




Commission Staff Report

August 9, 2019

COMMISSION MEETING DATE: August 29, 2019

SUBJECT: Amendment to NCPA's Personnel Policies and Procedures Manual and Policy 401 General Definitions and Policy 411 Employee Retention: Severance Benefits for Involuntary Separation

AGENDA CATEGORY: Consent

FROM:	Vicki Cichocki 	METHOD OF SELECTION:
	Human Resources Manager	N/A
Division:	Administrative Services	<i>If other, please describe:</i>
Department:	Human Resources	

IMPACTED MEMBERS:

All Members <input checked="" type="checkbox"/>	City of Lodi <input type="checkbox"/>	City of Shasta Lake <input type="checkbox"/>
Alameda Municipal Power <input type="checkbox"/>	City of Lompoc <input type="checkbox"/>	City of Ukiah <input type="checkbox"/>
San Francisco Bay Area Rapid Transit <input type="checkbox"/>	City of Palo Alto <input type="checkbox"/>	Plumas-Sierra REC <input type="checkbox"/>
City of Biggs <input type="checkbox"/>	City of Redding <input type="checkbox"/>	Port of Oakland <input type="checkbox"/>
City of Gridley <input type="checkbox"/>	City of Roseville <input type="checkbox"/>	Truckee Donner PUD <input type="checkbox"/>
City of Healdsburg <input type="checkbox"/>	City of Santa Clara <input type="checkbox"/>	Other <input type="checkbox"/>

If other, please specify

RECOMMENDATION:

It is recommended the Commission approve an amendment to NCPA's Personnel Policies and Procedures Manual language by revising *Policy 401, General Definitions* and *Policy 411, Employee Retention: Severance Benefits for Involuntary Separation* to stabilize the Agency's workforce. This is due to conditions of uncertainty within the electric industry and is meant to recruit and retain employees whom are needed to carry out NCPA's future mission and strategic plan.

BACKGROUND:

The Agency's Personnel Policy 411 provides Severance Benefits when an employee is involuntarily terminated, without cause, excluding "At Will" employees. The Agency's definition of an "At Will" employee in Policy 401 also stipulates that "At Will" employees are not covered under Policy 411. Agency employees who are currently in an "At Will" position are senior managers and other managerial staff.

Given the continued uncertainty within the electric industry, the need to attract and retain managerial talent and ensure that managerial employees who are involuntarily terminated in situations beyond the control of NCPA are treated equitably in accordance with good business practices. NCPA staff recommends modifying the policy language to include the "At Will" employees. Regular and At-Will employees will be eligible for the following benefit upon involuntary separation:

- A lump sum payment equal to two (2) weeks base salary for each continuous year of service to a maximum payment of twenty six (26) weeks (6 months) base salary. Minimum payment, regardless of length of service, is 4 weeks base salary. Partial years of service will be prorated.

Employees in salary grades 31 and above (e.g. Assistant General Managers, General Counsel, and General Manager) will be eligible for a minimum payout of 3 months base salary with a maximum of 6 months including time during a probationary period.

Modifying the policy language will remove a potential barrier attracting key talent and will provide a level of assurance to current staff amidst on-going change in the industry. Probationary employees, provisional, part-time, limited term, or casual, and any employee terminated for cause are not eligible for severance benefits under this plan.

FISCAL IMPACT:

The fiscal impact of approving this Policy change is difficult to quantify due to unknown timing, frequency, or the number of employees that could be included. In the last five years, no "At Will" employee has been terminated without cause.

ENVIRONMENTAL ANALYSIS:

This activity would not result in a direct or reasonably foreseeable indirect change in the physical environment and is therefore not a "project" for purposes of Section 21065 the California Environmental Quality Act. No environmental review is necessary.

COMMITTEE REVIEW:

Staff will seek Executive Committee approval at the Committee's meeting on August 29, 2019.

Respectfully submitted,



RANDY S. HOWARD
General Manager

Attachments:

- Resolution 19-59
- Policy 401
- Policy 411

RESOLUTION 19-59

**RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY
AMENDMENT TO NCPA'S PERSONNEL POLICIES AND PROCEDURES MANUAL
POLICY 401, GENERAL DEFINITIONS AND POLICY 411, EMPLOYEE RETENTION**

(Reference Staff Report #182:19)

WHEREAS, NCPA's Personnel Policies and Procedures Manual ("Manual") does not address severance benefits for Agency Managers and Senior Managers currently deemed "At-Will" employees; and

WHEREAS, the Agency wishes to provide severance benefits to Senior Managers and other Managerial Staff who may be involuntarily separated from the Agency due to situations beyond their or NCPA's control; and

WHEREAS, "At-Will" employees will receive the same benefit as Regular employees with the exception of Grade 31 and higher employees (e.g. Assistant General Managers, General Counsel, and General Manager) receiving a minimum of 3 months base salary (as opposed to 4 weeks) and be eligible for the benefit during a probationary period; and

WHEREAS, amending Policy 401, General Definitions and Policy 411, Employee Retention: Severance Benefits for Involuntary Separation will assist in stabilizing the Agency's workforce and assist its ability to recruit and retain key managerial talent during uncertain conditions in the electric industry; and

WHEREAS, this activity would not result in a direct or reasonably foreseeable indirect change in the physical environment and is therefore not a "project" for purposes of Section 21065 the California Environmental Quality Act. No environmental review is necessary; and

NOW, THEREFORE BE IT RESOLVED, that the Commission of the Northern California Power Agency adopts an amendment to NCPA's Personnel Policies and Procedures Manual language by revising Policy 401, General Definitions and Policy 411, Employee Retention: Severance Benefits for Involuntary Separation.

PASSED, ADOPTED and APPROVED this ____ day of _____, 2019, by the following vote on roll call:

	<u>Vote</u>	<u>Abstained</u>	<u>Absent</u>
Alameda	_____	_____	_____
San Francisco BART	_____	_____	_____
Biggs	_____	_____	_____
Gridley	_____	_____	_____
Healdsburg	_____	_____	_____
Lodi	_____	_____	_____
Lompoc	_____	_____	_____
Palo Alto	_____	_____	_____
Port of Oakland	_____	_____	_____
Redding	_____	_____	_____
Roseville	_____	_____	_____
Santa Clara	_____	_____	_____
Shasta Lake	_____	_____	_____
Truckee Donner	_____	_____	_____
Ukiah	_____	_____	_____
Plumas-Sierra	_____	_____	_____

ROGER FRITH
CHAIR

ATTEST: _____
CARY A. PADGETT
ASSISTANT SECRETARY

PERSONNEL POLICIES AND PROCEDURES

401. GENERAL DEFINITIONS

Definitions of general terms used throughout the manual:

Agency

Northern California Power Agency (NCPA), a joint powers agency formed under the laws of the State of California.

Appointing Authority

The Commission, General Manager or Assistant General Manager lawfully authorized to make appointments or to remove persons from positions in NCPA service, or persons designated by such appointing authority to perform those duties that legally may be delegated.

“At Will” Employees

“At Will” employees serve at the pleasure of the Appointing Authority and may be terminated without cause at any time. “At Will” employees include, but are not limited to, employees serving at the pleasure of the Commission or General Manager, Probationary employees, Provisional, Limited-term, Part-time, and Casual employees or any employee whose contract for employment makes him or her an at-will employee. Such employees have no right of appeal except as provided by law, ~~and are not covered under Policy 411 Employee Retention: Severance Benefits for Involuntary Separation.~~

“At-Will” employees who are full-time and not classified as casual, part-time shall acquire service and rights with respect to leave of absence, sick leave, holidays, vacation, benefit programs, etc.

Assistant General Manager

An executive manager, reporting directly to the General Manager, assigned responsibility for a major department of the Agency.

Casual Employee

A casual employee receives only salary. No fringe benefits are paid a casual employee however; casual employees shall be afforded Sick Leave in accordance with the California “Healthy Families, Healthy Workplace Act”. In represented classes a casual employee is usually hired for six months or less to fill the immediate needs of the Agency.

Classic Member

NCPA employees hired prior to January 1, 2013 and who were participating in the California Public Employees Retirement System (CalPERS) prior to January 1, 2013.

Commission

The NCPA governing body.

Date Issued: August 6, 2019

Date Revised:

411. EMPLOYEE RETENTION: SEVERANCE BENEFITS FOR INVOLUNTARY SEPARATION

The purpose of the employee retention severance benefits is:

- To stabilize NCPA's work force under conditions of uncertainty in the electric industry.
- To retain employees needed in carrying out NCPA's future mission and business plan as outlined by its Commission members.
- To assure that employees who are involuntarily terminated in situations beyond the reasonable control of NCPA are treated equitably in accordance with good business practices.

Eligibility

Regular Agency employees and at-will regular employees; who are not otherwise rendered ineligible by the terms of this paragraph, are eligible to participate in this severance plan, contingent upon the employee relinquishing in writing to the right to pursue litigation against NCPA related to termination (hereinafter, Eligible Employees). Probationary employees, except for employees in pay grades 31 or above, provisional, part-time, limited term, or casual or at-will employees, and any employee terminated for cause are not eligible for severance benefits under this plan. Exceptions to this policy will be at the discretion of the General Manager.

If involuntary severance is required, it may be in NCPA's best interest to provide the potentially affected employees the opportunity to volunteer for severance. If NCPA, in its sole determination, decides to offer voluntary severance to a group of employees, the voluntary severance benefits will be the same as the involuntary severance benefits defined herein.

Policy

NCPA operates efficiently and effectively, and follows good business practices. Depending upon business conditions, it may become necessary to terminate employees who would prefer to remain employed by the Agency.

NCPA's policy is to provide transition assistance through severance benefits to Eligible Employees who are involuntarily terminated without cause, or who are affected by a change in control. Constructive termination includes a material reduction in pay, benefits, duties or responsibilities, or an unreasonable mandatory relocation.

Benefits

Benefits upon involuntary separation for Eligible Employees are as follows:

- A lump sum payment equal to two (2) weeks base salary for each continuous year of service to a maximum payment of twenty—six (26) weeks (6 months) base salary. Minimum payment, regardless of length of service, is 4 weeks base salary. Partial years of

service will be prorated.

- For employees in Salary Grade 31 or above who are eligible for a lump sum payment equal to two (2) weeks base salary for each continuous year of service to a maximum payment of twenty-six (26) weeks (6 months) base salary. Minimum payment, regardless of length of service is three (3) months. Partial years of service will be prorated.
- Continuation of Health and Welfare benefits (medical, dental and vision insurance): Current benefits levels will be provided at the Agency's expense to employees who are terminated involuntarily (and eligible dependents) for six (6) months under COBRA. Thereafter, the employee may continue medical coverage at his/her own expense under COBRA following termination, until employment with benefits is obtained with another employer, or COBRA ends, whichever occurs first.

Payment will be made for accrued vacation at the time of termination.

A lump sum payment for half the employee's accrued sick leave will be made. If an employee who is eligible for severance benefits, elects retirement under CalPERS, his or her sick leave and medical benefits will be handled as retirement benefits under CalPERS rules.

Change in Control

In the event of a change of control of NCPA, involuntary severance benefits will apply. A change in control is defined as any reorganization, joint venture, privatization plan, sale merger, affiliation, or contract that results in final decision-making authority with respect to workforce size, composition, wages, hours of work, or working conditions being vested in any entity, person or persons other than NCPA.