle register (sign-out sheet) furnished by Fleet Operations. This applies to vehicles (a) signed out from Fleet Operations or a subpool on a trip or errand basis and (b) assigned for departmental use. These registers show the date, driver's name, operating account number, destination, time, and mileage out and in. Vehicle registers must be sent to Fleet Operations each month. Any exception requires the approval of the Associate Laboratory Director for Operations.

2. Nonpassenger Vehicles

Groups that are assigned nonpassenger vehicles (scooters, trucks, and special purpose) for specified long-term needs will keep any use records required by the Fleet Operations office. These records usually involve monthly mileage only but may require logging of individual uses to verify continuing need for a vehicle in case of low mileage or off-site use. Vehicle-use records (or copies) will be forwarded to the Fleet Operations office when requested.

H. ACCIDENTS

All accidents involving University-furnished vehicles will be reported as specified in Health and Safety Manual (LBNL/PUB-3000, §5.1.1.5 *(Motor Vehicle Accidents))*.

I. PAINTING OR MODIFICATION OF LABORATORY VEHICLES

1. General

Federal regulations restrict painting (including lettering and the use of decals or logos), modifying, or adding accessories to government-owned vehicles. Fleet Operations is responsible for determining the need and for obtaining authorization as required. Requests for such authorization should be made through Fleet Operations.

2. Painting

Normal painting of vehicles is only that required for preservation. Justification is required for nonstandard painting.

3. Modification or Addition of Accessories

Fleet Operations will be guided by current regulations as well as overall vehicle fleet use considerations in determining the need for modification or addition of accessories on Laboratory vehicles.

4. Signs, Logos, or Other Identification

Because the public will recognize any identification as representing the Laboratory, the University of California, and DOE, any identification must meet standards of size, design, color, and appropriateness for its specific use. To

maintain consistency of such signs, logos, or other identification, plans (including sketches or other descriptive information) must be reviewed by the responsible Laboratory division, which will forward the information to Fleet Operations for appropriate action.

§1.06
Laboratory Site Access

Responsible Manager

Rev. 02/09

- **A. Site Access Policy**
  1. **General**
  2. **Short-term (Casual) Visitors**
  3. **Participating Guests**
  4. **Policy for All Participating Guests**
  5. **Specific Categories**
- **B. Site Access Procedures**
  1. **General**
  2. **Short-term (Casual) Visitors**
  3. **Participating Guests**
  4. **International (Non-United States Citizen) Guests**

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A. SITE ACCESS POLICY

1. General

a. **Overview**

Visits to Lawrence Berkeley National Laboratory by employees or representatives of other organizations or companies are an important element of scientific collaboration, knowledge exchange, and technology transfer. These visits are also an opportunity for the Laboratory to meet its educational and public service objectives.

Site access is a privilege granted in accordance with Laboratory policy and procedure to individuals who do not have regular employee status. This privilege may be withdrawn at any time. Loss of privileges may occur for various reasons, including nonconformance with Laboratory policies and procedures. Access privileges granted to any visitors under this Site Access policy do not confer University/Laboratory employee status or any benefits that would come from that status.

Access to the Laboratory is subject to the willingness and ability of non-employees to comply with all relevant Laboratory policies, procedures, and instructions, including those related to health, safety and the protection of the environment.

The Laboratory's policy on substance abuse in the workplace is included in RPM §2.23(C)(1) (Substance Abuse in the Workplace). This policy states in part:

"The Laboratory strives to maintain a work site free from the illegal use, possession, or distribution of alcohol; or of controlled substance as defined in Schedule I-V of the Controlled Substances Act (21 USC 812) and 21 Code of Federal Regulations 1308. Unlawful manufacture, distribution, dispensing, possession, use, or sale of alcohol or of controlled substances by employees in the workplace, on Laboratory premises, at official Laboratory functions or on Laboratory business is prohibited. Unauthorized possession, use, or consumption or being under the influence of alcohol on Laboratory premises is prohibited. In addition, employees may not use illegal substances or abuse legal substances, including alcohol, in a manner that impairs work performance, scholarly activities, or student life."

To the extent that this policy governs conduct on the Laboratory site or on Laboratory business, it applies to all those present on the Laboratory site or performing Laboratory business, including visitors, guests, consultants, subcontractor employees, and students. Violation of this policy may result in revocation of site access or other appropriate action

Children are not allowed on Laboratory premises except when part of a guided tour approved by management or when accompanied by an employee or parent. Children must be supervised at all times; they must not be left unattended or allowed to wander. Although pets may not be brought to the Laboratory, service animals may be brought on site by their owners.

Employees of Lawrence Livermore National Laboratory are accorded the same site access status when visiting the Laboratory as employees of other organizations.

b. **Requests for Site Access**

Any Laboratory employee or guest may request site access for a prospective visitor with the approval of the supervisor or host and/or with the knowledge of the division administrator/director. A Laboratory employee or guest who extends an invitation to a prospective visitor becomes the Laboratory host for that visitor, and the employee's division becomes the host division. As the Laboratory host, the division employee or guest must advise the prospective visitor of any Laboratory site access policies and procedures applicable to the visit, as detailed below.

c. **General Responsibilities**

The Laboratory host and hosting division are responsible for ensuring that short-term (casual) visitors or participating guests (as defined in paragraphs (B)(2) and (B)(3) of this document) (1) are directed to Site Access or the ALS User Services Office (for ALS users) to initiate a Laboratory visit and (2) are aware of and comply with applicable Laboratory policies, including Environment, Health, and Safety (EH&S) policies and the substance abuse policy.

The Site Access Manager and the host are responsible for ensuring that each short-term visitor or participating guest identified by a Laboratory host or hosting division has complied with access procedures appropriate to the visit.

Short-term visitors are responsible for compliance with scientific and administrative requirements as identified by the Laboratory host, hosting division, and/or Site Access.

Participating guests must take all responsible precautions in the performance of work at the Laboratory site to protect the environment and the safety and health of others.

Responsibility for compliance with the applicable Laboratory policies and EH&S regulations and requirements of UC and DOE extends from the Laboratory host and hosting division to the short-term visitor or participating guest.

Failure of short-term visitors or participating guests to carry out the responsibilities as cited above may result in loss of access privileges.

2. Short-term (Casual) Visitors

a. **Definition**

Short-term (casual) visitors are individuals visiting the Laboratory for a week (or up to two weeks if approved by the Site Access Manager) who are not engaged in Laboratory research or using Laboratory facilities. All short-term visitors driving a vehicle to the Laboratory must obtain a one-day permit issued at the gate. This category includes but is not limited to those giving or attending seminars, those visiting the Laboratory for limited scientific discussion or as participants solely to observe research in progress, radiotherapy patients, job seekers, tour groups, employee friends/family, retired employees with occasional reason to visit the site, and the press. The Integrated Environment, Health, and Safety Management Plan covers the safety aspects of Laboratory access for all contractor personnel, vendor delivery/pickup personnel, sales representatives, and service maintenance personnel who also qualify as short-term (casual) visitors.

b. **Policy**

Short-term visitors will be granted access to the Laboratory at the request of an employee or participating guest via the Lab's Visitor Pass Request System. Gate controllers may issue a one-day permit (for each day approved). Site Access may issue permits for up to one week (two weeks if approved by the Site Access Manager).

3. Participating Guests

Definition: Participating guests are non-Laboratory employees who are engaged in Laboratory activities on-site and who fall into one or more of the following categories:

a. **Users.** Individuals visiting the Laboratory to use Laboratory user facilities or other user resources by the Office of Energy Research at DOE.

b. **National Energy Research Scientific Computer Center (NERSC Users).** Individuals using NERSC facilities either remotely or while visiting the Laboratory.

c. **Scientific Collaborators.** Individuals visiting the Laboratory who are engaged in Laboratory-approved research, testing or analysis either through "hands-on" activities or through collaborative discussion with Laboratory employees. Included in this category are faculty and graduate students from other University of California facilities and other educational institutions, students, postdoctoral fellows, research fellows, and other professionals having adequate training and experience and meeting high professional standards in their field.

d. **Student Guests.** Individuals who are graduate students under the direct supervision of a division to which

the student is attached.

e. **Nonscientific.** Individuals who have been assigned to the Laboratory as their place of work either as employees of temporary employment service/agencies or as contract labor employees.

f. **Consultants.** Individuals who have entered into a consultant agreement with the Laboratory under RPM §11.04 (*Consultants to Lawrence Berkeley National Laboratory*).

4. Policy for All Participating Guests

a. **General**

All participating guests must display a temporary parking permit issued by the Badge Office section of Site Access and are subject to the parking regulations established by the Laboratory (see RPM §1.04). All participating guests must execute a Laboratory Patent Agreement. Employees of the Regents of the University of California at another campus or laboratory location and users of Laboratory User Facilities covered by a formal agreement under Paragraph (A)(5)(a), below, are not required to execute a Patent Agreement. Property information brought to the Laboratory is protected in accordance with policy stated in RPM §5.06 (Property Information from External Sources). Participating guests may be entitled to office or Laboratory space and/or the use of other Laboratory resources and services, as may be arranged by the Laboratory host and/or host division.

Participating guests are identified by a valid LBNL picture ID issued by Site Access through the Badge Office (for ALS users through the ALS User Services Office). If the guest status is terminated prior to the appointment end date and the individual is from a sensitive or terrorist-sponsoring country, the host or hosting division must notify the Foreign Visits and Assignments Office in a timely manner to comply with DOE reporting requirements.

5. Specific Categories

a. **Users.** A formal User Agreement must be executed between the Laboratory and the user's employer (including the user).

b. **NERSC Users.** A formal agreement must be executed between NERSC and the user or the principal investor responsible for the user. Such an agreement must comply with applicable policies established by NERSC and approved by the DOE Office of Energy Research. Information on obtaining allocations of NERSC resources may be found by clicking on the Accounts link on the NERSC Web page.

B. SITE ACCESS PROCEDURES

1. General

a. Employees are expected to inform Site Access prior to any visits from non-employees. Site Access will determine whether appropriate measures have been taken for admission of the prospective visitor, which may include assurance that the proper agreements have been executed for participating guests.

b. Employees, departments, and/or divisions sponsoring seminars, meetings, conferences, or other events are expected to notify Site Access well before the event. Site Access will then be responsible for notifying gate controllers and Shuttle Bus Services, as appropriate, of the time, date and location of the event.

2. Short-term (Casual) Visitors

Laboratory hosts or hosting divisions expecting short-term visitors are expected to notify Site Access of the impending visit and the expected length of stay. In addition, if the visitor is a member of the press, the Laboratory host, or hosting division must notify the Laboratories Public Information Officer. Site Access will then issue an entry/parking permit for the expected length of the stay, not to exceed one week (without authorization of the Site Access Manager). Gate controllers must issue a one-day entry/parking permit to a short-term visitor on the authorization of Site Access.

3. Participating Guests

a. **Initiating Contacts**

Application for approval of participating guest status is made on the appropriate forms signed by the Laboratory host or hosting division. The complete forms are submitted to the Human Resources Department or designated appropriate administrative office before the guest's arrival. The Laboratory host or hosting division also informs the prospective guests that access to the Laboratory will be through Site Access. The Human Resources Department or designated appropriate administrative office establishes communications with the prospective guests and works with the Laboratory host or hosting division to facilitate administrative procedures needed before the visitor's arrival at the Laboratory.

b. **Guest Approval.** Approval of the guest status is given by Site Access and is based on the following criteria:

i. The guest meets the criteria for participating guests.

ii. The guest is covered by a formal agreement with the Laboratory satisfying intellectual property requirements. University of California employees who can present appropriate evidence of current employment and users of the Laboratory User Facilities covered by a formal User Agreement are not required to execute a Laboratory Visitor Patent Agreement.

iii. The guest qualifies for worker's compensation insurance through a source other than the Laboratory, gives evidence of coverage, or obtains coverage for adequate medical and/or disability insurance satisfactory to the Laboratory. Determination of satisfactory evidence rests with the Risk Management Office. Satisfactory health insurance coverage may be obtained with the assistance of the Human Resources Department or designated appropriate administrative office.

iv. Environment, Health, and Safety (EH&S) training appropriate to the anticipated exposure to hazards has been completed or will be completed before any anticipated potential for exposure at the Laboratory. Such training may include attendance at a new employee/visitor orientation session; certain EH&S training sessions; or satisfactory completion of certain related tests.

v. The requirements of Paragraph (B)(4) (*International (Non-United States Citizen) Guests*) are satisfied

if the participating guest is a foreign national.

(a) **Contractual Agreements.** To ensure a smooth arrival and expeditious entry procedures for participating guests at the Laboratory, Site Access, in coordination with the Office of Sponsored Research Administration, will have documentation of a fully executed User Agreement or Computer Agreement, as applicable.

(b) **Visitor Identification.** A renewable badge is issued.

(c) **Environment, Health, and Safety (EH&S) Information.** The Human Resources Department or designated appropriate administrative office issues to each participating guest appropriate EH&S publications. In addition, participating guests may be required to read additional EH&S publications; to attend certain EH&S training sessions to satisfactorily complete certain EH&S testing requirements; to wear a personal radiation dosimeter; and to attend an introduction to EH&S requirements in conjunction with the Laboratory host or hosting division, based on the guest's anticipated need to enter laboratories, accelerators, or shops and his or her anticipated exposure to any hazardous activity at the Laboratory.

(d) **Parking.** Refer to RPM §1.04 (*Operation and Parking of Motor Vehicles and Bicycles*).

(e) **Guest Departure.** Upon final termination of an approved appointment and any subsequent extensions, the participating guest must complete a Supervisor/Participating Guest Checkout List and surrender any parking permit, dosimeter, ID badge, keys, or other administrative material as part of the departure procedure. Items may be returned to any of the following: Site Access (Badge Office), host/supervisor, division office, HR representative, or any badge return box. Failure to surrender the material may result in the loss of future access privileges.

(f) **Termination of Guest Status.** The guest status of an individual terminates automatically on the appointment end date indicated on the guest's HRIS record. If the guest status is terminated prior to the appointment end date and the individual is from a sensitive or terrorist-sponsoring country, the host or hosting division must notify the Foreign Visits and Assignments Office in a timely manner to comply with DOE reporting requirements.

4. International (Non-United States Citizen) Guests

International participating guests must present an approved PGIF (Participating Guest Form), which is generated by the host department. A letter of invitation from the host and appropriate visa documents must be presented to Site Access (or the ALS Users Office), such as:

a. **J1 or J2 Visa:** Current passport (must show issue date, passport number, and photo), I-94, U.S. visa stamp, DS2019 form, Active Health Insurance, Active Repatriation Insurance (English translation).

b. **F1 or F2 Visa:** Current passport (must show issue date, passport number, and photo), I-94, U.S. visa stamp, I-20, Student ID, (EAD if using optional practical training after I-20 expires).

c. **H1B Visa:** Current passport (must show issue date, passport number, and photo), I-94, U.S. visa stamp, 797 form.

d. **B1 or B2:** Current passport (must show issue date, passport number, and photo), I-94, U.S. visa stamp.

e. **WB,WT, or CP:** Current passport (must show issue date, passport number, and photo), and I-94.

f. **TN:** Current passport (must show issue date, passport number, and photo), and I-94.

g. **Lawful Permanent Resident (LPR) (Green Card):** Lawful Permanent Resident card and passport or driver's license.

The above documents must be complete and properly dated before Site Access can badge an International Guest. HRIS appointment end dates must not exceed the expiration dates that appear on the guest's DS2019, I-20, 797, I-94, or Green Card (whichever is applicable). In the case of visa waivers, the expiration date must not exceed 90 days from the date of entry into the United States (I-94).

Sensitive Countries: Individuals who are citizens of, were born in, or are affiliated with (employed or sponsored by) sensitive countries (contact Site Access for a current list or visit www.lbl.gov/ehs/security/ufva/issm_sensitive.shtml) are subject to DOE O 142.3 (Unclassified Foreign Visits and Assignments) requirements if they require access for 30 days or more. Sponsoring divisions should notify the Foreign Visits and Assignments (FVA) Office one month in advance and provide required immigration documentation and a completed Participating Guest Information (PGI) form. Sensitive country foreign nationals are approved locally (i.e., Lab executive approval) and may be badged with appropriate documentation and insurance coverage (if applicable).

Terrorist-Sponsoring Countries (T-4): A current list of Terrorist-Sponsoring Countries may be obtained from Site Access or from www.lbl.gov/ehs/security/ufva/index.shtml. Individuals who are citizens of, were born in, or are affiliated with (employed or sponsored by) Terrorist-Sponsoring Countries who are conducting research or working at the Laboratory **must be processed per DOE requirements and receive approval from the DOE Under Secretary for Science before access can be granted. Short-term (casual) visitors from these countries who are not working or conducting research at the Laboratory do not require DOE Secretarial approval but must have a host and a business need before visiting the Laboratory or any of its off-site locations.**

Before receiving a badge, **all participating guests** must provide the following information:

- Citizenship and
- Place of birth (if not a U.S. citizen)

Guests from sensitive or terrorist-sponsoring countries who have become naturalized U.S. citizens are not subject to DOE foreign national requirements. They must, however, adhere to all other Laboratory access and training requirements.

§1.07
Laboratory-Hosted (Funded) Meetings

Responsible Manager

Moved 04/07

Laboratory-Hosted (Funded) Meetings has been moved. See RPM §11.01.

§1.08
Laboratory-Hosted (Funded) Conferences

Responsible Manager

Moved 04/07

Laboratory-Hosted (Funded) Conferences has been moved. See RPM §11.02.

§1.09
Open Meetings

Responsible Manager

Section Deleted 06/08

§1.10
Conference Rooms

Responsible Manager

Section Renumbered 8/06

- **A. General**
- **B. Conference Room Coordination**
- **C. Reservations**
- **D. Standing Reservations**

A. GENERAL

A number of conference and assembly rooms are available for use by Laboratory groups and by outside groups when the purpose of the meeting is related to Laboratory work. Use by employee organizations must be arranged through the Human Resources Department. Rooms may not be used for purposes unrelated to Laboratory work unless the proposed use has been approved by the Laboratory Director's Office. Although some rooms have been assigned to specific groups or departments, all Laboratory conference/meeting rooms are to be listed on Calendar and are intended to be available for general use by Laboratory employees. Meeting rooms and auditoriums that are 45 square meters or larger are defined as Institutional Conference Rooms and are administered and maintained by the Facilities Division. Institutional Conference Rooms are listed on the Facilities Web page and are scheduled through the Work Request Center.

B. CONFERENCE ROOM COORDINATION

Each conference room is assigned a Conference Room Coordinator (CRC) to reserve rooms and provide guidelines for conference room users. The Work Request Center is the CRC for Institutional Conference Rooms.

C. RESERVATIONS

Reservations are made by the responsible CRC with consideration for the following:

- The Laboratory Director has priority use of all Laboratory meeting rooms.
- In specific-purpose rooms (e.g., those with video-conferencing facilities), groups that need to use the equipment have priority. Currently, these rooms are 50B-4205, 50B-6106, 50F-1647, 71-264, and 90-3075. Rooms 50B-4205, 50F-1647, and 90-3075 are administered by Video Conferencing Services (ext. 6767).
- If a change is made in a room reservation (e.g., a group with a standing reservation is persuaded by another user group to relinquish the room), the CRC must be notified of the change by the original user. The CRC is not responsible for changing reservations.

D. STANDING RESERVATIONS

Groups that need meeting space on a regular basis (e.g., weekly, monthly) may reserve a conference room under the following conditions:

- The request for a standing reservation must be made in writing to the appropriate CRC.
- If the standing reservation will not be used on a specific date, the CRC should be notified at the earliest possible time to allow others to use the room.

Standing reservations that are not used on a frequent and regular basis may be canceled by the CRC.

§1.11
Notary Public Service

Responsible Manager

Section Deleted 03/08

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§1.12
Health Services

Responsible Manager

Section Renumbered 8/06

- **A. Laboratory Occupational Medical Program**
  - **1. Medical Surveillance**
  - **2. Injuries/Illnesses**
  - **3. Eye Protection Program**
- **B. Employee Assistance Program**
- **C. Blood Bank**
- **D. Optometry Clinic**
- **E. Dental Clinic**

A. LABORATORY OCCUPATIONAL MEDICAL PROGRAM

1. Medical Surveillance

Medical examinations may be offered initially and periodically during employment and at the time of termination or retirement, in accordance with DOE guidance. Employees engaged in potentially dangerous occupations, such as firemen and those working with certain hazardous substances (e.g., lead, asbestos, or carcinogens), are enrolled in the Medical Surveillance Program. For employees voluntarily participating in the Medical Surveillance Program, the Health Services staff determines both the medical measurements and observations required and the frequency of health evaluations, based on identified potential hazards and risks. Women who are or plan to become pregnant should consult Health Services about their work environment.

2. Injuries/Illnesses

A medical service facility is maintained in Building 26 to treat injuries and minor illnesses and to advise employees of medical conditions that should be discussed with or treated by an outside personal physician. Supervisors must require their employees to report as soon as possible all injuries and illnesses that occur at work so that medical evaluation and treatment may be provided promptly and effectively. On returning to work after a work-related injury/illness resulting in lost time, employees must report to Health Services for an evaluation of their condition and ability to resume customary duties. For nonoccupational health problems, employees are required to contact Health Services if five or more consecutive workdays have been lost or if a work restriction is needed.

3. Eye Protection Program

Safety glasses are available to all employees and are required at certain potentially hazardous work sites, such as the mechanical shops and laser laboratories. Eye examinations by an optometrist are provided at low cost to employees needing prescription safety glasses.

B. EMPLOYEE ASSISTANCE PROGRAM

Employees who are experiencing problems, including those related to family difficulties, substance abuse, legal and financial concerns, personal adjustments, emotional trauma, and their jobs, can secure confidential counseling and/or referrals to appropriate resources. The Employee Assistance Program is an off-site program provided by the University of California Health Center (the Tang Center) of the Berkeley campus. See RPM §2.05(G) (*Employee Assistance Program*). Employees and managers seeking Employee Assistance Program services may contact the University of California at Berkeley Employee Assistance Program directly.

C. BLOOD BANK

The Laboratory maintains a blood bank in cooperation with the Alameda–Contra Costa Medical Association Blood Bank. The Laboratory blood bank is for the benefit of employees, members of their families, and close relatives. All employees who meet the blood bank requirements for donors are urged to donate blood during the periodic blood drives held at the Laboratory. Information regarding use of the blood bank or donations may be obtained from the Health Services Group, which administers this program.

D. OPTOMETRY CLINIC

The Optometry Clinic of the School of Optometry on the University of California at Berkeley campus provides eye examinations to students, employees, and the general public. When glasses are prescribed, they may be purchased from the clinic, if desired. For additional information and appointments, call the School of Optometry.

E. DENTAL CLINIC

Employees may have certain types of dental work performed by dental students at the Dental Clinic of the University of California Medical Center in San Francisco. Additional information may be obtained from the Dental Clinic.

§1.13
Food Services

Responsible Manager

Revised 09/07

The Laboratory operates a cafeteria primarily to provide convenient lunch services for employees. The cafeteria also provides catering services to Laboratory groups wishing to have food services at approved, on-site informal meetings. See RPM §11.01 (*Laboratory-Hosted (Funded) Meetings*) for definitions, requirements for approval, and allowable costs. Arrangements may be made for special lunches or dinners for Laboratory groups or groups with which Laboratory employees have a work-related connection. These facilities may not be used by outside groups having no connection with University of California work. Reservations for group use of the cafeteria (Building 54) are made electronically through Oracle Calendar. Requests for catering services are made with the cafeteria manager.

§1.14
Credit Unions

Responsible Manager

Section Deleted 03/08

§1.15
Employee Activities Association

Responsible Manager

Section Deleted 06/08

§1.16
Campus Facilities

Responsible Manager

Section Deleted 03/08

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§1.17
Archives and Records Management

Responsible Manager

Section Renumbered 8/06

A. General
B. Legal Requirements
C. Responsibilities
D. Program Components and Services
  1. Training and Workshops
  2. Records Inventory
  3. Records Scheduling
  4. Program Survey
  5. Information in Electronic and Optical Form
  6. Vital Records
  7. Disaster Recovery
  8. Disposition of Personal Papers and Official Records
  9. Privacy and Access Laws
  10. Access to Laboratory Records
  11. Quality Assurance
  12. Central Records Holding Area

A. GENERAL

The Laboratory and the University of California recognize the importance of appropriate treatment of records. Every Laboratory employee has responsibilities for Laboratory records. Records management is a line-management function at Berkeley Lab, and the Laboratory Archives and Records Office assists line management in meeting its records management responsibilities.

Records management provides a rational basis for making decisions about recorded information, including what should be saved and what should be discarded. These decisions are necessary to support the legal, fiscal, administrative, and other research needs of the Laboratory, University, federal government, State of California, and general public. The ultimate goal of records management is to identify and maintain records that adequately and properly document the organization, functions, policies, decisions, procedures, and essential transactions of projects and research.

Additional information about records-keeping requirements can be obtained by calling the Laboratory Archives and Records Office.

B. LEGAL REQUIREMENTS

All records generated by the Laboratory under terms of the DOE/LBNL Contract with DOE are considered

institutional. As such, all Laboratory records are owned by the United States government, with the exception of the University's fiscal and administrative records.

According to the DOE/LBNL Contract, "University administration and fiscal records" are owned by the University of California and are therefore subject to the California Public Records Act and the Information Practices Act. All other Laboratory records are federal records. Four primary laws relate to federal records management: the Federal Records Act of 1950, as amended; the Freedom of Information Act; the Privacy Act; and the Paperwork Reduction Act of 1980.

The Laboratory records management program is mandatory.

C. RESPONSIBILITIES

The Archives and Records Office must:

- Establish standards, procedures, and guidelines for the Laboratory archives and records management program.
- Assist Laboratory departments in developing programs for effective records management, files maintenance, records disposition, and vital records protection.
- Collect and disseminate information on records management, technological developments, and other records-management–related activities.
- Train records liaison officers and Laboratory employees about their records responsibilities.
- Inventory and appraise records and submit Laboratory-specific records retention schedules to the National Archives and Records Administration.
- Assign records retentions according to authorized retention schedules.
- Ensure that semiactive records are appraised for their legal, fiscal, administrative, research, and historical value, and are properly accessioned, stored, and retrieved as needed.
- Obtain departmental written authorization to dispose of temporary records.
- Ensure that permanent, historically valuable records are appropriately accessible to researchers.
- Conduct surveys of divisions', departments', and research groups' records management practices to ensure accountability and improve records care.
- Assist all principal investigators with designated quality assurance records.
- Assist Laboratory departments in Laboratory disaster preparation and recovery if records are involved.
- Identify, store, and display historic Laboratory artifacts.
- Assist the Laboratory in adhering to the National Historic Preservation Act.

Each Laboratory division/department must:

- Designate records liaison officers responsible for overall coordination of records programs; add the records

liaison officer duties to the individual's job description and his or her annual job evaluation; and ensure that the records liaison officer is trained by the Archives and Records Office.

- Cooperate with the Laboratory Archives and Records Office in applying standards and procedures to improve the management of records.
- Establish effective management controls over the creation, maintenance, and use of records.
- Create and preserve records that adequately and properly document the organization, functions, policies, decisions, procedures, and essential transactions of the divisions, departments, and research groups.
- Destroy records according to retention schedules approved by the National Archives and Records Administration.
- Submit records inventories to the Laboratory Archives and Records Office.
- Transfer semiactive records from office space to the Laboratory Archives and Records Office.
- Establish safeguards against the unauthorized removal or destruction of records, and notify the Laboratory Archives and Records Office if removal or destruction occurs or threatens to occur.
- Provide safeguards in all records management activities for the protection of individual privacy in accordance with federal and state laws and regulations.
- Identify, develop, and maintain a vital records protection program.
- Ensure that document retention schedule/destruction practices are suspended when litigation, governmental investigation, or an audit is pending or imminent.

D. PROGRAM COMPONENTS AND SERVICES

1. Training and Workshops

The Archives and Records Office offers training and workshops on records management, including records disposition, vital records protection, files management, electronic records retention scheduling, and disaster preparedness.

2. Records Inventory

All Laboratory divisions, departments, and research groups are responsible for completing and keeping current inventories for their records, and should share the information electronically with the Archives and Records Office.

3. Records Scheduling

Records must be maintained according to the retention schedules approved by the National Archives and Records Administration. The schedule is the legal instrument by which records are evaluated and decisions are made about their storage, preservation, availability, or transfer to the National Archives and Records Administration. The Archives and Records Office is responsible for developing retention schedules that accurately reflect the nature and content of the Laboratory's records.

After the schedule is prepared, it is sent to DOE and the National Archives for review and approval. It is critical to note that records may not be destroyed unless they are covered by an approved schedule.

4. Program Survey

To establish accountability and to assess the Laboratory's records management practices, the Archives and Records Office will survey each division, department, project, and research group's area using National Archives and Records Administration guidelines and requirements. Reports of the records surveys will be given to the Records Liaison Officer and appropriate line management. Line management and the Records Liaison Officer are responsible for correcting the deficiencies within a reasonable amount of time.

5. Information in Electronic and Optical Form

Scientific and technical records may consist of laboratory notebooks, raw observational or experimental data, text files, software, or modeling and design systems recorded on electronic or optical media. According to the law and National Archives and Records Administration regulations, records may consist of any media, including microfilm, magnetic tape, floppy and hard disks, and optical cards and disks. Information on these media must be covered by an approved records schedule and handled according to the terms of the schedule.

Federal law and regulations require the Laboratory to schedule electronic and optical record retention by information system (including inputs, outputs, documentation, and magnetic or optical media). Unscheduled records or records scheduled for permanent retention in hard copy may not be destroyed without National Archives approval. Before a division, department, project, or research group creates electronic or optical data systems, the records liaison officer should contact the Archives and Records Office about disposition requirements.

6. Vital Records

Vital records should be inventoried and identified. Scientific groups and departments must take appropriate measures to protect vital records.

7. Disaster Recovery

If records are damaged by fire, water, or other natural or manmade hazards, the Laboratory Archivist and Records Manager should be contacted to assess the damage, determine whether in-house methods can be used to recover the information, or find additional records disaster recovery expertise.

8. Disposition of Personal Papers and Official Records

The DOE/LBNL Contract between the University of California and DOE specifies that all records, except the University's fiscal and administrative records, are federal records. Individuals do not own Laboratory records and do not have the authority to dispose of them or transfer records to another institution. If individuals maintain personal files at the Laboratory, they must not mix Laboratory records with their personal records. Individuals may make convenience copies of appropriate Laboratory records for their personal files in reasonable quantities.

9. Privacy and Access Laws

Laboratory records, except for the University's fiscal and administrative records, are subject to the procedures

outlined in the Freedom of Information Act and the Privacy Act. University fiscal and administrative records are subject to the California Public Records Act and the Information Practices Act. For assistance and clarification about these laws, call the Archives and Records Office.

10. Access to Laboratory Records

Laboratory records that are permanent, historically valuable, and noncurrent are open to research, subject to Freedom of Information and Privacy Act provisions. Researchers are encouraged to call the Archives and Records Office to make arrangements to use these records.

11. Quality Assurance

Laboratory Quality Assurance Policy (LBNL/PUB-3111) addresses quality assurance records. The records liaison officer must carry out records responsibilities according to procedures established by quality assurance guidelines, Laboratory policy and procedure, and federal laws and regulations. The Archives and Records Office will assist divisions, principal investigators, departments, projects, and research groups in understanding and meeting their quality assurance records obligations.

12. Central Records Holding Area

The Laboratory Archives and Records Office operates the Laboratory's Central Records Holding Area. All offices are required to retire semiactive records series to the Archives and Records Office. The Central Records Holding Area facility standards are set forth in 36 CFR 1228.222 and 1228.224, and ASME-NQA-1 §17.

§1.18
Solicitation and Acceptance of Gifts

Responsible Manager

Rev. 01/10

- **A. General Policy**
- **B. Definition**
- **C. Responsibility**
- **D. Procedures**

A. GENERAL POLICY

The President of the Regents of the University of California (the Regents) has delegated to the Laboratory Director the authority to solicit and accept gifts, including gifts of equipment, having an individual value not exceeding $100,000. Solicitation or acceptance of individual gifts exceeding $100,000 requires authorization from the University of California, Office of the President (UCOP). In addition, the Regents' authorization is required for solicitation or acceptance of any gift that exceeds $1 million or involves exceptions to University/Lawrence Berkeley National Laboratory programs and policies, long-term commitments, construction of facilities, or an interest in real property.

This delegation is subject to the following conditions:

- Gifts are accepted in the name of, and title rests with, the Regents of the University of California.
- Gifts must be solicited, accepted, administered, documented, and reported in accordance with applicable University and Laboratory policies and procedures. See current Laboratory policy and procedures.
- Gift funds expended at Berkeley Lab are subject to the conditions set forth in Clause H.27 of contract 31 and the DOE-approved implementation plan for Contractor-funded R&D.

B. DEFINITION

A gift imposes no contractual requirements and is given irrevocably. The proposed gift must support the scientific mission of the Laboratory. A gift from nongovernmental entities, earmarked for a specific project or for a principal investigator, is subject to the financial disclosure provisions of the Political Reform Act of 1974. Questions regarding these provisions should be referred to the Laboratory Conflict of Interest Coordinator.

In some cases, particularly where funding is provided from a nonprofit entity, it may be difficult to distinguish between a gift and a sponsored project. The following are characteristics that should be considered to make such a distinction:

Gifts vs. Sponsored Projects

Gifts	Sponsored Projects
Contractual requirements are not imposed and the funds are not program-specific. However, objectives may be stated and use of the funds may be specified for a particular purpose such as research in a defined area (e.g., Alzheimer's disease).	The award carries such terms on the use of funds as specified budgetary restrictions; the objectives to be achieved by the use of the funds; the program in which the work will be carried out; the individuals responsible for the completion of the work; the period of performance; indirect costs; and invention rights (intellectual property), a schedule of payments.
Award is irrevocable.	Unused funds must be returned to the sponsor.
A period of performance is not specified.	Formal period of performance is stated in an award document.
Formal financial accounting over a specified project period is not required and there is no requirement to return unexpended funds. Good stewardship does allow general communication as a courtesy to the donor. E.g., reports of expended funds and a description of research status.	Formal financial accounting, during the life of the project, at its termination, or both, is required. Reports related to the substance of the work during the life of the project, at its termination, are required by the sponsor. Copies of published and other materials may also be requested. Final deliverables are required.
Generally, funds received from individuals, closely held corporations, and private family foundations will be classified as gifts; and funds received from corporations, corporate foundations, and major foundations may be classified as gifts, depending on the circumstances.	Generally, research-related awards from corporations, corporate foundations, and major private foundations subject to specific restrictions will be classified as sponsored research.

C. RESPONSIBILITY

The Office of Sponsored Projects and Industry Partnerships (OSPIP) is responsible for reviewing, processing, and monitoring gift proposals and awards to ensure compliance with University and Laboratory policies. OSPIP is responsible for ensuring that the gift is not better classified as a Sponsored Project. The Principal Investigator and Division Director are responsible for making the initial determination of the appropriateness of the gift.

D. PROCEDURES

Approval for acceptance of gifts will not be granted unless all the procedural requirements listed below are

satisfied:

1. A principal investigator must consult with his or her division director before initiating any action. Once the division director has approved the gift, the division office will assist the principal investigator in preparing the gift acceptance package. The division director must review the gift against the criteria for sponsored projects to ensure whether it should not be a sponsored project. Questions should be directed to OSPIP.

2. The division submits the documentation to OSPIP to review for completeness, accuracy, and adherence to policy.

3. OSPIP submits the Director's gift acceptance package including the LBNL Gift Acceptance Report form (UDEV-100) to the Laboratory Director.

4. After review and acceptance, the Laboratory Director signs the formal letter of acknowledgment, which will be sent to the donor by OSPIP.

5. If the gift is Laboratory property, OSPIP will notify Property Management to establish a formal inventory record.

6. If the gift requires UCOP acceptance, OSPIP will forward the necessary forms to the University.

7. OSPIP will notify the division when the gift processing is complete.

8. After notification, the division will request that a project be opened by the Budget Office.

9. No charges may be incurred until OSPIP notifies the division that all processing is complete. See also RPM §11.40(H) (*Property Acquired as a Gift*).

§1.19
Use of Laboratory Mail System

Responsible Manager

Section Renumbered 8/06

The Laboratory's mail system is intended only to process official mail, which is mail that results from the performance of duties directly related to official Laboratory business. The Laboratory uses government funds to provide postage on outgoing mail. Using Laboratory-furnished postage for other than official business mail is a violation of Laboratory policy and the Laboratory's contractual obligations to DOE. Examples of mail that are not considered official are gifts, calendars, Christmas cards, and resumes sent to other organizations. In addition, the Laboratory's mail system may not be used for stamped personal mail. A United States Postal Service box is located for employee convenience in the cafeteria parking lot.

Similarly, the mail system may not be used for incoming personal mail (e.g., personal correspondence, bank and credit statements, popular magazines, clothing catalogs, gift packages). Incoming mail of a personal nature may be refused or returned to sender at the discretion of the Mail Services Supervisor.

The Laboratory will fund all mailings up to 200 pieces. Mailings in excess of 200 pieces will require a valid project number. All personnel are encouraged to plan for and choose the more cost-effective "bulk" mailing rate, which, on an average, provides a four- to six-day delivery time and a cost savings of up to 55 percent over normal third-class mail. Information regarding these rates and/or other Mail Services procedures should be directed to the Mail Services Manager at extension 5353.

Laboratory mail is checked to ensure that the proper postage charges are paid. If it is uncertain which mail classification should be used or there is reasonable cause to believe that the mail is not directly related to official Laboratory business and a return address is present on the material, the sender will be contacted to ascertain its status. If it is uncertain which mail classification should be used or there is reasonable cause to believe that the mail is not directly related to official Laboratory business and a return address is not present on the material, the mail will be opened to ascertain its status.

§1.20
Space Management

Responsible Manager

Section Renumbered 8/06

- **A. General**
- **B. Responsibilities and Approvals**
  - **1. Division Space Management Responsibility**
  - **2. Interdivision Space Management Responsibility**
  - **3. Institutional Space Management Responsibility**
- **C. Procedures**
  - **1. Allocation of Space Costs**
  - **2. Record-Keeping**
  - **3. Requests for Space**
  - **4. Return Policy**
- **D. Off-Site Space**
- **E. Space at the University of California at Berkeley**
- **F. Funding**
- **G. General Space Management Principles**

A. GENERAL

The Laboratory's policy on space management is to maximize the use of this resource in a planned, judicious, and cost-effective manner while minimizing disruption of activities. The Laboratory Director has delegated the implementation of this policy and the authority to allocate space in all Berkeley Lab–managed property to the Associate Laboratory Director for Operations (ALDO), assisted by the Facilities Planning staff.

B. RESPONSIBILITIES AND APPROVALS

1. Division Space Management Responsibility

Each division is responsible for managing the utilization of space assigned to it. Facilities Planning works with each division to monitor compliance with space utilization policy.

Each division director designates a division space coordinator, who serves as the point of contact for the division's space information.

When a division has new space needs, it is responsible for examining all possibilities to meet this need within its existing allocations before submitting a request for additional space to Facilities Planning.

With the exception of individual office space intended for immediate reuse by the same division, reuse of any vacated space must be reviewed by Facilities Planning for consistency with Laboratory-wide plans. Any

modifications made to a room configuration, including change of use, must be approved by Facilities Planning for compliance with applicable building codes and consistency with Laboratory-wide plans.

2. Interdivision Space Management Responsibility

Division directors are expected to work together in resolving space issues when reallocations must take place across division lines. Before interdivisional negotiations begin, a request for space reassignment is submitted to Facilities Planning to allow for a check for consistency with Laboratory-wide plans and options available to the requester. All reassignments of space must, however, be approved by the ALDO.

3. Institutional Space Management Responsibility

In unresolved interdivisional space issues, reassignment of space is made by the ALDO in consultation with the Laboratory Space Committee. This committee is chaired by the ALDO and includes representatives from Computing, Energy, General, and Life Sciences; the heads of the Office for Planning and Strategic Development and Facilities Division; and staff from Facilities Planning.

C. PROCEDURES

1. Allocation of Space Costs

Allocation of costs associated with space will be charged directly to the project utilizing the space, consistent with the "final cost objective" of the Cost Accounting Standards of the Laboratory. As a basic guideline, space should be allocated to each cost objective to which labor is associated.

Final cost objectives for the Laboratory include:

- DOE projects
- Work-for-Others projects
- Organization burden
- Recharges
- Laboratory Directed Research and Development projects
- Projects funded by other sources (e.g., University Directed Research and Development, fellowships, gifts, etc).

2. Record-Keeping

The Odyssey Space Database is the institutional record of space assignments by division. Information from this database is used for all institutional record-keeping concerning space, including space charges. The database is updated monthly and is available Laboratory-wide through the Information Systems and Services IRIS v.2 data warehouse. A separate publication, *Odyssey Space Management System*, describes the maintenance of Odyssey.

3. Requests for Space

Requests for additional space are made by memo or e-mail to Facilities Planning. Requests may only be made by an authorized division representative (i.e., division director, division administrator, or division space coordinator).

4. Return Policy

Requests to return space are made by memo or e-mail to Facilities Planning. Requests may only be made by an authorized division representative (i.e., division director, division administrator, or division space coordinator).

Prior to vacating space and returning it to the Laboratory, the Principal Investigator assigned to the space must meet the following requirements:

- The space must be cleared of materials and equipment and be devoid of any contamination.
- The space must be of a reasonable size and relatively contiguous configuration to enable reasonable reuse by other Laboratory divisions.
- Office furniture, if free of materials, debris, and contamination, may be left in place and returned with the space.

If the Principal Investigator fails to meet the above requirements, the responsibility will fall to the division.

Ninety days after receiving the written request to return space, Facilities Planning will transfer the space from the requesting division if, by the date of transfer, the space meets the above requirements. This 90-day period will allow another user to be located. If another division accepts assignment of the space, some or all of the 90-day waiting period will be waived. If the space is not acceptable for release after 90 days, it will remain the assigned division's responsibility until it meets the requirements for release.

D. OFF-SITE SPACE

Under certain circumstances, off-site space may be leased to accommodate Laboratory needs. Off-site space acquisition is governed by a variety of contractual, legal, and University policy provisions. Requests for off-site space must be made by memo or e-mail to Facilities Planning. As the designated staff to the Associate Laboratory Director of Operations, Facilities is the sole authorized requester for the procurement of leased real estate for the Laboratory.

E. SPACE AT THE UNIVERSITY OF CALIFORNIA AT BERKELEY

Each division using space in a University of California at Berkeley–managed facility to conduct Laboratory-funded research is required to report the building, room, and percentage of space used by Berkeley Lab to Facilities Planning at the beginning and end of occupancy, and upon any change to the percentage of space used by the Laboratory.

F. FUNDING

Costs related to moving in or alterations of newly assigned space are normally borne by the incoming division. When moves are required by the Laboratory, costs will be borne by Laboratory overhead and/or the benefiting division. Alterations to leased space funded by the Laboratory must be approved by the DOE Berkeley Site Office.

G. GENERAL SPACE MANAGEMENT PRINCIPLES

The following principles are guidelines for space allocation:

- *Research.* Research divisions have priority for space over support divisions.
- *Laboratory-Based Research.* Laboratories should be used for the purposes for which they were designed (e.g., wet laboratories should be used for wet-laboratory-based research). Converting laboratory space to office space should be avoided.
- *Asset Proximity.* In buildings containing both offices and laboratories, groups with laboratory space in the building have priority for office space. If research programs depend on a major facility (e.g., the Advanced Light Source, the 88-Inch Cyclotron, electron microscopes), programs using the facility have priority for adjacent office and laboratory space.
- *Office Space.* Office space is allocated to be generally equitable among the divisions. "Equitable" means that roughly the same amount of floor area should be provided for people, including students, of approximately equal rank. This approach accounts for program size and funding in a reasonable way. For cost effectiveness and maximum utilization, the Laboratory encourages open and shared office space.

§1.21
Berkeley Lab Stationery and Logos

Responsible Manager

Revised 09/07

- **A. Use of Name and Logo**
- **B. Use of Letterhead**
  - **1. Requirements for Nonstandard Berkeley Lab Letterheads**
  - **2. Approval of Nonstandard Letterheads**
- **C. Berkeley Lab Business Cards**
  - **1. Policy**
  - **2. Printing by Off-Site Printers**
  - **3. Requests for Authorization of Business Cards**

A. USE OF NAME AND LOGO

Lawrence Berkeley National Laboratory is the official, legal Laboratory name, to be used in written and formal situations, on all major reports, and on first mention in text references. Berkeley Lab, the short form of the official name, is preferred for common usage in writing and familiar situations. This appears on the official Laboratory logo. In situations in which an acronym is required, "LBNL" should be used.

The official Laboratory logo is available in a variety of forms and should generally be applied to all publications and visual representations of the Laboratory, in particular to those distributed externally. The logo must be used as designated without alterations. The use of other logos or graphic symbols displayed with the official logo must be approved by the Director of Public Affairs.

Questions regarding appropriate use of the name and logo in text and design should be directed to the Creative Services Office (CSO).

B. USE OF LETTERHEAD

Official Berkeley Lab stationery in standard and approved nonstandard variations must be used for all official external correspondence. Standard stationery may be ordered through Stores or obtained electronically via a public server. Nonstandard stationery may be ordered through CSO.

1. Requirements for Nonstandard Berkeley Lab Letterheads

a. All nonstandard letterheads must include the official Laboratory logo and the following text at the bottom of the first page:"Lawrence Berkeley National Laboratory, One Cyclotron Road, Berkeley, California 94720." Laboratory or program telephone and fax numbers are permissible as part of the letterhead.

b. Laboratory divisions may add the division name and telephone number. The use of additional divisional/center or group logos is not permitted on either standard or approved nonstandard letterheads.

c. National centers located at Berkeley Lab, approved Berkeley Lab science centers, or other major organizational units may add their name to the letterhead if they can show a need for having their own letterhead. Appropriate application of name, including placement and type size, will be provided by CSO. Federal regulations prohibit showing an individual's name.

d. Printing must be done in black or blue ink. The official blue PMS color number is available through CSO.

2. Approval of Nonstandard Letterheads

a. The California Education Code as well as University policy prohibit unauthorized use of the University's name and seal. Authority to approve the use of the University's name and seal have been delegated to the Associate Laboratory Director for Operations (ALDO). The University seal may not be used on Laboratory letterhead and business cards unless specifically authorized by the ALDO. Use of the University seal must be limited to official University business within the course and scope of the individual's employment.

b. Requests for approval of nonstandard letterheads should be made by memorandum from the cognizant division director to the Head of Public Affairs.

C. BERKELEY LAB BUSINESS CARDS

1. Policy

a. Business cards may be provided to an employee (1) whose job requires regular interaction with representatives of federal agencies; other contractors; state, local, or foreign governments; private industry; or the general public; and (2) for whom a business card would facilitate prompt and efficient communication with such individuals and entities as a representative of Berkeley Lab for DOE.

b. Under the terms and conditions of the DOE/LBNL Contract, which requires Berkeley Lab to facilitate contract performance in support of DOE's mission, discretion must be used in determining whether business cards will serve a suitable mission-related use.

c. When the relevant division director or designee approves business cards for an employee, the number of cards should be kept to a reasonable amount, based on cost and percentage of use. Cards must include the following statement on the face of the card: "Operated for the United States Department of Energy." Expense for cards meeting these conditions will be paid for by the individual's department or division.

2. Printing by Off-Site Printers

Regulations of the Joint Congressional Committee on Printing, which apply to Berkeley Lab, prohibit the printing of business cards at government expense unless the conditions outlined in Paragraph (C)(1)(a), above, are met. Therefore, printing of business cards not meeting these conditions, by off-site printers not coordinated through the General Printing Officer in CSO, must be paid for directly by the employee. Procards may not be used to pay for printing.

3. Requests for Authorization of Business Cards

Employees may request authorization of business cards from the relevant division director or designee by following these procedures:

a. Contact CSO for a Request for Business Cards form, which includes samples of card styles approved by the Director's Office.

b. Select one of the approved card styles.

c. Send the form to the division director or designee to ensure compliance with the California Education Code. To avoid possible misrepresentation of the University or Laboratory, this Code prohibits use of the University's name without permission from the Laboratory Director or designee.

d. Send the approved form to the CSO Front Desk, Mail Stop 46R0125. CSO will provide graphic services for appropriate placement of logo and text, and coordinate the printing of cards created at a division's expense. Those wishing to pay for their own cards may receive the camera-ready artwork to arrange for their own printing services.

e. Provide one business card to the division administrator to demonstrate conformance with approved card styles.

§1.22
Forms Management

Responsible Manager

Section Deleted 09/07

§1.23
Organizational Membership

Responsible Manager

Section Renumbered 8/06

The Laboratory's former Organizational Membership policy and procedures were rescinded by DOE's Contract DE-AC02-05CH11231, effective June 1, 2005.

Organization membership dues and fees are allowable under the contract if they meet the cost allowability requirements. Please see the policy on cost allowability in the Financial Policies and Procedures Manual.

For matters of organization costs for licensing or certification required by a Laboratory employee's position, please see RPM §2.04(G).

§1.24
Metric Usage

Responsible Manager

Section Renumbered 8/06

- **A. Metrication Policy**
- **B. Definitions**
- **C. Scope of Metrication**
- **D. Responsibilities**
- **E. Implementation Guidelines**
  1. **SI Units: Definitions**
  2. **Metric Practice**
  3. **New Design and Development**
  4. **Repair, Modification, and Retrofit of Existing Inch-Pound Facilities and Equipment**
  5. **Tools and Equipment**
  6. **Technical Documentation**
  7. **Deviation from SI Usage**
  8. **Reference**

A. METRICATION POLICY

The Laboratory requires the use of the modern metric system, the International System of Units (abbreviated SI, from the French *Système International d'Unités),* except when safety considerations dictate otherwise or when metric usage would entail excessive costs or otherwise seriously impede Laboratory operations. Exceptions are also allowed for programs whose sponsors specify the use of the inch-pound system. Division directors are responsible for implementing the metric system within their respective divisions as expediently as feasible.

The Laboratory has adopted SI units in response to Trade and Competitiveness Act of 1988 §5164, Executive Order 12770 of 1991, and DOE Order 5900.2.

B. DEFINITIONS

Metric System. In general parlance, any of a number of closely related decimal unit systems, including the centimeter-gram-second (cgs) system, the meter-kilogram-second (MKS) system, the meter-kilogram-second-ampere (MKSA) system, and the current International System of Units (SI). As used in this section, the expressions metric, metric system, and metric units refer exclusively to the International System of Units.

International System of Units (SI). The modern metric system (i.e., the system of decimal units currently defined and sanctioned by the International Bureau of Weights and Measures, which operates under the authority of the General Conference on Weights and Measures).

Metrication. The process of expanding the use of SI units and phasing out the use of non-SI units.

Inch-Pound System. The system of measurement units most commonly used in the United States. This system is based on such units as the inch, pound, second, and degree Fahrenheit. It is also frequently referred to as the "English System" or the "U.S. System."

Hard Metric Usage (or Practice). Exclusive and direct use of SI units (i.e., without first converting measurements made using inch-pound or other non-SI units into SI equivalents). Hard metric usage generally means that a product will differ physically from an analogous product designed and produced using the inch-pound system. For example, a mechanical designer working in the inch-pound system might specify the thickness of a flat metal part as 1 inch. Working in "hard metric," the same designer might specify the thickness of this part as 25 mm.

Soft Metric Usage (or Practice). The conversion of inch-pound or other non-SI measurements to equivalent SI units, within the established measurement tolerances. In general, "soft metric" products will not differ physically from analogous products fabricated using the inch-pound system. Working in "soft metric," the mechanical designer in the example above would specify that the flat metal part in question must be exactly 25.4 mm thick.

Metric Design. Design work that incorporates SI usage. For purposes of this document, metric design generally means hard metric design, although soft metric design will be acceptable during the transition from inch-pound to SI units.

Dual Dimensioning. The inclusion of both SI and non-SI dimensions in drawings and publications.

Dual Indication. The inclusion of both SI and non-SI units and calibrations on instruments and gauges.

Hybrid Practice. Mixing SI units and non-SI units in an activity or a product.

C. SCOPE OF METRICATION

The Laboratory aims to implement the use of SI units throughout its operations as rapidly as it is reasonable and cost-effective to do so. In principle, all research programs, facilities, and equipment are subject to metrication. The Laboratory's divisions are granted latitude, however, to determine the pace and stages of metric conversion. In general, postponement of metrication should be allowed only in situations in which metric conversion would seriously impede Laboratory operations.

D. RESPONSIBILITIES

All Laboratory planning, design, procurement, manufacturing, installation, integration, testing, operation, and maintenance must be performed in a manner consistent with the provisions of this policy. Division directors will be responsible for ensuring adherence to these guidelines within their respective divisions.

E. IMPLEMENTATION GUIDELINES

1. SI Units: Definitions

SI as currently defined is based on seven units that are considered dimensionally independent: the meter, kilogram, second, ampere, kelvin, mole, and candela. All other units are derived from these base units and two supplemental units that are considered dimensionless derived units: the radian and the steradian. Information on

the base, supplemental, and derived units are given in ASTM E 380-92, *Standard Practice for Use of the International System of Units (SI) (the Modernized Metric System*) (ASTM, Philadelphia, 1992).

2. Metric Practice

Metric practice at the Laboratory will conform to the provisions of ASTM E 380-92 and subsequent revisions of that document. ASTM E 380-92 prescribes standards of usage governing the following issues:

- Use of prefixes
- Permissible use of non-SI units under some circumstances
- Obsolete metric units and names to be avoided
- Specific SI units, including those expressing mass, force, weight, temperature, linear dimensions, rotational mechanics, impact energy absorption, and pressure and vacuum
- Use of nominal dimensions in naming customary items
- Writing numbers, numerals, and unit names and symbols
- Conversion, rounding, and tolerances
- Correct use of significant digits to indicate the accuracy of measured, converted, or computed quantities

ASTM E 380-92 also provides comprehensive tables of conversion factors.

Contrary to the style used in ASTM E 380-92, Laboratory drawings and publications will use the spellings "meter" and "liter" instead of "metre" and "litre." The Laboratory also expressly sanctions the use of the degree Celsius in place of the Kelvin in all contexts except formal scientific publications.

If multiple codes and standards exist governing specific disciplines and trades (e.g., fasteners), the Laboratory Metric Transition Council will be responsible for adopting the code or standard most appropriate for the Laboratory. The Metric Transition Council is chaired by the Engineering Division Director.

3. New Design and Development

Metric design is preferred in all new projects. Major projects nearing completion that have been designed and constructed in the inch-pound system may be completed in that system. Materials, components, parts, subassemblies, and semifabricated materials of commercial design will be specified in SI units except when exemptions are granted on the basis of the criteria listed in Paragraph (E)(7), below. Bulk materials will be specified and accepted in SI units for projects and items designed and specified using SI units.

4. Repair, Modification, and Retrofit of Existing Inch-Pound Facilities and Equipment

Repair, modification, and retrofit of existing facilities and equipment of inch-pound design using SI-designed items are permissible. Decisions concerning such modification will be determined on a case-by-case basis, however, with consideration given to the technical and economic feasibility of using SI and to other relevant factors such as safety. The final decision in such cases will be made by the project leader with the concurrence of the responsible division director. In general, increasing use of SI-designed items is strongly encouraged.

5. Tools and Equipment

For the foreseeable future, shop, laboratory, and general-purpose tools and test equipment used by Laboratory personnel must permit work in either SI or inch-pound units or in both, depending on which system is encountered in work situations. The purchase and assignment of tools and equipment must take this requirement into account, though gradual conversion to pure metric usage is expected to reduce its importance over time.

6. Technical Documentation

Technical documentation and Laboratory publications will comply with the following requirements:

a. **Specifications and Engineering Drawings for New Designs and Modifications of Existing Designs.** These engineering documents must incorporate SI units in either of two ways. The preferred method is SI units only. Alternatively, dual dimensioning may be used. If dual dimensioning is used, the general rule will be for SI units to be given first, with the corresponding non-SI units following in parentheses. In cases in which safety is a prime consideration and with the approval of the responsible division director, engineering documents may use dual dimensioning with inch-pound units first and SI units following in parentheses.

b. **Engineering Calculations.** All engineering calculations that contribute to metric designs must be expressed in SI units.

c. **Laboratory Publications.** Metric units must be used in all Laboratory reports and publications. Exclusive use of SI units is preferred wherever possible, but dual dimensioning is allowed during the transitional period. If dual dimensions are used, the preferred format is SI units first and the corresponding inch-pound units in parentheses. For cases in which safety is a prime concern, publications may provide dual dimensions with inch-pound units first and SI units following in parentheses.

7. Deviation from SI Usage

Deviation from SI usage may be approved by the responsible division director. Acceptable criteria for allowing continued use of non-SI units include such factors as:

- Safety considerations
- Unavailability of applicable metric standards
- Unavailability of metric materials
- Seriously adverse cost effects of metrication
- Program sponsor instructions regarding the units to be used in specific projects or activities

8. Reference

For more information, see *Guidelines for Metrication at Lawrence Berkeley Laboratory* (LBNL/PUB-729), which is available from the Metric Transition Council.

§1.25
Institutional Committees

Responsible Manager

Rev. 08/10

- **A. General**
- **B. Committees**
  1. **Director's Action Committee**
  2. **Laboratory Diversity Council**
  3. **Laboratory Staff Committee**
  4. **Laboratory Advisory Group on Research**
  5. **Laboratory Professional Awards Committee**
  6. **Human Subjects Committee**
  7. **Animal Welfare and Research Committee**
  8. **Conflict of Interest Advisory Committee**

A. GENERAL

The Laboratory has a number of standing committees that support various aspects of its scientific and management functions.

B. COMMITTEES

1. Director's Action Committee

The Director's Action Committee (DAC) considers and approves major policy changes and institutional decisions and acts as a conduit for information of institutional importance flowing to and from the divisions and the Laboratory Directorate. DAC has the following members: the Laboratory Director; the Deputy Director; the Associate Laboratory Director for Operations; the Associate Laboratory Director, Computing Sciences; the Coordinating Division Directors for Energy, General, and Life Sciences; and the Laboratory Counsel. DAC members are selected and appointed by the Director.

2. Laboratory Diversity Council

The Lab's Diversity Council charter is to foster innovative actions that create an inclusive work environment which makes full use of the contributions of all employees. The goal of the Council is to help support a workforce that reflects and embraces the diversity of our community, nation and the world, while striving to attain the following goals / objectives:

- Create synergy between division/department diversity action plans and initiatives
- Share diversity best practices across the Laboratory
- Create and execute new initiatives that promote diversity in divisions and the Laboratory

- Visibly recognize and communicate diversity best practices achievements throughout the Laboratory
- Identify and address emerging issues that can impact our diversity culture

3. Laboratory Staff Committee

See RPM §2.07(B)(1) (*Laboratory Staff Committee*).

4. Laboratory Advisory Group on Research

The charge of the Laboratory Advisory Group on Research (LAGR) is to advise the Director on matters pertaining to new scientific directions, quality of the work environment, promoting the highest quality science, and campus relations. Members are drawn from nonmanagement members of the scientific and engineering staff of each scientific area (Biosciences, Energy, and General Sciences, including Laboratory Centers).

5. Laboratory Professional Awards Committee

The charge of the Laboratory Professional Awards Committee is to seek and publicize outside recognition of Laboratory scientific and technical staff. To this end, it promotes awareness of awards at the Laboratory, advises the Director on strategies for awards, and encourages coordination and cooperation among divisions and with the University in nominating candidates for awards. Members are drawn from all scientific divisions.

6. Human Subjects Committee

The Human Subjects Committee (HSC) is the Laboratory's Institutional Review Board (IRB) for Human Research Participants Protection and is established to review research performed at LBNL that involves the participation of human subjects. The HSC shall ensure that subjects are treated ethically, and that the risks and benefits of research are balanced, consistent with the principles set out in the Belmont Report: respect for persons, justice, and beneficence. All human subjects research performed at or funded through the Laboratory, or conducted off-site by Laboratory staff, shall be subject to HSC review, and shall not be performed unless approved by the HSC. Members of the HSC shall be nominated by the HSC and appointed by the Institutional Official. The Lab shall strive to ensure this committee reflects varying backgrounds to promote complete and adequate review of research activities commonly conducted by the institution.More information about this committee is available in Health and Safety Manual (LBNL/PUB-3000), Chapter 22.

7. Animal Welfare and Research Committee

The charge of the Animal Welfare and Research Committee (AWRC) is to ensure the humane and ethical treatment of research animals at the Laboratory. The AWRC is also the Laboratory's link to people and institutions involved with animal research outside the Laboratory. Members are generally drawn from the Biosciences Divisions.

8. Conflict of Interest Advisory Committee

The LBNL Conflict of Interest Advisory Committee (COIAC or Committee) acts under the authority of the Laboratory Director and is charged with independently assessing the significance of financial interests associated with proposed outside professional activities of principal investigators and others involved in the design, conduct, and reporting of research to be performed under Contract 31, regardless of the funding source. The Committee will make a written recommendation to the Deputy Director concerning approval of the proposed compensated outside

professional activity, and if applicable, appropriate strategies to manage, reduce, or eliminate associated conflicts of interest.

The COIAC's independent assessment of potential conflicts of interest promotes integrity in the research enterprise. The Committee is staffed by the Research and Institutional Integrity Office.

§1.26
Financial Management

Responsible Manager

Moved 04/07

Note: Laboratory guidelines for financial management are now located in the *Financial Policy and Procedures Manual*, on the Office of the Chief Financial Officer Web site. *Financial Management General Guidelines* is also available in a PDF here.

§1.27
Unified Project Call Process

Responsible Manager

Revised 09/07

Note: This section is being revised.

- **A. General**
- **B. Responsibilities and Approvals**
  1. **Laboratory Director, Deputy Director, Associate Laboratory Director for Operations, and Director's Action Committee**
  2. **Facilities Division**
  3. **Berkeley Lab Divisions**
  4. **Environment, Health, and Safety (EH&S) Division**
  5. **Office of the Chief Financial Officer**
  6. **Project Coordinating Committee**
  7. **GPE Review Committee**
  8. **Department of Energy/Federal Project Director**
- **C. Process and Schedule**
  1. **Candidate Project Identification**
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A. GENERAL

Berkeley Lab's Unified Project Call Process:

- Provides programmatic and infrastructure organizations with the opportunity to examine their operational needs and to submit prioritized candidate Line Item Project (LIP), General Plant Project (GPP), Non-Capital

Alteration (NCA), and General Purpose Equipment (GPE) proposals in the budget process.

- Serves as a vehicle for implementation of the Laboratory's mission as expressed by Laboratory management and documented in Berkeley Lab's Ten-Year Site Plan and Institutional Plan.
- Facilitates Laboratory-wide coordination of divisional project proposals, Laboratory Corrective Action Tracking System (LCATS) project proposals, and Laboratory infrastructure improvement and expansion project proposals.
- Identifies sources of funding to adapt facilities to new or improved production techniques, effect economies of operations, and reduce or eliminate health, fire, and security problems.

B. RESPONSIBILITIES AND APPROVALS

1. Laboratory Director, Deputy Director, Associate Laboratory Director for Operations, and Director's Action Committee

- At the inception of the annual Unified Project Call, the Laboratory Director, Deputy Director, and Associate Laboratory Director for Operations—in consultation with the Planning and Strategic Development Director, the EH&S Division Director, the Facilities Division Director, the Information Technology Division (ITD) Director, and the Chief Financial Officer—establish funding goals and priorities for the Call. The Director's Action Committee (DAC) provides final review and approval of these goals and priorities.
- The Laboratory Director, upon recommendations from the Deputy Director, the Associate Laboratory Director for Operations, and Associate Laboratory Directors, appoints five research division deputies (one from each Laboratory area) to serve on the Project Coordinating Committee.

2. Facilities Division

- Issues the Unified Project Call. This invitation to submit candidate projects will outline the goals and priorities established by Laboratory management.
- Schedules meetings at which a member of the Architectural and Engineering (A/E) staff and a member of the Facilities Planning staff discuss potential candidate projects with the division deputy of each Laboratory division. The division deputy may invite others at the division deputy's discretion.
- Schedules a meeting during which each division deputy presents his or her division's top three to five projects to the Project Coordinating Committee or, for overhead-supported divisions, the GPE Review Committee.
- Schedules a meeting with the Budget Officer to ensure that the appropriate funding source has been identified for all candidate projects that are likely to be approved during the institutional review process.

  NOTE: Major changes to project scope must be reviewed by the Budget Officer to ensure that the previously identified funding source is still appropriate to the new scope.
- Reviews all submittals to resolve conflicting or duplicate project requests.
- Provides initial Risk-Based Priority Model (RPM) and Capital Asset Management Plan (CAMP) scores for all candidate projects and obtains cost estimates, as needed.
- Serves as staff to the Chair of the Project Coordinating Committee and Chair of the GPE Review Committee.
- Communicates project funding status and changes to division directors and division deputies on an as-needed basis, but not less frequently than quarterly.
- Continuously updates the project call database to ensure that Berkeley Lab management has the most accurate information to make funding decisions.

- Obtains the Federal Project Director's approval to start design and construction for all GPPs on Project Management's Planning List and for NCAs with an estimate over $500,000.

3. Berkeley Lab Divisions

- Under the direction of its division deputy, each division compiles a list of candidate projects and reviews them, with assistance of Facilities Division staff, for eligibility.

  NOTE: The Facilities Division and the Budget Officer will identify funding type. Divisions are to submit candidate projects without regard to the potential funding source.
- Prioritize project requests in order of importance to the division, regardless of funding type.

4. Environment, Health, and Safety (EH&S) Division

- Reviews project requests that can be tracked and possibly funded through the Laboratory Corrective Action Tracking System (LCATS).

5. The Office of the Chief Financial Officer

- The Chief Financial Officer (CFO) appoints a representative, currently the Budget Officer, to serve on the Project Coordinating Committee and the GPE Review Committee.
- The CFO and Budget Officer review and provide written approval of the appropriateness of the funding type for each committee-selected project.

6. Project Coordinating Committee

The Project Coordinating Committee provides institutional review and prioritization of LIP, GPP, and NCA requests, and is composed of the following members:

- A division deputy from each Laboratory organizational area, i.e., Computing Sciences, Physical Sciences, Energy Sciences, Biosciences, and General Sciences.
  - One of these five division deputies will serve as chair to the committee for a one-year term.
  - This is a rotating assignment, with three division deputies being replaced as Project Coordinating Committee members each year. No division deputy will be asked to serve more than three consecutive years.
- Planning and Strategic Development Director
- Office of the Chief Financial Officer (OCFO) representative (identified by the Chief Financial Officer)
- EH&S Division Deputy
- EH&S Division Environmental Protection Group Leader
- Engineering Division Deputy (identified by the Engineering Division Director)
- Facilities Division Deputy
- Facilities Division Space Planning Lead (staff to committee)
- Budget Officer (staff to committee)

7. GPE Review Committee

The GPE Review Committee provides institutional review and prioritization of GPE requests and is composed of the following members:

- Facilities Division Director (Chair)
- The Chief Financial Officer
- EH&S Division Director
- Engineering Division Director
- Facilities Division Space Planning Lead (staff to committee)
- Budget Officer (staff to committee)
- ITD Deputy

8. Department of Energy / Federal Project Director

The Federal Project Director authorizes the GPP Planning List (created by the Facilities Division) for all GPPs, all GPEs, and for NCAs with a Total Estimated Cost (TEC) of greater than $500,000. This authorization also includes approval of proposed funding type. The Federal Project Director then approves project-specific Construction Directive Authorizations for GPPs and GPEs with a total estimated cost (TEC) greater than $500,000.

C. PROCESS AND SCHEDULE

1. Candidate Project Identification

March	• Laboratory Director, Deputy Director, and Associate Laboratory Director for Operations establish goals and priorities for the current year. • Laboratory Director appoints new research division deputies to the Project Coordinating Committee. • Unified Project Call memoranda issued to all division directors. • The Facilities Division forwards list of unfunded projects to division deputies. • Divisions gather new project requests and updates previously requested projects. • Facilities Division A/E and Planning personnel meet with division deputies (and other division staff at the discretion of each division deputy) to review project requests and, as required, develop action plans to identify, document, and prioritize requests for the divisions. • Divisions provide new and escalated estimates. • Divisions prioritize requests—without regard to funding type—in order of importance as to safety and mission goals.
April	• Divisions submit prioritized division project requests to the Facilities Division. • The Facilities Division refers candidate projects with potential environment, safety, and health impacts to the EH&S Division for review. • Candidate projects with research implications are forwarded to the Planning and Strategic Development Director for institutional priority review and confirmation of consistency with the Laboratory's mission and goals.

May – July	The Facilities Division reviews prioritized projects and meets with appropriate internal staff and customers as needed to achieve the following: • Review project scopes, justifications, and estimates. • In conjunction with the Budget Officer, ensure that most appropriate funding source is identified. • Assign RPM and CAMP scores to all projects. ◦ Adjust raw RPM scores, as directed by the Facilities Division Director and EH&S Division Director. • Prepare Laboratory-wide prioritized project lists for review by institutional committees.

2. Institutional Review and Prioritization

August	• The Project Coordinating Committee and GPE Review Committee meet and select projects to be funded in the following fiscal year. ◦ The list of projects selected should exceed the amount of funding available to facilitate adjustments to the lists should additional funding become available or if senior Laboratory Management identifies new mission priorities. • The Chief Financial Officer and/or Budget Officer review selected projects and provides written confirmation of the appropriateness of the funding type selected. • The Facilities Division Director and Associate Laboratory Director for Operations review the list of recommended projects. • Committee Chairs present the list of recommended projects to DAC for approval.

3. Communication of Project Funding Status

March, June, September & December (other times as required)	The Facilities Division communicates project funding status and changes to division directors, division deputies, and others identified by division deputies.

D. MID-YEAR CHANGES TO GPP, NCA, AND GPE PROJECTS

Changing conditions throughout the year necessitate that changes be made to the projects selected by the Project Coordinating Committee and GPE Review Committee. These changes include such things as reduced program funding, reprioritization of research activities, etc. To ensure institutional support of the proposed mid-year change, the following must take place:

1. Facilities Planning, the appropriate committee chair, and the Facilities Division Deputy:

    - Review the programmatic implications of the change with the division originally requesting the project and the financial implications of the change with the division responsible for completing the project.
    - Identify projects to be added to or removed from the list or projects that can have their funding allocation adjusted to accommodate the proposed change.
2. The Budget Officer reviews the requested change and provides written approval of the appropriateness of the funding type.
3. Facilities Planning prepares documentation of the reasons for and scope of the proposed change and forwards it, along with a revised funding list, to the chair of the appropriate committee and the Facilities Division Deputy.
    - Funding adjustments that do not involve adding or removing projects from the list may be approved by the Facilities Division Director, with the concurrence of the chair of the appropriate committee and the appropriate Deputy Laboratory Director.
        - Institutional Committee members will be informed of the changes.
    - Changes to the project list that either fund projects not previously selected by the institutional committee or remove funding for previously selected projects must be approved by the appropriate committee.
        - The appropriate institutional committee will review the proposed changes through either a convened meeting or e-mail poll.
        - The Facilities Division Director will implement the changes approved by the appropriate committee.
4. Following approval as outlined above, the Facilities Division will notify division directors, division deputies, and others identified by division deputies.

E. DEFINITIONS

1. Line Item Projects (LIPs)

- LIP funds are used for institutional infrastructure project activities that are specifically reviewed and appropriated by Congress through a process managed by DOE. These projects should be submitted at least three years prior to the desired construction start. LIPs are then submitted to DOE for approval two years prior to the requested start date. LIPs have no project scale or schedule limit, and no specific cost cap.
- LIPs should be consistent with the Laboratory's Ten-Year Site Plan and Institutional Plan.
- LIPs include design and construction of large new facilities, such as:
    - Equipment installed in and made part of a facility
    - Related site preparation including excavation, filling, and landscaping
    - Other land improvements
- Multiple LIPs may be developed and funded to address related aspects or phases, or a particular need or concern
- LIPs are capitalized, and result in betterments to land or facilities

2. General Plant Projects (GPPs)/Institutional General Plant Projects (IGPPs)

- GPPs/IGPPs are miscellaneous minor new construction projects of a general nature, the total estimated costs of which may not exceed the congressionally established limit (currently $5 million). GPP funds come directly from DOE. IGPP funds are derived from the conversion of Laboratory operating funds to capital funds under

certain strict provisions.

NOTE: Overhead rates may not be increased for the sole purpose of generating additional funds to convert to IGPP.

- GPP/IGPP projects provide for design or construction (or both), additions and improvements to land, buildings, and utility systems, and they may include the construction of small new buildings, replacements or additions to roads, and general area improvements.
- GPP/IGPP funds are not intended to be used in incremental segments to construct larger facilities. Care should be exercised to ensure that each specific project is a discrete, stand-alone entity. Each project is to result in the delivery of a complete and usable facility, including the initial complement of equipment required for the facility to meet its intended purpose.
- GPPs/IGPPs are capitalized and result in betterments to land or facilities.
- The U.S. Comptroller General has established as federal policy that, in general, the federal government may not make permanent improvements to land or buildings not federally owned. Therefore, GPP funds cannot be used for projects involving off-site leased and University of California campus facilities.

3. Non-Capital Alterations (NCAs)

- Alterations are adjustments to interior arrangements or other physical characteristics of an existing facility so that it may be more effectively adapted to or used for its designated purpose. Alterations do not result in betterments. Examples of alterations are as follows:
  - Removal or installation of interior walls for purposes of rearranging the layout of an office building, and incidental heating and ventilation ducting system modifications that do not significantly extend the capacity of the system;
  - Construction of a door or passage through an interior structural wall;
  - Installation of new lighting fixtures that do not significantly increase the lumens emitted but may result in energy or maintenance savings.
- NCA or operating funds may be used for "improvements to the property of others" such as projects in off-site-leased and University of California Campus facilities.
- NCAs are not capitalized.

4. General Purpose Equipment (GPE)

GPE funds are designated for institutional project support. Research-oriented equipment, which is normally funded with programmatic funds, may not be purchased with GPE funds. The following limits apply to GPE purchases:

- Equipment must exceed $25,000 and two years of useful life.
- Equipment installation costs should not exceed $2 million or 20% of the total equipment cost (construction funds should be used to pay for installation costs exceeding those amounts).
- Equipment must not be permanently affixed to the real estate and must be removable without seriously damaging or diminishing the functional value of either the real estate or the items themselves, for example:
  - Heavy equipment, including vehicles, processing or manufacturing machinery, and shop machinery;
  - Automated data-processing equipment includes computers, printers, operating system software, and interface peripherals.
- GPEs are capitalized.

5. Capitalization Criteria

Individual plant and capital equipment (P&CE) items that are purchased, constructed, or fabricated in-house (including major modifications or improvements—e.g., betterments—to any of these items) are capitalized if they have an anticipated service life of two years or more and if they cost $25,000 or more. The only exceptions are items that are inherently experimental, used as special tools, or, by nature of their association with a particular scientific experiment, not expected to have an extended useful service life or an alternative future use. Further detail can be found in the DOE Accounting Handbook, Chapter 10: Plant and Capital Equipment, Paragraph 1d.

6. Betterments

Betterments are improvements to P&CE that result in better quality work, higher capacity, extended useful life, or work required to accommodate regulatory changes. Betterments are capitalized. Determining when and to what extent an expenditure should be treated as a betterment requires judgment. When a minor item is replaced in each of a number of similar units, the effect of the replacement as related to each unit, rather than to the cumulative costs, is the proper basis for determining whether or not a betterment is effected. Although a particular project may meet the characteristic of a betterment, if the capitalization criteria are not met or the improvement added is insignificant, then the project should be expensed. Listed below are the various terms that are commonly used to describe various categories of betterments.

- Construction is the erection, installation, or assembly of a new plant facility; the addition, expansion, improvement, or replacement of an existing facility; or the relocation of a facility. Construction includes equipment installed in and made part of the facility and related site preparation; excavation, filling, and landscaping, or other land improvements; and design of the facility. Examples of improvements to an existing facility include the following types of work:
    - Replacing standard walls with fireproof walls.
    - Installing a fire-sprinkler system in a space that was previously not protected with a sprinkler system.
    - Replacing utility system components with significantly larger-capacity components (e.g., replacing a 200-ton chiller with a 300-ton chiller) and converting the functional purpose of a room (e.g., converting an office into a computer room).
- Conversion is a major structural revision of a facility that changes the functional purpose for which the facility was originally designed or used.
- Replacement is a complete reconstruction of a facility or equipment item that has deteriorated or has been damaged beyond the point where its individual parts can be economically repaired.

7. Risk-Based Priority Model Score

Derived by a risk-analysis scoring method weighted toward environment, health, and safety concerns, the Risk-Based Priority Model (RPM) score is calculated for all projects as an aid to ranking.

8. Capital Asset Management Plan Score

Derived by a risk-analysis scoring method weighted toward infrastructure concerns, the Capital Asset Management Plan (CAMP) score is calculated for all projects as an aid to ranking.

9. Laboratory Corrective Action Tracking System

The Laboratory Corrective Action Tracking System (LCATS) is administered by the EH&S Division to track and record deficiencies and corrective actions identified through divisional self-assessment inspections.

F. REFERENCES

1. LBNL's Ten-Year Site Plan
2. LBNL's Institutional Plan
3. DOE O 430.1B: Real Property Asset Management
4. DOE Accounting Handbook

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Chapter 2
Human Resources

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§2.01
Employment

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Responsible Manager

Rev. 07/10

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A. Applicability

This policy is applicable to all employee classifications: career, term, faculty, postdoctoral fellow, visiting researcher, limited, rehired retiree, graduate student research assistant (GSRA), and student assistant. This policy is also applicable to any person seeking employment at Lawrence Berkeley National Laboratory (the Laboratory).

B. Nondiscrimination and Harassment

1. Nondiscrimination and Harassment Policy

a. It is the policy of the Laboratory not to engage in discrimination against or harassment of any person employed by or seeking employment with the Laboratory on the basis of race, color, national origin, religion,

sex, gender identity, pregnancy,[1] physical or mental disability, medical condition (cancer-related or genetic characteristics), genetic information (including family medical history), ancestry, marital status, age, sexual orientation, citizenship, or service in the uniformed services (as defined by the Uniformed Services Employment and Re-employment Rights Act of 1994).[2] This policy is intended to be consistent with the provisions of applicable State and Federal laws and Laboratory policies. This applies to all personnel actions, including hiring, transfer, training, promotion, termination, and other terms and conditions of employment.

b. The Laboratory is committed to creating and maintaining a work environment that is free of discrimination. In keeping with this commitment, the Laboratory will not tolerate harassment in violation of the Laboratory's policies against its employees, or employees performing services for the Laboratory by anyone or any third party, including any supervisor, coworker, vendor, client, or customer.

c. Harassment consists of unwelcome conduct, whether verbal, physical, or visual, that is based upon a person's protected status as defined in Paragraph (B)(1)(a) (*Nondiscrimination and Harassment Policy*).

d. The Laboratory will not tolerate harassment that affects tangible job benefits, interferes unreasonably with an individual's work performance, or creates an intimidating, hostile, or offensive working environment. Such harassment may include, for example, making or using derogatory comments, epithets, slurs, or jokes; or teasing or badgering a person about his/her protected status.

e. The complaint procedure for harassment as defined in this section is the same as for sexual harassment and may be found in RPM §2.05(E) (*University of California Procedures for Responding to Reports of Sexual Harassment*).

2. Retaliation

The Laboratory policy also prohibits retaliation against any employee or person seeking employment for bringing a complaint of discrimination or harassment pursuant to this policy. This policy also prohibits retaliation against a person who assists someone with a complaint of discrimination or harassment, or participates in any manner in an investigation or resolution of a complaint of discrimination or harassment. Retaliation includes threats, intimidation, reprisals, and/or adverse actions related to employment.

3. Complaints

Information regarding applicable policies and procedures for resolving complaints of discrimination and harassment and for pursuing available remedies is available in the divisional Human Resources Centers.

4. Sexual Harassment

a. **Sexual Harassment Policy**

The Laboratory is committed to creating and maintaining a community in which all persons who participate in Laboratory programs and activities can work together in an atmosphere free from all forms of harassment, exploitation, or intimidation, including sexual. Specifically, every member of the Laboratory community should be aware that the Laboratory is strongly opposed to sexual harassment and that such behavior is

prohibited by law and by Laboratory policy. It is the intention of the Laboratory to take whatever action may be needed to prevent, correct, and, if necessary, discipline behavior that violates this policy.

b. **Definition of Sexual Harassment**

Sexual harassment is unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature; and when submission to or rejection of this conduct explicitly or implicitly affects a person's employment or education, unreasonably interferes with a person's work or educational performance, or creates an intimidating, hostile, or offensive working or learning environment. In the interest of preventing sexual harassment, the Laboratory will respond to reports of any such conduct.

Sexual harassment may include incidents between any members of the Laboratory community, including faculty or nonemployee participants in Laboratory programs, such as vendors, contractors, and visitors. Sexual harassment may occur in hierarchical relationships or between peers, or between persons of the same sex or opposite sex.

In determining whether the reported conduct constitutes sexual harassment, consideration will be given to the record of the conduct as a whole and to the totality of the circumstances, including the context in which the conduct occurred.

This policy covers unwelcome conduct of a sexual nature. While romantic relationships between members of the Laboratory community may begin as consensual, they may evolve into situations that lead to charges of sexual harassment, subject to this policy.

Harassment that is not sexual in nature but is based on gender, sex stereotyping, or sexual orientation also is prohibited by the University's nondiscrimination policies**[3]** if it is sufficiently severe to deny or limit a person's ability to participate in or benefit from Laboratory programs, employment, or services. While discrimination based on these factors may be distinguished from sexual harassment, these types of discrimination may contribute to the creation of a hostile work environment. Thus, in determining whether a hostile environment due to sexual harassment exists, the Laboratory may take into account acts of discrimination based on gender, sex stereotyping, or sexual orientation.

c. **Retaliation**

This policy also prohibits retaliation against a person who reports sexual harassment, assists someone with a report of sexual harassment, or participates in any manner in an investigation or resolution of a sexual harassment report. Retaliation includes threats, intimidation, reprisals, and/or adverse actions related to employment or education.

d. **Dissemination of the Nondiscrimination and Harassment Policy, Educational Programs, and Employee Training**

As part of the Laboratory's commitment to providing a harassment-free working and learning environment, the Nondiscrimination and Harassment Policy will be disseminated widely to the Laboratory community through publications, Web sites, new employee orientations, and other appropriate channels of communication. Educational materials will be available to all members of the Laboratory community, to promote compliance with this policy and familiarity with Laboratory reporting procedures. In addition, the Laboratory has designated employees responsible for reporting sexual harassment and will provide training

to those designated employees. Generally, such persons include supervisors, managers, and HR staff. The Laboratory has posted a copy of this policy in a prominent place on its Web site.

e. **Reports of Sexual Harassment**

Any member of the Laboratory community may report conduct that may constitute sexual harassment under this policy. In addition, supervisors, managers, and other designated employees are responsible for taking whatever action is necessary to prevent sexual harassment, to correct it when it occurs, and to report it promptly to the Title IX Compliance Coordinator (Sexual Harassment Officer) or other appropriate official designated to review and investigate sexual harassment complaints. An individual may also file a complaint or grievance alleging sexual harassment under the applicable Laboratory complaint resolution or grievance procedure (University of California Procedures for Responding to Reports of Sexual Harassment, Appendix I: University Complaint Resolution and Grievance Procedures).

f. **Response to Sexual Harassment**

The Laboratory will provide a prompt and effective response to reports of sexual harassment in accordance with the University of California Procedures for Responding to Reports of Sexual Harassment (Procedures). A prompt and effective response may include early resolution, formal investigation, and/or targeted training or educational programs. Upon findings of sexual harassment, the Laboratory may offer remedies to the individual or individuals harmed by the harassment consistent with applicable complaint resolution and grievance procedures (Procedures, Appendix I: University Complaint Resolution and Grievance Procedures). Such remedies may include counseling, an opportunity to repeat course work without penalty, or other appropriate interventions. Any member of the Laboratory community who is found to have engaged in sexual harassment is subject to disciplinary action up to and including dismissal in accordance with the applicable Laboratory disciplinary procedure (Procedures, Appendix II: University Disciplinary Procedures) or other Laboratory policy. Generally, disciplinary action will be recommended when the harassing conduct is so sufficiently severe, persistent, or pervasive that it alters the conditions of employment or limits the opportunity to participate in or benefit from Laboratory programs. Any manager, supervisor, or designated employee responsible for reporting or responding to sexual harassment who knew about the harassment and took no action to stop it or failed to report the prohibited harassment may also be subject to disciplinary action. Conduct by an employee that is sexual harassment or retaliation in violation of this policy is considered to be outside the normal course and scope of employment.

g. **Intentionally False Reports**

Because sexual harassment frequently involves interactions between persons that are not witnessed by others, reports of sexual harassment cannot always be substantiated by additional evidence. Lack of corroborating evidence or “proof” should not discourage individuals from reporting sexual harassment under this policy. However, individuals who make reports that are later found to have been intentionally false or made maliciously without regard for truth may be subject to disciplinary action under the applicable Laboratory disciplinary procedure (Procedures, Appendix II: University Disciplinary Procedures). This provision does not apply to reports made in good faith, even if the facts alleged in the report cannot be substantiated by an investigation.

h. **Free Speech and Academic Freedom**

As participants in a public university, the faculty and other academic appointees, staff, and students of the University of California enjoy significant free-speech protections guaranteed by the First Amendment of the United States Constitution, and Article I, Section I, of the California Constitution. This policy is intended to protect members of the University community from discrimination, not to regulate protected speech. This policy shall be implemented in a manner that recognizes the importance of rights to freedom of speech and expression. The University also has a compelling interest in free inquiry and the collective search for knowledge and thus recognizes principles of academic freedom as a special area of protected speech. Consistent with these principles, no provision of this policy shall be interpreted to prohibit conduct that is legitimately related to the course content, teaching methods, scholarship, or public commentary of an individual faculty member or the educational, political, artistic, or literary expression of students in classrooms and public forums. However, freedom of speech and academic freedom are not limitless and do not protect speech or expressive conduct that violates federal or state antidiscrimination laws.

i. **Additional Enforcement Information**

The federal Equal Employment Opportunity Commission (EEOC) and the California Department of Fair Employment and Housing (DFEH) also investigate complaints of unlawful harassment in employment. These agencies may serve as neutral fact finders and attempt to facilitate the voluntary resolution of disputes with the parties. For more information, contact the nearest office of the EEOC or DFEH listed in the telephone directory. Additional information on harassment and complaint procedures may be found at §2.05(E) *(University of California Procedures for Responding to Reports of Sexual Harassment)*.

C. Affirmative Action and Equal Employment Opportunity

1. Affirmative Action and Equal Employment Opportunity Policy

The Laboratory is an affirmative action/equal opportunity employer. The Laboratory undertakes affirmative action for minorities and women, for persons with disabilities, and for covered veterans.**[4]**

2. Affirmative Action Compliance Program

a. Consistent with its affirmative action obligations and all other operative legal requirements, the Laboratory's affirmative action program includes implementation of policies, practices, and procedures to ensure that all qualified applicants and employees are receiving an equal opportunity for recruitment, selection, advancement, and every other term and privilege associated with employment at the Laboratory.

b. **Responsibilities**

i. The Laboratory Director, as the Equal Opportunity Officer, appoints the Equal Employment Opportunity / Affirmative Action (EEO/AA) Officer to administer the Affirmative Action Compliance Program.

ii. Division directors are responsible for implementing the Affirmative Action Compliance Program in the units for which they are responsible, with particular attention to hiring, promotion, and employee development, and for evaluating managers and supervisors on their effectiveness, including their good-faith efforts to implement the program.

D. Reasonable Accommodation

1. General

The Laboratory provides reasonable accommodation to otherwise qualified employees who are disabled or become disabled, and need assistance to perform the essential functions of their position. The interactive process shall be used to determine what, if any, reasonable accommodation will be made.

2. The Interactive Process

The interactive process is an ongoing dialogue between the employee and appropriate representatives of the Laboratory about possible options for reasonably accommodating the employee's disability. Options may include, but are not limited to, a modified work schedule, a leave of absence, reassignment, modified equipment, assistive devices, modification of existing facilities, and restructuring the job. Both the Laboratory and the employee are expected to participate in the interactive process.

During the interactive process the Laboratory considers information related to: the essential functions of the job, functional limitations, possible accommodations, the reasonableness of possible accommodations, and implementation of a reasonable accommodation.

This information will be used by the Laboratory to determine what, if any, reasonable accommodation will be University and Laboratory procedures provide further guidance on the implementation of the interactive process.

3. Medical Documentation

The employee is responsible for providing medical documentation to assist in understanding the nature of the employee's functional limitations. When necessary, the Laboratory may require that the employee be examined by a Laboratory-appointed licensed health care provider. In such a case, the Laboratory shall pay the costs of any medical examinations requested or required by the Laboratory.

4. Special Selection

Any employee who becomes disabled may be selected for a position that has not been publicized (see Paragraph (E)(3)(a)(vii) (Recruitment) below).

E. Recruitment and Selection

1. Policy

The Laboratory will recruit from within and outside its workforce to obtain qualified applicants. Every good-faith effort is made to inform and recruit qualified applicants in conformance with the objectives as set forth by the Laboratory Affirmative Action Compliance Plan. The duties and responsibilities of the vacant position and the qualifications necessary to perform those duties and responsibilities are identified before recruitment begins.

It is the goal of the Laboratory to maximize the opportunity for the promotion of qualified career employees to positions either in their current division or elsewhere in the Laboratory and to encourage career employees to apply for open positions that would further their career development. It is important that each supervisor

emphasize the right of the employee to apply for promotion opportunities; however, the employee is responsible for doing so.

2. Responsibilities

a. Under the general direction of the Head of the Human Resources Department, the Recruitment unit has responsibility for development and implementation of recruitment programs.

b. The EEO/AA Officer reviews, monitors, and evaluates the effectiveness of recruitment programs in meeting affirmative action objectives, and consults and advises on methods for meeting those objectives.

c. Division directors and Operations department heads (hereinafter "hiring manager"), in conjunction with the Human Resources Center (HR Center), define the duties and qualifications of the vacant position. In conjunction with the HR Center, the Recruitment unit of Human Resources will advise and assist hiring managers in determining the most effective recruitment plan for the vacant position.

3. Recruitment

a. Recruitment is not required when a position is to be filled by

i. demotion or lateral transfer of an employee within the same division or department;

ii. reassignment of an incumbent employee without a change in general job duties, responsibilities, or classification within the same division or department;

iii. lateral transfer of incumbent employees to another division or department as a result of a reorganization including the transfer of the budgetary provisions for the employees;

iv. recall or preferential rehire of a career employee who has been laid off or received formal notice of layoff;

v. transfer of a career employee in accordance with RPM 2.21(B)(1) (*Reduction in Force/Policy*) in order to avoid a layoff;

vi. transfer or re-employment of an employee in accordance with RPM Paragraph (B)(4) (*Reasonable Accommodation*), §2.21(E) (*Medical Separation*), §2.12(F) (*Pregnancy Disability Leave*), or §2.13 (*Family Care and Medical Leave*);

vii. appointment of a qualified employee who has become disabled;

viii. an employee whose responsibilities or title have changed as a result of a reorganization or reassignment of functions among positions within the same organizational unit;

ix. appointment of an individual into a limited, student assistant, Graduate Student Research Assistant (GSRA), faculty, visiting faculty, visiting researcher or rehired retiree position;

x. an employee who is competitively selected for a University-sponsored internship program, and upon completion of the internship and with the approval of the hiring manager, is appointed to a vacant

position for which he or she meets the minimum qualifications.

Recruiting requirements for a career position as defined in this policy apply when the need for a term appointment extends beyond the maximum term of five years. For information regarding scientific term appointments, including postdoctoral fellows, see RPM §2.07 (*Professional Research Staff*).

b. Recruitment may be limited to Laboratory employees if the applicant pool is diverse enough to allow the hiring supervisor a meaningful choice in obtaining the essential job-related skills, knowledge, abilities, and other qualifications, including meeting affirmative action objectives.

c. Recruitment may be limited to applicants in the Laboratory's resume database if the position is re-opened within six months of the original posting and the applicant pool is diverse enough to allow the hiring supervisor a meaningful choice in obtaining the essential job-related skills, knowledge, abilities, and other qualifications, including meeting affirmative action objectives.

d. Individual exceptions to the recruitment requirement may be approved by the Head of the Human Resources Department and Head of the Workforce Diversity Office through the waiver of recruitment process.

e. Job vacancies must be posted for a minimum of two weeks. However, recruitment strategies must allow sufficient time to establish a qualified and diverse applicant pool.

f. In order to verify information about an applicant's qualifications, current or former supervisors who can provide relevant information must be contacted. If the applicant is a Laboratory employee, the selecting supervisor must obtain a written assessment or a current performance evaluation from the current supervisor and submit it with the recommendation for hire to the division director for approval.

4. Selection

The selection decision must be based on the match of the applicant's qualifications against the job requirements and essential duties defined in the posting and position description.

a. Career employees who have preferential rehire status will be granted preference over other applicants in accordance with RPM §2.21(B)(9)(b) (*Preference for Re-employment)*.

b. If, in the opinion of the hiring manager, two or more applicants are substantially equally qualified, consideration will be given to the objective of providing promotional and transfer opportunities to career employees.

5. Special Hiring Circumstances

a. **Employment of Minors**

California state law requires work permits for all persons under age 18 who have not yet graduated from high school. Individuals under the age of 18 who have been awarded a certificate of proficiency pursuant to Section 48412 of the California Education Code do not need a work permit. Persons under age 16 will not be employed unless specific approval is obtained from the Head of the Human Resources Department. When a person under age 18 is hired or assigned to work in areas where background radiation exceeds natural radiation, the Human Resources Center, in consultation with the

hiring division or department, will contact the Environment, Health and Safety Division for final clearance.

b. **Employment of Near Relatives and Domestic Partners**

i. Near relatives are defined as parents, children (including the child of a domestic partner), spouses, same or opposite sex domestic partners, brothers, or sisters, including in-laws and step-relatives in these relationships. Relatives of the domestic partner who would be covered if the domestic partner were the employee's spouse are also so defined.

ii. Employment of near relatives requires the recommendation of the Human Resources Center Manager and the approval of the Head of Human Resources. Approval is required when:

- There is a supervisory relationship.
- The near relative has the same immediate supervisor.
- There is a close working relationship with a near relative.

iii. If the request is not approved by the Head of Human Resources, the supervisor may request further review by the Chief Operating Officer (COO).

iv. If two employees in any of the above types of working relationships become near relatives, the same approval process must be followed in order that they may continue in the same working relationship.

v. Approval for such employment may be granted when justified as being in the best interest of the Laboratory.

6. Appointment Conditions

a. **Background Checks**

i. In order to ensure that individuals who have the qualifications to perform the duties of positions, and who are likely to serve the Laboratory's interests are selected, the following information found on the employment application or resume will be verified on final, external candidates for all positions: work history, degree verification, Social Security number, driver's license, and criminal convictions. Additional background information may also be checked for positions designated as requiring additional review as found on the list of LBNL Background Checks Requirements. This list is maintained by the Human Resources Department, and may be changed if warranted.

In most cases, the background check must be completed before the candidate begins employment. Adverse information found on any of the above may result in the withdrawal of the job offer.

If programmatic needs require that the candidate begin employment prior to the completion of the background check, continued employment is contingent upon successful completion of the background check.

In the event there are diverging opinions among the hiring supervisor, division/department management, and Human Resources on how to proceed as a result of adverse information, the

Head of Human Resources will make the final decision on the action to be taken.

ii. The Laboratory reserves the right to conduct background checks on internal applicants for a change of status to a career or term position from one for which a background check was not required. In addition, the Laboratory reserves the right to conduct background checks on internal applicants for promotion/transfer/reclassification to a position requiring additional review as noted on the list of LBNL Background Checks Requirements.

iii. Background checks may be conducted by both Laboratory staff and a third-party service provider.

b. **Work Status Requirement**

The Laboratory, as a federal contractor, must verify the work status of an employee who is hired after November 6, 1986, and is directly performing work under a federal contract or subcontract that contains an E-Verify requirement clause. Use of the E-Verify employment verification system requirements is in addition to the requirements currently specified in the Immigration Reform and Control Act of 1986.

c. **Employment of Foreign Nationals**

Employment of foreign nationals must be in accordance with federal law and the regulations of the U.S. Citizenship and Immigration Services (USCIS). Employment of students (Graduate Student Research Assistants (GSRA) and student assistants) must also be in accordance with the student's educational institution's requirements. Determination of the work eligibility status of a non-immigrant will be made by the Laboratory's International Researchers and Scholars Office (IRSO). IRSO will also make the job offer to non-immigrants when authorized by the Human Resources Center.

Foreign nationals with permanent resident status do not require IRSO review.

Recruitment policies as stated in this Paragraph (C) above apply to employment of foreign nationals.

d. **Medical Screening and Approval**

All new employees are required to complete the "Employee Report of Exposures" form in Health Services. In some cases, Health Services may recommend restrictions on an employee's work assignment or activities, and advise the division director or department head and the Head of the Human Resources Department, who will be jointly responsible for working out with the employee, an alternative to deal with the restrictions, if possible. See RPM §1.12(A)(1) (*Laboratory Occupational Medical Program/Medical Surveillance)* for additional information on medical services and requirements.

The Laboratory employee medical program requires pre-placement, post-employment physical examinations for all new employees when required by government regulations. Current positions requiring a pre-placement, post-employment physical may be found here. When a pre-placement physical is required, the offer of employment is subject to the applicant's passing those portions of a physical examination pertinent to the position.

e. **Probationary Period**

i. **Probationary Period Requirements**

With the exceptions noted below, all new career employees and term employees hired with an initial appointment of more than one year must work a probationary period of six months, during which their work performance and general suitability for Laboratory employment are carefully evaluated.

Individuals hired into term appointments for one year or less and career employees who transfer from another University of California employer without a break in service need not serve a probationary period.

Individuals hired into Research Scientist/Engineer (Career-track), Staff Scientist/Engineer (Career-track), Divisional Fellow, and Senior Staff Scientist/Engineer, and Distinguished Scientist/Engineer appointments do not serve a probationary period. See RPM §2.07 (*Professional Research Staff*).

Employees who are rehired after a break in service, whether or not they previously completed a probationary period, must serve a new probationary period unless they are hired in a classification that they previously held and for which they completed a probationary period.

Employees who were originally hired into term appointments and subsequently accept a career position in the same classification, are not required to serve a probationary period if their term appointment lasted at least one year and they received at least a "satisfactory" rating on the annual performance evaluation.

An employee who is required to serve a probationary period and who has worked in a limited appointment immediately preceding the career appointment shall have up to 1,000 hours on pay status, exclusive of on-call and overtime hours, credited toward completion of the probationary period, provided that the credited time was served in the same position and with the same supervisor that the employee had immediately prior to the career appointment.

ii. **Progress Monitoring and Reports**

The supervisor is responsible for monitoring the progress and performance of probationary employees throughout the probationary period.

The supervisor must provide the employee with written documentation of the employee's progress at least once during the probationary period. This progress report will normally take place close to the midpoint of the probation period.

If at any point in the probationary period the employee is not meeting expectations, the supervisor, in consultation with the HR Center, must advise the employee that she or he is not meeting expectations, and confirm this advice in writing, that she or he is not meeting expectations.

iii. **Release of Probationary Employees**

If the employee does not show improvement after being advised in writing that she or he is not meeting expectations (Paragraph ii, above), the supervisor will consult with the HR Center regarding release the employee, with the concurrence of the Manager, Labor Employee Relations, in accordance with RPM §2.21(C) (*Release of Limited, Rehired Retiree, Student Assistant, and Probationary Appointees*).

iv. **Extension of Probationary Period**

Under unusual circumstances, the employee's probationary period may be extended with the concurrence of the division director and the Head of the Human Resources Department. Such an extension will be for a specific period of time not to exceed three months of work in the position. The employee will be informed in writing of the reasons for and the period of extension.

v. **Completion of Probationary Period**

The probationary period is completed following six months of continuous service at one-half time or more without a break in service or through any extension (except as noted above for employees who have worked in a limited appointment prior to beginning a career appointment). Time on leave with or without pay will extend the probationary period.

An employee who satisfactorily completes the probationary period will be notified in writing by the supervisor that full career employee status has been attained.

f. **New Employee Orientation and Safety Training**

All new employees must attend a New Employee Orientation and Safety Training during their first month of employment. The new employee must complete additional safety training thatis required based upon potential hazards associated with the position and in compliance with Laboratory safety training requirements.

7. Links to Additional Information and Resources for Recruitment and Selection

a. **Travel Expenses of Applicants**

See RPM §11.08(N) (*Non-Laboratory Personnel*) for information on payment of travel costs for the purpose of a personal interview of an applicant.

b. **Reimbursement for Meals**

See RPM §11.01(F) (*Laboratory-Hosted (Funded) Meetings/Authorization*).

c. **Moving Expenses**

See RPM §4.01 (*Relocation Policy*) for information on allowable relocation costs.

d. **Patent Policy**

All employees must sign the Laboratory's patent agreement. See RPM §5.03 (*Patents*) for additional information.

F. Types of Appointments

1. Career

A career appointment is an appointment established at a fixed percentage of time at 50 percent or more of full

time for an indefinite period.

In addition, a limited appointment shall be designated as a career appointment when the incumbent has attained 1,000 hours of qualifying service in any 12 consecutive months without a break in service of at least 120 consecutive calendar days. Qualifying service includes all time on pay status in one or more limited appointments within the University of California system. On-call and overtime hours shall not be included as pay status hours when computing qualifying service. Such career designation shall be effective the first of the month following attainment of 1,000 hours of qualifying service.

2. Faculty

a. **UC Faculty**

Some University of California faculty members have dual employment between a campus of the University and the Laboratory. Their appointment as faculty at the Laboratory is contingent upon their campus faculty appointment and is subject to UC Academic Personnel Policy. See RPM §2.07(C)(9) *(Appointments of University of California Faculty)*.

b. **Visiting Faculty**

Visiting faculty are members of the faculty of non-University of California colleges and universities. They are eligible for benefits, vacation, or sick leave in accordance with their appointment type. See RPM §2.07(C)(11) *(Visiting Faculty and Visiting Researcher)*.

3. Laboratory Management

This policy applies to appointees and incumbents in the University of California Senior Management Group (SMG) and positions designated as Upper Laboratory Management, collectively referred to as Laboratory Management or Laboratory Managers. The positions covered by this policy are found on the Lawrence Berkeley National Laboratory Management Positions list.

Appointees and incumbents in positions designated as Laboratory Management have responsibility for defining overall Laboratory policy and direction. Laboratory Managers are appointed by and serve at the discretion of the Regents, the President of the University of California, or the Laboratory Director, as appropriate. All such appointments are at will and may be terminated at any time with or without cause.

The following policies do not apply to positions designated as Laboratory Management due to the at will nature of such appointments.

- Probationary Period (Paragraph (E)(6)(d))
- Transfer, Promotion, and Other Changes in Status (RPM §2.02)
- Early Problem Resolution (RPM §2.05(B))
- Corrective Action and Dismissal (RPM §2.05(C))
- Employee Complaint Resolution (RPM §2.05(D))
- Reduction in Force (RPM §2.21(B))

Appointees entering Laboratory Management positions who hold Laboratory scientific staff appointments (see RPM §2.07 (*Professional Research Staff*)) will retain that parallel classification while serving as Laboratory Managers. In

addition, Laboratory Managers will, when appropriate, be considered (using normal Laboratory procedures) for entrance into or advancement in such parallel scientific classifications.

When an incumbent's appointment in a position designated as Laboratory Management is terminated, he or she will be returned to the appropriate parallel Laboratory scientific classification, held or attained.

If a decision is made to also terminate an appointee's parallel scientific classification, the applicable provisions of RPM policies §2.05 *(Management/Employee Relations)*, §2.07 *(Professional Research Staff)*, and §2.21 *(Terminations)* must be followed.

Additional employment policies for positions included in the University Senior Management Group may be found in Senior Management Group (SMG) Human Resources Policies. Additional employment policies for positions included in the Upper Laboratory Management Series may be found in RPM §2.27 *(Upper Laboratory Management)*.

4. Term

a. **General**

Term appointments apply to staff hired to work on a specified project of clearly limited duration for six months to five years. If the initial appointment is between six and twelve months, the individual must be on a fixed 100% schedule. If the initial appointment is one year or more, the appointment must be fixed at 50% time or more. Time spent in term appointments is cumulative and may not exceed five years. Time spent in Postdoctoral Fellow appointments is excluded from the five-year limit. For information regarding scientific term appointments, including postdoctoral fellows, see RPM §2.07 *(Professional Research Staff)*.

b. **Appointment**

Term appointments are made by a hiring manager after a thorough search for suitable candidates or as otherwise provided by Laboratory policy. (See also Paragraph (E)(3)(b) *(Recruitment)*, above.)

In order for an employee in a scientific non-career track term appointment to move to a career appointment, they must apply and compete for a career position. For information regarding scientific career-track term appointments, see RPM §2.07 *(Professional Research Staff)*.

c. **Applicability of Policies**

Term appointees are covered by all Laboratory policies, with the following exceptions:

- **Probationary Period.** Term employees do not serve a probationary period, unless the initial appointment is for longer than one year. See Paragraph (C)(6)(d), above.

- **College-Level Courses.** Term employees are not eligible for time off with pay for class attendance or reimbursement of course fees for college degrees, certification programs, and college-level courses. See RPM §2.04(F) *(College Degrees, Certification Programs, and College-Level Courses)*.

- **Reduction in Force and Severance Payments.** The Laboratory layoff and severance policies do not apply to term employees (see RPM §2.21(B) *(Reduction in Force)* and §2.21 *(Terminations)*).

- **Termination.** See RPM §2.21(D) (*Release of Employees in Term Appointments*).

5. Limited

A limited appointment is an appointment established at any percentage of time, fixed or variable, that is expected to continue for less than 900 hours in a 12-month period. See also Paragraph (D)(1) *(Types of Appointments/Career)*.

6. Visiting Researcher

a. Visiting researchers are individuals who are on an approved leave from their home institution. The home institution does not need to be a university or college, nor does the individual have to be a faculty member of any institution (see RPM 2.07(C)(11) (*Visiting Faculty and Visiting Researcher*)).

b. The approved leave is confirmed in a letter from the home institution that provides the dates of the leave, full salary of the individual, and what, if any, portion of the salary will be paid by the home institution during the leave. A letter is not required for a faculty member from outside the University of California system who is at the Laboratory for the summer intersession only. If the stay continues into the fall term, a letter is required.

c. The duration of the appointment will be between three and 12 months at 100% time. The initial appointment is not to exceed one year. The total length of consecutive service must not exceed two years. If the appointment extends into a second year, and was not included in the initial letter, a new letter of confirmation is required from the home institution.

d. While recruitment is not required, if a visiting researcher is later considered for a change of status to a corresponding appointment as a term or career appointee, the change of status will be treated as a new appointment subject to the usual recruitment policies.

e. Salary is determined on a case-by-case basis.

f. Visiting researchers are eligible for mid-level benefits. They are not eligible for participation in UCRP membership.

7. Graduate Student Research Assistants

Graduate student research assistants (GSRAs) must be registered graduate students of the University of California, and eligible for a Graduate Student Researcher appointment on their campus. University of California rules and regulations pertaining to graduate students in the various disciplines normally apply. GSRAs work a fixed percentage schedule and receive a flat monthly salary in accordance with their campus department policies. They are also eligible to receive fee remissions, including health insurance benefits, and nonresident tuition as determined by the University of California policies and as implemented for graduate student researchers on the individual campuses.

8. Student Assistants

a. **Eligibility**

i. Student Assistant appointments are reserved for individuals who are at the Laboratory/University primarily for purposes of obtaining an education or training.

ii. Student assistants must be enrolled in a full-time academic program. However, students enrolled in school-sponsored co-op and internship programs may be registered less than full-time when their Laboratory assignment is part of their internship.

iii. The duties and responsibilities of student assistants must be related to their field of study. In addition, the duties and responsibilities of Co-op students and students in formal internship programs must conform to the requirements of their institution's program to ensure that the student receives the appropriate academic credit.

iv. Enrollment in University Extension courses does not qualify for a student assistant appointment.

b. **Effort**

Student assistants may work up to 50 percent time during their academic year and 100 percent time during the summer and other significant academic breaks. They may be appointed to fixed or variable time schedules.

c. **Salary**

Student assistant salaries are based on their academic progress. Increases are allowed on the achievement of the next academic milestone as indicated on the student salary table and with written confirmation by the supervisor that the student's performance is satisfactory. Student assistants are paid bi-weekly.

d. **Benefits**

Student assistants are not eligible for UC employee health and welfare benefits nor are they eligible for membership in the University of California Retirement System. Student assistants are covered by the Laboratory's Workers' Compensation program.

e. **Vacation and Sick Leave**

Student assistants do not accrue vacation or sick leave.

f. **Holidays**

Student assistants appointed to a fixed time schedule at 50% or more earn holiday pay prorated according to RPM §2.10(C)(2) *(Holidays/Holiday Pay Policy for Part-Time Employees/Fixed Hours)*.

g. **Termination**

i. Student assistants must be terminated if they graduate, are no longer enrolled in school or if their registration is less than full time.

ii. Student assistant appointments automatically end at the beginning of the next academic term after the student has graduated (excluding summer sessions). However, students who have been accepted to a qualifying educational program, provide a signed a letter of intent to enroll, and will begin the program (see Paragraph (a), above) within the next 12 months may continue as student assistants in the interim. Their employment must be terminated if they fail to enroll within that time. Effort must be in accordance with Paragraph (b), above, even when between degree programs.

iii. Student assistants may be released at any time at the discretion of the Laboratory. The student shall be notified of the release in writing. Whenever possible and appropriate, two weeks advance notice should be given.

h. **Complaint Resolution**

A student assistant is not eligible to use the Laboratory's Complaint Resolution Policy to challenge termination of his/her appointment.

i. **Recruitment**

Student assistant positions do not need to be posted.

j. **Work Study Students**

i. Work Study students are University of California students who are receiving financial aid through the campus Work Study Program. If required by the campus program, they may be hired as student assistants.

ii. The duties of a Work Study student may be but are not required to be related to their academic program.

iii. When students have earned their financial award, they may be given a change of status to student assistant if the job duties are related to their academic program. If the duties are not related to their academic program, they must be terminated.

iv. All other provisions of the student assistant policy, above, apply to Work Study students.

9. Rehired Retirees

a. **Scope**

Employees who have retired from the Laboratory, or any University of California location , including the UC-managed Department of Energy laboratories, may be re-employed by the Laboratory as a Rehired Retiree in accordance with the provisions of the UC Re-employment of UC Retired Employees Into Senior Management Group and Staff Positions policy.The following sections are highlights from the policy.

b. **Internal Revenue Service (IRS) Restrictions for Preserving the Tax-Qualified Status of the UC Retirement Plan (UCRP)**

The Internal Revenue Code imposes restrictions on the timing of the distribution of benefits to participants in defined benefit plans such as UCRP. Generally payments are permitted when an employee retires or attains normal retirement age. Otherwise, retirement benefits should remain in the plan so they will be available to provide support to participants after they cease working.

Normal retirement age under UCRP means age 60 with a minimum of 5 years of University and Laboratory service credit for all other members. Once an employee attains normal retirement age, the IRS no longer is concerned about an employee's access to retirement funds because those funds were intended to be available at that age.

c. **University Policy Restrictions**

i. **Laboratory Need**

Re-employment must be as a result of Laboratory need, such as the Retired Employee possesses skills and institutional knowledge that the hiring department cannot otherwise obtain with equal cost effectiveness, the hiring department anticipates a prolonged process for hiring a replacement, or the hiring department anticipates that the Retired Employee will assist a replacement to acquire necessary skills and knowledge.

For situations in which a Retired Employee is re-employed on a temporary basis into a career position (such as the same position held before retirement or another vacant career position), the job must be posted and a search begun within 30 days of the vacancy being created and a minimum 30-day recruitment must be held.

ii. **Break in Service**

A Retired Employee must not be re-employment until there has been a break in service of at least 30 days, but preferably 90 days.

iii. **Appointment Percentage**

Due to potential Medicare complications and to minimize situations where individuals draw a retirement benefit and another UC income simultaneously, this policy requires that Retired Employees be re-employed with an appointment of no more than 43% during any 12-month period.

iv. **Duration of Re-employment**

Re-employment in one or multiple positions must not exceed at total of 12 months. Extensions beyond 12 months may be requested.

v. **Re-employment and Suspension of Monthly Retirement Income**

A Retired Employee who is receiving UCRP monthly retirement income, but agrees to suspend the payments, may be re-employed temporarily as a Rehired Retiree, or re-employed in a career appointment subsequent to an appropriate recruitment and break in service, without being subject to

the policy restrictions in sections (c)(i), (c)(iii), and (c)(iv) above, but is subject to section (c)(ii).

A Retired Employee who took a lump sum cashout may be re-employed temporarily as a Rehired Retiree and is subject to the policy restrictions in sections (c)(i)–(iv) above.

A Retired Employee may not be employed as a contract worker from a temporary worker agency. A Retired Employee may be employed as a consultant if they are either employed by a consulting agency or own their own business. A Retired Employee may be a consultant for the Laboratory after they have not worked during the previous rolling 12-month period.

10. Applicability of Benefits

Employee eligibility for benefits may be found at the University of California, Human Resources and Benefits Web site and in RPM §2.08 (*Vacation Leave*), §2.09 (*Sick Leave*), §2.10 (*Holidays*), 2.12 (*Leave of Absence Without Pay*), §2.13 (*Family Care and Medical Leave*), and §2.14 (*Military Leave*).

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Footnotes:

1. Pregnancy includes pregnancy, childbirth, and medical conditions related to pregnancy and childbirth.

2. Service in the uniformed services includes membership, application for membership, performance of service, application for service, or obligation for service in the uniformed services.

3. University of California Nondiscrimination and Affirmative Action Policy Regarding Academic and Staff Employment; Nondiscrimination and Affirmative Action Policy Statement for University of California Publications Regarding Employment Practices; Academic Personnel Policy 035, Affirmative Action and Nondiscrimination in Employment; Personnel Policies for Staff Members 12, Nondiscrimination in Employment; University of California Policies Applying to Campus Activities, Organizations, and Students; and Nondiscrimination Policy Statement for University of California Publications Regarding Student-Related Matters.

4. Covered veterans includes veterans with disabilities, recently separated veterans, Vietnam era veterans, veterans who served on active duty in the U.S. Military, Ground, Navel or Air Service during a war or in a campaign or expedition for which a campaign badge has been authorized, or Armed Forces service medal veterans.

§2.02
Transfer, Promotion, and Other Changes in Status

Moved 12/08

Section moved to 2.01(C)(1) and 2.06(C)(4)

§2.03
Employee Performance Evaluations

If you have feedback regarding an HR policy or procedure, share it with us here.

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Responsible Manager

Section Rewritten 06/02

- **A. General Policy**
- **B. Purpose**
- **C. Responsibilities**
  1. **Supervisors**
  2. **Employees**
  3. **Human Resources Department**

A. GENERAL POLICY

Performance feedback is an ongoing, yearlong process. Supervisors must provide each of their direct reports with a written performance evaluation annually, using the approved process. This written evaluation is the formal part of the performance feedback process. Additional written evaluations may be done if circumstances warrant.

Employees holding limited, faculty, graduate student research assistant, student assistant, rehired retiree, postdoctoral, and visiting postdoctoral fellow appointments are excluded from this policy. Division directors and resource department heads are responsible for implementation of this policy within their organizations.

B. PURPOSE

The objectives of the written evaluation are to:

1. Establish an understanding between the employee and supervisor regarding job responsibilities and expectations and work deliverables (goals);
2. Provide an opportunity for two-way discussion of employee progress, career development, and department goals;
3. Establish/reestablish standards, goals, expectations, and development plans;
4. Document performance and progress against previously established goals and expectations;
5. Provide input to the salary process.

C. RESPONSIBILITIES

1. Supervisors

Supervisors are responsible for ensuring that each employee has a current position description and expectations

and goals, and that the employee has a clear understanding of his or her responsibilities. Supervisors are responsible for providing feedback to the employee so that he or she knows where improvement is needed. Supervisors are responsible for promoting employee development opportunities. The supervisor is responsible for providing the employee with a formal, written evaluation of the employee's performance at least once a year.

2. Employees

Employees are responsible for seeking clarification about their duties, responsibilities, and/or expectations. Employees should seek input about their performance on an ongoing basis. In addition, employees are responsible for improving their performance and their own development.

3. Human Resources Department

The Human Resources Department will provide training to supervisors on conducting performance evaluations. The Department will also assess the effectiveness of the current performance evaluation process and work with management to ensure that the process is an effective tool for both management and employees.

§2.04
Education and Employee-Development Policies

If you have feedback regarding an HR policy or procedure, share it with us here.

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Responsible Manager

Rev. 09/07

A. General
B. Types of Programs
   1. Position-Related Programs
   2. Career-Related Programs
   3. Educational Enrichment Programs
C. Scope
D. Employee Development Planning
   1. Annual Plan
   2. Formal Plan
E. Sources of Training Programs
   1. On-Site Training
   2. Off-Site Training
   3. LBNL Mentoring Policy
F. College Degrees, Certificate Programs, and College-Level Courses
   1. Tier 1
   2. Tier 2
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I. Professional Renewal Leave

A. GENERAL

It is the policy of the Laboratory to assist and encourage employees to obtain skills, knowledge, and abilities that increase the effectiveness of work performance in their present position and improve their career opportunities within the Laboratory.

The Human Resources Department will assess Laboratory-wide employee development needs and, based on the availability of resources, sponsor appropriate, relevant training and development programs to meet such needs. Special emphasis will be placed on developmental activities designed to help supervisors, group leaders, department heads, and division directors make good-faith efforts towards meeting the Laboratory's equal employment opportunity and affirmative action goals. The Equal Opportunity Administrator will review and evaluate effectiveness of the employee development programs in relation to the Laboratory's equal employment opportunity and affirmative action goals, and sponsor additional special training as part of the Laboratory's Equal Opportunity Program.

B. TYPES OF PROGRAMS

1. Position-Related Programs

a. **Definition.** Position-related programs are directly related to the work assignments or conditions of the employee's current position. (See Paragraph G, below, for information on professional licensing, and certification training and associated fees.)

b. **Responsibility.** In improving performance or mastering responsibilities in the present job, the supervisor takes the lead by identifying development objectives along with corresponding action plans. This is done in conjunction with the employee performance evaluation process.

c. **Eligibility.** All career employees are eligible for position-related programs. Employees in noncareer appointments are eligible for position-related programs only when such training is specifically necessary for such employees/contract workers to perform their respective assignments. Guests and employees of contract labor agencies are eligible only for Laboratory-provided safety training related to their assignments at the Laboratory.

2. Career-Related Programs

a. **Definition.** Career-related programs are related to the development of skills, knowledge, and other qualifications that prepare an employee for other positions within the Laboratory for which an employee (as evaluated by the supervisor, department head, and the Human Resources Head or designee) might be an effective competitor.

b. **Responsibility.** In career planning and development, the employee takes the lead by self-assessing skills, values, career interests, and choices. After completion of the self-assessment, the employee discusses with the supervisor areas of interest to be developed. The supervisor is encouraged to act as the coach and advisor to the employee, helping to map out agreed-on developmental objectives along with corresponding action plans.

c. **Eligibility.** All career employees are eligible for career-related programs. Employees in noncareer appointments and agency-employed contract labor workers are not eligible for career-related programs.

3. Educational Enrichment Programs

Educational enrichment programs are related to an employee's personal or career interests that are not related to Laboratory positions for which an employee might be an effective competitor. For example, a course such as music would be considered an educational enrichment program. Educational enrichment programs are the employee's responsibility and are not eligible for benefits under this policy.

C. SCOPE

1. Attendance at all courses, seminars, and conferences of an instructional nature given by accredited universities and colleges, institutes, professional associations, and commercial training organizations is considered part of the Laboratory's education and training activities and may be part of a formal employee development plan.

2. For administrative purposes, attendance at scientific meetings, professional society meetings, research conferences, and industrial conventions and shows is considered a work assignment and is not necessarily part of a development plan.

D. EMPLOYEE DEVELOPMENT PLANNING

1. Annual Plan

Every employee's annual performance evaluation must include development goals and a plan for attaining those goals during the coming year.

2. Formal Plan

a. Every career employee is eligible to request a formal development plan. A formal development plan is developed by the employee and his/her supervisor and should be realistic and state job or career goals that are attainable within the Laboratory's job classification structure. Plans should be structured so that completion of the development program should result in greater employee capability. Formal plans often include a time frame longer than one year.

b. When an employee takes three or more Laboratory-supported courses or training programs in a fiscal year, the development plan must be formalized by using the Employee Development Plan form. At a minimum, the plan should include developmental objectives and corresponding action plans for improving or mastering performance in the current position, qualifying for other Laboratory positions, or obtaining a specific degree or certificate of value to the Laboratory's mission (see Paragraph (F)(1), below).

E. SOURCES OF TRAINING PROGRAMS

1. On-Site Training

a. **Intradepartmental Training.** A division director or department head is responsible for arranging specialized training with a department or division. Assistance or advice in any phase of a desired program may be obtained from the Training Administrator in the Human Resources Department.

b. **Interdepartmental Training.** Various organizational units within the Laboratory, including the Environment, Health, and Safety Division; the Computing Sciences Directorate; and the Human Resources Department, are responsible for developing and/or providing training programs to Laboratory employees in their areas of expertise and that are required by law, or will enhance employee performance. Procedures for attending interdepartmental training may be found on the Employee Self-Service Web site.

c. **Apprenticeship Training Programs and Internships.** The Workforce Diversity Office is responsible for administering apprenticeship training programs, other special skills training, and internships.

2. Off-Site Training

a. With the approval of his or her supervisor and department head or division director, an employee may attend off-site training (e.g., outside seminars and workshops) that will be of direct benefit to the employee's assignment. The division director or department head will approve attendance at off-site training only when the benefits to the Laboratory will, in his or her judgment, more than offset the costs involved, when the required skill or knowledge is not readily available through Laboratory training resources, and when the employee's time away from the Laboratory will not adversely impact current work demands.

b. The division will pay course fees, travel, and all other expenses as necessary.

c. See HR Employee Development and Training for procedures for requesting off-site training.

3. LBNL Mentoring Policy

LBNL Managers should engage in informal mentoring of promising and ambitious employees who want to take an initiative in improving their professional skills and experiences.

The objective of the mentoring process is to:

- Foster the employee’s professional development.
- Encourage cross-functional training and networking.

The role of the mentor is to:

- Be a coach and take an interest in their employee's development.
- Help set personal-development expectations, and work with the employee to design appropriate career-path plans.
- Be available as a respected resource from which the employee can draw knowledge, experience, and wisdom.

The role of the employee is to:

- Take the initiative by regularly interacting with the mentor.

- Monitor existing skills and identify the future skill set required to achieve both career plan objectives and those of the business.
- Gain the respect of the mentor through effective utilization of the advice provided.

F. COLLEGE DEGREES, CERTIFICATE PROGRAMS, AND COLLEGE-LEVEL COURSES

Note: Additional information and clarification of the policies below may be found here. Employees should often review the information contained therein, as it may change without notice.

Career employees who have passed probation may take college-level, certificate, and continuing education courses as described below. Satisfactory job performance is a prerequisite for participation in these Tier 1 and Tier 2 programs.

1. Tier 1

College-level courses leading to an academic degree (A.A., B.S., M.B.A., M.S., Ph.D., etc.) or a certificate (Project Management, Biotechnology Business and Marketing, Java Programming, etc.).

Degree courses must be offered by an accredited college or university. Certificate courses must be offered by an accredited college or university, university extension program, or recognized professional society. Continuing education units (CEUs) may be reimbursed under Tier 1 when they are part of an approved degree or certificate program. These may be either position- or career-related programs (see paragraphs 2.04(B)(1)–(2)).

2. Tier 2

Career-related academic programs not leading to an academic degree or a certificate. Courses must be offered by an accredited college or university. Continuing education units (CEUs) may be reimbursed under Tier 2 only when offered by a university or college continuing-education program.

3. Employee Development Plans

a. **Tier 1**

The employee must have an *Employee Development Plan* approved by his or her supervisor, division director or Associate Laboratory Director for Operations, and the Human Resources Head or designee.

b. **Tier 2**

The employee must have an *Employee Development Plan* approved by his or her supervisor, division director or Associate Laboratory Director for Operations, and the Human Resources Head or designee, if taking three or more classes in a fiscal year.

c. **Basis for Approval of Employee Development Plans**

The following will be taken into consideration when reviewing employee development plans:

i. Relevance to the Laboratory's mission

ii. Mutual benefit to the employee's career and the long-term interests of the Laboratory

iii. Length of the employee's employment

iv. Employee's past performance and potential

v. A reasonable expectation that the employee will remain in the employ of the Laboratory for a sufficient period of time to provide a fair return for the training costs

vi. The proposed curriculum and timetable for completion are realistic

vii. The department/division's work needs can be met during any employee absences due to attending class or other absences related to his/her program.

An employee who is denied approval of an Employee Development Plan based on paragraphs (F)(3)(c)(i)–(vi) above may request review of the denial by the Head of Human Resources, who will consult with the division director as appropriate. Employees who are denied based on paragraph (F)(3)(c)(vii) above may not request a review by the Head of Human Resources but may resubmit their plan at a later date when the department's or division's work needs may have changed. Denial of an Employee Development Plan based on paragraphs (F)(3)(c)(i)–(vi) above is not subject to review under the grievance or administrative policies (see RPM §2.05(C) or (D)). The employee must exhibit satisfactory progress towards attainment of the degree or certificate for continued eligibility under Tier 1, with the understanding that unanticipated department/division work needs may affect that progress.

4. Fee Reimbursement

a. Employees must complete the Tuition Reimbursement Request form, and obtain the necessary approvals before registering for classes. Classes taken without prior approval will not be reimbursed.

b. Employees may be reimbursed for tuition/education fees, flat course fees, such as charges for UC Extension courses, and laboratory fees when the employee submits proof of successful course completion and receipts for payment of fees to the Training Administrator in the Human Resources Department. Nonresident tuition or other fees not listed are not reimbursable. Successful completion is receipt of at least a "C" for undergraduate work or a "B" for graduate work in accordance with the system of grading used by the institution when the "A–F" system is used. Grades of C– (for undergraduate study) or B– (for graduate study) do not qualify for reimbursement. If there is a choice between receiving a letter grade or a "Pass/Fail" evaluation, the employee must take the letter grade.

   i. Tier 1 reimbursement is 100% of reimbursable costs.

   ii. Tier 2 reimbursement is two-thirds of reimbursable costs.

c. Reimbursement is also allowed when an employee is forced to withdraw from a course because of work requirements, provided he/she submits evidence from the instructor that his/her work in the course was satisfactory at the time of forced withdrawal.

d. When necessary, the Head of Human Resources or the Training Administrator may advance payment of the

costs, provided the employee agrees to return the payment if the he/she iis unable to provide evidence of satisfactory completion.

e. Employees who are eligible for the University of California Reduced-Fee Enrollment Benefit as described in Paragraph F(6) must take advantage of that benefit.

f. Employees who terminate their employment voluntarily before the end of the quarter or semester are not eligible for reimbursement of fees, and must repay any advance provided under Paragraph F(4)(d), above. An employee who is involuntarily laid off and was notified of the layoff after the beginning of the class will either be reimbursed for tuition/course fees paid in advance or are not obligated to repay any advance payment of the costs received.

5. Time Off with Pay

Time off with pay may be granted when the employee's absence will not adversely affect progress of work, in accordance with the following provisions:

a. The employee must remain in career status during the entire quarter or semester.

b. The course or courses must be listed on the Tuition Reimbursement Request and approved before registration for each academic quarter or semester.

c. Time off to attend and register for approved courses may be allowed only when such courses cannot reasonably be taken outside the employee's scheduled working hours.

d. Time off with pay may not exceed six hours per week, including time for travel and registration. Time off with pay is not allowed for study, library, or faculty consultation time. Additional time required must be accounted for by an adjusted work schedule or by use of vacation credit.

e. Time off to take Web-based courses is not allowed.

6. University of California Reduced-Fee Enrollment Benefit

a. Any career employee who has passed probation and who is employed at least 50% time can apply to take courses at a two-thirds reduction of the full-time University of California Registration and Education fee on undergraduate- or graduate-level courses in a regular degree-granting program. The course load may not exceed nine units or three regular session University courses per term, whichever provides the greater benefit to the employee.

b. The employee must satisfy the University of California residency requirements; otherwise, the employee is subject to the full nonresident fee. A waiver of the nonresident fee will not be given.

c. The employee must apply for admission by contacting the appropriate UC Office of Admissions to obtain appropriate forms and information for entrance.

d. Eligible employees attending the University of California must use the reduced fee benefit. Employees must

inform the Training Administrator of their intent to attend the University before each quarter or semester.

e. See the Human Resources Forms Web page for procedures for obtaining the fee reduction.

f. The reduced fee is also available for non-job-related courses, but no other benefits of this policy apply, and time off with pay may not be granted to attend these classes.

7. Procedures and Forms

See HR Employee Development & Training for procedures and forms for Tiers 1 and 2 college degrees, certificate programs, and college-level courses.

8. Other Academic Programs and CEU Courses

Position-related academic programs and CEU courses not leading to an academic degree or a certificate are considered off-site training (see Paragraphs F(1)–(2)).

G. GOVERNMENT LICENSING AND/OR PROFESSIONAL CERTIFICATION

1. Definition

For the purposes of this section, government licenses and/or professional certifications are those licenses and certifications required by the employee to hold his or her current position as documented in the position description.

2. Continuing Education Courses

Continuing education unit (CEU) courses required for the maintenance of a professional license or certification as noted above are considered position-related courses. The course must be approved by the licensing or certifying agency. The request for course fee reimbursement is the same as for all other position-related training (see HR Employee Development & Training for forms and procedures).

3. License Fees

Fees for license or certification renewals as defined in Paragraph (G)(1) above are an allowable expenditure. The request is made in writing to the Office of the Chief Financial Officer and must include:

- Request for *Issuance of Check* form with valid project ID and approval;
- Endorsement by the cognizant division director that the cost is allowable as cited; and
- Copy of the license renewal or issuance documentation.

H. PROFESSIONAL RESEARCH OR TEACHING LEAVE

To promote the continuing professional growth and competence of senior administrative professional (job titles identified as "professional" in the Human Resources Information System) and scientific staff members, the Laboratory Director may grant professional research or teaching leave to a limited number of employees. Approval

and recommendation from the division director must be obtained before submitting the request to the Laboratory Director. Approval for such leave will be based on evidence that the Laboratory will benefit from the proposed work and that the candidate will continue employment at Berkeley Lab or another DOE-funded employer for a reasonable period following the leave. The leave may be spent at appropriate institutions either within or outside the United States.

1. Qualifications

The candidate must have outstanding professional ability and propose a firm plan of study, teaching, or research that is clearly relevant to the interests of the Laboratory and within the individual's competence. The candidate must also have been continuously employed by the Laboratory for four years or more. University of California faculty members are eligible to participate in this program if their Laboratory appointment is at 50% or more time during the academic year.

2. Salary

Salary payments made by the Laboratory to an employee for professional research or teaching leave may not exceed the following schedule:

Years of service or years since last professional research or teaching leave	**Up to 6 months**	**6–12 months**
4	0.89 salary	0.44 salary
4-1/2	Regular salary	0.50 salary
5	Regular salary	0.56 salary
5-1/2	Regular salary	0.61 salary
6	Regular salary	0.67 salary
7	Regular salary	0.78 salary
8	Regular salary	0.89 salary
9	Regular salary	Regular salary

In the case of a University faculty member with a less than 50% campus appointment, professional research or teaching leave payments may be approved to the extent necessary to offset sabbatical privileges for which the faculty member is ineligible.

3. Duration of Leave

The period of leave will not exceed 12 months.

4. Travel Expenses

Travel expenses will not be reimbursed by the Laboratory.

5. Vacation and Sick-Leave Credits

Vacation and sick-leave credits will not accrue to the employee during the leave.

I. PROFESSIONAL RENEWAL LEAVE

The Laboratory Director may grant professional renewal leave to a limited number of Laboratory managers or scientific personnel who have made outstanding contributions in furtherance of Laboratory objectives. The purpose of professional renewal leave is to provide these individuals an opportunity to attach themselves to external organizations and/or programs for the purpose of professional revitalization and development. These temporary external assignments will be approved based on technical and programmatic relevance, to ensure mutual benefit to both the Laboratory and the employee. The following general provisions apply:

- The candidate must be a recognized senior scientific or management series employee for whom it would not normally be practical to utilize either the college-level courses program or the professional research or teaching leave.

- The period of leave must not exceed six months.

- Salary payment, vacation, sick leave, and other benefits will continue as if the employee were in full-duty status at the Laboratory.

- The Laboratory may provide travel support in accordance with Laboratory travel policy (see RPM §11.08 (*Travel Policy*)).

§2.05
Management/Employee Relations

Responsible Manager

If you have feedback regarding an HR policy or procedure, share it with us here.

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Revised 12/09

NOTE: The policies and procedures contained in Sections 2.05(E), (J), and (K) are reproduced exactly as they appear in the corresponding University of California Policies and Procedures and, consequently, use the UC numbering system.

- **A. Areas of Responsibility**
  - **1. Responsibilities of Managers/Supervisors**
  - **2. Responsibilities of Employees**
- **B. Early Problem Resolution**
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- **C. Corrective Action and Dismissal**
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- **D. Employee Complaint Resolution**
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  - **A. Local Sexual Harassment Resources**
  - **B. Procedures for Reporting and Responding to Reports of Sexual Harassment**
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  - **D. Remedies and Referral to Disciplinary Procedures**
  - **E. Privacy**
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A. AREAS OF RESPONSIBILITY

Managers and supervisors are responsible for determining and effecting appropriate Laboratory goals and objectives. Managers, supervisors, and employees are expected to work together to achieve those goals and objectives.

1. Responsibilities of Managers/Supervisors

a. Developing performance expectations
b. Assigning work and establishing deadlines
c. Determining training needs
d. Evaluating performance
e. Rewarding achievement
f. Taking corrective action

2. Responsibilities of Employees

a. Meeting expectations
b. Performing assigned tasks capably and on time
c. Staying current in the skills required for their classification
d. Keeping their supervisors informed about job-related activities
e. Complying with the rules of the workplace and conducting themselves appropriately

B. EARLY PROBLEM RESOLUTION

1. Employees and Supervisors

When an employee is concerned about a working condition, job safety, rate of pay, job classification, or other matters pertaining to his or her employment at the Laboratory, that employee should contact his or her supervisor. When an employee seeks such counsel, the supervisor should try to help resolve the problem in a reasonable manner. Supervisors should try to prevent the escalation of employee issues by advising and counseling their employees in the early stages of potential problem situations. See also Paragraph (G) (*Employee Assistance Program*), below.

2. Labor Employee Relations

When a supervisor or employee has difficulty resolving a work-related problem, the area Human Resources (HR) Center can provide assistance. The staff of the HR Centers, with the support of the Labor Employee Relations (LER) Unit of the Human Resources Department, are qualified to provide assistance resolving these problems. They may:

a. Provide guidance to employees and/or supervisors on possible methods to solve work-related problems. This guidance is provided with the objective of achieving a solution that is workable and consistent with the satisfactory performance of the duties to which the employee has been or may be assigned.
b. Provide guidance to supervisors on options that may be taken when an employee's performance or conduct does not improve, consistent with Laboratory and University policy and good employee relations.

c. Advise employees of their rights when an employee believes that he or she has been treated inappropriately.

d. Refer employees and supervisors to University or Laboratory employee assistance services.

C. CORRECTIVE ACTION AND DISMISSAL

1. Policy

a. A corrective action may be initiated when an employee fails to meet employment-related standards of conduct or performance including, but not limited to, inattention to duty; failure to follow directions; unsatisfactory performance; insubordination; absenteeism; tardiness; violation of law or Laboratory/University regulations; dishonesty, theft, or misappropriation of public funds or property; timecard falsification; fighting on the job; acts endangering others; gambling; or possession of firearms or explosives. Corrective action can take the form of a written warning, salary decrease, demotion, suspension without pay, or dismissal.

b. Oral warnings, Performance Improvement Plans (PIP), and counseling memos are not considered corrective actions. In addition, they are not subject to the provisions of Paragraph (D) (*Employee Complaint Resolution*), below.

c. When corrective action is contemplated for a member of the Professional Research Staff, RPM §2.07 should be reviewed to determine if additional procedures are required.

2. Documentation

Documentation of corrective action should be entered in the employee's personnel file, and copies of such records should be sent to Human Resources–Labor Employee Relations (HR-LER). At the written request of the employee, records of a written warning will be removed from the employee's personnel file if, after two consecutive years, there has been no further conduct or performance of the same or a similar nature.

3. Authority to Take Corrective Action

a. **Responsible Managers**

Responsible managers are operations department heads, deputy division directors, and division directors and above (RPM §2.01(F)(3) (*Laboratory Management*)). Responsible managers, after consultation with HR-LER, may take or authorize corrective action, including dismissal, in accordance with this policy. Supervisors are authorized to issue written warnings. Authorization to take or authorize all other corrective action or dismissal lies exclusively with the responsible manager in consultation with HR-LER.

b. **Supervisor Authority**

i. Written warnings may be issued by a supervisor after consultation with HR-LER.

ii. A supervisor may immediately place an employee on investigatory leave only in those cases where it is desirable and appropriate to have the employee leave the worksite immediately. Appropriate

circumstances include, but are not limited to the following: the employee's continued presence on the job may result in the disruption of operations, may impair the investigation, may result in attempted destruction or sabotage, or may be considered a threat to others or him/herself; or the employee appears visibly impaired as to not being able to continue to perform satisfactorily. (See RPM 2.05(C)(4) (*Investigatory Leave*)).

iii. A supervisor may not take any other corrective action without prior approval of the responsible manager and consultation with HR-LER.

4. Investigatory Leave

a. An employee may be placed on investigatory leave with pay, usually for a period not to exceed 15 calendar days, while a review or investigation is conducted based on alleged actions including, but not limited to, the employee's continued presence on the job may result in disruption of operations, may impair the investigation, may result in attempted destruction or sabotage, may be considered a threat to others or his/her self, or the employee appears visibly impaired as to not be able to continue to perform satisfactorily.

b. Except as stated in Paragraph (C)(3)(b)(ii) (*Supervisor Authority*) above, a decision to place an employee on investigatory leave may only be made by a responsible manager and after consultation with HR-LER. The leave must be confirmed in writing to the employee, normally no later than five calendar days after the effective date of the leave. The notice must include the reasons for the leave and its expected duration.

c. The decision to place an employee on investigatory leave is not a corrective action. In addition, it is not subject to the provisions of Paragraph (D) (*Employee Complaint Resolution*).

5. Written Warnings

A written warning is the first step of corrective action. At least one written warning should normally precede any further corrective action, except when corrective action is the result of performance or conduct that an employee knows or reasonably should have known was unsatisfactory. Written warnings must describe: (a) the nature of the offense or deficiency; (b) the method or methods of correction; (c) the probable action to be taken if the offense is repeated or the deficiency persists; and (d) the employee's right to appeal the written warning under Paragraph (D) (*Employee Complaint Resolution*).

6. Corrective Action Other Than Written Warnings and Dismissals

a. **Written Notice of Intent to Take Corrective Action Other Than Written Warnings and Dismissals**

For corrective action other than written warnings and dismissals, the responsible manager must provide the employee with written notice of intent to take such action before the effective date. This notice must (a) state the intended corrective action, its reason, and the proposed effective date; (b) include a copy of the charges and materials on which the corrective action is based; and (c) state that the employee has the right to respond either orally or in writing within ten calendar days from the date of issuance; and (d) specify to whom the response must be made.

b. **Written Notice of Corrective Action Other Than Written Warnings and Dismissals**

After the employee's response or 10 calendar days from the date of issuance (whichever comes first), the employee must be notified in writing of the responsible manager's decision. If the responsible manager determines that corrective action is not appropriate, the responsible manager must inform the employee of this fact and state what other action, if any, will be taken. If the responsible manager determines that the corrective action, or a modification thereof, is appropriate, the employee will be notified of the action, the effective date, and advised of his/her right to appeal the action.

7. Dismissal of Nonprobationary Career and Term Employees

Nonprobationary career and term employees may be dismissed for reasons set forth in Paragraph (C)(1)(a) (*Corrective Action and Dismissal/Policy*). See RPM §2.21(C) for dismissal of non-career employees. Dismissal is normally preceded by some form of corrective action unless the unsatisfactory performance or misconduct is so serious as to warrant immediate dismissal.

a. **Written Notice of Intent to Dismiss**

A written notice of the intent to dismiss must be given to the employee by a responsible manager, and must (1) state the reason for the intended dismissal; (2) include a copy of the charges and materials on which the intent to dismiss is based; (3) state that the employee has the right to respond either orally or in writing within 10 calendar days from date of issuance; (4) specify to whom the response must be made; and (5) specify the proposed effective date of the dismissal, which must be at least 10 calendar days from the date of the notice of intent to dismiss.

b. **Written Notice of Dismissal**

After the employee's response or 10 calendar days from date of issuance (whichever comes first), the employee must be notified in writing by the responsible manager of his or her decision. If the responsible manager determines that dismissal is not appropriate, he or she must inform the employee of this fact and state what other action, if any, will be taken. If the responsible manager determines that dismissal is appropriate, the employee will be so notified. The notice must (1) specify the effective date of dismissal, (2) state the reason for dismissal, and (3) state the employee's right to appeal. If an employee was absent from work without approval during the 10 calendar days for response to the notice of intent or any subsequent days up to and including the day of dismissal, the days absent are without pay.

D. EMPLOYEE COMPLAINT RESOLUTION

1. Policy

It is the policy of the Laboratory to encourage and facilitate the resolution of employee complaints in a prompt and equitable manner. An employee should first attempt to resolve a complaint with his/her immediate supervisor. An employee may also attempt to resolve a complaint with the assistance of the Ombudsman Program. Efforts to resolve the matter informally, however, do not extend the deadline for filing a written request for formal review.

2. Scope

a. A formal complaint is defined as:

i. A claim by an individual employee regarding a specific management act that is alleged to have adversely affected the employee's existing terms and conditions of employment, or

ii. A claim by an individual employee that he/she has been adversely affected by a management action in violation of a provision of the Laboratory's *Regulations and Procedures Manual* (RPM) (LBNL/PUB-201).

b. No formal complaint filed under this Employee Complaint Resolution policy may raise or contest any of the following actions or issues:

i. Classification of a position, salary ranges, or the percent change in the employee's salary as a result of the annual salary review process or a reclassification.

ii. Management actions that are within the scope and authority of management responsibilities and rights including, but not limited to, hiring decisions or other similar employment-related actions, temporary work deferment and temporary reduction in time decisions, decisions to reorganize and reassign work, funding or not funding projects, or decisions to support a particular research effort.

iii. An employee's performance evaluation unless the overall rating is less than "Acceptable," as defined in the then-current performance review process.

iv. As otherwise set forth in the RPM as not being subject to this Employee Complaint Resolution Policy.

Concerns or inquiries regarding these issues may be submitted to the Head of Human Resources for consideration.

c. The Head of Human Resources will determine whether a complaint is within the scope of this Complaint Resolution Policy. An employee may appeal this decision to the University of California, Office of the President, Office of Employee Relations, which has the final responsibility for determining whether a complaint is within the scope of this policy. An appeal to the Office of the President shall include copies of the original grievance and related documents, and shall be received within 20 calendar days of the date of the local decision.

3. Eligibility

The right to submit a formal complaint under this policy is provided to all career and term employees covered by the RPM from the beginning of employment, with the following exceptions:

a. Employees required to serve a probationary period cannot submit a complaint concerning release during their probationary period.

b. Senior managers whose appointments are "at will" cannot submit a complaint concerning termination of the appointment. See RPM §2.01(F)(3) (*Laboratory Management*).

c. Employees in term appointments cannot submit a complaint concerning termination at the end of their appointment.

Employees who are not eligible to file a formal complaint may raise allegations of discrimination and/or allegations of retaliation for participating in the complaint resolution process up to Step II of the formal process.

4. Time Limits

Time limitations set forth below are expressed in calendar days unless otherwise noted. The Laboratory's annual winter holiday shutdown period automatically extends the time limit by the length of the shutdown. If the employee complaint is not appealed to the next step of the procedure within the applicable time limits, and an extension has not been agreed to in advance, the complaint will be considered resolved on the basis of the last Laboratory management response and shall be considered ineligible for further appeal.

Issues regarding timeliness of the initial filing of the complaint and any response/action required by the employee or management will be determined by the Head of Human Resources. An employee may appeal this decision to the University of California, Office of the President, Office of Employee Relations, which has the final responsibility for determining whether a complaint is within the time limits of this policy. An appeal to the UC Office of the President shall include copies of the original grievance and related documents, and shall be received within 20 calendar days of the date of the local decision.

5. Informal Review

An employee who has a complaint should discuss it with his or her immediate supervisor or the next higher level of management in order to provide a reasonable opportunity to resolve the complaint informally. Various problem-solving options might be used to facilitate informal resolution. HR-LER can assist employees and supervisors in their efforts to informally resolve problems. Efforts to resolve the dispute informally do not extend the required 30-calendar-day filing date. However, if an informal solution is actively being pursued and it appears that such a solution may resolve the dispute, the time period for appeal to Step I of the Formal Review Process may be extended for an additional 30 calendar days if approved in writing by the Head of Human Resources.

An employee who has a question concerning the interpretation or application of Laboratory or University personnel policies, including those related to employee rights, nondiscrimination, working conditions, or other personnel matters, is encouraged to consult with his or her supervisor, responsible manager, the HR Center, or HR-LER, and in the case of the Laboratory policy on nondiscrimination (RPM §2.01(B) (*Nondiscrimination and Affirmative Action*)), the Manager, Equal Employment Opportunity/Affirmative Action (EEO/AA).

6. Formal Review

a. **General Provisions**

i. **Representation.** An employee may be self-represented or represented by another person at any stage of the formal review of a complaint. The responsible manager may be represented by Laboratory Counsel, the University of California Office of the General Counsel, or otherwise as the Laboratory Counsel deems appropriate.

ii. **Retaliation.** No employee shall be subject to retaliation for using or participating in the complaint resolution process.

iii. **Time Limits.** It is the intent of the Laboratory to complete the complaint resolution process in a timely manner. However, when circumstances warrant, the time limits may be extended by the Head of Human Resources. It is the intent that the process be completed through Step II within 60 calendar days, and the appeal be completed through Step III within the time frame stated below. The process to select the Hearing Officer in Step III should be accomplished within 30 calendar days of the appeal to Step III. The Laboratory and the employee or the employee's representative should secure the earliest practicable hearing date from the Hearing Officer. The Hearing Officer will be requested to issue his/her decision or report within 30 calendar days of the close of the hearing. When the Hearing Officer's report is advisory to the Director, the Director should issue the final decision within 30 calendar days of receipt of the report and recommendation (see Paragraph (D)(6)(d) (*Step III: Appeal to a Hearing*)), below. As stated above, once a complaint has been filed on a timely basis, the Head of Human Resources may extend any subsequent time limit in the complaint resolution process. Such extension(s) must (1) be in writing, (2) include the reason for the extension, and (3) be given to the employee and the responsible manager.

iv. **Computation of Time Limits.** Any time limit, including the original filing time limit that expires on a Saturday, Sunday, administrative holiday, or other nonworking day observed by the Laboratory will be extended to the next scheduled working day.

v. **Pay Status for Time Spent in Complaint Resolution.** The responsible manager will approve requests for reasonable time off with pay during scheduled working hours for an employee and/or an employee's representative (if the representative is a Laboratory employee, and such representation is not paid for by the employee filing the complaint or by others) for time spent in informal resolution of a complaint, investigating a complaint, and presenting a grievance complaint at a formal hearing. Time spent by the employee or the representative in the above activities outside scheduled working hours is without pay. Time spent by an employee and/or an employee's representative in preparing for the various steps of the complaint resolution procedure (e.g., preparation of documents, preparing testimony, investigation) is unpaid. An employee who serves as a witness will be on pay status while testifying at a hearing. In addition, the responsible manager must grant reasonable time off with pay during scheduled working hours to an employee-witness for other meetings related to resolution of an employee complaint; however, an employee-witness's time spent outside of scheduled working hours, other than testifying at a hearing, will be without pay.

vi. **Informal Resolution.** Informal resolution of a complaint may be agreed to by the employee and responsible manager at any stage of the complaint resolution process.

vii. **Review and Appeal.** All complaints that are within the scope of this policy are eligible for review through Steps I and II. Only those complaints listed in Paragraph (D)(6)(d)(ii), below, can be appealed to Step III.

viii. **Termination of Complaint Resolution Procedure.** If the employee resigns prior to the completion of the complaint resolution procedure, the process ends regardless of the stage. If one or more employees in a complaint resolution procedure terminates voluntarily or resigns prior to the end of the procedure, the process continues only for the remaining employees.

b. **Step I: Appeal to the Responsible Manager**

i. Complaints that are within the scope of Paragraph (D) (*Employee Complaint Resolution*) must be submitted in writing to the Manager, HR-LER, for transmittal to the responsible manager. The complaint must be filed within 30 calendar days of the date on which the employee knew or could reasonably be expected to have known of the event or action that gave rise to the complaint, or within 30 calendar days after the last day of employment, whichever occurs first. A former employee separated by layoff who is eligible for recall or preference for reemployment as provided in RPM §2.21(B)(9) (*Reemployment from Layoff*) may file a complaint alleging violations of the recall or preference for reemployment provisions within 30 calendar days after the date on which the employee knew or could be reasonably expected to know of the alleged violation.

ii. When a complaint alleges sexual harassment, the complainant may elect to substitute the University of California Procedures for Responding to Complaints of Sexual Harassment (Paragraph E) to attempt to resolve the issue. The complaint is considered to be filed in a timely manner if it is filed within 30 calendar days after the alleged incident or action occurred. If the attempt to resolve the complaint is unsuccessful, the complainant may proceed to Step II of this procedure.

iii. The written complaint must describe the specific actions that are requested for review, the specific provisions of the RPM alleged to have been violated, the manner in which it was violated, how the employee was adversely affected, and the specific remedy requested.

iv. The responsible manager must provide a written decision to the employee within 21 calendar days unless the deadline is extended by the Head of Human Resources under the conditions stated in Paragraph (D)(6)(a)(iii), above.

v. If the responsible manager does not respond within the stated deadline or extension thereof, or the employee does not agree with the decision, the employee has the right to appeal to Step II of the Complaint Resolution Policy.

c. **Step II: Appeal to the Associate Laboratory Director for Operations**

i. If the employee elects to appeal the responsible manager's decision, the employee must submit a written appeal to the Manager, HR-LER, within 15 calendar days of receipt of the responsible manager's decision or the date the decision was due. The appeal must specify the aspects of the complaint that have not been resolved by the decision of the responsible manager, and specifically state the issues that are being appealed in Step II.

ii. If the issues under review are not eligible for appeal to Step III, the Associate Laboratory Director for Operations (ALDO) or the employee may request an Independent Party Reviewer (IPR). The IPR will conduct fact-finding and, if asked by the ALDO, make recommendations regarding the complaint and requested remedies. The IPR is selected by the ALDO. The employee and the management representative shall have an opportunity to meet with and present information directly to the IPR. The

IPR may engage in further review and investigation as he/she deems necessary and appropriate. After the conclusion of the IPR review, the IPR will submit his/her report to the ALDO. The ALDO will consider the report of the IPR and other relevant information, and will issue a written decision to the employee and the responsible manager. The decision of the ALDO is final for all complaints that are ineligible for Step III.

iii. An employee may elect to have an IPR review his/her complaint even though it is eligible for appeal to Step III. If this occurs, the decision of the ALDO is final, and the complaint cannot be appealed to Step III, as set forth in Paragraph (D)(6)(d)(ii), below.

iv. If a complaint filed under this section involves an action initiated by the ALDO, the Deputy Director will have the authority for the Step II process and any required appointments or decisions. If the complaint involves an action taken by the Laboratory Director, it will be forwarded to the University of California, Office of the President, for final resolution.

d. **Step III: Appeal to a Hearing**

i. If the employee elects to appeal the ALDO's decision for matters that are eligible for appeal to Step III, the employee shall submit a written appeal to the Manager, HR-LER, within 15 calendar days of receipt of the ALDO's decision. The appeal shall specify the aspects of the complaint that have not been resolved by the ALDO, and specifically state the issues that are being appealed in Step III of this process.

ii. Complaints not satisfactorily resolved at Step II that allege specific violations of personnel policies listed below may be appealed in writing to the Step III hearing process. The appeal will be heard by a Hearing Officer.

(a) **Final and Binding Hearing.** The Hearing Officer will render a final and binding decision when the issue reviewed under this policy alleges violations of the following policies:

(1) Discriminatory practices as listed in RPM §2.01(B) (*Nondiscrimination and Affirmative Action*) pertaining only to an alleged discriminatory application of a personnel policy listed below in this section.
(2) Hours of work
(3) Overtime
(4) Shift and weekend differential
(5) Holidays
(6) Vacation (except the scheduling of a vacation)
(7) Sick leave
(8) Leave of absence
(9) Corrective action and dismissal as defined in Paragraph (C) (*Corrective Action and Dismissal Policy*), and the employee had nonprobationary career or term status at the time the complaint was filed.
(10) Medical separation
(11) Layoff or reduction in time for career employees pertaining only to the notice, order

of layoff, recall, or preference for reemployment provisions in RPM §2.21(B). The management decision to implement a layoff or reduction in time is not subject to any provisions of this complaint resolution policy.

(12) Retaliation for utilizing the complaint resolution process.

(b) **Advisory Hearings.** The Hearing Officer will render an advisory decision and recommendation to the Laboratory Director, who will render a final and binding decision for the following two issues:

(1) Harassment as defined in RPM §2.01(B)(1), the *University of California Policy on Sexual Harassment* (Anti-Harassment Policy).

(2) Retaliation for filing an allegation of improper government activity (whistleblower), filing an allegation of discrimination or harassment, or filing an allegation of scientific misconduct. See also RPM §2.05(K) (*Protection of Whistleblowers from Retaliation, and Guidelines for Reviewing Complaints (Whistleblower Protection Policy)*).

iii. Hearing Process

(a) Selection of the Hearing Officer

(1) The Laboratory will maintain a list of professional non-University hearing officers. These hearing officers will hear all Step III appeals. The cost of these Laboratory/University hearing officers will be borne by the Laboratory. The responsible manager and the employee or their representative(s) will select a hearing officer by striking names of available members on the list until a hearing officer is selected. The determination of who strikes first will be determined by the toss of a coin.

(2) As an alternative to the procedures set forth directly above, the employee may elect, in writing, that the hearing be heard by a non-University hearing officer selected from a list other than that maintained by the Laboratory. The Laboratory shall obtain a list of five names of prospective non-University hearing officers from the Federal Mediation and Conciliation Service (FMCS) who (1) are National Academy of Arbitrators (NAA) members and (2) reside in or geographically serve the Berkeley Lab locale. Using this list, the responsible manager and the employee or their representative(s) will select a hearing officer by striking names of available members on the list until a hearing officer is selected. The determination of who strikes first will be determined by the toss of a coin.

The election of this alternative non-University hearing officer selection procedure may result in a cost to the employee. If the issue is one in which the decision of the hearing officer is final and binding, the fees will be borne equally by the Laboratory and the employee. If the issue is one in which the hearing officer makes a recommendation to the Laboratory Director:

- The fees and costs of the hearing officer will be borne equally by the Laboratory and the employee if the Laboratory Director accepts the recommended decision of the hearing officer.

- If the Laboratory Director rejects or substantively changes a recommended decision of a hearing officer under this section, the fee will be borne by the Laboratory.

(b) The hearing process provides an opportunity for the employee and the responsible manager or their representatives to examine witnesses and submit relevant evidence. See Paragraph (D)(6)(a)(i) (*Representation*) above. Each party will provide the other with the documents and other materials that it intends to use at the hearing, and the names of all witnesses who are to be called to testify at the hearing. This material-and-witness list should be provided at least 14 calendar days before the hearing.

(c) The hearing will be closed to nonparticipants.

(d) The hearing will be recorded unless a stenographic record is prepared. A copy of the recording tapes will be given to the employee. Either party may make provisions for a stenographic record of the hearing, subject to payment of the cost, or the parties may agree in advance to share the expense of a stenographic record.

iv. Responsibility and Authority of the Hearing Officer

(a) The Hearing Officer will:

(1) Identify the issues submitted in the original written complaint for hearing.
(2) Conduct a hearing to determine the facts and whether the management action that resulted in the complaint was in violation of Laboratory policies or procedures, or if the complaint involves corrective action or dismissal, and whether the management action was reasonable under the circumstances.
(3) Submit a written hearing report. If the nature of the decision is advisory, the report will be provided to the Laboratory Director. If the decision is final and binding, the report will be provided to the employee filing the complaint, the manager, HR-LER, and the Responsible Manager.

(b) The hearing report will include a description of the following:

(1) Each incident or management action that resulted in the complaint.
(2) Each issue under submission.
(3) The positions of the parties.
(4) The findings of fact and any policy violations. Findings of fact must be supported by the evidence, and the decision, whether final and binding or recommended, must be supported by the findings.

(c) The Hearing Officer will have authority to issue a final and binding decision for complaints related to issues listed in Paragraph (D)(6)(d)(ii)(a) above. For all other complaints, the Hearing Officer will have authority to issue an advisory recommendation only. The advisory recommendation will be made to the Laboratory Director.

(d) The Hearing Officer shall have no authority to depart from, or otherwise modify, Laboratory or University personnel policies.

(e) If the management action under review is determined to be in violation of Laboratory policy or if the corrective action or dismissal is determined not to be reasonable under the circumstances, the remedy shall not exceed restoring to the employee the pay, benefits, or rights lost as a result of the action, less any income earned from any other source or any other employment.

(f) Except by mutual agreement of both parties, no new issues may be added to a complaint or introduced at a hearing that were not included in the original written complaint.

(g) The resolution of an employee complaint must be in accordance with Laboratory policies. Any decision, whether recommended or final and binding, that involves an exception to Laboratory or University policy requires the prior approval of the Office of the President of the University of California.

v. **Decision of the Laboratory Director**

A recommended decision of a hearing officer will be accepted, rejected, or modified by the Laboratory Director within 15 calendar days after receipt. The decision of the Laboratory Director is final and binding for those issues as identified in Paragraph (D)(6)(d)(ii)((b). The decision will be made in writing and forwarded to the parties with a copy of the hearing officer's report.

vi. **General Hearing Provisions**

(a) **Similar Complaints.** When agreed upon by the employees and Laboratory before the hearing, individual complaints of two or more employees may be included in one hearing when the complaints were caused by the same action. All complaints from one employee that relate to a single incident or issue must be included in one hearing.

(b) **Jurisdiction.** An employee is subject to the hearing procedures of the campus or facility where the action that resulted in the complaint occurred, or as approved by the University of California, Office of the President, Office of Employee Relations.

(c) **Facilities.** HR-LER will be responsible for making all physical arrangements, including tape recording of the hearing, providing staff and clerical assistance to the hearing officer as required, ensuring that all parties are advised of procedural requirements, and keeping the calendar record of the complaint process.

(d) HR-LER will receive copies of all reports and documents pertaining to the complaint and will be the official custodian of the complete files and tapes.

E. UNIVERSITY OF CALIFORNIA PROCEDURES FOR RESPONDING TO REPORTS OF SEXUAL HARASSMENT

NOTE: These procedures are reproduced exactly as they appear in the *University of California Procedures for Responding to Reports of Sexual Harassment* and, consequently, use the UC numbering system.

NOTE: When the following UC procedures refer to *Appendix I: University Complaint Resolution and Grievance*

Procedures, there will also be a link to RPM §2.05(D) (*Employee Complaint Resolution*). This is the complaint resolution procedure for non-represented Laboratory employees. When the following UC procedures refer to *Appendix II: University Disciplinary Procedures*, there will also be a link to RPM §2.05(C) (*Corrective Action and Dismissal*), which is the Corrective Action policy for non-represented Laboratory employees. The policies contained therein are the approved Human Resources policies for Lawrence Berkeley National Laboratory nonrepresented employees. Represented employees should refer to their collective bargaining agreements for applicable policies.

NOTE: Laboratory-specific information may be found here.

The campuses, DOE Laboratories, Medical Centers, the Office of the President, including Agriculture and Natural Resources, and all auxiliary University locations (the locations) shall implement the following procedures for responding to reports of sexual harassment.

The primary purpose of the procedures is to require the locations (1) to offer sexual harassment training and education to all members of the University community and to provide, consistent with California Government Code 12950.1, sexual harassment training and education to each supervisory employee; (2) to provide all members of the University community with a process for reporting sexual harassment in accordance with the policy; and (3) to provide for prompt and effective response to reports of sexual harassment in accordance with the policy.

These procedures also cover reports of retaliation related to reports of sexual harassment. Any exceptions to these procedures must be approved by the Senior Vice President—Business and Finance.

A. Local Sexual Harassment Resources

1. Title IX Compliance Coordinator (Sexual Harassment Officer)

Each location shall designate a Title IX Compliance Coordinator (Sexual Harassment Officer) whose responsibilities include, but may not be limited to, the duties listed below.

a. Plan and manage the local sexual harassment education and training programs. The programs should include wide dissemination of this policy to the University community; providing educational materials to promote compliance with the policy and familiarity with local reporting procedures; and training University employees responsible for reporting or responding to reports of sexual harassment.
b. Develop and implement local procedures to provide for prompt and effective response to reports of sexual harassment in accordance with this policy, and submit the local procedures to the Associate Vice President, Human Resources and Benefits for review and approval.
c. Maintain records of reports of sexual harassment at the location and actions taken in response to reports, including records of investigations, voluntary resolutions, and disciplinary action, as appropriate.
d. Prepare and submit an annual report to the Office of the President, for submission to The Regents, on sexual harassment complaint activity during the preceding calendar year in a format specified by the Associate Vice President, Human Resources and Benefits.

2. Trained Sexual Harassment Advisors

Local procedures may designate trained individuals other than the Title IX Compliance Coordinator (Sexual Harassment Officer) to serve as additional resources for members of the University community who have questions or concerns regarding behavior that may be sexual harassment.

The names and contact information for the Title IX Compliance Coordinator (Sexual Harassment Officer) and any designated trained sexual harassment advisors shall be posted with the *University's Policy on Sexual Harassment* on the location's Web site and be readily accessible to the University community.

B. Procedures for Reporting and Responding to Reports of Sexual Harassment

1. Making Reports of Sexual Harassment

All members of the University community are encouraged to contact the Title IX Compliance Coordinator (Sexual Harassment Officer) if they observe or encounter conduct that may be subject to the *University's Policy on Sexual Harassment*. Reports of sexual harassment may be brought to the Title IX Compliance Coordinator (Sexual Harassment Officer); to a human resources coordinator; or to any manager, supervisor, or other designated employee responsible for responding to reports of sexual harassment. If the person to whom harassment normally would be reported is the individual accused of harassment, reports may be made to another manager, supervisor, human resources coordinator, or designated employee. Managers, supervisors, and designated employees shall be required to notify the Title IX Compliance Coordinator (Sexual Harassment Officer) or other appropriate official designated to review and investigate sexual harassment complaints when a report is received.

Reports of sexual harassment shall be brought as soon as possible after the alleged conduct occurs, optimally within one year. Prompt reporting will enable the University to investigate the facts, determine the issues, and provide an appropriate remedy or disciplinary action. For reports of sexual harassment brought after one year, locations shall respond to reports of sexual harassment to the greatest extent possible, taking into account the amount of time that has passed since the alleged conduct occurred.

2. Options for Resolution

Individuals making reports of sexual harassment shall be informed about options for resolving potential violations of the *Policy on Sexual Harassment*. These options shall include procedures for Early Resolution, procedures for Formal Investigation, and filing complaints or grievances under applicable University complaint resolution or grievance procedures. Individuals making reports also shall be informed about policies applying to confidentiality of reports under this policy (see F below). Locations shall respond to the greatest extent possible to reports of sexual harassment brought anonymously or brought by third parties not directly involved in the harassment. However, the response to such reports may be limited if information contained in the report cannot be verified by independent facts.

Individuals bringing reports of sexual harassment shall be informed about the range of possible outcomes of the report, including interim protections, remedies for the individual harmed by the harassment, and disciplinary actions that might be taken against the accused as a result of the report, including information about the procedures leading to such outcomes.

An individual who is subjected to retaliation (e.g., threats, intimidation, reprisals, or adverse employment

or educational actions) for having made a report of sexual harassment in good faith, who assisted someone with a report of sexual harassment, or who participated in any manner in an investigation or resolution of a report of sexual harassment, may make a report of retaliation under these procedures. The report of retaliation shall be treated as a report of sexual harassment and will be subject to the same procedures.

3. Procedures for Early Resolution

The goal of Early Resolution is to resolve concerns at the earliest stage possible, with the cooperation of all parties involved. Locations are encouraged to utilize Early Resolution options when the parties desire to resolve the situation cooperatively and/or when a Formal Investigation is not likely to lead to a satisfactory outcome. Early Resolution may include an inquiry into the facts, but typically does not include a formal investigation. Means for Early Resolution shall be flexible and encompass a full range of possible appropriate outcomes. Early Resolution includes options such as mediating an agreement between the parties, separating the parties, referring the parties to counseling programs, negotiating an agreement for disciplinary action, conducting targeted educational and training programs, or providing remedies for the individual harmed by the harassment. Early Resolution also includes options such as discussions with the parties, making recommendations for resolution, and conducting a follow-up review after a period of time to assure that the resolution has been implemented effectively. Early Resolution may be appropriate for responding to anonymous reports and/or third-party reports. Steps taken to encourage Early Resolution and agreements reached through early resolution efforts should be documented.

While the University encourages early resolution of a complaint, the University does not require that parties participate in Early Resolution prior to the University's decision to initiate a formal investigation. Some reports of sexual harassment may not be appropriate for early resolution, but may require a formal investigation at the discretion of the Title IX Compliance Coordinator (Sexual Harassment Officer) or other appropriate official designated to review and investigate sexual harassment complaints.

4. Procedures for Formal Investigation

In response to reports of sexual harassment in cases where Early Resolution is inappropriate (such as when the facts are in dispute in reports of serious misconduct, or when reports involve individuals with a pattern of inappropriate behavior, or allege criminal acts such as stalking, sexual assault, or physical assault) or in cases where Early Resolution is unsuccessful, the location may conduct a Formal Investigation. In such cases, the individual making the report shall be encouraged to file a written request for Formal Investigation. The wishes of the individual making the request shall be considered, but are not determinative, in the decision to initiate a Formal Investigation of a report of sexual harassment. In cases where there is no written request, the Title IX Compliance Coordinator (Sexual Harassment Officer) or other appropriate official designated to review and investigate sexual harassment complaints, in consultation with the administration, may initiate a Formal Investigation after making a preliminary inquiry into the facts.

Formal Investigation of reports of sexual harassment shall incorporate the following standards:

a. The individual(s) accused of conduct violating the *Policy on Sexual Harassment* shall be provided a copy of the written request for Formal Investigation or otherwise given a full and complete written

statement of the allegations, and a copy of the *Policy on Sexual Harassment* and *Procedures for Responding to Reports of Sexual Harassment*.

b. The individual(s) conducting the investigation shall be familiar with the *Policy on Sexual Harassment* and have training or experience in conducting investigations.
c. The investigation generally shall include interviews with the parties if available, interviews with other witnesses as needed, and a review of relevant documents as appropriate. Disclosure of facts to parties and witnesses shall be limited to what is reasonably necessary to conduct a fair and thorough investigation. Participants in an investigation shall be advised that maintaining confidentiality is essential to protect the integrity of the investigation.
d. Upon request, the complainant and the accused may each have a representative present when he or she is interviewed. Other witnesses may have a representative present at the discretion of the investigator or as required by applicable University policy or collective bargaining agreement.
e. At any time during the investigation, the investigator may recommend that interim protections or remedies for the complainant or witnesses be provided by appropriate University officials. These protections or remedies may include separating the parties, placing limitations on contact between the parties, or making alternative working or student housing arrangements. Failure to comply with the terms of interim protections may be considered a separate violation of the Policy on Sexual Harassment.
f. The investigation shall be completed as promptly as possible and in most cases within 60 working days of the date the request for formal investigation was filed. This deadline may be extended on approval by a designated University official.
g. Generally, an investigation should result in a written report that at a minimum includes a statement of the allegations and issues, the positions of the parties, a summary of the evidence, findings of fact, and a determination by the investigator as to whether University policy has been violated. The report also may contain a recommendation for actions to resolve the complaint, including educational programs, remedies for the complainant, and a referral to disciplinary procedures as appropriate. The report shall be submitted to a designated University official with authority to implement the actions necessary to resolve the complaint. The report may be used as evidence in other related procedures, such as subsequent complaints, grievances and/or disciplinary actions.
h. The complainant and the accused shall be informed promptly in writing when the investigation is completed. The complainant shall be informed if there were findings made that the policy was or was not violated and of actions taken to resolve the complaint, if any, that are directly related to the complainant, such as an order that the accused not contact the complainant. In accordance with University policies protecting individuals' privacy, the complainant may generally be notified that the matter has been referred for disciplinary action, but shall not be informed of the details of the recommended disciplinary action without the consent of the accused.
i. The complainant and the accused may request a copy of the investigative report pursuant to University policy governing privacy and access to personal information. However, the report shall be redacted to protect the privacy of personal and confidential information regarding all individuals other than the individual requesting the report in accordance with University policy.

C. Complaints or Grievances Involving Allegations of Sexual Harassment

An individual who believes he or she has been subjected to sexual harassment may file a complaint or

grievance pursuant to the applicable complaint resolution or grievance procedure listed in *Appendix I: University Complaint Resolution and Grievance Procedures*. Such complaint or grievance may be filed either instead of or in addition to making a report of sexual harassment to the Title IX Compliance Coordinator (Sexual Harassment Officer) or other appropriate official designated to review and investigate sexual harassment complaints under this policy. A complaint or grievance alleging sexual harassment must meet all the requirements under the applicable complaint resolution or grievance procedure, including time limits for filing.

If a complaint or grievance alleging sexual harassment is filed in addition to a report made to the Title IX Compliance Coordinator (Sexual Harassment Officer) or other appropriate official designated to review and investigate sexual harassment complaints under this policy, the complaint or grievance shall be held in abeyance subject to the requirements of any applicable complaint resolution or grievance procedure, pending the outcome of the Early Resolution or Formal Investigation procedures. If the individual wishes to proceed with the complaint or grievance, the Early Resolution or Formal Investigation shall constitute the first step or steps of the applicable complaint resolution or grievance procedure.

An individual who has made a report of sexual harassment also may file a complaint or grievance alleging that the actions taken in response to the report of sexual harassment did not follow University policy. Such a complaint or grievance may not be filed to address a disciplinary sanction imposed upon the accused. Any complaint or grievance regarding the resolution of a report of sexual harassment under this procedure must be filed in a timely manner. The time period for filing begins on the date the individual was notified of the outcome of the sexual harassment investigation or other resolution process pursuant to this policy, and/or of the actions taken by the administration in response to the report of sexual harassment, whichever is later.

D. Remedies and Referral to Disciplinary Procedures

Findings of violations of the *Policy on Sexual Harassment* may be considered in determining remedies for individuals harmed by the sexual harassment and shall be referred to applicable local disciplinary procedures (*Appendix II: University Disciplinary Procedures*). Procedures under this policy shall be coordinated with applicable local complaint resolution, grievance, and disciplinary procedures to avoid duplication in the fact-finding process whenever possible. Violations of the policy may include engaging in sexual harassment, retaliating against a complainant reporting sexual harassment, violating interim protections, and filing intentionally false charges of sexual harassment. Investigative reports made pursuant to this policy may be used as evidence in subsequent complaint resolution, grievance, and disciplinary proceedings as permitted by the applicable procedures.

E. Privacy

The University shall protect the privacy of individuals involved in a report of sexual harassment to the extent required by law and University policy. A report of sexual harassment may result in the gathering of extremely sensitive information about individuals in the University community. While such information is considered confidential, University policy regarding access to public records and disclosure of personal information may require disclosure of certain information concerning a report of sexual harassment. In such cases, every effort shall be made to redact the records in order to protect the privacy of individuals. An individual who has made a report of sexual harassment may be advised of sanctions imposed against

the accused when the individual needs to be aware of the sanction in order for it to be fully effective (such as restrictions on communication or contact with the individual who made the report). However, information regarding disciplinary action taken against the accused shall not be disclosed without the accused's consent, unless it is necessary to ensure compliance with the action or the safety of individuals.

F. Confidentiality of Reports of Sexual Harassment

Each location shall identify confidential resources with whom members of the University community can consult for advice and information regarding making a report of sexual harassment. These resources provide individuals who may be interested in bringing a report of sexual harassment with a safe place to discuss their concerns and learn about the procedures and potential outcomes involved. These resources shall be posted on the location's website and prominently displayed in common areas. Confidential resources include campus ombudspersons and/or licensed counselors in employee assistance programs or student health services. Individuals who consult with confidential resources shall be advised that their discussions in these settings are not considered reports of sexual harassment and that without additional action by the individual, the discussions will not result in any action by the University to resolve their concerns.

The locations shall notify the University community that certain University employees, such as the Title IX Compliance Coordinator (Sexual Harassment Officer), managers, supervisors, and other designated employees have an obligation to respond to reports of sexual harassment, even if the individual making the report requests that no action be taken. An individual's requests regarding the confidentiality of reports of sexual harassment will be considered in determining an appropriate response; however, such requests will be considered in the dual contexts of the University's legal obligation to ensure a working and learning environment free from sexual harassment and the due process rights of the accused to be informed of the allegations and their source. Some level of disclosure may be necessary to ensure a complete and fair investigation, although the University will comply with requests for confidentiality to the extent possible.

G. Retention of Records Regarding Reports of Sexual Harassment

The office of the Title IX Compliance Coordinator (Sexual Harassment Officer) is responsible for maintaining records relating to sexual harassment reports, investigations, and resolutions. Records shall be maintained in accordance with University records policies, generally five years after the date the complaint is resolved. Records may be maintained longer at the discretion of the Title IX Compliance Coordinator (Sexual Harassment Officer) in cases where the parties have a continuing affiliation with the University. All records pertaining to pending litigation or a request for records shall be maintained in accordance with instructions from legal counsel.

F. VIOLENCE IN THE WORKPLACE

1. Policy

It is the policy of the Laboratory to create and maintain a community in which we can work together in an atmosphere of respect and civility, free of harassing and threatening behaviors. Laboratory policies are designed to protect and promote the rights of members of the Berkeley Lab community and to prevent actions that interfere

with those rights and with the Laboratory's mission. Any threat or violent act by an individual associated with Berkeley Lab, including any employee, contractor, guest, or student, will be considered serious misconduct and may be the basis for disciplinary action or dismissal. Such an act may be reported to local law enforcement officials for appropriate action.

2. Crisis Action Team

To assist managers and individuals in assessing situations involving workplace violence, the Laboratory has established a Crisis Action Team (CAT), composed of Berkeley Lab and University of California, Berkeley, campus units with special expertise and professional training. These units work together to deal with verbal and physical behaviors perceived as disruptive, intimidating, threatening, or violent. CAT helps clarify the management of situations (including legal and psychological issues), coordinates communication, and monitors resolution of incidents.

3. Immediate Assistance

If an employee believes he or she needs assistance, he or she should call the Manager of Labor/Employee Relations. If he or she is experiencing an immediate threat, he or she should dial 7911 (or 9-911 from a campus phone).

G. EMPLOYEE ASSISTANCE PROGRAM

1. Policy

The Laboratory's policy is to ensure that employees are offered confidential assistance in resolving such problems as alcoholism, drug abuse, emotional disturbances, or legal, family, and financial difficulties. The Laboratory recognizes that these problems can have a negative impact on job performance that is beyond the ability of supervisors or managers to resolve. An eligible employee who is dealing with any of these problems is encouraged to utilize the Laboratory's Employee Assistance Program (EAP). The EAP is an off-site program provided by the University of California Health Center (the Tang Center) on the Berkeley campus. Employees and managers who are seeking employee-assistance services may contact the University of California Berkeley Employee Assistance Program directly. Eligible employees are those holding career, term, limited, rehired retiree, or non-University of California student-assistant appointments. Employees who hold University of California faculty or GSRA appointments, or are student assistants attending a University of California campus, must use their campus Employee Assistance Program or health benefits.

Employees are assured that self-initiated contacts made with the Laboratory's EAP are kept in strict confidence in accordance with prevailing federal requirements and Laboratory policy on confidential personal health records. The EAP will not contact management concerning employees who refer themselves unless the employee so requests.

Employees participating in the EAP are required to meet job performance standards. Program participation is voluntary and will not affect future employment or career advancement.

2. Responsibility

a. Supervisor. When an employee's work performance is being adversely affected by a personal problem, the supervisor may refer the employee to the EAP for consultation. The supervisor will also inform the employee

of the consequences of unresolved work-performance concerns.

b. Employee Assistance Program (EAP). EAP services provide consultation to the employee and/or the referring supervisor, problem assessment, referral of the employee to outside resources, if required, and ongoing follow-up for problem resolution.

c. Employee. Employees are responsible for performing their jobs in a satisfactory manner. Seeking assistance from the EAP for personal problems that are interfering with work performance may help the employee meet this responsibility.

H. REASONABLE ACCOMMODATION (Note: The Reasonable Accommodation policy has been moved to §2.01(D).)

I. RESEARCH MISCONDUCT (revised 2/28/08)

1. Introduction

All persons engaged in research at the Laboratory are responsible for adhering to the highest standards of research integrity. Activities that fall short of the basic ethical principles inherent in the research process undermine the scientific enterprise. As an institution engaged in research, the Laboratory has a responsibility for investigating allegations of research misconduct fairly, effectively, and expeditiously. This policy sets forth the principles and methods for assessing allegations of research misconduct, conducting inquiries and investigations related to possible research misconduct, and reporting the results to responsible federal and non-federal **funding agencies**.

Research misconduct means

- fabrication (making up data or results and recording or reporting them),
- falsification (manipulating research materials, equipment, or processes, or changing or omitting data or results such that the research is not accurately represented in the **research record**), or
- plagiarism (appropriation of another person's ideas, processes, results, or words without giving appropriate credit)

in proposing, performing, or reviewing research, or in reporting research results.

Honest error or differences of opinion do not constitute research misconduct.

Under this policy, a finding of research misconduct requires that

- There has been a significant departure from accepted practices of the relevant research community, involving fabrication, falsification or plagiarism;
- The misconduct was committed intentionally, knowingly, or recklessly; and
- The allegation has been proven by a **preponderance of the evidence**.

The Laboratory Director has delegated authority and responsibility for decisions made under this policy to the

Deputy Director (Deciding Official). The head of the Research and Institutional Integrity Office serves as the Research Integrity Officer (RIO) and is responsible for implementing the procedures described in this policy.

2. Scope

a. While this policy is intended to carry out the Laboratory's responsibilities under the rules of several federal agencies, it applies to all research conducted at the Laboratory regardless of funding source.

b. This policy applies to allegations of research misconduct (fabrication, falsification, or plagiarism in proposing, performing, or reviewing research or in reporting research results) (see Paragraph (I)(1) (*Introduction*)) involving:

   i. A person who, at the time of the alleged research misconduct, was employed by, was an agent of, or was affiliated by contract or agreement with the Laboratory; i.e., employees, guests, collaborators, students, consultants, and subcontractors (collectively referred to as Laboratory members for purposes of this policy).

   ii. any research proposed, performed, reviewed, or reported, or any research record generated from the research, regardless of whether an application or proposal for funds resulted in a grant, contract, cooperative agreement, or other form of support.

   iii. With regard to Public Health Service (PHS)–funded research, this policy specifically includes:

      (a) applications or proposals for support for biomedical or behavioral extramural or intramural research, research training or activities related to that research or research training, such as the operation of tissue and data banks and the dissemination of research information;

      (b) PHS-supported biomedical or behavioral extramural or intramural research;

      (c) PHS-supported biomedical or behavioral extramural or intramural research training programs;

      (d) PHS-supported extramural or intramural biomedical or behavioral activities that are related to biomedical or behavioral research or research training, such as the operation of tissue and data banks and the dissemination of research information; and

      (e) plagiarism of research records produced in the course of research, research training or activities related to that research or research training

c. This policy does not apply to authorship or collaboration disputes and applies only to allegations of research misconduct that occurred within six years of the date the Laboratory received the allegation, subject to the following exceptions:

   i. **Subsequent use.** The respondent continues or renews any incident of alleged research misconduct that occurred before the six-year limitation through the citation, republication or other use for the potential benefit of the respondent of the research record that is alleged to have been fabricated,

falsified, or plagiarized (see Paragraph (I)(1) *(Introduction)*).

ii. **Health or safety of the public exception.** If the funding agency or Laboratory, following consultation with the funding agency, determines that the alleged misconduct, if it occurred, would possibly have a substantial adverse effect of the health or safety of the public.

iii. **"Grandfather" exception.** If the funding agency or the Laboratory received the allegation or research misconduct before May 17, 2005.

3. Definitions

a. **Allegation** means a disclosure of possible research misconduct through any means of communication. This disclosure may be by written or oral statement or other communication to the Laboratory or a funding official.

b. **Complainant** means a person who in good faith makes an allegation of research misconduct.

c. **Conflict of interest** means the real or apparent potential bias that may occur due to prior or existing personal, financial, or professional relationships.

d. **Deciding Official (DO**) means the Laboratory official who makes final determinations on allegations of scientific misconduct and any responsive Laboratory actions. The Laboratory's Deputy Director is the Deciding Official.

e. **Evidence** means any document, tangible item, or testimony offered or obtained during a research misconduct proceeding that tends to prove or disprove the existence of an alleged fact.

f. **Funding agency / sponsoring agency** means the source(s) of the funds under which the research was conducted. See Paragraph (I)(4)(a)(iii) for agency-specific information.

g. **Good faith** means having a belief in the truth of one's allegation or testimony that a reasonable person in the complainant's or witness's position could have, based on the information known to the complainant or witness at the time. An allegation or cooperation with a research misconduct proceeding is not in good faith if made with knowing or reckless disregard for information that would negate the allegation or testimony. Good faith as applied to a committee member means impartially and honestly carrying out the duties assigned under this policy. A committee member does not act in good faith if his/her acts or omissions on the committee are dishonest or influenced by personal, professional, or financial conflicts of interest with those involved in the research misconduct proceedings.

h. **Inquiry** means gathering information and initial fact-finding to determine whether an allegation or apparent instance of scientific misconduct warrants an investigation.

i. **Investigation** means the formal development of a factual record and the examination of that record leading to a decision not to make a finding of research misconduct or to a recommendation for a finding of research

misconduct.

j. **Preponderance of the evidence** means proof by information that, compared with that opposing it, leads to the conclusion that the fact at issue is more probably true than not.

k. **Research Integrity Officer** (RIO) means the Laboratory official responsible for implementing the procedures described in this policy. The Laboratory's RIO is the Research and Institutional Integrity Manager.

l. **Research** means a systematic experiment, study, evaluation, demonstration or survey designed to develop or contribute to general knowledge (basic research) or specific knowledge (applied research) in all fields of science, medicine, engineering, and mathematics, including, but not limited to, research in economics, education, linguistics, medicine (relating broadly to public health by establishing, discovering, developing, elucidating or confirming information about, or the underlying mechanism relating to, biological causes, functions or effects, diseases, treatments, or related matters to be studied), psychology, social sciences statistics, and research involving human subjects or animals.

m. **Research record** means the record of data or results that embody the facts resulting from scientific inquiry, including but not limited to, research proposals, laboratory records, both physical and electronic, progress reports, abstracts, theses, oral presentations, internal reports, journal articles, and any documents and materials provided to the funding agency or Laboratory official by a respondent in the course of the research misconduct proceeding.

n. **Respondent** means the person against whom an allegation of research misconduct is directed or who is the subject of a research misconduct proceeding.

o. **Retaliation** means an adverse action taken against a complainant, witness, or inquiry appointee or committee member, or investigation committee member by the Laboratory or one of its members in response to

   i. A good faith allegation of research misconduct; or

   ii. Good faith cooperation with or participation in a research misconduct proceeding

4. Roles, Rights, and Responsibilities

a. **Laboratory**

   i. The Laboratory will respond to each allegation of research misconduct in a thorough, competent, objective, and fair manner, including taking precautions to ensure that individuals responsible for carrying out any part of the research misconduct proceeding do not have unresolved personal, professional, or financial conflicts of interest with the complainant, respondent, or witnesses.

   ii. The Laboratory will take all reasonable and practical steps to ensure the cooperation of complainants,

respondents and other Laboratory members with research misconduct proceedings, including, but not limited to, their providing information, research records, and evidence.

iii. The Laboratory will report to the appropriate office/official(s) of the **funding agency** sponsoring the research involved as required in this policy. Reports will be made to

(a) the appropriate contracting officer for Department of Energy (DOE) supported activities;

(b) the Office of Research Integrity (ORI) of the Department of Health and Human Services (HHS) for PHS-supported activities;

(c) the appropriate contracting officer or contracting officer's technical representative for Environmental Protection Agency supported activities;

(d) the Office of the Inspector General (OIG) for National Aeronautics and Space Administration (NASA) supported activities; and

(e) for agencies not listed above, to the authority identified in the specific grant or contract.

In cases where the research is supported by multiple agencies, the Laboratory will report to each agency.

b. **Research Integrity Officer**

The Research Integrity Officer (RIO) has primary responsibility for implementation of the Laboratory's policies and procedures on research misconduct. When performing any of the duties required in this policy, the RIO will consult with the responsible Division Director and other Laboratory scientific and/or institutional officials, as appropriate, or when specific expertise or assistance is needed. The responsibilities of the RIO include the following duties related to research misconduct proceedings:

i. Be available to consult with persons uncertain about whether to submit an allegation of research misconduct;

ii. Receive allegations of research misconduct;

iii. Assess each allegation of research misconduct in accordance with Paragraph (I)(6)(a) (Assessment of Allegations) of this policy to determine whether it falls within the definition of research misconduct (see Paragraph (I)(1) (*Introduction*) and warrants an inquiry;

iv. As necessary, take interim action and notify the funding agency (see Paragraph (I)(4)(a)(iii)) of special circumstances, in accordance with Paragraph (I)(5)(f) (Interim Actions and Notifying the Funding Agency of Special Circumstances) of this policy;

v. Sequester research data and evidence pertinent to the allegation of research misconduct in accordance with Paragraph (I)(6)(c) (Notice to Respondent; Sequestration of Research Records) of this policy and

maintain it securely in accordance with this policy and applicable law and regulation;

vi. Provide confidentiality to those involved in the research misconduct proceedings as required by Paragraph (I)(5)(c) (Confidentiality) of this policy;

vii. Notify the respondent and provide opportunities for him/her to review/comment/respond to allegations, evidence, and committee reports in accordance with this policy;

viii. As appropriate or required by this policy, inform respondents, complainants, and witnesses of the procedural steps in the research misconduct proceeding;

ix. Appoint the chair and members of the inquiry and investigation committees, ensure that those committees are properly staffed and that there is expertise appropriate to carry out a thorough and authoritative evaluation of the evidence;

x. Determine whether each person involved in handling an allegation of research misconduct has an unresolved personal, professional, or financial **conflict of interest** and take appropriate actions, including recusal, to ensure that no person with such conflict is involved in the research misconduct proceeding;

xi. In cooperation with other Laboratory officials, take all reasonable and practical steps to protect or restore the positions and reputations of good faith complainants, witnesses, and committee members and counter potential or actual retaliation against them by respondents or other Laboratory members;

xii. Keep the Deciding Official and others who need to know apprised of the progress of the review of the allegation of research misconduct;

xiii. Notify and make reports to the funding agency (see Paragraph (I)(4)(a)(iii)) as required by this policy.

xiv. Ensure that actions taken by the Laboratory and the funding agency are enforced and take appropriate action to notify other involved parties, such as sponsors, law enforcement agencies, and professional societies, and licensing boards of those actions, and

xv. Maintain records of the research misconduct proceeding and make them available to the funding agency in accordance with Paragraph (I)(11)(c) (Maintaining Records for Review by the Funding Agency) of this policy.

c. **Complainant**

The complainant is responsible for making allegations in **good faith**, maintaining, confidentiality, and cooperating with the inquiry and investigation. If the matter proceeds to an investigation, the complainant must be interviewed, and be given the transcript or recording of the interview for review and correction. Individuals whose allegations of research misconduct are not made in good faith may be subject to Laboratory corrective (disciplinary) action up to and including dismissal from employment.

d. **Respondent**

The **respondent** is responsible for maintaining confidentiality and cooperating with the conduct of an inquiry and investigation. The respondent is entitled to:

i. A good-faith effort from the RIO to notify the respondent in writing at the time of or before beginning the inquiry;

ii. An opportunity to comment on the draft inquiry report and have his/her comments attached to the inquiry report;

iii. Be notified of the outcome of the inquiry, and receive a copy of the inquiry report that includes a copy of, or refers to the Laboratory's policies and procedures on research misconduct. In the case of an allegation of misconduct in research supported by PHS, the inquiry report must also include a copy of, or refer to, 42 CFR Part 93.

iv. Be notified in writing of the allegations to be investigated within a reasonable time after the determination that an investigation is warranted, but before the investigation begins, and be notified in writing of any new allegations, not addressed in the inquiry or in the initial notice of investigation, within a reasonable time after the determination to pursue those allegations;

v. Be interviewed during the investigation, have the opportunity to review and correct the recording or transcript of the interview, and have the corrected recording or transcript included in the record of the investigation;

vi. Have interviewed during the investigation any witness who has been reasonably identified by the respondent as having information on relevant aspects of the investigation, have the recording or transcript of the interview provided to the witness for review and correction, and have the corrected recording or transcript included in the record of investigation; and

vii. Receive a copy of the draft investigation report and, concurrently, if requested, a copy of, or supervised access to the evidence on which the report is based, and be notified that any comments must be submitted within 30 calendar days of the date on which the copy was received and that the comments will be considered by the institution and addressed in the final report.

The respondent shall be given the opportunity to admit that research misconduct occurred and that he/she committed the research misconduct. With the advice of the RIO and/or other Laboratory officials, the Deciding Official may terminate the Laboratory's review of an allegation that has been admitted, if the Laboratory's acceptance of the admission and any proposed settlement is approved by the funding agency.

e. **Deciding Official**

The DO will receive the inquiry report and after consulting with the RIO and/or other Laboratory officials, decide whether an investigation is warranted under the criteria set forth in this policy (see Paragraph (I)(8)(a) below). Any finding that an investigation is warranted must be made in writing by the DO and must be provided to the funding agency, together with a copy of the inquiry report, within 30 calendar days of the

finding. If it is found that an investigation is not warranted, the DO and the RIO will ensure that detailed documentation of the inquiry is retained for at least 7 years after termination of the inquiry, so that the funding agency may assess the reasons why the Laboratory decided not to conduct an investigation.

The DO will receive the investigation report and, after consulting with the RIO and/or other Laboratory officials, decide the extent to which the Laboratory accepts the findings of the investigation and, if research misconduct is found, decide what, if any, Laboratory actions are appropriate. The DO shall ensure that the final investigation report, the findings of the DO and a description of any pending or completed actions are provided to the funding agency, as required by Paragraph (I)(11)(b) (Notification to Funding Agency of Laboratory Findings and Actions) of this policy.

5. General Policies and Principles

a. **Responsibility to Report Misconduct**

Laboratory members should report observed, suspected, or apparent research misconduct (see Paragraph (I)(1) (*Introduction*)) to the RIO or other appropriate Laboratory official. If the Laboratory member makes his/her report to a Laboratory official other than the RIO, the report must be forwarded to the RIO.

If an individual is unsure whether a suspected incident falls within the definition of research misconduct, he/she may meet with or contact the RIO at RIO@lbl.gov to discuss the suspected research misconduct informally, which may include discussing it anonymously and/or hypothetically. If the circumstances described by the individual do not meet the definition of research misconduct, the RIO will refer the individual or allegation to other offices or officials with responsibility for resolving the problem.

At any time, a Laboratory member may have confidential discussions and consultations about concerns of possible misconduct with the RIO and will be counseled about appropriate procedures for reporting allegations. The RIO will not be able to agree to a confidential discussion if the subject of the misconduct involves any of the conditions or special circumstances set forth in Paragraph (I)(5)(f) below.

b. **Cooperation with Research Misconduct Proceedings**

Laboratory members are required to cooperate with the RIO and other Laboratory officials in the review of allegations and the conduct of inquiries and investigations. Laboratory members, including respondents, have an obligation to provide evidence relevant to research misconduct allegations to the RIO or other Laboratory officials.

c. **Confidentiality**

The RIO shall

i. limit disclosure of the identity of respondents and complainants to those who need to know in order to carry out a thorough, competent, objective and fair research misconduct proceeding;

ii. except as otherwise prescribed by applicable law, limit the disclosure of any records or evidence from which research subjects might be identified to those who need to know in order to carry out a research misconduct proceeding.

d. **Protecting Complainants, Witnesses, and Committee Members**

Laboratory members may not retaliate in any way against complainants, witnesses, or committee members. Laboratory members should immediately report any alleged or apparent retaliation against complainants, witnesses or committee members to the RIO, who shall review the matter and, as necessary, make all reasonable and practical efforts to counter any potential or actual retaliation and protect and restore the position and reputation of the person against whom the retaliation is directed.

e. **Protecting the Respondent**

As requested and as appropriate, the RIO and other Laboratory officials shall make all reasonable and practical efforts to protect or restore the reputation of persons alleged to have engaged in research misconduct, but against whom no finding of research misconduct is made.

During the research misconduct proceeding, the RIO is responsible for ensuring that respondents receive all notices and opportunities provided for in this policy. Respondents may consult with personal legal counsel or a non-lawyer personal adviser (who is not a principal or witness in the case) to seek advice and may bring the legal counsel or personal adviser to interviews or meetings on the case. The role of legal counsel in such meetings or interviews is limited to providing advice, not representation, to the respondent.

f. **Interim Actions and Notifying the Funding Agency of Special Circumstances**

Throughout the research misconduct proceeding, the RIO will review the situation to determine if there is any threat of harm to public health, federal or state funds, and equipment, or the integrity of the funding agency's supported research process. In the event of such a threat, the RIO will, in consultation with other Laboratory officials and the funding agency, take appropriate interim action to protect against any such threat. Such action might include additional monitoring of the research process and the handling of research funds and equipment, reassignment of personnel or of the responsibility for the handling of research funds and equipment, additional review of research data and results or delaying publication. The RIO shall, at any time during a research misconduct proceeding, notify the funding agency immediately if he/she has reason to believe that any of the following conditions exist:

i. Health or safety of the public is at risk, including an immediate need to protect human or animal subjects;

ii. Funding agency resources or interests are threatened;

iii. Research activities should be suspended;

iv. There is a reasonable indication of possible violations of civil or criminal law;

v. Funding agency action is required to protect the interests of those involved in the research misconduct proceeding;

vi. The research misconduct proceeding may be made public prematurely and funding agency action may be necessary to safeguard evidence and protect the rights of those involved; or

vii. The research community or public should be informed.

6. Conducting the Assessment and Inquiry

a. **Assessment of Allegations**

Upon receiving an allegation of research misconduct, the RIO will immediately assess the allegation to determine whether it is sufficiently credible and specific so that potential evidence of research misconduct may be identified, whether it is within the jurisdictional criteria of Paragraph (I)(2) (Scope) of this policy, and whether the allegation falls within the definition of research misconduct in Paragraph (I)(1) (*Introduction*) of this policy. An inquiry must be conducted if these criteria are met.

The assessment period should be brief, preferably concluded within a week. In conducting the assessment, the RIO need not interview the complainant, respondent, or other witnesses, or gather data beyond any that may have been submitted with the allegation except as necessary to determine whether the allegation is sufficiently credible and specific so that potential evidence of research misconduct may be identified. The RIO shall, on or before the date on which the respondent is notified of the allegation, obtain custody of, inventory, and sequester all research records and evidence needed to conduct the research misconduct proceeding, as provided in Paragraph (I)(6)(c) of this section.

b. **Initiation and Purpose of the Inquiry**

If the RIO determines that the criteria for an inquiry are met, he/she will immediately initiate the inquiry process. The purpose of the inquiry is to conduct an initial review of the available evidence to determine whether to conduct an investigation. An inquiry does not require a full review of all the evidence related to the allegation.

c. **Notice to Respondent; Sequestration of Research Records**

At the time of or before beginning an inquiry, the RIO must make a good faith effort to notify the respondent in writing, if the respondent is known. If the inquiry subsequently identifies additional respondents, they must be notified in writing. On or before the date on which the respondent is notified, or the inquiry begins, whichever is earlier, the RIO must take all reasonable and practical steps to obtain custody of all the research records and evidence needed to conduct the research misconduct proceeding, inventory the records and evidence and sequester them in a secure manner, except that where the research records or evidence encompass scientific instruments shared by a number of users, custody may be limited to copies of the data or evidence on such instruments, so long as those copies are substantially equivalent to the evidentiary value of the instruments. The RIO may consult with the funding agency for advice and assistance in this regard.

d. **Appointment of an Individual (Appointee) or Committee to Conduct an Inquiry**

The RIO, in consultation with other Laboratory officials as appropriate, will appoint an individual or committee (and committee chair) to conduct an inquiry as soon after the initiation of the inquiry as is practical. The appointee or committee members must not have unresolved personal, professional, or financial conflicts of interest with those involved with the inquiry and should include individuals with the appropriate scientific expertise to evaluate the evidence and issues related to the allegation, interview the principals and key witnesses, and conduct the inquiry.

e. **Charge to the Appointee or Committee and First Meeting**

The RIO will prepare a charge for the appointee or committee that:

i. Sets forth the time for completion of the inquiry;

ii. Describes the allegations and any related issues identified during the allegation assessment;

iii. States that the purpose of the inquiry is to conduct an initial review of the evidence, including the testimony of the respondent, complainant and key witnesses, to determine whether an investigation is warranted, not to determine whether research misconduct definitely occurred or who was responsible;

iv. States that an investigation is warranted if it is determined

(a) there is a reasonable basis for concluding that the allegation falls within the definition of research misconduct and is within the jurisdictional criteria of Paragraph (I)(2) (Scope); and

(b) the allegation may have substance, based on the committee's review during the inquiry.

v. Informs the appointee or inquiry committee that they are responsible for preparing or directing the preparation of a written report of the inquiry that meets the requirements of Paragraph (I)(7)(a) (Elements of the Inquiry Report) of this policy.

At the first meeting with the appointee or committee, the RIO will review the charge, discuss the allegations, any related issues, and the appropriate procedures for conducting the inquiry, assist with organizing plans for the inquiry, and answer any questions raised. The RIO will be present or available throughout the inquiry to advise as needed.

f. **Inquiry Process**

The inquiry process will normally include interviews of the complainant, the respondent and key witnesses as well as examining relevant research records and materials. The evidence, including the testimony obtained during the inquiry will be evaluated. After consultation with the RIO, the appointee or committee members will decide whether an investigation is warranted based on the criteria in Paragraph (I)(6)(e)(iv) (Charge to Appointee or Committee and First Meeting). The scope of the inquiry is not required to and does not normally include deciding whether misconduct definitely occurred, determining definitely who committed the research misconduct or conducting exhaustive interviews and analyses. However, if a legally sufficient admission of research misconduct is made by the respondent, misconduct may be determined at the inquiry stage if all relevant issues are resolved. In that case, the RIO shall promptly consult with the funding agency to determine the next steps that should be taken. See Paragraph (I)(12) (Completion of Cases: Reporting Premature Closure to the Funding Agency).

g. **Time for Completion**

The inquiry, including preparation of the final inquiry report and the decision of the DO (see Paragraph (I)(8)(a) below) on whether an investigation is warranted, must be completed within 60 calendar days of

initiation of the inquiry, unless the RIO determines that circumstances clearly warrant a longer period. If the RIO approves an extension, the inquiry records must include documentation of the reasons for exceeding the 60-calendar-day period. The respondent will be notified, in writing, of the extension.

7. The Inquiry Report

a. **Elements of the Inquiry Report**

A written inquiry report must be prepared that includes the following information:

i. the name and position of the respondent;

ii. names and titles of the appointee or committee members who conducted the inquiry;

iii. a summary of the inquiry process used;

iv. a list of the research records reviewed;

v. summaries of any interviews;

vi. a description of the allegations of research misconduct;

vii. the funding agency support, including, for example, grant numbers, grant applications, contracts and publications listing that support;

viii. any comments on the draft report by the respondent,

ix. the basis for recommending or not recommending that the allegations warrant an investigation; and

x. whether any actions should be taken if an investigation is not recommended.

Laboratory Counsel should review the inquiry report for legal sufficiency. Modifications should be made, as appropriate, in consultation with the RIO and the appointee or committee.

b. **Notification to the Respondent and Opportunity to Comment**

The RIO shall notify the respondent whether the inquiry found an investigation to be warranted and shall include a copy of the draft inquiry report for comment within 10 calendar days of such notification. The notification must include a copy of the Laboratory's policies and procedures on research misconduct. If the alleged misconduct involves research supported by PHS the notification must include a copy of, or refer, to 42 CFR Part 93.

Based on any comments that are timely submitted, the appointee or inquiry committee may revise the draft report as appropriate and prepare it in final form. The appointee or committee will transmit the final report, including any timely submitted comments by respondent, to the RIO.

8. Laboratory Decision and Notification

a. **Decision by Deciding Official**

The RIO will transmit the final inquiry report to the DO, who will determine in writing whether an investigation is warranted. The inquiry is completed when the DO makes this determination. An investigation is warranted if there is:

i. a reasonable basis for concluding that the allegation falls within the definition of research misconduct under Paragraph (I)(1) *(Introduction)* and within the scope of this policy (Paragraph (I)(2) (*Scope*)) and

ii. preliminary information-gathering and preliminary fact-finding from the inquiry indicates that the allegation may have substance.

b. **Notification to the Complainant of the Results of the Inquiry**

The RIO shall notify the complainant whether the inquiry found an investigation to be warranted.

c. **Notification to the Funding Agency**

Within 30 calendar days of the DO's decision that an investigation is warranted, the RIO will provide the funding agency with the DO's written decision and a copy of the inquiry report. The RIO will also notify Laboratory or other officials who need to know of the DO's decision. The RIO must provide the following information to the funding agency upon request:

i. the Laboratory policies and procedures under which the inquiry was conducted;

ii. the research records and evidence reviewed, transcripts or recordings of any interviews, and copies of all relevant documents; and

iii. the charges to be considered in the investigation.

d. **Documentation of Decision Not to Investigate**

If the DO decides that an investigation is not warranted, the RIO shall secure and maintain for 7 years after termination of the inquiry sufficiently detailed documentation of the inquiry to permit a later assessment by the funding agency of the reasons why an investigation was not conducted. These documents must be provided to the funding agency upon request.

9. Conducting the Investigation

a. **Initiation and Purpose**

The investigation must begin within 30 calendar days after the determination by the DO that an investigation is warranted. The purpose of the investigation is to develop a factual record by exploring the allegations in detail and examining the evidence in depth, leading to recommended findings on whether research misconduct has been committed, by whom, and to what extent. The investigation will also determine whether there are additional instances of possible research misconduct that would justify broadening the

scope beyond the initial allegations. This is particularly important where the alleged research misconduct involves clinical trials or potential harm to human subjects or the general public or if it affects research that forms the basis for public policy, clinical practice, or public health practice. The findings of the investigation must be set forth in an investigation report (see Paragraph (I)(10) (Investigation Report)).

b. **Notify the Funding Agency and Respondent; Sequestration of Research Records**

On or before the date on which the investigation begins, the RIO must:

i. notify the funding agency of the decision to begin the investigation and provide a copy of the inquiry report, and

ii. notify the respondent in writing of the allegations to be investigated. The RIO must also give the respondent written notice of any new allegations of research misconduct within a reasonable amount of time of deciding to pursue allegations not addressed during the inquiry or in the initial notice of the investigation.

The RIO will, prior to notifying respondent of the allegations, take all reasonable and practical steps to obtain custody of and sequester in a secure manner all research records and evidence needed to conduct the research misconduct proceeding that were not previously sequestered during the inquiry. The need for additional sequestration of records for the investigation may occur for any number of reasons, including the Laboratory's decision to investigate additional allegations not considered during the inquiry stage or the identification of records during the inquiry process that had not been previously secured. The procedures to be followed for sequestration during the investigation are the same procedures that apply during the inquiry (Paragraph (I)(6)(c) (Notice to Respondent; Sequestration of Research Records)).

c. **Appointment of the Investigation Committee**

The RIO, in consultation with other Laboratory officials as appropriate, will appoint an investigation committee and the committee chair as soon after the beginning of the investigation as is practical. The investigation committee must consist of individuals who do not have unresolved personal, professional, or financial conflicts of interest with those involved with the investigation and should include individuals with the appropriate scientific expertise to evaluate the evidence and issues related to the allegation, interview the respondent and complainant and conduct the investigation. Individuals who are not Laboratory members but who have specialized expertise germane to the research involved may be appointed to the committee. Individuals appointed to the investigation committee may also have served on the inquiry committee.

d. **Charge to the Committee and the First Meeting**

i. **Charge to the Committee**

The RIO will define the subject matter of the investigation in a written charge to the committee that:

(a) Describes the allegations and related issues identified during the inquiry;
(b) Identifies the respondent;
(c) Informs the committee that it must conduct the investigation as prescribed in Paragraph (I)(9)(e) (Investigation Process) of this section;

(d) Defines research misconduct;

(e) Informs the committee that it must evaluate the evidence and testimony to determine whether, based on a preponderance of the evidence, research misconduct occurred and, if so, the type and extent of it and who was responsible;

(f) Informs the committee that in order to determine that the respondent committed research misconduct it must find that a preponderance of the evidence establishes that:

- research misconduct, as defined in this policy (see Paragraph (I)(1) (*Introduction*)) occurred (respondent has the burden of proving by a preponderance of the evidence any affirmative defenses raised, including honest error or a difference of opinion);
- the research misconduct is a significant departure from accepted practices of the relevant research community;
- the respondent committed the research misconduct intentionally, knowingly, or recklessly; and
- Informs the committee that it must prepare or direct the preparation of a written investigation report that meets the requirements of this policy (see Paragraph (I)(10)(a) (*Elements of the Investigation Report*).

ii. **First Meeting**

The RIO will convene the first meeting of the investigation committee to review the charge, the inquiry report, and the prescribed procedures and standards for the conduct of the investigation, including the necessity for confidentiality and for developing a specific investigation plan. The investigation committee will be provided with a copy of this policy. If the research is supported by the PHS, the committee will be provided with a copy of 42 CFR Part 93. The RIO will be present or available throughout the investigation to advise the committee as needed.

e. **Investigation Process**

The investigation committee and the RIO must:

i. Use diligent efforts to ensure that the investigation is thorough and sufficiently documented and includes examination of all research records and evidence relevant to reaching a decision on the merits of each allegation;

ii. Take reasonable steps to ensure an impartial and unbiased investigation to the maximum extent practical;

iii. Interview each respondent, complainant, and any other available person who has been reasonably identified as having information regarding any relevant aspects of the investigation, including witnesses identified by the respondent, and record or transcribe each interview, provide the recording or transcript to the interviewee for correction, and include the recording or transcript in the record of the investigation; and

iv. Pursue diligently all significant issues and leads discovered that are determined relevant to the investigation, including any evidence of any additional instances of possible research misconduct, and

continue the investigation to completion.

f. **Time for Completion**

The investigation is to be completed within 120 calendar days of its beginning, including conducting the investigation, preparing the report of findings, providing the draft report for comment and sending the final report to the funding agency. However, if the RIO determines that the investigation will not be completed within this 120-day period, he/she will submit to the funding agency a written request for an extension, setting forth the reasons for the delay. The RIO will ensure that periodic progress reports are filed with the funding agency if the funding agency grants the request for an extension and directs the filing of such reports.

10. The Investigation Report

a. **Elements of the Investigation Report**

The investigation committee and the RIO are responsible for preparing a written draft report of the investigation that:

i. Describes the nature of the allegation of research misconduct, including identification of the respondent.

ii. Describes and documents the funding agency support, including, for example, the numbers of any grants that are involved, grant applications, contracts, and publications listing funding agency support;

iii. Describes the specific allegations of research misconduct considered in the investigation;

iv. Includes the Laboratory policy under which the investigation was conducted;

v. Identifies and summarizes the research records and evidence reviewed and identifies any evidence taken into custody but not reviewed; and

vi. Includes a statement of findings for each allegation of research misconduct identified during the investigation. Each statement of findings must:

(a) identify whether the research misconduct was falsification, fabrication, or plagiarism (see Section (I)(1) *(Introduction)*, and whether it was committed intentionally, knowingly, or recklessly;
(b) summarize the facts and the analysis that support the conclusion and consider the merits of any reasonable explanation by the respondent, including any effort by respondent to establish by preponderance of the evidence that he/she did not engage in research misconduct because of honest error or a difference of opinion;
(c) identify the specific funding agency support;
(d) identify whether any publications need correction or retraction;
(e) identify the person(s) responsible for the misconduct; and
(f) list any current support or known applications or proposals for support that the

respondent has pending with any other funding agencies.

Laboratory Counsel should review the investigation report for legal sufficiency. Modifications should be made, as appropriate, in consultation with the RIO and investigative committee.

b. **Comments on the Draft Report and Access to Evidence**

i. **Respondent**

The RIO must give the respondent a copy of the draft investigation report for comment and, concurrently, if requested, a copy of, or supervised access to the evidence on which the report is based. The respondent will be allowed 30 calendar days from the date he/she received the draft report to submit comments to the RIO. The respondent's comments must be included and considered in the final report.

ii. **Complainant**

At the discretion of the committee, in consultation with the RIO, the complainant may be provided with a copy of the draft investigative report, or relevant portions of it, for comment. Any comments must be submitted within 30 days of the date of receipt of the draft report and any comments received must be included and considered in the final investigation report.

iii. **Confidentiality**

In distributing the draft report, or portions thereof, to the respondent, or to the complainant, the RIO will inform the recipient of the confidentiality under which the draft report or portion of the report, is made available and may establish reasonable conditions to ensure such confidentiality. For example, the RIO may require that the recipient sign a confidentiality agreement.

11. Laboratory Decision and Notification

a. **Decision by Deciding Official**

The RIO will assist the investigation committee in finalizing the draft investigation report, including ensuring that the respondent's comments or complainants comments, if any, are included and considered, and transmit the final investigation report to the DO, who will determine in writing:

i. whether he/she accepts the investigation report, its findings, and

ii. the appropriate Laboratory actions in response to the accepted findings of research misconduct.

If this determination varies from the findings of the investigation committee, the DO will, as part of his/her written determination, explain in detail the basis for rendering a decision different from the findings of the investigation committee. Alternatively, the DO may return the report to the investigation committee with a request for further fact-finding or analysis.

When the DO reaches a decision on the case, the RIO will normally notify both the respondent and the complainant in writing. The DO's decision represents the final decision of the Laboratory with respect to the issue of research misconduct. There is no right, under Laboratory policy, to appeal this decision. Any

disciplinary action which may be imposed as a result of a finding of research misconduct will be handled in accordance with RPM §2.05(C) (Corrective Action and Dismissal) or the applicable collective bargaining agreement. After informing the funding agency of the final decision, the DO will determine whether law enforcement agencies, professional societies, professional licensing boards, editors of journals in which falsified reports may have been published, collaborators of the respondent in the work, or other relevant parties should be notified of the outcome of the case. The RIO is responsible for ensuring compliance with all notification requirements of funding agencies.

b. **Notification to Funding Agency of Laboratory Findings and Actions**

Unless an extension has been granted, the RIO must, within the 120 calendar day period for completing the investigation, submit the following to the funding agency:

i. a copy of the final investigation report with all attachments,

ii. a statement of whether the Laboratory accepts the findings of the investigation report,

iii. a statement of whether the Laboratory found misconduct, and

iv. a description of any pending or completed actions against the respondent.

c. **Maintaining Records for Review by the Funding Agency**

The RIO must maintain and provide to the funding agency upon request the records of research misconduct proceedings defined as:

i. records the RIO secures for the proceeding pursuant to this policy, except to the extent the Laboratory subsequently determines and documents that those records are not relevant to the proceeding or that the records duplicate other records that are being retained;

ii. documentation of the determination of irrelevant or duplicate records;

iii. the inquiry report and final documents (not drafts) produced in the course of preparing that report, including the documentation of any decision not to investigate as required by Paragraph (I)(8)(d) (Documentation of Decision Not to Investigate);

iv. the investigation report and all records (other than drafts of the report) in support of that report, including any required recordings or transcriptions of interviews.

Unless custody has been transferred to the funding agency or the funding agency has advised in writing that the records no longer need to be retained, records of research misconduct proceedings must be maintained in a secure manner for seven years after completion of the proceeding or the completion of any funding agency proceeding involving the research misconduct allegation, whichever is later. The RIO is also responsible for providing any information, documentation, research records, evidence or clarification requested by the funding agency to carry out its review of an allegation of research misconduct or of the Laboratory's handing of such an allegation.

12. Completion of Cases: Reporting Premature Closure to the Funding Agency

Generally, all inquiries and investigations will be carried through to completion and all significant issues will be pursued diligently. The RIO must notify the funding agency in advance if there are plans to close a case at the inquiry, investigation, or appeal stage on the basis that the respondent has admitted guilt, a settlement with the respondent has been reached, or for any other reason, except:

a. closing of a case at the inquiry stage on the basis than an investigation is not warranted; or

b. a finding of no misconduct at the investigation stage, which must be reported to the funding agency as prescribed in Paragraph (I)(11)(c) (Notice to Funding Agency of Laboratory Findings and Actions).

13. Laboratory Actions, Including Employee Corrective (Disciplinary) Actions

If the DO determines that research misconduct is substantiated by the findings, he/she will decide on the appropriate actions to be taken, after consultation with the RIO.

a. **Actions may include**

   i. Withdrawal or correction of all pending or published abstracts and papers emanating from the research where research misconduct was found;

   ii. Special monitoring of future work;

   iii. Restitution of funds to the funding agency as appropriate;

   iv. In the case of Laboratory members who are not employees, notification of the member's home institution of the results of the investigation, and

   v. Other action appropriate to the research misconduct.

b. **Employee Corrective (Disciplinary) Actions**

   The matter will be referred to the respective division director/department head and Human Resources for consideration of possible corrective (disciplinary) action under applicable Laboratory RPM policies and/or collective bargaining agreements.

14. Other Considerations

a. **Termination or Resignation Prior to Completing Inquiry or Investigation**

   The termination of the respondent's Laboratory employment or a non-employee member's Laboratory association, by resignation or otherwise, before, or after an allegation of possible research misconduct has been reported, will not preclude or terminate the research misconduct proceeding or otherwise limit any of the Laboratory's responsibilities under this policy.

   If the respondent, without admitting to the misconduct, elects to resign his or her position after the

Laboratory receives an allegation of research misconduct, the assessment of the allegation will proceed, as well as the inquiry and investigation, as appropriate based on the outcome of the preceding steps. If the respondent refuses to participate in the process after resignation, the RIO and any inquiry or investigation committee will use their best efforts to reach a conclusion concerning the allegations, noting in the report the respondent's failure to cooperate and its effect on the evidence.

b. **Restoration of the Respondent's Reputation**

Following a final decision of no research misconduct, including funding agency concurrence where required by federal regulations or funding agency contracts or grants, the RIO must, at the request of the respondent, undertake all reasonable and practical efforts to restore the respondent's reputation. Depending on the particular circumstances and the views of the respondent, the RIO should consider notifying those individuals aware of or involved in the investigation of the final outcome, publicizing the final outcome in any forum in which the allegation of research misconduct was previously publicized, and expunging all reference to the research misconduct allegation from the respondent's personnel file. Any Laboratory actions to restore respondent's reputation should first be approved by the DO.

c. **Protection of the Complainant, Witnesses, and Committee Members**

During the research misconduct proceeding and upon its completion, regardless of whether the Laboratory or the funding agency determines that research misconduct occurred, the RIO must undertake all reasonable and practical efforts to protect the position and reputation of, or to counter potential or actual retaliation against, any complainant who made allegations of research misconduct in good faith and of any witnesses and committee members who cooperate in good faith with the research misconduct proceeding. The DO will determine, after consulting with the RIO, and with the complainant, witnesses, or committee members, respectively, what steps, if any, are needed to restore their respective positions or reputations or to counter potential or actual retaliation against them. The RIO is responsible for implementing any steps the DO approves.

d. If relevant, the DO, in consultation with the RIO, will determine whether the complainant's allegations of research misconduct were made in good faith, or whether a witness, appointee or committee member failed to act in good faith. If the DO determines that there was an absence of good faith, he/she will determine whether any action should be taken against the person who failed to act in good faith and forward any such recommendation for consideration by Human Resources and the appropriate Laboratory official.

J. REPORTING AND INVESTIGATING ALLEGATIONS OF SUSPECTED IMPROPER GOVERNMENTAL ACTIVITIES ("WHISTLEBLOWER" POLICY) (Revised 4/1/08)

Information and telephone numbers for reporting suspected improper governmental activities or report retaliation against a whistleblower may be found here. The Locally Designated Official at the Lab is the Associate Laboratory Director for Operations.

NOTE: When the following UC policies refer to "staff personnel policies," Laboratory employees should refer to Chapter 2 and Chapter 3 of the Regulations and Procedures Manual (RPM). These chapters of the RPM are the approved Human Resources policies for Lawrence Berkeley National Laboratory employees.

I. Introduction

The University of California has a responsibility for the stewardship of University resourcesand the public and private support that enables it to pursue its mission. The University is committed to compliance with the laws and regulations to which it is subject and to promulgating University policies and procedures to interpret and apply these laws and regulations in the University setting. Laws, regulations, policies and procedures strengthen and promote ethical practices and ethical treatment of the members of the University community and those who conduct business with the University.

The University's internal controls and operating procedures are intended to detect, prevent or deter improper activities. However, even the best systems of control cannot provide absolute safeguards against irregularities. Intentional and unintentional violations of laws, regulations, policies and procedures may occur and may constitute improper governmental activities as defined by statute (see "Definitions"). The University has a responsibility to investigate and report to appropriate parties allegations of suspected improper governmental activities and the actions taken by the University.

This policy governs reporting and investigation of allegations of suspected improper governmental activities, and together with the *Policy for Protection of Whistleblowers from Retaliation and Guidelines for Reviewing Retaliation Complaints,* represents the University's implementing policies for the *California Whistleblower Protection Act* (Government Code Section 8547 - 8547.12).

Employees and others are encouraged to use guidance provided by this policy for reporting all allegations of suspected improper governmental activities. While the scope of this policy is intended to be limited to the statutory definition of improper governmental activities, serious or substantial violations of University policy may constitute improper governmental activities determined upon review or investigation.

This policy does not fundamentally change the responsibility for conducting investigations but clarifies normal jurisdictional interests. Individual employee grievances and complaints regarding terms and conditions of employment will continue to be reviewed under the applicable academic and staff personnel policies or collective bargaining agreements. Any allegations of improper governmental activities that may result in subsequent actions bringing disciplinary charges against an academic or staff member shall be coordinated with the applicable academic or staff personnel conduct and disciplinary policies. In all instances, the University retains the prerogative to determine when circumstances warrant an investigation and, in conformity with this policy and applicable laws and regulations, the appropriate investigative process to be employed.

II. Definitions

A. University Resources

For purposes of this policy, the term University resources is defined to include, but not be limited to the following, whether owned by or under the management of the University:

- Cash and other assets, whether tangible or intangible; real or personal property;
- Receivables and other rights or claims against third parties;

- Intellectual property rights;
- Effort of University personnel and of any non-University entity billing the University for its effort;
- Facilities and the rights to use of University facilities;
- The University's name; and
- University records, including student and patient records.

B. Improper Governmental Activities

According to California Government Code Section 8547.2, *an improper governmental activity* is:

> any activity by a state agency or by an employee that is undertaken in the performance of the employee's official duties, whether or not that action is within the scope of his or her employment, and that (1) is in violation of any state or federal law or regulation, including, but not limited to, corruption, malfeasance, bribery, theft of government property, fraudulent claims, fraud, coercion, conversion, malicious prosecution, misuse of government property, or willful omission to perform duty, or (2) is economically wasteful, or involves gross misconduct, incompetency, or inefficiency.

C. Protected Disclosure

According to California Government Code Section 8547.2, a *protected disclosure* is:

> any good faith communication that discloses or demonstrates an intention to disclose information that may evidence (1) an improper governmental activity or (2) any condition that may significantly threaten the health or safety of employees or the public if the disclosure or intention to disclose was made for the purpose of remedying that condition.

D. Illegal Order

An *illegal order* is any directive to violate or assist in violating an applicable federal, state, or local law, rule or regulation or any order to work or cause others to work in conditions outside of their line of duty that would unreasonably threaten the health or safety of employees or the public.

E. Whistleblower

A person or entity making a protected disclosure is commonly referred to as a whistleblower. Whistleblowers may be University employees (academic or staff), applicants for employment, students, patients, vendors, contractors or the general public. The whistleblower's role is as a reporting party. They are not investigators or finders of fact, nor do they determine the appropriate corrective or remedial action that may be warranted.

F. Locally Designated Official (LDO)

The person designated by each campus, the Lawrence Berkeley National Laboratory, the Office of the President and the Division of Agriculture and Natural Resources as the official with primary responsibility to receive reports of allegations of suspected improper governmental activities.

III. Reporting Allegations of Suspected Improper Governmental Activities

A. Filing a Report

1. Any person may report allegations of suspected improper governmental activities. Knowledge or suspicion of improper governmental activities may originate from academic personnel, staff or administrators carrying out their assigned duties, internal or external auditors, law enforcement, regulatory agencies, and customers, patients, vendors, students or other third parties. Allegations of suspected improper governmental activities may also be reported anonymously.

2. Reports of allegations of suspected improper governmental activities are encouraged to be made in writing so as to assure a clear understanding of the issues raised, but may be made orally. Such reports should be factual rather than speculative or conclusory, and contain as much specific information as possible to allow for proper assessment of the nature, extent and urgency of preliminary investigative procedures.

3. The University recommends that any reports by persons who are not University employees be made to the LDO. Such reports may also be made to another University official whom the reporting person may reasonably expect to have either responsibility over the affected area or the authority to review the alleged improper governmental activity on behalf of the University.

4. Normally, a report by a University employee of allegations of a suspected improper governmental activity should be made to the reporting employee's immediate supervisor or other appropriate administrator or supervisor within the operating unit (such as the unit head), or to the LDO. However, in the interest of confidentiality, when there is a potential conflict of interest or for other reasons, such reports may be made to another University official whom the reporting employee may reasonably expect to have either responsibility over the affected area or the authority to review the alleged improper governmental activity on behalf of the University. When the alleged improper governmental activities involve the Chancellor, Laboratory Director, Vice President—Agriculture and Natural Resources, the LDO or the LDO's supervisor, such reports should be made to the Systemwide LDO with a copy to the Director of Investigations (DOI) and the Senior Vice President/Chief Compliance and Audit Officer of the Regents (SVP-CCAO) at the Office of the President. If the alleged improper governmental activities involve the Systemwide LDO or the President, the report should be made to the SVP-CCAO.

5. When a person reports allegations of suspected improper governmental activities to an appropriate authority the report is known as a protected disclosure. The rights of University employees and applicants for employment when making a protected disclosure are covered by the Policy for Protection of Whistleblowers from Retaliation and Guidelines for Reviewing Retaliation Complaints.

6. All University employees, and especially any academic or staff employee in a supervisory role, should be aware of and alert to either oral or written, formal or informal communications that may constitute a report

of allegations of suspected improper governmental activity.

7. Under the *California Whistleblower Protection Act*, reports of allegations of suspected improper governmental activities may be made to the State Auditor. Under that law, the State Auditor is prohibited from disclosing the identity of a whistleblower unless he or she obtains the whistleblower's permission to do so, or when the disclosure is to a law enforcement agency that is conducting a criminal investigation.

B. Reporting to the LDO

1. Each campus, the Lawrence Berkeley National Laboratory, the Office of the President and the Division of Agriculture and Natural Resources shall designate an official with primary responsibility to receive reports of allegations of suspected improper governmental activities (the LDO).

2. Managers, administrators and employees in supervisory roles who receive a report alleging suspected improper governmental activities shall ensure that the matter is promptly reported to their supervisor, an appropriate University manager and/or the LDO. Such employees are charged with exercising appropriate judgement in determining which matters can be reviewed under their authority and which matters must be referred to a higher level of management or the LDO. Consulting with supervisors, the LDO or other appropriate University management is encouraged and the exercise of judgement should err on the side of upward reporting. Oral reports should normally be documented by the supervisor by a written transcription of the oral report, and internal communications regarding allegations of improper governmental activities should normally be in writing.

3. Managers, administrators and employees in supervisory roles shall report to the LDO any allegations of suspected improper governmental activities—whether received as a protected disclosure, reported by their subordinates in the ordinary course of performing their duties, or discovered in the course of performing their own duties—when any of the following conditions are met:

   a. The matter is the result of a significant internal control or policy deficiency that is likely to exist at other units within the institution or across the University system;

   b. The matter is likely to receive media or other public attention;

   c. The matter involves the misuse of University resources or creates exposure to a liability in potentially significant amounts;

   d. The matter involves allegations or events that have a significant possibility of being the result of a criminal act (e.g., disappearance of cash);

   e. The matter involves a significant threat to the health and safety of employees and/or the public; or

   f. The matter is judged to be significant or sensitive for other reasons.

C. Reporting to the Office of the President and Others

1. The LDO shall have principal responsibility for meeting the reporting requirements to the Office of the President and local senior management. The LDO shall consult with members of the Investigations Workgroup (see Section IV.B.) as necessary in fulfilling this reporting responsibility and will inform the Investigations Workgroup of any reports made to the Systemwide LDO and DOI. The LDO (or designated member of the Local Investigations Workgroup – if there is a real or perceived potential conflict) shall forward a written report to the Systemwide LDO with copies to the DOI, the General Counsel and Vice President for Legal Affairs (General Counsel), and the SVP-CCAO regarding any reported allegations of suspected improper activities when any of the following conditions are met:

   a) The matter is the result of a significant internal control or policy deficiency that is likely to exist at other units within the institution or across the University system;

   b) The matter is likely to receive media or other public attention;

   c) The matter involves the misuse of University resources or creates exposure to a liability of at least $25,000;

   d) The matter involves a significant threat to the health and safety of employees and/or the public;

   e) The matter is judged to be significant or sensitive for other reasons;

   f) The matter alleges an improper activity by the Chancellor or Laboratory Director, the LDO, or the local Internal Audit Director.

2. A copy of communications sent to the Systemwide LDO shall be sent to the respective UC Police department if on the basis of the allegations it appears that a crime may have been committed. The UC Police shall be consulted to determine the appropriate action with regard to these investigations.

3. In some instances, even an allegation of improper governmental activity may be reportable to a funding entity or regulatory agency. More typically, at least preliminary investigation results are needed to assess reporting obligations to parties outside the University. The LDO, in consultation with the leadership of the affected area and the SVP-CCAO, will determine the nature and timing of such communications. Pursuant to Section III.C.1.b above, the Systemwide LDO, the DOI and the SVP-CCAO shall be notified of any matter being reported to external agencies (other than matters routinely reported to the DOE pursuant to the Lawrence Berkeley National Laboratory contract).

4. Allegations of suspected losses of money, securities or other property shall be reported to the local risk management office as soon as discovered. The Chief Risk Officer, Office of the President shall be notified of such matters when they meet the criteria for reporting to the Systemwide LDO by copy of such notification. The Chief Risk Officer shall report such matters in accordance with the terms of any contracts with insurance or bonding companies.

5. In the event that any person with a reporting obligation under this policy believes that there is a conflict of interest on the part of the person to whom the allegations of suspected improper activities are to be reported, the next higher level of authority shall receive the report.

6. Whistleblowers frequently make their reports in confidence. To the extent possible within the limitations of

law and policy and the need to conduct a competent investigation, confidentiality of whistleblowers will be maintained. Whistleblowers should be cautioned that their identity may become known for reasons outside of the control of the investigators or University administrators.

Similarly, the identity of the subject(s) of the investigation will be maintained in confidence with the same limitations.

IV. Investigating Alleged Improper Governmental Activities

A. A number of functional units within the University have responsibility for routinely conducting investigations of certain types of allegations of improper governmental activities, and have dedicated resources and expertise for such purposes. These include Compliance, Internal Audit, the UC Police, Human Resources and the Academic Personnel Office. In addition, other University parties may become involved in investigations of matters based on their areas of oversight responsibility or topical expertise, for example, environmental health and safety, risk management, research administration, academic affairs, health sciences compliance officers, conflict of interest coordinators, etc.

B. Each location (campus, the Lawrence Berkeley National Laboratory, the Office of the President, and the Division of Agriculture and Natural Resources) shall establish an Investigations Workgroup to ensure coordination and proper reporting of investigations. Acting in an advisory role, the Workgroup shall assist the LDO in assessing the location's planned course of action related to allegations and investigations, including determining that an adequate basis exists for commencing an investigation.

C. The LDO will chair the Investigations Workgroup. Workgroup membership should include representatives from each functional unit that has routine responsibility for certain types of investigations (e.g., Compliance, Internal Audit, UC Police, Human Resources, Risk Management, Office of the General Counsel and the Academic Personnel Office). Additional representation to be determined locally may include research administration, academic affairs, campus controllers, compliance officers, campus/laboratory counsel and representatives from any other area in which investigations routinely occur but are not conducted by a standing body (for example, parties responsible for investigating allegations of scientific misconduct). In addition, specialized expertise may be required on an ad hoc basis for investigation of certain matters.

D. The Investigations Workgroup's responsibilities shall include:

1. Assisting the LDO in assuring that the proper investigative channels are utilized according to appropriate expertise and jurisdiction;

2. Assuring that all appropriate administrative and senior officials are apprised of the allegations as necessary;

3. Assuring appropriate reporting occurs to the Office of the President through a written communication to the Systemwide LDO, the DOI and the SVP-CCAO to funding and regulatory agencies, whistleblowers and others as necessary or provided by this policy;

4. Assisting the LDO in ensuring appropriate resources and expertise are brought to bear to cause the timely and thorough review of reports of allegations of suspected improper governmental activities;

5. Ensuring that there are no conflicts of interest on the part of any party involved in specific investigations;

6. Coordinating and facilitating communications across investigative channels as necessary to ensure comprehensive attention to all facets of the matter;

7. Assisting the LDO in monitoring significant elements and progress of investigations to ensure that allegations are timely and thoroughly addressed; and

8. Coordinating and facilitating in an advisory capacity the corrective and remedial action that may be initiated in accordance with applicable faculty or staff conduct and disciplinary procedures.

E. Each unit with investigative authority shall carry out investigative activities in accordance with appropriate laws and established procedures within its discipline (e.g., UC Police, Human Resources, Academic Personnel, Compliance, Internal Audit, etc.), and regulatory policies and guidelines (e.g., scientific misconduct per Office of Science and Technology Policy (OSTP) rules).

F. The purpose and authority of the Investigations Workgroup shall not be construed as to limit or halt investigations undertaken with proper authority granted by law or policy to any University investigative authority. Nor is the Workgroup empowered to initiate investigations without an adequate basis. Rather, the Workgroup's purpose is to provide guidance, advice and/or coordination for investigative activities as requested by the LDO and to facilitate communications among appropriate parties as requested by the LDO.

G. All employees of the University have a duty to cooperate with investigations initiated under this policy.

H. Consistent with applicable personnel policies or collective bargaining agreements, an employee may be placed on an administrative leave or an investigatory leave, as appropriate, when it is determined by the University that such a leave would serve the best interests of the employee, the University or both. Such a leave is not to be interpreted as an accusation or a conclusion of guilt or innocence of any individual including the person on leave. The appropriate Academic Personnel or Human Resources Office shall be consulted regarding any plan to place an employee on such a leave.

V. Responsibilities

A. Office of the President

1. The Systemwide LDO assisted by the DOI and the Office of Compliance and Audit shall have overall responsibility for implementation of this policy.

2. For the Office of the President, the Systemwide LDO will have the same responsibilities assigned to Chancellors under this policy.

3. The President, based on advice and consultation with the Systemwide LDO, the Provost and Executive Vice President—Academic Affairs, the General Counsel, and the SVP-CCAO will communicate with The Regents regarding alleged improper governmental activities and investigative results on matters of significance.

4. Through the publication of administrative guidelines, the Systemwide LDO assisted by the DOI shall provide guidance to campuses and the Lawrence Berkeley National Laboratory on the creation of local implementing procedures. Campus process and structure will be defined in local implementing procedures for the University's Whistleblower Policy. These local procedures must contain a statement in the introduction, purpose or background section to identify the University's Whistleblower Policy as the controlling policy document which supersedes any other local or System policy related to this matter. This statement should be worded as for example: "Nothing contained in these local implementing procedures should be read or interpreted to contradict the underlying University of California Whistleblower Policy." Each location should submit to the Systemwide LDO, the DOI, and the SVP-CCAO for review and approval that location's implementing procedures, including the nomination of the LDO.

B. Chancellor

1. The Chancellor shall be responsible for implementing this policy at the local level. Authorities and responsibilities delegated to the Chancellor are also assumed by the Lawrence Berkeley National Laboratory Director, the Systemwide LDO and the Vice President—Agriculture and Natural Resources in their respective jurisdictions.

2. The Chancellor shall appoint (with the approval of the Systemwide LDO) the local LDO responsible for carrying out this policy. This individual will chair the Investigations Workgroup established under Section IV.B above. The LDO should be at the level of Associate Vice Chancellor or higher.

3. The Chancellor shall appoint the standing members of the Investigations Workgroup. The LDO may appoint additional regular members and ad hoc members as necessary to address particular issues.

C. Locally Designated Official (LDO)

1. The LDO shall be responsible for the establishment and maintenance of local implementing procedures that comply with this policy and the associated administrative guidelines. The local implementing procedures may in certain regards such as reporting thresholds be more stringent than this policy, but they may not be any less stringent.

2. The LDO shall oversee the establishment of mechanisms to ensure compliance with the reporting requirements of this policy. Principal among these are the local channels for assuring that reports of allegations of suspected improper governmental activities—which may be orally and/or informally communicated to numerous administrators and academic and staff employees in supervisory roles—are brought to the attention of the LDO or a member of the Investigations Workgroup.

3. The LDO is responsible for determining the need for consultation with the Investigations Work Group, select

Workgroup members or other subject matter experts when initiating an investigation. The LDO shall convene the Workgroup on a scheduled basis and on an ad hoc basis as necessary to assist in promptly addressing allegations, and shall keep the Workgroup and the DOI apprised of the progress and status of investigations, as appropriate. Procedures guiding the initiation of investigations should not impede prompt action by the LDO or investigators when warranted.

D. Investigative Responsibilities

1. The LDO assisted by the Investigations Workgroup has responsibility for ensuring that independent, unbiased and competent investigative resources are used to conduct investigations of suspected improper governmental activity. In assigning the lead investigator role, the LDO should take into consideration the specific expertise and availability of dedicated investigation resources possessed by functional units such as Compliance, Internal Audit, Human Resources, etc. If criminal activity is detected, consultation with UC Police will determine if the police should take the lead, participate, or initiate a separate investigation.

2. UC Police are responsible for investigations of known or suspected criminal acts within their jurisdiction. In cases involving principally criminal concerns, the UC Police should be the lead investigators and others with an investigative interest should work in support of the police investigation.

3. Procedures for investigations of personnel matters, scientific misconduct, regulatory non-compliance, student misconduct and other matters are established locally by each campus, the Lawrence Berkeley National Laboratory, the Office of the President or the Division of Agriculture and Natural Resources. Such procedures shall be consistent with this policy and applicable laws and regulations.

4. In cases involving overlapping interests among investigative bodies, assistance and cooperation will be provided between the investigators based on the relative expertise of the investigative bodies.

VI. Roles, Rights, and Responsibilities of Whistleblowers, Investigation Participants, Subjects, and Investigators

A. Whistleblowers

1. Whistleblowers provide initial information related to a reasonable belief that an improper governmental activity has occurred. The motivation of a whistleblower is irrelevant to the consideration of the validity of the allegations. However, the intentional filing of a false report, whether orally or in writing is itself considered an improper governmental activity which the University has the right to act upon.

2. Whistleblowers shall refrain from obtaining evidence for which they do not have a right of access. Such improper access may itself be considered an improper governmental activity.

3. Whistleblowers have a responsibility to be candid with the LDO, investigators or others to whom they make a report of alleged improper governmental activities and shall set forth all known information regarding any reported allegations. Persons making a report of alleged improper governmental activities should be prepared to be interviewed by University investigators.

4. Anonymous whistleblowers must provide sufficient corroborating evidence to justify the commencement of an investigation. An investigation of unspecified wrongdoing or broad allegations will not be undertaken without verifiable evidentiary support. Because investigators are unable to interview anonymous whistleblowers, it may be more difficult to evaluate the credibility of the allegations and therefore, less likely to cause an investigation to be initiated.

5. Whistleblowers are "reporting parties," not investigators. They are not to act on their own in conducting any investigative activities, nor do they have a right to participate in any investigative activities other than as requested by investigators.

6. Protection of a whistleblower's identity will be maintained to the extent possible within the legitimate needs of law and the investigation. Should the whistleblower self-disclose his or her identity, the University will no longer be obligated to maintain such confidence.

7. A whistleblower's right to protection from retaliation does not extend immunity for any complicity in the matters that are the subject of the allegations or an ensuing investigation.

8. Whistleblowers have a right to be informed of the disposition of their disclosure absent overriding legal or public interest reasons.

B. Investigation Participants

1. University employees who are interviewed, asked to provide information or otherwise participate in an investigation have a duty to fully cooperate with University-authorized investigators.

2. Participants should refrain from discussing or disclosing the investigation or their testimony with anyone not connected to the investigation. In no case should the participant discuss with the investigation subject the nature of evidence requested or provided or testimony given to investigators unless agreed to by the investigator.

3. Requests for confidentiality by participants will be honored to the extent possible within the legitimate needs of law and the investigation.

4. Participants are entitled to protection from retaliation for having participated in an investigation.

C. Investigation Subjects

1. A subject is a person who is the focus of investigative fact finding either by virtue of an allegation made or evidence gathered during the course of an investigation. The decision to conduct an investigation is not an accusation; it is to be treated as a neutral fact-finding process. The outcome of the investigation may or may not support a conclusion that an improper governmental act was committed and, if so, by whom.

2. The identity of a subject should be maintained in confidence to the extent possible given the legitimate

needs of law and the investigation.

3. Subjects should normally be informed of the allegations at the outset of a formal investigation and have opportunities for input during the investigation.

4. Subjects have a duty to cooperate with investigators to the extent that their cooperation will not compromise self-incrimination protections under state or federal law.

5. Subjects have a right to consult with a person or persons of their choice. This may involve representation, including legal representation.

6. Subjects may consult with the Office of the General Counsel (including campus and National Laboratory counsel) concerning the investigation. The Office of the General Counsel will provide legal advice to the subject regarding issues in the investigation, unless the Office of the General Counsel determines that a divergence of interest prevents it from doing so, it being understood that at all times the Office of the General Counsel represents the interests of the University. If legal services are provided by the Office of the General Counsel to the subject, the attorney-client privilege may not be invoked by the subject to prevent disclosure to the University of information obtained by the attorney providing the services, and the subject will be advised whenever it appears that a divergence of interest may require the attorney to withdraw from providing such legal services to the subject.

   Subjects are free at any time to retain their own counsel to represent them with regard to the investigation and may request that the University pay or reimburse the attorney's fees. Chancellors shall designate a person to receive the request for reimbursement. Such requests shall be considered consistent with statutory law, case law and University practice, but this policy creates no entitlement to such payments or reimbursements.

7. Subjects have a responsibility not to interfere with the investigation and to adhere to admonitions from investigators in this regard. Evidence shall not be withheld, destroyed or tampered with, and witnesses shall not be influenced, coached or intimidated.

8. Unless there are compelling reasons to the contrary, subjects should be given the opportunity to respond to material points of evidence contained in an investigation report.

9. No allegation of wrongdoing against a subject shall be considered sustained unless at a minimum, a preponderance of the evidence supports the allegation.

10. Subjects have a right to be informed of the outcome of the investigation. If allegations are not sustained, the subject should be consulted as to whether public disclosure of the investigation results would be in the best interest of the University and the subject.

11. Any disciplinary or corrective action initiated against the subject as a result of an investigation pursuant to this policy shall adhere to the applicable academic personnel or staff conduct and disciplinary procedures.

D. Investigators

1. Investigators are those persons authorized by the University to conduct fact finding and analysis related to cases of alleged improper governmental activities.

2. Investigators derive their authority and access rights from University policy or Regental authority when acting within the course and scope of their responsibilities.

3. The University, investigation participants and subjects should be assured that investigators have competency in the area under investigation. Technical and other resources may be drawn upon as necessary to augment the investigation.

4. All investigators shall be independent and unbiased both in fact and appearance.

5. Investigators have a duty of fairness, objectivity, thoroughness, ethical behavior, and observance of legal and professional standards.

6. Investigations should be launched only after preliminary consideration that establishes that:

    a. The allegation, if true, constitutes an improper governmental activity,[1] and either:

    b. The allegation is accompanied by information specific enough to be investigated, or

    c. The allegation has or directly points to corroborating evidence that can be pursued. Such evidence may be testamentary or documentary.

VII. Additional Required Communications

A. If an investigation leads University officials to conclude that a crime has probably been committed, the results of the investigation shall be reported to the District Attorney or other appropriate law enforcement agency. The UC Police should be the conduit for communications with law enforcement agencies unless the Investigations Workgroup in a particular situation determines a different communications strategy.

B. If an investigation leads University officials to conclude that a faculty member has engaged in conduct that may be a violation of the Faculty Code of Conduct, the results of the investigation shall be reported to appropriate academic personnel governing bodies in accordance with the applicable procedures for faculty conduct and the administration of discipline. Any charges of faculty misconduct brought as a result of an investigation under this policy shall comply with established faculty conduct procedures.

C. Consultation with the Office of the General Counsel is required before negotiating or entering into any restitution agreement resulting from the findings of an investigation.

K. PROTECTION OF WHISTLEBLOWERS FROM RETALIATION AND GUIDELINES FOR REVIEWING RETALIATION COMPLAINTS (WHISTLEBLOWER PROTECTION POLICY)

Information and telephone numbers for reporting suspected improper governmental activities or reporting retaliation against a whistleblower may be found here. The Locally Designated Official at the Lab is the Associate Laboratory Director for Operations.

NOTE: When the following UC policies refer to "staff personnel policies," Laboratory Employees should refer to Chapters 2 and 3 of the Regulations and Procedures Manual (RPM). These chapters of the RPM are the approved Human Resources policies for Lawrence Berkeley National Laboratory employees.

I. Policy

The University of California is committed to protecting employees and applicants for employment from interference with making a protected disclosure or retaliation for having made a protected disclosure or for having refused an illegal order as defined in this policy. This policy is derived from the California Whistleblower Protection Act (Government Code Sections 8547-8547.12). Pursuant to this code section, a University employee may not: (1) retaliate against an employee or applicant for employment who has made a protected disclosure or who has refused to obey an illegal order, nor (2) directly or indirectly use or attempt to use the official authority or influence of his or her position or office for the purpose of interfering with the right of an applicant or an employee to make a protected disclosure to the University Auditor, the employee's immediate supervisor or other appropriate administrator or supervisor within the operating unit, the locally designated University official as defined in the University's Whistleblower Policy, or the State of California Bureau of State Audits about matters within the scope of this policy. It is the intention of the University to take whatever action may be needed to prevent and correct activities that violate this policy.

II. Scope of Policy and Definitions

This policy applies to complaints of retaliation or interference filed by employees or applicants for employment who have made or attempted to make a protected disclosure ("whistleblowers") or refused to obey an illegal order, as defined below.

Local retaliation complaint resolution procedures shall incorporate the following definitions.

A. Improper Governmental Activity

Any activity undertaken by the University or by an employee that is undertaken in the performance of the employee's official duties, whether or not that action is within the scope of his or her employment, and that (1) is in violation of any state or federal law or regulation, including, but not limited to, corruption, malfeasance, bribery, theft of University property, fraudulent claims, fraud, coercion, conversion, malicious prosecution, misuse of University property and facilities, or willful omission to perform duty, or (2) is economically wasteful, or involves gross misconduct, gross incompetence, or gross inefficiency.

B. Protected Disclosure

Any good faith communication that discloses or demonstrates an intention to disclose information that may evidence either (1) an improper governmental activity or (2) any condition that may significantly threaten the health or safety of employees or the public if the disclosure or intention to disclose was made for the purpose of remedying that condition.

C. Illegal Order

Any directive to violate or assist in violating an applicable federal, state, or local law, rule, or regulation or any order to work or cause others to work in conditions outside of their line of duty that would unreasonably threaten the health or safety of employees or the public.

D. Interference

Direct or indirect use of authority to obstruct an individual's right to make a protected disclosure.

E. Official Authority or Influence

Promising to confer, or conferring, any benefit; effecting, or threatening to effect, any reprisal; taking, or directing others to take, or recommending, processing, or approving, any personnel action, including, but not limited to, appointment, promotion, transfer, assignment, performance evaluation, suspension, or other disciplinary action.

F. Retaliation Complaint

Any written complaint by an employee or an applicant for employment which alleges retaliation for having made a protected disclosure or for having refused an illegal order or interference with an attempt to make a protected disclosure, together with a sworn statement, made under penalty of perjury, that the contents of the complaint are true or are believed by the complainant to be true.

III. Authority and Responsibilities

A. Local Procedures

The Chancellor shall establish local retaliation complaint resolution procedures in accordance with this policy. Authorities and responsibilities delegated to the Chancellor are assumed by the Laboratory Directors, the Senior Vice President—Business and Finance, and the Vice President—Agriculture and Natural Resources for employees within their respective jurisdictions.

B. Locally Designated Official (LDO)

The Chancellor **[1]** shall appoint a Locally Designated Official (the LDO) to receive retaliation complaints and administer local implementing procedures. The LDO (or designee) shall determine (1) whether a complaint is timely; (2) whether it sets forth the necessary facts to support a claim of retaliation for having made a protected disclosure, having disobeyed an illegal order, or interference with the right to make a protected disclosure; and (3) whether a complaint is eligible for processing under University grievance or complaint resolution procedures available to the complainant (as noted in Section VII.A. below). The LDO may be the same official designated to administer local procedures for investigating whistleblower complaints.

C. Retaliation Complaint Officer (RCO)

The LDO may appoint one or more individuals or a standing body to serve as Retaliation Complaint Officer(s) to oversee the investigation of complaints filed by employees and applicants for employment alleging interference with or retaliation for making a protected disclosure or for refusing to obey an illegal order. The RCO may delegate conduct of the investigation, including any fact-finding, to another person. The term "RCO" as used in this policy includes the person to whom the investigation may be delegated.

D. Chancellor

The Chancellor renders a decision when the RCO conducts an investigation and determines the appropriate corrective action, if any, as set forth in Section VII.C below. The Chancellor may delegate his or her duties under this policy.

IV. Filing a Complaint

A retaliation complaint (grievance plus sworn statement) may be filed (A) under an applicable grievance or complaint resolution procedure, (B) with the LDO, or (C) with the employee's supervisor. Threshold requirements for filing a retaliation complaint are described in Section IV.D. below. Employees who elect to file a grievance unaccompanied by a sworn statement made under penalty of perjury that its contents are true or are believed to be true are not covered by the retaliation provisions of the California Whistleblower Protection Act.

A. Filing Pursuant to an Applicable Grievance or Complaint Resolution Procedure

A retaliation complaint (grievance plus sworn statement) may be filed pursuant to the applicable personnel policy or collective bargaining agreement grievance or complaint resolution procedure. The individual designated locally to receive grievances (i.e., grievance liaison) pursuant to academic or staff personnel policies, or collective bargaining agreements, shall provide the LDO with a copy of the retaliation complaint. If the grievance is not accompanied by a sworn statement, but raises issues of retaliation covered by this policy, then the grievance liaison shall provide the LDO with a copy of the grievance. Campus procedures shall specify the individual responsible for advising the complainant of his or her rights to file a whistleblower retaliation complaint and the timeframe for filing. Local procedures shall refer to the following grievance and complaint resolution policies and/or their respective implementing procedures:

1. Academic Personnel: Academic personnel may file complaints alleging retaliation, if eligible, as follows:

a.	Members of the Academic Senate	Senate Bylaw 335
b.	Non-Senate Academic Personnel	APM – 140
c.	Exclusively Represented Academic Personnel	The applicable collective bargaining agreement

2. Staff Personnel: Staff personnel may file complaints alleging retaliation, if eligible, as follows:

a.	Senior Managers	PPSM II-70

b.	Managers and Senior Professionals, Salary Grades VIII and IX	PPSM 71
c.	Managers and Senior Professionals (except Salary Grades VIII and IX) and Professionals and Support Staff	PPSM 70
d.	Exclusively Represented Staff Personnel	The applicable collective bargaining agreement

B. Filing with the LDO

A written retaliation complaint may be filed directly with the LDO. A retaliation complaint filed with the LDO must be filed within 12 months of the alleged act or threat of interference or retaliation. If the complaint alleges a pattern of retaliation, the complaint must be filed within 12 months of the most recent alleged act or threat of interference or retaliation.

1. If the complaint received by the LDO is eligible for review under an existing grievance or complaint resolution procedure and the complainant also elects to file under the applicable grievance or complaint resolution procedure, the LDO will hold the retaliation complaint in abeyance until all of the steps preceding hearing, arbitration, or fact-finding have been completed. (For example, under a collective bargaining agreement, the whistleblower retaliation complaint is joined with the grievance when the grievance advances to arbitration under the applicable procedure.) At that point in the review process, the retaliation complaint will be joined with the applicable procedure and referred to the RCO for handling as described in Section VI.A.3 below.

2. If a complaint received by the LDO is eligible for review under an existing grievance or complaint resolution procedure but the complainant elects not to file, the complaint will be referred to the RCO for investigation at the end of the grievance filing period.

3. The LDO shall refer a complaint to the RCO for investigation under the following conditions:

   (a) The complaint is not within the scope of or filed within the time limits of the complaint resolution procedure available to the complainant under applicable University personnel policies, collective bargaining agreements, or procedures established by the Academic Senate; or

   (b) The employee does not have a complaint resolution procedure available for some other reason (for example, the alleged retaliatory act cannot be grieved under the respective collective bargaining agreement); or

   (c) The complainant is an applicant for employment.

4. If a complaint that is normally eligible for investigation by the RCO alleges that the Chancellor, the LDO, or the LDO's supervisor interfered or took the retaliatory action, the LDO or designee shall request:

(a) that the Senior Vice President—Business and Finance appoint a RCO when the complainant is a current employee in or applicant for a staff or management position; or

(b) that the Provost and Senior Vice President—Academic Affairs appoint a RCO when the complainant is a current appointee in or applicant for an academic position.

C. Filing with a Supervisor

A written complaint filed with a supervisor shall be referred by the supervisor to the LDO and processed in accordance with Section IV.B. above.

D . Filing Requirements and Thresholds

1. The retaliation complaint filed with the LDO or the supervisor must set forth in sufficient detail the necessary facts including dates and names of relevant persons. The complaint must contain facts supporting the filing thresholds as set forth below in Section IV.D.2(a) through (c), the alleged retaliatory act(s), and the effects on the complainant of the alleged retaliatory acts. The LDO may require the complainant to amend the complaint to provide sufficient detail. If the complainant does not amend the complaint to correct the insufficiencies identified by the LDO within a reasonable timeframe, as established in local procedures, the complaint may be dismissed by the LDO.

2. In order for a retaliation complaint to be accepted, the complainant must allege that:

   (a) he or she filed a report or made a protected disclosure alleging improper governmental activities pursuant to current University policy; or

   (b) he or she was threatened, coerced, commanded, or prevented by intimidation from filing a report of improper governmental activities; or

   (c) he or she refused to obey an illegal order.

3. The LDO may consult with the local Investigations Workgroup in determining whether the alleged disclosure is a protected disclosure, and in determining whether an alleged order was an illegal order if the complaint is otherwise eligible for review.

V. Administrative Proceedings

A. Evidentiary Standards

1. Pursuant to California Government Code Section 8547.10(e) an arbitrator, University or non-University hearing officer, or University committee that hears a retaliation complaint shall be instructed that once the complainant demonstrates by a preponderance of the evidence that he or she engaged in activity protected by the University's Whistleblower Policy and that such activity was a contributing factor in the alleged

retaliation, the burden of proof shall be on the supervisor, manager, or University to demonstrate by clear and convincing evidence that the alleged retaliatory action would have occurred independent of the employee's engagement in a protected disclosure or refusal of an illegal order. If the complaint is investigated by a factfinder, the factfinder shall find facts concerning the burden of proof so that the Chancellor is able to make this determination. If the University fails to meet this burden, the employee or applicant for employment shall have a complete affirmative defense to the adverse action which was the subject of the complaint.

2. However, pursuant to California Government Code Section 8547.10(d), a manager or supervisor is not prevented from taking, directing others to take, recommending, or approving any personnel action or from taking or failing to take a personnel action with respect to any employee or applicant for employment if the manager or supervisor reasonably believes any action or inaction is justified on the basis of evidence separate and apart from the fact that the person has made a protected disclosure.

B. Special Evidentiary Standards for Health Care Workers

Pursuant to Section 1278.5 of the California Health and Safety Code, discriminatory treatment (as defined in the Section) of a health care worker for having presented a grievance or complaint, or having initiated, participated, or cooperated in any investigation or proceeding against the health facility on issues relating to care, services or condition of the health facility, if the health facility had knowledge of such action, shall raise a rebuttable presumption that discriminatory action was taken in retaliation, if the discriminatory action occurs within 120 days of the filing of the grievance or complaint.

VI. Complaints Investigated by the RCO

A. When an employee files a complaint which contains an eligible allegation of retaliation under an existing University grievance or complaint resolution procedure, the RCO shall investigate the allegation of retaliation or interference as provided below:

1. If the complaint is filed under a complaint resolution procedure containing fact-finding as specified in University policies as part of the final available step (e.g., Staff Policies 70, 71, and II-70 for some issues), the RCO will serve as the factfinder.
2. If the complaint is filed under a grievance procedure in personnel policy, a collective bargaining agreement, or under procedures established by the Academic Senate, but is not eligible under that policy, collective bargaining agreement, or procedure for arbitration, hearing, or fact-finding, the RCO will investigate the complaint after exhaustion of the available steps of the policy, collective bargaining agreement, or Academic Senate procedure. The investigation and findings will be limited to the interference or retaliation aspect of the complaint only.
3. If the complaint is heard before an arbitrator, University or non-University hearing officer, or University committee, the RCO will receive a copy of that decision. If the decision does not include findings regarding the alleged interference or retaliation, the RCO shall request that the arbitrator, University or non-University hearing officer, or University committee revise the report to include findings regarding the alleged interference or retaliation. If the arbitrator, University or non-University hearing officer,
or University committee subsequently fails to include such findings in the report, the RCO will conduct

a separate investigation on that issue only.

B. When no University grievance or complaint resolution procedure is available to the complainant, the RCO will conduct the investigation.

C. Before findings are reached, the RCO (or fact-finder, if the RCO has delegated conduct of the investigation) shall provide a copy of the complaint and any documents on which the RCO (or fact-finder) intends to rely in reaching findings to the person accused of interference or retaliation. That person shall be provided the opportunity, within locally established time limits, to respond to the complaint and to file a written statement which the RCO (or fact-finder) will make part of the record submitted to the Chancellor.

D. The RCO shall present findings of fact based on the evidence and factual conclusions to the Chancellor within 120 days from the date on which the complaint was assigned to the RCO unless an extension is granted by the LDO.

E. When an employee has filed a complaint under an applicable personnel policy or collective bargaining agreement grievance or complaint resolution procedure (1) which alleges retaliation for an action protected by this policy, and (2) a final University decision within the meaning of the applicable complaint resolution policy or collective bargaining agreement has been rendered, and (3) the employee later files a timely whistleblower retaliation complaint, the RCO shall review the decision. If there is a finding of retaliation, the RCO shall review it to ensure that the remedy is consistent with the policy, and if not, the RCO shall make a recommendation to the Chancellor. If there is no finding of retaliation, the LDO shall request that the hearing officer, committee, or arbitrator reopen the case and apply the standard of proof specified in Section V. above, and if necessary, find additional facts for application of the standard. If the foregoing does not occur, the RCO shall find additional facts, if necessary, for application of the standard of proof specified in Section V. above. The case shall then be forwarded to the Chancellor for a decision.

F. When it is alleged that the Chancellor, the LDO, or the LDO's supervisor interfered or took the retaliatory action, the Senior Vice President—Business and Finance or the Provost and Senior Vice President—Academic Affairs, whichever applies, shall appoint an RCO to undertake the investigation consistent with the provisions of Section VI.A through E. above. The RCO shall present findings of fact based on the evidence and factual conclusions to the Senior Vice President—Business and Finance or the Provost and Senior Vice President—Academic Affairs, as appropriate, for a decision. The RCO's findings shall be presented within 120 days from the date on which the complaint was assigned to the RCO unless an extension is granted by the Senior Vice President—Business and Finance or Provost and Senior Vice President—Academic Affairs.

VII. Decision

A. Decision Based on Findings of an Arbitrator, University or Non-University Hearing Officer, or University Committee

1. The RCO shall be provided with a copy of the decision in those cases in which the complaint was heard before an arbitrator, University or non-University hearing officer, or University committee.
2. When there are findings that interference or retaliation has occurred, the RCO will provide that information to the Chancellor. If the decision is final and binding, the Chancellor may not alter the decision in any way,

but may through the appropriate channels initiate corrective action against the University employee who interfered or retaliated based on the findings in the decision.

B. Decision Based on Findings of an Investigation Conducted by the RCO

1. The RCO is to present findings of fact based on the evidence and factual conclusions to the Chancellor who shall render a decision in the matter consistent with the standard of proof specified in Section V above. The Chancellor may remand the findings to the RCO if further investigation is needed before making a decision. The Chancellor will communicate the decision in writing to the complainant and to the person or persons accused of violating the University's Whistleblower Protection Policy.
2. The Chancellor's written decision will include any appropriate relief for the complainant, but will not describe any corrective action which may need to be taken.

C. Corrective Action of a University Employee

The Chancellor through the appropriate channel, or in the case of Academic Senate members the appropriate Senate Committee, determines the appropriate corrective action, if any, which will be initiated against a University employee who is found to have retaliated against or interfered with an employee's or applicant's right to make a protected disclosure or to refuse an illegal order. Such action shall be in accordance with the applicable personnel policy or collective bargaining agreement. For a member of the Academic Senate, disciplinary proceedings are in accordance with academic personnel policies and procedures established by the Academic Senate.

D. Complaint Against the Chancellor, the LDO, or the LDO's Supervisor

With regard to complaints in which it is alleged that the Chancellor, the LDO, or the LDO's supervisor interfered or took retaliatory action, the findings of the investigation shall be presented for a decision to the Senior Vice President—Business and Finance or the Provost and Senior Vice President—Academic Affairs, in accordance with Section VI.F. above.

VIII. Appeal

An employee may appeal the local decision only on the basis that the complaint was ineligible for processing because it was untimely filed and/or the complaint did not qualify for review under the scope of this policy to:

A. the Senior Vice President—Business and Finance if the complainant is a current employee in or applicant for a staff or management position; or
B. the Provost and Senior Vice President—Academic Affairs if the complainant is a current appointee in or applicant for an academic position.

IX. Reports

Each location shall submit a copy of local procedures implementing this policy to the Office of the Senior Vice President—Business and Finance. Additionally, on July 31 of each year, each location shall submit to the Senior Vice President—Business and Finance a report summarizing the number of whistleblower retaliation complaints filed during the preceding fiscal year and their disposition. The Office of Human Resources and Benefits will provide a

reporting format for this purpose.

L. UNAUTHORIZED ABSENCES AND JOB ABANDONMENT

1. Policy

An employee shall be at work during his or her regular work schedule, unless an absence from work has been authorized by the supervisor. The supervisor determines whether an absence is authorized or unauthorized, in accordance with the procedures below and with applicable personnel policies and collective bargaining agreements. Supervisors shall respond to unauthorized absences using appropriate reduction of compensation and the Laboratory normal counseling/corrective action/disciplinary procedures. Supervisors shall not approve the use of vacation leave, sick leave, or leave without pay for unauthorized absences.

2. Definition

a. **Unauthorized Absence**

Absence from scheduled work without supervisory approval.

a. **Job Abandonment**

Five consecutive work days of unauthorized absence constitutes job abandonment.

3. PROCEDURES

a. **Unauthorized Absence**

In case of an apparent unauthorized absence, the supervisor must inquire into the circumstances of the absence. If the supervisor determines that the absence was due to an unforeseen event, outside of the control of the employee which precluded the employee from contacting the supervisor, the supervisor may retroactively authorize the absence.

If the absence is determined to be unauthorized:

i. The employee's pay shall be adjusted for each period of unauthorized absence. Non-exempt employees shall have their pay reduced in 15-minute increments. Exempt employees shall have their pay reduced in full workday increments when absent without authorization for one or more full workdays.

ii. The supervisor will counsel the employee and, at a minimum, make a record of the incident. In some circumstances corrective action may be warranted, in which case the supervisor will consult Human Resources–Labor Employee Relations (HR-LER) on the appropriate course of action.

a. **Job Abandonment**

i. In the case of job abandonment, the responsible manager, after consultation with HR-LER, shall provide the employee with written notification of its intent to separate her/him. This notification shall include the reasons for the separation, the employee's right to respond to the responsible manager

within 14 calendar days, and a Proof of Service. The notification shall be sent to the employee's last known mailing address.

ii. The employee shall have 14 calendar days from the mailing of such notice to respond to the responsible manager prior to her/his separation. The response may, at the option of the employee, be oral or in writing. The manager receiving the response must have the authority to effectively recommend reinstatement of the employee.

iii. Following the employee's timely response, or 14 calendar days, a final decision will be made. The employee must be notified in writing of the responsible manager's decision as contained in RPM §2.05(C)(6)(b) (*Corrective Action and Dismissal*).

iv. During the above process, the employee will be placed on unauthorized leave of absence without pay beginning the first day of missed work.

v. See also RPM §2.12(I) if the reason the employee does not return to work is for medical reasons.

Footnotes

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Paragraph J

1. Matters that do not meet this standard may be worthy of management review, but should not be undertaken as an investigation of an improper governmental activity.

Paragraph K

1. For the purpose of this policy, the Chancellor also means the Laboratory Directors for the Lawrence Berkeley National Laboratory, the Lawrence Livermore National Laboratory, and the Los Alamos National Laboratory; the Senior Vice President—Business and Finance; and the Vice President—Agriculture and Natural Resources.

§2.06
Compensation, Scheduling, and Work Location

Responsible Manager

If you have feedback regarding an HR policy or procedure, share it with us here.

_____

Revised 12/08

Applicability:

- §2.06(A)-(C) below apply to non-represented employees only.
- Represented employees should consult their collective bargaining agreements or contact their union representative for information applicable to them.
- This policy is applicable to the following non-represented employee classifications: Career, Term, Limited, Faculty, Rehired Retiree, Visiting Postdoctoral Fellow, Postdoctoral Fellow, Visiting Researcher, Graduate Student Research Assistant (GSRA), and Student Assistant.
    - Faculty and Graduate Student Research Assistant (GSRA) pay is in accordance with their campus pay policies.
    - Postdoctoral Fellow pay, at a minimum, is based on their years of relevant experience.
    - Student Assistant pay is dependent on their academic progress

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A. SALARY

1. Compensation Philosophy

The Laboratory's compensation program is designed to provide a level of compensation which, within available funds, attracts, motivates, and retains a quality work force which is necessary for the achievement of Laboratory goals. The program recognizes and rewards performance, criticality of job, and internal equity within the Laboratory while maintaining a competitive market position.

2. Policy

An individual salary shall be within the salary range that is assigned to the position's job code/job title based on the position's duties and responsibilities. Exceptions to this policy are noted in §2.06 (A)(5)(d) below.

3. Adjustment of Salary Ranges

Salary ranges may be adjusted periodically. Adjustments of salary ranges do not increase the salary paid to an employee but provide increased potential for within-range salary adjustment.

4. Classification of Positions

Positions are classified in groups on the basis of the level of duties and responsibilities assigned and performed as documented in individual position descriptions. As duties and responsibilities undergo significant changes, positions may be reviewed for reclassification.

5. Salary Actions

a. **Start Salary for New Employees**

In developing a start salary for a new employee, consideration will be given to the candidate's background and skill level, current competitiveness of the market for the particular job, and internal equity within the department or unit.

b. **Merit Increases**

Employees holding career and term appointments are eligible for merit increases annually. The increase is awarded with consideration given to such factors as performance, current position of salary in range for job, alignment with salaries of other employees making similar contributions, external market, affordability, and criticality of the job.

c. **Salary Adjustments for Non-career and Non-term Employees**

i. Employees holding limited and rehired retiree appointments are eligible for a salary increase to the minimum of the range when the salary range for their job is adjusted upward.

ii. Salary increases for employees holding visiting postdoctoral fellow and postdoctoral fellow appointments, graduate student research assistant, student assistant, visiting researchers (see §2.01(F)(6) and §2.07(C)(11)), limited and rehired retiree positions, are described in the appointment information for those employee classes.

d. **Promotional Increases**

The change of an employee from one position to another in a classification having a higher salary range maximum is termed a promotion.

When an employee accepts an offer of a posted position at a higher salary range maximum it is a posted

promotion.

When an employee's duties and responsibilities have evolved over a minimum of six months to the extent that another classification is more appropriate, and the new classification is at a higher salary range maximum, the change is a reclassification.

A salary increase may be granted upon upward reclassification or in the case of a posted promotion.

e. **Posted Downgrade**

When an employee applies for and accepts an offer of a posted position at a lower salary range maximum it is a posted downgrade. If the posted downgrade results in the employee's salary being above the maximum of the new range, the current salary may be maintained ("red-circled") or reduced.

f. **Job Classification Restructuring**

As a result of a Compensation review, a job classification may be restructured without a change in the duties of the incumbent employees. The salary range maximum of the new job classification structure may be either higher or lower than the previous salary range maximum.

If an employee's salary is above the maximum of the new salary range, the current salary may be maintained ("red-circled") or reduced.

If the employee's salary is below the minimum of the new salary range, the salary will be increased to the new minimum.

If the employee's salary falls within the new salary range, no salary change will be made.

g. **Adjustments on Movement to a Job in a Lower Salary Range**

The change of an individual employee from one position to another position within the same classification functional area that results in a lower salary range maximum is termed a demotion. This action may be the result of disciplinary action, a significant reduction in job duties and responsibilities, or the request of an employee that can be accommodated by the work unit.

The effects of a Compensation initiated review resulting in changes to a job classification structure with a lower salary range maximum are not demotions (See Paragraph (f) above).

Reclassification to a classification with a lower salary range maximum must be approved by the Human Resources Department and discussed with the employee.

If, as a result of a Compensation initiated classification restructuring, demotion, or other career change that results in an employee's salary being above the maximum of the new range, the current salary may be maintained ("red-circled") or reduced.

h. **Lateral Transfers**

The change of an employee from one position to another in the same classification or in another classification with the same salary range maximum is termed a lateral transfer.

Employees do not generally receive a salary increase when they accept a position with the same salary

range as the position previously held, including when an employee accepts a position in a new appointment type (e.g., moving from a limited appointment to a career appointment, or moving from a term appointment to a career appointment with the same salary range).

i. **Equity Increases**

Increases in salary to remedy salary inequities may be granted on a targeted basis to address internal or market alignment.

j. **Completion of Probation**

Satisfactory completion of a probationary period by an employee does not automatically require a salary increase. A recommendation for a salary increase may be made, however, if the final probationary performance review justifies an increase, the employee was not eligible for an October merit increase, and merit guidelines and salary relationships within the division or department support an increase.

k. **Transfers from other University of California Locations**

Career employees transferring from another University of California location, who are not subject to a probationary period, may be considered for an increase if a six-month performance evaluation is completed that justifies a salary increase, the employee was not eligible for an October merit increase, and merit guidelines and salary relationships within the division or department support an increase.

l. **Multiple Increases in a Fiscal Year**

i. An employee's total base salary increase in a single fiscal year, (including, for example, merit, promotional, and equity increases) shall not exceed 25 percent unless an exception is granted by the Compensation Manager. Compensation Manager approval is not required for those employees who are promoted from a trainee position (Student Assistants, Graduate Student Research Assistants (GSRA), or Postdoctoral Fellow) to a non-trainee position that results in a total base salary increase greater than 25 percent in a single fiscal year.

ii. If more than one salary adjustment takes place on the same date, actions occur in the following order:

- salary range adjustment (if applicable);
- merit; and
- salary action resulting from posted promotion, reclassification, or equity adjustment.

6. Administrative Stipend for Temporary Assignments

A Temporary Assignment (TA) occurs when an employee is temporarily assigned responsibilities of a higher level position on a full time basis or assigned other significant higher level duties in addition to their regular duties. An employee in a Temporary Assignment may be paid a stipend. The Temporary Assignment stipend can be the greater of either the rate range minimum of the higher level job or up to a maximum of 15% of the employee's

base pay. The base pay plus stipend can not exceed the maximum of the rate range of the employee's temporary job classification. The stipend is removed at the end of the temporary assignment or 2 years from the stipend's inception whichever comes first.

7. Restrictions

a. Appointments of employees holding positions at more than one University of California location may not total more than 100 percent time.

b. An employee who is appointed at 100 percent time shall not receive additional compensation from the University for any work or services that are related to the employee's appointment regardless of source or type of payments. Exceptions to this policy are any ancillary pay components as found in Paragraph (B) below, payments for teaching regularly scheduled University Extension courses whether or not related to the employee's appointment and outside the employee's normally scheduled hours, and administrative stipends payable under §2.06(A)(6).

B. ANCILLARY PAY COMPONENTS

1. Overtime

a. **Definition**

Overtime in most cases is actual time worked in excess of 8 hours per day or 40 hours per week in order to cover emergencies or to meet job responsibilities. Paid holiday leave is considered to be time worked. Sick leave, vacation, military leave, court leave, and any other leaves with pay are not considered to be time worked for purposes of compensation for overtime.

b. **Policy**

i. Only non-exempt employees are eligible for overtime pay.

ii. All overtime must be approved in advance by the employee's supervisor.

iii. All overtime must be compensated, even if not approved in advance.

iv. Granting compensatory time off in lieu of overtime pay is prohibited.

c. **Pay for Overtime**

Overtime for non-exempt employees will be paid at the rate of 1 ½ times the regular hourly rate for hours worked in excess of eight hours per day or 40 hours per week.

d. **Pay for Overtime Meals**

Employees may be paid overtime for meals if all the conditions set forth in RPM 11.01 (Laboratory-Hosted (Funded) Meetings) concerning payment for food services are met and one of the following conditions applies:

i. The work situation requiring the overtime is such that the employee is held over or called in early, without prior notice, so that the combined regular shift and overtime assignment totals a minimum of two hours over the regular work shift; or

ii. The work situation requiring the overtime is such that the employee is called in, without prior notice, on a day off, holiday, or call-back basis for a minimum of 5 hours.

2. Shift Differential

a. **General**

Shift differential is extra pay in addition to base pay for non-day shift work. A non-exempt employee is paid this differential when required to work on an assigned swing or owl shift. The amount of the differential is 7.5 percent for swing shift and 15% for owl shift. For purposes of computing shift pay, a swing shift consists of the hours from 4:00 p.m. to 12:00 midnight and an owl shift from 12:00 midnight to 8:00 a.m. To qualify for payment of shift differential, a minimum of four hours must be scheduled during the above periods. Work which is scheduled during the swing or owl shifts for the convenience of the employee is not considered an assigned swing or owl shift for purposes of this policy and no differential will be paid.

b. **Overtime**

Overtime pay, for employees who receive shift differential pay and work during non-day shifts (see RPM 2.06(B)(2) above), is based on the employee's base pay and shift rate.

c. **Temporary Assignments**

Employees who usually work a swing or owl shift continue to receive the shift differential when assigned temporarily by their supervisor to a day shift for four days or less. A change in shift assignment initiated by the employee is not covered by this provision and no differential will be paid.

d. **Paid Leave**

Shift differential is included for all types of paid leave based on the shift an employee would have worked.

e. **Terminal Vacation Pay**

Terminal vacation is paid at the appropriate shift differential rate when the employee has been permanently assigned to swing or owl shift or when a temporary swing or owl shift has extended over 90 days.

3. Pay for Travel Time (Non-exempt employees)

Travel between an employee's home and the workplace is not considered time worked. Travel on Laboratory business during an employee's normal working hours (including travel during those hours on the employee's day off) is considered time worked. Travel outside normal working hours is considered time worked when it occurs on a scheduled day of work and is to or from a work location outside the normal commuting area of the assigned workplace.

4. Call-In Pay

Non-exempt employees who are called in for short jobs outside their regular weekly schedule will be paid for a minimum of four hours or the hours worked, whichever is greater. Such pay will include shift differential and overtime if appropriate. Represented employees should refer to their collective bargaining agreement.

5. Extended Workweeks

a. An extended workweek is a planned schedule exceeding the normal 40-hour workweek for more than four consecutive weeks at a regular Laboratory site or a temporary assignment at locations away from regular laboratory sites. Exempt or nonexempt employees may qualify.

b. Requests for extended workweeks must be made in writing to the division director or designee.

   Approval of such requests applies only to the individual(s) named and is not transferable to others.

c. **Pay for extended workweeks:**

   - Nonexempt employees are paid at the regular overtime rate.

   - Full-time, exempt employees are paid for extended workweeks on the basis of the formally approved schedule on file in the Payroll Office for each week the extended schedule is shown on the time report submitted by the division. The formula used to determine extended workweek pay is based on the percent of additional hours worked per month.

C. PAY AT TERMINATION

Terminal pay for employees includes payment for salary and wages due for work performed through the effective time and date of termination and payment for vacation credit, up to the maximum possible credit for the employee's job classification and length of service. (RPM 2.21(I) (Terminations / Terminal Pay))

1. Vacation Pay

See RPM 2.08(F) (Terminal Vacation Pay) and RPM 2.06(D)(2) (Shift Differential).

2. Sick Leave Accrual / Transfer of Sick Leave

a. Employees are not paid for accrued sick leave on termination from the UC System.

b. See RPM (2.09(F) (Sick Leave / Transfer and Reinstatement of Sick Leave) for information on transfer of sick leave to another UC location.

3. Severance

a. **Policy**

   Non-probationary career employees who are laid off from employment for an indefinite period due to lack of work or lack of funds are eligible for severance payments in accordance with the following provisions.

Employees who are on temporary work deferment status, temporarily reduced in time, or permanently reduced in time are not eligible for severance payments.

b. **Definitions**

The following definitions apply for purposes of severance pay.

i. **Continuous Service.** Service is continuous if an employee is on pay status each month without a break in service. For severance pay purposes, a break in service occurs when there is a separation from Laboratory employment status for any reason, except that a separation from employment for purposes of transferring an employee to another University location is not a break in service.

- Periods on an approved leave without pay for military service, illness or injury compensable by workers' compensation, assignment to another research organization at the direction of the Laboratory, or an approved leave without pay for any period of 30 calendar days or less are counted as periods of continuous service for the purposes of severance pay, as are periods on pay status before and after any other approved leave without pay.

- Periods of employment before a break in service are not counted as periods of continuous service for purposes of severance pay.

- Periods of employment as a University of California graduate student research assistant (GSRA), student assistant, or other trainee position are not counted as periods of continuous service for purposes of severance pay.

- Periods of employment on variable time (once called indeterminate time) are not counted as periods of continuous service for purposes of severance pay.

- Time spent as a postdoctoral fellow is counted toward calculating severance payment if the postdoctoral fellow continued their employment in a career appointment without a break in service.

- When a limited appointment has been designated as a career appointment after attaining 1,000 hours of qualifying service in any 12 consecutive months without a break in service of at least 120 consecutive calendar days, these hours on pay status will be counted for purposes of severance pay. Qualifying service includes all time on pay status in one or more limited appointments at the University. However, only those hours worked at the Laboratory will be counted toward calculation of the severance payment

- Continuous service is reestablished when an employee is rehired from recall or preferential rehire status from the Laboratory.

ii. **Equivalent Job.** An equivalent job is any career position with the Laboratory or the University at a beginning salary at least equal to the salary paid the employee in the job from which that employee was laid off, regardless of salary range.

iii. **One Week's Pay.** One week's pay for nonexempt hourly rated employees is defined as the basic hourly rate (excluding shift differential and overtime) times 40 hours or the specifically approved workweek. One week pay for full-time exempt employees is defined as the hourly equivalent of the monthly rate times 40 hours (or, for part-time exempt employees, times the percentage time equivalent).

iv. **University.** University in this section refers to any University of California location including UC-managed DOE laboratory.

c. **Severance Payment Calculations and Method of Payment**

i. **Calculation.** The severance payment will be made in an amount equal to one week's pay for each year of continuous full-time-equivalent Laboratory service (including service at Lawrence Livermore National Laboratory and Los Alamos National Laboratory while these labs were managed by the University of California). A fractional year of full-time service of six months or more is counted as one year of service. The severance payment is not to exceed a total of 26 weeks' pay.

ii. **Method of Payment.** Severance will be paid in a lump sum at the time of termination

d. **Conditions**

i. **Layoff.** Severance payments will not extend the period of employment beyond the date of termination due to layoff.

ii. **Previous Severance Payment.** Severance payments made to an employee will not include payment for any period of service for which the employee has previously received severance payment(s).

e. **Limitations**

Severance payments will not be made to any employee who:

i. Transfers to another Laboratory position or University career position;

ii. Refuses a transfer to an equivalent position within the Laboratory or another University location;

iii. Is offered employment with a successor/replacement DOE Contractor;

iv. Resigns;

v. Dies, except that severance pay will be provided if an individual dies after receiving notice of layoff;

vi. Is dismissed for cause;

vii. Elects to retire and has not received notice of layoff.

f. **Exceptions**

Exceptions for voluntary resignations upon approval of the Chief Operating Officer (COO) or designee may be made as follows:

i. An employee who resigns after receiving formal notification of layoff but before the effective date of layoff may be provided severance payments.

ii. An employee who resigns in lieu of another employee who would have been laid off may be provided severance payments. Normally, approval of a voluntary layoff will be given only if the resignation will not have a detrimental effect on work in progress and if the employee concerned had not announced plans to resign or retire before the announcement of a layoff within the employee's division.

g. **Reemployment**

i. If an individual who has received severance payments is rehired at the Laboratory before expiration of the number of weeks for which the employee has received severance payments, the amount of the balance will be repaid to the Laboratory.

ii. If an individual who has received severance payments is rehired by another University location before expiration of the number of weeks for which the employee has received severance payments, the amount of the balance must be repaid to the Laboratory within 90 days of hire at the new location.

4. University Death Benefits for Employees

Upon the death of an eligible employee, the University of California's employee death benefits will be paid in accordance with University policy. (See Basic Death Payment and Death Payment at http://atyourservice.ucop.edu/forms_pubs/misc/survhb_emps.pdf This payment is in addition to any other benefit provided under a pension or retirement plan in effect for the deceased person.

D. SCHEDULING AND WORK LOCATION

1. Policy

a. **Use of Work Time for Personal Business**

No portion of time due the Laboratory may be devoted to private purposes and no outside employment may interfere with the performance of Laboratory duties. Use of Laboratory telephones for brief calls within the local commuting area is permitted, when required by changes in work plans, emergencies, or coordination of work activities with family members or others who can be reached only during working hours. (See RPM 10.02(A) (Outside Employment and Business Activities) and RPM 9.02 (A)(2) (Communications and Networking Systems).

b. **Determination of Individual Work Schedule**

Employee work schedules are determined by the designated supervisor of the work unit, within division

policy, to ensure that the work unit's operational needs have appropriate coverage.

c. **Meal Periods**

Any work schedule of six continuous hours or more shall provide employees with a meal period of at least one-half hour. Meal periods, which should be duty-free, are neither time worked nor time on pay status.

d. **Work Location**

All employees are required to perform their work at an official Laboratory location, except while on travel status or through an approved telecommuting agreement, unless specific approval has been granted for work at another location. Official laboratory locations include, but are not limited to, the facilities in the San Francisco Bay Area, and locations such as the Washington, D.C., Office and Fermi Lab where Laboratory employees also reside. Agreements to perform work at alternative work sites must be in compliance with Laboratory policies.

2. Hours of Work

a. **Exempt Employees**

The workweek for full-time exempt employees is normally considered to be 40 hours, and for part-time employees the portion of 40 hours equivalent to the appointment percentage; however, greater emphasis is placed on meeting the responsibilities assigned to the position than on working a specified number of hours. Exempt employees do not receive overtime compensation or additional compensation beyond the established salary for the position except as provided in RPM §2.06(A)(6) (Administrative Stipend for Temporary Assignments) and §(B)(5) (Extended Workweeks).

b. **Non-Exempt Employees**

i. The regular number of hours worked by full-time, non-exempt employees is 40 hours in a workweek. Work beyond 8 hours in a day or 40 hours in a week is subject to additional compensation only under the circumstances described in RPM §2.06(B)(1) (Overtime).

ii. **Rest Periods**

A full-time, nonexempt employee may be granted two 15-minute rest periods, one to be taken in the work period prior to the meal period and one in the work period following the meal period. A part-time employee may be granted one 15-minute rest period for each work period of three continuous hours or more, not to exceed two rest periods per day. Rest periods may not be taken at the beginning or end of the work period, and time not used for rest periods may not be accumulated to be used at a later date. Scheduling of rest periods is subject to the approval of the employee's supervisor. Abuse of rest periods may result in disciplinary action. Such rest periods shall be considered as time worked.

3. Definitions

a. **Calendar Day**

A calendar day is the 24-hour period from midnight of one day to midnight of the next day.

b. **Calendar Week**

A calendar week extends from 12:01 a.m. Sunday to midnight the following Saturday

c. **Standard Laboratory Workday**

i. The standard workday is 8 hours in a 24 hour period on pay status with an unpaid meal break of at least 30 minutes (whether exempt or nonexempt).

ii. **Day Shift**

The standard day shift workday for full-time employees is 8 hours per day, 8 a.m. to 4 p.m.

iii. **Swing Shift**

The standard swing shift workday for full-time employees is 8 hours per day, 4 p.m. to midnight.

iv. **Owl Shift**

The standard owl shift workday for full-time employees is 8 hours per day, midnight to 8 a.m.

v. **Exceptions**

Supervisors may establish workday schedules, with division management approval, other than the standard Laboratory workday if necessary to meet operational needs in certain operating situations such as Laboratory protection, accelerator and computer operations, and scientific experiments in which experimental needs determine coverage requirements. Additional exceptions may be allowed as defined in Paragraph (D)(4)(a).

d. **Standard Laboratory Workweek**

Normally, a workweek consists of five consecutive workdays, Monday through Friday, within a calendar week.

e. **Work Schedule**

The daily, weekly, or monthly hours that an employee is assigned to work.

i. **Full-time**

A schedule involving complete workweeks or calendar months.

ii. **Part-time**

A schedule involving a specified percentage of each workweek or work month.

iii. **Variable time**

A schedule with no fixed percentage of time or schedule. Hours worked will vary depending on operational needs.

4. Flexible Work Option

Flexible work options are tools managers and supervisors can use to help meet the work/life balance needs of their employees while simultaneously ensuring that the work unit's operational needs are met. While the Lab supports the use of flexible work options whenever possible, they do not change the basic terms and conditions of Laboratory employment and are not entitlements. Granting or denial of a request for a flexible work option is at the sole discretion of management. Neither denial of a request for a flexible work option, nor rescission of an approved flexible work option is subject to the Complaint Resolution procedure (RPM §2.05(D)).

The Laboratory currently has two flexible work options that may be considered: Flextime and Telecommuting Agreements. Approval of both options must be within the provisions of RPM §2.06(D)(2) to (3).

a. **Flextime**

i. **General**

It is the intent, except as noted below, to make flexible working hours available to all employees by allowing employees to redistribute their daily work hours within a framework defined by division management and that is within the provisions of §2.06 (D)(2) to (3). The goal is to allow employees some flexibility regarding their daily work schedule, compatible with effective job accomplishment and work unit operational needs.

Division/department management may determine that there are specific scientific and/or operational necessity reasons during which a regular, ongoing flextime schedule cannot be implemented. If scientific or operational requirements make regular, formal flextime practices unfeasible, arrangements can be made between the supervisor and employee on an ad hoc basis.

ii. **Flextime Operating Guidelines**

Supervisors should consider the following guidelines when reviewing a request for flextime. However, the final flextime arrangement approved, if any, is at the sole discretion of the supervisor.

- Core Hours: The time when employees are normally expected to be at work: 9:30 a.m. through 11:30 a.m. and 1:30 p.m. through 3:30 p.m.

- Work Hours: The amount of time an employee is expected to be on the job during a given time period. See §2.06(D)(2).

- Minimum Service Coverage: The staffing required to ensure that the normal services and functions of a work unit will be available during the standard workday.

- Communication of Schedule Changes: It is the responsibility of employees working flextime and supervisors to communicate changes of personal or job schedule to those whom the changes may affect.

iii. **Responsibility**

- Division directors are responsible for implementation of this policy, will determine whether

flextime is appropriate within the division and will approve employees' flextime schedules.

- Supervisors are responsible for ensuring that employees in their work units understand and meet work-unit operating guidelines and that the work unit operates effectively. This means identification of essential tasks, operations, and functions that must be accomplished at certain times during the workday and the development of coverage requirements.

- Employees are also responsible for accurately reporting their time worked.

b. **Telecommuting**

i. **General**

- Telecommuting is a work option in which employees fulfill their job responsibilities at home or another approved location. The arrangement may cover all or part of the employees' scheduled hours and may be on an intermittent/ occasional basis or on a regular schedule.

- Telecommuting arrangements must be consistent with Laboratory policy and do not change the basic terms and conditions of Laboratory employment.

- An employee's performance while telecommuting is measured using the same standards that apply when the work is performed at the Laboratory and will be documented in the annual performance review.

- Approval of an employee's request to telecommute is based on the operational needs of the work unit. Telecommuting is voluntary and is not an entitlement.

ii. **Agreements**

There are two types of telecommuting arrangements:

- Telecommuting can be on an intermittent or occasional basis or on a regular part- or full-time schedule. Occasional or intermittent telecommuting requires supervisor approval.

  If, in the opinion of the supervisor, an intermittent telecommuting arrangement begins to occur frequently while still not on a regular schedule, the supervisor may require a written agreement.

- A regular telecommuting schedule requires a written agreement, not to exceed 12 months, between the supervisor and employee that must be approved by the Division Director or Department Head (or designee). Agreements expire automatically on the stated end date unless reviewed and renewed prior to that date. Renewal is subject to the work unit's operational needs and the supervisor's assessment of the employee's performance. Changes in the terms of a telecommuting agreement within the 12-month period, e.g., change in off-site work location or telecommuting schedule, are to be documented as they occur. The agreement may be found at the HR Forms Web page.

Telecommuting agreements involving nonexempt employees require concurrence of the Manager,

Employee and Labor Relations.

Telecommuting agreements may be terminated at any time by either the employee or the supervisor. Whenever possible, a 30 days' notice should be provided.

§2.07
Professional Research Staff

If you have feedback regarding an HR policy or procedure, share it with us here.

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Responsible Manager

Revised 05/10

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A. GENERAL

1. Introduction

This section defines the various categories of Laboratory professional research staff positions including descriptions of the qualities and characteristics appropriate for employees in each category. Procedures for hires, promotions, and other personnel actions are delineated and the roles of the Division Staff Committees and Laboratory Staff Committee are described.

This policy applies to Scientists/Engineers in the SXX.X and RXX.X Job Classification Series.

2. Applicability of Other Policies

This policy is intended to supplement and not to conflict with applicable University and Laboratory human resources policies and procedures. For dismissals for conduct or performance reasons, refer to RPM §2.05 (Management/Employee Relations). For terminations, including reductions in force, refer to RPM §2.21 (Terminations). For other applicable Laboratory policies and procedures, refer to specific sections of the RPM.

3. Definitions

a. **Career position** (See RPM 2.01(D)(1).)

b. **Career-track position**

A career-track position as a Research Scientist/Engineer (Career-Track) or Scientist/Engineer (Career-Track) or Staff Scientist/Engineer (Career-Track) is a term appointment of a minimum of one year to a maximum of five years (during which the employee's performance is evaluated for promotion to a career position). Time spent in Postdoctoral Fellow appointments is excluded from the five-year limit. A Divisional Fellow position is a career-track position. For information on the length of this appointment, refer to Paragraph (C)(6) below. A promotion to a career position may take place at any time during the appointment term; however, if the employee is not promoted, the employee's appointment will automatically expire at the end of the appointment term. If an employee resigns or their appointment is terminated during the appointment term and returns in another career-track position, the previous period of employment counts towards the five-year maximum (see RPM §2.01(B)(4)). It is within the Laboratory's sole discretion not to extend career-track appointments or not to promote career-track appointees as long as the reasons for non-extension or non-promotion are not in violation of Laboratory policy.

c. **Promotion**

When used with regard to professional research staff, a promotion occurs when a career-track employee advances to a career position as well as when a career employee advances to a higher-level career position.

4. Procedures

a. Suitable Search

A national search is required for hires into both career-track and career Research Scientist/Engineer and Divisional Fellow appointment series. An international search is required for hires into both career-track and career Staff Scientist/Engineer, Senior Scientist/Engineer, and Distinguished Scientist/Engineer appointment series. A prior search for Postdoctoral Fellows does not qualify as a suitable search for career-track or career positions. See Scientist/Engineer Suitable Search Guidelines and Scientist-Engineer Suitable Search Checklist.

b. Mid-Term and Promotional Reviews

Procedures for mid-term and promotional reviews of Research Scientists/Engineers (Career-Track), Staff Scientists/Engineers (Career-Track), and Divisional Fellows are listed here and in the description of each appointment type below. See Scientist/Engineer Mid-Term Review Guidelines and Scientist/Engineer Mid-Term Review Checklist. See Scientist/Engineer Promotion Guidelines and Scientist/Engineer Promotion Checklist.

B. LABORATORY AND DIVISION STAFF COMMITTEES

1. Laboratory Staff Committee

a. Role

The Laboratory Staff Committee

i. Advises the Laboratory Director on matters concerning Laboratory-wide consistency in the quality of the scientific staff and on Division procedures for selection and appointment.

ii. Reviews the numerical balance of Distinguished and Senior Scientist/Engineer employees in each Division in terms of its needs and resources.

iii. Reviews all recommended appointments and dismissals for Divisional Fellows, Senior Scientists/Engineers,

Distinguished Scientists/Engineers, Faculty Senior Scientists/Engineers, and for Joint Laboratory/UC Appointments (50/50) for Faculty Senior Scientists/Engineers found below in Paragraph (C)(9)(d). Upon request, the Committee will meet with the affected individuals.

iv. Reviews all proposed reductions in force of Distinguished and Senior Scientists/Engineers and all proposed terminations due to lack of funding of Joint Laboratory/UC Appointments (50/50) for Faculty Scientists/Engineers and Faculty Senior Scientists/Engineers found below in Paragraph (C)(9)(d). Upon request, the Committee will meet with the affected individuals.

b. Membership of the Laboratory Staff Committee

The Laboratory Staff Committee is appointed by the Laboratory Director, who selects one committee member from each of the scientific Divisions (with the Computational Research Division and NERSC being considered one Division for this purpose) and one committee member from Engineering.

The Laboratory Director selects each division's member from two candidates proposed by the Division Director. The candidates will be either a Senior Scientist/Engineer, Faculty Senior Scientist, or Distinguished Scientist/Engineer. The Laboratory Director may appoint three additional members chosen at large from the Laboratory's Distinguished Scientists/Engineers, Senior Scientists/Engineers, and Faculty Senior Scientists/Engineers, and may designate one of the at-large members as Chair.

Members are appointed for up to three years and may be considered for reappointment.

2. Division Staff Committees

a. Role of the Division Staff Committees

The Division Staff Committees

i. Make recommendations to the Division Director concerning the following appointments: Research Scientist/Engineer (Career-Track), Research Scientist/Engineer (Career), Staff Scientist/Engineer (Career-Track), Staff Scientist/Engineer (Career), Divisional Fellow, Senior Scientist/Engineer, Distinguished Scientist/Engineer, Faculty Scientist/Engineer, Faculty Senior Scientist/Engineer.

ii. Advise the Division Director on searches for career-track and career scientist/engineer positions and the final recommendation of the search committee.

iii. Make recommendations to the Division Director regarding the promotion of career-track term employees to career status.

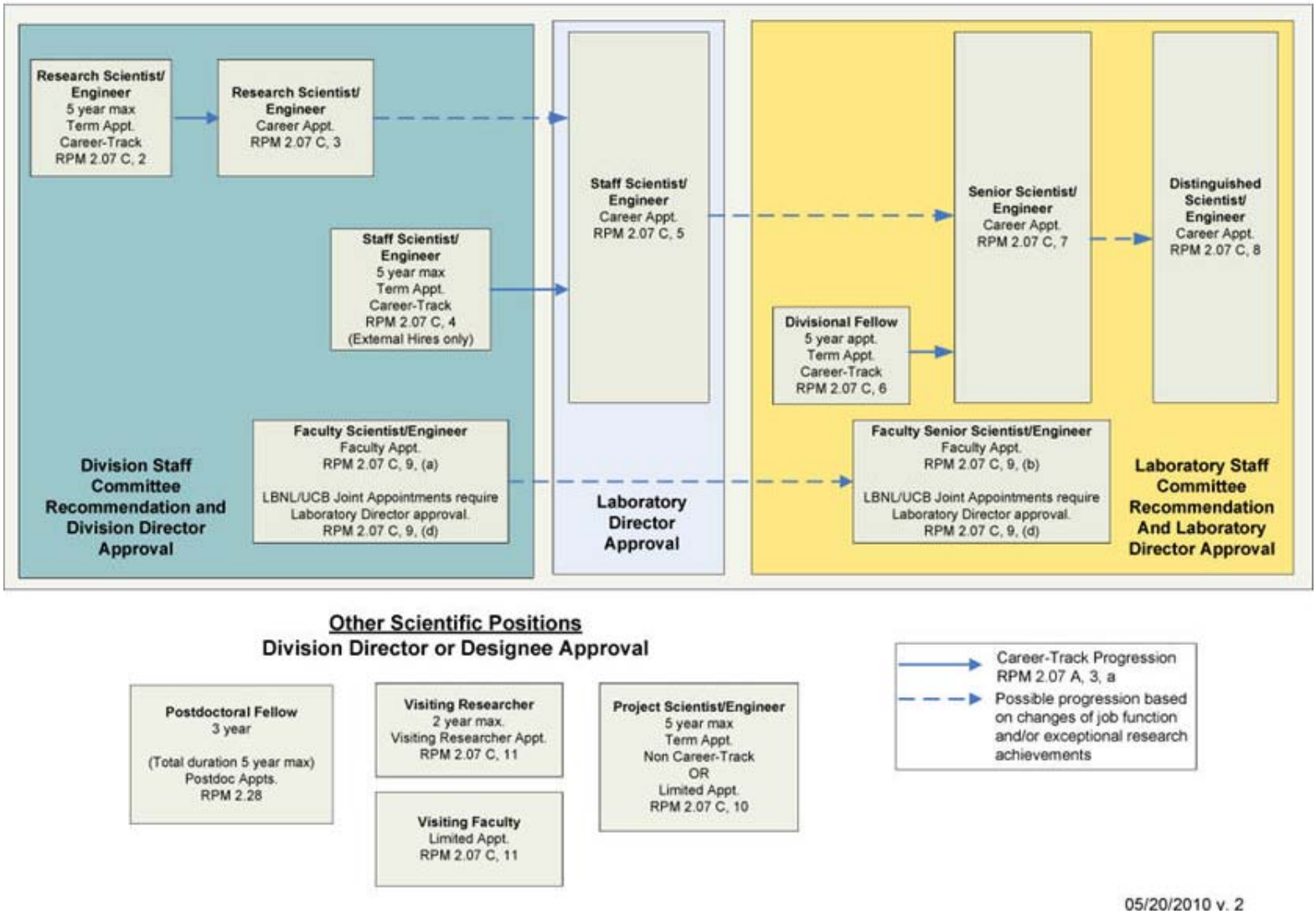
b. Membership of Division Staff Committees

Members of the Division Staff Committee are appointed by the Division Director from among the Division's Distinguished and Senior Scientists/Engineers and Faculty Senior Scientists/Engineers. Selection procedures and length of service on Division Staff Committees are at the discretion of the Division Director.

C. TYPES OF PROFESSIONAL RESEARCH STAFF POSITIONS

The Berkeley Lab Scientific Career Path chart illustrates the relationships among the categories below. Dotted lines indicate promotional possibilities for scientists/engineers in career positions. (See cited sections of this policy for additional information.)

Berkeley Lab Scientific Career Paths



Go here to download a PDF of the Berkeley Lab Scientific Career Path chart.

1. Postdoctoral Fellow

Information on the Postdoctoral Fellow appointment has been moved to RPM §2.28 (Postdoctoral Fellows).

2. Research Scientist/Engineer (Career-Track)

a. Description

Research Scientist/Engineer is an entry-level, career-track position for professionals with broad knowledge in a field of specialization.

b. Qualifications

A Research Scientist/Engineer (Career-Track) will usually have the highest customary degree for his or her field. A Research Scientist/Engineer (Career-Track) will have broad knowledge in his or her field of specialization with a good understanding of the relevant basic concepts, principles, and theories.

c. Appointment and Promotion

The Research Scientist/Engineer position is a career-track term position with a maximum length of five years. The initial

appointment must be for at least one year but may be renewed up to the full five-year term. Based on performance, a Research Scientist/Engineer (Career-Track) will be considered for promotion to Research Scientist/Engineer (Career) within five years and will receive a written mid-term review of performance and prospects for promotion no later than the end of three years from the initial hire in accordance with the Procedures for Mid-Term and Promotional Review. The mid-term review and promotional review are in addition to the annual performance review (see RPM §2.03 (Employee Performance Evaluations)).

i. **Mid-term Review**

At least 120 days prior to the end of the third year, the Division Staff Committee must have completed a mid-term review of the work of the Research Scientist/Engineer (Career-Track) and provide the Division Director the mid-term review. The Division Director must provide the employee with a written statement of the prospects for promotion to career position. See Scientist/Engineer Mid-Term Review Guidelines and Scientist/Engineer Mid-Term Review Checklist.

ii. **Promotion to Research Scientist/Engineer (Career)**

At least 120 days before the end of the fifth year, the Division Staff Committee must complete a final review of the work of the Research Scientist/Engineer and recommend to the Division Director for or against promotion to Research Scientist/Engineer (Career).

If the Division Director concurs with a recommendation for promotion, he or she so informs the Research Scientist/Engineer in writing at least 90 days prior to the end of the appointment.

If the Division Director concurs with a recommendation against promotion, the Research Scientist/Engineer must be given written notice at least 90 days prior to the end of the appointment.

See Scientist/Engineer Promotion Guidelines and Scientist/Engineer Promotion Checklist.

d. Work Deferment

A Research Scientist/Engineer (Career-Track) employee shall be given written notice of the effective date and the ending date of a temporary work deferment or temporary reduction in time. Notice shall be provided at least 15 calendar days before the effective date or pay in lieu of notice. A temporary work deferment or temporary reduction in time shall not exceed four calendar months. See RPM 2.29 (Work Deferment Policy).

e. Expiration/Termination of Appointment

i. Research Scientist/Engineer (Career-Track) appointments end automatically on the current expiration date unless the employee is given advance written notice that the appointment will be extended.

ii. The employment of a Research Scientist/Engineer (Career-Track) may be terminated before the end of the employee's appointment for disciplinary reasons or substandard performance of which the employee has been advised as provided in RPM §2.05(C). **The appointment may also be terminated early for lack of funds, lack of work, or changes in operational/business needs**, in which case at least 90 days' written notice will be given prior to termination.

3. Research Scientist/Engineer (Career)

a. Description

The Research Scientist/Engineer (Career) position is a career position for professionals with broad knowledge in a field of specialization. Assigned work is predominantly intellectual and varied, rather than standardized and routine, and requires

professional judgment and decision-making. Research Scientists/Engineers (Career) may supervise technical staff and be responsible for laboratory or facility operations, but will not normally have Principal Investigator status.

b. Qualifications

A Research Scientist/Engineer (Career) will usually have the highest customary degree for his or her field of specialization, and a demonstrated ability to independently carry out creative research within an established framework. Laboratory or facility managers will have demonstrated experience in laboratory or facility management.

c. Appointment

Appointment as a Research Scientist/Engineer (Career) may be through a direct hire or a promotion from Research Scientist/Engineer (Career-Track). The appointment must be approved by the Division Director with the advice of the Division Staff Committee.

d. Promotion

While this is the highest position that many scientists and engineers at the Laboratory may attain, Research Scientists/Engineers (Career) who develop an independent research program; are recognized outside LBNL for exceptional scientific or technical expertise; and/or are successful in obtaining funding may be considered for promotion to Staff Scientist/Engineer (Career). See Scientist/Engineer Promotion Guidelines and Scientist/Engineer Promotion Checklist.

e. Corrective Action and Dismissal (See RPM §2.05(C) and (D))

f. Work Deferment

A Research Scientist/Engineer (Career) employee shall be given written notice of the effective date and the ending date of a temporary work deferment or temporary reduction in time. Notice shall be provided at least 15 calendar days before the effective date or pay in lieu of notice. A temporary work deferment or temporary reduction in time shall not exceed four calendar months. See RPM 2.29 (Work Deferment Policy).

g. Reduction in Force

Proposed layoff of Research Scientists/Engineers (Career), pursuant to RPM §2.21(B), will be approved by the Division Director. Written notice of such action will be given at least 90 days prior to date of layoff. The Division will make reasonable efforts to obtain suitable employment in another program within the Division for any Research Scientist/Engineer (Career) who otherwise would be terminated for lack of funds or termination of a project or program.

4. Staff Scientist/Engineer (Career-Track)

a. Description

Staff Scientist/Engineers (Career-Track) are professionals with competence and skills in specialized areas of research and development relating to the programmatic needs of the Laboratory. Employees at this level may serve as project or group leader, be assisted by other scientists and engineers and support staff, have principal investigator status, and directly supervise other professionals, technical support staff, or students.

b. Qualifications

This position is for fully qualified and independent scientists or engineers with recognized technical expertise who are capable of leading independent research and development work. Typically, an individual entering or being promoted to this level has at least five years of relevant professional experience beyond the customary highest degree appropriate to the candidate's discipline.

c. Appointment and Promotion

The Staff Scientist/Engineer (Career-Track) is a position with a maximum length of five years. The initial appointment must be for at least one year but may be for any length up to the full five-year term. Based on performance, a Staff Scientist/Engineer (Career-Track) will be considered for promotion to Staff Scientist/Engineer (Career) within five years and will receive a written mid-term review of performance and prospects for promotion no later than the end of three years from initial hire in accordance with the Procedures for Mid-Term and Promotional Review**.** The mid-term review and promotional review are in addition to the annual performance review (see RPM §2.03 (Employee Performance Evaluations)).

i. **Mid-term Review**

At least 120 days prior to the end of the third year, the Division Staff Committee must have completed a review of the work of the Staff Scientist/Engineer (Career-Track) and provide the Division Director the mid-term review. The Division Director must provide the employee with a written statement of the prospects for promotion to Staff Scientist/Engineer (Career).

See Scientist/Engineer Mid-Term Review Guidelines and Scientist/Engineer Mid-Term Review Checklist.

ii. **Promotion to Staff Scientist/Engineer (Career)**

At least 120 days before the end of the fifth year, the Division Staff Committee must have completed a review of the work of the Staff Scientist/Engineer (Career-Track) and recommend to the Division Director for or against promotion to Staff Scientist/Engineer (Career).

If the Division Director concurs with a recommendation for promotion, he or she refers the recommendation to the Laboratory Director who makes the final decision on the appointment.

If the Division Director concurs with a recommendation against promotion, the Staff Scientist/Engineer (Career-Track) must be given at least 90 days' advance written notice prior to termination.

See Scientist/Engineer Promotion Guidelines and Scientist/Engineer Promotion Checklist.

d. Work Deferment

A Staff Scientist/Engineer (Career-Track) employee shall be given written notice of the effective date and the ending date of a temporary work deferment or temporary reduction in time. Notice shall be provided at least 15 calendar days before the effective date or pay in lieu of notice. A temporary work deferment or temporary reduction in time shall not exceed four calendar months. See RPM 2.29 (Work Deferment Policy).

e. Expiration/Termination of Appointment

i. Staff Scientist/Engineer (Career-Track) appointments end automatically on the current expiration date unless the employee is notified in advance in writing that the appointment will be extended.

ii. The employment of a Staff Scientist/Engineer (Career-Track) may be terminated before the end of the employee's appointment for disciplinary reasons or substandard performance of which the employee has been advised as provided in RPM §2.05(C). **The appointment may be terminated early for lack of funds, lack of work, or changes in operational/business needs**, in which case the employee will be given at least 90 days' advance written notice before termination.

5. Staff Scientist/Engineer (Career)

a. Description

The Staff Scientist/Engineer (Career) is a position for professionals with competence and skills in specialized areas of research and development relating to the programmatic needs of the Laboratory. Staff Scientists/Engineers (Career) may serve as project or group leaders, be assisted by other scientists and engineers and support staff, have principal investigator status, and directly supervise other professionals, technical support staff, or students.

b. Qualifications

This position is for fully qualified and independent scientists or engineers with recognized technical expertise who play a leadership role in the Laboratory's research program. Typically, an individual entering or being promoted to this level has at least five years of relevant professional experience beyond the customary highest degree appropriate to the candidate's discipline. The individual is recognized as a resource or active impact contributor in his or her own field as perceived internally by management and peers and externally through conference presentations, publications in refereed journals, invited lectures, and awards.

c. Appointment

An action to hire or promote an individual into a Staff Scientist/Engineer (Career) appointment is initiated by the Division Director and reviewed by the Division Staff Committee. The appointment is approved by the Laboratory Director.

d. Promotion

While this is the highest level that the majority of scientists and engineers are expected to attain, Staff Scientists/Engineers (Career) with significant experience and achievements in research and who play a leadership role at the Laboratory may be considered for promotion to Senior Scientist/Engineer. See Scientist/Engineer Promotion Guidelines and Scientist/Engineer Promotion Checklist.

e. Corrective Action and Dismissal (See RPM §2.05(C) and (D))

f. Work Deferment

A Staff Scientist/Engineer (Career) employee shall be given written notice of the effective date and the ending date of a temporary work deferment or temporary reduction in time. Notice shall be provided at least 15 calendar days before the effective date or pay in lieu of notice. A temporary work deferment or temporary reduction in time shall not exceed four calendar months. See RPM 2.29 (Work Deferment Policy).

g. Reduction in Force

Proposed layoff of Staff Scientists/Engineers (Career), pursuant to RPM §2.21(B), will be approved by the Division Director. Written notice of such action will be given at least 90 days prior to date of layoff. The Division will make reasonable efforts to obtain suitable employment in another program within the Division for any Staff Scientist/Engineer (Career) who otherwise would be terminated for reasons of lack of funds or termination of a project or program.

6. Divisional Fellow (Career-Track)

a. Description and Qualifications

An appointment as a Divisional Fellow is a career-track position for a single five-year term may be given to an individual with outstanding promise and creative ability in a field of scientific endeavor conducted by a Division. The appointment will imply the intent of the Division to provide the research and development support needed to enable the fellow to join an existing group or to create an independent program consistent with the goals and capabilities of the Division and consideration for promotion to Senior Scientist/Engineer. It is not a requirement of this policy that each Division appoint any Divisional Fellows.

b. Appointment

Appointment of a Divisional Fellow will be made only after a national (or international) search, which is then reviewed by the Division Staff Committee. The case for the appointment is then transmitted by the Division Director to the Laboratory Director. If the case appears to be in order, it is transmitted to the Laboratory Staff Committee for further review and a vote. The results of the Laboratory Staff Committee review are transmitted to the Laboratory Director who will make the final decision on the appointment.

c. Expiration/Termination of Appointment

Termination of the Divisional Fellow appointment before expiration of the term may be made for disciplinary reasons, as provided in RPM §2.05(C) or for inadequate quality of research and development or other service appropriate to the purposes of the Laboratory. In the latter case, one year's written notice will be given. Decisions with respect to early termination will be made by the Laboratory Director with advice from the Division Director and Division Staff Committee. In each case, a review of the proposed action will also be made by the Laboratory Staff Committee.

d. Mid-term Review

At least 120 days prior to the end of the third year, the Division Staff Committee must have completed a review of the work of the Divisional Fellow and provide the Division Director the mid-term review. The Division Director must provide the employee with a written statement of the prospects for promotion to Senior Scientist/Engineer. See Scientist/Engineer Mid-Term Review Guidelines and Scientist/Engineer Mid-Term Review Checklist.

e. Promotion to Senior Scientist/Engineer

At least 120 days before the end of the fifth year, the Division Staff Committee must complete a review of the work of the Divisional Fellow and recommend to the Division Director for or against the promotion to Senior Scientist/Engineer.

If the Division Director concurs with a recommendation for promotion, he or she refers the case for review by the Laboratory Staff Committee and decision by the Laboratory Director (see RPM §2.07(C)(6)(b) above).

If the Division Director concurs with a recommendation against promotion, the Divisional Fellow must be given at least 90 days written notice that his or her employment will end at the expiration of the five-year term.

See Scientist/Engineer Promotion Guidelines and Scientist/Engineer Promotion Checklist.

7. Senior Scientist/Engineer (Career)

a. Description

An appointment as a Senior Scientist/Engineer is a career position reserved for scientists and engineers with significant experience and achievements in research who play a leadership role at the Laboratory.

b. Qualifications

Senior Scientists/Engineers are internationally recognized authorities and leaders in one or more scientific or engineering areas who have made major contributions to the Laboratory and the broader scientific/engineering community through their leadership and creativity.

c. Appointment

Appointment to Senior Scientist/Engineer is initiated by the Division Director, after review by the Division Staff Committee. It is reviewed by the Laboratory Staff Committee and approved by the Laboratory Director.

Because the Laboratory is funded on an annual basis according to fluctuating program priorities, Senior Scientists/Engineers may be required to be flexible in adjusting their research and development activities in order to continue in this appointment. It is expected that a Senior Scientist/Engineer will respond to changing directions of the Laboratory.

d. Corrective Action and Dismissal (See RPM §2.05(C) and (D))

e. Work Deferment

A Senior Scientist/Engineer (Career) may volunteer for temporary work deferment or temporary reduction in time. A temporary work deferment or temporary reduction in time shall not exceed four calendar months. See RPM 2.29 (Work Deferment Policy).

f. Reduction in Force

The Laboratory recognizes the great value to its mission of its Senior Scientists/Engineers and seeks to retain them within the limits of the availability of funds and the need to maintain the viability and excellence of programs. Accordingly, the following special procedures are to be followed whenever overall funding constraints involving a Senior Scientist/Engineer appear imminent. These appointments may be terminated on approval of the Laboratory Director for reason of lack of funds. These procedures contain protections for Senior Scientist/Engineer both before and after a layoff notice is issued. Throughout the process, all reasonable efforts are to be undertaken by the Division to assist the employee in maintaining continued employment at the Laboratory. These procedures supplement the Laboratory reduction-in-force policy outlined in RPM §2.21(B) (*Reduction in Force*). Special consideration will be given to Senior Scientists/Engineers in case of lack of funding in the program in which they work. This special consideration is outlined in the following procedure.

i. **Decision to Implement Reduction.**

If lack of funding occurs, and the Division Director determines that a Senior Scientist/Engineer must be laid off in accordance with RPM §2.21(B) (*Reduction in Force*), the Division Director initiates the process for each affected Senior Scientist/Engineer by following the procedures below:

ii. **Employee Plan.**

The Division Director is responsible for developing an employee plan that reviews in writing those efforts already made and provides a description of future efforts to explore opportunities for continued employment at the Laboratory for the Senior Scientist/Engineer affected by layoff. The plan is to include the following provisions:

Interim Financial Support, Assignments, Expectations, and Milestones. The amount of financial support for the Senior Scientist/Engineer will be identified and cover at least the minimum time period specified in this section. Specific job assignment, expectations, and milestones for the interim period will be clearly defined. Reasonable time will be allowed for the Senior Scientist/Engineer to seek continued employment opportunities.

Continued Employment Opportunities within the Division. Plans to assist the Senior Scientist/Engineer in pursuing other employment opportunities within the Division will be described, including support for special training, if required.

Other Opportunities within the Laboratory. Plans to assist the Senior Scientist/Engineer in pursuing employment opportunities within other Laboratory Divisions will be developed. These plans may include assistance in preparing a professional resume package and introduction letters, developing personal contacts by the Division Director, and allowing time to interview with potential hiring groups.

New or Supplemental External Funding. Plans to assist the Senior Scientist/Engineer in pursuing new or supplemental external funding to ensure continued employment will be detailed. Assistance might include appropriate support for proposal preparation and exploratory studies to supplement the proposals, personal contacts by the Division Director, and travel for discussions and proposal presentations.

iii. **Employee Notification.** Once the employee plan is developed, the Division Director submits it, along with a notice of intent to layoff that indicates the layoff date and the justification for the layoff, to the Senior Scientist/Engineer and sends copies to the Laboratory Director and the Laboratory Staff Committee. The layoff date will be at least 12 months from the Division Director's notice to the employee.

iv. **Employee Comments on Adequacy of Plan.** The employee will be given a two-week period to submit comments to the Division Director regarding the adequacy of the employee plan. A copy of the response will be provided to the Laboratory Director and Laboratory Staff Committee.

v. **Laboratory Staff Committee Review.** Based on review of the materials from the Division Director and the employee's response, if any, the Laboratory Staff Committee will, within six weeks after receiving the materials from the Division Director, provide its comments to the Laboratory Director regarding the adequacy of the employee plan.

vi. **Laboratory Director's Review.** After receiving the materials from the Division, the Laboratory Director will, within eight weeks, notify the Division Director of the Laboratory Director's concurrence, non-concurrence, or recommendation to modify the layoff action. The Laboratory Director will also convey comments, if any, on the adequacy of the employee plan.

vii. **Confirmation of Layoff.** If it becomes apparent to the Division Director that sufficient funding will not be forthcoming to continue the employee's employment, written confirmation of layoff must be given to the employee no later than 90 days prior to the stated date of termination given in the Division Director's notice of intent to layoff.

viii. **Completion of the Employee Plan.** At the end of the period covered by the employee plan, the Division Director will submit a report to the Laboratory Director and the Laboratory Staff Committee describing the actions taken and their results.

8. Distinguished Scientist/Engineer (Career)

a. Description

An appointment as a Distinguished Scientist/Engineer is a career position reserved for the most exceptional Senior Scientists/Engineers who have a sustained history of distinguished scientific and technical achievements and/or have directly contributed to the Laboratory's preeminence.

b. Qualifications

Candidates for this position have extensive relevant professional experience. A very small percentage of the professional research staff are expected to qualify for this level. Length of service and continued good performance at the senior level are not sufficient for advancement to this level. Incumbents at this level are seen as nationally or internationally recognized authorities and leaders in their field; their expertise is sought after by professional colleagues.

c. Appointment

Appointment to the Distinguished Scientist/Engineer level is initiated by the Division Director, reviewed by the Division Staff Committee, and reviewed by the Laboratory Staff Committee which makes a recommendation to the Laboratory

Director and approved by the Laboratory Director following the procedures for advancement.

Because the Laboratory is funded on an annual basis according to fluctuating program priorities, Distinguished Scientists/Engineers may be required to be flexible in adjusting their research and development activities in order to continue in this appointment. It is expected that a Distinguished Scientist/Engineer will respond to changing directions of the Laboratory.

d. Corrective Action and Dismissal (See RPM §2.05(C) and (D))

e. Work Deferment

The procedures that apply to Senior Scientist/Engineer in Paragraph (7)(e) above also apply to Distinguished Scientist/Engineer.

f. Reduction in Force

The procedures that apply to Senior Scientist/Engineer in Paragraph (7)(f) above also apply to Distinguished Scientist/Engineer.

9. Appointments of University of California Faculty

a. University of California Faculty

Appointment as Laboratory Faculty Scientist/Engineer or Faculty Senior Scientist/Engineer requires an individual to hold an active (non-UC retiree) appointment in one of the following faculty titles or series:

- Professorial series
- Acting titles in the Professor series (Students who hold the Acting Instructor title are not considered faculty.)
- Visiting titles in the Professor series
- Professor in Residence series
- Adjunct Professor series
- Professor of Clinical (e.g., Medicine) series
- Health Sciences Clinical Professor series

b. Faculty Scientist/Engineer

i. **Description**

Faculty Scientists/Engineers are University of California faculty members. They participate in the programs of the Laboratory with or without salary support from the Laboratory. A Faculty Scientist/Engineer may have an association of recent origin and/or an association chiefly for conduct of research or engineering programs.

ii. **Qualifications**

Faculty Scientists/Engineers must be active University of California faculty members (see Paragraph(C)(9)(a) above).

iii. **Appointment**

Appointment as a Faculty Scientist/ Engineer is made by the Division Director with the recommendation by the Division Staff Committee. The appointment is contingent on continued faculty appointment and automatically ends upon termination of the individual's campus faculty appointment. The appointment may be made with or without salary support from the Laboratory.

The appointment of a Faculty Scientist/Engineer may be terminated at any time at the discretion of the Division

Director. At least 90 days' written notice will be given, unless the Division Director determines that exceptional circumstances dictate otherwise.

c. Faculty Senior Scientist/Engineer

i. **Description**

Faculty Senior Scientists/Engineers are University of California faculty members who have demonstrated outstanding creative capability, leadership, and experience in activities appropriate to the Laboratory's mission. A Faculty Senior Scientist/Engineer appointment will have a well-established relationship with the Laboratory and an ongoing program of research that productively involves Laboratory staff and resources. Faculty Senior Scientists/Engineers may also have a significant involvement in the development of Laboratory policies, planning, or managerial responsibilities.

ii. **Qualifications**

Faculty Senior Scientists/Engineers must be active University of California faculty members (see Paragraph(C)(9)(a) above).

iii. **Appointment**

Appointment as a Faculty Senior Scientist/Engineer will be made only after careful consideration and recommendation by a Division Staff Committee. The recommendation will be transmitted to the Laboratory Director by the Division Director, with comments. The appointment will be made by the Laboratory Director based on this advice and on the advice of the Laboratory Staff Committee. The appointment may be made with or without salary support from the Laboratory. The appointment is contingent on continued faculty appointment. Termination of a Faculty Senior Scientist/Engineer appointment is automatic upon termination of the individual's campus faculty appointment.

iv. **Corrective Action and Dismissal** (See RPM §2.05(C))

v. **Termination Due to Lack of Funding**

The Laboratory recognizes the great value to its mission of its Faculty Senior Scientists/Engineers and seeks to retain them within the limits of the availability of funds and the need to maintain the viability and excellence of programs.

Because the Laboratory is funded on an annual basis according to fluctuating program priorities, Faculty Senior Scientists/Engineers may be required to be flexible in adjusting their research and development activities in order to continue in this appointment. These appointments may be terminated on approval of the Laboratory Director for reason of lack of funds. At least 90 days' written notice will be given, unless the Laboratory Director determines that exceptional circumstances dictate otherwise.

d. Joint Laboratory/UC Faculty Appointments

i. **Description**

With the written approval of the Laboratory Director, an individual may be given a joint (50/50) appointment (hereafter, "Joint Appointment") as a Faculty Scientist/Engineer or Faculty Senior Scientist/Engineer, provided that the appointment will be funded by the campus at 0.50 full-time equivalent (FTE) and by the Laboratory at 0.50 FTE.

ii. **Appointment/Qualifications**

Joint Appointments will be based on established criteria for hiring tenure-track or tenured faculty at the campus and Faculty Scientists/Engineers or Faculty Senior Scientists/Engineers at the Laboratory (see Paragraph(C)(9)(a) above).The campus and Laboratory will work together to develop the appropriate process and procedures to meet the applicable requirements for recruitment, selection and hire.

iii. **Promotion/Advancement**

Joint Appointees will be reviewed for merit advancements and promotion pursuant to the applicable campus and Laboratory procedures and requirements.

iv. **Performance/Conduct Issues** (See RPM §2.05(C))

In the event that issues arise regarding the conduct or performance of a Joint Appointee, the campus and the Laboratory will cooperate to ensure that required policies and procedures are followed.

v. **Termination Due to Lack of Funding**

(a) Special Considerations. At the sole discretion of the Laboratory, Joint Appointments of Faculty Scientists/Engineers and Faculty Senior Scientists/Engineers may be eligible for the special considerations set forth below.

The following special procedures are to be followed whenever overall funding constraints for the continued Laboratory support at 0.50 FTE for a Joint Appointee appear imminent. These procedures contain protections for Joint Appointees both before and after a termination notice is issued. Throughout the process, all reasonable efforts are to be undertaken by the Division to assist Joint Appointees in maintaining sufficient funding for continued employment at the Laboratory. Special consideration will be given to Joint Appointees in cases of lack of funding in the program in which they work. This special consideration is outlined in the following procedure.

(b) Decision to Terminate Due to Lack of Funding. If the Division Director determines that a Joint Appointee must be terminated due to lack of funds to continue the Laboratory support at 0.50 FTE, the Division Director initiates the process for the affected Joint Appointee by following the procedures below:

(i) Employee Plan. The Division Director is responsible for developing an employee plan (hereafter "Plan") that reviews in writing those efforts already made and provides a description of future efforts to explore opportunities for maintaining sufficient funding for continued employment at the Laboratory for the Joint Appointee affected by lack of funds. The Plan is to include the following provisions:

Interim Financial Support, Assignments, Expectations, and Milestones. The amount of financial support for the Joint Appointee will be identified and cover at least the minimum time period specified in this section. Specific job assignment, expectations, and milestones for the interim period will be clearly defined. Reasonable time will be allowed for the Joint Appointee to seek additional funding support.

Continued Funding Support for Employment Opportunities within the Division. Plans to assist the Joint Appointee in pursuing other funding support within the Division will be described, including support for special training, if required.

Other Opportunities within the Laboratory. Plans to assist the Joint Appointee in pursuing funding support for employment opportunities within other Laboratory Divisions will be developed. These plans may include assistance in preparing a professional resume package and introduction letters, developing personal contacts by the Division Director, and allowing time to interview with potential hiring groups.

New or Supplemental External Funding. Plans to assist the Joint Appointee in pursuing new or supplemental external funding for continued employment will be detailed. Assistance might include appropriate support for proposal preparation and exploratory studies to supplement the proposals, personal contacts by the Division Director, and travel for discussions and proposal presentations.

(ii) Joint Appointee Notification. Once the Plan is developed, the Division Director submits it, along with a notice of intent to terminate due to lack of funding that indicates the termination date to the Joint Appointee and sends copies to the Laboratory Director and the Laboratory Staff Committee. The termination date for the Joint Appointee, who is supported by the Laboratory at 0.50 FTE, will be at least 24 months from the Division Director's notice to the Joint Appointee.

(iii) Comments on Adequacy of Plan. The Joint Appointee will be given a two-week period to submit comments to the Division Director regarding the adequacy of the Plan. A copy of the response will be provided to the Laboratory Director and Laboratory Staff Committee.

(iv) Laboratory Staff Committee Review. Based on review of the materials from the Division Director and the Joint Appointee's response, if any, the Laboratory Staff Committee will, within six weeks after receiving the materials from the Division Director, provide its comments to the Laboratory Director regarding the adequacy of the Plan.

(v) Laboratory Director's Review. After receiving the materials from the Division, the Laboratory Director will, within eight weeks, notify the Division Director of the Laboratory Director's concurrence, non-concurrence, or recommendation to modify the termination due to lack of funding action. The Laboratory Director will also convey comments, if any, on the adequacy of the Plan.

(vi) Confirmation of Termination Due to Lack of Funding. If it becomes apparent to the Division Director that sufficient funding for support of the 0.50 FTE will not be forthcoming to continue the Joint Appointee's employment, written confirmation of termination must be given to the Joint Appointee no later than 90 days prior to the stated date of termination given in the Division Director's notice of intent to terminate due to lack of funds.

(vii) Completion of the Plan. At the end of the period covered by the Plan, the Division Director will submit a report to the Laboratory Director and the Laboratory Staff Committee describing the actions taken and their results.

10. Project Scientist/Engineer

a. Description

The Project Scientist/Engineer position is either a limited position or a term position with a maximum length of five years. It is not a career-track position. It is used for specific projects of limited duration. The five-year maximum does not include time spent in Postdoctoral Fellow appointments.

b. Qualifications

Qualifications for Project Scientist/Engineer positions are appropriate to the work to be performed. In most cases, they will be analogous to the qualifications for one of the Research Scientist/Engineer-, Staff Scientist/Engineer-, or Senior Scientist/Engineer-level positions listed above.

c. Appointment

The appointment is approved by the Division Director.

If the employee is hired in a limited employee classification, the appointment may be a fixed or variable time schedule.

If the employee is hired in a term appointment and the initial employment period is between six and twelve months, the individual must be on a fixed, 100% time schedule.

If the employee is hired in a term appointment and the initial employment period is one year or more, the appointment must be fixed at 50% time or more.

d. Work Deferment

A Project Scientist/Engineer employee shall be given written notice of the effective date and the ending date of a temporary work deferment or temporary reduction in time. Notice shall be provided at least 15 calendar days before the effective date or pay in lieu of notice. A temporary work deferment or temporary reduction in time shall not exceed four calendar months. See RPM 2.29 (Work Deferment Policy).

e. Termination of Appointment

i. Project Scientist/Engineer appointments end automatically on the current expiration date unless the employee is given advance written notice that their appointment will be extended.

ii. The employment of a Project Scientist/Engineer may be terminated before the end of the employee's appointment for disciplinary reasons or substandard performance of which the employee has been advised as provided in RPM §2.05(C). **The appointment may also be terminated early for lack of funds, lack of work, or changes in operational/business needs**, in which case the employee will be given at least 90 days' advance written notice before termination.

11. Visiting Faculty and Visiting Researcher

a. Description

i. Visiting Faculty. Visiting Faculty is a position for faculty members from universities and colleges outside the University of California system. The appointment is a limited appointment (See RPM §2.01(K)(5)).

ii. Visiting Researcher. A Visiting Researcher is on an approved leave from his or her home institution. The home institution does not need to be a university or college, nor does the individual have to be a faculty member of any institution. Appointments are for one year but may be extended for a second year on an exception basis with the approval of the Laboratory Deputy Director.

b. Qualifications

Qualifications for both Visiting Faculty and Visiting Researcher positions are appropriate to the work to be performed. In most cases, they will be analogous to the qualifications for one of the Research Scientist/Engineer-, Staff Scientist/Engineer-, or Senior Scientist/Engineer-level positions listed above.

c. Appointment

Appointments to both Visiting Faculty and Visiting Researcher positions are made by the Division Director. A search is not required.

d. Termination of Appointment

Termination of an appointment as Visiting Faculty or Visiting Researcher may be made at any time by the Division Director. In the case of a Visiting Researcher member in a term appointment, the procedures in RPM §2.21(D) *(Release of Employees in Term Appointments)* must be followed.

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§2.08
Vacation Leave

If you have feedback regarding an HR policy or procedure, share it with us here.

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Responsible Manager

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A. GENERAL

Vacations with pay are provided to give employees periods of relaxation from their normal duties and responsibilities. Vacations should be taken each year in approximate relation to the amount of credit earned.

B. VACATION CREDIT ACCRUAL RATES

Employees who are eligible to receive vacation with pay will accrue vacation credit, depending on their job classification or length of service with the University or the state of California, as follows:

1. Nonfaculty Career and Term Employees

   a. With less than 10 years of service at half time or more: 1-1/4 days (10 hours) per month.

   b. With between 10 and 15 years of service at half time or more: 1-1/2 days (12 hours) per month.

   c. With between 15 and 20 years of service at half time or more: 1-3/4 days (14 hours) per month.

   d. With over 20 years of service at half time or more: 2 days (16 hours) per month.

2. Students

Graduate student research assistants and student assistants do not accrue vacation credit. See RPM §2.01(D) (*Types of Appointments*).

3. Accrual Basis

Vacation credit accrual, based on not more than five eight-hour days per week, will accrue at the normal rate during leave with pay, except during extended military leave and professional research or teaching leave.

4. Short Month's Work

An employee in pay status at least half the working hours of a month (including holidays) accrues vacation credit at the normal rate. An employee in pay status less than half the working hours of a month accrues vacation credit on a pro rata basis according to the number of hours worked in that month. Full-time employees accrue vacation credit in accordance with Paragraph (B)(1), above. Part-time employees accrue vacation credit in accordance with Paragraph (B)(6), Table 2.08(B)(2), below.

5. Limited Employees and Employees Working Variable Time Schedules

Table 2.08(B)(1)
Vacation Credit for Limited Employees

Limited Employee hired 50% or more % time, and the initial appointment duration is less than 6 months	Limited Employee hired 50% or more % time, and the appointment duration is greater than or equal to 6 months	Limited Employee hired 50% or more % time, the appointment duration is less than 6 months, and the appointment is then extended beyond 6 months

No vacation credit.	Vacation credit starts on date of hire.	Vacation credit starts after 6 months of service. There is no vacation credit for the first 6 months of employment.

Employees working variable time schedules do not accrue vacation credit.

6. Part-Time Employees

Part-time nonfaculty employees accrue vacation credit each month, based on length of service and the amount of full time worked, as shown in Tables 2.08(B)(2)–(5).

Table 2.08(B)(2)
Vacation Credit for Part-Time, Nonfaculty Employees Having Less Than 10 Years of Service at Half Time or More

Number of hours for which biweekly paid employee receives pay (including leave and holiday time)				Percentage of time for which monthly paid employee receives pay	Hours of vacation credit earned
160-hour month	**168-hour month**	**176-hour month**	**184-hour month**		
0–79	0–83	0–87	0–91	0–49	0
80–87	84–92	88–96	92–101	50–54	5
88–103	93–109	97–114	102–119	55–64	6
104–119	110–125	115–131	120–137	65–74	7
120–135	126–142	132–149	138–156	75–84	8
136–151	143–159	150–167	157–174	85–94	9
152–160	160–168	168–176	175–184	95–100	10

Table 2.08(B)(3)
Vacation Credit for Part-Time, Nonfaculty Employees Having 10 but Less Than 15 Years of Service at Half Time or More

Number of hours for which biweekly paid employee receives pay (including leave and holiday time)				Percentage of time for which monthly paid employee receives pay	Hours of vacation credit earned
160-hour month	**168-hour month**	**176-hour month**	**184-hour month**		
0–79	0–83	0–87	0–91	0–49	0
80–86	84–91	88–95	92–99	50–54	6

87–99	92–104	96–109	100–114	55–62	7
100–113	105–119	110–124	115–130	63–70	8
114–126	120–133	125–139	131–145	71–79	9
127–139	134–146	140–153	146–160	80–87	10
140–153	147–161	154–168	161–176	88–95	11
154–160	162–168	169–176	177–184	96–100	12

Table 2.08(B)(4)
Vacation Credit for Part-Time, Nonfaculty Employees Having
15 But Less Than 20 Years of Service at Half Time or More

Number of hours for which biweekly paid employee receives pay (including leave and holiday time)				**Percentage of time for which monthly paid employee receives pay**	**Hours of vacation credit earned**
160-hour month	**168-hour month**	**176-hour month**	**184-hour month**		
0–79	0–83	0–87	0–91	0–49	0
80–85	84–90	88–94	92–98	50–53	7
86–97	91–102	95–106	99–111	54–60	8
98–108	103–114	107–119	112–124	61–67	9
109–119	115–125	120–131	125–137	68–74	10
120–131	126–138	132–144	138–151	75–82	11
132–142	139–150	145–157	152–164	83–89	12
143–154	151–162	158–169	165–177	90–96	13
155–160	163–168	170–176	178–184	97–100	14

Table 2.08(B)(5)
Vacation Credit for Part-Time, Nonfaculty Employees Having
20 or More Years of Service at Half Time or More

Number of hours for which biweekly paid employee receives pay (including leave and holiday time)				**Percentage of time for which monthly paid employee receives pay**	**Hours of vacation credit earned**
160-hour month	**168-hour month**	**176-hour month**	**184-hour month**		
0–79	0–83	0–87	0–91	0–49	0
80–84	84–89	88–93	92–97	50–53	8

85–94	90–99	94–104	98–109	54–59	9
95–104	100–110	105–115	110–120	60–65	10
105–114	111–120	116–126	121–132	66–71	11
115–124	121–131	127–137	133–143	72–78	12
125–134	132–141	138–148	144–155	79–84	13
135–144	142–152	149–159	156–166	85–90	14
145–154	153–162	160–170	167–178	91–96	15
155–160	163–168	171–176	179–184	97–100	16

C. SCHEDULING OF VACATIONS

1. Scheduling

Vacations are scheduled according to the needs of the Laboratory, with due consideration of the wishes of each employee.

2. Limitations on Vacation Credit

When work conditions make it difficult to schedule vacation for an employee, vacation credit may be accrued to a maximum as follows:

a. Thirty days (240 hours) for employees with less than 10 years of service at half time or more.

b. Thirty-six days (288 hours) for employees with between 10 and 15 years of service at half time or more.

c. Forty-two days (336 hours) for employees with between 15 and 20 years of service at half time or more.

d. Forty-eight days (384 hours) for employees with 20 years of service at half time or more.

3. Responsibility of Division Director or Department Head

Division directors or department heads must monitor monthly employee vacation credit reports and schedule vacations for each employee so that no employee is required to lose vacation credit because of Laboratory work needs.

4. Religious Holidays

Absence for religious holidays and other personal reasons will normally be charged to vacation.

5. Participation in School Activities

An employee who is a parent or guardian of a child attending a licensed day-care facility or enrolled in kindergarten or grades 1–12, inclusive, may use accrued vacation credit up to eight hours per calendar month (not to exceed 40 hours per school year) for the purpose of participating in day-care facility or school activities. Employees must provide reasonable notice of the planned absence to their immediate supervisors.

6. Current Month's Vacation Credit

Vacation credit is not accrued until the end of the month during which it is earned and will not be used until the month has elapsed. An eligible employee terminating before a month's end, however, accrues proportionate credit through the last day on pay status.

7. Advance Vacation Credit Accrual

Up to two days' advance use of vacation credit accruals for the months of December and January may be used to facilitate implementation of Christmas/New Year's holiday closures. This exception applies only to new employees who have not had sufficient time to accrue adequate vacation balances and to other special cases where adequate vacation balances do not exist.

8. Vacation Pay Restrictions

An employee will not be paid for vacation earned in one University position while on pay status in any other position paid through University-administered funds. This does not apply to vacation payment in case of transfer of an employee between University contracts or fund sources.

D. USE OF VACATION CREDIT WHILE ON TRAVEL STATUS

1. Approvals

Scheduling of vacation to be taken by an employee while on official travel status must be approved in advance.

2. Delay

When an employee is on travel status, a delay en route on a regular workday for other than Laboratory business is normally charged to the employee's vacation credit.

E. VACATION CREDIT OF TRANSFERRING EMPLOYEES

1. Between Laboratory and Other University Locations

University employees who transfer from another University fund source to the Laboratory, or vice versa, will be paid for accumulated vacation credit, up to the maximum credit normally allowed by the contract or other fund sources from which they transfer.

2. Between Laboratory Divisions

The vacation credit of employees is usually not affected by transfer between Laboratory divisions. When an employee transfers from a benefit-accruing classification to a non-benefit-accruing classification, however, any vacation credit he or she may possess on the effective date of the change will be paid in a lump sum.

F. TERMINAL VACATION PAY

An employee who terminates from Laboratory employment is paid for vacation credit accrued through his or her

last day on pay status. An employee who is granted extended military leave may elect to be paid for vacation credit accrued through his or her last day on pay status. See RPM §2.14(E)(3) *(Extended Military Leave)*. The amount to be paid is based on the employee's official attendance and leave records maintained by the Human Resources Department/Payroll. In the case of the death of an employee, payment is regulated by state law. See RPM §2.21(H) (*Termination by Death*).

G. VACATION OR LEAVE DURING ASSIGNMENTS AT REMOTE SITES

1. Advance Approval

Plans to schedule vacation leave or leave without pay during assignments to remote areas must be shown on Stock Form 7600-55336 (*Request and Authorization for Official Travel*) and approved in writing in advance by the employee's division director or department head and by the Head of the Human Resources Department.

2. Post-Approval

Requests to take vacation or leave without pay, subsequent to approval of Stock Form 7600-55336 (*Request and Authorization for Official Travel*), must be made by TWX or other correspondence. Such requests must also be approved by the employee's division director or department head and by the Laboratory Director or designee. Copies of this correspondence must accompany the travel claim vouchers submitted on completion of the test-area assignment.

3. Time Allowable

Vacation leave, other leave with pay, or leave without pay taken while on test-area assignments may not normally exceed the length of time spent on official business at the test area during any one test-area tour of duty.

H. USE OF VACATION LEAVE FOR CATASTROPHIC LEAVE SHARING

Under the provisions of the Catastrophic Leave Sharing Policy, RPM §2.26(C), an employee may donate vacation time on an hour-for-hour basis, regardless of differing pay scales, to another employee who has exhausted his or her sick and vacation leaves due to a serious medical condition, as defined in RPM §2.26(C)(1), affecting him or her or a family member or other person, as defined in RPM §2.26(C).

I. PAYOUT OF VACATION CREDIT AT CHANGE OF STATUS

Employees will be paid for accrued vacation credit at the time they change from a vacation-accruing appointment to an appointment that does not. The payment will be made at the time of the change in appointment and at the rate prior to the change.

§2.09
Sick Leave

If you have feedback regarding an HR policy or procedure, share it with us here.

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Responsible Manager

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A. POLICY

Sick leave is provided to continue the salary of eligible Laboratory employees who would otherwise be on pay status but who are unable to work because of illness or disability; for medical, dental, and optical appointments;

and on a limited basis in the event of death or illness of a family member. Sick leave accrues each month, based on the percentage of time or number of hours the employee is on pay status during that month. Supervisors are responsible for administering the sick-leave policy to prevent abuses and inequities. Questions concerning the intent of sick-leave policy should be referred to the Human Resources Department.

B. RATE OF EARNING SICK LEAVE

Sick leave accrues at the rate of eight hours per month for full-time employment.

C. ACCRUAL OF SICK LEAVE

An employee accrues full or proportionate sick-leave credit each month as shown in Table 2.09(C), below. Sick-leave accrual is based on a maximum eight-hour workday and a forty-hour work week, including extended workweek situations. Part-time employees cannot accrue sick leave for more than an eight-hour workday or for more than the number of hours of work normally scheduled. The following additional criteria also apply to sick-leave accrual.

1. Career Employees

An employee must be on pay status at least half the working hours of the month to accrue sick leave for that month:

Exception. A half-time biweekly employee who works a normal half-time schedule will be credited with four hours of sick leave even if the employee was in pay status less than half the working hours of a particular month.

2. Limited Employees

Limited employees working a 50% or more time schedule accrue sick-leave credit in accordance with the provisions of Table 2.09(C) below.

3. Employees Working Variable Time

Employees who work variable time schedules do not accrue sick-leave credit. (See RPM §3.01(C)(3).)

Table 2.09(C)
Sick-Leave Credit for Part-Time Employees

Number of hours for which hourly paid employee receives pay (including leave and holiday time)				Percentage of time for which monthly paid employee receives pay	Hours of sick-leave credit earned
160-hour month	**168-hour month**	**176-hour month**	**184-hour month**		
0–79	0–83	0–87	0–91	0–49	0
80–89	84–94	88–98	92–103	50–55	4
90–109	95–115	99–120	104–126	56–68	5

110–129	116–136	121–142	127–149	69–80	6
130–149	137–157	143–164	150–172	81–93	7
150–160	158–168	165–176	173–184	94–100	8

4. Accrual During Leave with Pay

Sick leave accrues during leave with pay, except for professional research or teaching leave.

5. Accrual for Terminating Employees

Sick leave for each month accrues at the end of the month, except that an eligible terminating employee accrues proportionate sick leave through the last day on pay status.

6. Accrual for Overtime

Sick leave does not accrue for time on pay status in excess of 40 hours in any work week.

7. Limitations on Accrual and Use of Sick Leave

There is no maximum on the amount of sick leave that may be accrued or the amount that may be used in any year.

8. Accrual During Leave Without Pay

An employee who is on approved leave of absence without pay, but who was in pay status at least half the working hours of a month (including holidays), earns sick leave at the normal accrual rate. An employee in pay status less than half the working hours of a month earns no sick leave credit for that month.

D. USE OF SICK LEAVE

Accumulated sick-leave credit may be used only when an employee is unable to work due to sickness, injury, or quarantine; for medical, dental, or optical appointments; or for family illness or death in the family. Sick leave for medical, dental, or optical appointments is limited to reasonable travel and appointment times only. An employee cannot use sick leave before the time it is accrued.

1. Termination

An employee may not use sick leave beyond a predetermined date of separation, including retirement or layoff or any leave without pay.

2. Proof of Illness, Injury, Disability, or Bereavement

An employee may be required to submit satisfactory proof of illness or disability in the form of a physician's statement or other administratively acceptable evidence. Proof of illness or bereavement in the family may also be required.

3. Use of Sick Leave for Childbearing

Employees are strongly encouraged to contact Health Services for confidential counseling regarding their pregnancy status as well as any work-related issues.

4. Use of Sick Leave for Illness in Employee's Family

An employee may use up to 30 days of accrued sick leave in any calendar year (i.e., January 1 through December 31) when required to be in attendance or to provide care because of the illness of the employee's spouse, domestic partner, parent, child (including the child of a domestic partner), sibling, grandparent, grandchild, in-law, or step-relative in the same relationship; or any other person who is residing in the employee's household for whom there is a personal obligation. This privilege is not intended to cover baby-sitting. Sick leave charged for this purpose should be shown by the symbol "F" (for Family Leave) instead of the normal symbol "E." See Paragraph (D)(6), below, for additional sick leave allowance for death in the family.

An eligible employee who has requested vacation-leave donations from other employees for the purpose of caring for a catastrophically ill person shall first exhaust his or her accrued sick-leave balance even when doing so results in exceeding the 30-day limit otherwise imposed on the use of sick leave for family illness. See RPM §2.26 (*Catastrophic Leave Sharing*).

5. Use of Sick Leave During Vacation Periods

Any time charged to sick leave included within or immediately following a vacation period is acceptable as a charge against sick-leave credit as long as specific approval is given by the employee's supervisor. Specific approval will be based on a physician's statement or other administratively acceptable evidence. If such approval is not given, the absence will be charged to vacation leave or leave without pay if the employee has no accrued vacation credit.

6. Use of Sick Leave for Death in Family

An employee is permitted to use not more than five days of accrued sick leave when the employee's presence is required because of the death of the employee's mother, father, husband, wife, son, daughter, brother, or sister; grandparent, grandchild, in-law, or step-relative in the same relationship; or any other person who is residing in the employee's household for whom there is a personal obligation. In addition, an employee is permitted to use not more than five days of sick leave in any calendar year in the event that he or she has a personal obligation with regard to funeral attendance or bereavement because of the death of any other person. This is in addition to the sick leave allowance for illness in the employee's family. See Paragraph (D)(4), above.

7. Full-Time Employees

Use of sick leave is limited to a maximum of eight hours per day and forty hours per week, including extended workweek situations.

8. Part-Time Employees

Sick-leave charges that would result in a part-time employee's being paid for more than eight hours per day or for more than the number of hours per week formally scheduled are not allowed.

9. Employees Working Variable Time

Employees who work variable time do not accrue sick-leave credit, but sick-leave credit previously earned while an employee works a definite schedule may be charged as long as the employee was scheduled to work the days and hours for which sick leave is claimed. Use of sick leave is limited to the number of hours the employee was scheduled to work.

10. Sick Leave Beyond Current Credit

When sick-leave credit is exhausted, vacation-leave or leave-without-pay rules apply unless the employee qualifies for, and receives, catastrophic leave-sharing credits (RPM §2.26).

11. Medical Clearance to Return to Work

On returning to work after any lost time due to illness or injury occurring at work, employees must report to Health Services for an evaluation of their condition and ability to resume customary work. When an employee has been absent for five or more consecutive workdays because of his or her own serious illness or injury unrelated to work, he or she must provide Health Services with a release to return to work. This release must include any information regarding medical restrictions that may affect the employee's ability to perform his or her job, as certified by the treating physician. For more information on the Lab's Return-to-Work Program, go to http://www.lbl.gov/ehs/health_services/pp/index.shtml.

E. ILLNESS DURING WORKING HOURS

When an employee becomes ill during working hours, advice may be sought from Health Services.

F. TRANSFER AND REINSTATEMENT OF SICK LEAVE

1. Transfer of Sick Leave

An employee who terminates from a position in which sick-leave credit is accrued at another part of the University for the purpose of accepting employment in a position at the Laboratory will have all such credit transferred. If the Laboratory position is one in which sick-leave credit is not accrued, however, the employee's prior credit is not transferable. If the employee later changes to a position in which sick-leave credit is accrued, the previously accrued credit will be reinstated.

2. Reinstatement of Sick Leave

Sick-leave credit accumulated in previous employment with the University or the state of California may be reinstated on the following basis:

a. An employee who is re-employed after a break in service of less than 15 calendar days will have all sick leave from the immediate prior service reinstated.
b. An employee who is re-employed after a break in service of 15 or more calendar days but less than 6 months will have sick leave accrued in prior service reinstated not in excess of 80 hours.
c. An employee who is re-employed from recall status or preferential-rehire status will have all accrued sick

leave from prior service reinstated.

§2.10
Holidays

If you have feedback regarding an HR policy or procedure, share it with us here.

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Responsible Manager

Rev. 01/10

- **A. Official University Holidays**
- **B. Pay Policy for Work Performed on Holiday**
  - **1. Exempt Employees**
  - **2. Nonexempt Employees**
  - **3. Irregular Schedules**
  - **4. Cesar Chavez Day and Veterans' Day**
- **C. Holiday Pay Policy for Part-Time Employees**
  - **1. Variable Hour Schedules**
  - **2. Fixed Hours**
- **D. Holidays During Leave Without Pay**
  - **1. Short-Term Leave**
  - **2. Extended Leave**
- **E. Religious Holidays**
- **F. Holiday Pay for New Employees**
- **G. Holiday Pay for Terminating Employees**

A. OFFICIAL UNIVERSITY HOLIDAYS

The Laboratory observes official University holidays as listed below. These holidays are granted with pay to employees, except as otherwise stated in subsequent paragraphs below. The days listed below or announced equivalents are usually observed as holidays:

- New Year's Day
- Third Monday in January
- Third Monday in February
- Last Monday in May
- July 4
- Labor Day
- Thanksgiving Day
- Friday following Thanksgiving Day
- December 24 or 26

Christmas Day

- December 31 or January 2
- One floating holiday that may be used, at the employee's discretion, on Cesar Chavez Day (the last Friday in March), Veterans Day (November 11), or during the annual winter holiday shutdown.

When one of the listed days occurs on a Sunday, the following Monday is observed as a holiday. When a holiday falls on a Saturday, the preceding Friday is observed as a holiday unless an alternate day is designated by the Laboratory Director.

The Laboratory will be open on both Cesar Chavez Day and Veterans Day and closed during the winter holiday shutdown. Employees electing to use the floating holiday on either Cesar Chavez Day or Veterans Day will be required to use a third vacation day or leave without pay day during the winter holiday shutdown.

The floating holiday must be taken during the calendar year and cannot be accrued for future use.

B. PAY POLICY FOR WORK PERFORMED ON HOLIDAY

1. Exempt Employees

Exempt employees do not normally receive extra compensation when their assignment requires work on a holiday.

2. Nonexempt Employees

Nonexempt employees are paid for time worked on a holiday. They normally receive a full day's holiday pay, plus pay for any portion of the day worked, to the nearest hour for monthly salaried personnel and to the nearest quarter hour for hourly rated personnel.

3. Irregular Schedules

Nonexempt employees who are working irregular full-time schedules are entitled to the same number of paid holiday hours granted to regularly scheduled employees. An employee whose regular day off falls on a holiday observed by the Laboratory receives holiday pay.

4. Cesar Chavez Day and Veterans' Day

Nonexempt employees working on Cesar Chavez Day and Veterans' Day will be paid for hours worked only. They will not receive additional holiday pay.

C. HOLIDAY PAY POLICY FOR PART-TIME EMPLOYEES

1. Variable Hour Schedules

Employees who work variable time schedules do not earn holiday time off with pay.

2. Fixed Hours

Part-time employees who are scheduled to work half-time or more are allowed holiday time off with pay in accordance with the following table:

Table 2.10(C)
Holiday Credit for Part-time Employees

Percentage of full time	Hours of holiday pay per holiday
Under 50	0
50–56	4
57–68	5
69–81	6
82–93	7
94–100	8

D. HOLIDAYS DURING LEAVE WITHOUT PAY

1. Short-Term Leave

A full-time employee on approved, nondisciplinary leave of absence without pay for no more than 20 calendar days is eligible to be paid for any holidays occurring during the leave period. A part-time employee on approved, nondisciplinary leave of absence without pay for more than 20 calendar days is eligible to be paid for any holidays occurring during the leave period at the prorated rate listed in the table above, in Paragraph (C) (Holiday Credit for Part-time Employees).

2. Extended Leave

An employee on leave without pay for more than 20 calendar days is not eligible to be paid for any holidays that occur during or immediately before the leave period begins.

E. RELIGIOUS HOLIDAYS

The observance of a religious holiday may be permitted by a division director or department head. In such cases, time off is charged to accumulated vacation credit. If no credit has been accumulated, the time off will be handled as leave without pay for nonexempt employees and, at the discretion of the division director or department head, for exempt employees.

F. HOLIDAY PAY FOR NEW EMPLOYEES

A new full-time employee will be paid for any holiday immediately preceding his or her first day of work if the

holiday is the first working day of a pay period. This rule does not apply to part-time employees.

G. HOLIDAY PAY FOR TERMINATING EMPLOYEES

A terminating full-time employee will receive pay for any holiday immediately following his or her last day of work if the holiday is the last working day of a pay period. This rule does not apply to part-time employees.

§2.11
Miscellaneous Leave with Pay

If you have feedback regarding an HR policy or procedure, share it with us here.

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Responsible Manager

Rev. 08/09

- **A. Court Leave**
  - **1. Jury Duty**
  - **2. Administrative or Legal Proceedings**
- **B. Voting Time**
- **C. Authorized Leave With Pay**
  - **1. Exempt Employees**
  - **2. Unusual Circumstances**
- **D. Supplemental Disability Leave**
- **E. Public Emergencies**
  - **1. Public Emergencies**
  - **2. Civil Disaster Units**
  - **3. Anticipated Power Interruptions**

A. COURT LEAVE

1. Jury Duty

Full-time career employees on any shift or work schedule are granted leave with pay for actual time on jury duty, including grand-jury duty, and related travel not to exceed the number of hours in the employee's normal workday and work week. The leave with pay is payable at the straight-time rate (including shift differential, if applicable) and will not be counted as time worked for the purpose of computing overtime premium pay.

Part-time career employees at 50% time or more are granted leave with pay for actual time spent on jury duty, including grand-jury duty, and related travel that occur during the employee's regularly scheduled hours of work. All such leave is charged to court leave.

2. Administrative or Legal Proceedings

a. Time spent by an employee attending an administrative or legal proceeding on behalf of the Laboratory or the University is counted as time worked. See RPM §2.05(D)(6)(a)(v) (*Pay Status for Time Spent in Complaint Resolution*).

b. When served with a subpoena that compels their presence as a witness (other than as a paid expert

witness), full-time career employees on any shift or work schedule are granted leave with pay for actual time spent at administrative or legal proceedings and in related travel, not to exceed the number of hours in a normal workday and work week. The leave with pay is payable at the straight-time rate (including shift differential, if applicable) and will not be counted as time worked for the purpose of computing overtime premium pay. Part-time career employees at 50% time or more are granted leave with pay for actual time spent at proceedings and in related travel that occur during the employee's regularly scheduled hours of work.

c. Leave with pay is not granted when an employee is the plaintiff or defendant in a proceeding, is called or subpoenaed as a paid expert witness not on behalf of the Laboratory or the University, or is called or subpoenaed because of duties for another employer. The time off in these situations is charged to vacation or leave without pay.

B. VOTING TIME

An employee will be granted necessary time off with pay, not to exceed two hours, for voting in any statewide primary or general election if the employee is scheduled to work eight hours or more on that day and does not have time to vote outside working hours.

C. AUTHORIZED LEAVE WITH PAY

1. Exempt Employees

For exempt employees only, in consideration of unusual circumstances or unusual effort, leave of absence with pay may be granted as described below. Such leave may not be used, however, to balance extra work on an hour-for-hour basis. Normally, authorized leave will not be used in connection with vacation time. Exceptions to this limitation may be made by the Division Director or Department Head when such action is in the best interests of the department or division work schedule.

a. Up to three workdays in a month may be granted an exempt employee by the division director with supporting explanation of special circumstances requiring the leave shown on or attached to the Payroll Time Report.

b. More than three workdays a month may be granted only with the approval of the Laboratory Director. Such recommendations must be made on Stock Form 7600-55050 (*Personnel Action Form* (PAF)), which is submitted to the Human Resources Department.

2. Unusual Circumstances

Up to five working days of leave with pay may be granted by the Laboratory Director to any employee to cover unusual circumstances. If adequate sick-leave and vacation credits exist, leave will be charged to such credits.

D. SUPPLEMENTAL DISABILITY LEAVE

See RPM §2.15 (*Workers' Compensation Insurance*).

E. PUBLIC EMERGENCIES

When authorized by the Associate Laboratory Director for Operations (ALDO) or designee, leave with pay may be allowed in the following circumstances:

1. Public Emergencies

Leave with pay may be allowed during public emergencies that effectively prevent an employee from attendance at work or continuance of work in a normal and orderly manner. A public emergency includes fire, explosion, power failure, flood, earthquake, snowstorm (Washington, D.C., offices only), protest demonstration, riot, sabotage, pandemic illness, and other comparable occurrences. When an employee is absent because of personal reasons resulting from a public emergency, the employee should charge this absence to accrued vacation or leave without pay.

2. Civil Disaster Units

Leave with pay may be allowed for search-and-rescue or disaster-control work by an employee as a member of an organized civil disaster unit. Leave with pay is not granted for training, drills, or practice exercises.

3. Anticipated Power Interruptions

Under the terms of its electric-power agreement, the Laboratory may experience periods of reduced power. In some areas such interruptions may require lighting, temperature, and humidity changes as well as restricted use of electrical equipment such as typewriters, calculators, and computer terminals. If these conditions effectively prevent an employee from performing his or her work and alternate assignments appropriate to the employee's job classification are not available, the Division Director or designee may request authorization from the ALDO to grant leave with pay for the period during which the employee's work cannot be performed.

§2.12
Leave of Absence Without Pay

If you have feedback regarding an HR policy or procedure, share it with us here.

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Responsible Manager

Revised 1/09

- **A. General**
- **B. Benefits During Leave of Absence Without Pay**
  - **1. Accrual of Vacation and Sick Leave**
  - **2. Health Plan Coverage**
  - **3. Retirement and Group Insurance**
- **C. Authorization of Leave of Absence Without Pay**
  - **1. Approval**
  - **2. Justification**
  - **3. Use of Vacation and Sick-Leave Credit**
- **D. Exhaustion of Leave Credits**
- **E. National Defense Leave**
- **F. Pregnancy Disability Leave**
  - **1. Definition**
  - **2. Coordination with Family Care and Medical Leave**
  - **3. Reduced Work Schedule**
  - **4. Reinstatement**
  - **5. Light Duty**
- **G. Leave for Work-Incurred Disability**
- **H. Personal Leave**
- **I. Returning from Approved Leave of Absence Without Pay**
  - **1. Returning to Work**
  - **2. Medical Clearance**
  - **3. Failure to Return to Work**

A. GENERAL

An employee may be granted a leave of absence without pay for reasons such as illness or work-incurred disability, parental leave, pregnancy disability leave, the need to provide care for members of his or her family, education that will directly increase job effectiveness, or outside research or business activities. In granting the leave, the department or division head will consider the best interests of the Laboratory and the likelihood that the employee, if in good health, will return after the leave for a worthwhile period of time. The department or division will hold open a position during the employee's requested leave of absence without pay in accordance with

Paragraphs (H)-(I), below. Leave without pay granted for medical reasons, leave granted for child bearing, and work-incurred disability may require written certification from the employee's health-care provider.

B. BENEFITS DURING LEAVE OF ABSENCE WITHOUT PAY

Certain benefits continue during an approved leave of absence without pay, as noted below. Such leaves do not constitute a break in service.

1. Accrual of Vacation and Sick Leave

Employees do not accrue vacation or sick-leave credit and are not allowed any paid leave during leave of absence without pay, except as provided in RPM §2.08(B)(4) (*Short Month's Work*), §2.09(C)(8) (*Accrual During Leave Without Pay*), and §2.10(D)(1) (*Short-Term Leave*). Accrual of vacation and sick-leave credits are resumed on the employee's return to pay status.

2. Health Plan Coverage

An employee on an approved family care and medical leave is entitled to continue participation in health plan coverage (medical, dental, and optical) as if on pay status for up to 12 work weeks in a 12-month period. An employee on any other type of leave without pay may be allowed to continue to receive health plan coverage for a period of up to 24 months but must make arrangements for payment of premiums.

3. Retirement and Group Insurance

For the effect of a leave of absence without pay on retirement and group insurance, employees should contact the Benefits Office.

C. AUTHORIZATION OF LEAVE OF ABSENCE WITHOUT PAY

1. Approval

Leaves of absence without pay require authorization as provided in the following table. Family Medical Leave Act (FMLA) leave and pregnancy disability leave do not require the authorizations indicated below unless the leave extends beyond four months, the employee is not eligible for those types of leave, or the employee has exhausted his or her FMLA leave or pregnancy disability leave benefits.

Table 2.12(C)
Authorization for Leaves of Absence Without Pay

Duration	Division director / department head	HR head or designee	Associate Laboratory Director for Operations
≤ 6 months	x		
> 6 months to ≤12 months	x	x	

> 12 months	x	x	x

2. Justification

Recommendations for leaves of absence without pay require the submission of a memorandum of justification to the division director. Justification should include the following:

a. The approximate dates between which the absence is planned.

b. The reason for the absence.

c. Acknowledgment that the employee understands that the leave of absence without pay, if granted, is subject to any limitations caused by changes in the research program or employment levels that would have affected the employee if he or she had not been on leave.

3. Use of Vacation and Sick-Leave Credit

Unless otherwise requested by the employee and approved by the division director or department head, approved leave without pay begins when all vacation and applicable sick leave credit has been exhausted. See RPM §2.09 (D) (*Use of Sick Leave*). This provision does not apply to family care and medical leave. See RPM §2.13(E) (*Use of Accrued Paid Leave*).

D. EXHAUSTION OF LEAVE CREDITS

When an employee's vacation and sick-leave credit is exhausted during a period of paid leave, the employee's division or department is responsible for submitting a Personnel Action Form (PAF) (Stock Form 7600-55050) in either paper or electronic form to the Payroll Unit.

E. NATIONAL DEFENSE LEAVE

Upon approval of the Laboratory Director, leave without pay may be granted to an employee who is called or volunteers to serve in scientific research and development under the auspices of the federal government during a war or comparable period of national emergency. Such an employee is not eligible for the pay for military leave that is provided in RPM §2.14 (*Military Leave*).

F. PREGNANCY DISABILITY LEAVE

1. Definition

An employee disabled from working because of pregnancy, childbirth, or related medical conditions is eligible for and, on the employee's request, must be granted a leave of absence for up to four months during the period of disability. Pregnancy disability leave may consist of leave without pay and/or paid leave such as accrued sick leave and/or accrued vacation leave.

If the period of disability continues beyond four months, a personal leave may be granted. Employees are strongly encouraged to contact Health Services for confidential counseling regarding their pregnancy status as well as any work-related issues.

2. Coordination with Family Care and Medical Leave

If an employee on approved pregnancy disability leave is also eligible for family care and medical leave under RPM §2.13 (*Family Care and Medical Leave*), up to 12 work weeks of pregnancy disability leave will run concurrently with family care and medical leave under federal law. On termination of concurrent leave, an employee is also entitled to up to 12 work weeks of state family care and medical leave for any covered reason except pregnancy or related medical conditions.

3. Reduced Work Schedule

When medically necessary, an employee may take pregnancy disability leave on a reduced work schedule or an intermittent basis. The Laboratory may require an employee who is on a reduced work schedule or intermittent leave to temporarily transfer to an alternative position if this position better accommodates the required work schedule than the employee's own position. Exempt employees may elect to use accrued vacation and/or sick leave in four-hour increments in lieu of unpaid leave. Nonexempt employees may elect to use accrued vacation and/or sick leave in half-hour increments in lieu of unpaid leave.

4. Reinstatement

The employee will be reinstated to his or her same position as long as the employee returns to work within four months and immediately following termination of pregnancy disability leave. If the employee would have been laid off or terminated had he or she remained on pay status during the leave period, reinstatement will be to a similar job at the same location. If a similar position is not available, the employee will be afforded the same considerations extended to other employees who are laid off or terminated (see RPM §2.21(B) (*Reduction in Force*)).

5. Light Duty

As an alternative to, or in addition to, pregnancy disability leave, the Laboratory will temporarily modify a pregnant employee's position or transfer a pregnant employee to a less strenuous or hazardous position under the following circumstances:

a. On the employee's request.

b. With the advice of the employee's health care provider.

c. If the temporary modification or transfer can be reasonably accommodated.

A temporary modification or transfer will not be counted toward an employee's entitlement to up to four months of pregnancy disability leave. An employee will be reinstated to the same or similar position under Paragraph (F)(4), above. Additional provisions apply when the employee takes a medical leave in connection with her pregnancy. See RPM §2.13(H) (*Interaction of Family Care and Medical Leave with Pregnancy Disability Leave*).

G. LEAVE FOR WORK-INCURRED DISABILITY

An employee who is off pay status because of a work-incurred illness or injury may be placed on leave without pay, except that any leave without pay that is granted will not extend beyond a predetermined date of separation. When an employee is (1) on a workers' compensation absence because of an on-the-job injury or illness and (2) eligible for leave under the Family Medical Leave Act (FMLA), the workers' compensation absence and FMLA leave will run concurrently. See also RPM §2.13 (*Family Care and Medical Leave*) and §2.15 (*Workers' Compensation Insurance*).

H. PERSONAL LEAVE

A career employee may be granted a leave without pay for personal reasons such as education that will directly increase job effectiveness. In granting such a leave, the department or division head will consider the best interests of the Laboratory. The employee will be reinstated to the same or, at the department's or division's discretion, a similar position in the same department as long as the employee returns to work immediately following the end of the leave. If the employee would have been laid off or terminated had he or she remained on pay status during the leave period, the provisions of Paragraph (I)(1), below, and RPM §2.21(B) (*Reduction in Force*) will apply.

I. RETURNING FROM APPROVED LEAVE OF ABSENCE WITHOUT PAY

1. Returning to Work

An employee who is granted a leave of absence without pay is reinstated to the same or similar position at the expiration of leave unless otherwise agreed when the leave was granted or unless changes in the research program or employment levels have occurred that would have affected the employee had he or she not been on leave. See the special provisions on reinstatement following family care and medical leave (RPM §2.13(J) (*Returning to Work*)) and reinstatement following a pregnancy disability leave (Paragraph (F)(4), above). For more information on the Lab's Return-to-Work Program, go to http://www.lbl.gov/ehs/health_services/pp/index.shtml.

If the position has been abolished during a leave without pay, the employee must be reinstated to a similar job in the same department (at management's discretion if the leave was a personal leave). If a similar job is not available, the employee must be afforded the same considerations that would have been available had he or she been on pay status when the position was abolished. See RPM §2.21(B) (*Reduction in Force*).

2. Medical Clearance

Under RPM §2.09(D)(11) (*Medical Clearance to Return to Work*), when an employee has been absent for five or more consecutive workdays because of his or her illness or injury unrelated to work, he or she is required to provide a release to return to work to Health Services. The release must include any information regarding medical restrictions, as certified by the treating physician, that may affect the employee's ability to perform his or her job.

3. Failure to Return to Work

a. **Medical Reasons**

If the employee fails to return to work for medical reasons and all available leave has been exhausted, the employee must be informed in writing of the availability of reasonable accommodation under RPM §2.01(D) (*Reasonable Accommodation)*.

If the employee fails to respond or declines participation in the reasonable accommodation process, the employee may be terminated under RPM §2.21(E) (*Medical Separation)* if all leave credits provided in RPM §2.13(F) (*Duration of Leave*) and (G) (*Supplemental Family Care and Medical Leave*) have been exhausted.

For more information on the Lab's Return-to-Work Program, go to http://www.lbl.gov/ehs/health_services/pp/index.shtml.

b. **Nonmedical Reasons**

If the employee fails to return to work for nonmedical reasons and all available leave has been exhausted, the employee will be placed on unapproved leave without pay pending clarification of the reasons for the failure to return. See §RPM 2.05(L) (*Unauthorized Absences and Job Abandonment*).

For more information on the Lab's Return-to-Work Program, go to http://www.lbl.gov/ehs/health_services/pp/index.shtml.

§2.13
Family Care and Medical Leave

If you have feedback regarding an HR policy or procedure, share it with us here.

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Responsible Manager

Revised 1/09

- **A. General**
- **B. Eligibility and Authority**
- **C. Notification**
- **D. Certifications**
  - **1. Medical**
  - **2. Familial Relationship**
- **E. Use of Accrued Paid Leave**
  - **1. Employee's Serious Health Condition**
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  - **3. Parental Leave**
  - **4. Catastrophic Leave Sharing**
- **F. Duration of Leave**
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- **G. Supplemental Family Care and Medical Leave**
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- **J. Returning to Work**
  - **1. Return to Work**
  - **2. Failure to Return to Work**
  - **3. Medical Clearance**

A. GENERAL

The Laboratory complies with the California Family Rights Act of 1991 (CFRA) and the federal Family Medical Leave Act of 1993 (FMLA). The Human Resources Department should be consulted on any questions relating to an employee's request for family care and medical leave.

B. ELIGIBILITY AND AUTHORITY

Employees who have at least 12 months of University/Laboratory service and who have worked at least 1,250 hours during the 12 months before the leave are entitled, on request, to up to 12 work weeks of unpaid leave in a calendar year for an eligible employee's serious health condition; the serious health condition of the employee's

family member (child, spouse, or parent); same- or opposite-sex domestic partner; or the need to care for the employee's newborn, adopted, or foster child (parental leave). A parental leave must be concluded within one year after birth or placement of the child. The cognizant division director or department head, in consultation with the Human Resources Department, will determine whether the employee is eligible and qualifies for a FMLA leave and will notify the employee in writing when the leave is designated as FMLA leave. The duration and terms of the leave and the date of return are determined when the leave is granted.

If the need for leave for the same condition that is in progress continues beyond 12 work weeks, a career employee is entitled to supplemental unpaid leave for an additional 12 work weeks in accordance with Paragraph (G), below.

C. NOTIFICATION

If possible, employees must provide at least 30 days' advance notice for foreseeable events (e.g., the expected birth of a child or a planned medical treatment for themselves or a family member). Failure to provide notice of foreseeable events may result in postponement of the leave. For unforeseeable events, employees must notify their supervisor, at least verbally, as soon as practicable.

D. CERTIFICATIONS

1. Medical

When requesting leave for his or her serious health condition or to care for a child, parent, spouse, or domestic partner who has a serious health condition, an employee must support the request with medical certification issued by the health care provider of the individual requiring care.

2. Familial Relationship

At its discretion, the Laboratory may require that an employee requesting leave to care for a family member or domestic partner with a serious health condition or requesting parental leave provide documentation of the familial relationship, proof of birth, or placement for adoption or in foster care.

E. USE OF ACCRUED PAID LEAVE

Family care and medical leave is unpaid.

1. Employee's Serious Health Condition

An employee on leave for his or her own serious health condition must use accrued sick leave in accordance with the University's disability insurance plans or as provided in RPM §2.15(D) (*Compensation While Absent Because of Work-Incurred Disability*). Employees not eligible for University disability insurance and not on leave because of a work-incurred injury or illness must use all accrued sick leave before taking leave without pay. If sick leave is exhausted, an employee may elect to use accrued vacation time before taking leave without pay.

2. Family Illness

An employee on family care leave for family illness may use either sick leave in accordance with RPM §2.09(D)(4)

(*Use of Sick Leave for Illness in Employee's Family*) or accrued vacation time before taking leave without pay.

3. Parental Leave

An employee on family care leave for parental leave may use accrued vacation time before taking leave without pay.

4. Catastrophic Leave Sharing

Under the provisions of RPM §2.26, an employee may donate vacation time on an hour-for-hour basis, regardless of differing pay scales, to another employee who has exhausted his or her sick and vacation leaves due to a serious medical condition (as defined in Paragraph B, above) affecting him or her or another eligible person, as defined in RPM §2.26(C).

F. DURATION OF LEAVE

Family care and medical leave must not exceed 12 work weeks in the leave year. See Paragraph (B), above. Depending on individual circumstances, the leave may be a combination of accrued paid leave (i.e., vacation and/or sick leave and unpaid leave).

For the purposes of FMLA leave only, 12 work weeks are equivalent to 480 hours of scheduled work for full-time employees who are normally scheduled for an eight hours per day, five days per workweek schedule. Although the use of FMLA leave need not be consecutive, an employee's aggregate use of FMLA leave may not exceed a total of 12 work weeks within the leave year.

When parental leave is combined with leave for pregnancy-related supplemental family medical leave and/or pregnancy disability, the total family care/parental leave may not exceed seven months in the leave year.

1. Adjustment for Part-Time Schedules

For employees who work part-time or other than an eight hours per day, 40 hours per week schedule, the number of FMLA leave hours to which the employee is eligible will be adjusted in accordance with his or her normal weekly work schedule. An employee whose schedule varies from week to week is eligible for a prorated amount of FMLA leave based on his or her hours worked over the 12 weeks preceding the leave.

2. Reduced Work Schedules, Intermittent Leaves, and Temporary Transfers

When medically necessary and supported by medical certification, the cognizant division director or department head, in consultation with the Human Resources Department, will grant an eligible employee's request for a reduced work schedule or intermittent leave, including absences of less than one day. Only the time actually spent on the intermittent or reduced leave schedule will be counted toward the employee's entitlement of 12 work weeks in the leave year.

When the employee requests an intermittent leave or a reduced work schedule, the Laboratory may, at its discretion, require the employee to temporarily transfer to an available alternative position for which the employee is qualified and that better accommodates the employee's recurring period of leave. Such transfers must have equivalent pay and terms and conditions of employment, but they need not have equivalent duties.

3. Workers' Compensation and FMLA Leave

When an employee is on a workers' compensation leave because of an on-the-job injury or illness that also qualifies as a serious health condition under FMLA, the workers' compensation leave and FMLA leave will run concurrently.

G. SUPPLEMENTAL FAMILY CARE AND MEDICAL LEAVE

If the need for a family care and medical leave that is in progress continues beyond 12 work weeks, a career employee is entitled to supplemental leave for up to 12 additional work weeks or until the end of the leave year, whichever is less. The aggregate of pregnancy disability leave, family care and medical leave, and supplemental family care and medical leave may not exceed seven months during the leave year. An employee who has been granted supplemental family care and medical leave will be reinstated under Paragraph (J), below.

H. INTERACTION OF FAMILY CARE AND MEDICAL LEAVE WITH PREGNANCY DISABILITY LEAVE

For eligible employees, federal family care and medical leave runs concurrently with childbearing/pregnancy disability leave, as specified in Paragraph (E), above. On termination of a pregnancy disability leave that runs concurrently with federal family care and medical leave, an employee is also entitled to up to 12 weeks of state family care and medical leave for any covered reason except pregnancy or related health conditions.

I. BENEFITS CONTINUANCE

For an employee on an approved FMLA leave, health plan coverages (medical, dental, and optical) are continued for up to 12 work weeks in a 12-month period if he or she was eligible for them while on pay status. Thereafter, eligibility and benefits under each plan are the same as those provided to Laboratory employees during an approved leave of absence. Specific questions about this policy should be directed to the Laboratory Benefits Office.

J. RETURNING TO WORK

1. Return to Work

When an employee has been granted an approved FMLA leave of absence and returns within 12 work weeks after initiation of the leave, he or she will be reinstated to the same or an equivalent position on expiration of the leave as long as the employee returns to work immediately following termination of the leave. If the position has been abolished or otherwise affected by layoff and an equivalent position is not available, see RPM §2.21(B) (*Reduction in Force*).

For more information on the Lab's Return-to-Work Program, go to http://www.lbl.gov/ehs/health_services/pp/index.shtml.

2. Failure to Return to Work

The provisions of RPM §2.21(E) (*Medical Separation Policy*) apply if all the following conditions are met:

a. The employee is unable to return to work because of his or her ongoing serious medical condition.
b. All leave credits provided in Paragraphs (F)–(G), above, have been exhausted.
c. The employee is unable to perform essential assigned functions.

3. Medical Clearance

In accordance with RPM §2.09(D)(11) (*Medical Clearance to Return to Work*), an employee must provide Health Services with a release to return to work when he or she has been absent for five or more consecutive work days because of his or her own serious illness or injury unrelated to work. This release must include any information regarding medical restrictions that may affect the employee's ability to perform his or her job as certified by the treating physician.

§2.14
Military Leave

If you have feedback regarding an HR policy or procedure, share it with us here.

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Responsible Manager

Section Rewritten 03/02

- **A. General**
- **B. Types of Military Leave**
  1. **Reserve Training Leave**
  2. **Temporary Military Leave**
  3. **Extended Military Leave**
  4. **Emergency Leave for National Guard**
  5. **Physical Examination Leave**
- **C. Pay for Leave**
  1. **General**
  2. **Physical Examination Leave**
  3. **Emergency National Guard Leave**
  4. **Part-Time Employee Eligibility**
  5. **Using Vacation or Leave without Pay**
- **D. Reinstatement**
- **E. Effect on Benefits**
  1. **Military Leave with Pay**
  2. **Military Leave without Pay**
  3. **Extended Military Leave**

A. GENERAL

An employee shall be granted military leave as specified below, provided that he or she gives advance verbal or written notice of the leave. Exceptions are when notice is precluded by military necessity, or it is unreasonable or impossible to give such notice. In the granting of military leave, the Laboratory may require verification of an employee's military orders.

B. TYPES OF MILITARY LEAVE

Military leave consists of:

1. **Reserve Training Leave:** For inactive duty, such as weekly or monthly meetings or weekend drills.

2. **Temporary Military Leave:** When an employee is ordered to full-time active military duty for training for a period not to exceed 180 calendar days, including time spent traveling to and from such duty.

3. **Extended Military Leave:** When an employee enlists or is ordered into active-duty service of any length or active-duty training in excess of 180 days, or when an employee is ordered into active federal military duty as a member of the National Guard or Naval Militia. Such leave shall be granted for a period not to exceed five years. In addition, leave can be granted for a period of up to six months from the date of release from duty.

4. **Emergency Leave for National Guard:** When an employee who as a member of the National Guard is called to active duty by proclamation of the Governor during a state of emergency. An employee who as a member of the National Guard is called to active federal military duty at the request of the President of the United States is not eligible for emergency National Guard leave, but shall be granted extended military leave.

5. **Physical Examination Leave:** When an employee is required to take a pre-induction or pre-enlistment physical examination to fulfill a commitment under a Selective Service or comparable law, or during a period of war or comparable national emergency.

C. PAY FOR LEAVE

1. General

An employee granted temporary military leave for active-duty training, inactive-duty training, or extended military leave is entitled to receive his or her regular Laboratory pay for the first 30 calendar days of such leave in any one fiscal year, provided:

a. the employee has completed 12 months of continuous University service immediately prior to the granting of the leave (all prior full-time military service shall be included in calculating this University service requirement), and

b. the aggregate of payments for inactive-duty training, temporary military leave, extended military leave, and military leave for physical examination does not exceed 30 calendar days' pay in any one fiscal year.

2. Physical Examination Leave

An employee granted physical examination leave is entitled to receive his or her regular Laboratory pay, provided that:

a. the physical examination is a pre-induction or pre-enlistment physical examination required to fulfill a commitment under a Selective Service or comparable law, or during a period of war or comparable national emergency, and

b. the aggregate of payments for temporary military leave, extended military leave, and military leave for physical examination does not exceed 30 calendar days' pay in any one fiscal year.

Time off for other physical examinations in connection with military service may be charged to accrued sick leave, accrued vacation leave, or will be without pay.

3. Emergency Military Leave for National Guard Duty

An employee granted military leave for emergency National Guard duty is entitled to receive his or her regular Laboratory pay for a period not to exceed 30 calendar days in any one fiscal year. An employee is eligible for pay regardless of the length of University service, and such pay is in addition to any Laboratory payment for temporary military leave for active-duty training, extended military leave, and military leave for physical examinations.

4. Part-Time Employee Eligibility

An eligible part-time employee will receive pay in proportion to the average percentage of full time worked during the three calendar months immediately preceding the military leave.

5. Using Vacation Leave or Leave without Pay

An employee who is not eligible for military leave with pay may have such absence charged to accrued vacation, or the military leave may be without pay.

D. REINSTATEMENT

Following release from military service, an employee shall have such right to return, and only such right, as may be required by state and federal law in effect at the time the employee applies for reinstatement.

E. EFFECT ON BENEFITS

An employee granted military leave shall receive benefits as provided below:

1. Military Leave with Pay

An employee granted military leave with pay shall receive all benefits related to employment that are granted when an employee is on pay status.

2. Military Leave without Pay

An employee granted military leave without pay shall receive:

a. retirement benefits and service credit in accord with the provisions of the applicable retirement system,

b. health plan coverage at the employee's request and expense for a limited period of time as described in the University Group Insurance Regulations,

c. other length-of-service credits related to employment that would have been granted had the employee not been absent, provided that the employee returns to University service at the conclusion of the leave in

accordance with applicable federal and state laws, and

d. vacation and sick-leave accruals and holiday pay only in accordance with those policies.

3. Extended Military Leave

An employee granted extended military leave may choose to

a. use accrued vacation to cover unpaid military leave,

b. receive a lump-sum payment for accrued vacation, or

c. allow accrued vacation to remain on the records.

Additional information on benefits may be found at the University of California Human Resources and Benefits Web site.

§2.15
Workers' Compensation Insurance

Responsible Manager

Rev. 06/09

- **A. Work-Incurred Injury and Illness**
  - **1. General**
  - **2. Policy**
  - **3. Workers' Compensation Coverage**
- **B. Reporting of Work-Incurred Injuries and Illnesses**
  - **1. Injuries and Illnesses Occurring and Reported On Site**
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- **C. Obtaining Medical Treatment for Work-Incurred Injuries and Illnesses**
  - **1. Treatment for Work-Related Injury or Illness**
  - **2. Treatment by Personal Physicians**
- **D. Compensation While Absent Because of Work-Incurred Disability**
  - **1. Use of Accrued Sick Leave and Vacation (Supplemental Leave)**
  - **2. Insufficient Accrued Sick Leave to Cover Waiting Period**
  - **3. Extended Sick Leave for Work-Incurred Injury/Illness**
  - **4. Effect of Laboratory Personnel Policies**
  - **5. Family and Medical Leave Act (FMLA)**
  - **6. Termination**
- **E. Annual Report to Department of Energy**

A. WORK-INCURRED INJURY AND ILLNESS

1. General

This policy describes how the Laboratory provides workers' compensation coverage under the University of California self-insured program. Questions regarding workers' compensation should be directed to the Laboratory Workers' Compensation Office.

2. Policy

It is the policy of Lawrence Berkeley National Laboratory that all Laboratory employees who contract an illness or are injured at work should:

a. receive prompt medical attention;
b. be provided with a Workers' Compensation Claim form (DWC1) within 1 working day of Laboratory knowledge of the illness or injury;
c. receive prompt payment of benefits in accordance with California state law and the University's benefit

program; and

d. be encouraged to return to work at the earliest possible time.

3. Workers' Compensation Coverage

An employee who is injured or contracts a disease within the course and scope of employment may be entitled to benefits. These include medical care; compensation for wage loss during disability (temporary disability payments); death benefits and a burial allowance; and a supplemental job displacement voucher, which may be provided for retraining if the injury or illness prevents an employee from continuing in his or her job.

B. REPORTING OF WORK-INCURRED INJURIES AND ILLNESSES

1. Injuries and Illnesses Occurring and Reported On Site

Employees are required to report work-related injuries and illnesses *immediately* to their supervisor and to Health Services. Health Services must complete the employer section of the Workers' Compensation Claim form (DWC1) and give the form to the employee within 1 working day of employee reporting or Laboratory knowledge of the injury or illness.

2.Injuries and Illnesses Occurring or Reported Off Site

Supervisors must advise the Laboratory Workers' Compensation Office in Health Services *immediately* of all off-site reports of employee work-related injuries or illnesses. As above, Health Services must complete the employer section of the Workers' Compensation Claim form (DWC1) and mail the form to the employee within 1 working day of the report or Laboratory knowledge of the illness or injury.

C. OBTAINING MEDICAL TREATMENT FOR WORK-INCURRED INJURIES AND ILLNESSES

1. Treatment for Work-Related Injury or Illness

During business hours, the injured or ill employee's division should send or transport the employee to Health Services for treatment. After business hours, the employee's division should activate the emergency medical system, if needed.

2. Treatment by Personal Physicians

Injured employees who have completed a **Predesignation of Personal Physician** form and have it on file with Health Services may be treated by that physician for a work-incurred injury or illness.

D. COMPENSATION WHILE ABSENT BECAUSE OF WORK-INCURRED DISABILITY

1. Use of Accrued Sick Leave and Vacation (Supplemental Leave)

An employee with accrued sick leave and vacation shall be permitted to use it, if so desired, to supplement temporary disability payments received from workers' compensation. Sick leave and vacation (if so elected) payments will be the difference between the amount payable to the employee under workers' compensation as

temporary disability, and the employee's regular salary. (Temporary disability payments are two-thirds, (not full pay) of employee's wage, capped at a maximum as specified by labor code, dependent on the employee's rate of pay.)

The sick-leave and vacation-leave payments made to an employee before receipt of disability payments will be deemed an advance temporary disability payment under the Workers' Compensation Act. An employee who receives advance temporary disability payments must reimburse the Laboratory for such payments. The reimbursement to the Laboratory is used to restore proportionate sick leave and vacation credit, as appropriate.

2. Insufficient Accrued Sick Leave to Cover Waiting Period

An eligible employee who does not have sufficient accrued sick leave to cover the 3-calendar-day waiting period for receiving workers' compensation temporary disability payments will receive extended sick-leave benefits to cover any part of the waiting period not covered by sick leave. Payment will be made only after determination that the injury or illness is compensable under workers' compensation.

An employee who elects not to use all accrued sick leave is not eligible for extended sick-leave benefits.

3. Extended Sick Leave for Work-Incurred Injury/Illness

- Extended Sick Leave is a University of California pay benefit that allows employees to receive income continuation at 80% of salary for a maximum of 26 weeks.
- All employees who accrue sick leave are eligible to receive extended sick-leave benefits.
- An employee who is receiving temporary disability payments, and who has exhausted all accrued sick leave, shall receive extended sick-leave payments.
- Extended sick-leave payments will be the difference between the temporary disability payments from workers' compensation and 80% of basic pay, plus any shift differential the employee would have received.
- If the employee returns to work at less than his or her normal hours (reduced work schedule) at the time of injury, the employee's reduced-schedule earnings, plus any temporary disability payments, shall be supplemented to 80% by extended sick-leave payments, provided the employee continues to be medically authorized for workers' compensation temporary disability.
- Total extended sick-leave payments shall not exceed 26 weeks for any one injury or illness.

4. Effect of Laboratory Personnel Policies

a. Supplemental Leave

An employee who is receiving temporary disability payments and supplemental sick leave or vacation as described in Paragraph (D)(1), above, is considered to be on regular pay status for purposes of application of all Laboratory personnel policies except completion of the probationary period. The probationary period will be extended during periods of absence. Sick leave and vacation accrued during this period of disability may be used as soon as accrued.

b. Extended Sick Leave

An employee who is receiving temporary disability payments and extended sick-leave benefits is considered to be on regular pay status for purposes of application of all Laboratory personnel policies

except completion of the probationary period. The probationary period will be extended during periods of absence. Sick leave and vacation accrued during this period of disability are credited to the employee, however, only upon return to work. If an employee terminates without returning to work, the employee will be paid for vacation for the period during which he or she received extended sick-leave payments.

c. Leave Without Pay

An employee on leave without pay and receiving temporary disability payments accrues sick leave and vacation on the same basis as if regularly employed, but such accrual is credited to the employee only upon return to work. If an employee terminates without returning to work, no payment will be made for such vacation credit.

5. Family and Medical Leave Act (FMLA)

An employee who is receiving supplemental leave or extended sick leave as described in Sections (4)(a) and (4)(b), above, shall have that time counted against the 12 work-week entitlement to family and medical leave, provided that the employee is entitled to FMLA leave pursuant to RPM §2.13 (Family Care and Medical Leave).

6. Termination

An employee may not use vacation, sick leave, or extended sick leave to supplement temporary disability payments beyond a predetermined date of termination, or leave without pay. Any vacation credit remaining on the date of termination will be paid on a lump-sum basis.

E. ANNUAL REPORT TO DEPARTMENT OF ENERGY

The Lawrence Berkeley National Laboratory manager responsible for overseeing workers' compensation claims shall submit an annual report to the DOE Site Office Contracting Officer. This report shall include:

1. Workers' compensation costs as a percentage of the Berkeley Lab payroll.
2. A discussion comparing the Berkeley Lab's costs with those of similar institutions.
3. A discussion of claims audit activities.
4. A summary of actuarial methods used to set reserves.

A significant change to the Laboratory's workers' compensation coverage requires pre-approval by the DOE Site Office Contracting Officer.

§2.16
Group Insurance and Retirement Plans

Section deleted 4/1/08.

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§2.17
Employee Records

If you have feedback regarding an HR policy or procedure, share it with us here.

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Responsible Manager

Rev. 09/07

- **A. Policy**
- **B. Responsibility**
- **C. Personnel Records**
  - **1. Contents of Records**
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- **E. Record of Disclosures**
- **F. Civil Remedies and Penalties**
- **G. Charges for Copies of Records**
  - **1. Individuals' Own Records**
  - **2. Requests by Others**
  - **3. Subpoenaed Records**

A. POLICY

In accordance with University policy, the Laboratory establishes and maintains only those personnel records pertaining to individuals as employees of the Laboratory or as applicants for employment that are relevant and necessary to the administration of personnel programs. These records must be maintained with accuracy, relevance, timeliness, and completeness; appropriate and reasonable safeguards must be established to ensure security and confidentiality. Employees have the right to privacy, the right of access to their own records, and the

right to request changes, additions, or deletions to such records.

B. RESPONSIBILITY

The Laboratory Director will establish implementing procedures to ensure compliance with this policy. For detailed legal requirements covering all University records, see University of California Legal Requirements on Privacy of and Access to Information, Business and Finance Bulletin RMP-8 (Records Management Program series).

C. PERSONNEL RECORDS

1. Contents of Records

Individual personnel records may include the following information:

a. Employment (e.g., application for employment, tests, and letters or statements of reference)

b. Pay and benefits

c. Training and education

d. Honors and awards

e. Duties and job classification

f. Performance appraisals and related information

g. Corrective, release, and dismissal actions

h. Attendance

i. Other relevant or necessary information specified by the University President or the Laboratory Director

2. Collection of Records

All information in personnel records will be collected, to the greatest extent practical, from the individual who is the subject of the information. If the source of the information is not the subject individual, a record of the source will be indicated on the pertinent record. As determined pertinent by the Head of the Human Resources Department, an individual may add material to his or her personnel records. The individual may file a statement of disagreement with a determination of pertinency by the Head of the Human Resources Department, as indicated in Paragraph (D)(1)(d), below. Personnel records are maintained in the Laboratory Human Resources Department and other offices designated by the Laboratory Director.

3. Transfer of Records

An individual's department or division records will be transferred to the department or division to which an individual transfers, except that departmental/divisional records of attendance and time worked will be retained in the department/division where the work was performed. Performance evaluations and records of corrective action will be maintained in an individual's department or division personnel file.

4. Classification of Information in Staff Personnel Records

Information in staff personnel records is classified into the following categories:

a. **"Confidential," as defined in RMP-8, VII.B.1**. When specific criteria are met, information (including but not limited to certain information compiled for the purpose of specified kinds of investigations and certain information pertaining to the physical or psychological condition of the individual) is classified as confidential. Confidential information has the most restricted access of the three information categories and, as long as the information remains confidential, such information is not accessible even to the individual to whom it pertains, subject to certain exceptions (see Paragraph (D)(1), below, and RMP-8, VII.G.3).

b. **"Personal," as defined in RMP-8, VII.B.4**. Personal information is any information that identifies or describes an individual, except information determined to be "confidential" or "nonpersonal," as defined in RMP-8, VII, and the disclosure of which would constitute an unwarranted invasion of personal privacy. Full access to personal information is provided to the individual to whom the information pertains, but personal information is not released to members of the public unless specifically authorized by the individual in writing (see Paragraph (D)(3), below) or as otherwise required by law (see Paragraph (D)(4), below).

c. **"Nonpersonal," as defined in RMP-8, VII.B.3**. Nonpersonal information is information that could not in any reasonable way reflect or convey anything detrimental to an individual's reputation, rights, benefits, privileges, or qualifications. Nonpersonal information may be released without the consent of the individual to whom the information pertains. See Paragraph (D)(3), below.

5. Disposition on Termination

An employee's department or division records will be transferred to the Human Resources Department one year after the employee's termination. The Human Resources Department will review and file all necessary documents in the official personnel file.

D. PROTECTION OF RIGHT TO PRIVACY

An individual will have the right to inquire and be informed about whether the Laboratory maintains a record on him or her and to review the notices of personnel records systems referring to him or her that are submitted to the State Office of Information Practices. To protect an individual's right to privacy, access to staff personnel records will be made in accordance with the following provisions:

1. Access by Individual Employee

a. An individual's records will be accessible for inspection by that individual, but records protected by recognized legal privilege and records excepted from disclosure by law may be withheld from the individual. An individual will be notified in writing whenever a requested record about the individual is determined to be "confidential information," as defined in University of California Legal Requirements on Privacy and Access to Information, Business and Finance Bulletin RMP-8. An individual may request a review by the Laboratory Director of a determination that particular information is confidential and be informed in writing of the findings of such review within 30 days. This is the sole review process for a confidential determination. In disclosing information contained in a record to an individual, the University may not disclose any information relating to another individual other than that which may be released under Paragraph (D)(3), below.

b. Pre-employment references obtained with the promise or, before July 1, 1978, with the understanding that the identity of the source of information would not be disclosed, may be edited before release to the individual to protect the identity of the source as long as the source is not in a supervisory position with respect to the individual. Editing may be done by providing a comprehensive summary of the substance of the material or by providing a copy of the text with only those deletions that are necessary to protect the identity of the source.

c. As soon as practical, but no later than 60 days from the receipt of a request for records that are geographically disbursed, inactive, or in storage, and within 30 calendar days from the date of receipt of a request for other records, an individual will be provided copies of the individual's own personnel records or be notified that the requested material is withheld from access under Paragraph (E), below, or is no longer retained. No information may be modified, transferred, or destroyed to avoid complying with a request for inspection; however, pre-employment references may be edited to protect the identity of the source, under Paragraphs (D)(1)(a) or (b), above. Copies of records will be available to the individual at the location where the records are maintained or will be mailed to an address provided by the individual.

d. Requests for correction or deletion may be made by employees under RPM §2.05(D) (*Employee Complaint Resolution*), as appropriate, and under this policy. Applicants for employment may make correction or deletion requests under this policy only. Requests for correction or deletion should be made to the office where the record originated.

An individual may request correction or deletion of a record under this policy by submitting a written request to the division director or department head where the record originated and by sending a copy of the request to the Human Resources Department. Within 30 calendar days of receipt of a written request to amend a record, the division director or department head either will make the amendment as requested and so inform the individual in writing or will inform the individual of a refusal to amend the record as requested. The refusal must be in writing and state the reason for the refusal and that the individual may request the Laboratory Director to review the refusal.

Within 30 calendar days after the response of the division director or department head, the individual may request that the Laboratory Director review a refusal to correct or delete a record. The Laboratory Director must respond in writing to the individual within 30 calendar days from receipt of the request. For good cause, the Laboratory Director may extend the review period by 30 calendar days. A copy of the Laboratory Director's response will be placed in the individual's record only if the request is denied. If the Laboratory Director refuses to amend or delete the record, the individual will have the right to enter into the record a statement setting forth the reasons for the individual's disagreement.

2. Access by University Employees, Hearing Officers, or Hearing Committees

University or Laboratory employees will have access to specific information in an individual's personnel record that is necessary to the performance of their assigned duties. Subject to authorization by the Head of the Human Resources Department or by the employee, hearing officers and committees will have access to employee personnel records when necessary in the resolution of employee complaints, as provided in RPM §2.05(D) (*Employee Complaint Resolution*). However, information that is excepted from disclosure to the individual under Paragraph (D)(1), above, may not be disclosed. Any information so obtained will be treated as confidential and not be released to any other person except as necessary in the performance of the assigned University or Laboratory

duties requiring the original access.

3. Access by Public

As required by law, the following employment information will be released to members of the public on request: the individual's name, date of hire, current position title, current rate of pay, organizational unit assignment, date of separation, office address and office telephone number, current job description, full-time or part-time, and career, casual, casual-restricted, probationary, or contract status. If it is impractical to inspect or copy the record, an extract of the record of the above terms of an individual's employment relationship with the Laboratory may be provided. Additional employment information may be required to be released to the public as determined by the University General Counsel and the Senior Vice President, Administration (see RMP-8, VII.B.3).

Personnel record information that would constitute an unwarranted invasion of personal privacy of the employee may not be released to the public unless specifically authorized by the individual in writing or as otherwise required by law. Release of the following personnel information would constitute an invasion of the individual's personal privacy and accordingly may not be released to the public unless specifically authorized by the individual concerned in writing: the employee's home telephone number and home address, spouse's or other relatives' names, birthdate, social security number, citizenship, prior non-University employment, attendance records, income-tax withholding, medical records, or information such as performance evaluation, letters of commendation, or corrective action and any of the information that may be excepted from disclosure under Paragraphs (D)(1)(a) or (b), above. An individual's home address may be disclosed after the individual has had the opportunity to request nondisclosure and does not request it.

Other personnel record information may be released to members of the public as long as a determination is made that disclosure would not constitute an unwarranted invasion of personal privacy of an employee. Any question on whether release of such information might constitute an invasion of personal privacy will be referred to the University Assistant Vice President, Employee Relations.

4. Access Required by Law

Personnel information must be released under a subpoena or in other circumstances in which the University or Laboratory is required by law to release the information. Any questions concerning release of information under such circumstances or concerning records that may be subject to legal privilege will be directed to the University of California Office of General Counsel. A record of disclosure is required (see Paragraph (E), below).

5. Access by Public Authorities

Release of information to public authorities must be in conformance with Paragraph (D)(3), above, and with Guidelines for Access to University Personnel Records by Governmental Agencies, Business and Finance Bulletin RMP-9.

6. Release Under Employee Authorization

On written or oral authorization (with adequate identification) by the individual, information from his or her personnel records, other than material excepted from disclosure under Paragraphs (D)(1)(a) or (b), above, may be released. The authorization will be valid for 30 calendar days from the date of the signature of the authorization or

oral request or within a written time limit specified by the individual, whichever is later.

7. Prospective Non-University Employers

A prospective non-University employer has the same access to employee personnel records as a member of the public. Other specific record information may be released only on written or oral authorization of the employee or former employee. See Paragraph (D)(3), above.

The division director or department head may provide an oral evaluation of an individual in response to specific job-related questions by a prospective non-University employer who, in the judgment of the division director or department head, has a legitimate interest in receiving such information. Such an evaluation must be based on personal knowledge.

8. Access by Government Agencies to Confidential Personnel Records

a. In accordance with University of California guidelines for responding to requests from governmental agencies for confidential information in personnel files that the agencies desire to review in investigating allegations of discriminatory activity or conducting compliance reviews, the implementing procedures to be followed at Lawrence Berkeley National Laboratory require that all requests for information be reviewed by the Head of the Human Resources Department and that the following policies be applied:

   If a representative of an enforcement agency other than the Department of Labor requests access to material in Laboratory personnel records or Laboratory Director's Office records that includes items characterized as confidential under this section, this request must be in written form. In response to a written request, the requester should be informed as follows:

   > The University of California, Lawrence Berkeley National Laboratory is in full support of [name of agency]'s need and duty to acquire information pertinent to carrying out its functions. University personnel policies specify, however, that certain materials in personnel records are confidential documents. This designation of confidentiality is essential to the University's personnel process to secure candid evaluations of individuals under review. The University provides safeguards in the review process to assure that the confidentiality does not cloak unfairness to individuals or result in abuse.
   >
   > With respect to personnel records, University policies take into account the need to protect individual rights of privacy. Furthermore, these personnel policies provide that subject individuals may receive, on request, a comprehensive summary of the substance of the confidential documents in their files, edited to withhold disclosure of the identity of persons who have supplied evaluations of the subject individuals with the understanding that the identity of the evaluator will be held in confidence.
   >
   > In light of the above policies, the University is prepared to make available to an authorized representative of your agency on-site review of personnel files relevant to its investigation, with the understanding that the agency will maintain the confidentiality of confidential personnel records.

b. In applying University and Laboratory general policies regarding use of confidential documents in the personnel process and to balance the need to protect the confidentiality of certain records against the legitimate needs of access by governmental agencies, Laboratory employees should abide by the following guidelines in dealing with representatives of governmental agencies who have requested material from

personnel records:

i. With respect to information from a complainant's personnel record, the investigator should be invited to view the complete file on site.

ii. With respect to information from the personnel files of other individuals relevant to a complaint, the investigator should be invited to view the complete relevant file on site.

iii. With respect to compliance reviews, the investigator should be invited to view on site complete files that are relevant to the review.

iv. All requests for confidential records by outside agencies or investigators should be submitted to the Associate Laboratory Director for Operations (ALDO).

c. Copying confidential records or notes taken from records for the purpose of removal from the Laboratory must be approved by the ALDO.

E. RECORD OF DISCLOSURES

A record will be maintained and the concerned individual notified of each disclosure of information that identifies that individual and is made under subpoena or other law. See Paragraph (D)(4), above. This notification will be made before disclosure, if possible. The record should show the name, title, and business address of the person to whom the disclosure was made, the date of the disclosure, the information disclosed, and the purpose of the disclosure. A record of disclosure is not required for release under Paragraphs (D)(2), (3), and (6), above. For a complete list of circumstances requiring an accounting of disclosure and when an employee must be notified of disclosure, see University of California Business and Finance Bulletin RMP-8, VII.I.

The Laboratory will retain any records of disclosure for three years after the disclosure or until the original record is destroyed, whichever occurs first. Disclosure records will include information concerning any unresolved disputes about the accuracy of the records. See Paragraph (D)(1)(d), above. If a record is corrected within three years of disclosure and the name of a person to whom uncorrected information was disclosed is known, a notice of correction will be sent to that person.

F. CIVIL REMEDIES AND PENALTIES

Civil remedies and penalties are provided by law.

G. CHARGES FOR COPIES OF RECORDS

In accordance with the following procedures, fees may be charged for making copies or extracts of personnel record information.

1. Individuals' Own Records

There is no charge for the first copy of an individual's own records.

2. Requests by Others

Members of the public or others requesting identifiable personnel record information or extracts thereof not about themselves, which may be disclosed according to Paragraph (D)(3), above, may be charged $0.10 per extract. There is no charge for personnel costs associated with photocopying or extracting. When information cannot be readily procured from an identifiable personnel record, however, reasonable fees (as provided below) may be charged for procuring such record:

a. Clerical time used to procure data from identifiable records: $10 per hour

b. Professional time used to procure data from identifiable records: $30 per hour

c. EDP services: actual charges

d. Postage: actual charges

3. Subpoenaed Records

Subpoenaed records may be provided either in person or by mail, depending on the kind of subpoena. Charges may be made as follows:

a. When personal attendance of the custodian of records or other University witness is required by the subpoena, the University may request advance payment of one day's witness fee ($12 and mileage fee of $0.20 per mile, one way, in California).

b. When the subpoena does not require a personal appearance, copies of the records may be mailed. A reasonable amount (e.g., $0.10 per page) may be charged for copying records.

c. The charge for copying and mailing may be deducted from any witness fee received in advance, or the party asking for the records may be billed as indicated above.

§2.18
Regulations Implementing University of California Policies Applying to Campus Activities, Organizations, and Students

If you have feedback regarding an HR policy or procedure, share it with us here.

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Responsible Manager

Rev. 06/08

- **A. General**
  - **1. University of California Policies**
  - **2. Laboratory Rules and Regulations**
- **B. Time, Place, and Manner Regulations**
  - **1. Meetings**
  - **2. Posting and Exhibition of Notices and Announcements**
  - **3. Distribution of Materials**
- **C. Regulations Concerning Use of Laboratory Properties**
  - **1. Use of Laboratory Equipment, Supplies, and Services**
  - **2. Reservation of Properties for Open Meetings**
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  - **4. Request for Reconsideration**
- **D. Laboratory-Registered Associations**
  - **1. General**
  - **2. Registration Procedure**
  - **3. Use of University of California Lawrence Berkeley National Laboratory Name**
  - **4. Compliance with Laboratory and University Regulations and Procedures**
  - **5. Laboratory Employee Activities Association Support**

A. GENERAL

1. University of California Policies

Certain general policies of the University of California governing the use of University properties are set forth in University of California Policies Applying to Campus Activities, Organizations, and Students, issued by the President of the University on July 21, 1978. These policies state in general terms the rights and obligations of students, standards of conduct, requirements applying to student organizations, and regulations governing the use of University properties by students, faculty, administrative staff, and other University employees for activities within the University.

2. Laboratory Rules and Regulations

The Lawrence Berkeley National Laboratory rules and regulations that follow are consistent with the principles

contained in University of California Systemwide policies. These rules and regulations apply specifically to the Laboratory and its employees, consultants, participating guests, and visitors.

a. **Nondiscrimination**. The University is committed to a policy against legally impermissible, arbitrary, or unreasonable discriminatory practices. The Laboratory is governed by this policy of nondiscrimination. The intent of University policy on nondiscrimination is to reflect fully the spirit of the law. In carrying out this policy, the Laboratory will be sensitive to the existence of past and continuing societal discrimination.

b. **Definition of "Member of Laboratory."** For the purpose of this policy, a "member of the Laboratory" is defined as a Laboratory employee, either part or full time, or a person officially connected with the Laboratory. This includes University faculty associated with the Laboratory, scientists who are participating guests, and graduate students doing research at the Laboratory, whether paid by the Laboratory or not.

c. **Right of Free Expression and Advocacy.** Consistent with University of California Systemwide policies and Laboratory regulations, members of the Laboratory have the right of free expression and advocacy. The purpose of these Laboratory regulations is to ensure orderly conduct, noninterference with Laboratory functions and activities, identification of sponsoring groups or individuals, and reasonable protection to persons against practices that would make them involuntary audiences. As provided in these regulations, members of the Laboratory may hold meetings (including organized discussions, cultural events, and entertainment) outside normal working hours, distribute materials, and post notices.

d. **Limits of Applicability.** Certain Laboratory-related activities may occur in Laboratory facilities outside normal working hours. These include activities of the Laboratory Employee Activities Association, meetings of employee organizations, and occasional meetings of professional groups. Separate and additional Laboratory regulations govern these activities and organizations. The rules contained herein apply to these groups only insofar as their members hold meetings or conduct other activities covered by these rules.

e. **Laboratory-Registered Associations.** Groups of Laboratory members who wish to use Berkeley Lab facilities to meet outside regular working hours on a continuing basis are required to register with the Human Resources Department in accordance with RPM §2.18(C). Laboratory-registered associations include independent sponsors referred to in RPM §2.18(B)–(C).

f. **State of Emergency.** When extreme conditions exist as a result of natural disasters, civil disorders, or other such seriously disruptive events and when extraordinary measures are required to immediately avert, alleviate, or repair damage to University property, to protect the health or safety of persons on University property, or to maintain the orderly operation of the Laboratory, the Director of the Laboratory may, after consultation with the University President and, when possible, with Laboratory members, declare a state of emergency and place into effect orders appropriate to the emergency. Such measures are required by University of California Policies Applying to Campus Activities, Organizations, and Students. Consistent with the provisions of §82.00 of these University Policies (*Emergency Regulations and Procedures*), violation of such orders will result in action against the employees or visitors, as appropriate under the circumstances. The declaration of such a state of emergency may require temporary suspension of these rules and regulations.

B. TIME, PLACE, AND MANNER REGULATIONS

1. Meetings

The Laboratory has established regulations governing the scheduling and conduct of meetings that are open to all employees. Meetings or other activities that are not official Laboratory or Laboratory-related business (referred to below as "Independently Sponsored Open Meetings" or "Open Meetings") are permitted, subject to the following rules on time, place, and manner, and the provisions of RPM §2.18(C):

a. **Time of Independently Sponsored Open Meetings.** The time of open meetings is restricted to the noon hour (12 noon to 1 p.m.) and after 5 p.m., Mondays through Fridays, holidays excluded. In the scheduling of meetings, Laboratory business will have priority in the use of properties.

b. **Location and Equipment.** Open meetings may be held in the Building 50 Auditorium or, for smaller groups, in selected conference rooms and the cafeteria lower dining room at noontime. In the auditorium, the use of normally available microphone and projection equipment will be provided by the Laboratory, if requested at the time of application. Individual members of groups using the properties (including the microphone and projection equipment) will be responsible for all costs of such use over and above the Laboratory's normal operating costs. If there is any loss or damage to that property or equipment because of the group's use, members of the group may be held jointly and severally liable.

c. **Attendance and Identification at Open Meetings.** Because the intent of these regulations is primarily to provide opportunity for free discussion and exchange of views among members of the Laboratory and because the seating capacity of Laboratory properties is limited, attendance at all independently sponsored open meetings is restricted to members of the Laboratory and their guests (see RPM §2.18(C)(3)(c)), official visitors, and other persons with official business at the Laboratory, apart from the invited speakers or participants identified in the request for reservation of properties. The Laboratory reserves the right to require identification of all persons attending such meetings. Sponsoring organizations or individuals may not put further restrictions on eligibility for attendance at open meetings.

d. **Time Off to Attend Open Meetings.** Employees who take time off to attend an open meeting are subject to existing Laboratory policies concerning time off for personal reasons. Prior approval must be secured by an employee from his or her supervisor to ensure that the absence will not interfere with the work of the employee's division or department.

e. **Publicity for Open Meetings.** Announcements and other publicity for independently sponsored open meetings will be restricted to distribution within the Laboratory and in no way imply Laboratory or University sponsorship or endorsement of the meeting or of the topic or position advocated. For regulations governing posting or other distribution of announcements, see RPM §2.18(B)(2)(b).

f. **Conduct of Open Meetings.** The conduct of open meetings will be orderly and responsible, with the proper courtesy shown to speaker and members of the audience alike. To facilitate proper conduct of the meeting and to prevent interference with the functioning of the Laboratory, the chairperson of the meeting will be responsible for maintaining reasonable order and ensuring strict adherence to the time and location limitations stated above. In accordance with the traditions of the University community, audiences should be allowed to ask questions of speakers, time and format permitting. Open meetings will be conducted in

accordance with University policies that its properties may not be used for organizing or carrying out unlawful activity. Properties may be used for commercial or fund-raising activities only with prior approval of the Laboratory Director, as provided in RPM §2.18(C)(2)(d).

g. **Frequency of Open Meetings.** Laboratory properties will not be available for use by independently sponsored groups if these properties are needed for official Laboratory business. For this reason, the number of independently sponsored open meetings at noontime normally may not exceed six in any calendar month.

2. Posting and Exhibition of Notices and Announcements

a. **Posting of Materials.** The posting of noncommercial notices is permitted on bulletin boards specifically designated for this purpose and labeled "Open Bulletin Boards." Any Laboratory member may use these bulletin boards, but all posted material must bear the date of posting and the name and Laboratory address of the sponsoring Laboratory organization or responsible member of the Laboratory. These bulletin boards may be cleared once a week by an authorized person; otherwise, removal of material from an open bulletin board is prohibited. The following is a listing of designated open bulletin boards. This listing may be modified as appropriate:

- Building 2 (across from the elevator on the first floor)
- Building 26 (Health Services basement hallway)
- Building 46 (mezzanine, outside Room 150, outside Room 171)
- Building 50 (second floor, fourth floor near library)
- Building 50A (near the elevator on the fifth floor, outside Room 2129)
- Building 50B (near the elevator on the first, second, and third floors; opposite Room 2265)
- Building 54 (cafeteria lobby)
- Building 62 (first floor inside the entrance)
- Building 70A (first floor)
- Building 76 (near Room 212)
- Building 77 (lunch room)
- Building 80 (kitchen)
- Building 90 (across from Room 1099, near Room 1136, near Room 3148)
- Building 936B (hallway)
- Building 938 (second-floor kitchen)

b. **Announcements of Independently Sponsored Open Meetings.** Factual announcements of approved independently sponsored open meetings may be posted in each department or division on an area of a bulletin board set aside for such announcements. In addition, the posting of one copy of the factual announcement in each of the elevators of Buildings 50A, 50B, and 90 is permitted. Procedures concerning these announcements are described in RPM §2.18(C)(3)(c). Additional announcements or advertising must satisfy the conditions of RPM §2.18(B)(1)(e), can only be posted on the open bulletin boards, and must be prepared at no cost to the Laboratory.

3. Distribution of Materials

The general distribution of leaflets or other materials inside the Laboratory is prohibited. Distribution of handbills,

statements, and other noncommercial materials at specific times and locations is permitted as follows:

a. Immediately before or after an independently sponsored open meeting, the sponsors may have a table for the purpose of displaying informational materials relevant to the meeting set up outside the entrance to the meeting room. The table arrangement should not obstruct the flow of traffic or otherwise interfere with the functioning of the Laboratory.

b. All handbills, statements, or other materials must clearly indicate the name and Laboratory address of the responsible member of the Laboratory, Laboratory organization, or Laboratory division.

c. In the distribution of materials, efforts must be made to avoid litter. Distribution by accosting individuals, hawking, or shouting is prohibited.

d. Use of Laboratory duplicating equipment or other facilities for preparation of nonofficial handbills or other materials for distribution is prohibited.

C. REGULATIONS CONCERNING USE OF LABORATORY PROPERTIES

The following procedures and regulations govern the authorized use of Laboratory properties for open meetings. The purpose of the regulations is to ensure reasonable and fair use of Laboratory properties for free expression and advocacy and, at the same time, to prevent interference with the functioning of the Laboratory.

1. Use of Laboratory Equipment, Supplies, and Services

Except as provided in RPM §2.18(B)(1)(b), Laboratory equipment, supplies, and services (duplicating machines, telephones, mail service, vehicles, computers, stationery, and other equipment, supplies, and services) may be used only for, or in connection with, official Laboratory business.

2. Reservation of Properties for Open Meetings

a. The Laboratory properties designated in RPM §2.18(B)(1)(b) may be reserved for open meetings at the times permitted in RPM §2.18(B)(1)(a) on application by six or more members of the Laboratory, at least three of whom are Laboratory employees (including faculty with joint appointments, whether or not they are presently being paid by the Laboratory). The applicants assume responsibility for violations of Laboratory regulations that occur in connection with their use of the facilities and may not turn a reservation over to others.

b. Reservations must be made at the office of the Head of the Human Resources Department, on forms provided for that purpose. The form must show the names and signatures of at least six of the applicants and their status at the Laboratory, the nature of the event, its date and time, the property requested, the name of the chairperson, and the names and relevant identification of all persons invited to speak or participate. Except for unusual circumstances, reservations must be requested at least four, and not more than twenty, working days before the event. No reservation is complete until notice of approval is received from the Head of the Human Resources Department.

c. Lawrence Berkeley National Laboratory, as part of the University of California (a state instrumentality), must

remain neutral on religious and political matters and cannot sponsor or fund religious or political activities, except when authorized by the Regents or the President of the University or their designees. Registered religious or political organizations of Laboratory members may have access to Laboratory properties on the same basis as other registered organizations, subject to the provisions of these regulations.

d. A request to use Laboratory properties for commercial or fund-raising purposes must identify the purpose. The activity may not violate the intent of the University policies, must meet all provisions stated therein, and is subject to prior approval by the Laboratory Director.

e. A request for a reservation will normally be approved within a reasonable time (no more than two working days) after receipt of a properly executed application, subject only to the availability of the properties and the limitations on frequency of open meetings of RPM §2.18(B)(1)(g).

f. If a request for a reservation is denied for any reason other than lack of availability of facilities or frequency limitation, the denial will be in the form of a written communication to the applicants stating the reason or reasons for the denial.

g. The Head of the Human Resources Department will be responsible for administering these regulations in all aspects and for reporting violations to the rules and his or her recommendations concerning them to the Laboratory Director.

3. Posting of Notices and Distribution of Announcements of Open Meetings

a. The open bulletin boards described in RPM §2.18(B)(2)(a) will be cleared routinely once a week (on Friday afternoon).

b. Removal of notices or other material from open bulletin boards by anyone other than the designated official or the original poster is prohibited.

c. Announcements for independently sponsored open meetings will be submitted to the Head of the Human Resources Department. The text of the announcement to be distributed must bear the names of the sponsoring individuals and the name of the chairperson and must confine itself to a factual description of the meeting. The announcement will bear the words "Independently Sponsored Open Meeting, permitted under the Laboratory Time, Place and Manner Rules. Attendance limited to members of the Laboratory and authorized visitors." (In the context of these regulations, authorized visitors are individually invited immediate family, relatives, or guests of a member of the Lawrence Berkeley National Laboratory. The member assumes responsibility for their presence and conduct while on the Laboratory site. Visitors will be permitted only if adequate space is available.) The sponsors will be responsible for the distribution of these announcements and their posting on the designated areas of department or on division bulletin boards, and the sponsors are responsible for the posting and removal of announcements in the elevators. See RPM §2.18(B)(2)(b).

4. Request for Reconsideration

Applicants who are denied a reservation for the use of Laboratory properties and contend that the denial is based

on an incorrect application of these regulations may submit a written request for reconsideration to the Head of the Human Resources Department. The Head of the Human Resources Department will rule on the request in light of the right of free expression and advocacy of every member of the Laboratory as much as in the best interests of the Laboratory community as a whole. If the complaint is not resolved by the Head of the Human Resources Department to the satisfaction of all parties, an appeal may be made to the Laboratory Director.

D. LABORATORY-REGISTERED ASSOCIATIONS

1. General

Voluntary activities of groups of Laboratory employees with common interests outside regular working hours may be registered as Laboratory associations. Registration of such associations is required to facilitate regular and/or occasional arrangements for the use of Laboratory properties for meetings of such Laboratory associations. Meetings of the associations are governed by RPM §2.18(B)–(C).

Employee associations may not engage in activities that could be viewed as interfering with the rights of unions or that fall within the scope of exclusive representation. Associations may not act as advocates or represent employees in negotiations, grievances, complaints, or other disputes or issues with management involving terms and conditions of employment.

Policies relating to employee organizations (unions) are found in RPM §2.19 (*Rules and Regulations on Relations with Employee Organizations*) and within the appropriate collective bargaining agreements.

2. Registration Procedure

Registration forms and information may be obtained from the Human Resources Department. Groups of Laboratory members who wish to use Laboratory properties for these types of voluntary activities must be registered and approved by the Head of the Human Resources Department. A registration card must be completed, which becomes a public record and contains:

a. The name of the association

b. A statement of the association's purpose and a copy of the constitution and bylaws or any other document that the named association acknowledges as describing the character of the association

c. The names of three Laboratory members (at least one of whom is a Laboratory employee) who are currently officers or authorized representatives of the association

d. An attestation, to be signed by the three Laboratory members named in Paragraph (D)(2)(c), above, of acceptance of responsibility for the association's compliance with Laboratory and University regulations and procedures.

3. Use of University of California Lawrence Berkeley National Laboratory Name

Laboratory-registered associations may not use the name of the University of California or the Lawrence Berkeley National Laboratory or abbreviations of either name as part of their own names without written authorization of the Associate Laboratory Director for Operations or designee. In addition, such associations may not indicate or imply

that they are acting on behalf of the University of California or the Laboratory.

4. Compliance with Laboratory and University Regulations and Procedures

The activity and meetings of Laboratory-registered associations must be in accordance with and comply with Laboratory and University regulations and procedures. These activities and meetings must not interfere with the Laboratory's fulfillment of its responsibilities to DOE, the University, or other agencies.

5. Laboratory Employee Activities Association Support

Laboratory-registered employee associations may be eligible for limited support through the Employee Activities Association. See RPM §1.15 (*Employee Activities Association*). Guidelines to request support as well as association bylaws are available through the Association Coordinator in the Human Resources Department.

§2.19
Rules and Regulations on Relations with Employee Organizations

If you have feedback regarding an HR policy or procedure, share it with us here.

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Responsible Manager

Rev. 04/98

- **A. General Principles**
- **B. Definitions**
  - **1. Managers**
  - **2. Confidential Employees**
  - **3. Supervisory Employees**
  - **4. Representative**
  - **5. Employee Organization Business**
  - **6. Work Time**
- **C. Responsibility**
- **D. Applicability**
- **E. Payroll Deductions for Employee Organizations**
  - **1. Membership Fees**
  - **2. Employee Organization Benefit Premiums**
  - **3. Management and Confidential Employees**
- **F. Regulations Governing Use of Laboratory Facilities and Access to University Employees by Employee Organizations and Their Representatives**
  - **1. Meeting Rooms**
  - **2. Bulletin Boards**
  - **3. Distribution of Material**
  - **4. Use of Laboratory Property and Supplies**
  - **5. Conducting Business with Employees at Work**
- **G. Pay Status of Representatives of Employee Organizations Who Are Laboratory Employees**
- **H. Supervisory Employees**
- **I. Meeting and Conferring**
- **J. Access to Public Records**

A. GENERAL PRINCIPLES

The following rules and regulations are intended to provide the structure for implementation of employee rights at Lawrence Berkeley National Laboratory in accordance with University of California Guidelines for Relations with Employee Organizations. These rules and regulations, and amendments of or modifications to them, are not

subject to Berkeley Lab grievance or appeal policies.

Subject to these rules and regulations, Laboratory employees have the right to form, join, and participate in the activities of employee organizations of their own choosing for the purpose of representation. Laboratory employees also have the right to refuse to join or participate in the activities of employee organizations and have the right to represent themselves individually in their employment relations with the Laboratory.

B. DEFINITIONS

1. **Managers.** Managers are individuals responsible for formulating and administering policies and programs of the Laboratory.

2. **Confidential Employees.** Confidential employees hold positions requiring access to confidential information used for meeting and conferring purposes or for processing grievances. Employees not designated as confidential employees, who assist or advise management on a temporary basis and in so doing are privy to confidential information, may be determined to be confidential employees for the period of time they are privy to information used for meeting and conferring purposes or grievance handling. Such employees will be notified of their temporary confidential status.

3. **Supervisory Employees.** Supervisory employees are defined by the Higher Education Employer-Employee Relations Act (HEERA) as "any individual, regardless of the job description or title, having authority in the interest of the employer to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline other employees, or responsibility to direct them, or to adjust their grievances, or to effectively recommend such action, if, in connection with the foregoing, the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment. . . . Employees whose duties are substantially similar to those of their subordinates shall not be considered to be supervisory employees."

4. **Representative.** In these regulations, the term "representative" is used to define any person acting in the interest of or on behalf of an employee organization, including both University and non-University personnel, unless otherwise specifically excepted.

5. **Employee Organization Business.** The term "employee organization business" is used to define all legal activities of an employee organization including, but not limited to, meetings, dues collection, soliciting, distributing, and campaigning.

6. **Work Time.** Work time is the period of time during which employees are scheduled to work, excluding lunch periods, and (for purposes of this regulation) rest periods.

C. RESPONSIBILITY

The Laboratory Director is responsible for ensuring that each managerial and confidential employee is identified as such in the Laboratory personnel system and the corporate personnel system.

D. APPLICABILITY

1. Unless specifically excepted or modified by a Memorandum of Understanding, these rules and regulations

apply to all employee organizations.

2. These regulations do not apply to employee organizations or their representatives when they are acting as representatives in individual grievances or administrative appeals under RPM §2.05(D) (*Employee Complaint Resolution*).

E. PAYROLL DEDUCTIONS FOR EMPLOYEE ORGANIZATIONS

1. **Membership Fees**

The University is required, on written authorization by the employee involved, to deduct and remit to the employee organization of the employee's choice the standard initiation fee, periodic dues, and general assessments of such organization, until an exclusive representative has been selected for the employee's unit or until notified by the employee in writing that the employee wishes to terminate the deduction.

Once an exclusive representative has been selected, deductions may be made only for the exclusive representative. Cancellation of deductions to other employee organizations will become effective with earnings for the pay period following the certification of the election results.

2. **Employee Organization Benefit Premiums**

In addition to payroll deductions for employee organizations, as mandated by HEERA, deductions are permitted for employee-organization-sponsored insured benefit premiums. Approval for the insured benefit is made by the Office of the Director, Collective Bargaining Services, University Systemwide Administration.

3. **Management and Confidential Employees**

Payroll deductions payable to an employee organization are not permitted for management or confidential employees except that temporary confidential employees may continue membership in employee organizations for the explicit purpose of maintaining existing payroll deductions for insured benefit premiums.

F. REGULATIONS GOVERNING USE OF LABORATORY FACILITIES AND ACCESS TO UNIVERSITY EMPLOYEES BY EMPLOYEE ORGANIZATIONS AND THEIR REPRESENTATIVES

1. **Meeting Rooms**

Employee organizations, including nonemployee representatives of such organizations, will be permitted the use of Laboratory rooms and spaces for meetings held outside the scheduled work time of the Laboratory employees attending, subject to availability of space and confirmation of availability by the Employee Relations Administrator.

Representatives of registered employee organizations may apply for reservations for Laboratory meeting rooms at the Human Resources Department, using forms provided for that purpose. If the use of a room normally provided with facilities for a microphone and/or projection equipment is requested and approved, the Laboratory will provide this equipment as long as it is requested at the time of application. Applications should be made at least 48 hours before an event whenever possible and may be made only in a period

three months before the date of request. Reservations, subject to availability of space, will be made in the order of receipt of applications.

Users should exercise reasonable care in the use to which the facilities are put during the time reserved and make prompt payment of all charges. The organization that has reserved the facility assumes responsibility for any violations of University of California or Laboratory regulations that occur in connection with its use. No organization other than the reserving organization may use the facility reserved.

Reasonable charges may be made for use of facilities based on identifiable cost to the Laboratory.

2. **Bulletin Boards**

Employee organization use of bulletin boards is limited to communicating information to employees and is subject to the availability of space and the Laboratory's posting regulations.

a. Open Bulletin Boards. Appropriate materials may be posted on designated open bulletin boards. A list of open bulletin boards is available, on request, from the Employee Relations Office of the Human Resources Department.

b. Department or Division Bulletin Boards. Materials may be posted by registered representatives of employee organizations on department or division bulletin boards only if arrangements are made with the appropriate department head or division director.

3. **Distribution of Material**

Employee organization representatives are permitted to distribute material and solicit membership outside the entrances to buildings and parking lots as long as adequate care is taken to prevent littering and avoid interfering with traffic flow. Freestanding racks with employee organization information also are permitted at entrances to the Laboratory; at the entrances to Buildings 50, 70, 76, 77, and 90; and, with approval of the Employee Relations Administrator, in the foyer of Building 54 (cafeteria).

4. **Use of Laboratory Property and Supplies**

Employee organizations will not be permitted the use of Laboratory mail service, telephones, copying machines, or other Laboratory equipment or supplies, except as provided in RPM §2.19(F)(1).

5. **Conducting Business with Employees at Work**

Employee organizations will be permitted to conduct business with employees at work only when the physical location is appropriate for such business, i.e., as long as there is no interruption of work and the area is not otherwise restricted for reasons of confidentiality, security, or safety, and when the employees are not on work time.

G. PAY STATUS OF REPRESENTATIVES OF EMPLOYEE ORGANIZATIONS WHO ARE LABORATORY EMPLOYEES

1. A Laboratory employee may not conduct activities relating to or attend meetings of employee organizations while on work time, except as reasonably necessary in the conduct of a grievance or administrative review

(as determined by Employee Relations or Labor Relations) or as specifically approved by the Head of the Human Resources Department.

2. Activities must not interfere with or disrupt the work of the Laboratory or violate safety or security requirements.

H. SUPERVISORY EMPLOYEES

Supervisory employees have the right to form, join, and participate in employee organizations for the purpose of representation on supervisory employer-employee relations and the right to refuse to join or participate in employee organizations. Supervisory employees may not, however, participate in the handling of grievances or meet and confer processes on behalf of nonsupervisory employees or vote on questions of ratification or rejection of memoranda of understanding reached on behalf of nonsupervisory employees.

I. MEETING AND CONFERRING

HEERA provides that certified exclusive representatives of employees of the University in an appropriate unit "shall engage in meeting and conferring with the employee organization selected as exclusive representative of an appropriate unit on all matters within the scope of representation" (Art. 4, §3570).

Arrangements for such meetings should be made through the Head of the Human Resources Department, if the unit is composed of Laboratory employees only, or through the University Director, Labor Relations, in the case of a multilocation or systemwide unit.

In the absence of a memorandum of understanding or if the memorandum of understanding does not cover the subject, a reasonable number of representatives of an exclusive representative have the right to receive reasonable periods of released or reassigned time without loss of compensation when engaged in meeting and conferring and for the processing of grievances. When a memorandum of understanding is in effect, released or reassigned time must be in accordance with the memorandum.

J. ACCESS TO PUBLIC RECORDS

To the extent required by law, copies of public records are provided to employee organizations at cost and in whatever form they exist. Requests for multilocation information should be submitted to the Director, Labor Relations, at the University of California Office of the President. Requests for Laboratory information only should be submitted to the Head of the Human Resources Department at Berkeley Lab.

§2.20
Outside Employment and Employee Business Activities

Responsible Manager

Rev. 08/06

RPM §2.20 has moved to RPM §10.02.

§2.21
Terminations

If you have feedback regarding an HR policy or procedure, share it with us here.

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Responsible Manager

Rev. 04/09

- **A. Resignations**
- **B. Reduction in Force**
  - **1. Policy**
  - **2. Layoff Units**
  - **3. Decision to Implement Reduction**
  - **4. Order of Layoff**
  - **5. Determination of Seniority**
  - **6. Notification to Employees**
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- **C. Release of Limited, Rehired Retiree, Student Assistant, and Probationary Appointees**
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- **D. Release of Employees in Term Appointments**
- **E. Medical Separation**
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  - **2. Basis for Separation**
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  - **5. Special Re-Employment Procedures**
- **F. Dismissal**
- **G. Security Terminations**
- **H. Termination by Death**
- **I. Terminal Pay**
- **J. Termination Procedure**

A. RESIGNATIONS

Employees who plan to resign from employment at the Laboratory are requested to give their supervisor two weeks' or more advance notice of their planned resignation, when possible, to enable prompt action to be taken to recruit replacements for their positions. The supervisor must immediately acknowledge in writing the employee's intention to terminate.

B. REDUCTION IN FORCE

Lawrence Berkeley National Laboratory operates principally with funds provided by the United States Department of Energy (DOE). The total level of funding and the level of funding for specific divisions of the Laboratory and specific programs within each division are determined each year, with the final determination made in Washington by action of the United States Congress, the Office of Management and Budget, and DOE. The composition of the Laboratory staff must be suitable for carrying out the advanced research and technology goals determined by the budget review process. Because the Laboratory has no final control over its funding, it is unable to guarantee long-term employment, and its rules on terminations must acknowledge the fact that the overall Laboratory budget may be reduced and/or the level of support for individual programs may be reduced in any budget year. Laboratory policy and procedures on termination of employment because of lack of work (including lack of work because of reorganization or lack of funds) are described in Paragraph (B)(1)–(8), below. The provisions of this paragraph (*Reduction in Force*) apply only to employees who hold career appointments. See RPM §§2.01(D) (*Types of Appointments*), and 2.05(A)(*Areas of Responsibility*)–(B)(*Early Problem Resolution*). See also RPM §2.07(C) (*Types of Professional Research Staff Positions*) for additional information on reduction in force for the professional research staff.

1. Policy

The policy of the Laboratory is to minimize, by anticipating and planning for reduced staff needs, the effects of layoffs and reductions in time of career employees when such layoffs or reductions in time are necessitated by lack of funds or lack of work. The Laboratory will give eligible employees preferential opportunities for reassignment or transfer before layoff, the right to be recalled to the division from which they have been laid off, and preference for re-employment in all divisions of the Laboratory.

In order to avoid a layoff, the Laboratory may reassign an employee targeted for layoff to a position for which the employee is qualified at the same or greater percentage of time and at the same or higher salary as determined by the salary range maximum. Such action will nullify the layoff.

2. Layoff Units

Layoff units are administrative entities within the Laboratory that allow the Laboratory to administer the reduction-in-force policies in the RPM and collective bargaining agreements. They provide the structure to identify individuals who will be affected by a reduction in force.

Laboratory Management has the sole authority to determine layoff units and the determination is not subject to the complaint resolution policy. Employees will be provided appropriate notice before the implementation of any changes in layoff units that affect them.

See Layoff Units List for current listing of components of each of the above.

3. Decision to Implement Reduction

Note: For the purposes of administering this policy, "layoff unit manager" is defined as the manager with the ultimate organizational responsibility for each of the layoff units (e.g., division director, department head, etc.).

Laboratory management has the sole discretion to determine the need for layoffs, the classification of employees to be laid off and the layoff unit, consistent with this policy.

When a reduction in force is required, each layoff unit manager will review the programs, departments, or areas for which he or she is responsible and determine the number of employees, classifications, and programs to be involved in the reduction. The layoff unit manager, working with the Human Resources Center and Labor and Employee Relations (LER), will take into account the objectives of the Affirmative Action Compliance Program through consultation with the Work Force Diversity Office and discussion with the Head of the Human Resources Department before initiating further action.

Employees in noncareer positions are normally the first to be reviewed when lack of funds or lack of work necessitates a decrease in staffing levels. The layoff unit manager may determine which noncareer employees are to be terminated or reduced in time and the effective date of the action.

A layoff unit manager or designee will inform employees in the specific program, department, or area of the division where lack of funding or work has been identified such that a reduction in force is necessary. He or she may also request volunteers for layoff.

4. Order of Layoff

The layoff unit manager is responsible for selection of individual employees to be released. The selection and the terms or conditions of the release are subject to prior review by the Head of the Human Resources Department, or his/her designee, and the Head of the Workforce Diversity Office. The order of layoff for career employees in the same job title/code and layoff unit will be in inverse order of seniority. A layoff unit manager may retain any employee irrespective of seniority if the employee possesses special skills, knowledge, or abilities that are not possessed by more senior employees in the same class and are necessary to perform the ongoing functions of the layoff unit. All such exceptions will be documented and require the approval of the Head of the Human Resources Department.

A layoff unit manager may, when feasible, accept volunteers for layoff in lieu of other employees. The acceptance of individual voluntary layoffs will be based on the operational needs of the division. When an employee volunteers for layoff in lieu of another employee and is subsequently selected for layoff, the employee is entitled to the full protection of the layoff policy, with the exception of recall and preferential rehire rights. He or she should be informed that eligibility for unemployment insurance benefits depends on the evaluation of the termination by the State of California Employment Development Department.

5. Determination of Seniority

For purpose of layoff, seniority will be determined on the basis of one point for each month of full-time-equivalent paid University service in any job class or title. Employment before a break in service will not be counted. A break in service is a separation of at least one scheduled working day of Laboratory/University employment. Authorized leave without pay and time on preferential rehire status do not constitute a break in service. When employees have the same number of full-time-equivalent months, the employee with the most recent hire date will be laid off first.

6. Notification to Employees

The layoff unit manager is responsible for ensuring that employees are notified of their layoff in accordance with the plan agreed on with the Human Resources Department. The scheduling of notifications and the conduct of the notification interviews should be handled to minimize the anxiety and disturbance of other employees. Notification will be accomplished orally and will include instructions for obtaining assistance and guidance from the Human Resources Department.

The terms of the layoff will be confirmed to the employee by a letter signed by the Head of the Human Resources Department or designee. The letter will include a statement regarding unemployment insurance, the effect of the layoff on the employee's benefits, the procedures for recall and preferential rehire, and the name of the person to contact for assistance. Written notice will be at least 30 calendar days before the effective date or, if less than 30 calendar days' written notice is given, a career employee will receive pay in lieu of notice for each additional day he or she would have been on pay status had the employee been given 30 calendar days' notice. See RPM §2.07(C) (*Types of Professional Research Staff Positions*) for notice provisions for the professional research staff.

7. Assistance to Employees

It is the layoff unit manager's responsibility to ensure that career employees who are scheduled for layoff are given primary consideration for vacancies in the layoff unit for which they are reasonably qualified.

The designated Layoff Coordinator in the Human Resources Department is responsible for assisting employees who have received a reduction in force notice or who have been terminated as a result of a reduction in force (during the period of recall and preference for re-employment eligibility). This assistance includes, but is not limited to:

- Reviewing with the employee the terms of the planned release and explaining recall and preference for rehire.
- Referring the employee to the Benefits Office, Employee Assistance Program, and other Laboratory services and outside agencies as appropriate or requested.
- Referring the employee to the agency providing outplacement services.
- Coordination with the appropriate Human Resources Center Manager regarding any employee requests to be considered for preference for rehire.
- Providing assistance in preparing a résumé and other job-hunting skills.

In addition, the Layoff Coordinator is responsible for maintaining the recall and preference roster and other records, as noted in Paragraph (9)(e), below.

8. Continuation of Benefits During Layoff

An employee on layoff status may continue in certain group insurance programs, if previously enrolled, for the length of time provided by the University's contract with the insurance carrier, subject to the payment of full premiums. Retirement system regulations determine the effect of the layoff on retirement benefits. The employee should contact the Laboratory's Benefits Office regarding eligibility for continuation of benefits.

9. Re-Employment from Layoff

a. **Right to Recall to Layoff Division**

i. Only career employees who have passed probation and who did not volunteer for the layoff are eligible

for recall.

ii. An employee has the right to recall for three years from the date of layoff.

iii. An employee who is separated or whose time is reduced because of layoff will be recalled in order of seniority into any active and vacant career position for which the employee is qualified when the position is in the same class and layoff unit and at the same or lesser percentage of time as the position held by the employee at the time of layoff.

A layoff unit manager may reject an employee for recall only if the employee lacks qualifications required for the position. Reasons for rejection will be provided by the layoff unit manager, in writing, to the Head of the Human Resources Department for review and approval.

An employee who is recalled for a position different from the one held at the time of layoff may, on written notification, be required to serve a trial employment period of up to six months on rehire. An employee who is required to serve a trial employment period may, at any time during the trial employment period, return to layoff status at the employee's or the layoff unit manager's discretion. Time spent in trial employment will not count against the period of eligibility for recall or preference for rehire.

iv. Right to recall terminates if an employee:

(a) refuses an offer to return to the layoff unit division and job title/code from which he or she was laid off at the same or greater percentage of time,

(b) refuses two offers of re-employment for career positions at the same or higher salary level and the same or greater percentage of time as the position he or she held at the time of layoff,

(c) accepts a career position at the same or higher salary level and the same or greater percentage of time as the position he or she held at the time of layoff, or

(d) retires.

v. Right to recall continues during, but is not extended by, periods of temporary, non-career Laboratory employment.

vi. Right to recall is suspended if an employee does not respond to written notice of an employment opportunity or if the employee does not respond in the affirmative to periodic inquiries about continuing his/her right(s) after one year. Right to recall may be reinstated, however, on written request of the employee and approval of the Head of the Human Resources Department.

b. **Preference for Re-Employment**

i. Only career employees who have passed probation and who did not volunteer for the layoff are eligible

for preference for rehire rights.

ii. An employee with less than five years of seniority (see Paragraph (B)(5) above) has preference for re-employment for one year from the date of layoff. An employee with at least five but less than 10 years of seniority has preference for re-employment for two years from the date of layoff. An employee with 10 years or more of seniority has preference for re-employment for three years from the date of layoff.

iii. An employee who is separated or whose time is reduced because of layoff or who has received written notice of layoff or reduction in time within the two calendar months before the layoff date will be granted preference for re-employment or transfer to any active and vacant career position at the Laboratory for which the employee is qualified when the position is (1) at the same salary level or lower (as determined by the salary-range maximum) and (2) at the same or lesser percentage of time as the position held by the employee at the time of layoff. When written notice of layoff or reduction in time is given more than two months prior to the layoff date, the Head of Human Resources may authorize that preference for re-employment begin with the date of layoff notice.

During the two calendar months preceding the layoff date or beginning from the date of layoff notice (whichever is later), the Layoff Coordinator will give employees on preferential rehire status Laboratory-wide consideration for positions in the same job code and at the same or lesser percentage of time as the job from which the employee was laid off. In addition, during the preference eligibility period, preference will be given for any job that meets the requirements as noted in the above paragraph for which the employee requests to be considered within two weeks of the posting date of the position.

An employee who has been terminated due to indefinite layoff will be given first consideration for preference for employment to active and vacant career positions, as described above, for which he/she has applied.

A layoff unit manager may reject an employee with preference for re-employment or transfer only if the employee lacks qualifications required for the position. Reasons for rejection will be provided by the layoff unit manager in writing to the Head of the Human Resources Department for review and approval.

An employee who is reassigned at his or her request during the pre-termination preference for re-employment period or rehired under preference for re-employment may, on written notification, be required to serve a trial employment period of up to six months. An employee who is required to serve a trial employment period may at any time during the trial employment period return to layoff status at the employee's or the layoff unit manager's discretion with 30 days written notice. Time spent in trial employment will not count against the period of eligibility for recall or preferential rehire.

iv. Right to preference for re-employment terminates if an employee:

(a) refuses an offer to return to the layoff unit and job title/code from which he or she was laid off at the same or greater percentage of time,

(b) refuses two offers of re-employment for career positions at the same or higher salary level and the same or greater percentage of time as the position he or she held at the time of layoff,

(c) accepts any career position, or

(d) retires.

v. Right to preference for re-employment continues during, but is not extended by, periods of temporary Laboratory employment.

vi. Right to preference for re-employment is suspended when an employee does not respond to written notice of an employment opportunity or if the employee does not respond to periodic inquiries about continuing his/her right(s) after one year. Preference for rehire may be reinstated, however, on written request of the employee and approval of the Head of the Human Resources Department.

c. **Re-Employment at Another University Location.** If a person on recall and/or preferential rehire status desires to be considered for employment at a University of California campus or another laboratory, the Head of the Human Resources Department will provide the manager at that location with a copy of the individual's resume and a written request for consideration.

d. **Benefits on Re-Employment.** When a person is re-employed within the period of right to recall and/or preference for re-employment, the periods before and after layoff are considered as continuous service for the limited purpose of applying University policies concerning sick leave, vacation, holidays, probationary period, reduced fee enrollment, seniority points for layoff, military leave, and merit salary increases. All prior sick leave credit will be reinstated during the period of eligibility up to a period of three years. Benefits and credits for service, including those relating to retirement systems, do not accrue for periods on recall and/or preferential rehire status. The employee should contact the Benefits Office/Department immediately upon re-employment for assistance.

e. **Records and Reports.** The Human Resources Department Layoff Coordinator will maintain a current roster of all persons on recall and preferential rehire status and will record all referrals, offers of employment, rejections of persons by layoff unit managers and refusals of employment offers by individuals on the preferential rehire list.

C. RELEASE OF LIMITED, REHIRED RETIREE, STUDENT ASSISTANT, AND PROBATIONARY APPOINTEES

1. General

Employees serving a probationary period or holding limited, rehired retiree, or student assistant appointments may be released at any time at the discretion of the Laboratory. The employee shall be notified of the release in writing.

2. Automatic Termination

An employee holding a limited, rehired retiree, or student assistant appointment is automatically terminated as of the last day of the appointment unless there is an earlier separation or formal extension of the appointment in writing.

D. RELEASE OF EMPLOYEES IN TERM APPOINTMENTS

1. Employees in term appointments are automatically terminated as of the last day of their appointment unless there is a written notice of extension of the appointment.
2. Employees in term appointments may be terminated before the end of their appointment for disciplinary reasons or substandard performance of which the employee has been advised as provided in RPM §2.05(C) *(Corrective Action and Dismissal)*. The appointment may also be terminated early for lack of funds, lack of work, or changes in operational/business needs in which case, whenever possible, an employee should be given at least 30 days' advance written notice that his/her appointment will be terminated.

3. For information regarding release of employees in scientific term appointments (including postdoctoral fellows), see RPM §2.07 *(Professional Research Staff)*.

E. MEDICAL SEPARATION

1. Policy

Employees who are unable to satisfactorily perform the essential, assigned functions of their positions due to a disability or medical condition may be separated from employment. Prior to medical separation, the Laboratory will engage in the interactive process. See RPM §2.01(D) (*Reasonable Accommodation*). A non-probationary career employee separated under this policy is eligible for special re-employment procedures. See RPM §2.01(E)(3)(a) (*Recruitment*).

This policy is applicable to the following employee classifications: career, term, or faculty. This policy is not applicable to the following employee classifications: limited, rehired retiree, visiting researcher, graduate student research assistant (GSRA), or student assistant.

2. Basis for Separation

a. A medical separation will be based on: (i) a written statement by the employee's supervisor describing the essential functions the employee is unable to perform, and (ii) a written review by a vocational rehabilitation counselor, or appropriate representative, determining that no reasonable accommodation exists without causing undue hardship.

b. A medical separation may also be based on: (i) the employee's receipt or approval of disability payments from a retirement system to which the University contributes and (ii) a written review by a vocational rehabilitation counselor, or appropriate representative, determining that no reasonable accommodation exists without causing undue hardship.

c. An employee will not be separated under this policy while on sick leave or extended sick leave (see RPM

§2.15 (*Workers' Compensation Insurance*)). However, an employee may be separated for medical or other reasons if the date of separation was set before the commencement of sick leave or extended sick leave, and if the employee is afforded all rights provided by the employee's retirement system.

3. Medical Documentation

Proof of the employee's disability or medical condition is required and is subject to verification by a Laboratory-appointed licensed healthcare provider. The Laboratory shall pay the costs of any medical examinations requested or required by the Laboratory.

4. Notices

a. **Notice of Intent.** An employee will be given advance written notice of intent to separate the employee. The notice will:

   i. State the reason for the medical separation and the proposed effective date.

   ii. Include copies of the supervisor's statement and any other pertinent material considered. (Upon request of the employee, documentation related to the interactive process will be included.)

   iii. State that the employee has the right to respond orally or in writing within eight calendar days regarding the separation.

   iv. Specify to whom the response must be made.

b. **Notice of Separation.** After the employee's response or eight calendar days have passed, the employee shall be notified of the decision. If it has been determined that separation is appropriate, the employee shall be given advance written notice of the separation date and notice of the right to appeal.

c. **Effective Date.** The effective date of separation will be at least 10 calendar days from the date of issuance of notice of separation or 18 calendar days from the date of issuance of the notice of intent to separate, whichever is later.

5. Special Re-Employment Procedures

a. **Re-Employment.** For a period of one year following the date of a medical separation, a former non-probationary career employee may be selected for a position without the requirement that the position be publicized. See RPM §2.01(E)(3)(a) (*Recruitment*). However, if the former employee receives disability benefits from a retirement system to which the University contributes, the period will be three years from the date on which the benefits commenced.

b. **Service Credit on Re-Employment.** If an employee is reappointed or re-employed within the allowed period, a break in service does not occur.

F. DISMISSAL

See RPM 2.05(C) (*Corrective Action and Dismissal*).

G. SECURITY TERMINATIONS

Employees who are terminated for security reasons at the request of DOE may be given, with the approval of DOE, payment for up to 20 working days in lieu of advance written notice of such termination.

H. TERMINATION BY DEATH

The date of an employee's death is also the effective date of termination from Laboratory service. Payment of salary or wages and vacation credit due a deceased employee is made to the employee's estate or the heirs-at-law, in accordance with California state law. Determination of whether to pay the amount due to the estate or the heir(s) is based on the nature and value of the estate and the amount due. When the amount due is less than $3,000, direct payment to the heir(s) is often permissible. Processing is handled by the Human Resources Department. See RPM §2.23(B) (*University Death Benefits for Employees*) for other information pertaining to an employee's death.

I. TERMINAL PAY

Terminal pay for employees includes payment for salary and wages due for work performed through the effective time and date of termination and payment for vacation credit, up to the maximum possible credit for the employee's job classification and length of service.

J. TERMINATION PROCEDURE

Termination procedures and forms may be found on the Human Resources Forms Web page.

§2.22
Severance Payments

Moved 12/08

Section moved to 2.06(C)4)

§2.23
Miscellaneous

If you have feedback regarding an HR policy or procedure, share it with us here.

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Responsible Manager

Revised 07/09

- **A. Reporting an Employee's Death**
- **B. University Death Benefits for Employees (moved to §2.06(C)4))**
- **C. Substance Abuse in Workplace**
  - **1. Laboratory Policy**
  - **2. Special Requirements for Employees Engaged on Federal Contracts and Grants**
  - **3. Definitions**
  - **4. Department of Transportation (DOT) Rule**
- **D. Flexible Work Options (moved to §2.06(D)4))**
  - **1. General**
  - **2. Flex Time**
  - **3. Telecommuting**
- **E. Employee Rest Periods (moved to §2.06(D)(2)(b)(ii))**
- **F. Conflicts of Interest (moved to §10.03)**
  - **1. Self-Disqualification**
  - **2. Designated official Positions**
- **G. Acceptance of Gifts or Favors (moved to §10.12)**
- **H. Contacts with State and Federal Officials (moved to §10.13)**
- **I. Privileged Information (moved to §10.14)**
  - **1. Unpublished Information Relating to Technological and Scientific Developments**
  - **2. Medical, Personnel, Patent, Salary, or Security Clearance Records of Individuals**
  - **3. Anticipated Materials Requirements or Pricing Actions; Knowledge of Selected Contractors or Subcontractors before Official Announcements**
  - **4. Possible New Sites for University of California or DOE Program Operations**
- **J. Nonsmoking Policy**
  - **1. Policy**
  - **2. Further Information**

A. REPORTING AN EMPLOYEE'S DEATH

All supervisors are requested to notify the Human Resources Department (Foreign Visitors Unit for foreign nationals) immediately of the death of an employee. This notification will ensure the initiation of benefit payments and other possible assistance to eligible dependents or a designated beneficiary.

B. UNIVERSITY DEATH BENEFITS FOR EMPLOYEES

Paragraph (B) moved to §2.06(C)4).

C. SUBSTANCE ABUSE IN WORKPLACE

1. Laboratory Policy

The University of California and the Laboratory recognize dependency on alcohol and other drugs as a treatable condition and offer programs and services for Laboratory employees, including University of California student employees, with substance dependency problems. Employees (including student employees) and students are encouraged to seek assistance, as appropriate, from employee support programs, health centers, and counseling or psychological services available through the Laboratory's Employee Assistance Program, which is provided by the University of California Health Center (the Tang Center) on the Berkeley campus. Information obtained regarding an employee or student during participation in such programs or services will be treated as confidential, in accordance with federal and state laws.

The Laboratory strives to maintain a work site free from the illegal use, possession, or distribution of alcohol or of controlled substances as defined in Schedules I–V of the Controlled Substances Act (21 United States Code §812) and 21 Code of Federal Regulations 1308. Unlawful manufacture, distribution, dispensing, possession, use, or sale of alcohol or of controlled substances by employees in the workplace, on Laboratory premises, at official Laboratory functions, or on Laboratory business is prohibited. Unauthorized possession, use, consumption, or being under the influence of alcohol on Laboratory premises is prohibited. In addition, employees may not use illegal substances or abuse legal substances, including alcohol, in a manner that impairs work performance, scholarly activities, or student life.

The Laboratory strongly supports and is committed to making a good-faith effort to maintain a workplace free of substance abuse through implementation of 10 Code of Federal Regulations 707.5(a)(1)–(5) (Workplace Substance Abuse Programs at Department of Energy Sites). Use, possession, sale, distribution, or manufacture of illegal drugs at sites owned or controlled by DOE is prohibited.

Employees found to be in violation of this policy, including student employees if circumstances warrant, may be subject to corrective action (up to and including dismissal) under applicable Laboratory policies and labor contracts or may be required, at the discretion of the Laboratory, to participate satisfactorily in an Employee Support Program.

2. Special Requirements for Employees Engaged on Federal Contracts and Grants

The Federal Drug-Free Workplace Act of 1988 (Public Law 100-690, Title V, Subtitle D) and the State Drug-Free Workplace Act of 1990 require that University employees directly engaged in the performance of work on a federal or state contract or grant must abide by this policy as a condition of employment.

Employees working on federal contracts and grants must provide written notification to the Laboratory through their immediate supervisor within five calendar days if they are convicted of any criminal drug statute violation occurring in the workplace or while on Laboratory business. This requirement also applies to all indirect charge employees (i.e., an employee who performs support or overhead functions related to the federal contract or grant and for which the federal government pays its share of expenses) unless the employee's impact or involvement is

insignificant to the performance of the contract or grant. The Laboratory is required to notify the federal contracting or granting agency within 10 calendar days after receiving notice of such conviction and to take appropriate corrective action or to require the employee to participate satisfactorily in available counseling, treatment, and approved substance-abuse assistance or rehabilitation programs within 30 calendar days after receiving notice of such conviction.

Questions regarding Laboratory policy on substance abuse in the workplace may be directed to the Labor/Employee Relations Office or the Employee Assistance Coordinator. See RPM §2.05(G) (*Employee Assistance Program*).

3. Definitions

a. **Employees.** In the context of the University Policy, "employees" refers to all Laboratory employees.

b. **Students.** In the context of the University Policy, "students" refers to students of University of California campuses. For the Laboratory, student employees are covered by Laboratory employee policies.

c. **Employee Support Programs.** For the Laboratory, this refers to the Employee Assistance Program and the Vocational Rehabilitation Program. Student employees of University of California campuses (GSRAs and student assistants) have student counseling and health services available at their campus. Employees are encouraged to self-refer for substance abuse problems and to seek confidential assistance from the Employee Assistance Counselor.

d. **Special Requirements for Employees Engaged on Federal Contracts and Grants.** This section of the University Policy applies to all Laboratory employees. Laboratory employees who are convicted of any drug statute violation occurring in the workplace or while on Laboratory business must notify their immediate supervisor and the Office of Employee Relations within five calendar days of the conviction.

e. **Conviction.** A conviction is a finding of guilt (including a plea of *nolo contendere*) or imposition of sentence, or both, by any judicial body charged with responsibility to determine violations of any criminal drug statutes.

4. Department of Transportation (DOT) Rule

The Laboratory endorses the Department of Transportation's (DOT) antidrug policy and regulations. A drug and alcohol testing program is an integral part of this policy for classifications covered by the DOT rule. Compliance with this policy and the DOT rule is a condition of continued employment. Noncompliance may result in disciplinary action up to and including suspension or dismissal.

The Laboratory's policies and procedures to implement the DOT drug and alcohol testing program have been balanced with a recognition of employees' legal rights, the preservation of employees' reasonable expectation of privacy, and a commitment to assuring due process.

The DOT rule covers employees and contract labor personnel whose Laboratory job duties are such that federal regulations require them to hold a Commercial Driver's License (CDL) in order to drive a commercial motor vehicle (CMV) on public highways, and who, during the course of the workday, operate or are expected to be ready to operate a vehicle with a gross combination or gross vehicle weight of at least 26,001 pounds inclusive of a towed unit with a gross vehicle rating of more than 10,000 pounds; a vehicle originally or currently designed to transport

16 or more passengers including the driver; or a vehicle of any size used to transport hazardous materials found in the Hazardous Materials Transportation Act and that require the motor vehicle to be placarded under the Hazardous Materials Regulations.

Employees and contract labor personnel covered by the DOT rule are subject to the following drug and alcohol tests:

- Pre-employment
- Post-accident
- Reasonable suspicion
- Random
- Return to duty and follow-up

The text of the full policy and implementation guidelines for the DOT rule is distributed to covered employees and contract labor personnel and is available in the Human Resources Department.

D. FLEXIBLE WORK OPTIONS

Paragraph (D) moved to §2.06(D)4).

E. EMPLOYEE REST PERIODS

Paragraph (E) moved to §2.06(D)(2)(b)(ii).

F. CONFLICTS OF INTEREST

Moved to RPM §10.03.

G. ACCEPTANCE OF GIFTS OR FAVORS

Moved to RPM §10.12.

H. CONTACTS WITH STATE AND FEDERAL OFFICIALS

Moved to RPM §10.13.

I. PRIVILEGED INFORMATION

Moved to RPM §10.14.

J. NONSMOKING POLICY

1. Policy

It is the Laboratory's objective to create and maintain an environment as close to smoke-free as practicably possible. In addition, the Laboratory is located in an environment that poses severe hazards from wildland fires and is obliged to ensure that outdoor smoking is restricted to safe areas.

This policy applies to all employees, contractors, guests, and visitors. Accordingly, the Laboratory, in keeping with these obligations and in compliance with state law, has determined that smoking is not permitted:

- In any Laboratory building
- In any Laboratory vehicle
- Within 20 feet of entrances and exits, operable windows, and air intakes
- On decks or stairs
- In areas with vegetation
- In any area posted as "No Smoking"

Smoking is permitted only in outdoor areas that are paved with asphalt, brick, or concrete.

All individuals are responsible for ensuring:

- That their smoke does not enter buildings.
- The safe disposal of their smoking materials.

If the preferences of smokers and nonsmokers conflict, the preference of nonsmokers will prevail.

Violations of this policy should be reported to a supervisor, who, if necessary, will consult with Labor/Employee Relations before taking action in accordance with appropriate personnel policies or labor agreements.

2. Further Information

Instructions on how to obtain outdoor ash cans, request an EH&S review of smoking areas, and other information relating to this policy will soon be appearing in the Environment, Health, and Safety Manual (LBNL/PUB 3000).

§2.24
Consultants to Lawrence Berkeley National Laboratory

Responsible Manager

Moved 04/07

RPM §2.24 ***(Consultants to Lawrence Berkeley National Laboratory)*** has been moved. See RPM §11.04.

§2.25
Honoraria and Stipends for Laboratory Guests

Responsible Manager

Moved 04/07

Note: Laboratory guidelines for honoraria and stipends are now located in the *Financial Policy and Procedures Manual*, on the Office of the Chief Financial Officer Web site.

For *Honoraria*, go here.

For *Non-Employee Stipends*, go here.

§2.26
Voluntary Leave Donation

If you have feedback regarding an HR policy or procedure, share it with us here.

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Responsible Manager

Rev. 02/10

- **A. Purpose**
- **B. Applicability**
- **C. Definitions**
  - **1. Catastrophic Illness or Injury**
  - **2. Catastrophic Casualty Loss**
  - **3. Catastrophic Bereavement Loss**
  - **4. Exceptions**
- **D. Provisions of Leave**
  - **1. Applicable Situations**
  - **2. Receiving-Employee Conditions**
  - **3. Donating-Employee Conditions**
  - **4. Donations**
  - **5. Minimum Donation**
  - **6. Maximum Credit**
  - **7. Misuse of Leave**
- **E. Tax Consequences**
- **F. Program Details**

A. Purpose

This policy enables employees to donate vacation time on an hour-for-hour basis, regardless of differing pay scales, to another employee:

- who has exhausted sick and vacation leave due to a catastrophic illness or injury affecting the employee or an eligible person, as defined below; or
- who has experienced a catastrophic casualty loss; or
- who has a catastrophic bereavement loss; and
- is on an approved Family and Medical Leave, Personal, or Bereavement leave of absence.

Participation is entirely voluntary and applies only to the donation of vacation credit. Once given, the vacation-credit donation is irrevocable. Donations are anonymous unless the donor chooses to self-identify. This policy is not subject to the complaint resolution procedure policy. See RPM §2.05(D) (Employee Complaint Resolution).

B. Applicability

This policy is applicable to the following employee classifications: career, term, postdoctoral fellow.

This policy is not applicable to the following employee classifications: faculty, limited, visiting researcher, rehired retiree, graduate student assistant researcher, and student assistant.

C. Definitions

1. Catastrophic Illness or Injury. A serious life-threatening illness, injury, impairment, or physical or mental condition that:

a. is expected to incapacitate the employee or the employee's family member; and

b. causes a loss of income due to the employee having exhausted all paid leave accruals; and

c. creates absence(s) which are not currently eligible to receive payment of temporary disability benefits from either Worker's Compensation or the disability insurance benefits; and

d. is projected to cause a minimum of 30 days' absence in a calendar year, and involves:

   i. A period of illness or injury or treatment connected with inpatient care (e.g., an overnight stay) in a hospital, hospice, or residential medical care facility; or

   ii. A period of illness or injury requiring absence of more than seven calendar days from work, and that also involves continuing treatment by (or under the supervision of) a licensed health care provider; or

   iii. A period of illness or injury (or treatment) due to a chronic serious health condition (e.g., asthma, diabetes, epilepsy, etc.); or

   iv. A period of illness or injury that is long-term due to a condition for which treatment may be ineffective (e.g., stroke, terminal disease); or

   v. An absence to receive multiple treatments (including any period of recovery from the treatments) either for restorative surgery after an accident or other injury, or for a chronic condition, (e.g., cancer or kidney disease).

2. Catastrophic Casualty Loss. A serious financial loss is suffered by an employee due to a terrorist attack, fire, or other natural disaster, including severe damage or destruction of the employee's primary residence, regardless if it has been declared a major disaster or emergency by the President of the United States.

3. Catastrophic Bereavement Loss. The employee has exhausted his/her sick and vacation leave and has not exhausted his/her bereavement leave entitlement. See RPM §2.09(D)(6) (Use of Sick Leave for Death in Family).

4. Exceptions. Exceptions to policy are requests that are either greater than what is allowed under current policy or not expressly provided for under any policy. Any request that is not expressly addressed by current policy must be treated as an exception.

D. Provisions of Leave

1. Applicable Situations

The receiving employee's absence from work must be due to:

a. the employee's own catastrophic illness or injury; or

b. the catastrophic illness or injury of the employee's spouse, domestic partner, parent, child, sibling, grandparent, or grandchild (or in-law or step-relative in one of these relationships); or

c. the catastrophic illness or injury of any other person residing in the employee's household for whom there is a personal obligation; or

d. the employee's need to manage their personal affairs due to a catastrophic casualty loss; or

e. The employee's need for bereavement leave due to a catastrophic bereavement loss.

The catastrophic illness or injury must be verified. In addition, verification of a family member or other eligible person will be required in accordance with University and Laboratory policy.

2. Receiving-Employee Conditions

The receiving employee must:

a. be in good standing. Employees in good standing are not currently on a performance improvement plan (PIP), counseling memo, corrective, or disciplinary action. See RPM §2.05(C) (Corrective Action and Dismissal). Exceptions may be approved by the Chief Human Resources Officer (CHRO).

b. be in a position that accrues vacation leave; and

c. have exhausted all sick and vacation leave, even when doing so results in exceeding the 30-day limit imposed on the use of sick leave for family illness; and

d. not currently be eligible for workers' compensation benefits and disability benefits (when applicable); and

e. be on an approved leave of absence.

3. Donating-Employee Conditions

A donating employee must:

a. be in a position that accrues vacation leave; and

b. have sufficient vacation leave to cover the donation (leave may not be donated prior to its accrual).

4. Donation

The donating-employee may donate any available amount of vacation credit but is encouraged not to deplete

his/her own vacation accrual below 40 hours.

5. Minimum Donation

The minimum donation of vacation leave under this policy is 8 hours. Donations above this amount must be made in four-hour increments.

6. Maximum Credit

A receiving-employee will not be credited with vacation credits that exceed the number of hours needed to ensure continuance of the employee's regular salary during the period of the approved catastrophic leave.

7. Misuse of Leave

Misrepresenting reasons for requesting time off, or misrepresenting reasons in applying for a leave of absence, may result in disciplinary action, including suspension without pay and/or termination from employment.

An employee on a leave of absence may not utilize leave on an intermittent basis for purposes of eligibility for holiday pay and employer-paid contributions towards benefits.

Individuals on approved leaves of absence for which a medical certification is required may jeopardize their right to leave and/or their continued employment by engaging in activities that are incompatible with the medical certification submitted in support of the leave.

E. Tax Consequences

The employee receiving the donation will be responsible for any applicable taxes on the earnings. An employee who donates leave to other employees may be subject to tax liability. Donating employees should check with their tax advisors prior to making any donations.

F. Program Details

For more information regarding the Laboratory's Voluntary Leave policy, see https://www.lbl.gov/Workplace/HumanResources/html/Employee-Actions/Leaves/catastrophic.html.

§2.27
Upper Laboratory Management

If you have feedback regarding an HR policy or procedure, share it with us here.

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Responsible Manager

Rev. 03/09

- **A. UC-Managed DOE National Laboratories Policy on At-Will Upper Management Personnel**
  - **1. General**
  - **2. Notice**
  - **3. Termination Assistance**
  - **4. Severance Pay**
  - **5. Resolution of Concerns**
  - **6. Authority**
- **B. UC-Managed DOE National Laboratories Resolution of Concerns for At-Will Upper Management Personnel**
  - **1. General**
  - **2. Applicability of Other Laboratory Policies**

A. UC-Managed DOE National Laboratories Policy on At-Will Upper Management Personnel

1. General

Laboratory managers in positions that have been designated as Upper Management serve at the discretion of the Laboratory Director.**[1]** Personnel so designated will be informed in writing of this classification. Employees in these positions may be terminated from their appointment, up to and including termination from employment, at any time with or without cause or notice. The at-will status of employees appointed to these positions cannot be altered except by amendment of this policy.

Additional employment policies for positions included in the University Senior Management Group may be found in Senior Management (SMG) Human Resources Policies.

Positions designated as Upper Laboratory Management are found on the Lawrence Berkeley National Laboratory Management Positions list.

2. Notice

An employee who is terminated from employment under this policy may receive, at the sole discretion of the Laboratory Director,**[1]** up to 60 calendar days' advance written notice of termination or pay in lieu thereof.

3. Termination Assistance

An employee whose employment is to be terminated under this policy may receive, at the sole discretion of the Laboratory Director,[1] assistance that may include one or more of the following:

a. Assignment to another position, if such a position is available, the employee is qualified to perform the work, and the new assignment is in the University's best interests.

In the event of such a reassignment, the employee's salary may not exceed the maximum of the salary range for the new position unless an exception to this policy is requested by the Laboratory Director and approved by the Associate Vice President—Human Resources and Benefits, Office of the President. When required by DOE Contracts or UC policy, approval of the salary must also be obtained from the DOE/Office of Science, DOE/NNSA, and/or The Regents.

If the new position has no established salary range or salary range maximum, the employee's new compensation rate will be established based on an analysis supervised by the Laboratory's Human Resources Director of the proposed job duties and responsibilities. The new salary may not exceed that of the highest-paid employee performing a similar mix of responsibilities, unless an exception to this policy is requested by the Laboratory Director and approved by the Associate Vice President—Human Resources and Benefits, Office of the President.

b. Career counseling or outplacement services.

c. Reasonable time off with pay to interview for other jobs.

4. Severance Pay

Except in the case of termination for misconduct, an employee whose employment is to be terminated under this policy, and who is not reassigned to another position pursuant to Paragraph (A)(3)(a), will receive a severance payment equal to four months' salary.

a. In the event that the University's contract to manage a DOE Laboratory expires or is terminated, an employee who is offered employment with a successor contractor shall not be eligible for severance pay under this policy, if, in the University's judgment, the salary offered is comparable. Since continuing employment is being offered, the employee will be considered to have voluntarily terminated whether or not he/she decides to accept the position with the successor contractor.

b. Repayment: An employee who has received severance pay under this policy and who returns to work in a career position with the University or a successor contractor at the same or higher salary and at the same percentage of time as of the date of termination shall repay to the University any portion of severance pay received that is in excess of the time the employee was separated from the University.

5. Resolution of Concerns

Concerns about conditions and actions affecting an appointee's employment pursuant to this policy may be addressed under the Resolution of Concerns for At-Will Upper Management Personnel policy, below.

6. Authority

The Laboratory Director retains authority to terminate the appointment, up to and including termination from employment, of an employee covered by this policy.[1] Any exceptions to the provisions of this policy must be approved by the President.

B. UC-Managed DOE National Laboratories Resolution of Concerns for At-Will Upper Management Personnel

1. General

Appointees covered by the Policy on At-Will Upper Management Personnel serve at the pleasure of the Laboratory Director.[2] Concerns about conditions and actions affecting an appointee's employment are expected to be discussed with the individual's immediate supervisor. If the concerns cannot be resolved through such discussions, those concerns may be submitted in writing to the Laboratory Director or, as appropriate, to the President, Vice President—Laboratory Management, Regents Officer, or designee for review. The Laboratory Director, President, Vice President—Laboratory Management, Regents Officer, or designee shall take such action as deemed appropriate.

2. Applicability of Other Laboratory Policies

Each Laboratory's local human resources policies indicate whether or not other Laboratory polices, including but not limited to, policies and procedures relating to complaints of discrimination of the basis of a protected category (for example, race or whistleblower status), sexual harassment, or other complaints procedures or policies are applicable to Upper Management positions. However, neither those policies, procedures or practices, nor any other written or verbal communication is intended to create a contract or policy of employment that in any way alters or modifies the terms of the Policy on At-Will Upper Management Personnel. (See (RPM 2.01(F)(3) (*Laboratory Management*)).

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Notes:

[1] When an Upper Management position is the joint appointment of a laboratory and a systemwide (University or Regents) officer, termination shall be subject to the concurrence of such officer. When appropriate, the Laboratory Director will coordinate with the Vice President—Laboratory Management.

[2] When an Upper Management position is the joint appointment of a laboratory and a systemwide (University or Regents) officer, appointees serve at the pleasure of both officers. Concerns raised under this policy should be addressed to both appointment authorities.

§2.28
Postdoctoral Fellows

Responsible Manager

If you have feedback regarding an HR policy or procedure, share it with us here.

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New 05/09

- Preamble
- A. Policy
- B. Definition
- C. Titles
  - 1. Employee Titles
    - a. Postdoctoral Fellow
    - b. Special Postdoctoral Fellow
    - c. Interim Postdoctoral Fellow
  - 2. Guest Titles
    - a. Guest Postdoctoral Fellow
    - b. Guest Postdoctoral Fellow—Stipend
    - c. Guest Postdoctoral Fellow—Paid Direct
- D. Qualifications
- E. Recruitment
- F. Appointment Criteria
- G. Terms of Service
- H. Appointment Percentage
- I. Salary and Stipend
  - 1. Scale
  - 2. Criteria
- J. Coaching and Mentoring / Annual Reviews
- K. Leaves
  - 1. Vacation
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  - 3. Medical Leave
  - 4. Military Leave
  - 5. Jury Leave
- L. Holidays
- M. Benefits Plan
- N. Expiration/Termination of Appointment
- O. Promotion

PREAMBLE

At Lawrence Berkeley National Laboratory, the postdoctoral experience is an opportunity for further scientific training and professional development for individuals who have recently completed a doctoral degree. Postdoctoral fellows bring expertise and creativity that enrich the research environment for all members of the Laboratory community, including graduate and undergraduate students of the University of California.

A. POLICY

This policy defines and sets forth terms and conditions relating to the appointment of postdoctoral fellows. It applies to postdoctoral fellows who are employees of the Laboratory. This policy does not apply to postdoctoral fellows who are guests of the Laboratory.

B. DEFINITION

1. The postdoctoral fellow conducts research under the general oversight of a supervisor in preparation for a career position in academia, industry, government, or the nonprofit sector. Postdoctoral fellow appointments are intended to provide an opportunity to acquire further scientific professional growth and development.

2. Postdoctoral fellows train under the direction and supervision of Laboratory scientific and engineering staff (including faculty). In addition to research activities, postdoctoral fellows may be approved to engage in other scientific activities (e.g., teaching, serving on institutional committees) to broaden their professional skills.

3. Postdoctoral fellows may serve as co-principal investigators on externally funded contracts or grants. They are also permitted to serve as principal investigators on Laboratory-Directed Research and Development (LDRD) proposals. Postdoctoral fellows may be permitted to serve as principal investigators in three areas: (1) awards that are restricted to postdoctoral fellows; (2) small awards for research-related expenses; (3) or other circumstances approved by the division director.

C. TITLES

The specific title of a postdoctoral fellow is determined by the source of funds:

1. Employee Titles

   a. **Postdoctoral Fellow**

      The "postdoctoral fellow" appointment is determined when (1) the research is supported by Laboratory funds, or (2) the Laboratory is reimbursed by an external agency for the postdoctoral fellow's appointment.

   b. **Special Postdoctoral Fellow**

      The "special postdoctoral fellow" appointment is for the individual who has funding support from an external agency and the division augments the fellowship funding with additional work and compensation to reach approved Laboratory pay rate minimums.

   c. **Interim Postdoctoral Fellow**

The “interim postdoctoral fellow” appointment is for the time period between finishing doctoral degree requirements as a Laboratory Graduate Student Research Assistant (GSRA) and beginning their postdoctoral work elsewhere. There should be no break in service between the end of the GSRA appointment and the beginning of the Interim Postdoctoral Fellow appointment. Such interim appointments are made by a division director, based on the recommendation of the supervisor, and are not to exceed six months.

2. Guest Titles

The title of a guest postdoctoral fellow is determined by the source of funds. Postdoctoral fellows who have guest status at the Laboratory are not covered by this policy.

a. **Guest Postdoctoral Fellow**

The "guest postdoctoral fellow" appointment is for the postdoctoral fellow with an appointment at another institution and is participating in a scientific collaboration or participating in experiments at a Laboratory user facility. See the Guest Policy to determine whether these are visitors or participating guests.

b. **Guest Postdoctoral Fellow—Stipend**

The “guest postdoctoral fellow—stipend” appointment is for a postdoctoral fellow who has been awarded or appointed to a fellowship or traineeship for postdoctoral study by an external agency and the fellowship or traineeship is paid through a Laboratory non-payroll account.

c. **Guest Postdoctoral Fellow—Paid Direct**

The “guest postdoctoral fellow—paid direct” appointment is for the postdoctoral fellow who has been awarded a fellowship or traineeship for postdoctoral study by an external agency and the agency pays the fellowship or traineeship directly to the postdoctoral fellow rather than through the Laboratory.

D. QUALIFICATIONS

The postdoctoral fellow position requires a recent Ph.D. or its equivalent. Candidates should show strong potential for creativity and productivity in research.

E. RECRUITMENT

Recruitment as defined in RPM §2.01(C) *(Recruitment and Selection)* is encouraged for all postdoctoral fellow appointments in order to promote equal opportunity for all candidates but is not required.

F. APPOINTMENT CRITERIA

Appointment as a postdoctoral fellow requires a confirmed doctoral degree or the international equivalent.

G. TERMS OF SERVICE

1. Postdoctoral fellow appointments have fixed end dates. Initial appointments are typically made for one year but may be made for up to three years. The minimum duration of appointment is six months at full time.

2. The total duration of an individual's postdoctoral service may not exceed five years, including postdoctoral service at other institutions. Time in which the postdoctoral fellow is on an approved leave of absence without pay will not be counted in the five year limit.

3. Interim postdoctoral fellow appointments are not to exceed six months (see Paragraph (C)(1)(c)).

4. Time spent in postdoctoral fellow appointments is not counted toward the five-year maximum for career-track and project scientist positions. See RPM §2.07(C)(2)(Research Scientist/Engineer (Career-Track), (4)(Staff Scientist/Engineer (Career-Track), or (6)(Divisional Fellow (Career-Track); or RPM §2.07(C)(10)(Project Scientist).

5. It is within the Laboratory's sole discretion not to re-appoint a postdoctoral fellow.

H. APPOINTMENT PERCENTAGE

1. Appointments to the postdoctoral fellow title are full-time.

2. When a postdoctoral fellow additionally holds another University of California position, the percent time of the postdoctoral fellow appointment normally will be reduced so that the sum of the percent times of the two appointments equals 100 percent.

I. SALARY AND STIPEND

1. **Scale**

   An authorized salary scale establishing minimum and maximum pay rates for postdoctoral fellow titles is issued by the Human Resources Compensation Unit and approved by the Laboratory Deputy Director.

2. **Criteria**

   Divisions are responsible for setting pay rates.

J. COACHING AND MENTORING / ANNUAL REVIEWS

In furtherance of advancing a postdoctoral fellow's career, it is recommended that the postdoctoral fellow and the supervisor conduct an annual oral review and have ongoing conversations on career growth and development throughout the postdoctoral experience. A written summary will be provided to the postdoctoral fellow upon request.

K. LEAVES

1. **Vacation**

   Employees in postdoctoral fellow positions accrue vacation leave in accordance with RPM §2.08 (*Vacation Leave)*.

2. **Sick Leave**

Employees in postdoctoral fellow positions accrue sick leave in accordance with RPM 2.09 *(Sick Leave)*.

3. **Medical Leave**

   Employees in postdoctoral fellow positions are eligible for unpaid medical leave as provided in RPM §2.13 *(Family Care and Medical Leave)*.

4. **Military Leave**

   Employees in postdoctoral fellow appointments are eligible for military leave as provided in RPM §2.14 *(Military Leave)*.

5. **Jury Leave**

   Employee postdoctoral fellows are eligible for paid jury duty leave as provided in RPM §2.11(A)(1) *(Jury Duty)*.

L. HOLIDAYS

Employees in postdoctoral fellow appointments are eligible for holiday pay as provided in RPM §2.10 *(Holidays)*.

M. BENEFITS PLANS

Employee postdoctoral fellows are eligible for designated health and welfare benefits.

N. EXPIRATION/TERMINATION OF APPOINTMENT

1. A postdoctoral fellow appointment ends automatically at the end of three years from initial appointment or on the current expiration/termination date unless notified in advance in writing that the appointment will be renewed.

2. The employment of a postdoctoral fellow may be terminated before the end of the fellow's appointment for disciplinary reasons or substandard performance of which the fellow has been advised as provided in RPM §2.05(C). The appointment may also be terminated early for lack of funds, lack of work, or changes in operational/business needs, in which case the fellow will be given at least 90 days' advance written notice before termination.

O. PROMOTIONS

The postdoctoral fellow position is not a career-track position. There is no promotional track or expectation of advancement to any other professional research position. Waivers of recruitment of a postdoctoral fellow to another professional research position will be approved in exceptional cases and must be approved by the Laboratory Deputy Director in addition to the Chief Human Resources Officer and the Head of the Workforce Diversity Office.

§2.29
Work Deferment Policy

If you have feedback regarding an HR policy or procedure, share it with us here.

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Responsible Manager

New 8/08

- **A. General**
- **B. Policy**
- **C. Benefits and Service Credit**
- **D. Applicability of Laboratory Policies**

A. GENERAL

When a reduction in force is being considered or when there is a temporary lack of funding or a temporary lack of work, a division or department may also consider strategies such as temporary work deferment or temporary reduction in hours as alternatives to indefinite layoffs of Career Appointment employees or early release of Term Appointment employees. Such arrangements, when consistent with the needs of the division or department and the Laboratory, can retain the valuable skills of existing employees while responding to short-term critical budget or work shortage issues.

B. POLICY

A Career or Term Appointment employee (including Career-Track employee) shall be given written notice of the effective date and the ending date of a temporary work deferment or temporary reduction in time. Notice shall be provided at least 15 calendar days before the effective date or pay in lieu of notice. A temporary work deferment or temporary reduction in time shall not exceed four calendar months. Divisional Fellow, Senior Scientist/Engineer and Distinguished Scientist/Engineer positions are excluded from involuntary work deferment. This policy is not applicable to all other employee classifications: Faculty, Postdoctoral Fellows, Visiting Researchers, Limited, Rehired Retiree, Graduate Student Research Assistants (GSRAs), and Student Assistants.

An employee on a temporary work deferment or reduction in time is ineligible for the right to recall, preference for reemployment, and severance pay.

Accrued sick leave shall not be used during a temporary work deferment or temporary reduction in time.

Accrued vacation leave may be used, at the discretion of the division director or operation department head (or designee), to postpone the effective date of the temporary work deferment. Accrued vacation leave shall not be used during a temporary work deferment.

If an indefinite layoff or indefinite reduction in time for career employees should occur during a temporary work deferment or temporary reduction in time, the procedures for indefinite layoff or indefinite reduction in time shall

apply. (See RPM 2.21(B) (*Terminations/Reduction in Force*).)

Term appointment employees may be terminated early for lack of funds, lack of work, or changes in operational/business needs. If an early termination for term appointments should occur during a work deferment or reduction in time, the procedures for release of term appointment employees shall apply. (See RPM 2.21(D) (*Release of Employees in Term Appointments*).)

C. BENEFITS AND SERVICE CREDIT

1. During a temporary work deferment or temporary reduction in time, the employee's current level of health and welfare benefits will be maintained or suspended according to the regulations specified in the Temporary Layoff Benefits Checklist. This document is available at UCOP's At Your Service Web site and here.

    a. The Temporary Layoff Benefits Checklist does not apply to those employees in the Senior Management Group.

2. During a temporary work deferment, the employee will temporarily stop earning service credit. During a temporary reduction in time, the employee will temporarily earn service credit on a prorated basis.

D. APPLICABILITY OF LABORATORY POLICIES

1. While an employee is on temporary work deferment or on temporary reduction in time, all Laboratory policies, including conflict of interest policies, remain in effect and employees should continue to abide by these policies.

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Chapter 3
Pay and Time Reporting

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§3.01 Definitions (moved to "Definition of Terms in the RPM," in 12/08)

§3.02 Time Reporting (Moved to RPM §11.05)

§3.03 Overtime (Moved to RPM §2.06(B)(1), on 12/19/08)

§3.04 Special Pay Provisions (Moved to §2.06(B)(2), (B)(3), and (B)(4), in 12/08)

§3.05 Pay Periods, Computations, and Deductions (Moved to RPM §11.06)

§3.06 Paydays and Check Distribution (Moved to RPM §11.07)

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Chapter 4
Relocation

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§4.01 Relocation Policy

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§4.01
Relocation Policy

Responsible Manager

Rev. 09/09

- **A. General**
- **B. Definitions**
- **C. Resources**
- **D. Source Documents**
- **E. Guidance Documents**

A. GENERAL

1. This policy is in accordance with Federal Acquisition Regulation (FAR) 31.205-35 and Contract 31, Section J, Appendix A. Relocation reimbursement beyond the limits of this policy may be considered to be unallowable and therefore cannot be billed to the federal government as direct or indirect expenses.

2. At the discretion of Lawrence Berkeley National Laboratory (LBNL) management, LBNL may reimburse new or current employees for reasonable and actual permanent change-of-station (PCS) relocation expenses. Permanent change-of-station relocation is for a period of 12 months or longer.

    a. Permanent change-of-station relocation reimbursement may be made available to career, term, faculty, visiting researcher, postdoctoral fellow, or graduate student research assistant (GSRA) employees.

3. With the approval of the Laboratory Director, or designee, Laboratory employees may be assigned to temporary duty at other locations on a temporary change-of-station basis for a period between six months and a day, and 12 months. Payment of actual and reasonable costs associated with the temporary change of station may be made.

    a. Temporary change-of-station relocation reimbursement may be made available to career, term, faculty, visiting researcher, postdoctoral fellow, or GSRA employees.

4. The maximum dollar amount LBNL will reimburse for relocation expenses will be determined by the division director or Operations department head (or designee) and will be within specified guidelines.

5. New or transferred employees (i.e., change-of-station employees) must sign a repayment agreement which states that if the employees voluntarily terminate employment prior to completing one year of credited service from the start of employment for new hires or date of transfer for transferred staff, they must refund LBNL the full amount of their relocation reimbursements.

6. New or transferred employees (i.e., change-of-station employees) must consult with and gain pre-approval from the Relocation Office regarding their relocation expenditure plans prior to committing any relocation

expenditures.

7. Claims for reimbursement should be submitted to LBNL as soon as possible after the transactions have occurred. Relocation benefits are valid for 12 months from the employee's effective start-of-employment date or change-of-station date.

8. Written requests for exceptions to the relocation policy require advanced approval by the Chief Human Resources Officer (CHRO) and the Chief Operating Officer (COO).

B. DEFINITIONS

1. Permanent change-of-station (PCS): Permanent change-of-station relocation reimbursement may be offered to a new or current employee who accepts a permanent assignment of 12 months or longer at an LBNL work site.

2. Temporary change of station (TCS): Temporary change-of-station relocation reimbursement may be offered to an employee who accepts a temporary assignment for a period between six months and a day, and 12 months.

3. Exception to policy: Action that exceeds what is allowable under current policy or that is not expressly provided for under this policy. Any such action must be treated as an exception.

C. RESOURCES

1. Reimbursable Relocation Costs

2. Relocation Expenses Planning Worksheet

3. LBNL Travel and Change-of-Station (COS) Reimbursable Expenses

4. Point-of-Contact: Relocation Coordinator

D. SOURCE DOCUMENTS

1. Federal Acquisition Regulation (FAR) 31.205-35, Relocation Costs

2. Federal Acquisition Regulation (FAR) 31.205-46, Travel Costs

3. Contract 31, Section J, Appendix A (J)(KV)(i)(2), Dislocation Allowance

E. GUIDANCE DOCUMENTS

1. Federal Travel Regulations (FTR) 302 Relocation Allowances

2. Federal Travel Regulations (FTR) 301Temporary Duty (TDY) Travel Allowances

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Chapter 5
Public Information, Publications, and Patents

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§5.01 **Public Information and External Relations**

§5.02 **Scientific and Technical Publications**

§5.03 **Patents**

§5.04 **Printing**

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§5.06 **Proprietary Information From External Sources**

§5.07 **Disclosure of Laboratory Proprietary Information**

§5.08 Document Management and Control

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§5.01
Public Information and External Relations

Responsible Manager

Rev. 09/08

- **A. Public Information and Media Relations**
- **B. Use of Laboratory Name in Advertising**
- **C. Use of Photographs in Laboratory's Image Library Web Site**
- **D. Laboratory Tours and Visits**
  1. **General Public and Organization Tours**
  2. **University and High School Tours**
  3. **Distinguished Guests**
  4. **Employees' Guests**
  5. **Community Relations**
  6. **Contacts with State and Federal Officials**

A. PUBLIC INFORMATION AND MEDIA RELATIONS

It is the policy of Lawrence Berkeley National Laboratory that its scientific achievements and associated events and accomplishments are an important source of news for communicating the value, identity, and visibility of the Laboratory. This information is made available to the media and to internal and external audiences, including the general public, through the Communications Department (CD). Public information documents prepared for general audiences about or on behalf of the Laboratory should be developed in consultation with CD to maintain accuracy and coherence in representing the Laboratory.

Laboratory divisions and employees who identify items of potential public interest should contact CD to discuss their prospective use for news or promotional purposes. CD will propose appropriate vehicles for dissemination and prepare the information materials accordingly. CD disseminates news about the Laboratory to external audiences through press releases, the annual report, other brochures/leaflets, and the World Wide Web. Information to employees is furnished online through the Berkeley Lab News Center and Today at Berkeley Lab. A specified clearance procedure is followed for press releases to ensure accuracy and validity, including final approval by division directors and the Laboratory Director.

Laboratory contacts with outside news media should be coordinated through CD, which handles most requests for information and interviews from the media, arranges special media events (i.e., press conferences, and photographic, TV, and radio coverage), and originates or coordinates media-related contacts for Laboratory activities. CD may arrange for media representatives to interview Laboratory staff directly, in which case a communications specialist may be present or may participate.

Laboratory staff who are independently approached by reporters should advise CD before the interview. Questions regarding the appropriateness or content of an interview, or requests to set up such an interview, should be forwarded to the Head of Communications. When employees give opinions as independent professionals, they must

state clearly that they are speaking for themselves and not on behalf of the Laboratory or the University of California. Official statements to the media on behalf of the Laboratory as a whole should be developed in coordination with CD. The Head for Communications serves as the Laboratory spokesperson or coordinator for official public announcements.

Specialists from CD are also available to assist in preparation and training for news interviews, to assist with visual materials for public interest and Speakers Bureau presentations, and to review the design of general-interest publications.

B. USE OF LABORATORY NAME IN ADVERTISING

Commercial firms serving the Laboratory often request permission to use the name of the Laboratory in promoting their products through, e.g., advertisements, brochures, and motion pictures. The Laboratory follows University and Department of Energy policies and California state law, which restrict such use. All such requests should be referred to the Associate Laboratory Director for Operations.

Companies that have licensed Laboratory intellectual property such as patented inventions, software, or biological materials sometimes make similar requests. Laboratory license agreements contain specific provisions governing a licensee's use of the Laboratory name. All such requests should be referred to the Head of Technology Transfer and Intellectual Property Management.

C. USE OF PHOTOGRAPHS IN LABORATORY'S IMAGE LIBRARY WEB SITE

The photographs in the Laboratory's Image Library Web site may be downloaded for use by the news media or for educational or scientific purposes. For example, the Laboratory will provide prints or high-resolution digital versions of images to qualified publishers, such as textbook publishers. In all cases, published credit must be given to Lawrence Berkeley National Laboratory.

These images may not be used for commercial purposes, except as referenced above. The Laboratory will consider and respond to written requests for specific usage. Queries regarding prints, permission, and acceptable usage of these images should be directed to CD. An on-line request form is available.

D. LABORATORY TOURS AND VISITS

Visits on Laboratory official business are arranged by the host departments or divisions. The Reception Center must be informed of all guests.

1. General Public and Organization Tours

The Laboratory hosts unofficial visits from educational, scientific, and technical groups. These may be arranged by individual departments or divisions. The Community Relations Office also arranges visits and tours for the general public, when requested. These visits must be scheduled and conducted in such a way that they do not interrupt Laboratory work.

2. University and High School Tours

Tours by colleges, universities, and other schools are scheduled through the Center for Science and Engineering

Education and are conducted to minimize interference with Laboratory work. School groups are normally limited to junior and senior high school biology, chemistry, physics, and mathematics classes, when arranged by the teacher or another school official.

3. Distinguished Guests

Arrangements to show distinguished guests through the Laboratory are usually made by the Community Relations Office or by senior staff members. CD should be informed before the visits so it can plan for internal or external publicity, if appropriate.

4. Employees' Guests

Employees are permitted to guide small groups of relatives or friends (preferably not more than five) through the Laboratory as long as their visit will not interfere with employees' or Laboratory work. These visits should be scheduled on a weekend or holiday to minimize disturbance of Laboratory operations. It is preferable that children not be brought to the Laboratory. When this is not avoidable, however, the children must be kept with the party and under strict control.

5. Community Relations

a. **Public Participation.** Berkeley Lab encourages open and honest public participation and an informed public to foster public trust, develop credibility, and ensure public involvement in its decision-making process. Public participation is enhanced through open communication and participation in state, national, and international activities.

b. **Speakers Bureau.** The Laboratory has an active program that is organized through the Community Relations Office. Employees are encouraged to volunteer as speakers in the program. If a division or employee is contacted by an outside group to arrange a speaking engagement, the Community Relations Office should be informed. The Community Relations Office can also provide visual aids and brochures to enhance the quality of a presentation.

c. **Community Involvement.** The Laboratory supports and encourages its employees to be involved independently in community and civic activities. Employees wishing to explore opportunities should contact the Community Relations Office.

6. Contacts with State and Federal Officials

Employees may not act or give the appearance of acting on behalf of the Laboratory or the University when communicating with state or federal officials unless they are authorized to do so.

When corresponding with state and federal officials, Laboratory employees may use Laboratory letterhead only when the writer is authorized to represent the Laboratory or the University of California. Letters expressing personal views must be written on personal stationery using non-Laboratory resources. If Laboratory letterhead is used for corresponding with principal state and federal officials (including Executive Branch appointees, members of Congress, the state legislature, and their staffs), copies of the correspondence must be sent to the appropriate division director and the Head of Public Affairs.

When employees give opinions as independent professionals, they must state clearly that they are speaking for themselves and not on behalf of the Laboratory or the University of California. See also Paragraph (A), above.

§5.02
Scientific and Technical Publications

Responsible Manager

Rev. 09/08

- **A. General**
- **B. Definition of Scientific and Technical Information**
- **C. Publication Requirements**
  1. **Credit Line**
  2. **Author Affiliations**
  3. **Legal Disclaimers**
- **D. Report Processing**
- **E. Review of Scientific and Technical Publications**
- **F. Patent and Copyright Review**
- **G. Negotiations with External Publishers**
- **H. Page Charges and Reprint Ordering**

A. GENERAL

This policy applies to all scientific and technical publications prepared at the Laboratory.

B. DEFINITION OF SCIENTIFIC AND TECHNICAL INFORMATION

Scientific and technical publications include journal and conference submissions (whether refereed or not and whether actually accepted for publication or rejected by the organization to which they were submitted), proceedings, books and book chapters, theses and dissertations, formal programmatic progress and completion reports, the Institutional Plan, division annual reports, and facility newsletters.

Three types of scientific and technical publications are produced at the Laboratory: Laboratory reports (e.g., abstracts, journal preprints, conference papers, theses, and standard distribution reports); LBNL/PUB reports, which are not technical and scientific in the strict sense (e.g., brochures, informational reports, newsletters, user manuals, proposals, and conceptual design reports); and LBID reports (e.g., reports of a sensitive nature, preliminary reports, and informal reports).

The following two categories of publications produced at the Laboratory are not covered by this policy:

- **Public information documents** (e.g., press releases, Berkeley Lab News Center, *Today at Berkeley Lab*, and the *Laboratory Research Review*) prepared by the Public Affairs Department for distribution to the general public.

- **Internal information documents** (e.g., manuals, handbooks, similar publications, and Laboratory Administrative Memos), which are intended for internal distribution only.

C. PUBLICATION REQUIREMENTS

DOE programs funding the creation of scientific and technical information must follow life-cycle information-management practices to ensure that the information is planned for, budgeted, produced, processed, disseminated, and stored in cost-effective ways to ensure its maximum use by all customer segments, including United States industry and the general public. Formal scientific and technical information performance assessments are conducted as part of program reviews sponsored by DOE programs.

1. Credit Line

All Laboratory scientific and technical publications must carry a standard credit line on the title page showing the funding source, the DOE/Laboratory contract number, and any applicable Laboratory non-DOE contract number. When the funding source is DOE, the credit line must include two levels of organization within DOE, as in the following examples:

> This work was supported by the Director, Office of Science, Office of Basic Energy Sciences, of the U.S. Department of Energy under Contract No. DE-AC02-05CH11231.
>
> This work was supported by the Assistant Secretary for Energy Efficiency and Renewable Energy, Office of Building Technology, State, and Community Programs, of the U.S. Department of Energy under Contract No. DE-AC02-05CH11231.

All open literature publications (e.g., journal articles and conference papers) must carry this same credit line somewhere in the body of the paper, preferably in an acknowledgments section. Conference papers must also carry this credit line on a title page for submission to DOE.

All Laboratory Directed Research and Development (LDRD)-supported research must carry a standard credit line showing the following with the DOE/Laboratory contract number. Only one level of organization is required.

> This work was supported by the Director, Office of Science, of the U.S. Department of Energy under Contract No. DE-AC02-05CH11231.

In Laboratory publications reporting work supported by more than one DOE organization or supported in part by a non-DOE organization (e.g., federal or state agency, private institute, or commercial firm), acknowledgment of this support (including the contract number) is required. When work has been carried out in collaboration with other DOE contractors, all contractors must be identified with contract numbers.

For abstracts, where space is limited, it is acceptable to use an abbreviated credit line, as in the following example:

> Supported by the U.S. Department of Energy under Contract No. DE-AC02-05CH11231.

2. Author Affiliations

The affiliation(s) of the author(s) must be shown on the title page of all Laboratory documents. For Laboratory authors, this information must include the complete Laboratory address:

> Lawrence Berkeley National Laboratory

Berkeley, CA 94720

The Laboratory division (or division-level organization) may also be included. The inclusion of Laboratory organizations such as the Center for Advanced Materials, National Center for Electron Microscopy, and Center for X-Ray Optics is allowed with the approval of the cognizant division director. For authors who have joint affiliation with the University of California, Berkeley, and Berkeley Lab, the affiliation should include both the campus department and the Berkeley Lab divisional information, as in the following example:

Name of Author
Department of Physics
University of California, Berkeley
and
Physics Division
Lawrence Berkeley National Laboratory
Berkeley, CA 94720

If additional affiliations of Laboratory authors are listed, they must be shown separately.

3. Legal Disclaimers

The following disclaimer must appear on the inside front cover of each report

DISCLAIMER

> This document was prepared as an account of work sponsored by the United States Government. While this document is believed to contain correct information, neither the United States Government nor any agency thereof, nor The Regents of the University of California, nor any of their employees, makes any warranty, express or implied, or assumes any legal responsibility for the accuracy, completeness, or usefulness of any information, apparatus, product, or process disclosed, or represents that its use would not infringe privately owned rights. Reference herein to any specific commercial product, process, or service by its trade name, trademark, manufacturer, or otherwise, does not necessarily constitute or imply its endorsement, recommendation, or favoring by the United States Government or any agency thereof, or The Regents of the University of California. The views and opinions of authors expressed herein do not necessarily state or reflect those of the United States Government or any agency thereof or The Regents of the University of California.

D. REPORT PROCESSING

All scientific and technical publications must be processed through the Report Coordinator, reporting to the Scientific and Technical Information Manager, in the Library. This office assigns an appropriate report number, assures contractual information requirements, coordinates the receipt of printed archive copy, and makes the required DOE/Laboratory distribution.

E. REVIEW OF SCIENTIFIC AND TECHNICAL PUBLICATIONS

LBNL values the role of peer review in ensuring the integrity of scientific research. Researchers are expected to seek ongoing internal review of their work before publication. It is expected that employees will adhere to the

highest ethical standards in their publishing, including those detailed in the University's Statement of Ethical Values, especially as regards to the integrity and originality of work, and the recognition of the contributions of colleagues. Researchers must ensure that any information of a nonpublishable nature (such as that protected by human subjects protocol or a nondisclosure agreement) is excluded from publication. Per Section 5.03 of the RPM, researchers must identify potentially patentable discoveries to the Technology Transfer and Intellectual Property Management prior to any form of publication.

All publications must be reviewed within a division before receiving an LBNL/PUB or LBID number. Each division will ensure that (1) a reasonable scientific process has been followed, (2) the publication requirements in Paragraph (C) above have been met, and (3) any other requirements indicated by their Division Director have been met. Divisional procedures must ensure that the review is fair and unbiased, and that freedom of scientific inquiry is not unfairly constrained.

F. PATENT AND COPYRIGHT REVIEW

Copyrighted material may not be reproduced without the specific permission of the copyright holder. Laboratory employees must comply fully with federal copyright laws. Questions regarding proper procedures for obtaining permission to reproduce copyrighted material should be addressed to the RCO. All transfer of copyrights must include the Technology Transfer and Intellectual Property Management–approved statement available from the RCO. The Regents of the University of California, acting through the Laboratory, are the owner of the copyright on all scientific and technical writings prepared at the Laboratory. An author may transfer copyright for purposes of publication subject to the other requirements of this RPM §5.02.

G. NEGOTIATIONS WITH EXTERNAL PUBLISHERS

The selection of an external publisher for the proceedings of a Laboratory-hosted conference or for a book is governed by Laboratory Procurement Policy. See RPM §11.38 (*Obtaining Goods and Services*).

Before starting any writing project on a Laboratory-related subject for which payment is expected, Laboratory authors must check with the Technology Transfer Department to ensure compliance with DOE and Laboratory policies regarding the distribution of advances and royalties. See also RPM §5.03 (*Patents*) and RPM §5.05 (*Licensing Income Distribution*).

H. PAGE CHARGES AND REPRINT ORDERING

Publishing charges, including submission fees, page-related charges, article reprints, and preprints, are handled solely by your division's local administrative support. Please contact your local administrative support for more information about procurement, payments, and tracking of these expenses.

§5.03
Patents

Responsible Manager

Revised 03/08
Links updated 06/10

- **A. Employee Obligations**
- **B. Procedures**
  - **1. Invention Recording and Reporting**
  - **2. Publication Clearances**
- **C. Publication-Related Issues**
  - **1. Impact on Patent Rights of Prior Electronic Publication**
  - **2. E-mail Messages as Publications**
- **D. Additional Patent Policies**

A. EMPLOYEE OBLIGATIONS

1. The DOE/LBNL Contract provides the United States government with certain rights in inventions made by Laboratory employees or guests at the Laboratory, or by anyone using Laboratory facilities or Lab resources. The Contract also provides the University the right to elect title to (i.e., to take full ownership of) the invention.

2. To protect the government interest, the contract requires that Berkeley Lab report all inventions made under the contract to DOE patent counsel and that all information produced at the Laboratory be cleared for possible inventions before publication.

3. Employees and guests are obligated to provide assistance to Technology Transfer and Intellectual Property Management (Technology Transfer) in evaluation and transfer of the technologies (typically inventions or software) that they have developed.

B. PROCEDURES

1. Invention Recording and Reporting

a. It is the inventor's responsibility to report all inventions promptly to Berkeley Lab Technology Transfer and Intellectual Property Management within six months of conception or first actual reduction to practice, whichever occurs first. The form to be used to report inventions, the Record of Invention (ROI) form, is available at http://www.lbl.gov/Tech-Transfer/researchers/forms.html. This obligation is stated in the Intellectual Property Acknowledgment, which is signed by all employees and guests when they begin working at Berkeley Lab.

b. The protocols for experiments, results of experiments, and/or other data that document inventions referred to in (a), above, must be kept in a permanently bound, ledger-type notebook with numbered pages. The specific procedure recommended for recording data describing original research and development work that leads to invention is on the Web at http://www.lbl.gov/Tech-Transfer/researchers/lab_note.html.

c. All notebooks and equivalent records of Berkeley Lab research are the property of the United States government. Researchers may make copies for their own personal records. These records may be maintained in the appropriate group as long as necessary and then forwarded to Archives and Records for storage.

d. Technology Transfer and Intellectual Property Management will report the invention to DOE and any others to whom there is an obligation to report, and will evaluate the invention for commercialization potential.

2. Publication Clearances

a. All publications, whether print or electronic, describing work by Laboratory employees and guests or done with Berkeley Lab facilities must be reviewed and cleared by Technology Transfer before they can be sent outside the Laboratory, except for restricted disclosure to certain government and University of California personnel, or if covered by a confidentiality agreement signed by Technology Transfer (see RPM §5.07 or §10.10).

b. Publications that must be reviewed for patent clearance (to determine whether any patentable inventions are described) include not only Laboratory written reports, but also the following, whether made public in written, oral, visual, or electronic form:
   i. Articles to be submitted to scientific or professional journals
   ii. Oral and written conference presentations (e.g., slides or viewgraphs) or posters
   iii. Abstracts
   iv. PhD theses
   v. Any other material that could contain invention information

c. The purpose of patent review is to ensure that all inventions have been reported and if appropriate, protected for future commercialization. Possible inventions should be reported to Technology Transfer on an ROI form (see Paragraph (B)(1)(a) above) before the material is ready for publication so that patent rights will not be inadvertently lost. The review process is described at http://www.lbl.gov/Tech-Transfer/researchers/pre_pub_review.html.

C. PUBLICATION-RELATED ISSUES

1. Impact on Patent Rights of Prior Electronic Publication

A prior electronic publication will bar an inventor from receiving a patent outside the United States just as a print publication will. Nothing can be done to recover that patent opportunity. Inside the United States, a patent application can still be filed if it is done within one year after the publication date. After this one-year period expires, no patent may be filed for that invention.

2. E-mail Messages as Publications

If an e-mail message is a confidential exchange between two individuals, the message is not considered to be a publication. The status of the message is less certain, however, if the communication is to a group or to an individual who forwards the message to a group. As sharing or forwarding e-mail is so easy, it is not advisable to convey information regarding an invention via e-mail without checking with a patent practitioner in Technology Transfer. If necessary, Technology Transfer can provide a confidentiality agreement (also known as a non-disclosure agreement) to allow sharing the information without it becoming a publication.

D. ADDITIONAL PATENT POLICIES

The patent policy described above applies to research by, and writings of, Laboratory employees. The following paragraphs contain additional patent review requirements:

- RPM §1.06(A)(4) (*Policy for All Participating Guests*). Requires participating visitors to sign a Laboratory Visitor Intellectual Property Acknowledgment.
- RPM §2.01(E)(7)(d) (*Patent Policy*). States University patent policy applying to Laboratory employees.
- RPM §10.02(I) (*Patent Agreements*). Describes patent policy applying to Laboratory employees serving as consultants to other organizations.
- RPM §11.04(C)(8) (*Patents, Data, and Copyrights*). Discusses patent policies applying to consultants to the Laboratory.

§5.04
Printing

Responsible Manager

Rev. 03/05

- **A. General**
- **B. Commercial Procurement**
- **C. Multicolor Printing**

A. GENERAL

The Laboratory requires that procurement of printed matter be done in compliance with DOE Order 1340.1. The Printing Section of the Creative Services Office (CSO) is responsible for providing printing-related services for the Laboratory. These services include in-house duplicating production or outside procurement through the Government Printing Office (GPO). Printing of scientific and technical publications is routed through the Berkeley Lab Report Coordination Office and requires completion of a Document Submission Form. Other printing requirements are submitted directly to the Printing Section on a CSO Printing Services form.

B. COMMERCIAL PROCUREMENT

DOE and the Laboratory require that all commercial procurement of printed matter must be made by CSO Printing Services.

C. MULTICOLOR PRINTING

The Head of Public Affairs has authority for approving color printing. Color printing in any Laboratory publication (or printed matter) requires a written request describing why added color is necessary. This request goes to the CSO Manager (MS 46R0125), designated by the Head of Public Affairs to review and approve all color printing requests. Signature approval from the CSO Manager is required before work is submitted to Report Coordination or the CSO Printing Section.

Multicolor printing is any printing that uses more than one color of ink in a single document. Color photographs, illustrations, and graphics reproduced on color copiers do not require prior approval.

Color printing is acceptable in a Laboratory publication only when its use is necessary to ensure safety, security, or technical clarity, or if the publication will be used for recruiting purposes.

§5.05
Licensing Income Distribution

Responsible Manager

Rev. 06/08

- **A. General**
- **B. Distribution of Royalties to Inventors**
- **C. Allocation and Uses of Laboratory Licensing Income**
  1. **General**
  2. **Allocation to Research Divisions**
  3. **Central Research Pool**

A. GENERAL

University of California Patent Policy governs the distribution of licensing income from patentable inventions between Berkeley Lab and Laboratory inventors. Any conflict between this Regulations and Procedures Manual policy and UC Patent Policy must be resolved by reference to then-current UC Patent Policy.

Generally, inventions and other intellectual property disclosed to Berkeley Lab on or after October 1, 1997, are governed by the October 1, 1997, UC Patent Policy. Those disclosed before that date are governed by the November 18, 1985, UC Patent Policy. (The University of California rescinded the policy of April 16, 1990.) Inventors who were hired by Berkeley Lab prior to October 1, 1997, and who have not had a break in service since that date, however, are afforded a one-time opportunity (prior to their first distribution under the October 1, 1997, UC Patent Policy) to elect whether all their current and future inventions and other intellectual property shall be governed by the October 1, 1997, or the November 18, 1985, policy.

UC Patent Policy does not address intellectual property other than patentable inventions. Through this Regulations and Procedures Manual policy, however, Berkeley Lab applies the tenets of UC Patent Policy to the distribution of income from intellectual property other than patentable inventions. This type of intellectual property includes, but is not limited to, (1) copyrighted software and other copyrighted works such as books and engineering drawings, (2) mask works, and (3) bailed biological material and other tangible research products.

Berkeley Lab's Technology Transfer Department administers UC Patent Policy at the Laboratory and directs the Office of the Chief Financial Officer to make the payments described in Paragraphs (B)–(C), below, to inventors and resource adjustments for research divisions.

B. DISTRIBUTION OF ROYALTIES TO INVENTORS

Berkeley Lab annually distributes to Berkeley Lab inventors a portion of income received by the Laboratory in the preceding fiscal year from the licensing of Laboratory intellectual property. The term "Berkeley Lab inventors" includes both Laboratory employees and others who have assigned to the University of California their rights to inventions managed by Berkeley Lab (e.g., participating guests, who are required to sign the Patent

Acknowledgment). UC Patent Policy requires all UC/DOE Laboratories to complete this distribution by the February following the end of the fiscal year.

The following distribution rules apply, subject to amendment of UC Patent Policy:

- For intellectual property disclosed after September 30, 1997, the inventors' share is 35% of cumulative net royalties per invention.
- For intellectual property disclosed before October 1, 1997, the inventors' share is 50% of cumulative net royalties per invention, with net royalties calculated after a 15% administrative charge.
- For qualifying inventors who elected to be governed under the November 18, 1985, UC Patent Policy, the inventors' share is 50% of cumulative net royalties per invention, with net royalties calculated after a 15% administrative charge, regardless of date of disclosure of the relevant intellectual property.

UC Patent Policy generally defines "net royalties" as gross royalties and fees received after deducting amounts payable to non-University inventors, less patent and licensing costs for the invention.

If the invention was created by more than one Berkeley Lab inventor, the Laboratory distributes to each inventor an equal share of royalties, unless all affected inventors have previously agreed in writing to a different distribution of those inventors' share of royalties.

C. ALLOCATION AND USES OF LABORATORY LICENSING INCOME

1. General

"Laboratory share" is that portion of licensing income from its intellectual property available to the Laboratory after deducting amounts under UC Patent Policy for payment of costs and distributing income to inventors. The Laboratory share is allocated annually after the distribution to inventors.

2. Allocation to Research Divisions

Effective in fiscal year 2000, Berkeley Lab allocates 15% of net royalties from each invention to the research division in which the invention arose. The research division must use that Laboratory share for research and development activities within the Laboratory's mission. Work must be performed so as to avoid interference with or adverse effects on ongoing DOE projects and programs.

Expenditures may include operating costs (e.g., for personnel, supplies, recharges, or travel) or equipment in support of that research. If the inventors belong to different divisions, the Laboratory share for each division is split proportionally by the total number of inventors by division.

3. Central Research Pool

Effective in fiscal year 2000, the remaining Laboratory share is pooled in an account for use at Berkeley Lab for scientific research and development, technology transfer, and/or education. (This remaining Laboratory share is 35% of the total net royalties for technologies disclosed before October 1, 1997, and 50% for technologies disclosed thereafter.) This central pool is allocated at the direction of the Laboratory Director. Work must be performed so as to avoid interference with or adverse effects on ongoing DOE projects and programs.

§5.06
Proprietary Information from External Sources

Responsible Manager

Rev. 09/07

- **A. General**
- **B. Definitions**
  - **1. Proprietary Information**
  - **2. Originator**
- **C. Acceptance**
  - **1. Written Nondisclosure Agreement**
  - **2. Implied Conditions of Confidentiality**
- **D. Maintenance of Proprietary Information**
- **E. Internal Information Sharing**
- **F. Disclosure Outside the Laboratory**
- **G. Return to Originator**
- **H. Consequence of Failure to Safeguard Information**

A. GENERAL

Laboratory staff must observe the following procedures when the Laboratory needs to obtain proprietary information to meet programmatic research objectives. These procedures enable the Laboratory to comply with its obligation to protect proprietary information or proprietary material that it receives from an external source and to avoid the possibility of liability for disclosure or misuse of such information or material. The procedures also protect Laboratory investigators from inappropriately restrictive terms on publications or inventions of their own creation.

Laboratory employees in administrative positions or elsewhere who routinely receive proprietary information in the course of their employment (e.g., purchasing agents, human resources specialists) must follow departmental guidelines for the management of proprietary information. Those guidelines generally incorporate the procedures of Paragraphs (D)–(G), below. See also RPM §2.23(I) (*Privileged Information*).

B. DEFINITIONS

1. Proprietary Information

Proprietary information is any information or material (including, but not restricted to, ideas, concepts, proposals, inventions, instruments, chemical samples, cost estimates, data, and computer programs) that (a) originates outside the Laboratory, (b) is disclosed to the Laboratory on expressed or implied conditions that limit the Laboratory's right to use or disclose the information, (c) is specifically identified by the originator as proprietary, and (d) is not generally known to workers in the relevant field. This includes the documents or computer tapes that contain such information. On information originating at the Laboratory, see RPM §5.07 (*Disclosure of*

Laboratory Proprietary Information).

2. Originator

The originator is an individual or organization that has provided proprietary information to the Laboratory or to a government agency that has in turn passed it on to the Laboratory on conditions that restrict its disclosure or use.

C. ACCEPTANCE

1. Written Nondisclosure Agreement

If the originator provides a written nondisclosure agreement (also often called a confidentiality agreement, a proprietary information agreement, or (in the case of materials) a material transfer agreement), the Laboratory employee must have that agreement approved by Technology Transfer and Intellectual Property Management. For quicker approval, the researcher may fax the proposed agreement to Technology Transfer and Intellectual Property Management (ext. 6457) for review and send the original for signature. In urgent cases, Technology Transfer and Intellectual Property Management may authorize the researcher to sign the agreement on behalf of the Laboratory, after approval of the agreement on content. If the agreement from the originator contains unacceptable terms, Technology Transfer and Intellectual Property Management will contact the originator to modify the agreement appropriately.

All obligations to keep confidential information from an originator that is a for-profit company must be memorialized in a written agreement. If a for-profit company orally requests confidentiality, the Laboratory researcher must contact Technology Transfer and Intellectual Property Management to obtain a written agreement.

2. Implied Conditions of Confidentiality

If a Laboratory employee receives proprietary information from a nonprofit (including university) or government originator under implied conditions of confidentiality (i.e., without a written agreement), he or she must take steps to protect the information set forth in Paragraphs (D)–(G), below. The Laboratory does not accept implied obligations of confidentiality or restrictions on use for proprietary information from private entities. The Laboratory employee must have an approved agreement to obtain proprietary information from a for-profit entity. See Paragraph (C)(1), above.

D. MAINTENANCE OF PROPRIETARY INFORMATION

The Laboratory recipient of proprietary information is responsible for physically securing the proprietary information at the Laboratory or associated campus facilities. The proprietary information must be kept under lock, must not be left where inadvertent disclosure may occur, and must not be removed from the Laboratory or associated campus facilities. Such information may not be photocopied or duplicated in any manner. It must be clearly marked as confidential and proprietary data. Computer source codes containing proprietary information must not be stored in permanent files or open tape libraries. Object codes containing proprietary information must not be stored in permanent files unless access to such files is controlled by the person responsible for the information.

E. INTERNAL INFORMATION SHARING

As necessary for the conduct of the project and only on a need-to-know basis, proprietary information may be shared with other Laboratory staff and appropriate University employees. No approvals are required for this, but the Laboratory researcher must exercise his or her best judgment to minimize the exposure of such information. Copies must not be made for internal information sharing.

F. DISCLOSURE OUTSIDE THE LABORATORY

If disclosure of proprietary information to any individual other than Laboratory staff and appropriate University employees appears necessary, the Laboratory employee who wishes to disclose the information must obtain prior written approval from the originator who supplied the proprietary information. That approval must be signed by an authorized representative of the originator and clearly specify what proprietary information may be disclosed and to whom it may be disclosed. Unless the originator's approval letter otherwise specifies, the disclosure of the information will be made only on site. No copies of the proprietary information may be made. Contact Technology Transfer and Intellectual Property Management to obtain assistance in securing appropriate approval from the originator.

If the Laboratory independently develops, derives, or obtains information similar to proprietary property, the Laboratory may use or divulge that proprietary information without restriction. The Laboratory must, however, have documentary evidence (e.g., properly witnessed laboratory notebooks or publications) to prove the independence of the source.

G. RETURN TO ORIGINATOR

When proprietary information or material is no longer needed, it must be returned promptly to its originator by registered mail or a recognized courier service such as Federal Express or DHL, or otherwise disposed of (e.g., destroyed) as required in any written agreement. Copies of the proprietary information must not be retained.

H. CONSEQUENCE OF FAILURE TO SAFEGUARD INFORMATION

Failure to reasonably safeguard proprietary information and/or to follow the procedures listed above may constitute a serious violation of professional ethics that can result in disciplinary action, including termination. Violation of trade secret laws can also result in legal action against the violator.

§5.07
Disclosure of Laboratory Proprietary Information

Responsible Manager

Links updated 09/08

- **A. General**
- **B. Procedure**
  - **1. Written Agreement**
  - **2. Disclosure of Information or Transfer of Material**
  - **3. Transfer Labeling**
- **C. Transfer of Proprietary Information or Material to Subcontractors**
- **D. Consequence of Failure to Safeguard Berkeley Lab Information**

A. GENERAL

At times, the Laboratory needs to, or finds it useful to, disclose unpublished information relating to technological and scientific developments or to transfer tangible research material. Examples of tangible research material include cell lines, chemical compounds, and source codes for software. Appropriate uses of such disclosures or transfers are to enable the recipient to evaluate the information/material's potential commercial utility or the recipient's interest in obtaining a commercial license from Berkeley Lab; replicate, reproduce, evaluate, or confirm Berkeley Lab's research effort; or do research furthering Berkeley Lab's programmatic goals. Disclosure of Laboratory proprietary information for personal gain is prohibited. See RPM §2.23(I) (*Privileged Information*).

Laboratory staff must observe the following procedures when the Laboratory transfers proprietary information or tangible research material to third parties (other than appropriate University of California staff or DOE). These procedures are established to enable the Laboratory to comply with its obligation under the DOE/LBNL Contract to maintain the patentability of inventions, foster appropriate technology transfer, and avoid liability for others' use or misuse of Laboratory information or material.

B. PROCEDURE

1. Written Agreement

A Laboratory researcher wishing to transfer proprietary information or material must contact Technology Transfer and Intellectual Property Management to prepare a nondisclosure agreement or material transfer agreement, as appropriate. Technology Transfer and Intellectual Property Management may also prepare agreements for mutual disclosure of proprietary information or transfer of material. The researcher may not transfer the Laboratory proprietary information or material before such an agreement is signed by both the Laboratory and the recipient.

2. Disclosure of Information or Transfer of Material

At a minimum, any information the Laboratory discloses under agreement must be prominently marked as

"proprietary" or "confidential." If the Laboratory researcher wishing to transfer proprietary information or material (the discloser) wishes to disclose the information orally, he or she must first inform his or her audience that the forthcoming information is confidential. Some nondisclosure agreements also require that confidential oral presentations be summarized, marked as confidential, and transmitted to the receiver within 15 to 30 days. The researcher must comply with any additional requirements contained in the nondisclosure agreement.

3. Transfer Labeling

Any tangible research material that a Laboratory researcher transfers must be appropriately labeled and include instructions for handling as necessary for safe use.

C. TRANSFER OF PROPRIETARY INFORMATION OR MATERIAL TO SUBCONTRACTORS

Under certain subcontracts, the University's full rights to intellectual property may be impaired if proprietary information or material is transferred to a subcontractor under the subcontract without appropriate restrictive markings. If a Laboratory researcher anticipates transferring Laboratory proprietary information or material to a Laboratory subcontractor, the researcher must inform Procurement about this intention and take steps necessary under the subcontract to mark the information or material.

D. CONSEQUENCE OF FAILURE TO SAFEGUARD BERKELEY LAB INFORMATION

Failure to reasonably safeguard Laboratory proprietary information and/or follow the procedures listed above may constitute a serious violation of professional responsibility that may result in disciplinary action, including termination.

§5.08
Document Management and Control

Responsible Manager

New 10/08

- **A. Policy**
- **B. Graded Approach**
- **C. Controls**
- **D. Additional Resources**

A. POLICY

Authoritative documents, whether electronic or on paper, which specify policies, prescribe uniform processes, or establish or document design specifications must be controlled to ensure they are accurate, current, appropriately distributed, and approved by authorized individuals, in a manner reflecting the risks associated with improper management of the information.

B. GRADED APPROACH

LBNL will utilize a graded approach in managing and controlling documents. The level and formality of document controls will be directly related to the level of risk associated with improper document management. The full graded approach is listed in the Laboratory Operating and Quality Management Plan (OQMP).

At a minimum, controlling institutional policy documents (such as the RPM and those listed in RPM §1.01), and other documents for which an error in document control could reasonably be expected to endanger safety or health, or substantially diminish the ability of the institution to meet mission requirements, must be subject to formal document control.

Each Laboratory division will identify the subset of operations documents that require formal document control in their Division ISM Plan and implement the appropriate controls as necessary. The list of documents should be reviewed annually (or more frequently as the need arises).

C. CONTROLS

The following controls are to be utilized in the management of controlled documents.

1. Approval: An appropriate review and approval process to certify new documents, ensure accuracy, and update the document as necessary.

2. Distribution: A process to ensure distribution and notification of new versions as appropriate.

3. Versioning: The most current version of a document is evident to a reader or editor, and the reader can identify variations from previous versions.

D. ADDITIONAL RESOURCES

Additional implementing guidance is available in the Laboratory OQMP.

Chapter 6
Property and Supply

Table of Contents

§6.01 Obtaining Goods and Services (Moved to RPM §11.38)

§6.02 Use of Laboratory Property and Supplies (Moved to RPM §11.39)

§6.03 Property Management (Moved to RPM §11.40)

_____

Denotes a rewritten or new section

Denotes the beginning of changed text within a section

Denotes the end of changed text within a section

Denotes deleted text

§6.01
Obtaining Goods and Services

Responsible Manager

Moved 04/07

RPM §6.01 (***Obtaining Goods and Services***) has been moved. See RPM §11.38.

§6.02
Use of Laboratory Property and Supplies

Responsible Manager

Moved 04/07

RPM §6.02 (***Use of Laboratory Property and Supplies***) has been moved. See RPM §11.39.

§6.03
Property Management

Responsible Manager

Moved 04/07

RPM §6.03 (***Property Management***) has been moved. See RPM §11.40.

Chapter 7
Health and Safety

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§7.01 Environment, Safety, and Health (ES&H)

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§7.01
Environment, Safety, and Health (ES&H)

Responsible Manager

Rev. 7/09
Links updated 3/10

- **A. Policy**
- **B. Implementing Elements**
  1. **Line Management Responsibilities**
  2. **The Environment, Health, and Safety (EH&S) Division**
  3. **The LBNL Integrated Safety Management (ISM) Plan**
  4. **Implementation Plans**
  5. **The LBNL Health and Safety Manual (PUB-3000)**
- **C. Oversight and Programmatic Interrelationships**
  1. **The Safety Advisory Committee (SAC)**
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- **D. Summary**

A. Policy

It is the policy of Lawrence Berkeley National Laboratory (LBNL) to perform all work safely with full regard to the well being of workers, guests, the public, and the environment.

Keys to implementing this policy are the following core safety values:

- The institution demonstrates a strong commitment to safety by integrating safety into all facets of our work.
- Managers and supervisors are actively involved and demonstrate leadership in performing work safely.
- Individuals take ownership for safety and continuously strive to improve.
- Individuals demonstrate an awareness and concern for the safety of others.

B. Implementing Elements

To fulfill this vision, LBNL implements the regulatory requirements of the Environment, Safety, and Health (ES&H) Standards Set through a hierarchy of policies, procedures, and performance objectives in this document (Line Management and the Environment, Health, and Safety [EH&S] Division), the LBNL Integrated Safety Management Plan (ISMP), the LBNL Health and Safety Manual (PUB-3000), and the following ES&H technically based major Implementation Plans:

- Worker Health and Safety Plan
- Chemical Hygiene and Safety Plan
- Biological Safety Program Manual
- Radiation Protection Plan

- Environmental Management System
- Waste Management Plans

1. Line Management Responsibilities

The first principle of Integrated Safety Management (ISM) states that Line management is directly responsible for the protection of the workers, the public, and the environment. The second principle, in stating that clear lines of authority and responsibility for ensuring safety shall be established and maintained at all organizational levels, makes clear that this responsibility cannot be delegated outside of the unbroken chain of management personnel responsible for an organization's direction, operations, performance, and effectiveness. Therefore, the Laboratory Director has the ultimate responsibility for safety at the Laboratory and, in particular, for the establishment and administration of ES&H policies that meet the safety challenges of Laboratory operations and activities as well as the requirements of DOE Contract 31 and the ES&H Standards Set.

The Laboratory Director has delegated to all levels of management the authority to implement the Laboratory's ES&H and emergency-preparedness policies.

Division directors and heads of independent departments are responsible for ensuring that the Laboratory's ES&H and emergency-preparedness policies are being observed within their divisions.

Each Laboratory manager or supervisor is responsible for ensuring that employees (including matrixed employees; see below), participating guests, contractors, students, and visitors under his or her supervision are properly trained in safety and emergency procedures, the concepts of an ISM system, and the five core functions of ISM. In addition, managers and supervisors have responsibilities designed to provide a safe and healthful working environment free from undue hazards and to protect the environment (see Chapter 1 of PUB-3000). In exercising these responsibilities, all managers may delegate authority and assign responsibility for a particular operation, activity, or area to a work lead, but they retain accountability for worker and workplace safety. Oversights and errors that lead to injury, illness, environmental pollution, or damage to property within their jurisdictions are their responsibility.

The importance of identifying accountability in cases of delegated authority is applicable to employees from one division (the home division) who are matrixed to another division (the host division) to provide special technical expertise. The matrixed employee's individual safety, including his or her safety training, the use of special equipment and instrumentation, and acknowledgment of the importance of safety, is the responsibility of the home division supervisor. Identifying workplace hazards and controlling such hazards to maintain safety in the workplace or work area are the responsibilities of the host division supervisor. A host division supervisor may authorize a matrixed employee to be a work lead of two or more host division employees and to provide, for example, on-the-job training and direction in the use of equipment and instrumentation. In this scenario, the matrixed employee assigned as supervisor/work lead is responsible for staff safety in the operation of equipment, but not for the work area. The policy and implementation guidance for matrixed employees is covered in detail in Chapter 1 of PUB-3000. Section 1.3.2.7 recommends developing a memorandum of understanding to alleviate concerns and clarify lines of authority in these situations.

2. The Environment, Health, and Safety (EH&S) Division

The primary responsibility of the EH&S Division is to protect workers, the public, and our environment by providing professional and technical expertise, follow-on services, and integrated ES&H policy to the Lab's research and

support programs. The EH&S Division supports and acts as a partner with line management as it meets direct responsibilities to ensure that protection of workers, the public, and the environment is integrated into the primary research and support functions of each division or unit. Of equal importance, the EH&S Division supports and provides expertise directly to each Laboratory worker who seeks ES&H advice and help, or who voices a concern. The Charter of the EH&S Division, broadly based on the key core safety values in the opening statement and the responsibilities listed here, is published as Chapter 2 of PUB-3000.

3. The LBNL Integrated Safety Management (ISM) Plan

The LBNL institutional ISM Plan provides guidance and performance expectations both to operational and programmatic divisions to develop Division ISM Plans specific to their work, activities, operations, and staffing patterns. This arrangement provides an effective and efficient means for each division to develop and tailor an ISM Plan to address their specific safety challenges. The LBNL institutional ISM Plan and the divisional plans are updated at least annually to address safety challenges derived from changes in programs and/or activities and to reflect improvements based on self-assessments and lessons learned. These relationships and interfaces are depicted in Figure 1, below, and described in detail in the LBNL ISM Plan (PUB 3140).

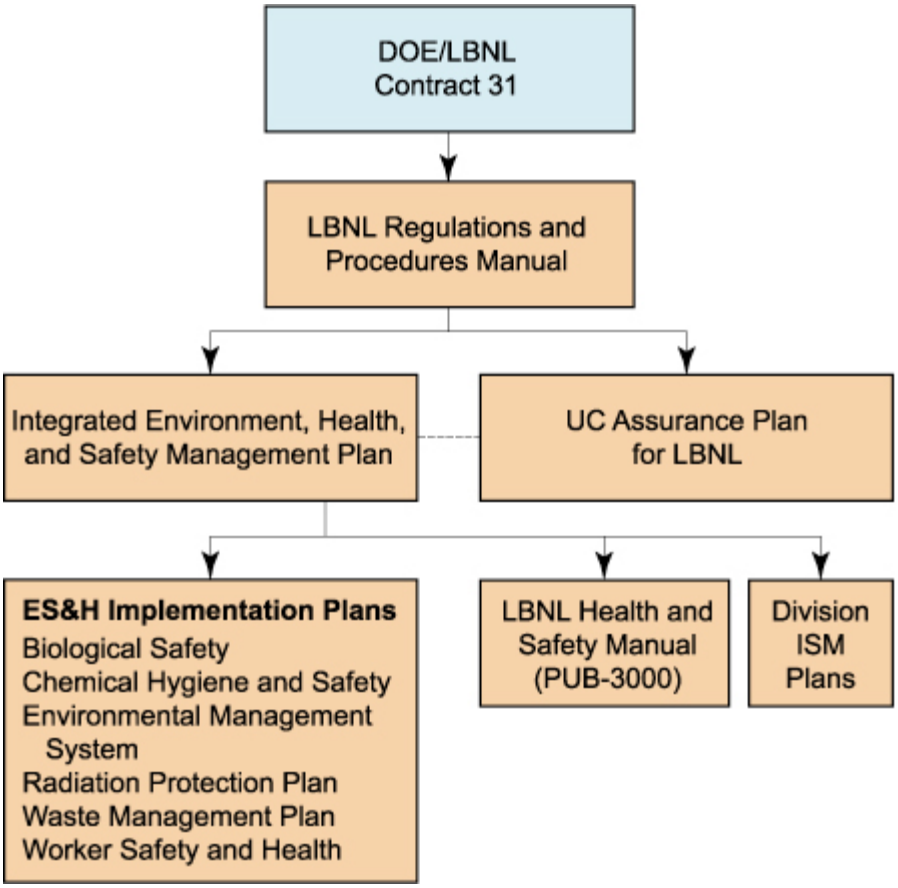

Figure 1. *LBNL document hierarchy: The functional relationship between the DOE/LBNL contract, LBNL ES&H policies, and ES&H implementing elements.*

The LBNL institutional ISM Plan sets performance expectations based on the seven principles and five core functions of ISM at three levels: institutional, activity, and individual. Institutional expectations are specified in the Contract 31 Performance Evaluation and Measurement Plan (PEMP). Activity and operational expectations are described in RPM Chapter 8, Section 8.01 (Quality Assurance), and details on the performance assessment at this level are published in the LBNL ES&H-Assessment Program (PUB-5344). Individual expectations are based on the

safety-related roles and responsibilities of supervisors, work leads, and each staff member, including guests, subcontractors, and vendors as defined in the Health and Safety Manual (PUB-3000, Chapter 1). Annual performance reviews include safety expectations as part of the performance review process (Employee Institutional Requirements). Division ISM Plans are expected, and measured as part of the annual self-assessment process, to reflect the hierarchy of expectations for activities/operations and individuals. The goal is to provide specific, clear, and current safety expectations that probe performance vertically and horizontally across the organization to guide continuous improvement.

4. Implementation Plans

Some Implementation Plans were developed in direct response to regulatory requirements; for example, 10 CFR 835 called for a Radiological Protection Plan, and 10 CFR 851 led to the Worker Health and Safety Plan. However, all are derived from the recognition by the Laboratory of the need, based on potential hazards to the worker, the public, and the environment, for a rigorous approach to work planning, hazard identification and control, and performance of work. Therefore, a component common to these plans is formal work authorizations. Work authorizations applicable to operations and programs such as Activity Hazard Documents for laser use, Radiological Work Authorizations, and the use of forklifts, cranes, and hoists are covered in detail in PUB-3000. Some of the authorizations in these plans are applicable to specific facilities and others to the institution as a whole. Examples of these are Safety Analysis Documents (SADs) that establish the safe operating limits for the Advanced Light Source and environmental and waste management permits from regulatory agencies. The purpose of the Implementation Plans is to translate the regulations and standards in the ES&H Standards Set into technical programs. PUB-3000 acts as the outreach implementation of the plans in a more functional form for integration and implementation into work and activities throughout the Laboratory.

To achieve their technical goals, the implementation plans have policies and procedures internal to the group responsible for the plan to implement the technical aspects of the program (e.g., environmental monitoring, chemical exposure monitoring, radiation dosimetry); to update technical expertise, instrumentation, and standards; and to drive continuous improvement.

5. The LBNL Health and Safety Manual (PUB-3000)

PUB-3000 consolidates ES&H policies, specific responsibilities, and guidance for implementation into a convenient online package. This comprehensive manual is firmly based on the seven guiding principles and is designed to implement the five core functions of ISM. The goal is to ensure that all work will be performed with full regard to the well being of workers, guests, the public, and the environment. LBNL performs work to meet the requirements of the manual, which are based on the ES&H Standards Set. PUB-3000 addresses all the standards of the EH&S Standards Set in a manner designed to provide individual safety and a safe workplace, and to protect the environment. The manual is reviewed and revised on an ongoing basis to comply with new applicable standards and requirements, and to meet the challenges of new research and development activities, operations, and facilities.

Chapters in PUB-3000 provide technical information and guidance derived from the EH&S Standards Set and the Implementation Plans. This information provides LBNL staff with policies, guidance, and sufficient technical information to develop work authorizations that mandate working safely in a safe workplace with minimal adverse impact on the environment. The impact of the OSHA-related plans (e.g., Worker Safety and Health, Chemical Hygiene and Safety) is broadly expressed across PUB-3000. Other plans are more specific and individually

comprehensive but have ramifications for information in other chapters. Hence, each chapter in PUB-3000 provides cross-references to other chapters containing related or pertinent information. The more direct relationships are shown below:

- Worker Safety and Health Plan: Chapters 1-5, 7-10, 12-19, 25-32
- Chemical Hygiene and Safety Plan: Chapters 3-5, 7, 12-13, 19
- PUB-3000, Chapter 26 (Biosafety)
- Radiation Protection Plan: Chapter 21
- Environmental Management System: Chapter 11
- Waste Management Plans: Chapter 20

In addition, Chapter 6 and Chapter 32 of PUB-3000 provide direct support and guidance for responsible individuals to understand the need for work authorizations and the tools and guidance to conduct them through the process of job hazard analysis and determination of the appropriate authorization. The success of the formal work authorization process depends upon line managers' recognition of the need for a rigorous approach to work planning and authorization, and their commitment to working with and training staff to work within the authorized safety envelope. Success also depends upon individuals taking responsibility for their own safety and that of their co-workers. These expectations are detailed in Section 6 of the ISM Plan and in Chapter 1 of PUB-3000. Some chapters of PUB-3000 are applicable to all technical areas: lessons learned, training, and occurrence reporting.

C. Oversight and Programmatic Interrelationships

1. The Safety Advisory Committee (SAC)

The SAC is an interface between the research and operations divisions of LBNL, as well as between the ES&H technical programs (mainly in the ES&H Division) and assurance and assessment activities of the Office of Contract Assurance (see RPM Chapter 8). To effectively execute this role, the SAC has direct access to the Laboratory Director and the Senior Management Team.

The SAC makes recommendations to the EH&S Division Director on the development and implementation of ES&H policy, guidelines, codes, and regulatory interpretation. It conducts reviews of special safety problems and provides recommendations for possible solutions to the Laboratory Director, Associate Laboratory Director for Operations / Chief Operating Officer (ALDO/COO), and/or the EH&S Division Director as requested. The SAC also provides advice and counsel to the ALDO/COO by reviewing appeals from the Laboratory divisions when any division and the EH&S Division do not agree on the interpretation or application of criteria, rules, or procedures. Such advice and counsel may include options for a resolution. The SAC has established five permanent subcommittees—electrical, laser, mechanical, traffic, and Division Safety Coordinators—to assist in the review of ES&H issues and concerns and the development of recommendations for institutional implementation. These subcommittees report to the SAC.

To properly execute its responsibilities under its charter, the SAC Chair may set up additional subcommittees made up of subject matter experts to address specific health and safety matters. Such subcommittees may become long-standing expert subcommittees, or they may be of short duration, depending upon technical support requirements.

In addition, the SAC chair, in cooperation with the Office of Contract Assurance (OCA), is responsible for scheduling and conducting the portion of institutional self-assessment known as the Management of Environment, Safety, and Health (MESH) reviews. These reviews are designed to ensure management systems consistent with

ISM are in place in all Laboratory divisions and that these systems are leading to the effective implementation of the Laboratory's ES&H program. MESH reviews are normally triennial by division and are conducted by an SAC subcommittee. Depending on the MESH review results and the division's response, the SAC shall have the option to recommend changing the interval by one year. All members of the SAC are expected to serve on MESH subcommittees. MESH reviews will be submitted directly to the Laboratory Director.

2. The Office of Contract Assurance (OCA)

In addition to supporting the SAC in conducting and assessing MESH review results, OCA is responsible for providing technical support to the EH&S Division Director for developing ES&H performance objectives and criteria for division self-assessments, ES&H technical assurance, DOE/LBNL Contract 31, and Appendix B self-assessments (see RPM Chapter 8).

The OCA, in consultation with the EH&S Division Director, analyzes the results of all self-assessment reports to improve the effectiveness of the technical and management aspects of Laboratory ES&H programs.

D. Summary

In addition to each Laboratory employee's and line management's commitment to safety, the LBNL ISM Plan and the ES&H technical Implementation Plans, which carry out the ES&H Standards Set and are implemented by PUB-3000, provide the basis for an efficient and effective safety program. LBNL recognizes that improvement is always possible and should be sought continuously. Therefore, we, as an institution—as line managers, supervisors, work leads, and as individuals—apply lessons learned and the self-assessment process (see RPM Section 8.01 [Quality Assurance]) to continually strive for higher levels of safety excellence.

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Chapter 8
Quality Assurance

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§8.01 Quality Assurance

§8.02 Business Continuity Policy

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§8.01
Quality Assurance

Responsible Manager

Rev. 11/07; links updated 09/08

- **A. Policy**
- **B. Responsibilities**
- **C. Implementing Elements and Guidelines**
  1. **Organization**
  2. **Process Management**
  3. **Performance Assessments and Improvements**

A. POLICY

It is the policy of Lawrence Berkeley National Laboratory to conduct activities that contribute to its scientific and operational objectives in accordance with sound quality assurance and conduct of operations principles. These principles, as described in the Laboratory's Operating and Quality Management Plan (OQMP) (PUB-3111), are the basis for the Laboratory's standards for organization, process management, and performance assessments.

Application of OQMP principles is based on a graded approach, with consideration given to the unit's mission; its programmatic or operational significance; and its commitment to environment, safety, and health consequences for personnel and the general public.

B. RESPONSIBILITIES

The Laboratory Director is responsible for providing the institutional authority for the OQMP. The Director ensures the full cooperation of divisions in implementing the requirements of the plan.

The Associate Laboratory Director for Operations (ALDO) is responsible for (1) communicating the OQMP to all Laboratory divisions and other appropriate organizations and (2) ensuring its full implementation.

The Office of Institutional Assurance is responsible for (1) developing and maintaining the OQMP and (2) assessing implementation of the plan by divisions and other appropriate organizations.

Division directors and department heads are responsible for ensuring that OQMP requirements are communicated and implemented in their responsible areas.

Berkeley Lab employees are individually responsible for compliance with these requirements and for the quality of their work.

C. IMPLEMENTING ELEMENTS AND GUIDELINES

1. Organization

a. Organizational Elements

An appropriate management structure, a proficient staff, and a systematic approach in planning work functions are key elements in sustaining a satisfactory level of quality performance. Berkeley Lab organizations must:

- Describe in writing their organizational structure.
- Plan their work functions and activities.
- Hire and retain staff proficient to perform their work.

2. Process Management

A process is defined as a combination of people, materials, equipment, and actions interacting to produce a product or service. The process is managed by the application of system controls to assure the quality of the product or service.

Berkeley Lab organizations must manage their work processes by:

- Communicating to affected staff the goals, objectives, and procedures of the work processes.
- Identifying and mitigating the hazards and risks of the work processes.
- Instituting process controls to enhance performance and quality.
- Establishing document and records control measures to ensure the availability and use of accurate information.

a. Operating Documents

Organizing the responsibilities, procedures, and controls for the organization's functions requires the development and maintenance of documents that establish the organization's method of operation. The operating documents must be able to direct and inform affected personnel on how to perform their functions in an efficient and safe manner. All hazards related to the functions and the corresponding mitigation measures must also be identified and communicated to the affected personnel. Operating documents include, but are not limited to, manuals, notebooks, standard operating procedures, desk references, instructions, and drawings.

b. Process Control

Process control is intended to reduce the variation in work process, thereby improving performance and quality. Line managers responsible for programs and operations must review their core functions to ensure that appropriate controls are in place. The controls include, but are not limited to, the following:

- Proper management review and approval of processes
- Use of safety standards and requirements necessary and sufficient to mitigate the hazards of the work processes
- Assurance that only qualified and trained personnel are assigned to perform the work
- Assurance that only the appropriate equipment and material are being used and maintained
- Assurance that only up-to-date written procedures to direct the work are being used
- Acceptance criteria for final review of the end product or service

c. Document and Records Management

Document control and records management are intended to ensure the availability of accurate information for Berkeley Lab work processes and other activities. Documents and records are managed to provide for retention, preservation, assurances of currency, and retrievability:

- Document control provisions ensure that only approved and up-to-date information pertaining to policy, prescribing work, specifying requirements, or establishing design criteria are available to users when needed. The ALDO and division directors are responsible for identifying which Laboratory documents require this formal and rigorous control. Controlled documents are made available to users by either print or electronic means.

- Effective records management ensures that records of completed activities are generated, maintained, and readily retrievable. Information and data that authenticate the organization's research, operational, or administrative activities are retained as evidence of completed work and adherence to standards and procedures. Berkeley Lab organizations must follow the policies and requirements of records management described in RPM §1.17 (*Archives and Records Management*).

3. Performance Assessments and Improvements

Berkeley Lab organizations must routinely (at least annually) evaluate their work performance to identify, correct, and prevent problems that may hinder the organization in achieving its scientific and operational objectives. Some of these assessments are required under the terms of the DOE/LBNL Contract between the University and DOE. Assessments can also affirm that objectives and goals are being met in accordance with LBNL/PUB-5520, *UC Assurance Plan for LBNL*.

a. Management Assessments

Line managers and division administrators must periodically evaluate the performance of their work activities and take an active role in improving performance and seeking excellence. These assessments can be readiness reviews, design reviews, quality control inspections, program reviews, and any other evaluations to ensure that performance is at a satisfactory level.

b. Independent Assessments

Independent assessments are internal reviews performed routinely by the Environment, Health & Safety Division (EH&S); Internal Audit Services; the Office of Institutional Assurance (OIA); and the Safety Review Committee. These reviews are performed by technically and programmatically knowledgeable personnel within the Laboratory who do not have direct responsibility in the areas they assess. Each assessment organization has established protocols for conducting the reviews.

c. Peer Reviews

Peer reviews, which are a form of independent assessment, are evaluations of scientific and operational programs and projects conducted by peers in that particular field. Reviewers cannot have direct responsibility in the areas being reviewed.

d. ES&H Self-Assessment Program

This program directs divisions and other Berkeley Lab organizations to self-evaluate their operations to

ensure that environment, safety, and health and quality assurance concerns are routinely addressed to promote continuous improvement and excellence in these topical areas. The self-assessment program provides a structured process to perform routine inspections; identify issues; develop and track corrective actions; conduct root cause analysis, and data monitoring and analysis; and institute lessons learned. The program elements and requirements are described in the LBNL ES&H Self-Assessment Program (PUB-5344) and the LBNL Self-Assessment Manual (PUB-3105).

e. Corrective Actions

Corrective actions are developed for issues (findings, concerns, and deficiencies) identified in an assessment, and are managed and tracked through resolution. Corrective actions that cannot be completed immediately must be tracked through the LBNL Corrective Action Tracking System (CATS). The program elements and requirements are described in the LBNL Issues Management Program (PUB-5519 (1)).

Line management, with assistance from EH&S and OIA, also perform root cause analyses and develop lessons learned to prevent problems from recurring. Such activity is commensurate with the risk, significance, and consequence of the problem.

§8.02
Business Continuity Policy

Responsible Manager

New 05/09

A. Introduction
B. Definitions
C. Policy
D. Responsibilities
E. Testing
F. Training
G. Communications
H. BCP Maintenance and Management Reporting
I. BC Management Program Governance
J. Implementation
K. Compliance

A. INTRODUCTION

Lawrence Berkeley National Laboratory (the Laboratory) recognizes the potential risks associated with service interruptions due to an adverse event affecting its strategic, operational, scientific, financial, and stakeholder support services. Therefore, it is important for the Laboratory to maintain viable support capabilities with minimal impact to its research and operations in case of an adverse event. The Business Continuity (BC) Management Program provides the policies and plans necessary for protecting the Laboratory's business or research operations as well as its reputation for quality should such an interruption occur.

B. DEFINITIONS

1. **Service interruption.** Any incident that threatens personnel, buildings, or the operational procedures of an organization and requires special measures to restore normal functions.

2. **Business continuity management**. A process that involves identifying and managing risks and threats faced by an organization due to disruption and interruption; taking steps to control and reduce the risks; assessing the impact on the organization if the risks should materialize; and providing a Business Continuity Plan (BCP) to ensure the continuation of the organization's activities.

C. POLICY

Each directorate/division is responsible for identifying its essential functions, and for developing, maintaining, and testing its BCP in coordination with the BC Program Manager. Each BCP, developed by using the UC Ready Business Continuity Program, will document the resources, actions, tasks, and data required by a scientific or Operations division to recover its essential functions. Each BCP must be approved and signed by the appropriate

division director or designee.

D. RESPONSIBILITIES

The Chief Operating Officer (COO) / Associate Laboratory Director for Operations (ALDO) is responsible for ensuring that all Laboratory divisions participate in implementing the BCP requirements.

The Business Continuity Planning Steering Committee is responsible for advising on the policy and planning of the Business Continuity Program.

The BC Program Manager is responsible to the COO/ALDO and the Director of Institutional Assurance for the development, implementation, management, and maintenance of the Laboratory-wide BCP.

Division directors and department heads are responsible for ensuring the development, implementation, and maintenance of BCPs of their responsible areas. From this, the division will develop a BCP.

E. TESTING

The Laboratory-wide BCP should be tested at least annually to ensure effective recovery preparedness.

Scientific and Operations divisions' BCPs should also be tested annually. Managers from each division and the Division Business Continuity Coordinator will work with the BC Program Manager to perform these division-specific tests.

F. TRAINING

Staff involved in BCP activities must be trained on business resumption and recovery by their respective division.

G. COMMUNICATIONS

The Laboratory-wide and division-specific BCPs will include instructions, processes, procedures, and/or guidance concerning internal and external communication.

Internal Communication: Division directors are responsible for internal communication within their respective divisions.

External Communication: The Public Affairs Department serves as the Laboratory's point of contact to the media should an event adversely affect the Laboratory or a scientific or Operations division.

H. BCP MAINTENANCE AND MANAGEMENT REPORTING

All Laboratory organizations will review and update their BCPs annually or more often if major relevant changes occur. All major updates should be incorporated into their BCPs as soon as possible, with notification to the BC Program Manager.

The reporting of the status and progress of business continuity planning is key to an effective BC Management Program. The BC Program Manager will report the status and progress of the BC Management Program to the COO/ALDO and Business Continuity Steering Committee every six months and after every Laboratory-wide BCP

test.

I. BC MANAGEMENT PROGRAM GOVERNANCE

Business continuity is an institutional concern affecting all Laboratory organizations and therefore requires senior management to provide guidance and oversight.

Division directors will participate in the governance of the Laboratory's BC Management Program by ensuring that each division's BCP is updated, reviewed, and tested annually.

J. IMPLEMENTATION

Consistent with this policy, activities to support this planning effort are addressed in the Laboratory's Business Continuity Implementation Plan.

K. COMPLIANCE

Compliance with this policy is essential to its effectiveness. All Laboratory divisions are expected to adhere to this policy and follow it consistently. The BC Program Manager will assess the preparedness of all Laboratory organizations, including its Operations and scientific organizations, and report annually to senior management. In addition, Internal Audit will periodically review the BCPs to ensure compliance.

Chapter 9
Computing and Networking

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§9.02 Operational Procedures for Computing and Communications

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§9.01
Computing and Communications

Responsible Manager

Rev. 09/07

- **A. Introduction**
- **B. Open Research Environment**
- **C. Responsible and Secure Stewardship**
- **D. Consent to Monitoring**
- **E. Information and Computer Security Responsibilities**
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- **G. Authorized Use**
- **H. Central Services**
- **I. Additional Policy, Procedure, and Governance**
- **J. Sanctions**

A. INTRODUCTION

Computing and Communications technologies form key parts of the conduct of LBNL's science and support for science and the Laboratory's use of IT resources should always reflect the intelligence, quality, integrity, and competence of the Laboratory and the University. LBNL's computing and information policies support the responsible and secure stewardship of these assets, in order to maximize their contribution to the mission of the Laboratory, the University, and the Department of Energy.

This section describes the basic computing and communications policies of LBNL. These requirements apply to all LBNL computing resources, including those used off-site. Requirements related to Laboratory information apply wherever that information resides, including on non-Laboratory owned equipment.

Additional policy and procedure supporting this section may be found on the CIO Policy Website http://www.lbl.gov/CIO/Policy/.

Information on IT services is available from the IT Division: http://www.lbl.gov/IT/ or by dialing Extension HELP,

or by e-mail to help@lbl.gov.

B. OPEN RESEARCH ENVIRONMENT

LBNL is an unclassified, open research environment. The Laboratory's work is such that it can be freely communicated to the scientific and technical community. The Laboratory's computing environment supports research work intended for publication. Additional steps must be taken to secure information not intended for publication when it resides on Laboratory systems.

Classified and DOE sensitive material, including Unclassified Controlled Nuclear Information (UCNI) and Naval Nuclear Propulsion Information (NNPI) as well as National Security Information, are prohibited on Laboratory systems and networks. The Laboratory discourages the presence of any information or research activities which would require a change to the security stance of the institution and such activities may only be approved when the risk is acceptably mitigated.

C. RESONSIBLE AND SECURE STEWARDSHIP

LBNL information technology assets will be treated in a responsible manner throughout their lifecycle. This includes appropriate planning, implementation, maintenance, and disposal of computing and information assets. All members of the LBNL community are accountable for providing appropriate stewardship of the computing and information assets they utilize and manage. This includes appropriate information and computer security, information management, continuity and lifecycle planning, and asset management.

D. CONSENT TO MONITORING

All use of LBNL computing and communications resources by all users, including employees, guests, collaborators, and casual users, is subject to monitoring. No user of LBNL systems has any expectation of privacy in their use of these systems, subject to applicable State, Federal, Department of Energy, and University law and policy. Laboratory employees have a responsibility to monitor systems under their control in a limited manner to ensure the security and performance of these systems. However, broad authority to monitor content and transactions for security or acceptable use is limited to those granted such authority by the CIO, Laboratory Director, or Deputy Chief Operating Officer. In all cases, Laboratory employees engaged in monitoring are expected to access the minimum amount of information necessary to accomplish the task they have been assigned, and to treat such information in a confidential manner as appropriate. In addition, special restrictions apply to the monitoring or recording of telephone conversations, which are typically illegal without the consent of all parties.

All systems, per DOE policy, must display the DOE Warning Banner to provide notice of this policy to users. Login to or use of a system displaying the banner functions as written consent to the requirements and policies of the DOE Warning Banner and LBNL policy, for that system and all other DOE systems.

E. INFORMATION AND COMPUTER SECURITY RESPONSIBILITIES

The Laboratory's computer systems and all information contained in these systems must be appropriately protected from unauthorized use, alteration, manipulation, and disclosure. In keeping with the principals of Integrated Safeguards and Security Management (ISSM), security is the responsibility of the user and his or her line management. Users, data owners, and system owners must take appropriate precautions to secure the

confidentiality, integrity, and availability of systems and data, and line management must provide adequate oversight to assure these precautions are appropriate and maintained.

The CIO has designated responsibility to the Computer Protection Program Manager (CPPM) for developing Minimum Security Standards and Security Policies for computing and communications at LBNL. It is the responsibility of each user, system manager, and line manager to ensure that these standards are adhered to, and that additional safeguards are put in place if judged necessary.

1. Security Policy

The Laboratory has extensive security policies which govern the operation and minimum configuration of systems and services on LBNL networks. All systems and users connecting to LBNL networks must follow these policies and take additional precautions to secure data when appropriate. These guidelines may be found in RPM §9.02 and on the Computer Protection Website located at http://www.lbl.gov/cyber

Ultimate authority to remove a service, system, or user deemed a security threat to the institution has been delegated to the CPPM.

Ultimate responsibility for the safe and secure operation of resources and the safe and secure storage, transmittal, and disposal of data rests with the user, data owner, system manager, and their respective line management. Additional delineation of responsibilities may be found in the Computer Security Program Plan.

2. Privacy and Information Security

LBNL is required to provide additional protection to certain categories of private information. This includes information such as social security, driver's license, and financial account numbers, as well as certain personal health information. Only the institutional business systems of the Laboratory are accredited for the ongoing storage of this kind of information. Email, local workstations, and network storage are not acceptable for the ongoing storage of collections of this information unless they have been specifically approved by the user's line management and concurred on by the Computer Protection Program Manager. Unintended releases of private information or suspected releases of private information must be immediately reported to the CPPM. Additional support for managing private information may be found here.

In addition, certain services and types of information are judged sufficiently important to require additional oversight by the Computer Protection Program. Systems designated as requiring additional protection are required to develop system security plans and adopt additional management, operational, and technical controls.

3. Training

All users of LBNL computing systems must adhere to training requirements appropriate to their responsibilities. Minimum training requirements are established by the CPPM and include annual user awareness training.

F. ACCEPTABLE USE

1. Business Use (Official Use)

All Laboratory computing and communications services are provided to further the mission of the Laboratory. Use related to the individual's position at LBNL includes, but is not limited to, research and administrative functions,

approved professional development and educational activities related to the user's position, laboratory approved community relations and support activities, and support of internal and external committees, task forces, and organizations related to employee's position.

2. Incidental Use

The Laboratory recognizes that incidental personal use of information resources also occurs. Incidental use is generally understood to be transient, that is, incidental use should not create a lasting association between the use and the Laboratory. Such use is acceptable provided it does not constitute unacceptable use as defined below, and meets the following requirements:

- It does not directly or indirectly interfere with Laboratory operation of the resource.
- It does not burden the Laboratory with noticeable incremental cost.
- It does not interfere with the user's employment or other obligations to the Laboratory.
- It does not portray the Laboratory or its employees in an inappropriate or unbecoming manner.

When such use does not meet these criteria, it becomes unacceptable use. Users who elect to engage in incidental use do so with no expectation of personal privacy concerning their actions.

Incidental use is a privilege provided to members of the Laboratory community and may be revoked.

Where incidental incremental costs are incurred and the Laboratory has a system by which the Regents can be reimbursed for these costs, employees must follow the procedures and reimburse the institution.

3. Unacceptable Use

Activities that constitute "unacceptable use" of Laboratory resources include, but are not limited to, the following:

- Use of Laboratory resources for personal gain, lobbying, or unlawful activities
- Use of Laboratory resources for harassment, retaliation, or unlawful discrimination, or in an inflammatory manner.
- Use of Laboratory resources for gaining, attempting to gain, or appearing to attempt to gain unauthorized access to computers, networks, and other information resources
- Use of Laboratory resources for unauthorized manipulation, creation, or removal of information
- Use of Laboratory resources in a manner likely to cause harm to systems or networks
- Use of Laboratory resources to access, store, copy, create, or transmit sexually explicit materials, or to gamble.
- Use of Laboratory resources in violation of copyright, patent, or trademark laws
- Use of Laboratory resources to engage in unauthorized or unlawful monitoring or recording of voice or data communications
- Use of Laboratory resources to circumvent security controls on Laboratory or other external systems
- Use of Laboratory resources to engage in activities prohibited by Laboratory policy, including fabrication, falsification, and plagiarism in research, or unauthorized disclosure of Laboratory proprietary or privacy information
- Use of Laboratory resources to store any information prohibited at LBNL
- Use of Laboratory resources in any manner that violates applicable Federal, State, or University laws or regulations

- Use of Laboratory resources outside the scope of the Laboratory's normal business that can reasonably be expected to offend members of the community, embarrass the Laboratory, or otherwise result in a loss of public trust

G. Authorized Use

All use of LBNL systems must be authorized by a responsible employee who takes security responsibility for the use and/or user and ensures that LBNL IT policies are communicated to the user and followed in the course of granting access. Use must be reviewed by the granting employee on a schedule appropriate to the risks presented by the service or system.

H. Central Services

For reasons of both security and efficiency, the CIO has designated selected services as Institutional Services. These services may only be provided by the designated responsible office or by permission of the responsible office or its designees. Operating, maintaining, or modifying such services without the express consent of the responsible office is a violation of this policy. The current list of such services may be found here.

I. Additional Policy, Procedure, and Governance

Additional policy, procedure, and governance information for Computing and Communications Policy are found on the CIO Policy Website. Notwithstanding this section, users of LBNL information and systems are subject to all applicable University of California and Department of Energy regulations, and applicable state, federal, and international laws.

J. Sanctions

Violation of this policy may result in restriction of access to resources, disciplinary action up to and including dismissal, loss of site access privileges, and/or referral to federal or state law enforcement authorities for criminal or civil prosecution.

§9.02
Operational Procedures for Computing and Communications

Responsible Manager

Revised 09/08

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A. COMMUNICATIONS AND NETWORKING SYSTEMS

1. Communications and Networking Management

Laboratory voice telephone, cellular telephone, data-switching, networking, and teleconferencing systems (except for public address and radio communications systems; see Paragraphs (8) and (11), below) are managed by the IT Infrastructure Department of the Information Technology (IT) Division. Laboratory communications systems include the Integrated Communications System (ICS), which is based on a large distributed voice/data digital switching system and LBLnet, a Laboratory-wide high-speed local area network. These systems also include extensive underground and intrabuilding copper-wire and optical-fiber cable plants and microwave links. Inquiries or suggestions concerning the operation or development of Laboratory communications and networking resources should be directed to the IT Infrastructure Department.

All requests for communications and networking resources, services, or expenditures must be processed through the appropriate office of the IT Infrastructure Department, as described below.

Procedures governing communications, networking systems, and computing may be found on the Berkeley Lab IT Policy Web site.

2. ICS Voice Telephone System

a. **Requesting Services.** The Telephone Service Center handles requests for all types of ICS services, including information about voice and cellular telephone services. To ensure compliance with DOE and Laboratory policies, voice services or equipment may be ordered only through the Telephone Service Center. Unauthorized equipment may not be attached to the ICS system or its related equipment. Violations causing damage may result in the cost of repair being charged to the responsible party.

b. **Repairs.** Requests for ICS repairs should be made to the Telephone Service Center.

c. **Planning New or Changed Services.** Planning for and design of new or modified ICS services are accomplished through the Telephone Service Center to ensure compatibility with existing systems and the most cost-effective use of Laboratory funds. See Telephone Service Center in the Organizations and Services section of the Telephone Directory (Directory Services on the Web) for the appropriate extension.

d. **Long-Distance Services.** It is the Laboratory's policy to use the least-cost routing for long-distance calling.

ICS automatically selects the least-cost facility for long-distance service.

e. **Personal Calls.** Laboratory desktop and cellular telephones are for official business, and the Laboratory pays for each official call. Use of Laboratory telephones for brief personal calls is permitted when required by changes in work plans, emergencies, or coordination of work activities with family members or others who can be reached only during working hours. These calls are also treated as official calls and are paid for by the Laboratory.

   i. **Desktop Telephones.** If an employee finds it necessary to use a Laboratory desktop telephone for a personal call not treated as an official call (see above), the employee is responsible for the cost of the call. Pay telephones are located throughout the Laboratory for the convenience of employees. See the General Information/Pay Telephone Locations on the Telephone Services Center Web site for specific locations.

   Laboratory telephone use is subject to audit by random sampling. Employees may be required to validate an itemized telephone bill and reimburse the Laboratory for personal calls not treated as official calls.

   ii. **Cellular Personal Calls.** Laboratory cellular telephones are intended for official business use. Issuance of a cellular phone must be approved by the employee's division management.

   Employees must acknowledge receipt of the cellular procedures governing the use of Laboratory cell phones by returning a signed copy to Telephone Services MS 50E0101 prior to receiving a Laboratory cell phone.

   If an employee does not adhere to the cellular procedures, his/her Laboratory cell phone may be disconnected, and further disciplinary action may be taken.

   iii. **Personal Usage Criteria.** Personal usage must also satisfy the following criteria:

   - It does not impact or interfere with the employee's legitimate job performance.
   - It does not impact or interfere with the work of any other employee or the correct functioning of any Berkeley Lab information service.
   - It does not support running a business or paid consulting.
   - It does not involve illegal activities or violate Berkeley Lab policy.
   - It does not involve any activity that could potentially embarrass Berkeley Lab, DOE, or UC, or result in a loss of public trust.

f. **Calling Cards.** The Telephone Services Center handles all requests for calling cards. Requests for calling cards must have the approval of the requester's division director or division administrator.

g. **Laboratory Telephone Directory, Operator Information, and Other Telephone Directories.** The Telephone Services Center maintains the word-processing and database systems used to publish the Telephone Directory. The information in these systems is also used to provide operator information services. Electronic versions of the directory are available through the World Wide Web and other servers. All requests for changes to published information or inquiries about electronic access to personnel data should be directed to the Telephone Service Center.

3. ICS Data-Switching System

a. **Requesting Services.** The Telephone Service Center handles requests for all types of ICS switched-data services. These services primarily provide asynchronous switched connections between terminals, personal computers, Laboratory computer systems, and incoming or outgoing connections over external communications networks.

   Unauthorized equipment may not be attached to the ICS or its related equipment. Connection of RS-232 asynchronous devices to ICS data sets may be done by users as long as the equipment is authorized. If in doubt, check with the Data Communications Support Group. See Communications & Networking Facilities in the Organizations and Services section of the Telephone Directory (or in Directory Services on the Web) for the appropriate extension. Violations causing damage may result in the cost of repair being charged to the responsible party.

b. **Repairs.** Requests for ICS repairs should be made to the Telephone Service Center.

c. **Technical Questions and Planning.** Users needing to discuss technical issues or plan significant data-switching applications should contact Communications & Networking Facilities of the IT Infrastructure Department. See Communications & Networking Facilities in the Organizations and Services section of the Telephone Directory (or in Directory Services on the Web) for the appropriate extension.

4. LBLnet

a. **Requesting Services, Technical Questions, and Planning.** LBLnet is a Laboratory-wide high-speed local area network managed by the IT Infrastructure Department of the IT Division.

   LBLnet also provides Wireless LAN installation and coordination services (WLAN) to the Laboratory as part of its standard networking technology and service offerings. To ensure interoperability and appropriate cyber security and to prevent radio frequency interference, only the IT Infrastructure Department will provide WLAN services that are integrated with LBLnet. The authority of the IT Infrastructure Department for WLAN services extends to remote Berkeley Lab sites, and all deployment of WLAN must follow the Berkeley Lab policy for Radio Frequency Management specified in RPM §9.02(A)(13) (*Radio Emissions Standards and Spectrum Managemen*t).

   Requests for services, information, planning of new installations, or changes to existing installations should be directed to the LBLnet office. See LBLnet in the Organizations and Services section of the Telephone Directory (or in Directory Services on the Web) for the appropriate extension.

b. **Repairs.** Requests for repairs to LBLnet should be made through the LBLnet Operations Office. See LBLnet in the Organizations and Services section of the Telephone Directory (or in Directory Services on the Web) for the appropriate extension.

5. ICS-Dedicated Wiring and Optical-Fiber Systems

All interactions concerning planning for the use of, or information about, these resources should be directed to Communications & Networking Facilities of the IT Infrastructure Department. See Communications & Networking

Facilities in the Organizations and Services section of the Telephone Directory (or in Directory Services on the Web) for the appropriate extension.

ICS wall receptacles include a separate keyed receptacle that can be used to support a wide range of communications services over twisted-pair copper wire between any two points in the Laboratory. Twisted-pair copper-wire and optical-fiber facilities with customized terminations can also be provided. Off-site dedicated twisted-pair wire facilities requiring Pacific Bell or other supplier services must be ordered through Communications and Networking Facilities.

6. Public Address System

The Laboratory public address system is designed to give broad coverage in most buildings and general work areas to provide general announcements to Laboratory personnel. It may be used to transmit information during emergencies, but it is not considered an emergency communications system.

Modifications and maintenance of the public address system are under the exclusive control of the Engineering Division Communications Engineering staff. See Communications Engineering in the Organizations and Services section of the Telephone Directory (Directory Services on the Web) for the appropriate extension. Communications Engineering must be notified in advance if any changes in the public address system are required.

The public address system is tested on the second Wednesday of each month at 2 p.m. The test consists of alert tones (two beeps in quick succession) followed by a voice announcement. To ensure complete coverage, employees should notify Communications Engineering or their building managers if the test announcement is weak or unintelligible.

7. Public Address System Announcements

Announcements are normally made by the Fire Department dispatcher or the telephone operators. Use of the public address system is reserved at all times for emergencies and health and safety matters. See Integrated Communications System Office in the Organizations and Services section of the Telephone Directory (Directory Services on the Web) for the appropriate extension.

8. Radio Communications Systems

The Engineering Division Communications Engineering Group is responsible for the engineering, installation, maintenance, and adjustment of Laboratory radio communications systems such as portable, mobile, base, and microwave radios. All requests for such equipment require authorization by this group. See Communications Engineering in the Organizations and Services section of the Telephone Directory (Directory Services on the Web) for the appropriate extension. Each request should include a description of the intended use and the need for the equipment or system desired. Purchased equipment is Laboratory property and should be returned to the Engineering Division when the authorized use or function is completed.

9. Radio Paging Systems

Requests for internal Laboratory-provided and Laboratory-maintained radio pagers should be made through the Engineering Division, Communications Engineering Group. This group is responsible for the engineering design and maintenance of Laboratory radio paging systems. Requests for external vendor-provided radio pagers should be

made through the Telephone Service Center.

10. Radio Emissions Standards and Spectrum Management

The Engineering Division Communications Engineering Group is responsible for the Laboratory's spectrum management and radio emissions. All equipment that generates or uses radio frequencies must be certified by this group for initial installation and after any changes or modifications.

11. Card Access, Security, Alarms, and Surveillance Systems

All requests for card access, property protection, area surveillance, and personal assistance alarm devices must be made through the Physical Security and Property Protection group for approval by the Security Manager. Physical Security and Property Protection will coordinate engineering design and installation with the Facilities Division. For security points of contact, see the Integrated Safeguards and Security Management Web page.

The Facilities Division is responsible for the engineering design, installation, and maintenance of security systems. Security maintenance issues should be directed to the Work Request Center.

12. Video, Fiber-Optic, and Other Signal Systems

The Engineering Division Communications Engineering Group has services available for the design and installation of video, fiber-optic, and other signal systems.

13. Video Teleconferencing

The Information Technology Division has responsibility for Laboratory video teleconferencing systems. Current conference rooms include 50B-4205 and 50F. Point-to-point and multiple-site direct-dialed conferences are possible in Standards Mode and in both VTEL and CLI proprietary modes. For more information, see Berkeley Lab Communications and Networking Resources.

A dedicated full-motion microwave radio video to SLAC is located in Building 71-263.

For information or technical support, contact the Video Data Communications group. This group also handles scheduling for the Video Teleconferencing Room. See Video Conferencing in the Organizations and Services section of the Telephone Directory (or in Directory Services on the Web) for the appropriate extension.

14. Remote Access Services

The Information Technology Division is responsible for Laboratory-managed and funded remote access services, including reimbursed services. The IT Infrastructure Department is the Responsible Office for establishing procedures and guidelines for the provision or reimbursement of remote access services, including dialup, DSL, cable, satellite, cellular packet switches, and other data services. The Computer Protection Program is the Responsible Office for establishing baseline security configurations and security policies governing all Laboratory managed and funded remote access services. Available remote access services and procedures may be found on the IT Infrastructure Department Web site.

B. ELECTRONIC ACCESS

1. Background

As a scientific institution, the Laboratory has a responsibility to enhance the ability of its staff to communicate with colleagues around the world. This communication includes correspondence, raw data, preliminary drafts of technical papers, and finished publications. At the same time, as a primarily federally funded institution, the Laboratory has a responsibility to ensure that federal laws and DOE directives regarding authorized access and the protection of information are observed. This operational guideline is concerned primarily with the first of these responsibilities and with questions of access. The protection of information is addressed in Paragraph (D), below.

This guideline is intended to provide a graded approach to electronic access, recognizing that the mechanisms used for granting or restricting access should be appropriate for the breadth of access desired, the sensitivity of the information involved, and the protection mechanisms in use on the systems employed.

All users of electronic media should remember that once information has been committed to the network, the originator loses all control over how it is used, how it is modified, to whom it is distributed, or to whom it is attributed.

2. Fundamental Principles and Characteristics

a. Whenever appropriate, it should be possible to provide broad access in a convenient fashion to information held at the Laboratory.
b. Proprietary, regulatory, and licensing constraints should be observed at all times.
c. Information should not be made generally available before it is ready for publication. This restriction does not imply that incomplete data or unfinished documents may not be shared over the network within the workgroup, but only that such information should have appropriate access controls.
d. Responsibility for propriety, access, protection, and usage rests with the owner of the data, files, systems, or user identification involved.
e. The provision of electronic access to information held at Berkeley Lab is a form of publication by the Laboratory, and thus such information is subject to Laboratory publication policies. Any material that is to be made available to the general public should be reviewed by a qualified reviewer before its access restrictions are lifted. Division administrators maintain lists of qualified reviewers for their divisions.
f. It is impossible to ensure that the recipient will treat information transmitted or posted on electronic media in a manner consistent with the degree of informality intended by the originator.
g. Electronic correspondence originating at the Laboratory should be composed with the same care as is afforded to traditional correspondence transmitted on Laboratory letterhead.
h. All electronic correspondence should be considered to be more permanent than its obvious conventional (telephone or paper) analogue.
i. Electronic correspondence that identifies the author as a Laboratory staff member is often interpreted by some recipients as containing official Laboratory positions. There is no guarantee that any disclaimer inserted or appended by the originator will remain associated with the correspondence when it is forwarded or transcribed.
j. Laboratory employees are prohibited by the DOE/LBNL Contract between the University and DOE from engaging in activities that are considered to be lobbying. Lobbying includes attempts to influence the introduction, enactment, or modification of state or federal legislation. If you have questions about a specific activity or need a complete definition, see your division director or division administrator. For more details, see RPM §2.23(H) (*Contacts with State and Federal Officials*).

3. Kinds of Access

This guideline covers the kinds of electronic access listed in RPM Table 9.02(B) (*Access Categories*). The categories of access are listed in rough order of increasing risk of damage resulting from improprieties or inadequate access control.

Table 9.02(B)
Access Categories

	Information content	Breadth of access
1.	Read-only access to fully formatted publications that have been adequately reviewed in accordance with Laboratory publication policy. RPM §5.02 (*Scientific and Technical Publications*).	Unrestricted world access.
2.	Read-only access to raw data files or to draft material intended for publication.	Group only (includes collaborators).
3.	Correspondence.	Content-dependent.
4.	Read-only access to proprietary data.	Need to know.
5.	Read/write access to raw data files or draft material intended for publication.	Owner/designee only.
6.	Read/write access to final-form publications.	Author/designee or technical editor only.
7.	Read/write access to files containing proprietary data.	Owner/designee only.

Electronic access controls can be exercised at site, system, user, individual data set, or file level. Because of its nature as a scientific institution, the Laboratory places no generic restrictions on access at the site level. Provisions exist to deny access to the Laboratory from sites that tolerate computer network security abuses or to deny on-site access to Laboratory personnel who violate Laboratory computer and network security and propriety policies. It is not expected, however, that it will be necessary to make extensive use of these policies.

With respect to access control at the system, user, or file levels, controls may be applied at any or all levels. For most Laboratory information, access protection at any one level should be sufficient. Thus, except in unusually sensitive cases, either of the following modes should suffice:

- Public-access system: password-protected or encrypted file
- Controlled-access system: world-readable file

In other words, sufficient access control can be obtained by limiting access to the system, the file, or both. Further

protection can be provided by limiting the ability of individual users to access specific files, directories, or system commands, and by encrypting particularly sensitive files.

4. Forms of Electronic Publishing

Laboratory information can be promulgated electronically through four general mechanisms: correspondence, file transfer, voice and video, or facsimile. In each case, certain proprieties, procedures, and precautions should be observed:

a. **Correspondence** (including e-mail, bulletin boards, USEnet News, List Servs, conferencing systems, and the like). The Laboratory correspondent is responsible for limiting his or her participation to topics within the scope of the Laboratory mission and for avoiding comments that could be construed as lobbying or attempting to influence legislation. In some situations it may be necessary to insist that one is acting as an individual expert, but it cannot be ensured that the recipients will differentiate between an individual position and an official Laboratory position. For further information, see RPM §2.23(H) (*Contacts with State and Federal Officials*).

b. **File Transfer** (whether provided through individual user accounts or through file or data servers, including public access servers). The person posting the file is responsible for ensuring that everyone who has write access to the file is in fact authorized to make changes in the file, and that everyone who has read access to the file is in fact authorized to have access to the information. These conditions are particularly true of proprietary information, but they also apply to information destined for external copyright or that has not been fully reviewed.

   Furthermore, if the existence of the file has been mentioned in any public-access bulletin board, List Serv, or conference, it must be assumed that sufficient knowledge to obtain access is available worldwide.

   If access to the data should be restricted because of sensitivity, its proprietary nature, or for any other reason, the owner must take appropriate steps to limit access to authorized individuals.

   Finally, when using public domain software (e.g., FTP (file transfer protocol) to provide access), the owner is responsible for securing up-to-date (protected) versions of the software. The Laboratory Computer Protection Program Manager (CPPM) maintains a list of names of staff members knowledgeable in appropriate software. Unexamined versions of either new or familiar programs must not be used on systems that contain valuable information.

c. **Voice and Video** (including voice mail, voice-only teleconferencing, room-based or studio video teleconferencing, and desktop messaging or teleconferencing). In these cases, the rules of ordinary conduct apply. In general, the more limited the audience, the more informal the interaction may be.

d. **Facsimile.** Fax traffic should be treated as if the material were being sent through Laboratory or United States mail, except that information subject to the Privacy Act should not be sent to an unattended fax machine.

The foregoing summary does not cover all cases, or even any single case in full detail. Nevertheless, it should provide guidelines sufficient to address most situations. Questions should be addressed to the CPPM.

C. USE OF INFORMATION SYSTEMS AND SERVICE

1. Background

This policy is concerned with publicly accessible electronic media and browsers such as the World Wide Web (Web) front-ended by Netscape. It provides a graded approach to control presentation and content, restriction of access, and scope of responsibility, recognizing that the procedures employed should be appropriate for the breadth of access expected and the sensitivity of the information involved.

All users of electronic media should remember that once information has been committed to the network, the originator loses all control over how it is used, to whom it is distributed, or to whom it is attributed.

These principles and guidelines use the page terminology of the Web, but they should be taken to apply more generally as technology advances. They should also be taken to apply, as appropriate, to older technology such as anonymous FTP and Usenet

2. Definitions

a. **LBL Server.** A network node that provides access to information or services and that is part of or administered on behalf of a Laboratory facility, function, project, or program.
b. **Page.** A logical information structure, accessible as a unit from, on, or through an information server. A page may contain links to other pages or files located on other servers.
c. **LBL page (file).** A page (file) resident on any Laboratory server or accessible directly through any Laboratory server without passing through a server or page belonging to another institution.

3. Scope

These guidelines apply to all Laboratory information servers, regardless of location, and to all Laboratory files posted on any information server, whether or not located at the Laboratory, and regardless of the home page(s) or directories with which they are associated.

A server that is administered by the Laboratory for another institution or agency, or located at the Laboratory but administered by another institution or agency, is governed by the policies established by that institution or agency.

4. Fundamental Principles

a. Whenever appropriate, it should be possible to provide broad access in a convenient fashion to information held at the Laboratory.
b. Proprietary, regulatory, and licensing constraints should be observed at all times.
c. Information should not be made available to the general public before it is ready for publication. This restriction does not imply that incomplete data or unfinished documents may not be made available through network information services, but only that such information should have appropriate access controls. See Paragraph (B), above. If the desired server does not provide the capability to install appropriate access controls, the information should not be posted.
d. Responsibility for propriety, access, protection, and usage rests with the owner of the data, files, servers, or pages involved. The page owner is responsible for ensuring that both the content and presentation of information on a page are consistent with Laboratory policies and guidance. Questions concerning the suitability of information for publication should be addressed to the Laboratory Scientific and Technical

Information Officer.

e. The posting of information on any Laboratory page is a form of publication by the Laboratory and subject to Laboratory publication policies. See RPM §5.02 (*Scientific and Technical Publications*).
f. Any material that is to be made available to the general public should be reviewed by a qualified reviewer *before* its access restrictions are lifted. Division administrators maintain lists of qualified reviewers for their divisions.
g. The scope of responsibility of a page owner extends to, but not beyond, links that occur on the page (i.e., the owner of a page is responsible for knowing the immediate content of all links on a page, but not for ensuring the propriety of information existing at the end of an arbitrary chain of links).
h. The default for Laboratory pages is universal *read* access and owner-only *write* access.

5. General Page and File Policy

a. The page (file) owner is responsible for determining the appropriate level of access for the page (file) and for ensuring that appropriate access restrictions are in place.
b. The page (file) owner is responsible for ensuring that everyone who has write access to the page (file) is in fact authorized to make changes to the page (file), and that everyone who has read access to the page (file) is in fact authorized to have access to the information. This responsibility applies particularly to proprietary information, but it also applies to information that is destined for external copyright or that has not been fully reviewed.
c. The Laboratory may establish open pages, analogous to open bulletin boards. The owner of an open page is responsible for verifying that the person making a posting is authorized to post information on a Laboratory page. Every posting on an open page must carry the name of a Laboratory sponsor either directly or on an obvious link. The Laboratory sponsor is responsible for the content of the posting.
d. The posting of inappropriate information on a Laboratory page or file may be cause for disciplinary action. Information that is proprietary in nature or contrary to Laboratory policy concerning lobbying, the use of Laboratory computers, or the use of open bulletin boards may be considered to be inappropriate. This policy applies to nontextual information as well as to text.
e. All individuals posting information on any publicly accessible Laboratory page or file are encouraged to review posted material carefully. Everything posted on any network information service reflects on the intelligence, quality, integrity, and competence of the Laboratory as an institution and the page-owner and page-poster as individuals.
f. Every Laboratory page must contain the following information directly or contain a link to an owner's page that provides it: owner's name, address, e-mail address, and telephone and fax numbers, plus any disclaimers or restrictions that apply to the contents of the page.

6. Home Page Policy

a. The owner of the Laboratory Home Page is the Head of the Public Affairs Department. He or she is responsible for establishing and enforcing guidelines for the content, presentation, and style of the Home Page and its immediate links.
b. The Home Page and its immediate links are to be considered as corporate data, which may be changed or deleted only by authorized personnel.

7. Server Policy

a. The administrator of each Laboratory server is responsible for ensuring that each file on or first-level page accessible through that server has a Laboratory sponsor. The Laboratory sponsor is responsible for ensuring that all applicable page policies are observed. A first-level page is one that is directly accessible without passing through another server or intermediate page.
b. The administrator of each Laboratory server will maintain records of the owners and Laboratory sponsors of all current first-level pages and will provide this information to the IT Division Network Information Services group in a timely fashion.
c. The administrator of each Laboratory server is responsible for ensuring an appropriate level of data and access protection for the server and for informing file- and page-owners and Laboratory sponsors of all first-level pages of the protection level maintained.

D. COMPUTER AND NETWORK SECURITY

These guidelines are concerned with minimum acceptable computer and network security practices for general operations. Divisions or groups may apply more stringent policies if warranted by the sensitivity of the data or applications involved.

These guidelines, together with RPM §9.01 (*Computing and Communications*), embody the Laboratory's implementation of DOE Order 1360.2B.

1. Basic Principles

a. Distribution of function and capability entails equal distribution of responsibility. The owners of individual and workgroup systems must assume responsibility for the proper administration and operation of the systems they control. This responsibility extends to individual staff members working at home or on travel.
b. The Laboratory is a federally funded scientific institution. As such, it has a responsibility to enhance the ability of its staff to communicate with colleagues around the world and to practice appropriate economy in operation. Thus, the level of protection and cost of protective measures should be commensurate with the magnitude of the threat to the institution inherent in the system, breadth of access, and sensitivity of the data and application involved. Threat is a combination of likelihood of compromise and magnitude of potential damage.
c. Breadth of access should be encouraged within the constraints imposed by provision of adequate protection. System managers are charged with the responsibility of determining and enforcing the level of protection necessary.

2. Organization for Computer Security

a. The primary elements of the Laboratory organization for computer and network security are the Computer Protection Program Manager (CPPM) and the Computer Protection Implementation Committee (CPIC), which is chaired by the CPPM and includes computer security liaisons (CSLs) from each division, office, and center (including the Reception Center), plus assistant CPPMs for the Scientific Computing Facility, the Administrative Computing Facility, distributed workstations, telephone systems, and networks.
b. The generic distribution of responsibility between the Laboratory CPPM and the divisions (D), centers (C), and offices (O) is given in RPM Table 9.02(D)(2) (*Distribution of Computer Responsibility*). Specific responsibilities are addressed in the next section.

Table 9.02(D)(2)
Distribution of Computer Responsibility

Responsibility	Responsible parties
Definition of Laboratory-wide policy	Computer Protection Program Manager (CPPM)
Random file checks	D, O, and C
Implementation of access policies	D, O, and C
Computer and communications security training	CPPM; Computer Security Liaisons (CSLs)
Computer security awareness: program definition	CPPM
Computer security awareness: program implementation	Reception Center; D, O, and C
Incident detection	D, O, and C; CPPM
Incident reporting: internal	D, O, and C
Incident reporting: external	CPPM

3. Responsibilities

Table 9.02(D)(3)
Specific Computer Responsibilities

Responsible party	Specific responsibilities
Associate Laboratory Director for Operations	Appoints Laboratory Computer Protection Program Manager (CPPM) and Assistant CPPMs. CPPM is listed in the Telephone Directory.
Laboratory Computer Protection Program Manager (CPPM)	Defines and, with assistance of Computer Protection Implementation Committee (CPIC), implements and administers Laboratory's computer security program in accordance with Laboratory policy and applicable DOE directives.
Assistant CPPMs	Assist CPPM as necessary in activities pertaining to their areas of expertise.
Computer Protection Implementation Committee (CPIC)	Meets periodically to: • Review computer and communications security awareness and training.

	• Provide regular (at least every other year) reviews of Laboratory's computer and communications incident history and current security technology. • Make recommendations for revisions to Laboratory's computer security policies as necessary. Committee reviews and revises electronic access and computer security guidelines as appropriate.
Division, Center Directors, and Heads of Offices	Appoint a representative to the CPIC, for their division, center, or office and ensure that Laboratory computer security policies and procedures are observed within their division, center, or office.
Computer Security Liaisons (CSLs)	Serve as two-way communication channels between Laboratory Computer and Communications Security Program and their division, office, or center. Participate in meetings of CCSC, learn and understand Laboratory computer and communications security policy, and assist as necessary in implementation of this policy.
Human Resources Staffing Unit	Ensures that all new employees, visitors, and participating guests receive an appropriate introduction to computer security policy and practice at Laboratory.
Division administrators	Ensure that all user IDs and passwords used by terminating employees and guests are deactivated or continued through a Laboratory sponsor.
Supervisors and managers	Ensure that employees under their supervision maintain a continuing awareness of proper computer security practices. A standard computer security awareness statement (Form CPP 13) is available from CPPM. It may be used to document a computer user's continuing awareness.
System managers	Maintain an appropriate level of security for their systems. Respond appropriately to detection of a security incident. Are responsible for all security threats or other improper usage originating from or passing through systems under their control. Have authority to deny access to their systems to any person observed not using proper computer security practice.
Network managers	Maintain network integrity and a level of security awareness appropriate to their networks. Know how to isolate their networks from all non-Laboratory

	connections and respond appropriately to detection of a security incident. Have authority to deny network access to any system or external connection for security reasons.
Individual users	Know and follow Laboratory computer and network security policies. Bring any security violations to attention of their system manager, CPPM, or other proper authority. Are responsible for all actions originating from user IDs under their name or control, whether or not they authorized such use.
University of California Police Department	Maintains 24-hour telephone service to assist users in locating appropriate management or administrative authority to deal with suspected data security incidents.

4. Host Policies

a. **Designated Systems Administrators.** All UNIX systems connected to LBLnet must have designated system administrators who have completed UNIX system administration and security education. In addition, system administrators are required to update their UNIX system security education at least annually.
b. **Minimum Standard Configurations.** All UNIX systems connected to LBLnet will be required to conform to minimum standard configurations set by the UNIX group. These standard configurations include OS versions, patches, and specific utilities as well as general configuration policies. The UNIX group will post these configurations on the Web and update them as necessary.
c. **LBNL Host Database.** All hosts that are connected to LBLnet must be listed in the LBNL Host database. This database will include the names of the currently designated systems administrators or contacts. The database must be reviewed annually by each division to ensure that host information is current.

5. Procedure for Handling Computer and Network Security Incidents

The computer and network security incident-handling procedure is given here in summary form. A more detailed version can be obtained from the CPPM.

An employee who encounters a suspected computer or network security incident (repeated attempts at unauthorized access or the occurrence of a rogue program, i.e., one that intends to disrupt or subvert the system in some way; viruses and worms are rogue programs) should first try to inform the appropriate people (by telephone rather than e-mail) and then, if necessary, respond to the incident.

To inform the appropriate people, call one of the following and report the system affected and the nature of the problem:

- If using a multiuser system, the system manager. If using a single-user workstation, the appropriate technical support group.
- The CPPM.
- The Division Director of the IT Division.

- The University of California Police Department, which has a telephone tree to locate the appropriate technical and/or administrative authorities. Be sure to specify that the call is to report a data security incident in progress.

The following general rules govern response to the incident:

- In all cases: Log the incident and inform the appropriate personnel.
- In an isolated case of unsuccessful attempt at entry (i.e., a single, unrepeated, unsuccessful attempt): No further action is necessary unless the attempt is repeated.
- In a case of successful penetration if it appears that the integrity of user data is threatened: Attempt simple close-out, i.e., shut down the known access paths and monitor all attempts to access user IDs that the attacker is known to have used. If necessary, re-authenticate all users. This means to disable all existing user IDs and require some form of personal contact before allowing individual users back on the system. Users should check their files for evidence of tampering and should be prohibited from using the same password.
- In case of discovery of a rogue program: Isolate the system and quarantine all disks and tapes that have been on it since the introduction of the rogue program. Do not connect to any other system or transfer any programs or data from the system to any other system by any means until the system manager has declared the system to be clean.
- In other cases: Confer with division management and/or the CPPM.
- In the absence of other advice or information: Act to protect the data rather than to monitor or trap the attacker.

6. Confidentiality of Computer Files

It is Laboratory policy that all computer files be accessible only by the person responsible for those files unless that person has explicitly authorized others to access them. Access will be granted to the person's supervisor or manager if it is necessary for Laboratory purposes. This policy applies regardless of the level of access protection assigned to a particular file.

In the course of their work, certain authorized individuals (e.g., system managers and computer security personnel) are required to inspect users' files. Under no circumstances, except as specified below, are the contents of those files to be revealed and then only to the CPPM, the Director of the Information Technology Division, or such other persons specified by the Associate Laboratory Director for Operations. In these circumstances, only the following information may be divulged:

- Evidence of unauthorized internal or external access
- Evidence of improper use of Laboratory facilities
- Evidence of security-threatening practices

7. Computer Security Monitoring

To ensure adequate security of Laboratory computer systems and networks, a program of computer security monitoring will be conducted under the supervision of the CPPM. It will include the following activities, as necessary:

- Random sampling of user files

- Verification of proper control and authentication of new users
- Verification of proper password procedures and use
- Verification of proper physical security
- Monitoring of network traffic
- Monitoring of usage patterns

Any apparent violation of Laboratory policy, attempt at unauthorized access, or any situation that exhibits less than acceptable computer security will be reported to the CPPM for further action. In all cases involving the monitoring of user files and data traffic, Laboratory policy on confidentiality of computer files applies.

8. Physical Security

a. **Desktop and Other Small Systems.** Microcomputer-based personal or desktop computers, notebook and palmtop computers, intelligent terminals, word-processing, and similar systems are commonplace in Laboratory offices and because of their portability are particularly vulnerable to physical attack, including theft. Laboratory employees who possess such equipment are responsible for ensuring the physical safety of that equipment. Contact Electronics Engineering's Installation Shop to obtain information and technical assistance with antitheft lockdown devices and permanent imprinting of the manufacturer's serial numbers on the equipment.

b. **Proprietary Software and Data.** Proprietary software and data should be secured in a manner commensurate with the threat.

9. Network Citizenship Guidelines

Laboratory staff, visitors, guests, and contractors are expected to exhibit good network citizenship in all network interactions by following these rules:

- Do not distribute or encourage the distribution of network junk mail. Be judicious in the use of utilities that generate responses automatically (such as those used to announce that you are on vacation or travel).
- Avoid indiscriminate use of distribution lists. Do your best to ensure that mail is sent only to interested addressees.
- Make appropriate use of automatic-answering facilities to ensure that replies are sent only to people with a genuine interest in the correspondence. It is especially important to know whether the auto-answer facility will send the response to the entire address list of the original message or to only the originator.
- Use the network only for Laboratory-sanctioned activities.
- Do not use proprietary software without an appropriate license.
- Do not distribute software to unauthorized users or make it available to unauthorized users.
- Do not read other people's files or directories without explicit authorization. With the exception of such public files such as stores catalogues, forms repositories, and telephone lists, authorization should not be assumed for any file not on a public access server.

  In general, users should not post anything over the network that they would not send on official Laboratory

stationery, should not access any information or software over the network that they would not send or for which they have no authorization, and should not send any e-mail that they do not want recorded.

10. Information Security Guidelines

These guidelines are not intended to address every situation that can arise, but to provide a reasonable background so that individuals may make appropriate judgments in those cases that are not covered. Questions should be addressed to your CSL, assistant CPPM, or the CPPM.

a. **Individual Responsibility**

i. Each user is responsible for all activities originating from any of his or her user IDs.
ii. Each password owner is responsible for all activities resulting from shared use of that password.
iii. Shared user IDs and passwords are not generally allowed, but such sharing may be appropriate under some circumstances. Users needing to share their user IDs or passwords must request authorization from the system manager. The system manager has the authority to deny such requests.
iv. Each system owner is responsible for the network citizenship of all users of that system.

b. **System Protection**

i. Access to all Laboratory systems should be available only to Laboratory staff (including participating guests and contractors) or to others through a Laboratory sponsor. If an anonymous ftp or a similar utility is enabled for a system, the system manager becomes a default sponsor for the whole world. The Laboratory sponsor assumes responsibility for all activities of sponsored persons. The use of someone else's user ID or password implies sponsorship by the owner of the user ID or password, whether or not the owner has explicitly granted permission.

ii. The safeguards that are provided by the operating system in use should be invoked to the maximum extent that does not interfere with the work of the users. Such safeguards include the following:

- Control over system privileges
- Protection of the password file
- User notification of unsuccessful log-in attempts
- Temporary deactivation of user ID after several successive failure
- Less-than-universal defaults for file access

iii. Suitable physical security measures should be employed. In addition to appropriate fire and seismic protection, among the measures to be considered are controlled access to the space, separate locked storage of media, lock-down devices, and physical separation of backups from primary versions.

c. **User IDs and Passwords**

Access to all multiuser systems must be protected by standards that conform to the following rules:

i. **User-selected passwords.** Users who select their own passwords must ensure that these passwords are consistent with the security features listed below:

- Passwords must contain at least eight nonblank characters;

- Passwords must contain a combination of letters (preferably a mixture of upper and lowercase letters), numbers, and at least one special character within the first seven positions;
- Passwords must contain a nonnumeric letter or symbol in the first and last positions;
- Passwords may not contain the user ID
- Passwords may not include the user's own or (to the best of his or her knowledge) a close friend's or relative's name, employee number, Social Security number, birthdate, telephone number, or any information about him or her that the user believes could be readily learned or guessed;
- Passwords may not (to the best of the user's knowledge) include common words from an English dictionary or a dictionary of another language with which the user has familiarity;
- Passwords may not (to the best of the user's knowledge) contain commonly used proper names, including the name of any fictional character or place; and
- Passwords may not contain any simple pattern of letters or numbers such as "qwertyxx" or "xyz123xx."

ii. **Password protection.** Individuals may not:

- Share passwords except in emergency circumstances or when there is an overriding operational necessity; or
- Leave clear-text passwords in a location accessible to others or secured in a location for which protection is less than that required for protecting the information that can be accessed using the password.

iii. **Password changing.** Passwords must be changed under any one of the following circumstances:

- At least every six months.
- Immediately after sharing.
- As soon as possible, but at least within one business day after a password has been compromised or after the user suspects that a password has been compromised.
- On direction from management.

iv. **Password administration.** If the capability exists in the information system, application, or resource, the system must be configured to ensure the following:

- Except in the case of anonymous FTP servers and embedded systems that use only cleartext passwords, any password sent over the network is encrypted through use of secure shell (SSH), secure sockets layer (SSL), or an equivalent protocol;
- Three failed attempts to provide a legitimate password for an access request will result in an access lockout, which is automatically restored following a period predetermined by the system manager;
- The password is rejected when a password specification does not comply with the above requirements and the failure to comply is verifiable by automated means;
- After six months of use, individuals are notified that their passwords have expired and that lockout will occur if their password is not changed within five access requests; and
- If technically feasible, any password file or database used by the information system is protected from access by unauthorized individuals.

d. **Network Security**

i. **Network Access**

- Scripts should not contain network access passwords.
- Use of the default DECnet account is not permitted except in certain public-access situations.
- Proxy access should be used for remote log-ins to VMS systems.
- UNIX .rhosts entries should be aged and expired after 180 days.
- .xhost + should not be used.
- Access lists should be reviewed at least annually.

ii. **LBLnet Connections**

- The network address and/or name of each Laboratory system that is connected to LBLnet, either directly or through a gateway, must be registered with the administrator of network addresses for that network. For example, an Internet-based system (i.e., one using TCP/IP) must be registered with the IT Infrastructure Department. The registration must include the user name and location of the system. The Head of the Communications and Networking Resources Department maintains a list of Laboratory network administrators.

- Only the LBLnet Manager may authorize a new physical connection to the LBLnet, and he or she will document all such connections. The LBLnet Manager is listed in the Telephone Directory (Directory Services on the Web).

iii. **Individual Remote Access**

Individual users accessing LBLnet remotely (e.g., from home) must observe all LBLnet security policies.

iv. **Physical Security**

Physical access to all LBLnet computers will be limited to authorized personnel.

e. **Institutional Information**

Institutional information is any business or management information involved in the support of the Laboratory as a whole or of specific projects or groups within the Laboratory.

i. Systems that process or store institutional data (as defined above) should be backed up on a regular schedule. The intervals between back-ups should be determined by the criticality and recoverability of the data and the frequency of update. Both software and data need to be backed up.

ii. Owners of applications that use an electronic signature as a legal signature must ensure that any risks specific to electronic signatures are analyzed and that security controls for the application are appropriate to the risks. When an on-line signature is requested, the following language should be used to indicate that a legal signature is being solicited: "The information requested constitutes a legal signature for the person named. Use of this electronic signature by anyone other than the person named, or his or her designee, is forbidden and may result in disciplinary action, dismissal, or civil or criminal liability." Electronic record keeping requirements specific to the application must be developed

and implemented.

f. **Other Guidelines**

i. **Specific Applications.** Systems that process environmental, safety, or health data must be protected according to the stricter laws that
ii. govern these data, if the requirements go beyond DOE policy.
iii. **Distribution Lists.** The addressees on mail explorers and automatic distribution lists should be reviewed for proper authorization at least semiannually.

11. Training and Awareness

a. The CCSC will develop and administer training curricula for system managers, division administrators, the reception center, and general staff, and will provide material to assist in the determination of application sensitivity.
b. The CPIC will develop appropriate access and computer and network security guidelines and make them available to all staff as needed.
c. The CPPM will ensure that all assistant CPPMs and CSLs receive appropriate training.

12. Computer and Network Security Glossary

FTP	File transfer protocol. The process by which files are copied from one system to another over the Internet. Anonymous FTP is the process that allows such transfers to take place without requiring a log-in to the remote system.
log-in	The process of gaining access to a computer system. It usually consists of providing a user ID and a password.
password	An access code that is associated with a particular user ID. The user ID and password must match for access to be granted. Password protection may be applied to individual files or commands as well as to general system access.
proprietary data	Data that require extra protection because they are the intellectual property of someone (internal or external to LBNL) who has restricted their distribution.
.rhosts; xhost +	Mechanisms for granting and using remote access to a UNIX system.
threat	The product of the probability of compromise or damage and the dollar impact of the average

	incident: $T = p(C) X \$$.
user ID	The name by which an individual user is known to a system. A single user may have multiple user IDs on the same or different systems. In special circumstances, multiple users may use the same user ID.
VMS proxy access	A mechanism for granting access to a remote user of a VMS system.
xhost +	See .rhosts.

E. COMPUTER SOFTWARE

1. Laboratory-Developed Software

In-house software development must be managed in accordance with the Laboratory Software Management Policy. DOE Order 1360.4A and DOE Notice 1360.8 define the procedures to be used for the external distribution of finished software. In particular, if finished software is to be distributed outside the United States to other than programmatically approved collaborators, such distribution must be accomplished through the Energy Science and Technology Software Center (ESTSC) or the appropriate Specialized Information Analysis Center (SIAC).

2. DOE-Developed Software

DOE policy (DOE Order 1360.4) promotes sharing of DOE-developed software wherever appropriate. This policy is implemented through the ESTSC. The policy requires review of available shared software before a decision to develop new software and submission of Laboratory-developed software to ESTSC when it may have value to other DOE sites. Both review and submission of ESTSC software are accomplished through the Laboratory Library. Questions of policy or appropriateness of software for submission to ESTSC should be addressed to the Office of Information Technology Resources (ITR) Planning.

3. Public Domain Software

Public domain software must be used with great care. Computer viruses or other such mischievous or detrimental modifications to computer software could cause significant loss or damage to the Laboratory. The importer of public domain software into the Laboratory is responsible for ensuring that such software does not contain such harmful modifications.

4. Commercial Software

Laboratory policy is to use commercial software whenever it is functionally appropriate and cost-effective rather than develop software in house. Many users share development, documentation, and maintenance costs of commercial software, and larger knowledgeable communities use the same software, which can be advantageous.

5. Licensed Software

Most commercial and some noncommercial software is made available under a license agreement. Such agreements typically restrict usage to certain CPUs, place restrictions on copying, require labeling of copies, and may contain other terms and conditions of use. Occasionally some terms or conditions contained in software license agreements are unacceptable to the Laboratory. In such cases, an acceptable agreement must be negotiated or the software cannot be used.

License agreements generally follow one of three formats:

a. Some software suppliers (usually of larger or more expensive software) require an explicit signed agreement before delivery of the software. This type of agreement is managed as part of the official Laboratory purchase order. No staff member, except authorized Purchasing Department staff, may sign such an agreement.
b. Other software (usually inexpensive or personal/microcomputer software) is purchased without prior agreement but is delivered to the end user with a license agreement included. Such agreements either claim to be in effect if the software is used or request a signature on a postcard-type agreement to be returned to the supplier. Recipients of such software usually want to sign the agreement and return it because that is the mechanism for obtaining updates. Generally, staff members may sign such agreements after a careful reading. Any liability assumed by the signing of such an agreement may be personal and not indemnified by the Laboratory. Questions concerning the advisability of signing an agreement or using the software should be referred to the Head of the Office of ITR Planning or the Purchasing Manager.
c. Software is occasionally made available to the Laboratory under specific agreement, but at no cost. If the software is to be handled as proprietary information, see RPM §5.06 (*Proprietary Information from External Sources*).

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Chapter 10
Conflict of Interest

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Denotes a rewritten or new section

Denotes the beginning of changed text within a section

Denotes the end of changed text within a section

Denotes deleted text

§10.01
Conflict of Interest — General

Responsible Manager

Rev. 1/10

- **A. General**
- **B. Lab Requirements**
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A. GENERAL

The Laboratory is bound by a variety of conflict-of-interest policies, some of which emanate from the U.S. Department of Energy (DOE) contractual requirements and some of which are founded on University policies, State of California law, and Federal regulations. These policies pertain to a broad range of employee activities, including compensated outside business and professional activities (RPM §10.02), hiring procedures (RPM §2.01(E)(5)(b)), sponsored research (RPM §10.05), human subjects research (RPM §10.09), licensing (RPM §10.11), and technology transfer (RPM §10.08). An employee who fails to comply with Laboratory conflict-of-interest policies may incur disciplinary action by the Laboratory and prosecution under State law. These policies apply to all Laboratory employees regardless of percent time of appointment at the Laboratory, including rehired retirees and University of California faculty associated with the Laboratory.

B. LAB REQUIREMENTS

Contract 31 contains Clause I.66, Organizational Conflicts of Interest, whose purpose is to ensure that the Regents (and its employees) are not biased because of financial, contractual, organizational, or other interests that relate to the work under the Contract, and that there is no unfair competitive advantage over other parties due to the performance under the Contract. Employees who obtain access to information (such as DOE financial plans or data) that has not been released to the general public must not use such information for any non-Laboratory purpose.

Clause I.78, Contractor's Organization, cites the Department of Energy Acquisition Regulation that addresses gratuities, the use of privileged information, incompatibility between employee regular duties and private interests, and outside employment of employees.

Clause I.109, Federally Funded Research and Development Center (FFRDC) Sponsoring Agreement,contains prohibitions about using privileged information to compete with the private sector. Additionally, for employees who receive information that may be sensitive or proprietary to the Government, care must be taken to ensure LBNL is operated in the public interest with objectivity and independence, free from organizational conflict of interest.

Clause I.92, Technology Transfer Mission, implements the National Competiveness Technology Act of 1989, as amended, and states that the contractor shall conduct federally funded technology-transfer activities that benefit the competitiveness of U.S. industry. The conflict-of-interest portion of this clause is reflected in section 10.08 and

10.11 of this chapter.

The University has a compendium of Conflict of Interest policies that can be found here. These policies should be adhered to in concert with the specific requirements under Contract 31.

Questions concerning potential conflicts of interest should be addressed to the Research and Institutional Integrity Office.

C. RELATED LINKS

Summary of Links Related to Conflict of Interest

- University of California Office of the President (UCOP) Conflict of Interest Policy
- UCOP Policy on Disclosure of Financial Interests Related to Sponsored Projects
- UC Conflict of Interest Code
- Conflict of Interest Policy and Compendium of Specialized University Policies, Guidelines, and Regulations Related to Conflict of Interest
- State of California's Political Reform Act
- Federal Register on Objectivity in Research
- List of Non-governmental Entities Exempt From Disclosure Requirement
- National Institutes of Health Conflict of Interest
- National Science Foundation Conflict of Interest
- Conflict of Interest Web Resources

§10.02
Outside Business and Professional Activities

Responsible Manager

Rev. 1/10

- **A. General Policy**
- **B. Review-and-Approval Principles and Time Limits**
  - **1. Principles**
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- **C. Review and Approval of Outside Business and Professional Activities**
  - **1. Uncompensated Outside Business and Professional Activities**
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- **G. Policy on Outside Professional Activities for the University Senior Management Group**
- **H. Ownership or Management Interest in Commercial Entities with Potential Economic or Technology Connections to the Laboratory**
- **I. Patent Agreements**

Appendix I: Table 10.02(E) (Policy on Teaching for the University of California)

A. GENERAL POLICY

Employees may engage in outside business and professional activities outside Laboratory hours and away from the Laboratory as long as such activities do not interfere with performance of their Laboratory duties, create a real or apparent conflict of interest, or subject DOE or the Laboratory to public criticism or embarrassment. As set forth below, Laboratory management review and approval are required for any of the following outside professional activities:

- Work with the potential to interfere with Laboratory employment obligations
- Work of any kind for a scientific or technical organization
- Work paid by federal funds or by a unit of the University of California
- Consulting in a subject area related to the employee's Laboratory work

If the outside activity is not in one of the categories listed above and is obviously unrelated to the Laboratory's interests, it does not normally need to be reported or approved. Examples include an outside job or business interest in ranching; retail sales; and music, art, or residential real estate sales. Employees who are undecided as to whether their outside activity must be disclosed in accordance with this policy shall refer the question to the Research and Institutional Integrity Office.

All outside business and outside professional activities must be conducted without the use of Laboratory supplies,

equipment, or facilities. See also RPM §§2.05(I) (*Integrity in Research*), 10.14 (*Privileged Information*), and 11.39(A)(2) (*Use of Laboratory Property and Supplies / General*). In addition, no amount of time due to the Laboratory may be devoted to private purposes, and no outside business or professional activity may interfere with the performance of Laboratory duties. The policy in this section is based on federal and State laws and regulations, the DOE/UC Contract for management of LBNL, and University policy.

Policy concerning ownership or management interest in commercial entities with potential economic or technology connections to the Laboratory is covered in Paragraph (H), below.

B. REVIEW-AND-APPROVAL PRINCIPLES AND TIME LIMITS

1. Principles

The following considerations are made in determining whether a real or apparent conflict of interest exists.

a. **Incompatibility between regular duties and private interests.**

   1. Employee outside business or professional activities shall not be in competition with current or proposed Laboratory projects.
   2. Employee outside business or professional activities shall not result in unfair competitive advantage to the outside business.
   3. Employee outside business or professional activities shall not materially affect the Laboratory's dealings with the outside business or substantially affect the environment of the economic/technological business sector in which the employee or a near relative has a financial interest as defined by the University of California Conflict of Interest Code**.**
   4. Employee outside business or professional activities shall not limit the employee's responsibility to fully and promptly report significant Laboratory research and development information to DOE.

b. **Protection of privileged and proprietary information**. An employee engaged in outside professional activities shall protect information, skills, or knowledge that is material to current or proposed Laboratory research or development work, and that is proprietary to the Laboratory and not yet in the public domain.

2. Time Limits

There is no specific time limit for an employee's outside business or professional activities; however, approval is required on an annual basis and whenever there is a change in the scope or terms of work.

C. REVIEW AND APPROVAL OF OUTSIDE BUSINESS AND PROFESSIONAL ACTIVITIES

Outside business or professional activities, including but not limited to consulting, and serving on boards of directors and advisory boards, are normally permitted with most outside organizations. However, Laboratory employees may not engage in outside activities that in any manner interfere with the proper and effective performance of their Laboratory duties or appear to subject DOE or the Laboratory to public criticism or embarrassment (see RPM §2.01 (*Employment*)). In addition to the general requirements in Paragraph (A), above, prior approval is required for outside business or professional activities that involve the use of information from the subject area of the employee's Laboratory work, or that involve an entity with whom the Laboratory does

business or has the potential to do business, e.g., licensing, sponsored research, subcontracts.

1. Uncompensated Outside Business and Professional Activities

Review and approval of uncompensated outside business and professional activities is at the discretion of the home Division.

2. Compensated Outside Business and Professional Activities

Compensated outside business or professional activities described in this section and in Paragraph (A) (above) require prior review and approval by Laboratory management and institutional officials. The "Request for Approval of Compensated Outside Professional Activity" form is used to obtain most required approvals. In accordance with Contract provisions, the Laboratory provides the DOE Berkeley Site Office (BSO) with information and/or copies of documents pertaining to compensated outside business or professional activities.

D. OTHER PAYMENTS FROM OUTSIDE ORGANIZATIONS

Generally, employees are permitted to accept honoraria from sources other than the Department of Energy (including flow-through funds) for lectures or presentations. However, the California Political Reform Act imposes prohibitions and/or limits on honoraria for employees in positions designated by the University of California Conflict of Interest Code. See Section G below, and RPM §10.03 (Self-Disqualification and Conflict of Interest for Designated Officials). Honorarium payments for one-time lectures do not require Laboratory approval.

E. TEACHING FOR THE UNIVERSITY OF CALIFORNIA

University policy does not normally allow full-time employees to be paid by the University for dual employment in any additional position. Exceptions for teaching at University of California institutions may be allowed, however, as noted in Appendix I: Table 10.02 (E) *(Policy on Teaching for the University of California)*, which describes the various requirements concerning teaching at the University of California.

To obtain the required approvals, use the Request to Teach at University of California form. Approval of the division director is required. The division sends a copy of the form to their Human Resources Center, which maintains the appropriate record.

F. REVIEW OF EXTERNAL TECHNICAL PROPOSALS INVOLVING LABORATORY INVENTIONS

A Laboratory employee who is invited by DOE or any third party to review a technical proposal that describes (1) his/her own invention/s or (2) any other LBNL invention that the employee is aware of through, for example, previous knowledge of the invention or Background Intellectual Property, shall so inform the Technology Transfer and Intellectual Property Management Office, which will evaluate the information and notify BSO if the subject matter of the proposal involves an elected or waived subject invention in which the Laboratory holds or intends to elect title.

G. POLICY ON OUTSIDE PROFESSIONAL ACTIVITIES FOR THE UNIVERSITY SENIOR MANAGEMENT GROUP

Outside professional activities of Laboratory employees who are members of the University of California Senior Management Group are subject to certain additional special provisions.

Permissible outside professional activities include, but are not limited to, service on state or national commissions, government agencies and boards, committees or advisory groups to other universities, organizations established to further the interests of higher education, not-for-profit organizations, and service on corporate boards of directors.

When it is consistent with DOE and Laboratory objectives and missions, service on behalf of national commissions, government agencies and boards, advisory groups to other universities, and other nonprofit organizations is encouraged. Subject to conditions established in University policy concerning receipt of honoraria and reimbursement for related travel expenses, such service may be undertaken during regular work time. It is particularly important to note that a person who is a “designated employee” under the University of California Conflict of Interest Code may have additional criteria to consider.

When Berkeley Lab members of the University Senior Management Group are called on to serve in their official capacity on scientific advisory boards for DOE and DOE cost-type contractors, this service is considered to be part of the employee‘s regular assignment. Although no honorarium may be received by employees for such service, the Laboratory may be reimbursed for such costs as travel and per diem. If the service involves more than a few days per year, the Chief Financial Officer must be consulted.

The Human Resources Department has complete information concerning the necessary approval and reporting requirements pertaining to members of the University Senior Management Group.

H. OWNERSHIP OR MANAGEMENT INTEREST IN COMMERCIAL ENTITIES WITH POTENTIAL ECONOMIC OR TECHNOLOGY CONNECTIONS TO THE LABORATORY

Employees who own or have an ownership interest of at least 10% in a commercial entity that has economic or technology connections with or may seek to have such connections with the Laboratory, or who have a management interest such as being a member of the Board of Directors in such a commercial entity, must report the interest to their division director. This requirement also extends to an employee’s near relatives and domestic partner. The terms “near relative” and “domestic partner” are defined in University policy as parents, children, spouses, same or opposite sex domestic partners, brothers, or sisters, including in-laws and step-relatives in these relationships.

As a general rule, goods or services are not purchased from any Laboratory/University employee, near relative, or domestic partner because of the basic principles of separation of an employee’s Laboratory/University duties and his or her private interests. A second concern is the protection of the Laboratory/University and its employees from charges of favoritism in the acquisition of goods and services. If an employee’s Laboratory assignment is such that he or she might influence or take part in negotiations or transactions with an outside entity in which the employee has a financial interest, the employee must disqualify himself or herself from influencing or participating in those negotiations or transactions. See RPM §10.03 (*Self-Disqualification and Conflict of Interest*).

Exceptions to the general prohibition against economic or technology connections with employee-connected firms may be made if the company is the sole source that can provide the goods or services. Such cases must be approved by the Chief Financial Officer. Additional information regarding the appropriate procedure is available from the Procurement Department.

Business ownership or management interest as defined above must be reported on the Notification of Outside Business Ownership or Management Interest form. The Research and Institutional Integrity Office receives copies of the form from the division and uses them to create an "Employee-Connected Commercial Entity" list, which is used by Procurement to implement Laboratory policy that addresses conducting business with employee-connected firms.

I. PATENT AGREEMENTS

When a consulting or employment agreement containing a claim for invention and patent rights is offered to an employee, the outside organization must be advised, under the terms of the DOE/UC Contract for management of LBNL, that the agreement must include the following or equivalent language to obtain Laboratory approval:

"It is recognized that (1) Consultant is an employee of the University of California engaged in certain work conducted by the University at the Lawrence Berkeley National Laboratory under Contract _____ with the United States Department of Energy (DOE) and (2) the University has rights to patents and other intellectual property arising from Consultant's services for that work. This consulting agreement is subject to those rights notwithstanding any intellectual property obligations to contrary in this agreement. Whenever any invention or discovery is solely or jointly made, conceived, or developed by Consultant under the Consulting Agreement, the Company must promptly furnish the University and DOE with sufficient information to timely determine whether the invention or discovery is within the purview of the patent agreement executed by Consultant with the University."

The text of any proposed consulting or employment agreement must be reviewed and approved by Technology Transfer and Intellectual Property Management before execution of the agreement by the employee. Questions regarding inventions and patent articles in a proposed consulting agreement should also be referred to Technology Transfer and Intellectual Property Management. See also RPM §5.03 (*Patents*).

§10.02
Outside Business and Professional Activities

Responsible Manager

Rev. 12/09

APPENDIX I

Table 10.02 (E). Policy on Teaching for the University of California

Teaching Type	Time Reporting	Pay	Prior Approval	Comments
1. UC Extension courses	*Teaching is outside normal Laboratory work hours*: No requirement to report time as leave without pay (LWOP) or vacation. *Teaching is during normal Laboratory work hours*: Teaching time must be taken as LWOP or a reduction in Laboratory work hours.	Employee will receive separate paychecks from University and Laboratory.	Division director or designee.	Consult with Laboratory Human Resources Department before signing *any* agreements with University Extension Division. Use Request to Teach at University of California form to obtain approval.
2. UC courses where University reports position to an exclusive bargaining agent.	Requires an adjustment in Laboratory time, based on a specific teaching appointment (unless at a *de minimis* level, as described below).	Employee will receive separate paychecks from University and Laboratory.	Division director or designee.	Use Request to Teach at University of California form to obtain approval.
3. UC campus courses where University does not report position to an exclusive bargaining agent.	Requires approval of a multilocation appointment agreement between the Laboratory and the UC campus.	Employee will receive full pay and benefits from the Laboratory. The UC campus will reimburse Laboratory directly.	Division director or designee.	Arrangements are made through the employee's Human Resources Center.
4. UC campus de minimis course assignment.	No special time reporting required or reduction in Laboratory hours.	No University compensation is involved.	Division director or designee.	De minimis levels of teaching are allowed during normal Laboratory work hours as long as the employee is fully responsible for accomplishing his or her Laboratory science responsibilities, and the teaching does not exceed the equivalent of

				one semester or quarter course every other year. Use Request to Teach at University of California form to obtain approval.
5. Seminars	No special time reporting required or reduction in Laboratory hours if no more than one seminar is taught per employee per year.	No University compensation is involved.	Division director or designee	Use Request to Teach at University of California form to obtain approval.

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§10.03
Self-Disqualification and Conflict of Interest for Designated Officials

Responsible Manager

Rev. 08/10

- **A. Self-Disqualification**
- **B. Designated Official Positions**

A. SELF-DISQUALIFICATION

California's Political Reform Act of 1974, embodied in the University of California (UC) Conflict of Interest Code, requires all state employees and officials to disqualify themselves from making or participating in certain decisions when a financial conflict of interest is present. The Act also prohibits UC employees from making, participating in, making, or influencing a governmental decision that directly relates to a prospective employer (Section 87407, Regulation 18747.) As UC employees, all Berkeley Lab employees are covered by the provisions of the Act.

B. DESIGNATED OFFICIAL POSITIONS

Under California law and UC policy, certain designated Laboratory employees (designated officials) are required to file financial interest statements when they assume a designated official position, annually while they hold such a position, and when they leave it. In addition, designated officials are subject to post-employment restrictions.

One-Year Ban. The Political Reform Act prohibits designated officials, for one year after leaving UC service, from receiving compensation for representing any other person by appearing before or communicating with UC in an attempt to influence UC decisions involving the making of general rules (such as regulations or legislation), or to influence certain proceedings involving a permit, license, contract, or transaction involving the sale or purchase of property or goods (Government Code Section 87406, Regulations 18746.1 and 18746.2).

Permanent Ban on "Switching Sides." Under the Political Reform Act, designated officials are permanently barred from working on the other side of a proceeding in which they had participated while working for UC. A designated official may not receive compensation for representing any other person by appearing before or communicating with UC, nor for aiding, advising, counseling, consulting, or assisting in representing any other person before any State of California administrative agency in a proceeding involving specific parties (for example, a lawsuit, a hearing before an administrative law judge, or a state contract) in which the designated official had previously participated (Sections 87400-87405, Regulation 18741.1).

See http://www.lbl.gov/Workplace/RIIO/coi/index.html for a list of designated official positions at Berkeley Lab, and related links.

§10.04
Employment of Near Relatives and Domestic Partners

Responsible Manager

Link updated 01/10

For conflict-of-interest policy related to employment of near relatives and domestic partners, refer to RPM §2.01(E)(5)(b).

§10.05
General Research-Related Conflict of Interest

Responsible Manager

Rev. 11/09

- **A. General**
- **B. Laboratory Reviewing Official**
- **C. Independent Substantive Review Committee**

A. GENERAL

Several specific concerns and policy provisions pertain to all research project investigators involved in proposing, conducting, and/or reporting Laboratory research activities. Their roles can include Principal Investigator, Co-Principal Investigator, Independent Scientist, or Key Personnel, to name a few. When such program researchers participate in a substantive way in the scientific development and/or execution of a project, they must avoid real or apparent conflict-of-interest (COI) situations. A real or apparent COI situation may occur in a research program when there is less than clear and demonstrable separation between the individual researcher's program interests and work efforts and the individual's personal economic or business interests. Generally, such researchers and the Laboratory are guided by seven principles:

1. Traditional conflict-of-interest situations should be avoided. These exist when a researcher may have the opportunity to influence Laboratory business decisions or research results in ways that could lead to personal gain or could advantage personal business interests.

2. The proposed research project should be appropriate to and consistent with the mission of the Laboratory.

3. The research and teaching environment of the Laboratory must be kept open.

4. Freedom to publish and disseminate research results must be preserved.

5. The highest ethical standards of scientific conduct and intellectual honesty must be ensured.

6. Any patent rights issues should be in compliance with DOE and University requirements.

7. Laboratory facilities and resources (supplies, equipment, facilities, staff time) must be appropriately used, with costs charged to the project sponsor.

B. LABORATORY REVIEWING OFFICIAL

When there is convergence of a researcher's private interests with his or her research interests, such that an independent observer might reasonably question whether the researcher's Laboratory actions or decisions are improperly influenced by his or her personal considerations, the conflicts of interest (or perceptions of conflicts) must be addressed. Policy requires a reviewing official to determine from the facts of each COI matter whether any reported personal interest would reasonably appear to be directly and significantly affected by the Laboratory research program and what steps should be taken to manage or eliminate the conflict. For Laboratory research programs, the reviewing official is the Associate Laboratory Director for Operations (ALDO). The ALDO may employ an Independent Substantive Review Committee (ISRC) to assemble and analyze the facts of complex and challenging COI cases and to make recommendations to the ALDO and Laboratory management for managing and mitigating COI issues in such matters. Resulting management steps may include whether or not to accept funding and continue the research program of concern, to implement specific project staff assignments, or to initiate mitigating administrative actions that reduce the risk of or the severity of the conflicts.

C. INDEPENDENT SUBSTANTIVE REVIEW COMMITTEE

The ALDO may appoint and charter an Independent Substantive Review Committee (ISRC) composed of experienced, knowledgeable, independent people appropriate for the case under review. The ISRC's charge is to provide in-depth review of conflict-of-interest situations in which a project researcher discloses a positive financial interest in the sponsor of or in a business related to the subject research program. ISRC members are from scientific or engineering divisions appropriate to each case; and the Laboratory Counsel and the Laboratory Research and Institutional Integrity Office also act as ex officio ISRC members. The ISRC reviews the disclosure statement details and all relevant features of the research program, and recommends to the ALDO whether the project, research contract, science grant, Laboratory gift, or Cooperative Research and Development Agreement should be accepted, and any conditions or modifications that may be needed. Examples of conditions that may be imposed to mitigate COI concerns include public disclosure of private economic interests, independent monitoring and program oversight, research project plan changes, personnel reassignments, divestiture of conflicting financial interests, or severance of any relationships creating the real or apparent conflicts.

§10.06
Federal Financial Disclosure

Responsible Manager

Rev. 01/10

- **A. General**
- **B. Process**
- **C. Work for Others from PHS/NSF Flow-Through Funding**
- **D. Forms**
- **E. Related Links**

A. GENERAL

Federal Regulations

The National Science Foundation (NSF) and the Public Health Service (PHS) published regulations in the Federal Register, effective October 1, 1995, requiring principal investigators and participants who are responsible for the design, conduct, or reporting of the research to disclose project-related financial interests at the time of proposal submission. Other agencies that have also adopted the federal requirement are the American Cancer Society (ACS), American Heart Association (AHA), UC Discovery Grants, and University of California Office of the President (UCOP) Special Programs (which include the California Breast Cancer Research Program and the Tobacco-Related Disease Research Program).

The major Public Health Service funding components are:

- National Institutes of Health (NIH), including all divisions of NIH such as the National Cancer Institute (NCI), National Institute of General Medical Sciences (NIGMS), the National Eye Institute (NEI), the National Institute on Aging (NIA), and so forth.

- Centers for Disease Control and Prevention (CDC)

- Food and Drug Administration (FDA)

B. PROCESS

Principal Investigators and participants (herein called Key Personnel) who are responsible for the design, conduct or reporting of the research must complete financial disclosures for all new, amendment, non-competing continuation, and renewal proposals.

The Principal Investigator first completes the LBNL Declaration (Form DFI-1) by identifying the Key Personnel in his/her research project. The PI and those listed on Form DFI-1 then each complete the LBNL Disclosure of Financial Interest (Form DFI-2), disclosing whether they have financial interests related to the research project. If there is a positive disclosure, the individual indicating so will need to complete the LBNL Positive Disclosure of Financial Interest (Form DFI-3). Positive disclosures will be reviewed by the Research and Institutional Integrity Office (RIIO), and a determination will be made by the Laboratory Deputy Director.

For both positive and negative disclosures, original forms should be sent to RIIO, and a copy should be sent to the Office of Sponsored Projects and Industry Partnerships (OSPIP).

However, if the research involves human subjects, the original positive and negative disclosure forms should go to the Human Subjects Committee, and copies of the disclosures should go to OSPIP and RIIO.

C. WORK FOR OTHERS FROM PHS/NSF FLOW-THROUGH FUNDING

Disclosure is required when LBNL is proposing a Work for Others agreement with an entity that is receiving its funding from PHS/NIH (except for Phase I SBIR/ STTR), NSF, or the other agencies mentioned in Paragraph (A) above.

When LBNL is proposing a Work for Others agreement with an entity that is receiving its funding from PHS/NIH, NSF, or the other agencies mentioned in Paragraph (A) above, federal and State forms are to be completed as in the following examples:

1. LBNL receives funding from Chiron. Chiron receives its funding from NIH. LBNL must collect **both** the **state disclosure** (Form 700-U) from the PI at LBNL, and the **disclosures of financial interest** (Form DFI-1, DFI-2, and DFI-3, if applicable) from the PI and all the participants. **Chiron is a nongovernmental entity, and is not exempt.**

2. LBNL receives funding from the American Heart Association (AHA), which receives its funding from NIH. LBNL must collect the **disclosures of financial interest** (Form DFI-1, DFI-2, and DFI-3, if applicable). **The AHA is on the State of California exempt list, so the state disclosure** (Form 700-U) **does not need to be completed**.

3. LBNL receives funding from the Parkinson Disease Foundation (PDF). PDF receives its funding from the NIH. **PDF is a nonprofit entity, but is not on the state exempt list. LBNL must collect both the state disclosure** (Form 700-U) and **disclosures of financial interests** (Form DFI-1, DFI-2, and DFI-3, if applicable)

D. FORMS

- LBNL Declaration—Principal Investigator's List of Participants Who Must File Disclosures of Financial Interest (Form DFI-1)

- LBNL Disclosure of Financial Interest (Form DFI-2)

- LBNL Positive Disclosure of Financial Interest (Form DFI-3)

E. RELATED LINKS

- National Institutes of Health Conflict of Interest
- National Science Foundation Conflict of Interest
- Conflict of Interest Web Resources

§10.07
State of California Financial Disclosure

Responsible Manager

Rev. 01/10

- **A. General**
- **B. Related Forms**
- **C. Related Links**

A. GENERAL

State of California Financial Disclosure

The Political Reform Act of the State of California of 1974 and UC Policy require the principal investigator of a project funded by a **nongovernmental agency** or funded by a research gift to submit the original Statement of Economic Interests for Principal Investigators (Form 700-U) at the time of proposal submission or receipt of the gift.

When LBNL is proposing a Work for Others agreement with an entity that is receiving its funding from another organization, federal and state forms are to be completed as in the following examples:

1. LBNL receives funding from Chiron. Chiron receives its funding from NIH. LBNL must collect **both** the **state disclosure** (Form 700-U) from the PI at LBNL, and the **disclosures of financial interest** (Form DFI-1, DFI-2, and DFI-3, if applicable) from the PI and all the participants. **Chiron is a nongovernmental entity, and is not exempt.**

2. LBNL receives funding from the American Heart Association. The AHA receives its funding from NIH. LBNL must collect the **disclosures of financial interest** (Form DFI-1, DFI-2, and DFI-3, if applicable). **The AHA is on the State of California exempt list, so the state disclosure (700-U) does not need to be completed.**

3. LBNL receives funding from The Parkinson Disease Foundation (PDF). PDF receives its funding from the NIH. **PDF is a nonprofit entity, but is not on the state exempt list. LBNL must collect both the state disclosure** (700-U) **and disclosures of financial interest** (Form DFI-1, DFI-2, and DFI-3, if applicable)

FINANCIAL DISCLOSURES ARE REQUIRED FOR ALL NEW, AMENDMENT, NONCOMPETING CONTINUATION AND RENEWAL PROPOSALS.

Original disclosure forms, both positive and negative, should be sent to the Research and Institutional Integrity

Office. A copy should be sent to the Office of Sponsored Projects and Industry Partnerships (OSPIP).

B. RELATED FORMS

- Conflict of Interest Disclosure Form 700-U
- Conflict of Interest Addendum (if there are any positive responses on the 700-U)

C. RELATED LINKS

- UC Conflict of Interest Code
- University Policy on Disclosure of Financial Interest in Private Sponsors of Research
- List of Nongovernmental Entities Exempt from Disclosure Requirement

§10.08
Technology Transfer/Cooperative Research and Development Agreement COI

Responsible Manager

Links updated 07/10

- **A. General**
- **B. Cooperative Research and Development Agreement (CRADA)**
- **C. Related Forms**

A. GENERAL

Under the DOE contract, the Laboratory is required to implement procedures to prevent employees from having organizational conflicts of interest, or the appearance of conflicts of interest, in the conduct of its technology transfer activities. The requirements can be found in DOE Contract Clause I.92(n)(5).

B. COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENT (CRADA)

Each employee who has a substantial role in the preparation, negotiation, or approval of a CRADA (typically the Principal Investigator, Division Director or designee, OSPIP Manager, OSPIP Contracts Officer, Licensing Manager, Patent Department reviewer, and Laboratory Director) is required to fill out the CRADA Conflict of Interest Form. In addition, for CRADAs that have funds from the partner (the partner is providing funds to LBNL), the State Political Reform Act also applies. Therefore, the Conflict of Interest Form 700-U must also be completed by the PI. The Laboratory must ensure that none of its employees has a substantial role (including an advisory role) in the preparation, negotiation, or approval of a CRADA if an employee holds any financial interest in the entities related to the CRADA. The exception is when the DOE contracting officer is notified in advance of such an employee and determines that the employee's financial interest will not affect the process of preparing, negotiating, and approving the CRADA.

CRADA CONFLICT-OF-INTEREST DISCLOSURES ARE REQUIRED FOR ALL NEW AND AMENDMENT PROPOSALS.

When there is a positive disclosure, the disclosure forms go to the Research and Institutional Integrity Office, with a copy going to the Office of Sponsored Projects and Industry Partnerships (OSPIP), and the Human Subjects Quality Assurance Committee (HSQAC), if applicable. For negative disclosures, the original goes to OSPIP, and a copy to HSQAC, if applicable.

C. RELATED FORMS

CRADA Conflict of Interest Form

Conflict of Interest Addendum (to be completed if there are any positive responses on the CRADA COI Form)*

Conflict of Interest Disclosure Form 700-U

*The original disclosure forms (positive and negative) should be sent to the Laboratory Research and Institutional Integrity Office.

§10.09
Human Subjects Conflict of Interest

Responsible Manager

Links updated 07/10

- **A. General**
- **B. Human Subjects Research**
- **C. Summary of Forms**

A. GENERAL

In the protection of human subjects, "conflict of interest in research" refers to situations in which financial or other personal considerations may compromise, or have the appearance of compromising, a researcher's professional judgment in conducting or reporting research. A conflict of interest depends on the situation, and not on the actions or character of an individual investigator.

The federal Department of Health and Human Services (DHHS), from which Berkeley Lab holds its approval to conduct research involving human subjects, has issued guidance on Financial Relationships and Interests in Research Involving Human Subjects: Guidance for Human Subjects Protection.

B. HUMAN SUBJECTS RESEARCH

At Berkeley Lab, all protocols for research involving human subjects must first pass through the LBNL Human Subjects Quality Assurance Committee (HSQAC). Final approval for the conduct of human subjects research is given by the joint Berkeley Lab — University of California at Berkeley Institutional Review Board, the Committee for Protection of Human Subjects (CPHS). All human-subject reviews at Berkeley Lab flow through the HSQAC, which forwards completed applications to CPHS for final review and approval.

For *all* applications to the HSQAC/CPHS, the researcher should:

- Complete the LBNL Declaration—Principal Investigator's List of Participants Who Must File Disclosures of Financial Interests (Form DFI-1); all persons identified on Form DFI-1 must complete the LBNL Disclosure of Financial Interests (Form DFI-2). The list on Form DFI-1 should correspond with the NIH Key Personnel Form, if applicable. If someone has a positive disclosure on Form DFI-2, that person must complete the LBNL Positive Disclosure of Financial Interests (Form DFI-3). The HSQAC will forward any positive disclosures to the Conflict of Interest (COI) Coordinator for follow-up and review if needed.

- Respond promptly to requests for additional information from the COI Coordinator, as final approval of human subjects will be delayed, pending their review.

Review and Approval of the Disclosure of Financial Interest Form

When there is a positive disclosure, the HSQAC will forward the research protocol and the original disclosure forms to the Laboratory COI Coordinator, if the original has not already been sent. The COI Coordinator will contact the researcher(s) identified by the form as having a potential conflict and make an initial determination of either:

- No Significant Financial Interest or Related Financial Interest is of concern. In this case, no further COI review will be needed and human subjects review and approval may proceed.

- A Significant Financial Interest or Related Financial Interest may exist. In this case, the COI Coordinator will inform the investigator of the need to file additional documentation, with a copy to the HSQAC's administrative office, the Human and Animal Regulatory Committees office (HARC).

The COI Coordinator will inform the HARC office and the investigator of the outcome of the initial determination. The COI Coordinator will coordinate any further review, and inform the HSQAC of the outcome. Human subjects review and approval may proceed while the COI review is being completed, but final approval of the human subjects protocol will be withheld until COI review and approval has been completed.

C. SUMMARY OF FORMS

- LBNL Declaration — Principal Investigator's List of Participants Who Must File Disclosures of Financial Interest (Form DFI-1)

- LBNL Disclosure of Financial Interest (Form DFI-2)*

- LBNL Positive Disclosure of Financial Interest (Form DFI-3)*

*When there is a positive disclosure, the original disclosure forms go to the Research and Institutional Integrity Office, with a copy going to the Human Subjects Quality Assurance Committee (HSQAC). For negative disclosures, the original goes to HSQAC.

§10.10
Disclosure of Laboratory Proprietary Information

Responsible Manager

New 08/06

- **A. General**
- **B. Lab Requirements**
  1. **Written Agreement**
  2. **Disclosure of Information or Transfer of Material**
  3. **Transfer Labeling**
  4. **Transfer of Proprietary Information or Material to Subcontractors**
  5. **Consequence of Failure to Safeguard Berkeley Lab Information**
- **C. Summary of Forms**

A. GENERAL

At times, the Laboratory needs to, or finds it useful to, disclose unpublished information relating to technological and scientific developments, or to transfer tangible research material. Examples of tangible research material include cell lines, chemical compounds, and source codes for software. Such disclosures or transfers are appropriate when they enable the recipient of the disclosures or transfers to evaluate the information/material's potential commercial utility or the recipient's interest in obtaining a commercial license from Berkeley Lab; to replicate, reproduce, evaluate, or confirm Berkeley Lab's research effort; or to do research furthering Berkeley Lab's programmatic goals. Disclosure of Laboratory proprietary information for personal gain is prohibited. See Paragraph (B) (*Privileged Information*) below.

B. LAB REQUIREMENTS

Laboratory staff must observe the following procedures when the Laboratory transfers proprietary information or tangible research material to third parties (other than appropriate University of California staff or DOE). These procedures are established to enable the Laboratory to comply with its obligation under the DOE/LBNL Contract to maintain the patentability of inventions, to foster appropriate technology transfer, and to avoid liability for others' use or misuse of Laboratory information or material.

1. Written Agreement

A Laboratory researcher wishing to transfer proprietary information or material must contact the Technology Transfer Department to prepare and sign a nondisclosure agreement or material transfer agreement, as appropriate. The Technology Transfer Department may also prepare agreements for mutual disclosure of

proprietary information or transfer of material. The researcher may not transfer the Laboratory proprietary information or material before such an agreement is signed by both the Laboratory and the recipient.

2. Disclosure of Information or Transfer of Material

At a minimum, any information the Laboratory discloses under agreement must be prominently marked as “proprietary” or “confidential.” If the Laboratory researcher (i.e., the discloser) wishes to transfer proprietary information or material, and chooses to disclose the information orally, he or she must first inform his or her audience that the forthcoming information is confidential. Some nondisclosure agreements also require that confidential oral presentations be summarized, marked as confidential, and transmitted to the receiver within 15 to 30 days. The researcher must comply with any additional requirements contained in the nondisclosure agreement.

3. Transfer Labeling

Any tangible research material that a Laboratory researcher transfers must be appropriately labeled and must include instructions for handling, as necessary for safe use. All materials must be shipped through the Laboratory's Shipping and Receiving Department to ensure compliance with Export Control and other applicable laws.

4. Transfer of Proprietary Information or Material to Subcontractors

Under certain subcontracts, the University's full rights to intellectual property may be impaired if proprietary information or material is transferred to a subcontractor under the subcontract without appropriate restrictive markings. If a Laboratory researcher anticipates transferring Laboratory proprietary information or material to a Laboratory subcontractor, the researcher must inform Procurement about this intention and take steps necessary under the subcontract to mark the information or material.

5. Consequence of Failure to Safeguard Berkeley Lab Information

Failure to reasonably safeguard Laboratory proprietary information and/or follow the procedures listed above may constitute a serious violation of professional

C. SUMMARY OF FORMS

Examples of standard form agreements are available for inspection at the LBNL Technology Transfer Web site.

§10.11
Disclosure of Financial Interests Related to Licensing

Responsible Manager

Links updated 11/09

- **A. General**
- **B. Lab Requirements**
- **C. Summary of Forms**

A. GENERAL

Lawrence Berkeley National Laboratory manages the intellectual property created by its employees in support of its research and technology transfer goals. The transfer of technology can include the licensing of inventions and other intellectual property (e.g., through licenses, options, bailments), and constitutes a business decision on the part of the University. The Laboratory manages conflict of interest and the appearance of conflict of interest in licensing per California law and the Operating Contract for the Lab. The Laboratory reviews many attributes, including conflict of interest, of every license, and hence meets the University requirement for a Licensing Decision Review. Inventors and other creators of intellectual property as well as licensing professionals have certain obligations as described herein. Altogether, the Laboratory inventors and licensing staff must not allow their personal financial interests to influence or appear to influence their or others' University licensing decisions.

B. LAB REQUIREMENTS

Licensing decisions for the University are made by licensing professionals within authorized campus and Laboratory licensing offices. At Berkeley Lab, the licensing professionals are members of the Technology Transfer Department. Inventors may be invited by the licensing professional to work with him or her and potential licensees to effectively commercialize University inventions.

Because inventors may have the opportunity to influence University licensing decisions in ways that could lead to personal gain or give advantage to companies in which they have a financial interest, inventors must disclose their financial interest in companies with which the licensing professional is negotiating a license. Underlying policy and guidelines are available under "Information for Inventors" at the LBNL Technology Transfer Web site.

The Lab process to manage potential conflicts of interest in licensing involves economic disclosure, self-disqualification where there is an interest by a licensing professional, and a multistep independent review of every license. This process is described under "Process for Conflict of Interest Review for Licensing at Berkeley Lab" at the LBNL Technology Transfer Web site.

C. SUMMARY OF FORMS

Inventors or other creators of intellectual property must complete the Conflict of Interest TT 100-LBNL Form, available at the LBNL Technology Transfer Web site.

§10.12
Acceptance of Gifts or Favors

Responsible Manager

New 07/09

Employees are not permitted to accept gifts, gratuities, or favors from any source that might affect or appear to affect their judgment in discharging their duties. Such acceptance may be construed as a conflict of interest. This restriction does not apply to:

Acceptance of food and refreshments of nominal value on infrequent occasions in the ordinary course of a luncheon, dinner, or other meeting; or

Acceptance of modest entertainment, such as a meal or refreshments in connection with attendance at widely attended gatherings sponsored by industrial, technical, or professional associations or at public ceremonies in an official capacity.

§10.13
Contacts with State and Federal Officials

Responsible Manager

New 07/09

Employees may not act or give the appearance of acting on behalf of the Laboratory or the University when communicating with state or federal officials unless they are authorized to do so. To act or give the appearance of acting on behalf of the Laboratory or the University in such instances without authorization may be construed as a conflict of interest.

When corresponding with state and federal officials, a writer may use Laboratory letterhead only when authorized to represent the Laboratory or the University. Letters expressing personal views must be written on personal stationery. If Laboratory letterhead is used for corresponding with principal state and federal officials, including executive branch appointees, members of Congress, the state legislature, and their staffs, copies of the correspondence must be sent to the appropriate division director and to the Head of the Public Affairs Department.

When employees give opinions as independent professionals, they must state clearly that they are speaking for themselves and not on behalf of the Laboratory or the University of California.

§10.14
Privileged Information

Responsible Manager

New 07/09

The use of privileged or official information for personal financial gain is a type of conflict of interest and is prohibited. Privileged or official information is information that is known to an individual because of his or her connection with the Laboratory but is not available to the public. In this connection, the term "privileged information" includes but is not limited to:

1. **Unpublished Information Relating to Technological and Scientific Developments**

   The Report Coordination Office and Technology Transfer and Intellectual Property Management review all technical and scientific papers and related materials for oral or other presentation before publication. See RPM §5.02 (Policy for Scientific and Technical Publications), §5.03 (Patents).

2. **Medical, Personnel, Patent, Salary, or Security Clearance Records of Individuals**

   Individual employees have a right to access their own records except as limited by law. See RPM §2.17 (Employee Records), §5.03 (Patents). Access to the records of other employees is normally limited to legitimate need-to-know situations except as specifically noted in the RPM sections cited and in applicable laws.

3. **Anticipated Materials Requirements or Pricing Actions; Knowledge of Selected Contractors or Subcontractors Before Official Announcements**

   In certain situations, an employee, by virtue of his or her position, may have access to information concerning anticipated materials requirements or pricing actions. Examples include Laboratory construction projects and system acquisitions. Improper dissemination of such information could produce unfair competitive advantage for vendors as well as constitute a conflict of interest for the employee

4. **Possible New Sites for University of California or DOE Program Operations**

   The prohibitions surrounding this area are the same as those concerning "Anticipated Materials Requirements or Pricing Actions; Knowledge of Selected Contractors or Subcontractors Before Official Announcements," above.

   An employee who misuses privileged or official information may be subject to discipline by the Laboratory and prosecution under state and federal law. Laboratory employees are required to notify the Laboratory whenever they are notified that they are the target of an investigation by a federal or state agency that has

as its subject the improper use of information obtained or actions taken for personal use by the employee in the course of his or her employment.

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Chapter 11
Office of the Chief Financial Officer (OCFO) Policies

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Denotes deleted text

§11.04
Consultants to Lawrence Berkeley National Laboratory

Responsible Manager

Rev. 09/09

- **A. Definitions**
  - **1. Consultant**
  - **2. Consulting Services**
  - **3. Consultant Agreement**
  - **4. Personal Services Agreement**
- **B. Policies Governing Use of Consultants**
  - **1. General**
  - **2. Selection Process**
  - **3. Duration of Agreement/Number of Service Days**
  - **4. Foreign Nationals**
  - **5. Current UC Faculty as Consultants**
  - **6. Former Laboratory Employees**
  - **7. Retired Faculty and Staff**
  - **8. DOE Contractor Employees**
- **C. Policies Governing Consultant Relationship**
  - **1. Time and Place of Performance**
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  - **3. Compensation**
  - **4. Taxes**
  - **5. Property**
  - **6. Travel**
  - **7. Conduct of Consultant**
  - **8. Patents, Data, and Copyrights**
  - **9. Subcontracts and Assignments**
  - **10. Environment, Safety, Health and Fire Protection Requirements**
  - **11. Insurance and Indemnification**
- **D. Procedures for Securing Consulting Services**
  - **1. Request to Establish an Agreement**
  - **2. Solicitations and Proposals**
  - **3. Negotiating the Agreement**

A. DEFINITIONS

The following definitions apply for purposes of securing consulting services:

1. Consultant

A consultant is an individual acting on his or her own behalf who personally provides expert advisory and/or assistance services of a technical or professional nature. Consultants provide technical, scientific, engineering, and/or administrative expertise not otherwise available to the Laboratory.

2. Consulting Services

Consulting services are "hands-off" in nature and are limited to expert advisory and/or assistance services consisting of information, advice, opinions, alternatives, conclusions, or recommendations to Laboratory personnel, including studies, analyses, and evaluations, that are personally provided by a technical or professional consultant.

3. Consultant Agreement

A consultant agreement is an agreement between the Laboratory and an individual consultant with special knowledge or expertise for the performance of consulting services.

4. Personal Services Agreement

A Personal Services Agreement (PSA) is an agreement between the Laboratory and an established company that makes available by name one or more of its employees as consultants for the performance of consulting services.

B. POLICIES GOVERNING USE OF CONSULTANTS

1. General

The Laboratory will engage the services of a consultant on a short-term or intermittent basis if he or she contributes to the Laboratory's mission and those services cannot be provided as effectively by a Laboratory employee.

Consultants work independently and are not under Laboratory supervision. Consultants may *not* perform work of a policy-making, decision-making, managerial, or supervisory nature; nor may they approve or disapprove actions that commit or expend Laboratory funds. Consulting services may not be obtained for unauthorized purposes, such as to bypass or undermine Human Resources (HR) policies or pay limitations.

Consultants are prohibited from making any appearances on behalf of the Laboratory at a congressional office or federal agency, including military organizations, without a Laboratory employee present. The Office of Laboratory Counsel must approve in writing proposed exceptions to this requirement. Under no circumstances may a consultant be used to specifically aid in influencing or enacting legislation.

Consultants are required to refrain from activities on behalf of the Laboratory and DOE that could be interpreted as creating a conflict of interest for the consultant. Accordingly, consultant agreements and PSAs impose certain conflict-of-interest requirements and restrictions on the consultants.

2. Selection Process

Consultants are selected on the basis of professional qualifications, resources, experience, cost, and ability to meet

Laboratory needs, as determined by the division requiring the particular service and approved by Procurement. Neither agencies nor other organizations will be paid a fee for locating a consultant.

3. Duration of Agreement/Number of Service Days

Agreements for consulting services are established for a period for which there is a foreseeable need, normally for one year or less. Consultant agreements must specify an anticipated number of service days per agreement year. A consultant may not receive fees for more than 90 consultant service days in a 12-month period without written approval from the HR Center Manager or designee. When the need is expected to exceed these time requirements, regular part-time employment or contract labor should be considered and, if appropriate, arranged in accordance with existing employment practices. There are no restrictions on the number of service days within the agreement period for PSAs.

Agreements may be written for a period of up to five years with appropriate justification from the requester to support the long term need for the consultant's services. Agreements are renewed only when there is a verified continuing need.

4. Foreign Nationals

Foreign nationals who are not permanent residents of the U.S. are required to have an appropriate visa number and an Internal Revenue Service (IRS) Individual Taxpayer identification Number (TIN) in order to provide consulting services to the Laboratory. To determine whether a consultant may receive payments as a foreign national, the Laboratory's International Researchers and Scholars Office (IRSO) should be notified of that consultant's proposed services as soon as possible.

5. Current UC Faculty as Consultants

Current UC faculty may not be Laboratory consultants unless the employee occupies a teaching or research position; Procurement has determined that the expertise is not otherwise available; and the employee's management has approved it. UC staff personnel normally may not be retained as consultants. The alternative of acquiring the services of UC personnel through an Intra-University Transaction (IUT) should be considered and discussed with Procurement.

The Chancellor of a UC faculty member's home campus must approve faculty consultant arrangements, and the compensation rate must be in accordance with UC academic personnel policies. Accordingly, consultant agreements and PSAs:

- Require consultants to disclose any actual or proposed employment or other compensatory arrangement with any other activity of the University; and
- Permit their terms governing amounts payable to the consultant or firm under the agreement to be modified as necessary to avoid dual compensation.

6. Former Laboratory Employees

When the services of former employees are required, the Laboratory's practice is to rehire them as Laboratory employees through the HR Department. In exceptional cases, the use of a consultant agreement or PSA may be appropriate for the services of former employees. Written approval from the HR Center Manager or designee is

required in these cases. Care must be taken to ensure that the selection of former employees as consultants to the Laboratory will best serve the Laboratory's interests.

7. Retired Faculty and Staff

A retired employee may work as a consultant if he or she is either employed by a consulting firm or owns his or her own consulting business. A retired employee may be a consultant for the Laboratory if he or she has not worked as a UC employee during the previous rolling 12-month period.

Laws and regulations affecting the UCRP (UC Retirement Plan) permit retired members to work at the Laboratory. The HR Department should be contacted regarding the employment of retired faculty and staff. See RPM § 2.01 (*Employment*).

8. DOE Contractor Employees

An employee of a DOE contractor performing work on a full- or part-time basis under a management and operating (M&O), facilities management, site integrating, or other major DOE contract may provide consulting services to the Laboratory if the services are performed outside the official hours of duty of, or while on leave from, the DOE contract. Such consulting services must not:

- In any manner interfere with the proper and effective performance of the duties of the position,
- Appear to create a conflict of interest, or
- Appear to subject DOE, the University, or the other DOE contractor to public criticism or embarrassment.

An alternative to acquiring the consulting services of DOE contractor personnel through a DOE Contractor Order should be considered and discussed with Procurement.

C. POLICIES GOVERNING CONSULTANT RELATIONSHIP

1. Time and Place of Performance

Consultants, as independent contractors or employees of independent contractors, may adopt (subject to technical contact approval) arrangements suitable to the consultant concerning performance details, such as times and places for rendering the agreed-on services.

2. Results of Performance

Consultants may be required to furnish reports or other data documenting the services rendered, as requested by the technical contact and in accordance with the terms of the agreement. When this is impractical, the technical contact is expected to maintain records adequate for this purpose.

3. Compensation

Consultants are normally paid agreed-upon compensation, with either daily rates or fees for each full day the consultant renders services. In addition, consultants may be reimbursed for certain costs and expenses, such as travel and clerical support, if indicated in the consultant's proposal and approved by the technical contact and authorized by Procurement in the consultant agreement or PSA.

The reasonableness of a consultant's fee should be based on the individual's established market value and the market value of the services to be provided. Fee rates based on salary should be substantiated by a copy of a current paycheck stub, the prior year's W-2 form, a letter of agreement with the employer, a statement of substantiation from the employer, or a comparison of rates for similar consulting services. Fee rates based on contractual arrangements with other clients may be substantiated by copies of client agreements or other suitable documentation.

Consulting agreements may be awarded by Procurement on a no-fee basis, allowing reimbursement of expenses only. Expenses must be reimbursed in accordance with Laboratory requirements. If no fee is paid, consultants may serve an unlimited number of days per year.

As discussed above, there are certain restrictions pertaining to consultant fees paid to University of California faculty, consultants receiving compensation from multiple University sources, and compensating individuals for consulting services who also perform work on a full-time basis under another DOE contract.

4. Taxes

Fee income is subject to federal and state income tax. Laboratory Accounts Payable will issue appropriate 1099 tax forms, covering total fees paid during each calendar year to consultants providing services under a consultant agreement.

5. Property

Acquisition of property, including controlled property (equipment and sensitive property) or use of government-furnished property, by a consultant is generally not allowed. Deviating from this requirement requires a memorandum substantiating the necessity of such action, approval by Procurement, and inclusion of appropriate property provisions in the consultant agreement or PSA.

6. Travel

Consultants normally are reimbursed for travel and travel-related expenses in accordance with the Laboratory's requirements. Foreign travel requires DOE approval in advance.

Only travel expenses for travel required in performance of the consultant services are reimbursable. Expenses for local commuting to and from LBNL and the consultant's place of business normally are not reimbursable.

7. Conduct of Consultant

University and government policies form the basis for rules of conduct to which consultants agree to be bound through the agreements for consultant services. These rules specifically prohibit the following:

- Accepting any gratuity or special favor from individuals or organizations with whom the Laboratory is doing business, or proposes to do business, under circumstances that might reasonably be interpreted as an attempt to influence the consultant in accomplishing the agreed-on work.
- Using for personal gain or making other improper use of privileged information acquired in connection with the consultant's work for the Laboratory. The term "privileged information" includes, but is not limited to, unpublished information relating to technological and scientific developments; anticipated materials

requirements or pricing actions; possible new sites for DOE program operations; knowledge of selection of contractors or subcontractors in advance of official announcement; and medical, personnel, or security records of individuals.

- Making or influencing any decision on behalf of the Laboratory that directly or indirectly affects the interest of the Laboratory or the government if the consultant's personal concern in the matter may be incompatible with the interest of the government.
- Using the name of the University, the Laboratory, or the government in any publications, news releases, advertising, speeches, technical papers, photographs, and other releases of information regarding the consultant's work for the Laboratory, except with prior written approval of the Associate Laboratory Director for Operations or designee.

Technical contacts are responsible for guarding against such situations by reminding consultants of their obligations in these matters and advising them when and from whom to obtain further guidance in questionable cases.

8. Patents, Data, and Copyrights

Under the DOE/LBNL Prime Contract, the Laboratory is required to protect the Government's interests in inventions and technical data by including the appropriate and related clauses in its consultant agreements and PSAs. These clauses basically concern such matters as patent rights; rights to data, including copyrights; and patent and copyright infringement.

Technical contacts are expected to ensure that the consultant's obligations in these matters (e.g., reporting inventions, reporting notices or claims of infringement, and securing required DOE approvals) are fulfilled. If the consultant does not meet these obligations, the technical contact is expected to notify Procurement immediately so that appropriate and timely action may be taken. See RPM §5.03 (*Patents*).

9. Subcontracts and Assignment

Consultants must secure prior written approval from the Laboratory to subcontract with, assign to, or otherwise employ anyone to perform any of the consultant services, except incidental clerical or similar support work specified in the agreement with the Laboratory. This approval is provided by/through Procurement.

10. Environment, Safety, and Health Fire Protection Requirements

Agreements for consultant services specify that consultants are required to take all reasonable precautions at Laboratory sites to protect the environment, safety, and health of employees and members of the public in the performance of the work; minimize danger from all hazards to life and property; and comply with all applicable environmental, safety, fire protection, and health regulations and requirements of the Laboratory and DOE. The Laboratory may stop the particular work any time a consultant fails to comply.

11. Insurance and Indemnification

Normally, consultants are not required to maintain liability insurance, but may be required to indemnify the University from liability for injury or damages related to the consulting services. The Laboratory may require a consultant to maintain liability insurance when:

- The services are performed on Laboratory, government, or third-party premises; or
- Government-furnished property is provided to a consultant or a consultant's employer; and
- The nature of the services poses a significant potential risk to the University and the government.

No consultant may be indemnified unless prior approval is obtained from DOE-HQ and the Regents of the University of California. Laboratory Counsel should be consulted on any request by a consultant for indemnification.

D. PROCEDURES FOR SECURING CONSULTING SERVICES

1. Request to Establish an Agreement

Requests for consultant services are initiated by the technical contact (requester). The request may be for a new agreement, the renewal of an existing consultant agreement, additional service days or other changes to an existing agreement, or consultant services under an agreement already in place for another Laboratory organization. Requests for services of a consultant should be submitted using the Request for Consultant/Personal Services Agreement and Renewal Form, available from the Procurement Web site, and be accompanied by a memorandum providing various information, as identified in the request form.

The completed request form and memorandum should be sent to Procurement with an approved e-Procurement (ePro) purchase requisition for processing. If the package is not complete or the information is inadequate, the request package may be returned to the requester with a memorandum explaining the reasons and requesting the additional information.

In addition, an Organizational Conflicts of Interest (OCI) Pre-Procurement Fact Sheet must be completed and accompany each request greater than $100,000. This fact sheet is available on the Procurement website. If there appears to be a reasonable possibility that an OCI may exist or arise, steps must be taken to avoid or neutralize it. If the OCI can only be mitigated, an award may not be made until DOE approval of the mitigation plan has been obtained.

2. Solicitations and Proposals

Formal, written solicitations for consultant agreements or PSAs are normally not required, and written proposals are not required for consultant agreements or PSAs under the small purchase threshold (currently $100,000).

3. Negotiating the Agreement

Only Procurement may negotiate the terms and conditions of the agreement and issue either a consultant agreement or a PSA. Understandings are established and confirmed in the agreement concerning the nature and extent of services to be rendered, where and when services will be performed, the fee to be paid, expenses to be reimbursed, and other appropriate details, as discussed in above paragraphs.

Care must be taken to ensure that the consultant's obligations and the role of the technical contact relative to these obligations are clearly understood. The consultant should be cautioned that any changes in services or other terms of the agreement will be recognized by the Laboratory only if authorized in writing by Procurement. Both the consultant and technical contact should also be cautioned not to incur any costs until the agreement has been fully executed.

4. Securing Approvals

The DOE/LBNL Prime Contract establishes the right of DOE to approve or disapprove all Laboratory subcontracts, including consultant agreements and PSAs. Prior DOE approval is required for the following:

- An organizational conflict of interest that can only be mitigated
- Foreign travel.

Changes, deletions, or additions to the Laboratory standard terms and conditions (General Provisions) of a consultant agreement or PSA may require prior written approval of the Laboratory Counsel and DOE. This approval is secured through Procurement.

5. Initiating Consulting Services

The technical contact normally contacts the consultant to arrange for commencement of the desired consultant services. Performance should not commence until the agreement has been executed. The technical contact is responsible for directing the consultant to the Site Access Office, where the appropriate badges and parking permits may be obtained, and for ensuring that the consultant is properly directed to the person or group for whom the services will be rendered.

6. Attendance at Off-Site Conferences

The Laboratory may pay fees and reimburse travel costs to permit a consultant to attend meetings away from the Laboratory. Written justification must be provided to Procurement and approval obtained *in advance* for such attendance. Generally, approval is granted only when it can be shown that attendance by a regular employee cannot accomplish the same purpose.

7. Claim for Consulting Services

Invoices for consulting services are submitted with supporting documentation to the Accounts Payable Office via e-mail at APInvoice@lbl.gov. The *Invoice for Consulting Services* form is available from Procurement for this purpose. The technical contact reviews and signs off on the invoices to verify that the consultant has rendered services as claimed, that the period of time claimed is correct, and that the quality of services performed are acceptable to the Laboratory. After verification by the technical contact, Accounts Payable reviews each invoice to ensure that it is consistent with the terms of the agreement. The invoice is then processed for payment.

8. Termination and Renewal

Most agreements have a term of about one year and vary according to what is administratively the most practical termination date. Renewal of an agreement may be appropriate if consultant services are needed for longer periods. Agreements that are not renewed simply expire without further obligation.

The PeopleSoft Purchasing System sends Consultant agreement/PSA expiration notices to the technical contact in 30-, 60-, or 90-day intervals. Renewal is usually accomplished through a modification to the agreement, based on terms negotiated in the manner of the original agreement. Procurement initiates this action after receiving the *Request for Consultant/Personal Services Agreement and Renewal* form from the technical contact with the additional information required for the renewal. An ePro requisition may also be required for the renewal.

9. Personal Services Agreements

PSAs are treated in essentially the same manner as agreements for consultant services, except as follows:

- Solicitations are sent, and agreements awarded to, the individual's company rather than the individual.
- Payments are made to the company instead of the individual.

10. References

The following policies and procedures apply to consultant agreements and PSAs and can be reviewed for additional details:

- University of California LBNL Procurement Standard Practices Manual, Standard Practice 37.1, *Consultants and Personal Services*
- DOE/LBNL Prime Contract

§11.05
Time Reporting

Responsible Manager

Moved 07/10

Policy moved to the Financial Policies and Procedures Manual.

§11.06
Pay Periods, Computations, and Deductions

Responsible Manager

Moved to the Financial Policy and Procedures Web site, 5/21/09.

§11.07
Paydays and Check Distribution

Responsible Manager

Revised 12/09

- **A. Paydays**
  - **1. Exempt Employees**
  - **2. Nonexempt Employees**
  - **3. Special Paychecks**
  - **4. Final Paychecks**
- **B. Paycheck Distribution**
  - **1. Choice of Distribution Method**
  - **2. Distribution by Electronic Banking**
  - **3. Distribution by Division or Department Office**

A. PAYDAYS

1. Exempt Employees

Exempt employees are normally paid their regular salary on the first workday of the month following the month worked. When the normal payday falls on a weekend or holiday, the payday will be advanced to the last working day before the weekend or holiday in all months except December. For December pay, the payday will be the second day in January unless the second day falls on a weekend, in which case the payday will be the first workday after the weekend.

2. Nonexempt Employees

Nonexempt employees are paid every two weeks, normally on the Friday following the end of the biweekly pay period. If this day is a holiday, payday will be moved to the last regular workday before the holiday.

3. Special Paychecks

Under hardship circumstances, an employee may obtain his or her check before the normal payday. Requests for this advance should be made by the employee to the Human Resources Department through his or her supervisor. Advance payments on anticipated earnings are not allowed.

4. Final Paychecks

a. A terminating employee may elect to pick up his or her final check after 3 p.m. on the termination date. See RPM §2.21(I) (*Terminal Pay*).

b. Final paychecks for deceased employees are normally made payable to the employee's estate, as required by state law.

B. PAYCHECK DISTRIBUTION

1. Choice of Distribution Method

Employees may have their paychecks distributed by electronic banking or delivered to their mailstop on payday. The choice is made at the time of employment and may be changed at any time using Form RL-6596 (*Payroll Earnings Distribution Authorization*).

2. Distribution by Electronic Banking

a. Employees may request the electronic deposit of their net earnings into a maximum of one savings and two checking accounts at any financial institution that participates in the Automatic Clearing House (ACH) interbank network.

b. A deposit advice slip is sent to each employee's current mail stop as listed in the personnel database.

3. Distribution by Division or Department Office

Regular payroll checks for employees are delivered by the mailroom to the employee's mailstop the morning of payday.

§11.39
Use of Laboratory Property and Supplies

Responsible Manager

Rev. 02/10

- **A. General**
- **B. Responsibilities**
- **C. Loans**
- **D. Borrowing Property**
- **E. Excess Property**
- **F. Property Loss or Damage**

A. GENERAL

This section briefly highlights Laboratory policies and procedures pertinent to the use of property and supplies. The Laboratory Personal Property Policy Manual (PPPM; LBNL/PUB-3032) provides procedural detail and guidance, and is available on the Property Management Web site.

B. RESPONSIBILITIES

1. The facilities, tools, supplies, materials, and equipment in use at the Laboratory are U.S. government property and are for official use only by employees. (Non-employees must have the steward division's written authorization to use its resources.) Use for any purpose other than official Laboratory business, either on or off the site, constitutes an illegal conflict of interest, and is therefore prohibited. Employees who use U.S. government property for personal business or who remove property from the Laboratory without proper approval are subject to disciplinary action by the Laboratory and prosecution under federal law (Title 18, United States Code). The Laboratory may impose a number of disciplinary actions as a consequence of improper, dishonest, or illegal activities. These may include a warning; official reprimand; salary reduction; suspension without pay; demotion; or dismissal, depending upon the offense. In addition, prosecution at the discretion of the U.S. Attorney may result in a fine or imprisonment, or both.

2. Laboratory policy mandates responsible use of all property in the custody of its employees. Property must be used in a safe manner, and adequate care must be taken to protect it from loss or damage. Each Laboratory division is responsible for establishing requirements that ensure the effective stewardship of its resources, including hierarchical responsibility for reporting losses and misuse of property.

3. Property Management conducts biennial walk-through inspections of Laboratory areas for the purpose of identifying unused equipment that may be redeployed. Results of the walk-through are reported to the U.S. Department of Energy (DOE).

C. LOANS

Arrangements can be made through Property Management to lend Laboratory property to approved organizations. Requests to loan property for use by external organizations must meet DOE loan criteria (see the PPPM). Employees remain financially liable for equipment assigned to them throughout the loan period.

D. BORROWING PROPERTY

Employees may be allowed to borrow property for short periods

1. From other government or non-profit agencies for use in research, or
2. From vendors for testing or evaluation of an equipment's suitability for future acquisition.
    - Approval for vendor arrangements rests with the divisions and must be well-documented, including the specific Laboratory location where the equipment is in use.

Laboratory employees who borrow equipment that may be considered hazardous from any external source for use or testing must notify their Environment, Health, and Safety Division Safety Coordinators.

E. EXCESS PROPERTY

Equipment, office furnishings, and other material (including software) that become excess property (i.e., are no longer needed by a Laboratory organization) are processed by the Facilities Division through its Property Excess/Reuse Program. In no case should employees remove excess property from the Laboratory for personal use.

F. PROPERTY LOSS OR DAMAGE

Laboratory property loss and/or damage beyond normal wear must be reported to Property Management immediately upon discovery. If theft, vandalism, sabotage, or willful destruction of any Laboratory property is suspected, the incident must also be reported to LBNL Site Security. Property losses occurring off-site must be reported immediately to police in the jurisdiction where the loss took place.

§11.40
Personal Property Management

Responsible Manager

Rev. 02/10

- **A. General**
- **B. Inventory**
  - **1. Capital Equipment**
  - **2. Sensitive Assets**
  - **3. Controlled Substances**
  - **4. Precious Metals**
- **C. Storage of Property**
- **D. Sale or Transfer of Property**
- **E. Property Movement Records**
  - **1. General**
  - **2. Shipping Documents**
  - **3. Division Property Pass**
  - **4. Exceptions**
  - **5. Equipment Movement Tags**
- **F. Property Retirement**
- **G. Insurance of Property**
- **H. Property Acquired as a Gift**
- **I. Personally Owned Property**

A. GENERAL

Supervisors are responsible for the proper use and control of property and supplies used by their groups. The overall management and control of property at the Laboratory is coordinated by Property Management in accordance with policies and procedures described in the Personal Property Policy Manual (LBNL/PUB-3032). Some key procedures and policies are summarized below.

B. INVENTORY

1. Capital Equipment

Capital equipment assets are inventoried every even-numbered year. Property Management provides oversight and support to Laboratory divisions responsible for conducting their inventories and validating the locations of all property under their stewardship.

2. Sensitive Assets

Sensitive assets are inventoried every year by Laboratory divisions, with oversight and direction provided by

Property Management. User accountability records, including physical verification of assets located off-site, must be retained in the divisions and available for audit by Property Management. The List of Sensitive Property is available at the Property Management Web site.

3. Controlled Substances

Inventories of controlled substances are conducted annually by Property Management in accordance with federal regulations.

5. Precious Metals

Physical inventories of the eight precious metals (defined by the U.S. Department of Energy as gold, silver, platinum, rhodium, palladium, iridium, osmium, and ruthenium) are conducted annually by Laboratory property custodians, witnessed by Division Property staff, and observed and validated by Property Management.

C. STORAGE OF PROPERTY

Warehouse storage of Laboratory equipment is provided by the Facilities Division. Equipment may be stored if it satisfies the Facilities' retention requirements.

D. SALE OR TRANSFER OF PROPERTY

All sales or transfers of excess U.S. government property are coordinated by the Facilities Division Excess Program.

E. PROPERTY MOVEMENT RECORDS

1. General

Except as noted below in Paragraph (E)(4), removal of all property from the Laboratory requires authorized documentation in advance of removal.

2. Shipping Documents

A shipping document is required in all situations in which property is removed from the Laboratory via a "common carrier." It must be completed and approved at the division level before any items are transported by the Shipping Department.

3. Division Property Pass

A division-issued property pass is allowed under the following circumstances:

- For use in connection with visits to suppliers performing Laboratory work if the material will remain in the custody of Laboratory personnel;
- For short-term or intermittent use to perform Laboratory work at home or a Bay Area work location (e.g., LLNL, Richmond Field Station); or
- For short-term use in connection with authorized attendance at a meeting, seminar, exhibit, or lecture.

4. Exceptions

Property-removal records are not required in the following cases when

- Employees carry their Laboratory-issued cell phones that remain in their custody for use off-site;
- Employees take documents, books, and other printed matter that will remain in their custody off-site until they are returned to the Laboratory;
- Employees remove unwrapped and personal items such as clothing, lunch boxes, newspapers, books, and magazines from the Laboratory.
- Scrap and salvage dealers remove equipment items and materials from the Laboratory under blanket orders or other approved sales contracts.
- Refuse is removed from the Laboratory.

5. Equipment Movement Tags

An Equipment Movement Tag (EMT) is required for the on-site relocation of property.

F. PROPERTY RETIREMENT

Equipment that has exceeded its usefulness for a project should be sent to the Property Reuse Center. The Environment, Health, and Safety (EH&S) Division must review and clear equipment for radioactivity before it is moved (see the *Health and Safety Manual* (LBNL/PUB-3000)). Items containing components with “repurpose” value may be cannibalized only with the review and prior approval of Property Management. This is particularly important in the case of data-processing equipment. In all cases of reuse or disposal, the Request for Retirement form must be completed and submitted to Property Management for approval.

G. INSURANCE OF PROPERTY

Title to Laboratory property rests with the U.S. government. Federal statute 5 USCA-134 prohibits the insurance of such property under the U.S. government policy of "self-insurance.” Employees will not be reimbursed for insurance of property that is received at, or transported from, the Laboratory to off-site locations.

The Laboratory assumes limited liability for borrowed property that is damaged or lost due to employee negligence.

H. PROPERTY ACQUIRED AS A GIFT

Any property item that has been accepted as a gift or that has been purchased with funds specifically accountable as a gift must be reported in accordance with University and Laboratory practices. See RPM §1.18 (*Solicitation and Acceptance of Gifts*). Gifts are accepted in the name of, and title is then held by, the Regents of the University of California. The Office of Sponsored Projects and Industry Partnerships (OSPIP) is responsible for notifying Property Management of the acceptance of a gift of property, and for providing Property Management with descriptive data so that an inventory record can be established.

I. PERSONALLY OWNED PROPERTY

Personally owned property shall not be installed in, affixed to, or made a part of any U.S. government–owned

property. This restriction does not apply to small, personally owned decorative items or memorabilia displayed in an employee's work area. In all cases, the Laboratory is not responsible for loss of or damage to any personally owned item.

Questions and Comments

If you have questions or comments on the content of Regulations and Procedures Manual (RPM) Web pages (e.g., the policies and procedures published in the RPM), please contact the Responsible Manager who owns the RPM Chapter/Section in question.

If you have questions or comments on the technical aspects of these Web pages (e.g., nonworking links, links to obsolete pages, etc.), please contact one of the following persons:

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