

BOARD MEETING DATE: January 10, 2025

AGENDA NO. 33

**PROPOSAL:** Approve the Imposition of the Management’s Last, Best and Final Offer on a Revised Telework Program Policy and Authorize the Executive Officer to Implement the Revised Telework Program Policy for South Coast AQMD Professional Unit Employees

**SYNOPSIS:** Management and the South Coast AQMD Professional Employees Association have reached impasse in the bargaining process for a revised Telework Program policy. This action is to hold a public hearing regarding the impasse, and to consider approving the imposition of the Management’s Last, Best and Final Offer on a revised Telework Program policy and authorizing the Executive Officer to implement the policy for Professional Unit employees. This policy is the same revised Telework Program policy issued by the Executive Officer for all other employees on September 26, 2024, which has an effective date of April 1, 2025.

**COMMITTEE:** No Committee Review

**RECOMMENDED ACTION:**

Approve the Imposition of the Management’s Last, Best and Final Offer on a Revised Telework Program Policy, as set forth in Attachment A, and Authorize the Executive Officer to Implement the Revised Telework Program Policy for Professional Unit Employees.

Wayne Nastri  
Executive Officer

## **Background**

The South Coast AQMD's current Telework Program Policy (Administrative Policies and Procedures, No. 46) has been in effect since April 2022. The Telework Program Policy was established after the pandemic to allow employees to work from home with a minimum number of in-office days. Beginning June 2023, a Telework Committee (Committee), consisting of representatives from each employee group (Teamsters, PEA, nonrepresented), met six times to discuss changes to the Telework Program. The primary change proposed by management was to modify the criteria and approval of a minimum 1-day in-office schedule to be more restrictive as an option for employees. As revised, a minimum 2-day in-office schedule would be the standard schedule. Most employees work a Tuesday-Friday, 4/10 schedule.

With the consensus of the Committee, including the Teamsters representatives, policy revisions were finalized in July 2024. PEA requested to also bargain the policy separately. Consistent with PEA's MOU, approved on March 1, 2024, Management agreed to bargain with PEA on revisions to the telework policy. The revised Telework Program was issued by the Executive Officer in September 2024, subject to completion of the bargaining process with PEA, with a 6-month notice period – changes go into effect April 1, 2025. (The 6-month notice period was agreed to in the current MOU with PEA, and is applied to all employees.)

Between August and September 2024, Management and PEA met five times to bargain the policy revisions. Although some additional changes were agreed to by the parties, and incorporated into the final revised policy, the process ended in impasse. With Board approval, Management issued a Last, Best & Final Offer (LBFO) to PEA for a revised Telework Program policy. The LBFO consists of the same revised policy provisions issued to all other employees, with an April 1, 2025 effective date.

In accordance with South Coast AQMD's Employee Relations Resolution, the parties participated in mediation in November 2024, conducted by an outside facilitator. The session concluded without an agreement. On November 26, 2024, a Factfinding Panel held a hearing on the matter, in accordance with State law on bargaining. The 3-member panel consisted of PEA and Management appointees, and a neutral member agreed to by both parties.

The Factfinding Panel issued its advisory report on December 20, 2024, presenting its findings and recommendations on the Telework Program proposals from PEA and Management. (Attachment B). The Factfinder recommends Management's proposal of a minimum 2-day in-office schedule. The Management panel member concurred with all of the Factfinder's recommendations. The PEA panel member disagreed with the report, but submitted no dissenting opinion. As required by law, the report was posted on South Coast AQMD's [website](#) on December 27, 2024.

**Proposal**

Management recommends the Board approve the imposition of the Last, Best and Final Offer (Attachment A), and authorize the Executive Officer to implement South Coast AQMD's revised Telework Program policy for Professional Unit employees. This is the same revised Telework Program policy (Administrative Policies and Procedures, No. 46) issued by the Executive Officer for all other employees. The effective date of the revised policy would be April 1, 2025, as it is for all other employees.

There are no budget impacts for this proposal.

**Attachments**

- A. South Coast AQMD's Last, Best and Final Offer for revised Administrative Policies & Procedures No. 46, Telework Program
- B. Factfinder's Report Re: Telework Policy Bargaining Impasse

ATTACHMENT A

South Coast AQMD's LBFO for revised Administrative Policies & Procedures  
No. 46, Telework Program



# SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT

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### NUMBER 46.0 – TELEWORK PROGRAM

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Effective: [DATE SIGNED] (supersedes Policy No. 46, dated ~~January 1, 2019~~ April 14, 2022)

#### 46.1 ~~PURPOSE AND APPLICABILITY:~~

This Policy addresses eligibility, application and approval processes, requirements, and authorities associated with South Coast AQMD's Telework Program.

This Policy applies to all full-time South Coast AQMD employees, except Field Staff. Field Staff are generally assigned a District vehicle to travel to specific locations, offsite from District facilities, to conduct their work. Telework for Field Staff will be handled by Department policy. Such policies must be consistent with this Policy's guidelines, requirements, and restrictions.

#### 46.2 ~~DEFINITION~~ PURPOSE:

South Coast AQMD's Telework Program is a voluntary work arrangement, under which an employee performs the duties and responsibilities of the employee's position from an approved worksite, other than the location from which the employee would otherwise work. South Coast AQMD's Telework Program allows an employee to perform work from an approved worksite, during any part of paid work hours approved by the employee's management.

#### 46.3 POLICY STATEMENT:

The goal of South Coast AQMD's Telework Program is to create a hybrid work environment that meets South Coast AQMD's operational needs and also provides benefits for individual employees and the community. A hybrid work environment incorporates technology and communication tools to allow for the portability of work across multiple locations, which provides work flexibility, encourages new efficiencies, and decreases air pollution by reducing commute travel. This Policy also recognizes the benefits of in-person interaction to establish and maintain work relationships, collaboration, learning, teamwork, and trust throughout the agency.

In general, South Coast AQMD employees are required to work in an office setting four days a



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week. The office location is either South Coast AQMD’s Diamond Bar headquarters or the Long Beach Field Office. The Telework Program provides employees the opportunity to choose to telework while performing their duties, subject to the requirements and conditions of this Policy, where the priority of any telework arrangement is to meet South Coast AQMD’s operational needs. Operational need includes but is not limited to: program implementation, training, productivity, performance, efficiency, communications, employee engagement, collaboration, coverage of schedules, and mentoring.

~~As set forth in this Policy,~~ South Coast AQMD has the right to refuse either the amount of teleworking to an employee, or to terminate a teleworking arrangement, at any time in accordance with the requirements of this Policy, applicable laws, and applicable MOUs.

Participating employees are required to adhere to all requirements of this Policy, and of all South Coast AQMD policies and procedures, while teleworking. Failure to do so may result in the employee being removed from the Telework Program or the number of telework days reduced, as well as any other appropriate action.

#### **46.4 TELEWORK SCHEDULE OPTIONS:**

The Telework Program provides three schedule options for teleworking. Employees may apply for telework under one of these schedules, subject to the procedures and conditions set forth below.

- **2-Day Telework** – A Deputy Executive Officer (DEO) or designee can approve up to two (2) telework days per week or the monthly equivalent.
- **3-Day Telework** – The DEO/Chief Operating Officer (COO) can approve up to three (3) telework days per week or the monthly equivalent.
- **Non-Permanent 4-Day Telework** – The Executive Officer (EO) can approve four (4) telework days per week on a non-permanent basis.

A non-telework or “in-office day” can include working at an off-site location where an employee is conducting South Coast AQMD business with management approval. Examples of working off-site include, but are not limited to, visiting a facility, attending a work-related off-site meeting, meeting with stakeholders, conducting outreach in the community, in- or out-of-Basin travel, or participating in a conference. Employees that do not have an approved Telework Agreement or elect not to participate in South Coast AQMD’s Telework Program would work in the office four days per week.



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### 46.5 PROCEDURES:

#### 46.5.1 Requirements for Approval

a. **2-Day Telework Schedule** – Approval is evaluated based on all of the following criteria:

- 1) Employee's job duties can be completed through telework;
- 2) Operational needs of the department can be completed through telework;
- 3) Employee's performance meets the following:
  - a) most recent performance appraisal is rated Satisfactory or better;  
and
  - b) employee is not currently on a Performance Improvement Plan.  
~~past performance indicates a likelihood of success for telework.~~  
{This factor does not disqualify new hires from participation.}; and
- 3)4) Individual and department performance can be measured and supervised through telework.

Employee may appeal a complete denial [no telework hours approved] or 1-day telework, of a request for a 2-Day Standard Telework Schedule to the ~~Chief Operating Officer (COO).~~

b. **3-Day Telework Schedule** – Approval is evaluated based on all of the following criteria:

- 1) Same criteria (1-4) as 2-Day Telework Schedule;
- 2) Employee's past performance and conduct in the Telework Program, where applicable, meet the requirements set forth in Sections 46.5.3 and 46.5.4 of this policy,
- 1)3) Description of employee's job duties that demonstrates that the employee's job classification and work assignment is particularly suited for a 3-day telework schedule can meet their responsibilities effectively through telework.
- 2)4) Approval does not affect job duties requiring regular access to equipment at headquarters (such as the lab or print shop) or requiring face-to-face interaction with internal or external persons,
- 5) Approval does not adversely affect another individual's work schedule, ~~team or departmental performance, or other operational needs.~~ Plans will be established by the manager to ensure employee will have consistent communications with their supervisor and manager, and will have regular interaction with colleagues, and
- 3)6) DEO's recommendation for approval of the 3-Day Telework Schedule.



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Employee may appeal a ~~complete denial [no telework hours approved]~~ of a request for a 3-Day Telework Schedule to the ~~Chief Operating Officer (COEO)~~.

- c. **Non-Permanent 4-Day Schedule** – Approval is evaluated based on the following criteria:
- 1) Same criteria (1-4) as ~~3~~ 2-Day Telework Schedule
  - 2) Request includes a specified end date that is reasonable for the circumstance for a Non-Permanent 4-Day Telework Schedule.
  - 3) Duration of the schedule requested is consistent with operational needs.
  - 4) Proposed telework location does not conflict with operational needs and if the location is outside of the United States, Information Management approval of the telework location is required for approval.
  - 5) ~~Additional m~~ Measures of communication, performance and productivity are ~~proposed~~ established by the DEO, as needed.
  - 6) DEO recommends approval of the Non-Permanent 4-Day Telework Schedule.

The EO's decision is final.

### 46.5.2 Application and Approval Process; and Modification of Telework Schedule

- a. To apply to the Telework Program, employees must submit a Telework Application & Agreement form to their DEO or designee at least two weeks prior to the proposed new or modified telework schedule. The application must provide:
- 1) Description of how the applicable criteria for approval will be met;
  - 2) Description of the equipment to be used while teleworking;
  - 3) Vehicle and commute information, including the type of vehicle, decrease in miles travelled, and the commute time avoided;
  - 4) ~~Description and p~~ A photo of the proposed work area that demonstrates that Section 46.5.3 requirements are met;
  - 5) Proposed schedule of day(s) for teleworking; and
  - 6) Participation or planned participation in a carpool or vanpool through the South Coast AQMD Rideshare Program.
- b. If approved, the DEO/COO/EO will return a signed Telework Application & Agreement to the employee, indicating approval, modification, or denial of the proposed schedule. The reasons for a modification or a denial of a proposed telework schedule shall be stated. If the proposed telework schedule is modified or denied, the employee may revise and resubmit the Telework Application & Agreement to the DEO/COO; or, in the case of a complete denial or a reduction to a 1-day telework, may appeal decision to the COO/EO.





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- c. The employee must submit the signed Approved Telework Agreement to their manager and the department will email a copy to Human Resources at TELEWORK@aqmd.gov.
- d. Participating employees must report to their DEO or designee any change in circumstances described in their application for evaluation of whether the criteria for approval can still be met.
- e. Each department and HR will maintain a list of approved teleworkers.
- f. If an employee changes departments or positions, the employee must submit a new application to the DEO/COO for approval to participate in the Telework Program.
- g. The EO or COO or DEO may terminate an employee's approval to participate in the Telework Program based on changed circumstances that no longer meet criteria for approval.
- h. Modifications may be made to an approved telework schedule, as follows:
  - 1) Changes to approved telework days may be requested by the employee for manager approval.
  - 2) Management may revise the employee's approved regular telework schedule based on operational need, with 14 calendar days notice. The notice shall include the basis for the revised schedule and the duration of the revised schedule.
- i. The approved Telework Agreement will be amended to show the new approved regular telework schedule and the department will submit a copy to Human Resources at TELEWORK@aqmd.gov.

### 46.5.3 Telework Location and Environment

- a. Employee shall designate a workspace within the telework location for placement and installation of equipment to be used while teleworking.
  - 1) Employee shall maintain this workspace in a safe condition, free from hazards and other dangers to the employee and equipment.
  - 2) ~~DEO, upon review of HR, must approve of the site chosen as the employee's telework location and of the proposed workspace.~~
  - 3) 2) Employee may submit a request-revised Telework Application & Agreement for approval, in writing to the DEO, to change the designated telework location. If approved, the signed Telework Agreement will be amended to show the new designated telework location sent to the employee.
  - 4) 3) Employee may seek approval to telework outside of California or the United States for non-permanent 4-Day Telework Schedules, but not for the 2-Day or 3-Day Schedules.
- b. South Coast AQMD, through HR and other appropriate District staff, and in agreement with the employee, can make on-site visits (with reasonable



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advance notice—at least 1 business day) to the telework location, to determine if the site and workspace is suitable for teleworking and safe and free from hazards, or to maintain, repair, inspect, or retrieve South Coast AQMD- owned equipment or supplies. Employee’s failure to cooperate with this process may result in appropriate action taken by management to address the matter, including but not limited to, removal from the Telework Program.

- c. South Coast AQMD will not pay for operating costs, approved worksite maintenance, or any other incidental cost (such as, utilities or internet) related to the use of the employee’s approved telework location. South Coast AQMD provides a telework stipend through its Rideshare Program.
- d. As deemed necessary by the department, South Coast AQMD will provide the employee with computer hardware, computer software, email, voicemail, connectivity to host applications, and other applicable equipment for telework.
- e. Telework can only be performed on South Coast AQMD-issued equipment and use of such equipment is limited to authorized persons and for purposes relating to South Coast AQMD business.
- f. South Coast AQMD will provide office supplies as needed. Out-of-pocket expenses for other supplies will not be reimbursed unless by prior approval by the employee’s supervisor.

#### 46.5.4 Program Restrictions and Requirements

- a. Participants must be available by phone, Cisco Jabber or other messaging software, and email during authorized work hours, and must perform their work during such hours at the approved telework location, in accordance with applicable MOUs, Salary Resolution, and District policies.
- b. Participants may be required to return to South Coast AQMD headquarters or an off-site location, due to operational needs, on a scheduled telework day without advance notice. Advance notice will be given, if deemed practicable by the manager.
  - 1) The telework day is not required to be re-scheduled.
  - 2) Employee and manager shall agree on expected response time.
- ~~c.~~ An “in-office day” means the employee spends the entire workday in the office, when reporting to the office, unless approved by their manager to complete the day teleworking or to take leave time.
- ~~d.~~ Any South Coast AQMD materials taken from a South Coast AQMD facility shall be kept in the designated work area and not be made accessible to others.
- ~~e.~~ Employees must take all precautions necessary to prevent unauthorized access to confidential data or information. Paper copies of confidential materials may not be removed from South Coast AQMD facilities.
- ~~f.~~ Employees shall not be conducting childcare or dependent care when teleworking. Teleworking is not a substitute for child or dependent care.



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- g. If an employee is absent, due to approved leave, on a scheduled in-office or non-telework day(s), employee is not required to make up for that in-office or non-telework day.
  - ¶.i. In circumstances where employee health and safety are a concern, such as severe weather conditions or wildfires, the Executive Officer may recommend that employees telework to the extent feasible, subject to operational needs, and employees would not be required to make up for that in-office or non-telework day.
  - j. Employees shall report an injury that occurred while teleworking, and alleged to be within the course and scope of employment, in accordance with South Coast AQMD's injury and workers' compensation policies and procedures. *(See, Injury and Illness Prevention Program, available on AirNet; Injury Incident Report form, available on AirNet in the Risk Management folder.)*

### 46.6 PROGRAM EVALUATION:

In order to ensure an efficient and effective program, there will be ongoing review and evaluation of the Program. Evaluation criteria will include, but is not limited to: employee and supervisor feedback, the type and volume of work being done through telecommuting, the ability of employees to complete tasks while telecommuting, and the responsiveness of the employee while telecommuting.

A Telework Committee, consisting of labor and management representatives, the DEO of A&HR, and COO will meet ~~six (6) months from the date of implementation of this Policy (expected May 2022)~~ at least once every twenty-four (24) months to review and evaluate the Program and identify issues, if any. Committee members will provide input, data, and recommendations for the Telework Program for consideration by the EO.

~~The Telework Committee, DEO of A&HR, and COO will meet again one year from the date of implementation of this Policy to review, evaluate, and make recommendations for the Telework Program. Thereafter, the Telework Committee, DEO of A&HR, and COO will meet every two (2) years for such purposes.~~

Upon review of the Committee's feedback, the EO may modify, or suspend, or terminate the Telework Program based on South Coast AQMD's operational needs or other factors. Reasonable advance notice, based on the impact of the change, will be provided to employees prior to implementation. Where there is a change that would reduce telework options, there will be at least 6 months written notice for implementation after the revised policy is approved by the Executive Officer.

**APPROVED BY:**



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\_\_\_\_\_  
Wayne Nastri, Executive Officer

\_\_\_\_\_  
Date

Related documents:

1. Telework Application & Agreement (link to be provided)
2. South Coast AQMD Telework Program – Frequently Asked Questions (link to be provided)

**(District's Last Best & Final Offer, 9-17-2024)**

ATTACHMENT B

Factfinder's Report Re: Telework Policy Bargaining Impasse

**FACTFINDING DIRECTED BY THE PUBLIC EMPLOYMENT  
RELATIONS BOARD**

In the Matter of a Bargaining Impasse

**South Coast Air Quality Management District,  
Employer**

and

**South Coast Professional Employees Association,  
Employee Organization**

**Re: Telework Policy Bargaining Impasse; PERB CASE NO. LA-IM-342-M**

**Factfinding Panel**

**Laura Drottz Kalty – Employer Member**

**Adam Stern – Employee Organization Member**

**Carol A. Vendrillo – Neutral Member**

**December 20, 2024**

***Appearances:***

***For the Employer:***

Laura Drottz Kalty  
Liebert Cassidy Whitmore  
6033 West Century Blvd., 5<sup>th</sup> Floor  
Los Angeles, CA 90045

***For the Employee Organization:***

Adam N. Stern  
The Myers Law Group  
9327 Fairway View Place, Suite 100  
Rancho Cucamonga, CA 91730

## **INTRODUCTION**

The South Coast Air Quality Management District (South Coast AQMD or District) and the South Coast Professional Employees Association (PEA or Association) have reached a bargaining impasse concerning the District's telework program. The parties initiated this factfinding process pursuant to the Meyers-Milias Brown Act, Government Code Section 3505.4 and the District's Employee Relations Resolution, Section 11 (District Exhibit 1).

On November 26, 2024, a meeting was convened by the Panel during which persons with knowledge about the bargaining history shared information and concerns about the District's proposal to alter its telework program. The parties introduced documentary evidence that was considered in making their recommendations.

## **ISSUE**

Does the position advanced by the District or the Association better conform to the criteria set forth in Section 3505.4 and Section 11 of the District's Employee Relations Resolution?

## **FACTUAL SUMMARY**

The District and the Association are parties to a Memorandum of Understanding (MOU) which runs from January 1, 2024, to December 31, 2027 (Employer Exhibit 6). That document, at Article 48, provides for the maintenance of a telework program that gives employees options to telework while performing their job duties. It also recognizes the existence of a joint labor-management committee tasked with addressing the telework program. Section 2 of Article 48 requires management to provide at least six months

written notice to employees prior to implementation of any changes that would reduce telework options.

District employees impacted by this dispute work a 4/10 schedule. They work four ten-hour days. In 2017, the District adopted a telecommuting pilot project that allowed a small group of 35 employees to work from home 30 hours a month at the discretion of their supervisor (District Slide 11). In 2019, the District adopted a policy whereby employees could work off-site one day a week with their supervisors' approval (District Slide 12). When the COVID pandemic intervened in 2020, the policy was expanded, and employees were directed to work from home "to the maximum extent possible." (District Slide 13.)

As part of its administrative policies and procedures post-COVID, the District has adjusted the telework program in Policy Number 46.0. It created a hybrid work environment. The version that took effect on April 13, 2022, required employees to work in the office four days a week. However, guided by the District's "operational needs," the policy gave employees three schedule options to work from home – a two-day telework schedule, a three-day schedule, and a 4-day schedule. The two- and three-day options required approval of the deputy executive officer (DEO). The four-day option required approval of the executive officer.

The criteria for approval were spelled out in the policy. Employees were required to submit a telework application to their DEO two weeks prior to the proposed modification. Employees could appeal the DEO's denial of a telework request to their chief operating officer. Employees were required to designate a workspace within the telework location and allow the District's human resources staff to make on-site visits



with reasonable advance notice (District Exhibit 2). In practice, the DEOs were regularly approving the three-day telework schedule so that employees were required to work in the office one day a week only.

In 2023, the District advised the Association that it wished to change the telework program to effectively require that employees come into the office two days a week. The parties discussed this at meetings of the telework committee on several occasions in 2023 and 2024. The telework committee's discussions were on a parallel track with negotiations. Eventually, the proposed telework policy change was discussed at the bargaining table. When parties reached agreement on a comprehensive MOU, it did not incorporate the complete telecomputing Policy No. 46.

The District formulated its last, best and final offer on September 17, 2024 (District Exhibit 4). PEA President Brian Vlasich rejected the District's final offer on September 24, 2024 (District Exhibit 5). The District then declared impasse on September 25, 2024 (District Exhibit 5).

The District's last, best, and final offer expanded the policy statement and the operational needs language to include employee engagement, collaboration, and mentoring. The new schedule set out in Policy No. 46.0 permits up to two telework days a week with the approval of the DEO or designee and up to three telework days a week with the approval of the chief operating officer. The four-day telework option still requires the approval of the executive officer.

The District has announced it intends to implement this version of the policy on April 1, 2025.

## **PARTIES POSITIONS**

*The Association position.* The Association seeks to maintain the status quo that requires employees to report to the office for in-person work one of their four workdays. PEA conducted an anonymous worker survey of its members in May 2024 (Association Exhibit 3). The surveys showed many employees made decisions about where to work and live based on a telework policy that allowed them to work from home three of the four days a week. The survey revealed that employees would terminate their employment with the District if the telework policy changed. Of those surveyed, 98 percent said they wanted the telework policy to stay the same or be expanded. People have adjusted to the schedule and like it.

The Association also seeks to have the telework policy made part of the MOU and be subject to the contractual grievance procedure. Alternatively, it seeks to have the denial of a telecommuting schedule announced by the supervisor or manager within a 14-day period, with the reasons for the denial articulated. It also seeks to have a denied telework request be appealable.

PEA also objects to the District's right to inspect an employee's home office. It wants advance pre-notification of such visits and the names of the persons who will be conducting the visits.

PEA is critical of the District's assertion that a return to on-site work will build the organization's culture. There is no plan in place to make that occur, the Association claims. Training sessions are conducted using Zoom, with employees participating from their cubicles.

PEA is opposed to the six-month notice of a change in the telework policy. PEA is seeking a commitment from the District that it will not further impinge on the telework policy or eliminate it entirely. The District's verbal commitment that they will not change policy is contrary to six-month notice language.

Many studies show the benefits of telework. It provides a reasonable work/life balance, reduces commute times, encourages interactions with family members, and is less stressful. Telework also has economic benefits. It reduces transportation and parking costs. And by boosting morale, increases productivity (Association Exhibits F, G, H, I, and J). For these reasons, PEA objects to additional language in "operational needs" language.

The Association objects to having the deputy executive officer grant approval of the two-day telework schedule. It asserts that approval should be made by an employee's supervisor or manager who is most familiar with the work.

PEA is seeking limitations on the inspections of home offices. They desire advance written notice and the names of the staff members who will be conducting visit.

The policy change sought by the District of requiring in-office work two days a week is stricter than comparable agencies. In support of that position, the Association refers to telecommuting policies at other public entities. It points to the Bay Area Air Quality Management District as the most similar. In that agency, the number of days an employee may work from home is at the discretion of the division director (Association Exhibit K). That MOU allows an employee and his or her supervisor to agree on "core days and hours during which the employee will be working remotely." It does not require any days in the office.

The Sacramento Air Quality Management District's telework policy allows the employee and his or her immediate supervisor to evaluate the suitability of telework (Association Exhibit M). It requires employees to work in the office as least one day a week (Association Exhibit N). The telework policy for Los Angeles County requires approval by the employee's supervisor of the request to telework (Association Exhibit P).

*District's position.* The requirement that employees return to on-site work two days a week will achieve an appropriate work/life balance. It will help rebuild agency culture through more in-person interaction and increase professional development opportunities. Requiring two days in the office reflects the value of personal interactions and a team environment. It also will increase institutional history. An on-site presence is critical for training and building work relationships. This is critical to the District because 78 percent of employee have been in their position five years or less (District Slide 9).

District's operational needs are primary. Two-days in the office offers more opportunity for growth, personal interaction, more on the job training, and mentorship.

The District's telework policy, when compared to other similar agencies, is highly competitive, especially for those working a four/ten schedule: San Joaquin and Los Angeles require days on-site; Ventura's 4/10 personnel are allowed only one day at home. Butte and Santa Barbara require two days on-site.

### **RECOMMENDATION**

Both Government Code Section 3505.4 and the District's Employee Relations Resolution at Section 11 set out the criteria for selecting between the parties' positions. In this case, Subsections (4) and (5) seem most relevant. They concern the welfare of the

public and the conditions of employment at comparable jurisdictions. The District's local rules impose the same instructions.

The parties' positions on the proposed new telework policy address a number of aspects of Policy 46. Each is discussed separately.

*(1) Number of days required to be on-site.* With one exception, all of the telework policies adopted by comparable agencies present a mixture of time working from home and time working in the office. No clear picture emerges as to how best to divide these two work assignments. No "best practice" emerges.

However, among those jurisdictions where employees work four ten-hour shifts and only are on site four days a week, two jurisdictions require employees to report to the office two days a week (San Joaquin and Los Angeles). In one jurisdiction with a four/ten schedule (Ventura), employees only are allowed to work from home one of their four workdays. There is no jurisdiction where employees who work a four/ten schedule are allowed to be at the office only one day a week.

These four/ten agencies are the most comparable to the South Coast AQMD. They require employees to spend two days in the office and allow them to work from home on two days. This same fifty/fifty split as used in other four/ten agencies is reasonable for South Coast AQMD and conforms to the comparability criteria set out in the statute and the local rule.

*(2) Level of management approval needed.* On its face, the District's final offer requires that a schedule allowing for two days of telework obtain approval from the DEO. However, the language adds the DEO's "designee," which the District asserts is intended to include the employee's manager. In other words, an employee's manager may sign off

on an employee's request to telework for two days. If that is what the District intends, the language of the final offer should so state. Otherwise, the requirement of approval of the DEO for a two-day telework schedule is out of step with the practice in comparable agencies.

The same cannot be said of the proposal that approval of a three-day telework schedule – with an employee only working in the office on one of his or her four workdays. Having the chief operations officer make that determination is not unreasonable given the potential broad-based impact on operations.

*(3) Statement of reasons for denial of telework schedule.* The individual denying a telework request should be required to articulate the reasons for such a denial.

*(4) Grievable as part of MOU or right to appeal.* The parties' recently ratified successor MOU addresses the telework policy at Article 48. Therefore, violations or misapplication of the telework policy is not currently subject to the contractual grievance procedure. To make the denial of a telework application grievable would require a re-opener of the MOU. However, nothing prevents Policy No. 46 itself from providing a right to appeal the denial of telework request. How burdensome this would be is unknown without a record of the number of denials issued by management.

*(5) Inspection of Home Office.* PEA's desire to have some constraints placed on the home inspection process – advance notice of the home visit and identification of who will be conducting it – is reasonable and can easily be accomplished.

*(6) Six-month notice of change.* Many of the telework policies promulgated by comparable agencies make clear that a telework option is “not an entitlement or a District-wide benefit.” (Association Exhibit M; Sac Metro Air District.) Telework is a

“management option, not a universal employee benefit.” (Association Exhibit O; Los Angeles County.) The same is true of the South Coast AQMD. The District is not required to provide employees with a telework option. It is an adjustment or an alternative to an employee’s regular work hours. Therefore, the District can elect to alter Policy 46 as it sees fit, as it did when COVID sent people home in droves because of the public health crisis brought about by the pandemic. Given that, it is not tenable for the Association to object to the District’s proposal to provide six-months’ notice of a change in the telework policy.

(7) *Broadly worded policy statement language.* PEA objects to the language in the policy statement that views the hybrid schedule as recognizing “the benefits of in-person interaction to establish and maintain work relationships, collaboration, learning, teamwork, and trust throughout the agency.” While the Association may disagree that on-site work brings about those results, the policy statement is no more than a preamble that requires no “buy in” from the PEA.

### **RECOMMENDATION**

For the reasons expressed above, the Neutral Member of the Factfinding Panel urges the Board to adopt a revised Policy No. 46 that comports with the recommendations outlined above.

Dated: December 20, 2024

/s/Carol A. Vendrillo  
**CAROL A. VENDRILLO, ESQ.**  
Arbitrator

## SCAQMD CONCURRING OPINION

I was appointed by the South Coast Air Quality Management District to serve as the District's representative on the factfinding panel in this impasse between the District and the South Coast Air Quality Management District Professional Employees Association as to Administrative Policies and Procedures, Policy Number 46.0 – Telework Program. **I concur with the Factfinder's Report and Recommendations.**

The District concurs as to Issue (1), that there should be two days required to be on-site.

As to Issue (2), level of management approval needed, the District clarifies that what is meant by DEO or "designee" approval is to allow for greater discretion among various departments of various sizes and nature of operations, and that the decision on teleworking could be made by the Deputy Executive Officer, or designee which could include an Assistant DEO, a Director, a manager or even a supervisor – but the Departments should have the discretion to make the decision on up to two days of teleworking.

As to Issue (3), statement of reasons for denial of telework schedule, the District concurs and refers to Section 46.5.2.b of the Telework Program.

As to Issue (4), grievable as part of MOU or right to appeal, the District notes there is a right to appeal set forth in Sections 46.5.1.a and b and 46.5.2.b of the Telework Program.

As to Issue (5), inspection of home office, the District concurs and refers to Section 46.5.3.b of the Telework Program.

And as to Issue (6), six-month notice of change and (7), broadly worded policy statement language, the District concurs.



For the reasons expressed herein, the District's Last, Best and Final Offer, dated September 17, 2024, mirrors the recommendations of this Factfinding Report, and the District hopes this will allow the parties to reach agreement on Policy No. 46.0. However, in the event the parties are still not in agreement, staff will recommend that the Board impose the terms of the District's Last Best and Final Offer following the Public Hearing on the matter of the impasse.

Dated: December 20, 2024

/s/Laura Drottz Kalty  
Liebert Cassidy Whitmore  
**SCAQMD Panel Member**

**SOUTH COAST PROFESSIONAL EMPLOYEES' ASSOCIATION:**

**Association Panel Member Adam Stern expressed disagreement with the Panel's recommendation but submitted no dissenting opinion.**