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Attorney for Complainant

FILED
December 29, 2023
State of Nevada
E.M.R.B.
10:30 a.m.

BEFORE THE STATE OF NEVADA
GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS BOARD

EDWIN MARTIN.

Complainant.

Case No.: 2023-036

vs.

Panel:

TRUCKEE MEADOWS FIRE
PROTECTION DISTRICT.

Respondent.

FIRST AMENDED COMPLAINT

COMES NOW, Complainant EDWIN MARTIN by and through his undersigned attorney, hereby charges Respondent TRUCKEE MEADOWS FIRE PROTECTION DISTRICT with practices prohibited by NRS 288.270. This complaint is filed in accordance with NRS 288.270, NRS 288.280 and NAC 288.200. Accordingly, Complainant hereby complains and alleges as follows:

I. THE PARTIES

1. Complainant Edwin Martin, (hereinafter "Complainant" or "Engineer Martin"), is a firefighter employed by the Truckee Meadows Fire Protection District. He is a local government employee as defined in NRS 288.050.

2 Respondent Truckee Meadows Fire Protection District (hereinafter "TMFPD"), is a
3 local government employer as defined in NRS 288.060 and is comprised of local fire
4 departments charged with providing fire protection and emergency medical services in the
5 unincorporated areas of Washoe County. TMFPD is made up of approximately 190 personnel
6 to include firefighters.

II. LEGAL AUTHORITY AND JURISDICTION

3. NRS 288.270(1)(f) defines that it is a prohibited practice for a local government employer to "[d]iscriminate because of race . . . or personal reasons or affiliations."

4. This Board has jurisdiction over this matter as Complainant's **allegations** arise under Nevada Revised Statute Chapter 288 - Relations between Government and Public Employees.

III. PROHIBITED PRACTICES

5. At all times relevant Engineer Martin was employed at the TMFPD as a firefighter.

6. On July 18, 2022, Engineer Martin was promoted to the rank of Captain and required to serve a one-year probationary period.

7. On October 15, 2022, Engineer Martin received a "3-month Captain Probationary" review in which he received meets or exceeds standards in every category evaluated. A comment in this evaluation stated that, "**Captain Martin** completes required duties in the station and follows district policies." Additionally, this evaluation rated Engineer Martin as meeting requirements for his communication and establishing and maintaining effective relationships with departmental personnel, public safety agencies, the public, and others contacted in the course of work.

8. On January 20, 2023, Engineer Martin received a "6-month Captain Probationary" review in which he received meets or exceeds standards in every category evaluated. A

comment in this evaluation stated that, "Captain Martin reaches out with questions as needed but requires little direction for day-to-day operations such as dail (sic) checks, training and projects assigned." Again, this evaluation rated Engineer Martin as meeting requirements for his communication and establishing and maintaining effective relationships with departmental personnel, public safety agencies, the public, and others contacted in the course of work.

9. On January 29, 2023, Engineer Martin was involved in an off-duty incident that led to him being arrested, but this charge was later dismissed. This incident did not involve his employment at the TMFPD; however, he followed current policy and reported the incident to the on-duty Battalion Chief, Marty Johnson. Chief Johnson notified Deputy Chief Ketring of the incident. In a subsequent meeting, Deputy Chief Ketring stated to Engineer Martin that this incident would not affect his job as it was outside of the scope of his employment. Further, Deputy Chief Ketring advised Engineer Martin that the incident would remain confidential and not be shared within the department. Despite Deputy Chief Ketring's assurances that it would remain confidential, it is believed that this incident was openly discussed in many upper-level management meetings involving Deputy Chiefs, Battalion Chiefs and Division Chiefs.

10. On April 12, 2023, Engineer Martin received a "9-month Captain Probationary" review in which he received meets or exceeds standards in every category evaluated. A comment in this evaluation stated that, "Captain Martin has in our time together communicated well with me" and "[t]his communication has helped build our relationship as new supervisor/employee." While it was noted in this evaluation that Engineer Martin was expected to improve his verbal and written communication skills, the criteria was to have no further reports of communication issues during the probationary period. For the third time, this evaluation rated Engineer Martin as meeting requirements for his communication and

establishing and maintaining effective relationships with departmental personnel, public safety agencies, the public, and others contacted in the course of work.

4 11. Between April 12, 2023, and July 12, 2023, the end of Engineer Martin's probationary period, he did not have any reports of communication issues. During this period, Engineer Martin was evaluated by Battalion Chiefs Christopher Black and James Solaro.

8 12. It is believed that between April and June 2023, Chief James Solaro who, according to Deputy Chief Ketring, should not have had any knowledge of the January 29, 2023, arrest, conducted an unauthorized investigation into the January 29, 2023, incident. Chief Solaro, who has always demonstrated a personal dislike for Engineer Martin, used his position as a Battalion Chief to obtain confidential information about Engineer Martin and to
12 order other firefighters to illegally obtain information about Engineer Martin.

14 13. The "investigation" by Chief Solaro into Engineer Martin was apparently not authorized by the TMFPD or the County and was seemingly undertaken due to Chief Solaro's personal dislike for Engineer Martin.

16 14. As part of the probationary period, Engineer Martin was required to complete a reflection assignment in which he outlined the positive and negative experiences he had while on probation. Engineer Martin completed this on June 22, 2023, and included his dissatisfaction with the manner in which he was coached and counseled, and how this was done in contradiction with his experiences throughout his career to that point. He specifically noted that employees are afraid to have conversations regarding conflict resolution for fear of
18 being punished.

20 15. On July 11, 2023, Engineer Martin met with Chief Black and Chief Solaro to complete his final evaluation regarding his promotion to the rank of captain. Inexplicably, and
22 in direct contradiction with the three previous evaluations, Chief Black, with Chief Solaro's

input. rated Engineer Martin as not meeting requirements for the captain position. Despite there having been no issues since the April 12, 2023. evaluation. Engineer Martin was rated as not meeting expectations in the categories of Accountability, Continuous Learning, Communication Skills, Customer Service, Personal Relationships, Ethics and Integrity, Organizational Knowledge, Decision Making, Developing Organizational Talent, Leading and Inspiring Others, and Values and Leverages Diversity. Chiefs Black and Solaro advised Engineer Martin that he would not be promoted to captain on a permanent basis as he did not successfully pass the probation period.

16. All the above noted below standard ratings contradict the three previous evaluations and are not based on merit and fitness standards. As noted in the “Ethics and Integrity” section of the final evaluation, the personal dislike for Engineer Martin is apparent in that it states, “Ed has demonstrated through this probationary period that his values and personnel ethics may not be in alignment with the District.” This finding is not based on any documentation or performance outlined in the three previous evaluations. In fact, the final evaluation clearly states that, “Ed meets expectations regarding job specific requirements.” Thus, it is apparent that the failure to promote Engineer Martin and the ratings in the final evaluation were based on personal reasons only and in retaliation for expressing his views of what occurred during his probationary period.

17. At the July 11, 2023. meeting, Engineer Martin, whose children are half Hispanic, advised Chief Solaro that he found it offensive that Chief Solaro deliberately used a dark brown emoji when making a hang loose sign to Engineer Martin via text message. This emoji is in obvious reference to Engineer Martin’s mixed-race children and would be offensive to any reasonable person. The use of the dark brown hand emoji is racial in nature and clearly

indicates that Chief Solaro discriminated against Engineer Martin based at least in part on his mixed-race family.

18. At the conclusion of this meeting, Chief Solaro followed Engineer Martin into the hallway and whispered threateningly to Engineer Martin that he looked forward to another conversation with him. Engineer Martin, as would any reasonable person, took this comment as threatening, intimidating, and as more evidence of Chief Solaro's obvious personal dislike for Engineer Martin.

19. Prior to his probationary year, and during his entire 18-year career in the fire service, Engineer Martin had never received any discipline or any below standard evaluation.

20. On July 11, 2023, Engineer Martin sent an email to Chief Black recounting the conversation they had during and after the above noted meeting.

21. On July 12, 2023, Engineer Martin sent the record of the conversation with Chief Black to Human Resources, ("HR"), representative Carla Arribillaga.

22. On July 12, 2023, Engineer Martin received a letter from Fire Chief Charles Moore officially notifying him that he was not confirmed to the position of captain.

23. On July 17, 2023, Engineer Martin filed a formal complaint with HR detailing the actions taken by Chief Solaro regarding the unauthorized investigation, intimidation, retaliation and personal dislike.

24. On September 27, 2023, Engineer Martin received a "summary and conclusion" of the investigation completed into his complaints. This investigation substantiated that Chief Solaro had indeed conducted an unauthorized investigation into Engineer Martin and that Chief Solaro had violated Policy P201.0, Conduct and Expectations. It is believed that Chief Solaro received discipline for these actions.

25. Due to Chief Solaro conducting this “investigation.” multiple members of the TMFPD have contacted Engineer Martin regarding the January 29, 2023, incident and have made unfounded and false conclusions against Engineer Martin resulting in a negative work environment for Engineer Martin.

26. On November 20, 2023, Engineer Martin received unequivocal notice of the refusal to promote him retroactively to July 14, 2023, to the position of captain in the form of a letter from Deputy Chief Ketring.

IV. CONCLUSION

Wherefore, the actions taken against Engineer Martin based on race and personal reasons constitute prohibited practices under NRS Chapter 288.

Respondent Truckee Meadows Fire Protection District has discriminated against Complainant Edwin Martin for personal reasons and personal dislike. These non-merit-or-fitness factors were not based in his ability or fitness to perform his duties. These actions constitute a prohibited practice under NRS 288.270(1)(f).

Respondent Truckee Meadows Fire Protection District has discriminated against Complainant Edwin Martin based on his family’s racial composition which constitute a prohibited practice under NRS 288.270(1)(f).

THEREFORE, Complainant prays for relief as follows:

- a. A finding that the conduct of Respondent as referenced herein constitutes prohibited practices under Chapter 288 of the Nevada Revised Statutes;
- b. A finding that Respondent discriminated against Complainant for personal reasons;
- c. A finding that Respondent discriminated against Complainant based on family’s racial composition;

- d. An order requiring Respondent to cease in violating NRS 288.270;
- e. An order requiring Respondent to promote Complainant to the rank of captain. to include all pay and benefits. retroactive to July 14, 2023:
- f. An order requiring Respondent to pay the **Complainant's** reasonable attorney **and representatives' fees and expenses in bringing this action; and**
- g. Any and all other relief that the Employee Management Relations Board deems appropriate.

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Dated this 29th day of December 2023

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/s/ Ronald J. Dreher
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Reno, NV 89513
Telephone: (775) 846-9804
ron@dreherlaw.net
Attorney for Complainant

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CERTIFICATE OF SERVICE

Pursuant to NAC 288.070, the undersigned hereby certifies that I am the counsel for Edwin Martin and that on this date I served a true and correct copy of the preceding document addressed to the following:

Chris Ketting
Deputy Chief of Operations
Truckee Meadows Fire Protection District
3663 Barron Way
Reno, NV 89511
775-326-6000

by certified mail to the above listed address.

Dated this 29th day of December, 2023.

/s/ Ronald J. Dreher
Ronald J. Dreher
NV Bar No. 15726
P.O. Box 6494
Reno, NV 89513
Telephone: (775) 846-9804
ron@dreherlaw.net
Attorney for Complainant

CERTIFICATE OF SERVICE

Pursuant to NAC 288.070, the undersigned hereby certifies that I am the counsel for the Edwin Martin and that on this date I served a true and correct copy of the preceding document addressed to the following:

Bruce Snyder, Esq.
Commissioner, EMRB
bsnyder@business.nv.gov
3300 W. Sahara Avenue
Suite 260
Las Vegas, NV 89102

by electronic service by transmitting the copy electronically as an attachment to electronic mail in portable document format.

DATED this 29th day of December 2023

/s/ Ronald J. Dreher
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1 **BEFORE THE EMPLOYEE MANAGEMENT RELATIONS BOARD**

2 **STATE OF NEVADA**

3 ***

4 EDWIN MARTIN,
Complainant.

Case No. 2023-036

5 v.

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7 TRUCKEE MEADOWS FIRE
PROTECTION DISTRICT

8 Respondent.

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FILED
January 17, 2024
State of Nevada
E.M.R.B.
4:11 p.m.

10 **MOTION TO DISMISS FIRST AMENDED COMPLAINT**

11 Respondent Truckee Meadows Fire Protection District ("TMFPD"), by and through their
12 undersigned legal counsel, hereby moves the Employers Management Relations Board
13 ("EMRB"), for an order dismissing the First Amended Complaint ("Complaint") lodged by
14 Edwin Martin ("Martin"), based upon: (1) the Complainant's failure to exhaust his contractual
15 remedies pursuant to NAC 288.375(2), and the parties' Collective Bargaining Agreement
16 ("CBA"), and (2) failure to state a claim upon which relief may be granted.

17 **I. OVERVIEW**

18 Martin's Complaint alleges that his promotion was not confirmed following the
19 probationary period because of discrimination based on race and personal reasons in violation
20 of NRS Chapter 288. There is no allegation in the Complaint that Martin pursued any
21 contractual remedies prior to filing his Complaint. In fact, there is no allegation that Martin
22 even filed a grievance under the CBA before filing this Complaint. Martin did make a report to
23 TMFPD Human Resources, which hired a third-party investigator to assess the report; but
24 Martin never filed a grievance under the CBA, or pursued any contractual remedies whatsoever.
25 Therefore, TMFPD hereby requests that this Complaint be dismissed pursuant to NAC
26 288.375(2).

1 The Complaint should also be dismissed for failure to state a viable claim because
2 Complainant fails to allege sufficient facts that he did not successfully complete his
3 probationary period because of race or for personal reasons.

4 **II. STATEMENT OF RELEVANT FACTS**

- 5 1. At all relevant times, Martin was employed as a TMFPD firefighter.
- 6 2. TMFPD is a Fire Protection District formed pursuant NRS 474, and a local
7 government employer as defined at NRS 288.060.
- 8 3. TMFPD and IAFF Local 2487, of which Martin is a member, entered into a
9 collective bargaining agreement effective from July 1, 2022, to June 30, 2024. The
10 CBA includes grievance and remedy procedures, progressively up to arbitration. *See*
11 Exhibit 1, Article 48 – Grievances, Article 14 – Promotions.
- 12 4. On July 18, 2022, Martin was promoted to the rank of Captain, pending completion
13 of a one-year probationary period.
- 14 5. On July 11, 2023, Martin was given his final evaluation regarding his promotion,
15 and was advised that his promotion would not be confirmed, and that he would be
16 returned to his prior rank, which was officially confirmed by letter from Chief
17 Moore on July 12, 2023.
- 18 6. On July 17, 2023, Martin filed a complaint with TMFPD human resources alleging
19 that he was not confirmed due to discrimination and personal reasons. On December
20 29, 2023, Martin filed a First Amended Complaint.
- 21 7. Martin never filed a grievance pursuant to the CBA, and therefore never exhausted
22 any of his contractual remedies, up to and including arbitration.

23 **III. STANDARDS FOR DISMISSAL**

24 The Board must dismiss the Complaint if it determines that no probable cause exists for
25 the Complaint, NAC 288.375(1), and may do so if the parties have not exhausted their
26 contractual remedies, including any rights to arbitration, unless there is a showing of special

1 circumstances or extreme prejudice, NAC 288.375(2), or if a complainant files a spurious or
2 frivolous complaint. NAC 288.375(5).

3 Here, Martin failed to even attempt to exhaust his contractual remedies, and has
4 provided no assertions in his Complaint that there were any special circumstances or extreme
5 prejudice related to that failure.

6 In making a determination on a motion to dismiss, the Board is to look solely to the
7 allegations of the Complaint, and must convert the motion to dismiss to one for summary
8 judgment if matters outside the complaint are presented and not expressly excluded by the
9 Board. NRCP 12(b). However, the Board may refer to matters outside the pleadings without
10 converting the motion to one for summary judgment if documents are attached to the
11 Complaint, *Breliant v. Preferred Equities Corp.*, 109 Nev. 842, 847, 858 P.2d 1258, 1261
12 (1993), or the documents are incorporated by reference into the Complaint and the Complaint
13 refers to them extensively or forms the basis of the claim. *Id.* (citing *Hollymatic Corp. v. Holly*
14 *Sys., Inc.*, 620 F.Supp. 1366, 1367 (D.C.Ill.1985) (contract attached to complaint and
15 admissions in answer and in reply to counterclaim); *Berk v. Ascott Inv. Corp.*, 759 F.Supp. 245,
16 249 (D.C.Pa.1991) (court may consider document incorporated by reference into the
17 complaint)).

18 If the motion to dismiss is converted to a motion for summary judgment, the Board must
19 dismiss the Complaint if there no genuine issue of material fact and the moving party is entitled
20 to judgment as a matter of law. *Thomas v. Las Vegas Metro. Police Dept.*, Item No. 588, Case
21 No. A1-045804 (Feb. 23, 2005) (citations omitted). TMFPD must first demonstrate an absence
22 of evidence supporting one or more elements of the Associations' claims. *Id.* (citations
23 omitted). The burden then shifts to the Complainant to demonstrate the existence of a genuine
24 issue of fact for hearing. *Id.* (citations omitted).

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IV. ARGUMENT

A. Martin Failed to Exhaust Contractual Remedies

Martin's failure to exhaust contractual remedies must result in dismissal of this action. The Board has held that "[w]hile the Board has exclusive jurisdiction over unfair labor practices, the parties must first exhaust their contractual remedies, including all rights to arbitration." *Operating Engineers Local Union No. 3 v. Incline Village General Improvement District*, Case No. 2020-012, Item No. 864-C, 2021. Martin made no effort whatsoever to exhaust his contractual rights prior to filing this action, even the most basic action of filing a grievance. The Board further held:

The Board has repeatedly emphasized that the preferred method for resolving disputes is through the bargained-for processes, and the Board applies NAC 288.375 liberally to effectuate that purpose. See also NAC 288.040; see also, e.g., *Ed. Support Employees Ass'n v. Clark County Sch. Dist.*, Case No. A1-045509, Item No. 288 (1992); *Int'l Union of Operating Engineers, Stationary Local 39 v. City of Reno*, Case No. A1-045567, Item No. 395 (1996); *Nevada Serv. Employees Union v. Clark Cty.*, Case No. A1-045759, Item No. 540 (2003); *Carpenter vs. Vassiliadis*, Case No. A1-045773, Item No. 562E (2005); *Las Vegas Police Protective Ass'n Metro, Inc. v. Las Vegas Metropolitan Police Dep't*, Case No. A1-045783, Item No. 578 (2004); *Saavedra v. City of Las Vegas*, Case No. A1-045911, Item No. 664 (2007); *Int'l Ass'n of Firefighters, Local 731 v. City of Reno*, Case No. A1-045918, Item No. 670 (2008); *Boykin v. City of North Las Vegas*, Case No. A1-045921, Item No. 674B (2008); *Las Vegas City Employees' Ass'n v. City of Las Vegas*, Case No. A1-045940, Item No. 691 (2008); *Wilson v. North Las Vegas Police Dep't*, Case No. A1-045925, Item No. 677D (2009); *Rosenberg v. The City of North Las Vegas*, Case No. A1-045951 (2009); *Storey County Firefighters Ass'n, IAAF Local 4226 v. Storey County*, Case No. A1-045979 (2010); *Jessie Gray Jr. v. Clark County School Dist.*, Case No. A1-046015, Item No. 758 (2011); *Las Vegas Metropolitan Police Dep't v. Las Vegas Police Protective Ass'n, Inc.*, Case No. 2018-017 (2018); *County of Clark, Nev. v. Int'l Ass'n of Fire Fighters, Local 1908*, Case No. 2017-033 (2018).

Id.

1 TMFPD anticipates that Martin will argue that since the timeframe for filing a grievance
2 has run, that dismissal here would foreclose his ability to pursue this claim, constituting a
3 "special circumstance" or "extreme prejudice" as described in NAC 288.375. However, the
4 Board addressed this issue in the *Operating Engineers* case. The Board held that "[i]t is of no
5 defense to argue that Complainant's own failure to timely comply should allow Complainant to
6 circumvent the bargained for processes. The logical end to this argument would be to permit the
7 perverse incentive to ignore bargained for processes in order to skip straight to Board review."
8 *Id.* at 2.

9 Because Martin failed to pursue and/or exhaust his contractual remedies before filing
10 this action, the Board must dismiss his Complaint.

11 **B. Martin Failed to State a Viable Claim for a Prohibited Practice**

12 Complainant fails to state a claim upon which relief can be granted because there are
13 insufficient facts to show that the subject action was carried out because Martin's children are
14 mixed race or because of other personal reasons.

15 Under NRS 288.270(1)(f) it is a prohibited labor practice for a local government
16 employer to willfully discriminate against an employee because of race or personal reasons.
17 The phrase "personal reasons" includes "non-merit-or-fitness factors, and would likely include
18 the dislike of or bias against a person which is based on an individual's characteristics, beliefs,
19 affiliations, or activities that do not affect the individual's merit or fitness for any particular job.
20 *See Elko County Employees Ass'n, Nevada Classified School Employees and Public Workers*
21 *Association Local 6181 v. Elko County*, Item No. 807 (2015). To prevail on such a claim, a
22 complainant must allege and prove that race or the personal reasons were a motivating factor in
23 the employer's actions. *Id.* In other words, there must be a causal connection between the
24 employer's actions and the employee's characteristics or race. *Id.* Discrimination claims
25 require allegations and proof of discriminatory animus by the alleged actor. *See Coleman v*
26 *Quaker Oats Co.*, 232 F.3d 1271, 1282 (9th Cir.2000).

1 In *Apeceche v. White Pine County*, 96 Nev. 723, 615 P.2d 975 (1980), the Nevada
2 Supreme Court adopted the burden-shifting analysis for deciding claims of discrimination that
3 was promulgated in U.S. Supreme Court's decision in *McDonnell Douglas Corp. v. Green*, 411
4 U.S. 792 (1973). The Board has historically applied the same McDonnell burden shifting
5 analysis to discrimination claims. *See Nicole Wilson v. North Las Vegas Police Department*,
6 Item No. 677F (2010). Under this framework, a claimant may establish a prima facie case of
7 discrimination either by meeting the four-part test laid out in *McDonnell Douglas*, or by
8 providing direct evidence suggesting that the employment decision was based on an
9 impermissible criterion, e.g., *E.E.O.C. v. Boeing Co.*, 577 F.3d 1044, 1049 (9th Cir. 2009).
10 Once the *prima facie* case is established, the burden shifts to the employer to establish a
11 legitimate non-discriminatory reason for the actions. *Id.*

12 Here, Martin fails to state a viable claim for discrimination because the Complaint does
13 not contain facts demonstrating that Martin's failure to complete his probationary period had
14 anything to do with a protected characteristic, much less his family's race or personal
15 characteristics. Martin relies on nothing but conclusory allegations and assumptions in claiming
16 he was subjected to discrimination. There are zero facts in the Complaint that demonstrate the
17 alleged actions carried out by TMFPD regarding Martin's probation had anything to do with the
18 race of his children or for any other personal reasons.

19 The allegation in Martin's Complaint that Chief Solaro used a dark brown "hang loose"
20 emoji in a single text message to Martin in July 2023 does not indicate that Chief Solaro
21 intentionally discriminated against Martin because of the race of his children. Martin does not
22 provide any context with respect to the text messages. Additionally, there are no facts in the
23 Complaint that suggest that Chief Solaro was referring to Martin's mixed race children or that
24 there was any sort of discriminatory intent behind the text when he sent it. Other than Martin's
25 conclusory allegations, his Complaint is completely void of specific facts which would indicate

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1 that TMFPD harbored any discriminatory animus toward Martin or that the alleged actions were
2 motivated by discriminatory animus.

3 Because Martin's Complaint does not contain sufficient facts demonstrating that his
4 failure to successfully complete his probationary period was motivated by Chief Solaro's desire
5 to discriminate against him because of the race of his children or because he had a personal
6 dislike for Martin, he fails to state a viable claim for discrimination. Accordingly, Martin's
7 Complaint should be dismissed with prejudice for failure to state a claim upon which relief may
8 be granted.

9 **V. CONCLUSION**

10 Martin's complaint makes no allegation that he pursued and exhausted his contractual
11 remedies. This is because no such action was ever taken. Martin's Complaint also fails to state
12 a colorable claim for discrimination under NRS 288.270(1)(f) because he cannot demonstrate a
13 causal connection between the alleged actions and race or personal reasons. NAC 288.375(2)
14 allows the Board to dismiss such an action, and the Board's prior decisions support dismissal in
15 this case. Therefore, it is requested that Martin's First Amended Complaint be dismissed with
16 prejudice.

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1 **GOOD CAUSE APPEARING THEREFORE, TMFPD** respectfully requests the Board to
2 afford the following rulings in this matter:

- 3 1. Find that the Complainant has, by virtue of his averments, failed to exhaust his
4 contractual remedies prior to filing with the Board and enter an Order Dismissing
5 the Complaint With Prejudice on that basis.
- 6 2. Enter an Order that the Respondent be reimbursed for all its attorneys' fees and
7 costs incurred in responding to the improperly pursued Complaint on file herein.
- 8 3. Enter an Order for such other and further relief as to the Board seems just in the
9 premises.

9 DATED January 17, 2024.

10 CHRISTOHPER J HICKS
11 Washoe County District Attorney

12 By /s/ Brandon Price
13 Wade Carner, Esq.
14 Deputy District Attorney
15 Brandon Price, Esq.
16 Deputy District Attorney
17 One South Sierra St.
18 Reno, NV 89501
19 ATTORNEYS FOR TRUCKEE MEADOWS
20 FIRE PROTECTION DISTRICT
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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the Office of the District Attorney of Washoe County, over the age of 21 years and not a party to nor interested in the within action. I certify that on this date, a true and correct copy of the foregoing document was emailed to the following electronic mail address:

Employee Management Relations Board
emrb@business.nv.gov

Ronald J. Dreher, Esq.
ron@drcherlaw.net

Dated this 17th day of January 2024

/s/ N. Stapledon
N. Stapledon

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EXHIBIT INDEX

No. of Pages

Exhibit 1 Agreement Between TMFPD and TMFFA 52 Pages

EXHIBIT INDEX

EXHIBIT 1

EXHIBIT 1

AGREEMENT

BETWEEN

**TRUCKEE MEADOWS FIRE
PROTECTION DISTRICT**

AND

**TRUCKEE MEADOWS FIRE
FIGHTERS ASSOCIATION,
I.A.F.F. LOCAL 2487
NON-SUPERVISORY UNIT**

2022-2024

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ARTICLE 1 – PREAMBLE

A. This agreement is entered into by and between the Board of Washoe County Commissioners as ex-officio Board of Fire Commissioners for the Truckee Meadows Fire Protection District, hereinafter referred to as the "District", and Truckee Meadows Fire Fighters Association, I.A.F.F. Local 2487 Non-Supervisory Unit, hereinafter referred to as the "Association". This agreement sets forth the full and entire agreement between the parties.

B. It is the purpose of this agreement to achieve and maintain harmonious relations between the parties, to provide for equitable and peaceful adjustment of disputes, which may arise over the interpretation and application of this agreement, and to establish fair and equitable standards of wages, hours, and other conditions of employment.

C. The Association and District will act in good faith and with a cooperative attitude to improve the quality and efficiency of fire protection for citizens of the Truckee Meadows Fire Protection District.

ARTICLE 2 – RECOGNITION

A. The District hereby recognizes the Association as the exclusive bargaining agent for all non-supervisory, supervisory, and emergency support services personnel engaged in fire prevention, suppression, and fire equipment/apparatus repair and maintenance in the Truckee Meadows Fire Protection District:

1. Firefighter/EMT
2. Firefighter/Paramedic
3. Fire Engineer
4. Fire Captain – Suppression/Training
5. Fire Captain – Prevention
6. Fire Prevention Inspector I
7. Fire Prevention Inspector II
8. Fire Mechanic
9. EMS Coordinator
10. Fire Squad Boss
11. Fire Crew Member
12. Fire Crew boss
13. Heavy Equipment Operator
14. Logistics Coordinator

B. In the event of any new non-supervisory position(s) being established during the term of this agreement by the District, not listed above, and recognizing that that position comprises a community of interest, the position shall be included within the bargaining unit and represented within this agreement. The District reserves the right to establish new classifications, including requirements and wage rates. Upon establishing a new classification and prior to posting, the District will meet with the Union to determine whether or not the position will be represented. If the position is not represented by the

Union, the District shall establish the requirements and wage rates. In the event that a new job classification(s) is placed in the bargaining unit, the District shall immediately commence negotiations for said classification(s), wages, hours, and other terms and conditions of employment.

C. The District shall notify the Association president of all changes to existing job classifications covered by this Agreement.

ARTICLE 3 – DURATION OF AGREEMENT

A. This Agreement shall become effective July 1, 2022, and shall continue until June 30, 2024, except as otherwise provided below.

B. If either party desires to negotiate changes in any Article or Section of this Contract, it shall give written notice to the other party of the desired changes to Articles, including an overview of such changes before February 1st of each year, provided that during the term of this agreement no Article and/or Section of that Article shall be negotiated without the parties' mutual consent.

C. The parties shall promptly commence negotiations. If the parties have not reached agreement by April 10th, either party may submit the dispute to an impartial fact-finder at any time for their findings. The fact-finder shall make recommendations of the unresolved issues.

D. If the parties have not reached an agreement within ten (10) workdays after the fact-finder's report is submitted, all issues remaining in dispute shall be submitted to an arbitrator. The arbitrator shall, within ten (10) workdays after the final offers are submitted, accept one of the written statements, and shall report their decision to the parties.

E. The impartial fact-finder and the binding arbitrator shall be from the American Arbitration Association and all hearings shall be conducted by A.A.A. rules. The list of arbitrators may be obtained from the Fresno Regional Office.

F. In the event that future agreements are not reached prior to the contract expiration, all awards rendered by the final binding arbitrator shall be retroactive to the expiration date of the last contract per NRS 288.215, Sub 10.

ARTICLE 4 – SUCCESSORSHIP

. The District agrees not to sell, merge, or convey or cause to sell, merge or convey or otherwise transfer or cause to transfer its operations to a new employer without first securing the agreement of the successor to assume the District's obligations of wages, hours, terms and conditions of employment.

ARTICLE 5 – MANAGEMENT RIGHTS

It is understood and agreed between the parties that nothing contained in this Agreement shall be construed or interpreted to infringe upon any management rights of the District as set forth in NRS 288.

ARTICLE 6 – RIGHTS OF ASSOCIATION

A. The District recognizes its statutory obligation to negotiate any departmental rule, policy, or procedure that is related to a mandatory subject of bargaining as enumerated under NRS 288.150. In the event there is a dispute over whether a rule, policy or procedure falls within the scope of mandatory bargaining, said dispute shall be submitted to the Local Government Employee-Management Relations Board and shall not be subject to the grievance procedure contained in this Agreement.

B. The Fire Chief, and/or their designee, shall meet as needed and/or requested by either party with representatives of the Association for the purpose of engaging in labor management meetings. The purpose of said meetings is to informally discuss matters of concern and/or interest to either party.

C. Association representatives shall be allowed time off, with no loss of pay or any accrued leave for up to three (3) Association representatives and may be increased if both parties mutually agree.

ARTICLE 7 – STRIKES AND LOCKOUTS

A. Neither the Association nor any employee covered by this agreement will promote, sponsor, or engage in any strike against the employer; slow down; or interruption of operation; concentrated stoppage of work; absence from work upon any pretext or excuse, such as illness, which is not founded in fact; or any other intentional interruption of the operations of the District regardless of the reason for so doing.

B. The District will not lock out any employees during the term of this agreement as a result of a labor dispute with the Association.

ARTICLE 8 – NON-DISCRIMINATION

A. The parties agree to not discriminate against any employee pursuant to NRS 613.330.

B. The District and the Association agree that membership, non-membership, or lawful activities on behalf of the Association shall not be used as the reason or cause for transfer, denial of any promotion, or denial of other terms and conditions of employment. Nothing contained herein is intended to abrogate the District's right to manage and to consider the operational needs of the department as set out in Article 5 (Management Rights). Nothing contained herein is intended to abrogate the Association's right to hold meetings and engage in lawful functions.

C. Whenever any words are used in this agreement in the masculine gender, they shall be construed as though they were also in the feminine and neutral gender in all situations where they would so apply.

D. Any complaint alleging a violation of this Article shall be submitted to the appropriate administrative agency(ies) having responsibility for enforcing State and Federal laws governing non-discrimination in employment and shall not be subject to the Article 48 (Grievance Procedure).

ARTICLE 9 – AMENDMENTS

It is agreed that no provision of this Agreement may be amended without the written mutual agreement of the parties.

ARTICLE 10 – GENERAL SAVINGS CLAUSE

This Agreement is the entire agreement of the parties terminating all prior agreements. Should any provision of this Agreement be found to be in contravention of any Federal or State Law and County Charter by a court of competent jurisdiction, such particular provision shall be null and void, but all other provisions of this Agreement shall remain in full force and effect until otherwise cancelled or amended.

ARTICLE 11 – PREVAILING RIGHTS

Benefits, including present working conditions, previously existing will not be diminished by any provision or failure of any provision of this Agreement without mutual consent of the. There will be no change in any matter covered by this Agreement without the mutual consent of the parties. There will be no change in any matter within the scope of representation without negotiations as required by NRS 288.

ARTICLE 12 – RULES, REGULATIONS, AND PROCEDURES MANUAL

A. The District and the Association agree that the applicable Administrative Directives (AD) and Policy's and Operating Guidelines (OG) do not change or delete the Articles of this Agreement. The District will post all OG's, Policy's and AD's on the District's designated dispensary for a minimum of 6 days before the effective date and will provide said notice of change to all employees under the same terms. Notice shall be disseminated to Fire Department personnel through Target Solutions or equivalent.

B. OG's and Policy's which involve safety will be reviewed on an annual basis. All OG's and Policy's will be reviewed and signed by the Association President and the Fire Chief prior to OG or Policy being posted. In the event the District and the Association cannot agree on a change to an OG or Policy, and discussions have not resolved the

Association's objections, the dispute shall be subject to the grievance procedure set forth in this Agreement.

C. Administrative Directive – A document to immediately create an Operating Guideline due to the nature and/or urgency of the content. The AD will generally be created by recommendations from the Health and Safety Committee and/or from the Operations Committee. Association leadership will be advised and have input prior to any Administrative Directive being distributed. If, for safety concerns, an Administrative Directive is implemented without Association review and signature, any objection raised by the Association shall be discussed with the District. If the objection cannot be resolved, the dispute shall be subject to the grievance procedure set forth in this Agreement. AD's will be implemented immediately and disseminated to Fire Department personnel through Target Solutions or equivalent.

D. The District and the Association recognize that the matters covered by AD's and OG's may include matters which are not subject to mandatory bargaining under the provisions of NRS 288. The District and the Association also recognize that these AD's, Policy's and OG's are subject to change by the Fire Chief provided, however, that subjects of mandatory bargaining are negotiated.

E. Memorandum of Understanding (MOU) - A formal document which captures changes / modifications to existing contract or agreement language between parties mid contract. The MOU shall expire at the commencement of the next agreement, unless otherwise specified.

F. Letter of Understanding (LOU) – A formal document which clarifies the intent and/or outlines the mutual understanding of contract or agreement language between parties.

ARTICLE 13 – SALARIES

These pay rates shall be effective as of July 1, 2022 and are reflected in the salary schedule attached hereto as Appendix A and by reference incorporated herein. All posted documents shall be limited to hourly rates of compensation for all positions.

A. Classification:

1. Firefighter/EMT
2. Firefighter/Paramedic
3. Fire Engineer
4. Fire Captain – Suppression/Training
5. Fire Captain – Prevention
6. Fire Prevention Inspector I
7. Fire Prevention Inspector II
8. Fire Mechanic
9. EMS Coordinator
10. Squad Boss
11. Crew Member
12. Crew Boss

- 13. Heavy Equipment Operator
- 14. Logistics Coordinator

B. Upon promotion, employees shall receive the beginning step or that step which provides at least a ten percent (10%) increase above the employee's base salary whichever is greater. Promotions are considered to be movements into new classifications that have supervisory authority over the previous position, and do not include lateral movements between different divisions of the District. Example: Promotional movement of a Firefighter or Firefighter/Paramedic to Engineer, Engineer to Captain, Captain to Battalion Chief. If an employee moves between a regular PERS position and a Police/Fire PERS position, the base rates will be adjusted for comparative purposes to evaluate what step is equivalent to a ten percent (10%) pay increase. Employees in classifications having more than one (1) pay step or employees in classifications that have not reached the maximum of the salary range may become eligible for a step or merit increase on the employee's anniversary date one (1) year after the employee's appointment, promotion, or most recent step or merit advancement based upon meeting a standard or better performance evaluation rating.

C. Conversion of 56-Hour to 40-Hour Workweek:

1. In computing the salary increases for employees working either a 56-hour workweek schedule or a 40-hour workweek schedule, the salary increases are to be applied to the hourly rates for the 56-hour workweek schedule and then converted to the equivalent 40-hour workweek hourly rate by using a factor of one point four (1.4).
2. The approximate annual salary for employees working a 56-hour workweek is based upon two thousand nine hundred twelve (2,912) hours per year. The actual cost to the District is based upon two thousand nine hundred twenty (2,920) hours per year [three hundred sixty-five (365) days per year times twenty-four (24) hours divided by three (3) shifts equals two thousand nine hundred twenty (2,920) hours].
3. The approximate annual salary for employees working a 40-hour workweek is based upon two thousand eighty (2,080) hours per year.
4. All hourly rates are to be rounded to the nearest penny using normal round-off rules.

D. The salaries pursuant to this Agreement are subject to change during the term of the Agreement due to increases or decreases in the retirement contribution for Nevada's Public Employee Retirement System (PERS) in accordance with NRS 286.421. The District shall absorb one hundred percent (100%) of any PERS increase during the duration of this agreement.

ARTICLE 14 –PROMOTIONS

A. Eligibility

1. The Fire District shall validate the eligibility of all applicants of the classification posting within seven (7) calendar days of closing.

2. To have the opportunity to take a promotional examination for an eligibility list, an applicant must meet the minimum qualifications at the time the job posting closes to applicants. Minimum qualifications shall be established by Human Resources or designee, Fire Chief or designee, Association President and one (1) additional Association Executive Board member.

3. All promotional vacancies for Captain and Engineer classifications shall be filled by promotion from within the Fire District.

a. Captain – All qualified applicants will have met the following provisions and then shall be eligible to test for the position of Captain.

I. Five (5) years of District seniority

II. Be qualified as an Engineer or have completed Engineer Development School (EDS)

III. Successfully completed Officer Development School (ODS).

b. Engineer – All qualified employees with three (3) years of seniority with the District, and who have successfully completed Engineer Development School (EDS), shall be eligible to test for the position of Engineer.

INTENT- ODS and EDS will be provided by the District

B. Employees who are promoted will be placed in their new rank, pay grade step, to be at least ten percent (10%) above their current step plus any incentive pay, if applicable.

C. Promotions shall be filled by the rule of three.

1. Example: for the first position the district will interview the top three (3) candidates, one (1) candidate will be promoted. For the next position the District will interview the top three (3) candidates from the updated list after the first promotion. If there are less than three (3) candidates for consideration within the second year of the eligibility list, the District may open a new recruitment.

D. Posting

1. If applicable, bibliographies shall be posted a minimum of ninety (90) calendar days in advance of the month of testing.

2. The following is the schedule for all classification postings for promotional opportunities:

a. Paramedic will be posted for a minimum of three (3) weeks, with a concurrent internal/external recruitment.

b. Engineer will be posted for a minimum of three (3) weeks during the month of August on odd years.

c. Captain will be posted for a minimum of three (3) weeks during the month of August on even years.

d. Any remaining position found in Article 2 (Recognition) will be posted for a minimum of three (3) weeks.

INTENT- The parties mutually agree that interim tests may need to be held to fill the District's needs.

3. The District shall have five (5) business workdays to resolve all appeals to certify and publish a promotional list for the following dates:
 - a. The Engineer promotional list shall be effective from the time the promotional list is validated until the subsequent list is validated, but not to exceed twenty-five (25) months.
 - b. The Captain promotional list shall be effective from the time the promotional list is validated until the subsequent list is validated, but not to exceed twenty-five (25) months.
4. The District shall maintain and post the two-year promotional list that is established, and a copy shall be furnished to the Association upon publication of the list.

E. Examination Procedures

1. All applicants shall apply for the posted position through the District's designated application process by the closing of the job opening.
2. Examinations may include written, practical, assessment center, oral board, or any combination of the aforementioned at the sole discretion of the Fire District.
3. The Fire District will determine the weights (percentages) to be used for each phase and will meet and confer with the Association over any changes. The minimum passing score shall be seventy percent (70%) for each phase or section of the testing process. A candidate will not proceed in the testing process if they do not achieve at least a seventy percent (70%) on each section of the exam. Each section will be weighted with a percentage to give an overall score.
4. The Fire District will provide employee development opportunities for all personnel interested in testing for promotion to the rank of Engineer or Captain within the Fire District. The following will be the dates for development and testing for the positions of Engineer and Captain:
 - a. The Fire District will provide Engineer Development School (EDS) between the months of January-May in odd years. Testing for Engineer will be conducted during the month of October in odd years.
 - b. The Fire District will provide Officer Development School (ODS) between the months of January-May in even years. Testing for Captain will be conducted during the month of October in even years.
5. All other promotional examinations will occur, as needed, with the required ninety (90) calendar days in advance posting of the bibliography.
6. Any promotional examination grading panel shall consist of a minimum of two (2) evaluators from equal or greater rank than the position being evaluated. In the event two evaluators are not available, two evaluators with professional experience related to the respective examination may be used.
7. All evaluators for exams shall be from professional Fire Departments or have subject matter expertise in the respective portion of the exam. In the event that a specific fire ground knowledge and/or skill is not required for a portion of the test or evaluation an outside evaluator may be acquired for only that portion of the exam.
8. If identical scores are achieved, ranking shall be determined by Fire District seniority.
9. Employees eligible for promotional examinations shall be given appropriate time off to take the examination and return to duty. Such time off shall not result in any loss of pay.

F. Confirmation

1. Subject to prior recommendation of the Fire Chief and the approval of the District's Human Resources department, anyone promoted and serving in a probationary status shall become eligible for confirmation into their respective classification upon completion of the twelve (12) month probation period. If it is determined that the employee requires additional time for evaluation due to extended absences, or additional need to improve, the probation period may be extended for an additional six (6) months or the period of time equivalent to the absence. The employee will be given a written reason for extension to include time frame and/or improvement plan if needed.
2. If the employee is unable to be confirmed into the new classification because they are unable to demonstrate the ability to perform their job or lacks the ability to progress, then they shall be returned to their previous job classification and rate of pay. There shall not be any gain in any benefits if this occurs, nor shall this result in layoffs of any position.
3. A promotion made hereunder is not final until any resulting grievances have been resolved.

ARTICLE 15 – POLITICAL ACTIVITY

- A. Employees may engage in political activity that is not prohibited by State laws or County code.
- B. Employees will not engage in political activity while on duty or in uniform. Political activity is activity to elect or defeat any candidate, political party, or ballot issue.
- C. Applicable State and Federal laws shall be followed when allowing employees to vote in the electoral process.

ARTICLE 16 – MINIMUM CONSTANT SAFETY STAFFING

The intent of this Article is to address the mutual concerns of the parties pertaining to employee safety with regard to staffing. The District and the Association recognize the extreme hazards of the firefighting profession and therefore agree that the minimum number of full-time professional firefighting personnel on paid firefighting apparatus shall comply with the safety staffing levels listed below. The Association and the District acknowledge that four-person career Engine staffing is a preferred configuration, however, current economic challenges and revenue shortfalls do not allow for staffing levels consistent with that preference. The District agrees that once future stable and adequate revenue permits, it will make good faith efforts to apply that preference in appropriate stations in the discretion of management.

- A. The Fire Chief or designee shall designate whether an apparatus is in-service and its classification. For purposes of this Article, in-service is defined as a unit to which personnel are assigned.

B. Staffing assignments outlined in this Article are to be filled only by positions covered in Article 2 (Recognition). At no time shall volunteers, part-time employees, reserve employees or seasonal employees be used to satisfy requirements outlined in this Article.

C. The District shall staff each in-service Engine with a Captain or Acting Captain, an Engineer, or Acting Engineer, and a Firefighter or Firefighter/Paramedic.

1. Staffing for all stations where fire Engines are in service shall be comprised of a minimum of three personnel: One Captain, one Engineer and one Firefighter/Paramedic or one Firefighter

D. The District shall staff each in service Ladder/Truck with a Captain or Acting Captain, an Engineer or Acting Engineer, and two Firefighters or Firefighter/Paramedic.

1. Staffing for all stations where Ladders/Trucks are in service will be comprised of a minimum of four personnel, whenever possible. The baseline staffing levels for these stations will be four (4) personnel, however, the apparatus may be operated with three personnel on a temporary basis during the course of a shift to ensure services rendered to the public are continuous.

2. Ladders/Trucks will not be required to be taken out of service due to a lack of staffing caused by a mid-shift vacancy where employees are unavailable for recall, or for short-term assignments. If a mid-shift vacancy or short-term assignment is anticipated to extend past three (3) hours in duration the callback procedure will be initiated in accordance with Article 18 (Overtime), and/or personnel from other four person stations will be moved to staff the Ladder/Truck.

3. In the event the mid-shift vacancy or short-term assignment is past twenty hundred hours (20:00) the Ladder/Truck may be staffed with three (3) personnel until the start of the next shift.

4. At no time will the Ladder/Truck be operated with less than three (3) personnel.

E. The District shall staff each in-service Water Tender with an Engineer or Water Tender Qualified firefighter, or Firefighter Paramedic.

INTENT: Stations that have three (3) personnel shall cross staff Tenders.

F. The District may staff in-service Volunteer Water Tenders or in-service Fuels Division Water Tenders with a Water Tender Qualified Fuels Division personnel

G. The District shall staff each in-service Squad with an Engineer or Acting Engineer and a Firefighter or Firefighter/Paramedic.

H. Wildland apparatus including Type V/VI Engines staffed by Fuels Division personnel will be staffed with a minimum of three (3) personnel when responding to an incident. This staffing shall include at least one (1) NWCG qualified Engine Boss, one (1) NWCG qualified Engine Operator, and one (1) NWCG qualified Firefighter. Apparatus may be staffed at lower levels when doing fuels reduction/project work

INTENT: Fuels Division personnel shall not respond Water Tenders from Career Stations.

I. The District shall staff each in-service Medic Unit with two Firefighters or Firefighter/Paramedics, or any combination thereof. Other higher ranks may be used as needed. The Medic Unit shall be cross staffed with Engine Personnel as necessary.

1. The District shall staff each Medic Unit in accordance with State law. If the Unit is licensed ALS it shall be staffed with at least one (1) District qualified Paramedic.
2. In service Medic Units (Dispatchable) shall be staffed with dedicated personnel beginning July 1, 2023. Reserve Medic Units may be placed in service based upon demand with any available personnel for up to two (2) hours at which point dedicated staffing will be recalled if available.

INTENT: Medic Units will not be primarily cross staffed after July 1, 2023, however if the District needs additional Medic Units to be rapidly placed in service due to emergency incidents Station/Engine personnel may be used to staff those reserve Medic Units. If the demand lasts longer than two (2) hours, the District will attempt to recall off-duty personnel to staff the reserve Medic Units, if employees are unavailable to staff those units, the District may continue to operate them as necessary.

J. Staffing levels for any additional station(s) or apparatus that may be placed in service shall be subject to negotiation and be placed in this Article.

K. At no time will an Engine or Ladder/Truck be operated at the scene of an emergency with less than three (3) personnel.

1. A crew may be split to transport the Engine or Ladder/Truck and additional apparatus to the scene of an emergency at the discretion of the Captain. The Engine will not be considered back in service unless that additional apparatus and personnel remain together as an adjunct of the Engine or Ladder/Truck and its assignments.
2. In the event that an in-service company is reduced and is called upon to respond to an emergency incident, every effort will be made to return the crew to full staffing including immediate callback.
3. Only under emergency circumstances will the crew be divided for any reason,

L. For the purpose of out of District assistance by hire assignments in excess of twenty-four (24) hours in duration, four (4) career person staffing will be maintained on all Engines. Engines shall be staffed in the following manner:

1. Type I: Each Engine shall be staffed with a Captain or Acting Captain, Engineer or Acting Engineer and two (2) Firefighters or Firefighter/Paramedics (or any combination thereof)
2. Type III: Each Engine shall be staffed with a Captain or Acting Captain, Engineer or Acting Engineer and two (2) Firefighters, Firefighter/Paramedics (Fuels personnel may be assigned as one (1) of the Firefighters). Additionally, one (1) of the assigned personnel must be ENGB qualified and all must have NWCG FF qualifications.

3. Type V: Each Engine shall be staffed with a Captain or Acting Captain, Engineer or Acting Engineer, and two (2) Firefighters, Firefighter/Paramedics (a Fuels crewmember may be assigned as one (1) of the Firefighters). Additionally, one (1) of the assigned personnel must be ENGB qualified and all must have NWCG FF qualifications. Alternatively, Type V Engines regularly assigned to the Fuels/Wildfire Division may be deployed with all Fuels/Wildfire personnel (station personnel may be assigned as one (1) of the personnel), so long as they are all NWCG certified FF's and at least one (1) maintains ENGB qualifications.

M. Definitions:

1. 'Engine(s)' refers to Type I, Type II, and Type III Engines.
2. Absences refer to employees on any type of leave including, but not limited to annual vacation, sick, comp, workers comp, military, Association, administrative, or existing vacancies, billable incidents and all leave types shall be back-filled following Article 18 (Overtime).

ARTICLE 17 – WORK HOURS

A. 56-Hour Personnel:

1. 48/96 Schedule:

- a. In accordance with the Agreement executed between the parties, the regular work day and work week for line employees shall consist of three (3) shifts "A", "B", and "C" with each shift alternating on a schedule of two (2) twenty-four (24) hour work days on duty, from 8:00am to 8:00am, followed by four (4) consecutive twenty-four (24) hour days off duty. On an annual average, a 56-hour week, regardless of the actual number of hours worked or on paid leave during any biweekly pay period.
2. Upon mutual agreement between the Fire Chief and the Association, nothing herein shall prevent the establishment of a trial period for alternative schedules that the parties may adopt.
3. FLSA overtime shall be computed on a twenty-four (24) day cycle and shall be paid on the paycheck that the FLSA period ends. Employees may elect to accrue FLSA pay for compensatory time, at the rate of one and one-half (1 ½) hours of compensatory time for every one (1) hour of owed FLSA pay. Since regular time for hours worked in excess of the FLSA threshold is already paid in base pay, FLSA pay is paid at half time for each hour owed. Therefore, for every two (2) hours of owed FLSA pay, employees may accrue one (1) hour of compensatory time.
4. During the normal work day schedule for line employees, the employee will be allotted one (1) hour for lunch and two (2) fifteen (15) minute breaks, during this time employees shall respond to all incidents. Outside of the normal work day hours, the Association and the District agree to make reasonable accommodations for training and other special needs while recognizing the necessity of rest periods.

B. 40-Hour Personnel:

1. The normal workweek of 40-hour employees shall be forty (40) hours per week consisting of five (5) consecutive eight (8) hour days and/or four (4) consecutive ten (10) hour days. The employee will be allotted one (1) unpaid meal period and two (2) paid fifteen (15) minute breaks. The week will begin 12:01am Monday and end 12:00

midnight Sunday. Any change in the number of hours in the work day or regular work week shall be subject to negotiation, although an eight (8) hour and/or ten (10) hour employee may be subject to working shift work as necessary, at the discretion of the Fire Chief.

ARTICLE 18 – OVERTIME

- A. Overtime Provisions Applicable to 48/96 hour Employees
1. Overtime shall be deemed as any time worked in excess of the normal work period or the normal work shift.
 2. Employees shall be compensated for overtime worked at one and one-half (1 ½) times their base rate of pay for each hour, or major fraction thereof, worked.
 3. All overtime must have the advance authorization of the Fire Chief or their designated representative.
 4. Overtime will be earned in increments of one-quarter (1/4) hour.
 5. Overtime will be added to the payroll for the period during which the overtime is performed. It is understood that nothing in this Article shall require payment for overtime hours not worked. All overtime must have previous authorization of the District's Fire Chief or designee if compensation therefore is to be affected.
 6. Any employee who accepts a request by their supervisor to work during hours outside their regularly scheduled straight time hours on the day in question, which hours will not abut their regularly scheduled shift hours on that day, will receive a minimum of two (2) hours pay at the applicable hourly rate if the employee physically reports to work. Any compensated meetings that are attended virtually will be paid for actual time worked.
 7. Any employee who reports for work on their scheduled day or for previously scheduled recall shall receive a minimum of two (2) hours pay for each such incident, at the applicable rate, where the District cannot provide work for the employee.
 8. Overtime shall be filled by full-time career staff. For the purposes of overtime to fill vacancies, the Telestaff procedure, currently in effect, shall be used for filling open vacancies. In the event of a failure of the system, the District reserves the right to establish processes necessary to maintain staffing assignments. The list shall consist of all bargaining unit members who desire to work overtime/callback to fill vacancies in staffing. Vacancies shall be filled by calling back bargaining unit members. Mandatory overtime may be required in the event employees are not available to fill for shift vacancies.
 9. The employee may select cash payment or compensatory time for the overtime worked, for training, District functions, or any overtime outside of station fill-in and emergency incident overtime. The maximum amount of compensatory time that may be accumulated is four hundred eighty (480) hours. Compensatory time utilized shall be limited to a maximum of four hundred eighty (480) hours per calendar year. All overtime hours in excess of this amount shall be paid for in cash. Upon termination of employment, an employee shall be compensated at their base rate for all accumulated and unused compensatory time hours.

B. 40-Hour Personnel

1. Overtime shall be defined as any time worked in excess of forty (40) hours per week. Such compensation shall be in the form of either cash payment or compensatory time, which the decision shall be made by the employee at the time the overtime is worked. The maximum amount of compensatory time that may be accumulated is two hundred forty (240) hours unless the employee has exceeded that amount from fifty six (56) hour conversion; In this case, the employee will be able to retain balance, but will be unable to accrue any additional time until they have less than two hundred forty (240) hours. Compensatory time utilized shall be limited to a maximum of two hundred forty (240) hours per calendar year.

2. The provisions applying to the payment for Article 24 (Holiday Pay/Compensatory Time), shall apply to compensatory time under this Article. All overtime hours in excess of this amount shall be paid for in cash. Upon termination of employment, an employee shall be compensated at their base rate for all accumulated and unused compensatory time hours.

C. Overtime as a result of all emergency incidents including out of District assignments and mutual aid, shall be paid from the moment of notification until return to the station from which dispatched and includes rest periods, standby periods, meal breaks, etc. occurring during the period of overtime.

D. Employees agree to participate in a voluntary shift transfer to minimize overtime costs. The District will identify potential overtime situations that could be avoided by the voluntary temporary exchange of shifts during the FLSA period. For example, employees may agree to take a regularly scheduled day off, and in turn, work an alternate shift that FLSA period to minimize the potential for overtime.

ARTICLE 19 – CALLBACK COMPENSATION

A. Callback compensation shall be determined for this Agreement per NRS 286.025 and the PERS Revised Official Policies.

B. Employees shall be compensated for callback worked at one and a half (1 ½) times their regular rate of pay for each hour, or major fraction thereof, worked. Such compensation shall be in accordance with Article 18 (Overtime).

C. Any employee who is recalled to duty, or voluntarily responds to an emergency incident during off-duty hours and is requested by the incident commander to assist in the incident, shall be compensated at the overtime rate established above for the actual time so spent on duty with a guaranteed minimum of two (2) hours regardless of having worked less than two (2) hours, except as provided herein. Any employee who voluntarily reports to their duty station prior to the beginning of their assigned shift and then is called out to an emergency incident shall be paid at the overtime rate for only the actual time spent working prior to the beginning of their shift and the two (2) hour minimum shall not apply.

D. Overtime and callback as a result of all emergency incidents, including out of District assignments and mutual aid, shall be paid from the moment of notification until return to the station from which dispatched including rest periods, stand-by periods, meal breaks, etc.

ARTICLE 20 – STANDBY COMPENSATION

A. Employees may be assigned to work standby time (on-call). Standby time shall be defined as per NRS 286.025 and the PERS Revised Official Policies; 286.025 as "Standby Pay (is) compensation earned for holding oneself ready for duty while off duty", and as such is compensable to the PERS Compensation shall be in compliance with the provisions of the F.L.S.A. as clarified in WH publication 1459 dated May 1985.

B. An employee on standby shall be available for call to duty, specifically scheduled and directed by the Fire Chief or their designee. The scheduling of standby shall be fair and equitable and the procedure for such shall be contained in the Procedures Manual. While on standby, the employee shall be considered "waiting to be engaged" and as such is required to be available for call to duty within thirty (30) minutes from the time any call is received. Employees shall be considered available for call to duty by making contact with the requesting officer. An employee called back to duty shall be at the scene of the incident within a reasonable period of time.

C. Employees on standby shall be entitled to compensation at the rate of ten percent (10%) of their base rate of pay. Standby time under these criteria shall not be considered as hours worked for the purpose of computing overtime. Standby time may be utilized as compensatory time as provided in Article 18, (Overtime).

D. Standby pay shall cease during the time an employee is called back to duty.

ARTICLE 21 – WORKING OUT OF CLASSIFICATION

A. Those employees who fill a higher classification due to the absence or incapacitation of the incumbent of the higher classified position shall be entitled to an increase of ten percent (10%) in salary for the hours assigned acting in such a higher classification in one quarter (1/4) hour increments.

B. Vacancies for all ranks shall be filled through the call-back procedure first, listed in Article 18 (Overtime), then shall be made consistent with the Acting Eligibility Lists in accordance with the Telestaff Operating Guideline.

ARTICLE 22 – CAREER INCENTIVE

All employees covered hereunder who have completed a total of five (5) years or more of full-time service with the District shall be entitled to annual longevity pay at the rate of one half percent (.50%) of the base pay for each year of continuous service with the District up to a maximum payment of ten percent (10%) or ten thousand dollars (\$10,000).

whichever is less. An employee's eligibility for longevity pay shall be reviewed as of June 1st and December 1st of each year with payment to be affected in equal semiannual installments payable on the first payday of June and December immediately following a determination of eligibility. For qualified employees retiring or resigning before the due date of any semi-annual payment, the amount of payment shall be prorated.

ARTICLE 23 – HOLIDAYS DEFINED

A. The District and the Association agree that legal holidays shall be considered to be as follows:

1. January 1 (New Year's Day)
2. Third Monday in January (Martin Luther King Jr's Birthday)
3. Third Monday in February (Washington's Birthday)
4. Last Monday in May (Memorial Day)
5. June 19 (Juneteenth)
6. July 4 (Independence Day)
7. First Monday in September (Labor Day)
8. Last Friday in October (Nevada Day)
9. November 11 (Veteran's Day)
10. Fourth Thursday in November (Thanksgiving Day)
11. Day After Thanksgiving (Family Day)
12. December 25 (Christmas Day)

B. Further, any other day declared by the President of the United States to be a legal holiday or added to NRS 236.015 shall also be a legal holiday.

ARTICLE 24 – HOLIDAY PAY/COMPENSATORY TIME

A. 56-Hour Personnel

1. All 56-hour employees in positions which are manned on a twenty-four (24) hour basis who work on a legal holiday [as listed in Article 23 (Holidays Defined)] as part of their regular work schedule, or whose regularly scheduled day off falls on a legal holiday, shall receive twelve (12) hours pay at their base rate of pay, or twelve (12) hours of compensatory time. Holiday credit shall not accrue until after the holiday has occurred
2. All 56-hour employees, in order to be entitled to a legal holiday or holiday pay/comp time, must be in full pay status on their scheduled workday immediately preceding and immediately following such holiday.
3. There shall be no limit to the number of hours accrued as holiday compensatory time.
4. The parties agree that an employee may make a request of the Fire Chief to be paid for accrued holiday compensatory time to address unforeseeable financial needs incurred by the employee.
5. Upon termination of employment, each employee shall be compensated at their base hourly rate for all holiday compensatory time accrued.

B. 40-Hour Personnel

1. All 40-hour employees shall be paid eight (8) hours at their premium hourly rate for employees who regularly work an eight (8) hour shift or to be paid ten (10) hours at their premium hourly rate if the employee works a ten (10) hour shift for each of the holidays listed in Article 23 (Holidays Defined). In order to be entitled to holiday pay, an employee must be in a full pay status both the day before and the day after the holiday. If the holiday falls on a regularly scheduled workday, the employee shall be paid holiday pay and given the day off. If the employee is requested to come into work on a holiday for duties assigned, they may elect to receive regular comp time to their equivalent work hours. If a holiday falls on an employee's regular day off, the employee will select another day off during that work week, with the approval of his/her supervisor.
2. If a holiday falls on a Sunday, the Monday following shall be observed as the legal holiday; if a holiday falls on a Saturday, the Friday preceding shall be observed as the legal holiday.
3. There shall be no limit to the number of hours accrued as holiday compensatory time.
4. If a holiday is observed while the employee is on sick leave, annual leave, or other paid leave status, the employee will receive their holiday pay and the day will not be charged against sick, annual, or other paid leave credits.
5. Upon termination of employment, each employee shall be compensated at their base hourly rate for all holiday compensatory time accrued.
6. If an employee is required to work on any of the above-named holidays and if eligible for holiday pay, he shall receive, in addition to their holiday pay, one and a half (1-1/2) times their premium hourly rate of pay for each hour or major fraction worked, up to a maximum number of hours equal to the number of hours he is regularly scheduled for a normal work day.

C. Utilization - Any employee who has accrued holiday compensatory time may utilize holiday compensatory time off by submitting a request for leave form. Utilization shall be in accordance with the following procedure:

1. Employee may trade their holiday compensatory time with another qualified employee. Holiday compensatory time trade shall be in accordance with Article 32, (Shift Trades). An employee electing to utilize holiday compensatory time trade with another qualified employee shall have their holiday compensatory time hours transferred to the employee accepting the trade.
2. Holiday compensatory time trade, as with a shift trade, is solely at the option of the employees involved and with the approval of the District. Holiday compensatory time trades shall not incur any overtime cost to the District. The hours worked in the holiday compensatory time trade shall be excluded in the calculation of the hours for which the substituting employee would otherwise be entitled to overtime compensation. Where one employee trades holiday compensatory time with another, and except for the actual recording of hours traded, each employee will be credited as if they had worked their normal work schedule for that shift.

D. Conversion of Workweek

1. 56-Hour Employee: If an employee is reassigned from a 56-hour workweek schedule to a 40-hour workweek schedule and said employee has accumulated holiday compensatory time hours at the time of reassignment, the number of hours shall be converted to an equivalent number of hours for a 40-hour workweek schedule by dividing the number of hours by a factor of one point four (1.4).
2. 40-Hour Employee: If an employee is reassigned from a 40-hour workweek schedule to a 56-hour workweek schedule and said employee has accumulated holiday compensatory time hours at the time of reassignment, the number of hours shall be converted to an equivalent number of hours for a 56-hour workweek schedule by multiplying the number of hours by a factor of one point four (1.4).

ARTICLE 25 – VACATION

A. General

1. Vacation credits shall accrue only while the employee is in a pay status. All times during which a vacation may be taken require the advance approval of the Fire Chief or their designated representative.
2. An employee shall be paid at their premium hourly rate (including incentives) for each hour of vacation taken. Vacation shall be charged on the basis of one (1) hour for each full hour or major portion of an hour of vacation taken. Vacation taken during a bi-weekly period shall be charged before vacation earned during that pay period is credited.
3. Upon termination of employment, each employee shall be compensated at their base hourly rate for their total vacation accrued.

B. A minimum of one (1) 56-hour (line) employee shall be allowed to be on vacation or comp leave, holiday comp leave, personal leave, or other accrued leave besides sick leave any given day, for every twenty-five (25) 56-hour (line) employees that the District employs, or fraction thereof; this number shall also be the maximum allowed, except by authorization of the Chief or their designee. For example, if the District employed sixty-five (65) 56-hour employees, no more than three (3) employees would be allowed on vacation or comp time on any given day, but at least three (3) would be allowed, except by authorization of the Chief or their designee. 40-hour employees will not be included as part of this minimum and shall be approved separately. Vacation requests must be made with a minimum of twenty-four (24) hours advanced notice, unless authorized by the Fire Chief or their designee.

C. 56-Hour Personnel

1. On the first day of the pay period following the completion of twelve (12) months of continuous service with the District, each employee working a 56-hour workweek and who is employed full-time shall be entitled to one hundred seventeen (117) hours of vacation leave credit. Thereafter, line employees working a 56-hour workweek shall accrue vacation leave benefits at the rates established below:

Continuous Service	Bi-Weekly Earning Rate (hrs)	Annual Hours Earned
Less than one (1) year	4.5	117
One (1) year but less than three (3) years	5.5	143
Three (3) years but less than five (5) years	6.75	175.50
Five (5) years but less than ten (10) years	8.0	208
Ten (10) years or more	11	286

2. Vacation may be accumulated from year to year not to exceed three hundred thirty-six (336) hours as of the last full pay period encompassing December 31st. If an eligible Employee has accumulated three hundred thirty-six (336) hours of vacation leave at the conclusion of the pay period encompassing December 31st, the District shall pay out one hundred percent (100%) of that eligible Employee's vacation leave in excess of three hundred thirty-six (336) at their hourly base rate.

D. 40-Hour Personnel

1. On the first day of the pay period following the completion of twelve (12) months of continuous service with the District, each full-time employee working a 40-hour workweek shall be entitled to eighty (80) hours of vacation leave credit. Thereafter, these employees shall accrue vacation leave benefits at the rates established below:

Continuous Service	Bi-Weekly Earning Rate (hrs)	Annual Hours Earned
Less than one (1) year	3.21	83
One (1) year but less than three (3) years	3.93	102
Three (3) years but less than five (5) years	4.82	125
Five (5) years but less than ten (10) years	5.71	148
Ten (10) years or more	7.86	204

2. Vacation may be accumulated from year to year not to exceed two hundred forty (240) hours as of the last full pay period encompassing December 31st. If an eligible Employee has accumulated two hundred forty (240) hours of vacation leave at the conclusion of the pay period encompassing December 31st, the District shall pay out one hundred percent (100%) of that eligible Employee's vacation leave in excess of two hundred forty (240) at their hourly base rate.

C. Workweek Conversion

1. If an employee is reassigned from a 56-hour workweek schedule to a 40-hour workweek schedule, any vacation leave balance shall be converted to an equivalent amount for a 40-hour workweek by dividing the number of vacation hours by a factor of one point four (1.4).

2. If an employee is reassigned from a 40-hour workweek schedule to a 56-hour workweek schedule, any vacation leave balance shall be converted to an equivalent amount for a 56-hour workweek by multiplying the number of vacation hours by a factor of one point four (1.4).

ARTICLE 26 – SICK LEAVE

- A. An employee is entitled to use accrued sick leave only:**
- 1. When incapacitated to perform the duties of their position due to sickness, injury, pregnancy, or the birth of a child by the employee or spouse.**
 - 2. When quarantined.**
 - 3. When receiving required medical or dental service or examination.**
 - 4. For adoption of a child if the Welfare Division of the Department of Human Services or any other appropriate public agency requires the employee to remain at home with the child.**
 - 5. Upon illness in the employee's immediate family where such illness requires their attendance. For this purpose, 'immediate family' means the employee's spouse, parents (including step), children (including step), and, if living in the employee's household, includes corresponding relations by affinity to the above, foster children, foster parents, brothers or sisters.**
 - 6. Upon the death of the employee's spouse, child (including adopted child, stepchild, or foster child), parents, brother, sister, grandchildren, grandparents, or corresponding relation by affinity, or approved use by the Fire Chief or their designee. For this purpose, sick leave shall not exceed forty (40) continuous working hours per death for a 40-hour employee and forty-eight (48) continuous working hours per death for a 56-hour employee. Additional time using sick leave, vacation, and/or compensatory leave may be granted upon approval of the Fire Chief or their designee.**
- B. Accrual Rates**
- 1. Each employee working a 56-hour week shall accrue sick leave benefits at a rate of seven (7) hours per bi-weekly pay period [one hundred eighty-two (182) hours annually], which is cumulative from year to year.**
 - 2. Each employee working a 40-hour week shall accrue sick leave benefits at the rate of five (5) hours per bi-weekly pay period [one hundred thirty (130) hours annually], which is cumulative from year to year.**
- C. An employee requiring sick leave must, if required, provide the Fire Chief with evidence of such need. For absences in excess of three (3) days, or in cases where there is reasonable suspicion of abuse, the Fire Chief may require the employee to submit substantiating evidence, including, but not limited to, a physician's certificate.**
- D. If any employee does not have adequate accrued sick leave time, the Fire Chief may grant the use of accrued vacation time, compensatory leave, and/or personal leave in lieu thereof. In no case, however, will sick leave be granted in lieu of vacation time.**
- E. Sick leave shall be charged on an hourly basis for each full hour or major portion of an hour of sick leave taken. Holidays occurring during a sick leave period shall not be counted as sick leave time. Sick leave taken during a biweekly pay period shall be charged before sick leave earned that pay period is credited.**
- F. Sick Leave Conversion Benefits**
- 1. For employees retiring with ten (10) years of District Seniority and a minimum of twenty (20) years of total service with Nevada PERS, the District will pay out base rate**

to the employee the following percentages if the employee's accumulated sick leave balance as follows:

Years of Service	Conversion Percentage
20	75%
21	80%
22	85%
23	90%
24	95%
25 or more	100%

2. In the event of a line of duty death, the District will convert the employees sick leave at a conversion rate of one hundred percent (100%) of the employees premium rate.

G. As long as an employee is in a paid status, they shall earn sick and vacation leave during the time they are on such leave. If the employee is on leave without pay, they shall not earn sick or vacation leave during the time they are on such leave.

H. 56-hour employees who use zero (0) to forty-eight (48) hours of sick leave as of the end of the twenty-sixth (26th) pay period, or in the event of a twenty-seventh (27th) payroll period in a calendar year shall receive twenty-four (24) hours of Personal Leave credit at the end of the first full pay period the following January. Employees working a 56-hour workweek who use forty-nine (49) to fifty-six (56) hours of sick leave as of the end of the twenty-sixth (26th) pay period, or in the event of a twenty-seventh (27th) payroll period, in a calendar year shall receive twelve (12) hours of Personal Leave credit at the end of the first full pay period the following January.

I. 40-hour employees who use zero (0) to thirty-two (32) hours of sick leave as of the end of the twenty-sixth (26th) pay period, or in the event of a twenty-seventh (27th) pay period, in a calendar year shall receive sixteen (16) hours of Personal Leave credit at the end of the first full pay period the following January. Employees working a 40-hour workweek who use thirty-three (33) to forty (40) hours of sick leave as of the end of the twenty-sixth (26th) pay period, or in the event of a twenty-seventh (27th) payroll period, in a calendar year shall receive eight (8) or ten (10) hours, based on the employee's normal work shift, of Personal Leave credit at the end of the first full pay period the following January.

J. Personal leave must be used by the end of pay period twenty-six (26), or in the event of a twenty-seventh (27th) payroll period by pay period twenty-seven (27), and if not used will be forfeited. Under no circumstances will there be any cash payment for Personal Leave credit that is not used. In order to receive this Personal Leave benefit, an employee must be in a pay status (either working or on paid leave) for all of the pay periods within a calendar year.

K. Employees shall be allowed to voluntarily transfer up to a maximum of one hundred twelve (112) hours of their accumulated vacation leave or compensatory leave during any calendar year to another employee who has no accumulated sick leave hours, but who is otherwise eligible to take paid sick leave. Donated leave must be converted into money at the hourly rate of the donor and the money must be converted into sick leave at the hourly

rate of the recipient. The maximum amount of accumulated leave transferred to any employee under the terms of this Article shall be six hundred seventy-two (672) hours per calendar year. Once leave has been donated and transferred, such leave hours shall not be refundable to the donor making the transfer.

L. Workweek Conversion

1. If an employee is reassigned from a 56-hour workweek schedule to a 40-hour workweek schedule, any sick leave balance shall be converted to an equivalent amount for a 40-hour workweek by dividing the number of sick leave hours by a factor of one point four (1.4).

2. If an employee is reassigned from a 40-hour workweek schedule to a 56-hour workweek schedule, any sick leave balance shall be converted to an equivalent amount for a 56-hour workweek by multiplying the number of hours by a factor of one point four (1.4).

ARTICLE 27 – EMERGENCY PERSONAL LEAVE

The Fire Chief, or their designee, may approve up to forty-eight (48) hours leave to an employee for emergency leave, to be used in increments of no less than one (1) hour. If approved, such leave shall be charged to either the employees accrued vacation leave, compensatory leave, or personal leave, whichever the employee chooses.

ARTICLE 28 – COURT/JURY LEAVE

A. Any employee who is required by law to appear and/or serve as a witness or juror for the Federal Government, the State of Nevada, or a political subdivision thereof, shall be granted administrative leave and shall remain in full-pay status during such leave.

B. The employee shall claim any fees to which he may be entitled by reason of appearance and pay the same over to the Fire District for those days they were scheduled to be on duty, except that the employee shall retain any and all mileage allowance.

C. Employees shall report back to work immediately upon being excused.

ARTICLE 29 – MILITARY LEAVE

Military leave is an administrative leave type as recognized by both Federal and State statutes. Approval for military leave shall be granted upon receipt by the District of a validated copy of orders to report for military duty. Any employee of the District who is required to report for military duty with one of the military services of the United States or the State of Nevada shall be relieved of their District duties, upon their request, to meet their military service obligations without loss in premium compensation for a period not to exceed fifteen (15) working days in any one (1) calendar year. Employees on military leave, for these fifteen (15) working days shall remain in full-pay status.

ARTICLE 30 – LEAVE OF ABSENCE

A. A leave of absence without pay may be granted to any permanent employee provided the employee desires to return to the District and who at the time the leave is requested has a satisfactory service record.

B. Leaves of absence for thirty (30) calendar days or less in any calendar year may be granted upon the approval of the Fire Chief or designee. Leaves for a longer period may be granted upon the recommendation of the Fire Chief and the approval of the Board of Fire Commissioners.

C. A leave of absence may be granted to an employee who desires to attend school or college or to enter training to improve the quality of their service, who is temporarily incapacitated by illness, injury, pregnancy or childbirth, who is loaned to another governmental agency for the performance of a specific assignment, or for some other equally satisfactory reason. A leave of absence shall not be granted to an employee who is leaving the District service to accept other employment, except as provided in this subsection.

D. The period of time an employee is on leave without pay for thirty (30) calendar days or less in any twelve (12) consecutive month period shall not cause any adjustment to the employee's anniversary date for determining eligibility for longevity pay, vacation, sick leave and any other benefit that is based upon years of service with the District. If an employee is on leave without pay in excess of thirty (30) calendar days in any twelve (12) consecutive month period, the employee's anniversary date for earning benefits shall be adjusted by the number of days in excess of thirty (30) calendar days.

E. The Fire Chief or designee may place an employee on administrative leave with or without pay during an investigation of a complaint or incident relating to their employment with the District.

F. When an employee is deployed on an out of district assignment for a minimum of fourteen (14) days and returns on their regularly scheduled shift, the employee will be given one or two days off on administrative leave with pay if reimbursable. If the employee returns on the first day of their regular scheduled shift, they will be provided the remaining hours of their first shift off and the second shift off on administrative leave with pay. If the employee returns on the second day of their regular scheduled shift they will be provided the remaining hours of the shift off with administrative leave with pay. For the employee to qualify for administrative leave with pay, the leave hours must be reimbursable back to the district from the assignment the employee was deployed.

G. Section F does not preclude the district from considering the release of an employee on administrative leave with pay for the remainder of the shift upon return from any assignment no matter the duration of the assignment.

H. Section F does not preclude the employee from using vacation, holiday comp, personal leave, or comp time if the employee returns from an out of district assignment

and is scheduled to return on their regularly scheduled shift, even if the maximum number of allowable employees are off, if authorized by the Fire Chief or designee.

ARTICLE 31 – DISTRIBUTION OF COMPENSATION DUE A DECEASED EMPLOYEE

If an employee dies while owed compensation by the District, the parties recognize and agree that such compensation, to include wages, payment for accrued vacation leave, payment for accrued compensatory hours, payment for sick leave cash out, payment for pro-rata longevity pay, and payment for any reimbursable expenses due the employee, shall be distributed in an expedient and legal fashion pursuant to NRS 281.155.

ARTICLE 32 – SHIFT TRADES

A. Within this Agreement, shift trades shall be considered to be 'trade time' as reflected in the F.L.S.A. Employees may exchange or trade work hours or shifts provided it does not interfere with the operation of the District, subject to prior approval of the Fire Chief or designee. Any employee(s) who agree(s) to such trading shall hold the employer harmless for the failure of the other employee(s) to pay back traded time.

B. Three-way trades are permissible and must be rank for rank except where the employee(s) filling in for the shift trade is/are qualified per Article 21 (Working out of Classification) to perform all of the duties and responsibilities of the position being manned either by being designated to serve in an 'acting' capacity in that position or otherwise certified as being so qualified.

C. Firefighter/paramedic positions maybe traded with Firefighters provided that the apparatus remains in ALS status with another qualified crewmember.

ARTICLE 33 – MEDICAL PLAN

A. The District agrees to provide a group medical plan, including health, dental and vision coverage, to full-time employees and shall pay one hundred percent (100%) of the premium attributable to employee coverage under this plan during the life of this Agreement. In the event an employee elects dependent coverage, the District shall pay fifty percent (50%) of the premium for such coverage. The provider of such insurance shall be mutually agreed upon by the parties. In the event there are changes in a specific benefit or if there are inclusions or deletions of benefits, said changes shall be negotiated.

B. Unless otherwise negotiated, the Employer agrees to provide both a High Deductible Health Plan which will include a Health Savings Account (HSA) and a PPO Health Plan option.

1. HSA option: The District will make deposits to the HSA at the beginning of the health plan year.

C. Retiree Health Insurance.

The parties agree that for employees who retire under PERS with a minimum of ten (10) years' service with the District, the District shall pay fifty percent (50%) of the premium for employee only health insurance described in Paragraph A, above. With this plan, Medicare will be primary when the covered employee becomes Medicare eligible.

D. Life Insurance.

The District agrees to provide twenty-five thousand (\$25,000) of life insurance to full-time employees.

ARTICLE 34 – RETIREMENT

A. For the purpose of Service Retirement, for this Agreement, the definition of retirement and the time periods for vesting shall comply with NRS 286.025 and PERS regulation 286.025.

B. The District shall continue to pay one hundred percent (100%) of the cost of the retirement contribution for the State of Nevada Public Employee's Retirement System, in accordance with NRS Chapter 286. The District will pay the employee portion of a PERS contribution rate increase, in lieu of a raise, during the term of the agreement.

ARTICLE 35 – DEFERRED COMPENSATION

A. Employees are eligible to participate in the deferred compensation program that the employer has implemented and in which the employee participates.

B. Employees are also eligible to participate in the Nevada Public Employees Deferred Compensation program. The District shall not contribute any additional funds to this program but shall only contribute those funds that the employee requests, in writing, to be deducted from their paycheck. This option shall be provided so long as there are no additional administrative requirements placed on the District to create a deferred compensation committee pursuant to Federal statutes.

ARTICLE 36 – OCCUPATIONAL/JOB RELATED INJURIES

Workers Compensation

A. All employees shall receive all benefits in accordance with Nevada State Industrial Insurance Act, the Nevada Occupational Diseases Act, and the Occupational Safety and Health Act

1. Occupational Injury – Modified Duty

An employee injured on the job and determined by the treating physician completing the C-4 Form to be Temporarily Totally Disabled (TTD) shall be placed on industrial insurance. Commencing on the first day following a TTD Determination, the District

will pay the employee an amount equal to the difference between the insurance compensation received and one hundred percent (100%) of the employee's premium wages for up to 180 days until the employee is released to the Return to Work Program (Modified Duty) or the treating physician gives permanent restrictions (whichever comes sooner). During this time, the employee shall be placed on a 40-hour workweek schedule. If an employee remains unable to return to full duty after one hundred eighty (180) days, the employee will receive workers compensation pay in accordance with NRS minimums. Commencing at one hundred eighty (180) days post injury and if on TTD, the employee will no longer accrue any vacation time until released to full or modified duty. The employee shall utilize additional accrued leave hours to make up any deficit between workers compensation pay and the employee's normal hourly compensation. If an employee exhausts all accrued leave balances, the employee will continue to receive workers compensation pay in accordance with NRS minimums. If an employee remains unable to return to full duty and has exhausted all leave balances, the employee will be placed on a leave of absence while continuing to receive any workers compensation until the employee is able to return to full duty or is deemed permanently disabled. If the employee is permanently disabled and unable to return to their previous position, the District will work with the employee to expedite retirement through PERS or find an alternative available position within the District.

Employees without adequate leave balances may be "loaned" sick leave for a period necessary to ensure pay for one (1) year. Upon return to work, the "loan" will be repaid through future accruals. Repayments will be made at a rate of fifty percent (50%) of accruals going to repayment, and fifty percent (50%) continuing to leave banks. In the event the employee does not return to work, the cost of the advanced leave will be repaid by the employee.

Return to Work Program (Modified Duty) – An employee injured on the job may be employed in Temporary Work Assignments with the District. The treating physician in concert with the primary physician shall determine the duties and number of hours per day the employee is able to perform. The number of hours specified shall be considered a "workday" and the employee shall be paid one hundred percent (100%) of the employees premium wages to include hours in Article 17 (Work Hours) for each day worked.

2. Non-Occupational Injuries – Light Duty

An employee incapacitated due to an injury that is not work-related may, at the discretion of the Fire Chief or designee, and with the treating physician's statement of work restriction(s), be placed on light duty assignment within the District for a period up to ninety (90) days unless extended by the Fire Chief or their designee. If the Fire Chief plans to deny an employee light duty status, the Association President will be notified and consulted. The employee shall meet the expectations of the light duty assignment.

- a. If the employee is not meeting the expectations of the light duty assignment, the employee, the Association, and the District shall meet and discuss the

expectations. If the employee continues to not meet the expectations of the assignment, then light duty will be denied.

- b. The employee shall be paid at their current wage for hours worked in a 40-hour workweek.
- c. When an employee is assigned to light duty, time accrued and charged shall be subject to the conversion factor between 40-hour and 56-hour personnel.
- d. While on light duty, the employee shall participate in department level training or classes that other fire personnel are undergoing, as long as the class activities do not pose any risk to the employee.

B. The District recognizes pregnancy as a normal occurrence in a woman's life and therefore establishes this policy to implement the provision of light duty assignments for female employees that are pregnant. Once notification has been made to the District of their pregnancy, the employee shall be removed from suppression duties upon their request. The employee shall have the option of being assigned to light duty or begin using their leave time. If the employee chooses to be placed onto light duty, they will be paid at their current wage for hours worked during the 40-hour workweek.

ARTICLE 37 – JOINT LABOR-MANAGEMENT SAFETY COMMITTEE

A. In order to address the mutual concerns of the parties on safety matters, the Association and District agree to form a Joint Labor-Management Safety Committee. The Committee is an important link in the TMFPD Occupational Safety and Health Program. It provides a vital connection in the "top-down, bottom-up" approach to developing and maintaining a safe working environment. The Committee is hereby empowered and responsible for providing the following support:

1. Drafting new and revised safety policies and procedures.
2. Consider the concerns of and formally recommend corrective action toward personnel safety inquiries.
3. Evaluate the root cause of accidents or injuries, based upon completed reports and investigations, and propose formal conclusions and corrective actions.

B. **Composition**

The Committee shall be composed of a minimum of one (1) Firefighter/Paramedic, one (1) Engineer, one (1) Captain and one (1) Battalion Chief. The TMFPD Chief or Designee shall appoint the Chair. All members shall have at least two (2) years' experience with the District.

C. **Voting** – The members should be considered the voting body. While consensus should be the primary goal of the Committee, decisions on the recommendations, or a tie, shall be submitted to the Fire Chief for final determination.

D. **Meeting** – The Committee shall meet at least quarterly, or as needed, to effectively conduct the business at hand. Agendas for each meeting shall be given to the Health and Safety Officer no later than one (1) week prior to the meeting.

E. Participation – Members and authorized participants for the Committee shall be considered as performing the normal work duties and responsibilities for their positions when on Committee business. Up to two (2) members appointed by the Association shall be allowed time off, with no loss of pay or any accrued leave, for all Safety Committee meetings when such members are scheduled to be on duty.

ARTICLE 38 – SAFETY TRAINING

The District agrees to provide training for all employees on the safety aspects of fire suppression and on the use and maintenance of protective equipment, protective clothing, respiratory apparatus, and any other protective devices that are required or selected for use by the District at no cost to the employee.

ARTICLE 39 – SAFETY EQUIPMENT

Protective clothing and personal safety equipment required by the District for employees in the performance of their duties shall be furnished by the District, without cost to the employee, pursuant to the following:

A. Protective clothing shall be defined to include, but not limited to, the following protective garments as well as any other items of protective clothing and personal safety equipment which may subsequently be required by the District, by State or Federal law, Safety Manual, and/or other items mutually agreed to by the parties:

Operations/Training

- Wildland fire clothing
- Structural fire protective coat and pants with liner and vapor barrier
- Structural and wildland fire helmets
- Structural fire boots
- Goggles/clear-lens or sunglasses ANSI Z.87.1 Approved
- Individual SCBA Mask
- Neck shroud
- Gloves
- Suspenders, as appropriate
- Wildland Hot Shield
- Web gear
- OSHA approved HEPA filter mask
- PPE gear bag

Fire Prevention

- Wildland fire clothing
- Structural fire protective coat and pants with liner and vapor barrier
- Structural and wildland helmets
- Structural fire boots
- Goggles/clear-lens or sunglasses ANSI Z.87.1 Approved

- Individual SCBA Mask or appropriate respirator as needed
- Neck Shroud
- Gloves
- Suspenders as appropriate
- Wildland Hot Shield
- Web gear
- OSHA approved HEPA filter mask
- PPE gear bag

Fleet

- Wildland fire clothing
- Goggles/clear-lens or sunglasses ANSI Z.87.1 Approved
- Welding PPE including gloves, helmet, jacket and apron
- Fire equipment mechanics and technician boots
- PPE gear bag

Fuels

- Wildland fire clothing
- Cold Weather wildland PPE
- Goggles/clear-lens or sunglasses ANSI Z.87.1 Approved
- Neck shroud
- Gloves
- Wildland Hot Shield
- Web gear
- OSHA approved HEPA filter mask
- PPE gear bag

B. Protective clothing for purposes of purchase and replacement shall not include clothing or uniforms as addressed in Article 45 (Clothing Allowance).

C. The District will promptly repair and/or replace such protective clothing damaged or destroyed as a result of wear and tear in the line of duty.

ARTICLE 40 – REPAIR/REPLACEMENT OF PERSONAL PROPERTY

A. The District shall reimburse the employee for the cost of repairing or replacing authorized personal property which is damaged or destroyed if such personal property is lost at fires or related emergencies in the performance of their duties. The reimbursement shall be made within thirty (30) days from approval of the claim. The list of authorized personal property shall include and be limited to eyeglasses, watches, contact lenses, and any other personal items approved by the Chief.

B. Reimbursement amounts shall be limited to two hundred dollars (\$200) per claim and five thousand dollars (\$5,000) in total for all District claims within the contract year.

ARTICLE 41 – COMMUNICABLE DISEASE

A. In the event an employee covered under this Agreement or their supervisor suspects that, as a result of the course of duty, they have been exposed to or is the carrier of a serious communicable disease; the employee may be relieved of duty without the loss of any pay or sick leave and shall be taken immediately to a local emergency hospital for diagnosis and treatment. It shall be the responsibility of the supervisor to determine if or when the employee is permitted to leave duty for this purpose.

B. Employees shall be provided with preventive measures designed to protect the employee against communicable diseases. These measures shall include, but are not limited to, medical procedures such as vaccines for Hepatitis, Flu, etc., blood tests, and Bodily Substance Isolation (BSI) such as, gloves, masks, and other products, equipment, and procedures that are intended to detect, prevent, or impede communicable disease. Participation in any medical procedures, such as vaccination and testing, shall be at the discretion of the employee and the Employer shall not be held responsible for any consequences to the employee as a result of the employee having or not having received any vaccinations or tests or their refusal to use BSI. This does not waive the employee's rights under Workers' Compensation.

ARTICLE 42 – EDUCATION INCENTIVE PAY

In order to receive these education incentives, employees must be full-time and have successfully completed the initial probation period required at the time the employee was hired or rehired by the District. An employee shall receive payment for education as outlined below:

A. The maximum education compensation paid to employees pursuant to this Article shall not exceed seven percent (7%) of base pay.

1. Education incentive will not be paid until a certified transcript and proof of completion of degree is provided to Human Resources and will not be retroactive.

B. Any employee who has achieved an associate degree in Fire Science or Emergency Management related field from an accredited college shall receive an additional one and one half percent (1 ½%) of their base pay.

C. Any employee who has achieved a bachelor's degree in Fire Science, Emergency Management, Education, Engineering, Business Management, Public Administration, Medical Care Services related degree, or Environmental Sciences related degree from an accredited college shall receive an additional two and one half percent (2 ½%) of their base pay. All bachelor degrees will qualify and will be effective on the date proof of completion/degree is submitted to Human Resources effective July 1, 2023.

D. Any Operational, Training or Fuels/Wildfire employee who has achieved certification (to include completed task book and qualification to function at full capacity) as a National Wildfire Coordinating Group (NWCG) Strike Team Leader/Task Force Leader or Division Supervisor shall receive an additional three percent (3%) of their base pay

E. Any Operations or Training employee who has achieved certification as a Fire Officer II or National Fire Academy Manager Officer (MO) or Executive Fire Officer (EFO) shall receive an additional three percent (3%) of their base pay.

F. Any Fire Prevention employee who has achieved certification as an ICC Building Plans Examiner or Fire Code Specialist shall receive an additional three percent (3%) of their base pay.

G. Any Fire Prevention employee who has achieved certification as an ICC Certified Fire Marshall or Certified Building Official shall receive an additional three percent (3%) of their base pay.

H. Any Fleet employee who has achieved certification as an ASE Master Technician shall receive an additional three percent (3%) of their base pay.

I. Any Fleet employee who has achieved certification as an EVT Master Level for Fire Apparatus Technician or Ambulance Technician ASE Master Technician shall receive an additional three percent (3%) of their base pay.

J. Any Fuels/Wildfire employee who has achieved State certification as a Herbicide Applicator with completion of the Resource Taskbook shall receive an additional one-and-one-half percent (1 ½%) of their base pay.

K. Any Fuels/Wildfire employee who has achieved certification through the ISA as an Arborist shall receive an additional one- and one-half percent (1 ½%) of their base pay.

ARTICLE 43 – TRAINING COURSES AND SEMINARS

Employees will be reimbursed for seminars and training programs pursuant to the following:

A. To be eligible for reimbursement, the seminar or training program must be approved fourteen (14) days in advance by the Fire Chief or their designee. If the training request is submitted less than fourteen days in advance, the Fire Chief or their designee has the authority to approve the training reimbursement request.

B. The training program must be directly related to improving the employees' proficiency in performing the assigned duties of their current position with the Truckee Meadows Fire Protection District; or otherwise directly related to the employees' career advancement within the Truckee Meadows Fire Protection District.

C. The employee shall, prior to enrollment in any seminar or training program for which reimbursement is sought, provide information to the Fire Chief. The information shall include location of course, seminar, or training program; dates; total costs; sponsor; and content of the educational course or seminar; together with reasonable information as may be required by the Fire Chief.

1. Only full-time employees, who have completed their initial probation with the Fire District, shall be eligible for reimbursement.
2. Unless approved otherwise by the Fire Chief, or their designee, such seminars or training programs shall be taken on the employee's own time.
3. No employee shall be reimbursed for more than seven hundred fifty dollars (\$750) per fiscal year for costs incurred within that fiscal year, unless otherwise approved by the Fire Chief or their designee.

D. Reimbursable expenses shall include the following: any fees for seminars or training programs, reasonable costs for required course materials, lodging, meals, and transportation. The employee shall pay all of the above costs in advance. Upon completion of the seminar or training program, the employee shall submit proof of satisfactory completion of the seminar or training or other evidence of attendance and detailed receipts of all costs incurred. Upon approval of the Fire Chief, the employee shall be reimbursed for costs up to seven hundred fifty dollars (\$750), unless otherwise approved by the Fire Chief or their designee.

E. Costs for classes or training that are required to maintain an employee's current job classification will not be counted toward the seven hundred fifty dollars (\$750) annual allotment.

F. All new hire employees will be required to receive no less than eighty (80) hours of training related to all applicable job functions of that employee's classification prior to being made eligible to respond to emergency calls.

G. Minimum training requirements of all firefighters eligible to respond to emergency calls within the District shall include the following:

1. All firefighters will maintain valid certification as a NV Firefighter II (or equivalent if changes are made to certification requirements after the agreement of this contract) in order to respond to any type of fire related incident. NV Firefighter II required by end of probation.
2. All firefighters must maintain current NWCG qualifications for the respective position being filled in order to be eligible for response to wildland fire incidents. Qualified personnel shall be issued a red card upon satisfactory completion of their annual physical.
3. All personnel who respond to medical incidents within the District shall maintain no less than an EMT-B certification.
4. All personnel shall receive a minimum of two hundred forty (240) hours of annual documented training in areas that comply with NFPA, NWCG, ISO, and OSHA guidelines in addition to position specific training above the firefighter level.

ARTICLE 44 – REIMBURSEMENT FOR MILEAGE

A. In the event an employee is required by the Fire Chief or their designated representative to use a personal vehicle for the conduct of District business, the employee

shall be reimbursed for each mile traveled at the current rate established by the current applicable IRS rate or the Board of Fire Commissioners, whichever is greater.

B. In the event an employee is contacted while off-duty and is required by the Fire Chief or their designated representative to report to a station which is not their regularly assigned station to work their regularly scheduled shift and if he needs to pick up their personal equipment at their regular station, said employee shall be paid mileage from their regular station to their newly assigned station. Retrieving personal equipment from their regularly assigned duty station is not to be considered hours worked.

ARTICLE 45 – CLOTHING ALLOWANCE

A. Each employee shall receive a clothing or uniform allowance in the amount of one thousand dollars (\$1,000) annually, payable in two (2) equal semi-annual installments on the first payday in July and the first payday in January.

B. Both parties further agree that a special emphasis will be placed on a "one uniform" concept. Any uniform changes are to be discussed between the Association and the District and must be mutually agreed on before being implemented.

C. In the event of a uniform change, all Fire District members who are required to wear a uniform will, within a one (1) year period from the effective date of the change, convert to the new type uniform.

ARTICLE 46 – RELIEF AT INCIDENT

It is the intent and desire of the District and the Association to avoid accidents and injuries on the emergency scene. Therefore, when an emergency incident requires the provision of proper relief personnel, facilities, and/or equipment (i.e. food, sanitation, and shelter), the District shall make reasonable efforts to obtain same to facilitate a safe and effective environment for those employees involved.

ARTICLE 47 – DISCIPLINE/DISCHARGE

A. The District shall not reprimand, demote, suspend, or discharge an employee without just cause. The term "just cause" includes the concept of progressive discipline, where appropriate. Progressive and corrective disciplinary action is designed to provide a fair and structured way for Employees to improve their job performance and/or behavior which do not meet the standards or demands of their position and to provide a system for fair and equitable treatment of those Employees who will not or cannot bring their performance up to expected standards.

1. It is the policy of the District, through a progressive and corrective discipline system, to give Employees an opportunity to improve their job performance and/or behavior which does not meet the standards or demands of their position. An Employee may be summarily dismissed only in the event of gross misconduct. The goal of the

progressive and corrective discipline system is to correct or improve unsatisfactory performance/behavior and the measures utilized will be commensurate with the deficiency to be corrected.

2. Progressive and corrective disciplinary action may begin at any of the steps defined below, depending on the seriousness of the offense committed, the frequency of occurrence, or the cumulative effect of multiple minor infractions. Verbal warnings or written reprimands may be administered by the employee's immediate supervisor, or the Fire Chief. A demotion, suspension or discharge shall be administered by the Fire Chief.

a. Verbal Warning/Reprimand – A verbal warning or reprimand is given to the Employee for the first occurrence of a minor offense.

b. Written Warning/Reprimand – A written or formal warning is given to the Employee in the first instance of more serious offenses or after repeated instances of minor offenses. The warning states the nature of the offense and specifies any future disciplinary action which may be taken against the Employee if the offense is repeated. A copy of the written warning is placed in the Employee's personnel file, but it is removed eighteen (18) months following the date on which it was given if the intervening service has been satisfactory. The Employee is required to read and sign the formal warning and has the right to appeal if the Employee thinks the warning is unjustified.

c. Suspension Without pay –

i. If, despite previous warnings, an Employee fails to reach the required standards in the specified time frame, the Employee may be suspended without pay. An employee may be suspended without pay without prior infractions for serious offenses. Under suspension, the Employee is barred from working for a period of time and their salary is docked accordingly. Suspension without pay actions could range from one (1) to five (5) shifts for line personnel and one (1) to ten (10) workdays for eight (8) or ten (10) hour personnel.

ii. An Employee may also be placed on suspension without pay pending discharge. A decision to suspend pending discharge is made based on the reasons for the discharge and is generally utilized when the Employee is suspected of gross misconduct or when their continued presence during the investigation period would be a disruption to normal District business.

iii. If the Employee is found to have been suspended inappropriately, pay and benefits for the period of suspension will be reinstated (except that if insurance has lapsed, coverage for time passed cannot be reinstated).

d. Discharge – An Employee who fails to correct unsatisfactory performance/behavior during previous steps in the progressive discipline procedure will be discharged. In the case of a serious infraction (gross misconduct), an Employee may be summarily discharged without benefit of the progressive and corrective discipline's sequence of lesser actions.

e. Notice of Intent – Before taking action to discharge, demote or suspend an Employee having permanent status, i.e., Employees who have successfully completed an initial probationary period of twelve months, the District shall serve on the Employee and the Association, (unless the Employee requests in writing that the Association not be notified), either personally or by certified mail, a "Notice of Intent" which shall contain the following:

i. A statement of the District's intention.

- ii. A statement of the cause or causes upon which the action is based.
- iii. A statement that the Employee may review and shall receive upon request, copies of material upon which the action is based.
- iv. A statement that the Employee has seven (7) calendar days to respond to the charges, either orally or in writing.
- f. The Employee or the Association, upon whom "Notice of Intent" has been served, shall have seven (7) calendar days to respond or protest to the District either orally or in writing before the proposed action may be taken.

B. Protest of Action:

1. The Association may protest any disciplinary action taken under this Article which shall be an appeal considered and processed in accordance with Article 48 (Grievance Procedure), commencing at step three (3), except as provided below.
2. A rejection of an Employee during a probationary period is not considered disciplinary action. Probationary Employees who are rejected during their probationary period (new hire & promotional probationary periods) are not subject to the grievance procedure if Article 14 (Promotions) is followed.
3. An Employee who is promoted and subsequently rejected during their promotional probationary period shall be returned to the lower classification from which he was promoted.

C. The parties recognize for the purpose of progressive discipline, nothing shall be used against an employee in a demotion, suspension or discharge action unless the employee has been notified in writing. In the event that there has been such notification, written reprimands shall not be used against an employee if it has been in the employee's file for a period of eighteen (18) months, discounting periods of leaves of absence, provided that there has been no notification for the same or similar conduct during that eighteen (18) month period. This eighteen (18) month limitation does not apply 1) to any discipline rising to the level of a suspension or demotion, or 2) to any disciplinary action taken against an employee arising out of a matter covered under Title VII of the Civil Rights Act of 1964. The purpose of the second exception is to allow consideration of both the seriousness of the employee's proven offense and the record of the employee with the County in determining the degree of discipline administered, given the County's specific legal obligations under Title VII.

D. Upon written request of an employee to the Fire Chief, disciplinary material that has been in the employee's file for a period of eighteen (18) months may be removed from the employee's personnel file at the discretion of the Chief, excluding those materials relating to Title VII referred to in Section D above.

E. Disciplinary materials removed from an employee's personnel file shall be maintained by the Human Resources Department as historical records of discipline imposed and for the purpose of providing a defense in any future employment litigation involving the District.

ARTICLE 48 – GRIEVANCE PROCEDURE

A. GENERAL

2. Definitions

a. **Grievance:** A grievance is a disagreement between an individual, or the Association, and the Employer concerning interpretation, application, or enforcement of the terms of this Agreement.

b. **Grievant:**

I. A District employee who is covered by the provisions of this Agreement and who is adversely affected by the matter being grieved, or the Association on behalf of an employee(s).

II. The Association may file a grievance alleging a violation of the provisions of this Agreement on matters impacting the bargaining unit, as a whole, such as conflicting interpretations of contractual provisions.

III. An employee covered by the terms of this Agreement is not precluded from acting for their self with respect to any condition of their employment, but any action taken on a request or in adjustment of a grievance shall be consistent with the terms of this Agreement.

c. **Day:** For purposes of this procedure, a day is defined as a calendar day.

B. PROCEDURE

1. **Informal:** The aggrieved employee shall take up the grievance with their immediate supervisor and/or Battalion Chief within fourteen (14) days of its occurrence. The Battalion Chief shall attempt to adjust the matter at the time.

2. If the decision of the Battalion Chief does not resolve the grievance, the Association shall proceed as follows:

Step One (1): Within fourteen (14) days of knowledge of the occurrence, the Association may submit a signed written grievance to the Fire Chief. Within five (5) days from the date the written grievance is received, the Fire Chief shall schedule a meeting with the Association to review and discuss the grievance for attempted resolution. The above may occur with or without the presence of the grievant. If the grievance is not settled, the Fire Chief shall respond in writing to the grievance within five (5) days of the date the meeting was conducted.

Step Two (2): Within ten (10) days following failure to settle the grievance under Step One (1), the Association may submit it to the Washoe County Labor Relations Manager. Within five (5) days from the date the written grievance is received, the Washoe County Labor Relations Manager or their designee shall schedule a meeting with the Association to review and discuss the grievance for attempted resolution. If the grievance is not resolved, the Labor Relations Manager shall provide a written response to the grievance.

Step Three (3): Within ten (10) days following failure to settle the grievance under Step two (2), the Association may submit it to arbitration.

3. The Arbitrator shall be selected in the manner prescribed by the Voluntary Labor Arbitration rule of the American Arbitration Association. The arbitration shall be conducted under the rules of the American Arbitration Association. The list of arbitrators, seven (7) names, may be obtained from the American Arbitration Association Fresno office. The parties shall select the arbitrator from the list by alternately striking one name until the name of only one arbitrator remains, which will be the arbitrator to hear the dispute. For the first grievance hearing the Association

shall strike the first name. From that point forward, the parties shall alternate striking first. With the mutual consent of the parties, expedited arbitration may be used.

4. The findings of this Arbitrator shall be final and binding on all parties concerned.

5. The costs of arbitration shall be borne as follows:

a. The expenses, wages, and other compensation of any witness called before the arbitrator shall be borne by the party calling such witness. Other expenses incurred such as professional services, consultations, preparation of briefs, and data to be presented to the Arbitrator shall be borne separately by the respective parties.

b. The Arbitrator's fees and expenses, and the cost of any hearing room, shall be borne equally by both parties to the arbitration.

c. If either party requests a court reporter, the requesting party will pay the costs of the reporter. If the record is transcribed, the requesting party will pay the transcription costs unless mutually agreed to share the cost. Any other party desiring a copy will pay for the copy. If the Arbitrator requires a reporter and transcript, the parties will share the cost equally.

6. Failure to Act: If the management response to a grievant at any level of the procedure is not appealed within the prescribed time limits, said grievance shall be considered settled on the basis of the last answer provided and there shall be no further appeal, review, or re-submission of said grievance. Should management not respond within the prescribed time limits, the grievance shall proceed to the next level.

7. Waiver of Time Limits: Any of the time limits contained in this procedure may be waived upon the mutual written agreement of both parties, except that the waiver of any of the time limits contained in Step one (1) of this procedure can only be agreed to on the part of the District by the Fire Chief or their Chief Deputy.

8. Settlement of Grievance Outside of Arbitration: The District shall accept no grievance settled by an employee in a classification represented by the International Association of Fire Fighters (I.A.F.F.), Local 2487, unless said employee has received the concurrence of the Fire Chief or their Chief Deputy on the settlement.

ARTICLE 49 – REDUCTION IN FORCE

A. District retains the right described in NRS 288.150(3)(b) to reduce in force or layoff any employee because of a lack of work or lack of money, as determined by the District, subject to the procedures described in this Article.

B. In the case of a personnel reduction and/or a reduction of services, due to the lack of work or lack of money, the employee with the least seniority shall be laid off first. All reduction in force shall be established by seniority in the Department. Departmental seniority shall be established from Article 50 (Seniority). Employees shall be recalled in the order of their seniority. No new employee shall be hired until all laid-off employees have been given opportunity to return to work.

1. The District shall notify the Association of the need to reduce the number of employees who are on payroll within the bargaining unit at least ninety (90) days before the effective date of a layoff. Such notice shall be given in writing addressed to the Association by certified mail. The notice shall disclose the number of positions affected, the rank or classification of each position so affected, and the division or divisions, if any, which are to be affected. Immediately after issuing the

notice, the District shall give the Association a reasonable period of time, of no less than thirty (30) days, within which it shall meet and negotiate. The District shall respond to any proposals, which the Association may make in response to the subject matter of notice.

2. Each employee who is to be reduced in rank or laid off as a consequence of a reduction in force or the disbandment of any division shall be given written notice, at least sixty (60) days before such action is to occur, of the date, purpose and nature of the action that is to be taken with regard to them. The notice shall state the reasons for the action, and any rights, which the employee may have under the Department Policies and Procedures or this agreement with regard to their employment. A copy of the notice also shall be delivered to the Association.

3. In the event that a reduction in force results in the need for a redistribution of employees from superior ranks to lesser ranks, such reductions in ranks shall be accomplished by reducing in rank those employees with the least tenure in the affected rank counting from the employee's date of promotion.

4. An employee who is laid off shall be paid for all accrued time in accordance with this agreement.

5. All employees who are reduced in rank or laid off shall not suffer any loss in benefit or entitlement accrued proper to the date of the action, e.g., holidays, vacation, personal leave, pension, and overtime, earned, accumulated and unused at the time of reduction in rank or layoff.

6. Each employee who is bumped out of rank or classification shall, in turn, be reduced only one rank, to the rank or classification immediately junior. This shall not pertain to layoffs, which shall be consistent with District seniority rights.

7. The employee shall receive the maximum salary for the lower grade. If the current salary is less than the maximum of the lower grade, the employee shall receive the closest salary rate of the lower grade.

8. No employee shall be promoted in a class where a demotion occurred due to a Reduction in Force until those who were demoted are offered positions in that Class.

9. For the purpose of this Article, employee is representative of those non-supervisory, supervisory, and emergency support personnel covered under Article 2 (Recognition) of this agreement.

10. In the event the District determines that it will offer employees incentives for voluntary, early separations of service or retirement, the District shall establish the criteria for eligibility and the amount of such incentive. Employees who elect to accept such offers may accept the incentive as a lump sum payment, and/or apply the incentive towards PERS credit purchases.

11. In the event a management level position such as Battalion Chief or other position outside of the positions represented by Local 2487 is eliminated and results in a layoff of those personnel, the affected person shall have the right to return to their previously held position provided they were promoted out of Local 2487 and not hired from the outside. Upon returning to said position, the class seniority shall be set at the same amount of time that existed upon last occupying such position. Any seniority that was accumulated in a management level position shall be excluded from the class seniority for the re-occupied position. In no event shall this provision be utilized to circumvent a disciplinary demotion or voluntary demotion.

ARTICLE 50 – SENIORITY

A. Seniority Defined

1. Seniority shall be based upon all continuous time with the State of Nevada Division of Forestry for employees hired by the District prior to July 1, 2006, in addition to time accrued with the District.
2. For employees formerly employed by the City of Reno Fire Department who transitioned employment to the District in June 2012, seniority shall be based upon all continuous time with the City of Reno Fire Department in addition to time accrued with the District.
3. For employees hired on or after July 1, 2006, seniority will be solely based on time with the District.
4. Periods of separation may not be bridged to extend such service unless the separation was the result of a layoff.

B. District Seniority

1. District seniority shall be determined by the following means:
 - a. Date of Employment
 - b. Entrance examination grade.
2. In the event Factor (a) is not conclusive, Factor (b) shall govern. In the event Factor (b) is not conclusive, seniority shall be determined by the drawing of lots.

C. Class Seniority

1. Seniority within a class shall be determined by the following means:
 - a. Date of promotion or appointment to the class, or in the case of an employee displacing to a lower class in which he has not held an appointment, the date in the lower class shall be the date of appointment or promotion in the higher class from which the employee is being reduced.
 - b. Examination score for that class.
 - c. District seniority.
2. In the event Factor (a) is not conclusive, Factor (b) shall govern and, in the event Factor (b) is not conclusive, Factor (c) shall govern.

D. Seniority List – The District and the Association agree that a seniority list showing the date of hire and the date of last promotion (when such is applicable) shall be established and brought up to date at the start of each fiscal year and posted on the Fire District bulletin boards. If no employee or the Association protests seniority shown on their behalf within forty-five (45) days of such posting, the seniority list shall stand as conclusive evidence of each person's seniority until the establishment of the new seniority list.

E. Seniority Station Bidding – Seniority for station bidding shall be determined by Class Seniority in accordance with the Districts Station Bidding Policy (C. of this section) for that position and shall not be determined by total District time, except in the event of a tie.

F. Seniority Broken – Seniority shall not be broken by annual leave, sick leave, maternity leave, military leave, or any other type of leave.

ARTICLE 51 – POLYGRAPH EXAMINATIONS

No member shall be compelled to submit to a polygraph examination against their will. No disciplinary action or other recrimination shall be taken against a member for refusing to submit to polygraph examinations. Testimony regarding whether an employee refused to submit to a polygraph examination shall be confined to the fact that, "Truckee Meadows Fire Protection District does not compel fire safety personnel to submit to polygraph examinations".

ARTICLE 52 – PHYSICAL EXAMINATIONS

A. Any and all examinations required by the Nevada Revised Statutes relating to District employment which are performed by a District designated physician shall be paid by the District at no cost to the employee.

B. It is the responsibility of the employee to schedule any and all examinations with a District designated physician pursuant to NRS 616, 617 and applicable Employees' Insurance of Nevada regulations, including Hazardous Materials exams as required by O.S.H.A, on or before the birthday month of the employee.

1. The District shall ensure the employee schedules such examinations while the employee is scheduled to be on or off duty. The District shall pay a minimum of two (2) hours overtime for each occurrence (scheduled physical examination) not to exceed six (6) hours, and shall be paid in accordance with Article 18 (Overtime).

2. All time requests of two (2) hours for each occurrence shall require that documentation be provided to the District by the District designated physician.

3. There shall be no loss of pay or any accrued leave to the employee.

4. If, as a result of the physical examination, further testing is required, any additional costs for testing shall be paid by the District.

5. Employees will be required to have their TB test read by a District Paramedic within the required time, no compensation will be provided for this.

C. An employee may elect to utilize their own personal physician to obtain an annual physical to comply with NRS 616 and 617. If an employee makes such an election, the employee shall be responsible for scheduling the examination, and such examination shall be administered while the employee is off duty. The time spent taking the examination shall be considered as hours worked, not to exceed six (6) hours.

1. The employee shall provide the District with the required information from such examination on or before their birthday month of each year.

2. The District shall pay for the cost of the examination with the employee's personal physician up to an amount equal to the cost of the examination with a District designated physician.

3. If as a result of the physical examination further testing is required, any additional costs for testing shall be paid by the District up to an amount equal to the cost of the examination with a District designated physician.

D. It is the responsibility of the employee to obtain an annual physical examination for the "Heart and Lung Bill" (NRS 616 and 617). The employee shall endeavor to schedule their examination during their birthday month. If this does not occur, pursuant to NRS, the

District shall schedule said appointment. The District shall not schedule any appointments that interfere with previously scheduled leave times. Employees who cannot successfully pass their physical exam shall be placed on appropriate work restrictions if work related. For non-work related conditions that cause an employee to be not fit for duty, the employee will utilize any accrued leave balances, or placed on a leave of absence if without leave, until the employee is able to successfully pass the physical examination.

ARTICLE 53 – ASSOCIATION BUSINESS

A. Any members of the Association Executive Board or Association Committee members shall have access to a 'pool' of man-hours donated by individual Association members. Each of these members may draw upon this 'pool' as needed or required to conduct Association business. The District agrees to annually contribute seventy two (72) hours to this pool on July 1st of each year.

B. It shall be the responsibility of the Association president to control the maintenance, usage, and records for said 'pool' time.

C. Safety Committee and/or Joint Labor-Management meetings will not require use of said 'pool' hours.

D. Subject to scheduling conflicts, the District agrees to allow the Association to use Employer property for Association meetings.

E. Release Time for Negotiations:

Two (2) members of the Association Negotiating Committee shall be allowed time off, with no loss of pay or any accrued leave, for any and all meetings between the District and the Association for the purpose of contract negotiations when such members are scheduled to be on duty.

F. Release Time for Grievances:

The District shall provide time off, with no loss of pay or any accrued leave, to the grievant and up to one (1) Association representative for any and all meetings between the District and the Association for the purpose of processing grievances when such members are scheduled to be on duty.

G. The parties agree the full cost of the leave provided for in this Article meets the requirements of NRS 288.225 that the Association pay for or reimburse this leave, and that the cost has been offset by the value of concessions made by Association in the negotiation of this agreement.

ARTICLE 54 – ASSOCIATION DUES DEDUCTION

A. The District shall cause dues to be deducted from the salaries of Association Members and promptly pay over to the proper officers of the Association the money so collected.

B. No deduction shall be made, except in accordance with a deduction authorization form individually and voluntarily executed by the employee for whom the deduction is made.

C. There shall be no restriction on the right of an employee to terminate their dues deduction authorization.

D. The Association shall certify to the District in writing the current rate of membership dues. The District will be notified of any change in the rate of membership dues thirty (30) days prior to the effective date of such change.

E. Upon written authorization to Payroll from an employee, either directly or through a limited power of attorney, the District agrees to deduct on a bi-weekly basis from the wages of said employee such sums as necessary for any other payroll deduction types authorized by the District. Each employee shall have the right to terminate such payroll deductions at any time upon written request to Payroll.

F. The employee's earnings must be regularly sufficient after other legal and required deductions are made to cover the amount of the appropriate Association dues. When a member in good standing of the Association is in non-pay status for an entire pay period, no withholding will be made to cover that pay period from future earnings. In the case of an employee who is in non-pay status during only part of the pay period, and the wages are not sufficient to cover the full withholding, no deductions shall be made. In this connection, all other legal and required deductions have priority over Association dues.

ARTICLE 55 – BULLETIN BOARDS

A. The District will furnish and maintain, in good repair, suitable bulletin boards in each fire station for use by the Association in posting Association notices and other information. There shall also be a Association bulletin board located in the Fire Prevention offices, the Fire Equipment Mechanic's shop, and the Fire Training office. Additionally, the District will furnish a working area for the Association computer and desk at each station.

B. It will be the responsibility of the Association to identify such boards as the I.A.F.F. board.

C. The Association agrees to hold the District harmless for all materials posted upon the Association bulletin boards.

D. The material posted on bulletin boards shall not be obscene, defamatory, or of a partisan political nature. All posted material shall bear the identity of the sponsor, shall be neatly displayed, and shall be removed as soon as no longer timely.

ARTICLE 56 – MAINTENANCE OF EXISTING CONDITIONS

A. The District agrees to maintain the following for the duration of this Agreement:

1. The use of all public utilities in the fire station.

2. Recreational time and exercise periods subject to the approval of the immediate supervisor.
3. The right to work on personal projects and use station facilities after normal working hours, subject to approval of the immediate supervisor.
4. The provision of personal lockers with a serviceable locking mechanism.
5. The provision of kitchen appliances and cooking utensils and the prompt replacement of those items as needed.
6. The initial provision of shield and nametag.
7. The provision of release time at no loss of pay for voting privileges in any state, national, or local election.
8. The provision of potable water where applicable.
9. The District shall provide all employees a copy of the Agreement presently in effect. The District and the Association agree to share equally the cost of printing and reproduction of the Agreement.

B. The District shall at all times maintain the stations in a habitable condition. A station is not habitable if it substantially lacks one or more of the following:

1. Effective waterproofing and weather protection of roof and exterior walls and doors.
2. Plumbing facilities that conform to applicable law when installed and which are maintained in good working order.
3. A water supply approved under the law and capable of producing hot and cold running water, furnished with appropriate fixtures and connected to a sewage disposal system approved under applicable law and maintained in good working order to the extent that the system can be controlled by the District.
4. Adequate heating facilities that conform to applicable law when installed and are maintained in good working order.
5. Electrical lighting, outlets, wiring, and electrical equipment that conformed to applicable law when installed and are maintained in good working order.
6. Floors, walls, ceilings, stairways, and railings maintained in good repair.
7. Ventilating, air conditioning, and other facilities and appliances maintained in good repair.
8. Stoves for meal preparation and dishwashers for sanitation purposes. Said appliances shall be maintained in good repair.
9. Washer and dryer for washing station towels, rags, etc.

C. In the event that repairs and/or maintenance beyond that which is commonly performed by employees becomes necessary, the District shall perform or otherwise arrange for the performance of such repairs and/or maintenance. The District shall perform or arrange for the performance of remodeling as needed to maintain station in good repair and in habitable condition.

ARTICLE 57 – PERSONNEL FILES

A. The District will maintain a personnel and health file on each employee.

B. Any employee has the right to review their personnel file and/or health file upon request to Human Resources and by appointment. This right is limited to the individual

employee to review their own personnel file and/or health file. However, an employee may, with proper release forms, permit their personnel file and/or health file to be reviewed by a party so authorized upon presentation of properly executed forms to Human Resources.

C. Employees are encouraged to place in their files any educational or other accomplishments that serve to recognize an achievement bearing on both the employee and the District.

D. Only those people working in Human Resources, those people in the immediate chain of command of the employee, and the Fire Chief shall have access to an employee's files. In addition, the District's authorized attorney(s) shall have the right to access an employee's files for legitimate personnel purposes related to discipline, complaints, grievances, arbitrations, and lawsuits involving the employee.

E. Any derogatory materials placed in an employee's files shall be copied to the employee. The time, date, and name of the individual responsible for placing derogatory information into a file shall also be given to the employee.

F. Any employee under this policy, upon reviewing their personnel file and/or health file who finds inaccurate or misleading material, may prepare and present to Human Resources a clarifying statement pertaining to the document in question requesting removal of said document from their personnel file and/or health file.

G. No information from any employee personnel file and/or health file may be given to a for-profit business without the written permission of the employee.

H. Unless otherwise directed by the employee, the Association shall be notified within five (5) working days of any disciplinary materials placed in an employee's files.

ARTICLE 58 – SPECIALTY PAY

A. Employees who are certified as Hazardous Materials Technicians in accordance with CFR-29, SARA Title 3 and a member of the Triad HazMat team shall be paid an additional three percent (3%) assignment differential pay. Eligibility for this incentive will be dependent upon meeting the guidelines set forth in Policy to include, but not limited to, allocation among the ranks, station assignment, and current standards for training. The maximum number of employees eligible to receive this incentive shall be thirty (30).

B. Employees who meet all requirements of training and are certified as Swift Water Rescue Technicians and a member of the Water Entry Team shall be paid an additional three percent (3%) assignment differential pay. Eligibility for this incentive will be dependent upon meeting the guidelines set forth in Policy to include, but not limited to, allocation among the ranks, station assignment, and current standards for training. The maximum number of employees eligible to receive this incentive shall be thirty (30).

C. Captains assigned to a Training Captain Position:

1. Shall receive additional assignment differential pay as described below:

- a. 40-hour Training Captain shall receive an additional ten percent (10%) assignment differential pay
- b. 56-hour Training Captain shall receive an additional five percent (5%) assignment differential pay
- c. Personnel assigned to academy cadre positions (regardless of rank) shall receive a ten percent (10%) assignment differential, unless already receiving Training Captain differential. Academy cadre personnel will only receive the 10% differential, and not the five percent (5%) incentive listed below for teaching assignments.

D. Employees not assigned to training who are teaching approved specialty classes and/or special assignments may receive an additional five percent (5%) premium pay during the hours they teach or are otherwise engaged in the assignment with the approval of the Chief or their designee.

ARTICLE 59 – EMS PAY

A. The District will provide additional compensation to all employees who maintain EMT-Advanced or Paramedic certifications through the District only as described herein. Personnel assigned to the rank of Firefighter/Paramedic will not qualify for additional compensation. Personnel who maintain EMT-Advanced or Paramedic certifications outside the rank of Firefighter/Paramedic shall be entitled to receive compensation for the highest of the two certifications, but not both. Qualified Paramedics outside of the rank of Firefighter/Paramedic shall be expected to perform ALS functions AS NEEDED and maintain apparatus ALS licensure.

B. Any change in requirements for certification by the State and District shall cause this section to be renegotiated.

- 1. EMT-Advanced: All personnel maintaining current EMT-Advanced certification with the District shall receive compensation equivalent to three percent (3%) of base pay, included in each bi-weekly payroll.
- 2. Paramedics: All personnel maintaining current Paramedic certification with the District shall receive compensation equivalent to six percent (6%) of base pay, included in each bi-weekly payroll.

C. Being the sole ALS Provider without a Firefighter/Paramedic

- 1. Any employee employed at the rank of Captain or Engineer who works as the sole ALS provider on an apparatus for two (2) or more full shifts in a pay period shall receive the differential of pay between a Firefighter and Firefighter/Paramedic for all hours worked as the sole ALS provider during those shifts.
 - (a) A full shift is defined as a twenty four (24) hour period.
- 2. No employee employed at the rank of Captain or Engineer who works as the sole ALS provider on an apparatus for less than two (2) full shifts in a pay period shall receive the differential of pay for any hours so worked.
- 3. Only one employee shall receive the differential pay. It is mutually understood by the parties that the lower ranking employee who is performing the duty will receive the differential pay.

4. For every hour for which the employee is entitled to the differential in pay as described above they shall be paid at the hourly rate and at the differential in effect on the day the employee worked.

D. Those employees who fill a position on an in-service Medic Unit shall be entitled to an increase of 5% in salary for the hours assigned in quarter hour increments.

ARTICLE 60 – CONSOLIDATION

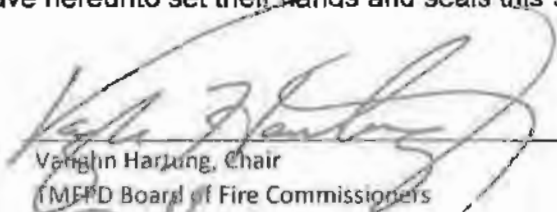
A. The District agrees to negotiate, including all provisions provided by NRS 288 and this contract within the scope of representation of Local 2487 I.A.F.F., with the Association over the impact and effects on represented employees of any decision to consolidate, merge, contract, subcontract, or any other form of transfer or placement to another entity, of any function which Local 2487 I.A.F.F. has a legal interest.

B. For the purpose of this Article, 'employee' is representative of those non-supervisory, supervisory, and emergency support personnel covered under Article 2 (Recognition) of this Agreement.

ARTICLE 61 – EXECUTION DATE

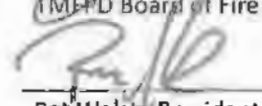
This Agreement was mutually agreed upon by the parties, ratified by the Association, and adopted by the Board of Fire Commissioners. The parties hereto through their duly authorized officers or representatives and intending to be legally bound hereby have hereunto set their hands and seals this sixth (6th) day of June, 2022.

District


Vaughn Harjung, Chair
TMD Board of Fire Commissioners

6/7/2022
Date

Association


Pat Walsh - President
IAFF Local 2487

6/22/2022
Date

**Appendix A - Salary Schedule
Effective July 1, 2022**

<u>Classification</u>	<u>Step</u>	3% COLA	3% COLA	2.75% COLA	2.75% COLA
		7/1/2022	1/1/2023	7/1/2023	1/1/2024
		FY 22/23	FY 22/23	FY 23/24	FY23/24
Fire Captain (2912 Hours) Police/Fire PERS	1	26.53	27.33	28.08	28.85
	2	28.34	29.19	29.99	30.81
	3	30.26	31.17	32.03	32.91
	4	32.29	33.26	34.17	35.11
	5	34.51	35.54	36.52	37.52
Fire Captain (2080 Hours) Police/Fire PERS	1	37.15	38.27	39.32	40.40
	2	39.68	40.87	41.99	43.14
	3	42.34	43.61	44.81	46.05
	4	45.20	46.55	47.83	49.15
	5	48.30	49.75	51.11	52.52
Fire Captain Prevention (2080 Hours) Regular PERS	1	39.51	40.70	41.82	42.97
	2	42.19	43.45	44.65	45.88
	3	45.02	46.37	47.65	48.96
	4	48.06	49.50	50.86	52.26
	5	51.36	52.90	54.35	55.85
Engineer (2912 Hours) Police/Fire PERS	1	23.63	24.34	25.01	25.69
	2	25.24	25.99	26.71	27.44
	3	26.93	27.74	28.51	29.29
	4	28.76	29.62	30.43	31.27
	5	30.75	31.67	32.54	33.43
Engineer (2080 Hours) Police/Fire PERS	1	33.08	34.08	35.01	35.98
	2	35.34	36.40	37.40	38.43
	3	37.73	38.86	39.93	41.03
	4	40.27	41.48	42.62	43.79
	5	43.04	44.34	45.55	46.81
Firefighter/Paramedic (2912 Hours) Police/Fire PERS	1	23.63	24.34	25.01	25.69
	2	25.24	25.99	26.71	27.44
	3	26.93	27.74	28.51	29.29
	4	28.76	29.62	30.43	31.27
	5	30.75	31.67	32.54	33.43

Firefighter/Paramedic	1	33.08	34.08	35.01	35.98
(2080 Hours)	2	35.34	36.40	37.40	38.43
Police/Fire PERS	3	37.73	38.86	39.93	41.03
	4	40.27	41.48	42.62	43.79
	5	43.04	44.34	45.55	46.81

Firefighter/EMT	1	20.65	21.27	21.86	22.46
(2912 Hours)	2	22.06	22.72	23.35	23.99
Police/Fire PERS	3	23.57	24.27	24.94	25.63
	4	25.15	25.91	26.62	27.35
	5	26.84	27.65	28.41	29.19

Firefighter/EMT	1	28.92	29.79	30.61	31.45
(2080 Hours)	2	30.88	31.81	32.68	33.58
Police/Fire PERS	3	32.99	33.98	34.92	35.88
	4	35.23	36.28	37.28	38.31
	5	37.57	38.70	39.77	40.86

EMS Coordinator	1	37.15	38.27	39.32	40.40
(2080 Hours)	2	39.68	40.87	41.99	43.14
Regular PERS	3	42.34	43.61	44.81	46.05
	4	45.20	46.55	47.83	49.15
	5	48.30	49.75	51.11	52.52

Logistics Coordinator*	1	25.33	26.09	26.80	27.54
(2080 Hours)	2	27.22	28.04	28.81	29.60
Regular PERS	3	29.11	29.98	30.81	31.65
	4	31.00	31.93	32.81	33.71
	5	32.89	33.87	34.81	35.76

Fire Inspector I	1	32.27	33.24	34.15	35.09
(2080 Hours)	2	34.07	35.09	36.06	37.05
Regular PERS	3	35.99	37.07	38.09	39.13
	4	38.00	39.14	40.21	41.32
	5	40.08	41.28	42.41	43.58

Fire Inspector I	1	30.46	31.37	32.23	33.12
(2080 Hours)	2	32.16	33.12	34.03	34.97
Police/Fire PERS	3	33.96	34.98	35.94	36.93
Promotional	4	35.86	36.94	37.96	39.00
	5	37.84	38.98	40.05	41.15

Fire Inspector II	1	37.13	38.25	39.30	40.38
(2080 Hours)	2	39.17	40.35	41.46	42.60
Regular PERS	3	41.32	42.56	43.73	44.94
	4	43.60	44.91	46.14	47.41
	5	46.10	47.49	48.79	50.13

Fire Inspector II	1	35.04	36.09	37.08	38.10
(2080 Hours)	2	37.01	38.12	39.17	40.24
Police/Fire PERS	3	39.09	40.26	41.37	42.51
Promotional	4	41.27	42.51	43.68	44.88
	5	43.54	44.84	46.08	47.34

Fire Mechanic	1	31.84	32.79	33.69	34.62
(2080 Hours)	2	33.99	35.01	35.97	36.96
Regular PERS	3	36.29	37.38	38.40	39.46
	4	38.74	39.90	41.00	42.13
	5	41.40	42.64	43.81	45.01

Fire Squad Boss	1	27.63	28.46	29.25	30.05
(2080 Hours)	2	29.46	30.34	31.18	32.03
Regular PERS	3	31.40	32.35	33.24	34.15
	4	33.49	34.49	35.44	36.41
	5	35.71	36.78	37.79	38.83

Fire Crew Member	1	21.41	22.06	22.66	23.29
(2080 Hours)	2	22.87	23.55	24.20	24.87
Regular PERS	3	24.42	25.15	25.85	26.56
	4	26.08	26.86	27.60	28.36
	5	27.80	28.63	29.42	30.23

Fire Crew Boss	1	33.08	34.08	35.01	35.98
(2080 Hours)	2	35.34	36.40	37.40	38.43
Regular PERS	3	37.73	38.86	39.93	41.03
	4	40.27	41.48	42.62	43.79
	5	43.04	44.34	45.55	46.81

Heavy Equipment Operator	1	27.63	28.46	29.25	30.05
(2080 Hours)	2	29.46	30.34	31.18	32.03
Regular PERS	3	31.40	32.35	33.24	34.15
	4	33.49	34.49	35.44	36.41
	5	35.71	36.78	37.79	38.83

* Effective 7/1/22 the Logistics Coordinator will move to the next step above their current wage OR go up by the 3% COLA above their current wage, whichever is greater. Regular increases would follow thereafter

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ron@dreherlaw.net
Attorney for Complainant

FILED
January 31, 2024
State of Nevada
E.M.R.B.
4:20 p.m.

BEFORE THE STATE OF NEVADA
GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS BOARD

EDWIN MARTIN,

Complainant.

Case No.: 2023-036

vs.

Panel:

TRUCKEE MEADOWS FIRE
PROTECTION DISTRICT,

Respondent.

REPLY IN OPPOSITION TO MOTION TO DISMISS
FIRST AMENDED COMPLAINT

COMES NOW, Complainant EDWIN MARTIN, (“Complainant” or “Engineer Martin”), by and through his undersigned attorney, hereby files his Reply in Opposition to Motion to Dismiss First Amended Complaint filed by Respondent TRUCKEE MEADOWS FIRE PROTECTION DISTRICT, (“TMFPD”), on January 17, 2024, and moves the Board to deny the Motion in its entirety and order the parties to file Prehearing Statements within twenty-one days of the order pursuant to NAC 288.250.

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MEMORANDUM OF POINTS AND AUTHORITIES

I. FACTS

Engineer Martin's promotion to captain at the TMFPD was not confirmed in a meeting held on July 11, 2023. At this meeting, and on the subsequent documentation, Engineer Martin disagreed with the decision and requested reconsideration, which was denied. Engineer Martin, on or about July 15, 2023, then consulted with Truckee Meadows Fire Fighters Association, I.A.F.F. Local 2487, ("Association"), President Pat Walsh, Secretary Ryan Whitlock and legal counsel Tom Donaldson to address bringing a grievance. These individuals advised Engineer Martin that the collective bargaining agreement, ("CBA"), did not permit him to grieve the failure of TMFPD to promote him to captain and the Association would not be pursuing a grievance on his behalf.

On July 12, 2023, Engineer Martin filed a complaint for discrimination against Chief James Solaro with the TMFPD human resources department as CBA does not permit claims of discrimination to be addressed through the grievance resolution process. On September 8, 2023, Engineer Martin again asked for reconsideration of his promotion to captain. (Ex. 1.) On September 27, 2023, Engineer Martin received the summary and conclusions of the investigation where it was determined that Chief Solaro had violated policy and procedures by conducting an unauthorized investigation into Engineer Martin's off-duty conduct. (Ex. 2.) On November 20, 2023, Engineer Martin received a letter from Deputy Fire Chief Chris Ketring denying his request to be promoted to captain retroactive to July 12, 2023. (Ex. 3.) Upon receiving unequivocal knowledge of this final adverse action, Engineer Martin filed his Complaint with the Board on December 29, 2023.

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II. ARGUMENT

a. Legal Authority

NAC 288.375 states in part that a matter may be dismissed, “if the Board determines that no probable cause exists for the complaint” or and “[u]nless there is a clear showing of special circumstances or extreme prejudice.” The Board, in determining whether to dismiss a complaint, looks to whether the complaint fails to allege a violation of NRS 288 and therefore fails to state a claim. *Clark Cty. Classroom Teachers Ass’n v. Clark County School District*, EMRB Item 210, Case No. AI-045428 (1988).

A claim of discrimination based on personal and/or political reasons that is brought under NRS 288.270(1)(f) is examined applying the burden shifting framework set forth in *Reno Police Protective Ass’n v. City of Reno*, 102 Nev. 98, 715 P.2d 1321 (1986). This burden shifting framework was later modified in *Bisch v. Las Vegas Metro Police Dep’t*, 129 Nev. Adv. Op. 36,302 P.3d 1108 (2013) and reiterated in *Bonner v. City of N. Las Vegas*, EMRB Item 820, Case No. 2015-027 (2017). An employee making a claim under this statute must make “a *prima facie* showing sufficient to support the inference case that the protected conduct was a motivating factor in the employer’s decision.” *Bisch*, 302 P .3d at 1116. Once the employee has established this showing, the “burden then shifts to the employer to demonstrate by a preponderance of the evidence that the same action would have taken place even in the absence of the protected conduct.” *Id.* The employee making the claims “may then offer evidence that the employer’s proffered legitimate explanation is merely pretextual and thus conclusively restore the inference of unlawful motivation.” *Id.* As noted, this same framework applies to claims brought under NRS 288.270(1)(d), which includes claims of discrimination for having chosen to be represented by an employee organization.

1 A claim brought under NRS 288.270(1)(f) for discrimination based on race is
2 evaluated using the framework set forth in *City of North Las Vegas v. Local Government*
3 *Employee Management Relations Board*, 127 Nev. ___, 261 P.3d 1071 (2011). Using this
4 framework, a complainant can establish a prima facie case of discrimination by establishing
5 (1) that they are a member of a protected class; (2) that they were qualified for their job; (3)
6 that they were subject to an adverse employment action; and (4) that similarly situated
7 employees received more favorable treatment. *Id.* 216 P.3d at 1078. If the complainant can
8 meet this burden, the respondent then has the burden to articulate a “legitimate non-
9 discriminatory reason for its actions.” *Id.*

12 **b. Complainant exhausted all required contractual remedies.**

13 It is well established that the “Board is permitted to hear and to determine any
14 complaint arising out of the interpretation of, or performance under, the provisions of Chapter
15 **288.”** *I.A.F.F. Local 731 v. City of Reno*, EMRB Item No. 257, Case No. A1-045466 (1991).

16 The allegations in this case are that Respondents discriminated against Engineer
17 Martin for personal and/or political reasons and based on his protected class. These allegations
18 are directly related to Respondents’ violations of NRS Chapter 288 and are ones in which the
19 Board is clearly permitted to hear and determine. *Id.* In its Motion, the TMFPD argues that
20 Engineer Martin “made no effort whatsoever to exhaust his contractual rights prior to filing
21 this action.” (Motion at p. 4:7-8.) This is factually inaccurate and demonstrates the TMFPD’s
22 lack of understanding of its own CBA.

23 First, Article 8(A) of the CBA specifically states that “[t]he parties agree to not
24 discriminate against any employee pursuant to NRS 613.330. (Motion Ex. 1 at pp. 3-4.) NRS
25 613.330(1)(a) makes it an unlawful employment practice for an employer to “fail or refuse to
26 hire or to discharge any person, or otherwise to discriminate against any person with respect to

4 the person's compensation, terms, conditions or privileges of employment, because of his or
her race, color, religion, sex, sexual orientation, gender identity or expression, age, disability
6 or national origin." (Ex. 4.) Article 8(D) mandates that any "complaint alleging a violation of
this Article shall be submitted to the appropriate administrative agency(ies) having
responsibility for enforcing State and Federal laws governing non-discrimination in
employment and shall not be subject to the Article 48 (Grievance Procedure)." (Motion Ex. 1
at pp. 3-4.)

3 As this language clearly and unambiguously states, Engineer Martin's claims of
discrimination based on race under NRS Chapter 288 are procedurally barred from being
taken through the grievance process in the CBA. As such, he had no ability or obligation to
file a grievance on this alleged prohibited practice prior to filing his Complaint with the Board.
Therefore, there was no contractual remedy to exhaust and Engineer Martin's complaint for
discrimination based on race is properly before the Board.

1 Next, Article 48 of the CBA outlines the grievance procedures an employee must
follow when there is a dispute over the "interpretation, application or enforcement of the
19 terms" of the CBA. *Id.* at p. 36. Article 48(B) sets forth the first step in the grievance process
20 and mandates the employee "take up the grievance with their immediate supervisor and/or
Battalion Chief within fourteen (14) days" of the issue occurring. *Id.* In the present case,
22 Engineer Martin disputed the issue, both verbally and in writing, to his Battalion Chiefs,
Solaro and Black, immediately upon being made aware that he was not being confirmed to the
captain position. (Ex. 5.) Chiefs Solaro and Black took no further action and on July 12, 2023,
Division Chief Joe Schum responded to Engineer Martin's request for an extended probation
period by denying the request. (Ex. 6.) This ended the first step in the grievance process under
24 Article 48(B)(1). (Motion Ex. 1 at p 36.)

Article 48(B)(2) outlines the next step in the grievance process when a resolution is not met at step 1, or the informal step. *Id.* This subsection states that if “the decision of the Battalion Chief does not resolve the grievance, the Association shall . . . submit a signed written grievance to the Fire Chief.” *Id.* (Emphasis added.) This subsection goes on to describe the timeframes surrounding the grievance process and step three defines that within ten days “following the failure to settle the grievance under step two (2), the Association may submit it to arbitration.” *Id.* (Emphasis added).

As noted above, within days of the July 11, 2023, meeting, Engineer Martin, having already exhausted the first step in the grievance process, had a meeting with Association President Pat Walsh, Secretary Ryan Whitlock and Association legal counsel Tom Donaldson. This meeting was held so that Engineer Martin could request the Association proceed to the next step in the grievance process as required under Article 48(B)(2). At this meeting, the Association representatives and counsel notified Engineer Martin that he was unable to grieve the failure of the TMFPD to promote him to captain as this was not permitted under the CBA. The Association also advised Engineer Martin that it would not be moving the grievance to step two of the process, and that his administrative remedy under Article 48 was exhausted. However, Engineer Martin asked the Association to reconsider its refusal to move to the next step in the grievance process. The Association then contacted Engineer Martin on a conference call with the entire Executive Board and reiterated that, after consulting with its legal counsel, it would not be moving the grievance to the next step. Therefore, Engineer Martin did indeed exhaust his contractual remedies prior to bringing his Complaint to the Board, and this matter is properly before the Board.

Moreover, even if were permissible for Engineer Martin to grieve the TMFPD’s failure to promote him to captain, his claims of discrimination based on personal and/or political

1 reasons are not grievable under Article 48 of the CBA as these disputes are limited solely to
2 the “interpretation, application or enforcement of the terms” of the CBA, while Engineer
3 Martin’s claims are based upon NRS 288.270.

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9 Furthermore, NAC 288.375(2) permits the Board to dismiss a matter unless there is a
10 “clear showing of special circumstances or extreme prejudice.” As demonstrated above, even
11 if the Board were to determine that Engineer Martin had not exhausted his contractual remedy,
12 which he has, it would still be improper to dismiss his Complaint given the special
13 circumstances described herein and the extreme prejudice this would cause. First, the CBA
14 does not permit Engineer Martin to bring his discrimination claims through the grievance
15 process, and dismissing this claim here would remove his remedy and cause him extreme
16 prejudice. Second, Engineer Martin followed the grievance process for the TMFPD’s failure to
17 promote him to captain and sought out advice from his Association and Association’s legal
18 counsel. Based on this information, Engineer Martin, as would any reasonable person,
19 understood that his ability to pursue the grievance had been exhausted.

20
21 Finally, Engineer Martin’s claim for discrimination based on personal and/or political
22 reasons are not covered by the CBA and a dismissal of his claims would effectively deny him
23 a remedy. Thus, dismissal under NAC 288.375, would be improper in this case and the Board
24 has the discretion to hear and rule on this matter. *See Operating Engineers Local Union No. 3*
25 *v. Incline Village General Improvement District*, EMRB Item No. 864-C, Case 2020-012
(2020), this matter.

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c. **Claims under NRS 288.20(1)(f).**

Applying the *RPPA Bisch* burden shifting framework to the claims brought forth by
Engineer Martin it is obvious that he has established a *prima facie* case for discrimination
based on personal and/or political reasons.

2 The Board has previously defined discrimination for personal reasons and/or political
3 reasons as including "non-merit-or-fitness factors and would include the dislike of or bias
4 against a person which is based upon an individual's characteristics, beliefs, affiliations, or
5 activities that do not affect the **individual's** merit or fitness for a particular job." *Kilgore v.*
6 *City of Henderson*. Item No. 550H, EMRB Case No. AI-045763 (2005).

7 As detailed in the Complaint, Engineer Martin received standard or above ratings in
8 the three evaluations he received during the probationary period. (Compl. at ¶¶ 7-8, 10.) For
9 the final quarter of his probationary period, the evaluators changed to Chief James Solaro and
0 Chief Christopher Black. *Id.* at ¶ 11. Upon information and belief, Chief Solaro's personal
1 animus toward Engineer Martin was determining factor in Engineer Martin not being
2 confirmed to the position of captain. *Id.* at ¶¶ 12-18. This was verified by the fact that Chief
3 Solaro was found to have violated policy by conducting an unauthorized investigation into
4 Engineer Martin's non-work related arrest for which all charges were dismissed. *Id.* at ¶ 24. In
5 fact, the reasons offered for Engineer Martin's "failure" to pass his probationary period were
6 never documented in the previous evaluations. These reasons, focusing on communication, are
7 extremely subjective and are seemingly based on the personal feelings of the evaluators and
8 are not based in fact. (Ex. 5.) This is clearly demonstrated in the three previous evaluations
9 where Engineer Martin is given meets expectations in his ability to "[c]ommunicate in a clear,
0 concise manner both orally and in writing, tailoring the message the intended audience;" (Ex.
1 7.) Engineer Martin did not have any communication issues between his third evaluation and
2 the final evaluation, and the only thing that changed was the individuals conducting the
3 evaluation. Thus, the evidence clearly supports Engineer Martin's promotion to captain was
4 not confirmed for non-merit or fitness factors. *Kilgore*. Item No. 550H.

Having established a *prima facie* case, the burden now shifts to Respondents to show they would have taken the same actions despite the protected class and activities. *Bisch*, 302 P.3d at 1116. Respondent fails to even address the claims and have provided no proof that its actions would have been taken against Engineer Martin despite his claims of discrimination based on personal and/or political reasons. (Motion at pp. 5-7.) Respondent chose to simply ignore the specific allegations of discrimination based on non-merit or fitness factors in the Complaint and focus instead only on the claims of racial discrimination. This clearly demonstrates Respondent does not dispute the Complaint has raised a justiciable controversy under NRS 288.270(1)(f).

Regarding Engineer Martin's **claims for discrimination based on race**, the Board uses the framework set forth in *City of North Las Vegas*, 216 P.3d at 1078. As described previously, under this framework, a complainant can establish a *prima facie* case of discrimination by establishing (1) that they are a member of a protected class; (2) that they were qualified for their job; (3) that they were was subject to an adverse employment action; and (4) that similarly situated employees received more favorable treatment. *Id.* 216 P.3d at 1078. If the complainant can meet this burden, the respondent then has the burden to articulate a "legitimate non-discriminatory reason for its actions." *Id.*

Applying this framework to Engineer Martin's case, the first prong is met. Engineer Martin's children are half-Hispanic and Engineer Martin's familial racial makeup places him into a protected class for which it is unlawful to discriminate against him based on this. *See Bostock v Clayton Cty.*, 140 S. Ct. 1731 (2020).

It is unquestioned that Engineer Martin was and is qualified for the captain position. He performed these duties on a temporary basis for several years prior to being promoted into this position. Moreover, in the very evaluation where he is told he is not being confirmed to

1 the position of captain, the evaluator states “Ed is able to perform the job-related aspects of the
2 Captain position.” (Ex. 5.) Thus, prong two has been met.

3 In evaluating the remaining two prongs, there is no doubt that the failure to confirm
4 Engineer Martin into the captain position is an adverse employment action. Additionally, it is
5 on information and belief that Engineer Martin is the only employee with mixed race children
6 to have not been confirmed to the position of captain. As such, prongs three and four have
7 been met and Engineer Martin has established a prima facie case of discrimination based on
8 race. *City of North Las Vegas*, 216 P.3d at 1078.

9 In its Motion, the TMFPD only argues that there was no intent on Chief Solaro’s part
10 when he sent dark brown emojis to Engineer Martin, but it does not provide any legitimate,
11 non-discriminatory reason for such emojis to be sent. Both Engineer Martin and Chief Solaro
12 are White, there is no proffered reason for why Chief Solaro, knowing Engineer Martin’s
13 children are half-Hispanic, intentionally changed the skin color of the emoji symbol he sent to
14 Engineer Martin to be dark brown, universally accepted to be the skin color of Hispanic
15 individuals. Given this failure to offer a legitimate, non-discriminatory reason for its
16 **representatives’** actions, coupled with the above discussed personal animus demonstrated by
17 Chief Solaro toward Engineer Martin, the TMFPD has failed to meet its burden. *Id.*

18 Therefore, Engineer Martin has raised justiciable claims under NRS 288.170(1)(f) and
19 his Complaint must survive this Motion to dismiss. *Billings and Brown*, EMRB Item No. 751.

20 III. CONCLUSION

21 The Complaint was made under NRS Chapter 288, alleging violation of this Chapter,
22 and the Board is the only available remedy for these claims. As there is no either no
23 contractual remedy to exhaust or the contractual remedies have been exhausted, and these
24 claims **are in the Board’s exclusive jurisdiction, granting Respondents’** motion to dismiss

would not be appropriate here as it would effectively eliminate Engineer Martin's ability to obtain relief. *I.A.F.F. Local 731*, EMRB Item No. 257. Engineer Martin has met his burden under the *RPPA Bisch* and *City of North Las Vegas* burden shifting frameworks and has demonstrated why the Respondents' reasons for its decisions were pretextual, discriminatory, and motivated by non-merit or fitness factors.

Based on the foregoing, Complainant Edwin Martin hereby respectfully requests entry of an order denying the Respondents' Motion to Dismiss, allowing recovery on his Complaint, and order the parties file Prehearing Statements in accordance with NAC 288.250.

Dated this 31st day of January, 2024

/s/ Ronald J. Dreher
Ronald J. Dreher
NV Bar No. 15726
P.O. Box 6494
Reno, NV 89513
Telephone: (775) 846-9804
ron@dreherlaw.net
Attorney for Complainant

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CERTIFICATE OF SERVICE

Pursuant to NAC 288.070, the undersigned hereby certifies that I am the counsel for Edwin Martin and that on this date I served a true and correct copy of the preceding document addressed to the following:

Christopher Hicks
Washoe County District Attorney
Wade Carner, Esq.
Deputy District Attorney
Brandon Price, Esq.
Deputy District Attorney
One South Sierra St.
Reno, NV 89501
Attorneys for Respondent

by electronic service by transmitting the copy electronically as an attachment to electronic mail in portable document format.

Dated this 31st day of January 2024

/s/ Ronald J. Dreher
Ronald J. Dreher
NV Bar No. 15726
P.O. Box 6494
Reno, NV 89513
Telephone: (775) 846-9804
ron@dreherlaw.net
Attorney for Complainant

CERTIFICATE OF SERVICE

Pursuant to NAC 288.070, the undersigned hereby certifies that I am the counsel for the Edwin Martin and that on this date I served a true and correct copy of the preceding document addressed to the following:

Bruce Snyder, Esq.
Commissioner, EMRB
bsnyder@business.nv.gov
3300 W. Sahara Avenue
Suite 260
Las Vegas, NV 89102

by electronic service by transmitting the copy electronically as an attachment to electronic mail in portable document format.

Dated this 31st day of January, 2024.

/s/ Ronald J. Dreher
Ronald J. Dreher
NV Bar No. 15726
P.O. Box 6494
Reno, NV 89513
Telephone: (775) 846-9804
ron@dreherlaw.net
Attorney for Complainant

EXHIBIT INDEX

Exhibit No.	Document Name	No. of pages
1.	September 8, 2023. email and response	2
2.	September 27, 2023. investigation conclusions	2
3.	November 20, 2023. letter from Chris Ketring	1
4.	NRS 613.330	2
5.	July 11, 2023. final evaluation	15
6.	July 12, 2023. emails and responses	3
7.	October 18, 2022. evaluation: January 20, 2023 evaluation: April 12, 2023 evaluation	27

EXHIBIT 1

EXHIBIT 1

Fwd: Resolution of Investigation Request

- Martin, Edwin <EMartin@tmfspd.us>

Tue 10/31/2023 12:46 PM

To: Arribillaga, Carla <CArribillaga@TMFPD.us>

Good afternoon,

This is the email in which I am referring to with my formal requests. If you need anything else, please let me know. Thank you.

Sent from my iPhone

Begin forwarded message:

From: "Martin, Edwin" <EMartin@tmfspd.us>
Date: October 20, 2023 at 1:11:56 PM PDT
To: "Walsh, Patrick S." <PWalsh@tmfspd.us>, "Whitlock, Ryan M" <RWhitlock@tmfspd.us>
Subject: Fw: Resolution of Investigation Request

This is the formal request I sent to Chief Ketring for your review.

Ed Martin

Engineer/Paramedic | Truckee Meadows Fire & Rescue

emartin@tmfspd.us | Office: 775.326-6000 | Cell: 775.354-9766



" Committed to excellence, service, and the protection of life and property in our community"

From: Martin, Edwin

Sent: Friday, September 8, 2023 11:39 AM

To: Ketring, Chris T <CKetring@tmfspd.us>

Cc: Schum IV, Joseph M <JSchum@tmfspd.us>; Arribillaga, Carla <CArribillaga@TMFPD.us>

Subject: Resolution of Investigation Request

Good afternoon,

I hope this email finds you well. First, I would like to express my gratitude with the departments' attention to the complaints filed by me, in and through the Human Resource office. I genuinely feel

they were taken seriously and in a timely manner. Thank you. With the completion of the investigations nearing an end, I am confident there have been details and information provided which justify my complaints as filed. With that said, I respectfully request that the decision not to confirm my position as a Captain with Truckee Meadows Fire and Rescue be reversed and my position as a Captain for Truckee Meadows Fire and Rescue be confirmed as of July 18, 2023. I respectfully request back-pay be awarded from July 14, 2023, to the date of resolution and closure by the department.

Situations like these are unfortunate to say the least. I think we can all find a positive aspect and move forward as a department stronger than before. I stand firm in my beliefs of integrity, ethics, morals and values which I hold dear to my core, and I made the right decision to come forward. Again, I appreciate the swift and thorough actions taken and remain hopeful in your reconsideration as I continue to perform as a valuable asset in all aspects of my duties representing Truckee Meadows Fire and Rescue in a positive light.

Respectfully,

Ed Martin

Engineer/Paramedic | Truckee Meadows Fire & Rescue
emartin@tmfspd.us | Office: 775.326-6000 | Cell: 775.354-9766



" Committed to excellence, service, and the protection of life and property in our community"

EXHIBIT 2

EXHIBIT 2



DATE: September 27, 2023

TO: Edwin Martin, Fire Engineer

FROM: Carla Arribillaga, Human Resources Manager *CA*

RE: Summary and Conclusion of the Investigation into Fire Engineer Edwin Martin's Claim of Harassment, Discrimination, and Retaliation against James Solaro, Battalion Chief

The purpose of this letter is to summarize the findings and conclusions of the investigation into a complaint filed by you, alleging that BC Solaro has engaged in behavior that is in direct violation of Truckee Meadows Fire Protection District (TMFPD) policies, specifically Harassment, Discrimination and Retaliation policy adopted from Washoe County and the TMFPD Conduct and Expectations Policy (P201.0). Sandra Ketner of Simons, Hall, Johnston investigated the complaint.

In general, you alleged that BC Solaro offended you by his use in text messages of a hang loose emoji colored dark brown because your children are Hispanic, but BC Solaro is Caucasian. You further alleged that after the meeting ended, in which you informed BC Solaro that you were offended by his use of the emoji, BC Solaro said to you in a threatening and intimidating manner, "I look forward to another conversation with you."

Secondly, you alleged that BC Solaro used his position to gather information about you without authorization in an effort to retaliate against and slander you, which allegedly caused you to lose a promotion to the rank of Fire Captain. Additionally, you offered additional information during the course of the investigation, which you claimed to relate to your existing complaints but which, in essence, equated to another separate complaint. Specifically, on August 14, 2023, you claimed that you were not treated equitably or allowed to progress within the department because you came from a different department and are not part of the "White Devils."

After a thorough investigation encompassing extensive interviews of employee-witnesses, review of relevant policies, relevant documents, the complaint filed, and analysis of the findings in the investigation, the findings of the investigation are as follows.

- Based upon the totality of the evidence, the preponderance of the evidence reflects that your complaint of discrimination/harassment against BC Solaro regarding his use of emojis in text communications is unsubstantiated. Based upon Ms. Ketner's findings, Human Resources has concluded that there has not been a violation of TMFPD policies, specifically the Harassment, Discrimination, and Retaliation policy adopted from Washoe County.
- Additionally, regarding gathering information about your arrest, BC Solaro failed to follow the chain of command, thereby violating the Conduct and Expectations Policy.

However, BC Solaro's actions did not slander or otherwise harm you. They did not affect the decision not to confirm you as a Fire Captain. Based upon Ms. Ketner's findings, Human Resources has concluded that there has been a violation of TMFPD policies, specifically the Conduct and Expectations Policy (P201.0).

Because these are confidential personnel matters, TMFPD is unable to discuss with you any action taken with regard to any employees. TMFPD does not tolerate retaliation against an employee for filing a complaint or providing information related to a complaint. Please contact me if you feel you have been retaliated against due to this complaint or any actions taken due to the investigation.

In closing, Human Resources will close out your complaint. Please know that your professionalism and confidentiality are appreciated. If you have any questions regarding the above, please contact me at (775) 326-6007.

cc: Investigative File

EXHIBIT 3

EXHIBIT 3



November 20, 2023

Edward Martin
540 Upper Colony Road
Wellington, NV 89444

Engineer Martin,

After the District Human Resources Department received claims, which you felt impacted the decision of your non-confirmation to the Rank of Captain with the Truckee Meadows Fire Protection District (District), the District contracted with Simons, Hall, and Johnston Law Firm to complete an external unbiased investigation of those claims. The external investigation completed by them concluded the claims you brought forward did not impact the decision of your non-confirmation to Captain.

Subsequently, your request dated September 8, 2023, to be reinstated to the rank of Captain, effective July 14, 2023, is denied. The District's decision not to confirm you to the rank of Fire Captain affirms its letter sent to you on July 12, 2023.

Thank you for your inquiry.

Regards,

A handwritten signature in black ink that reads "Chris Ketring". The signature is written in a cursive, slightly slanted style.

Chris Ketring, Deputy Fire Chief

EXHIBIT 4

EXHIBIT 4

NRS 613.330 Unlawful employment practices: Discrimination on basis of race, color, religion, sex, sexual orientation, gender identity or expression, age, disability, national origin or discussion of wages; interference with aid or appliance for disability; refusal to permit service animal at place of employment; consideration of criminal history without following required procedure.

1. Except as otherwise provided in NRS 613.330, it is an unlawful employment practice for an employer:

(a) To fail or refuse to hire or to discharge any person, or otherwise to discriminate against any person with respect to the person's compensation, terms, conditions or privileges of employment, because of his or her race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin;

(b) To limit, segregate or classify an employee in a way which would deprive or tend to deprive the employee of employment opportunities or otherwise adversely affect his or her status as an employee, because of his or her race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin; or

(c) Except as otherwise provided in subsection 7, to discriminate against any employee because the employee has inquired about, discussed or voluntarily disclosed his or her wages or the wages of another employee.

2. It is an unlawful employment practice for an employment agency:

(a) To fail or refuse to refer for employment, or otherwise to discriminate against, any person because of the race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin of that person;

(b) To classify or refer for employment any person on the basis of the race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin of that person; or

(c) Except as otherwise provided in subsection 7, to discriminate against any person because the person has inquired about, discussed or voluntarily disclosed his or her wages or the wages of another person.

3. It is an unlawful employment practice for a labor organization:

(a) To exclude or to expel from its membership, or otherwise to discriminate against, any person because of his or her race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin;

(b) To limit, segregate or classify its membership, or to classify or fail or refuse to refer for employment any person, in any way which would deprive or tend to deprive the person of employment opportunities, or would limit the person's employment opportunities or otherwise adversely affect the person's status as an employee or as an applicant for employment, because of his or her race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin;

(c) Except as otherwise provided in subsection 7, to discriminate or take any other action prohibited by this section against any member thereof or any applicant for membership because the member or applicant has inquired about, discussed or voluntarily disclosed his or her wages or the wages of another member or applicant; or

(d) To cause or attempt to cause an employer to discriminate against any person in violation of this section.

4. It is an unlawful employment practice for any employer, labor organization or joint labor-management committee controlling apprenticeship or other training or retraining, including, without limitation, on-the-job training programs, to discriminate against any person because of his or her race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin in admission to, or employment in, any program established to provide apprenticeship or other training.

5. Except as otherwise provided in subsection 6, it is an unlawful employment practice for any employer, employment agency, labor organization or joint labor-management committee to discriminate against a person with a disability by interfering, directly or indirectly, with the use of an aid or appliance, including, without limitation, a service animal, by such a person.

6. It is an unlawful employment practice for an employer, directly or indirectly, to refuse to permit an employee with a disability to keep the employee's service animal with him or her at all times in his or her place of employment, except that an employer may refuse to permit an employee to keep a service animal that is a miniature horse with him or her if the employer determines that it is not reasonable to comply, using the assessment factors set forth in 28 C.F.R. § 36.302.

7. The provisions of paragraph (c) of subsection 1, paragraph (c) of subsection 2 and paragraph (c) of subsection 3, as applicable, do not apply to any person who has access to information about the wages of other persons as part of his or her essential job functions and discloses that information to a person who does not have access to that information unless the disclosure is ordered by the Labor Commissioner or a court of competent jurisdiction.

8. It is an unlawful employment practice for an appointing authority governed by the provisions of ~~chapter 284~~ of NRS, the Administrator of the Division of Human Resource Management of the Department of Administration or the governing body of a county, incorporated city or unincorporated town to consider the criminal history of an applicant for employment without following the procedure required in ~~NRS 245.046, 268.402, 269.0802, 284.281 or 284.283~~, as applicable.

9. As used in this section, "service animal" has the meaning ascribed to it in NRS 426.097.

(Added to NRS by 1965, 691; A 1967, 168; 1971, 1056; 1973, 981, 1497; 1981, 1300, 1920; 1991, 1024; 1995, 1993; 1999, 1938; 2003, 2976; 2005, 631; 2011, 496; 2015, 271; 2017, 1862, 2103)

EXHIBIT 5

EXHIBIT 5



Edwin Martin III

Direct Manager:
Christopher Black

Annual 9209 Edwin Martin III (due 07 / 18 / 2023)
Due Date: Tue, Jul 18, 2023

General Information

Position FIRE CAPTAIN - 2912/ER/EPR	Sub-Division	Evaluation Type Periodic
Division OPERATIONS DIVISION	Class Spec FIRE CAPTAIN	

Ratings Summary - Christopher Black

Total Score	Overall Rating
6.57 out of 10 (65.66%)	Does Not Meet Expectations / 5.50

Rater	Type	Total Score	Overall Rating	Weight
Christopher Black	Rater	6.57 out of 10 (65.66%)	Does Not Meet Expectations / 5.50	100 %

Content

Competency Section | Yes / No

Training Division Advisory

ONLY choose "Yes" for Captain's assigned to the Training Division as a long term trainer. If any other assignments choose "No".

Is this employee assigned to the Training Division?

This would including assigned Training Division Captains only.

Rater & Rating	Comment
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Christopher Black

No

Goals for Completed Evaluation Period

Please review and discuss the status of the goals set up for this employee for the current evaluation period being evaluated today. First, list the goals, tasks and /or job responsibilities that were to be accomplished. All employees should have had at least one goal or project to work on during the review period. Second, review the SMART goals (Specific, Measurable, Attainable, Results-oriented, and Time-bound) outcomes related to the District and Division objectives. Third, discuss the goals that were revised as new responsibilities arose or priorities changed.

Due Date 06/22/2023

Completion of Captain Taskbook

One of the requirements for Captain Martin to be confirmed from probation is the completion of his Captain taskbook. At the time of his third quarter evaluation Captain Martin has only a few outstanding signature items required. It is his goal to get these completed prior to his next evaluation 22JUNE2023. The dedication and work ethic that Captain Martin has thus demonstrated to complete what he has in the taskbook indicates that he should have no issues with achieving this goal. Measurement will be its completion.

Rater & Rating	Comment
Christopher Black Complete	All required signatures are completed.

Due Date 03/18/2026

Line Safety Officer

Captain Martin should have ample opportunity to work on his Safety Officer taskbook, being part of a Type III IMT. While it is an aggressive goal to complete this taskbook in this review period, it is not likely. This goal will likely be extended to Captain Martin's next review period, if not further. These taskbooks can take years to complete and the training should not be rushed to check this checkbox. Instead, Captain Martin should ensure he gets as much opportunity to train under the taskbook umbrella.

Rater & Rating	Comment
Christopher Black Incomplete	This is a long-term goal, likely to be accomplished by the end of this fire season, if the opportunity presents. If not, Ed has three years to successfully complete this goal/task book.

Due Date 06/22/2023

Reflection Paper

As part of the requirements to be released from probation, Captain Martin is required to write a reflection paper for the Training Division. Captain Martin will need to ensure he accomplishes the requirements set by the Training Division in their directions for this paper. Its completion will need to occur so that he can submit it at his next evaluation on 22JUNE2023. Achieving the goal will be measured by the Training Division's acceptance of a successful reflection paper.

Rater & Rating	Comment
Christopher Black Complete	Ed has written and submitted his reflection paper to the Training Division.

Core Competency - Personal Development

This grouping of the Personal Development Core Competencies consists of Accountability, Adaptability, Continuous Learning & Job Knowledge and Understanding. Comments are not required for each individual competency, however a comment is required for the overall section.

Accountability

Item Weight 25 %

Has the motivation and mind-set to make a difference, is able to recognize and acknowledge reality. Takes ownership of own actions and their impact on others. Believes in own capability to accomplish a task and ability to follow through. Can admit to making mistakes and learns from them.

Rater & Rating

Comment

Christopher Black
5.5 Does Not Meet Expectations

Ed believes in himself; he demonstrates a confidence in his abilities. Ed however over this probationary year has shown an inability to take responsibility for his actions and decisions. One such example is that when Ed was asked what his supervisors could do to help him improve in his communication skills, Ed reported there was nothing we could do. He would just keep his mouth shut. This is not taking responsibility. This is simply keeping his head down and trying to avoid the situation. In addition, during this last quarter review period, Ed has not reached out to his supervisors to determine if he is proficient, improving, or meeting the standard.

Adaptability

Item Weight 25 %

Is open to and able to effectively cope with change. Handles multiple and changing priorities quickly and comfortably. Anticipates new and changing demands for programs and services. Has tolerance for risk and uncertainty. Is able to modify style to successfully meet organizational priorities.

Rater & Rating

Comment

Christopher Black
7.3 Meets Expectations

Ed is able to remain flexible with the constantly changing demands of the Captain position.

Continuous Learning

Recognizes own strengths and weaknesses. Seeks feedback and accepts criticism non-defensively. Works to develop knowledge, skills and abilities needed for current job. Anticipates future needs of the organization and pursues learning to meet those needs. Is a quick learner when faced with new problems and information. Uses a variety of methods to learn and develop. Expresses a desire to make a meaningful difference and to learn new things to obtain goals. Demonstrates continuous improvement, energy, creativity, and intellectual growth. Seeks out opportunities to learn and develop.

Rater & Rating

Comment

Christopher Black

5.5 Does Not Meet Expectations

Ed is working to improve himself through things like wildland taskbooks and being on a Type III IMT. There is a chance that this would result in a benefit to the department.

Ed has taken feedback from his supervisors in a wide variety of ways. Some he accepts and shows no issue with. Other times he has reported there is nothing he needs to change to improve. Other times he has reached outside his chain of command to voice a complaint about the direction he was given. These choices are concerning from the Captain position. A Captain needs to have the ability to remain humble, see their faults, and have the desire to fix them. Ed's actions to this point do not meet the District's expectations of a Captain. This is another area where Ed has the opportunity to work with his Chief Officers to better himself when it comes to feedback. However, he does not have, what could be difficult, conversation with his Chief Officers, and this is where he goes around the chain of command to voice complaints.

**Job Knowledge and Understanding**

Demonstrates comprehensive and up to date knowledge of the job and understands how the job relates to other operations within and outside of the department. Has the functional and technical knowledge and skills to perform at a high level of accomplishment.

Rater & Rating

Comment

Christopher Black

7.9 Meets Expectations

Ed demonstrates the ability to perform on the day-to-day incidents.

Normative Section | Text Only

Core Competency - Personal Development Comments

Please provide comments for all Personal Development competencies here.

Core Competency - Personal Development Comments

Rater

Comment

Christopher Black

Ed is able to perform the job-related aspects of the Captain position. He has taken the initiative to seek out advanced training in the wildland discipline. However, Ed throughout this probationary year has struggled to learn from his mistakes, he has continued to have issues related to his ability to communicate professionally as is the expectation of a Captain. Ed's actions do not show that he has the desire to continue to improve for himself, for those he supervises, for the organization, or for the community.

**Core Competencies - Interpersonal
Awareness**

Communication Skills

Item Weight 25 %

Communicates openly and effectively, clearly and concisely, with credibility and confidence, communicates need for management support with projects. Avoids communication breakdowns. Conveys a clear understanding of the organization's mission in all interactions. Possesses positive verbal and written communication skills in all avenues including one-on-one, email, training and etc.. Articulates thoughts clearly and effectively.

Rater & Rating

Comment

Christopher Black
5.5 Does Not Meet Expectations

During his probationary year Ed has illustrated difficulty with communicating, with both internal and external customers. In both written and verbal communication methods. He has been coached/counseled about this, yet despite this he has not shown the level of improvement that is desired.

Ed does on a day-to-day basis communicate with his supervisor in a manner that meets expectation.

But overall, Ed does not meet the expectation of a Captain in his ability to communicate professionally with the expectations that are set forth in the Department's Vision, Values, Mission Statement, and Code of Conduct.

Customer Service

Item Weight 25 %

Knows who the customer is. Assesses and understands the needs and expectations of internal and external customers. Behaves in a business-like manner and performs responsibilities to the highest standards. Handles all interactions promptly. Is responsive, pleasant, professional, courteous, approachable, friendly, and easy to do business with. Manages complaints with tact and respect. Takes ownership of problems to find solutions. Acts as an ambassador of the District in all interactions.

Rater & Rating

Comment

Christopher Black
5.5 Does Not Meet Expectations

Over this probationary period Ed has struggled with this, as mentioned in multiple boxes above. Ed continues to demonstrate an underlying theme of his needs being placed above those of our internal or external customers.

Personal Relationships

Item Weight 25 %

Shows respect for and supports equal and fair treatment for all races, nationalities, cultures, disabilities, ages, and sexes. Builds trust and rapport through direct, honest communication; does not gossip. Understands others' perspectives and resolves conflicts constructively, calmly and diplomatically. Embraces positive conflict and treats others with respect and dignity. Facilitates the development of creative solutions to conflict.

Rater & Rating

Comment

Christopher Black
5.5 Does Not Meet Expectations

Ed is currently meeting the expectation. However, over this probationary period Ed has demonstrated a difficulty with relationships with other Officers. Early in Ed's probation he had serious conflict with another Captain. During this time Ed and the Captain were coached/counseled together and separately. Ed showed openly that he had no respect for his peer. While efforts were continuing to try and resolve, Ed's quarter ended, and he was moved to another station. No resolve was ever finalized.

Teamwork

Item Weight 25 %

Participates in groups willingly. Works with others to set and achieve group goals. Values and encourages others' input and expertise. Shares resources, information and knowledge. Helps to establish group cooperation, pride and identity. Encourages commitment to District mission and organizational goals. Recognizes others' achievements.

Rater & Rating

Comment

Christopher Black

7.3 Meets Expectations

Narrative Section | Text Only

Core Competency - Interpersonal Awareness Comments

Please provide all comments for Interpersonal Awareness competencies here.

Core Competency - Interpersonal Awareness Comments

Rater

Comment

Christopher Black

Ed demonstrates that his personal values may not be in alignment with the values and mission statement of the District. He has shown over this period minimal if any desire to accept criticism regarding his values and the Interpersonal skills necessary of a Captain.

As a Captain within our organization, our mission is a commitment to excellence, service, and the protection of life and property in our community. Where Ed struggles and does not meet the mission is in his unwillingness to work with other Captains within stations (internal customers) and to look inward and determine where he can advance himself in his service to others and being able to work with them on a daily basis.

Competency Section | TM 5 Point Rating Scale (N/A)

Section Weight 15 %

Core Competency - Organizational Awareness**Action and Results**

Item Weight 25 %

Pushes self to set and deliver on goals. Able to plan, prioritize and execute work. Gets things done efficiently and well. Accurately scopes out length and difficulty of tasks and projects. Sets goals and objectives, and includes appropriate people in planning process. Stays focused and energized under distraction and high workload. Completes tasks without having to be told and carries them through to completion. Acts with minimal direction and supervision. Manages own and others' time and resources well. Thorough and accurate in all assignments. Diligently attends to details and maintains a high degree of quality in one's work.

Rater & Rating

Comment

Christopher Black

7.3 Meets Expectations

Ed has achieved all the goals he set for himself this year in relation to his probation. He has completed the taskbook and the related requirements. He also is pushing himself by setting some long-term goals in the wildland environment with his line safety task book as an example. Ed completes day-to-day tasks required of a Captain and of the crew, I have not had to remind him of these duties.

Ethics and integrity

Item Weight 25 %

Maintains the highest standards of conduct. Can be counted on to do the right thing in line with District values. Is trusted and maintains confidentiality of sensitive information, records and materials. Expresses the truth courageously, appropriately, and in the spirit of helpfulness. Dedicated to acting in the interest of the public's trust. Understands the impact of public perception and acts accordingly. Acts in a trustworthy and honest manner based on a moral conviction to do the right thing. Complies with rules, regulations, and policies. Exhibits sensitivity to ethical issues and takes appropriate action when necessary. Demonstrates a high regard for truth and accuracy. Does the right thing, even when it is difficult. Does not yield to pressure to show bias or manipulate others. Does not misrepresent self or use position or authority for personal gain. Takes responsibility for own work, including problems or issues.

Rater & Rating

Comment

Christopher Black
5.5 Does Not Meet Expectations

Ed has demonstrated through this probationary period that his values and personnel ethics may not be in alignment with the District.

Organizational Knowledge

Item Weight 25 %

Demonstrates a clear understanding of the work environment and follows the processes, procedures, standards, and regulations required to perform work duties and assignments. Understands the complexity of the District, its services and the roles and responsibilities of the whole. Knows the District mission, vision, values and priorities. Knowledgeable about how the organization works and how each job impacts the bottom line. Aligns work with strategic goals.

Rater & Rating

Comment

Christopher Black
5.5 Does Not Meet Expectations

Ed has improved in his ability to understand how the organization operates, but at times struggles with realizing that there is more going on in the District or that he has a lack of knowledge on an issue. Ed has had occurrences where the tone and message of his emails were not received well. Other Battalion Chiefs have asked Ed to include them on his emails so that they can be viewed from a third perspective. Ed needs to continue to improve on understanding that his perspective is not all that matters, and that the organization has many working pieces that need to be considered.

Quality Improvement

Item Weight 25 %

Challenges the status quo and seeks to create and implement improvements leading to more efficient and effective work systems and processes. Identifies problems and uses sound judgment and logic to generate, analyze and evaluate effective and innovative solutions. Uses tools and techniques to execute solutions that meet the requirements of internal and external customers.

Rater & Rating

Comment

Christopher Black
N/A No Experience/Cant Rate

Ed has been committed to the completion of his taskbook during this probationary period. This does not allow for much of what this competency is looking for.

Core Competency - Organizational Awareness Comments

Please provide all comments for Interpersonal Awareness competencies here.

Core Competency - Organizational Awareness Comments

Rater	Comment
Christopher Black	Ed assisted with organizing the District hosting a S-200 class where numerous internal customers participated.

Competency Section | TM 5 Point Rating Scale (N/A)

Section Weight 15 %

Core Competency - Organizational Influence

Decision Making

Item Weight 20 %

Recognizes a need for a decision in a timely manner, utilizing available data. Able to make a decision, within the area of responsibility and matching position's role within the organization. Understands impact of decision making on others and can explain "The Why", when necessary. Able to alter decision if new information indicates. Exercises sound judgment and makes reasonable decisions that demonstrate critical and strategic thinking. Involves others in decision making as appropriate. Understands the effects and impacts of the decision within the organization.

Rater & Rating	Comment
Christopher Black 5.5 Does Not Meet Expectations	Ed has demonstrated the ability to make the decisions necessary to handle station duties and the emergency incidents he has been involved with. Ed has also demonstrated a lack of judgement at times throughout this period. As mentioned above, Ed has been coached/counseled over this period, each time for a decision he made that was seen to be detrimental to the organization. Ed may not realize the weight of his decisions and the impact they can have on internal/external customers and the organization.

Developing Organizational Talent

Item Weight 20 %

Assists membership to leverage talent and strengthen capabilities. Helps the District to hire the best people from inside or outside, by sharing information about job postings and the organization. Follows the clear, outcome-oriented performance and development goals and expectations. Accepts feedback, coaching, and recognition. Addresses any performance issues promptly and any corrective action appropriately to ensure organizational success.

Rater & Rating	Comment
Christopher Black 5.5 Does Not Meet Expectations	Ed has shown the inability to accept feedback, or coaching. Instead, Ed has voiced that he doesn't need to improve, he just needs to remain quiet until he is off probation.

Financial and Resource Management

Item Weight 20 %

Acts as a trustee of the District's resources. Knows the fundamentals of budgeting, conservation, cash flow and tracking of expenditures. Understands financial statements. Uses prudent judgment in the utilization and expenditure of available resources.

Rater & Rating

Comment

Christopher Black
7.3 Meets Expectations

Demonstrates an understanding of the responsibility of a Captain to practice fiscal responsibility.

Leading and Inspiring Others

Item Weight 20 %

Articulates a vision in line with the organization and uses it to drive daily decisions. Converts strategies into effective actions. Inspires engagement and a commitment to excellence. Builds relationships and develops strategies to include divergent opinions and overcome adversity. Able to motivate diverse teams to achieve results. Leads and inspires others to action aimed at achieving a specific objective while creating a positive work environment where all staff are motivated to do their best. Sees the potential in others and takes opportunities to apply and develop that potential.

Rater & Rating

Comment

Christopher Black
5.5 Does Not Meet Expectations

At times Ed demonstrates the ability to align his actions with the District's and what is best for both internal/external customers. At others however, as mentioned above he has not. Ed, per his own words, has a "very direct form of communication". This has proven difficult for some that work with Ed, which prevents others from being able to develop a professional relationship with him.

Values and Leverages Diversity

Item Weight 20 %

Practices equity and fairness in managing all classes and kinds of people. Invites high quality individuals, for our selection practices that provides for inclusion of diverse and targeted groups. Holds self and others accountable for promoting and achieving diversity in hiring, utilizing and developing staff. Promotes a work environment that is cooperative, family friendly, and accepting of diversity. Obtains input from diverse employee groups to identify broad perspectives on program development and implementation.

Rater & Rating

Comment

Christopher Black
5.5 Does Not Meet Expectations

Has demonstrated actions that cause his values of diversity into question. Unlikely over this year he would have had the opportunity to ensure diversity was part of a hiring process.

Core Competency - Organizational Influence Comments

Please provide all comments for Organizational Influence competencies here.

Core Competency - Organizational Influence Comments

Rater	Comment
Christopher Black	Ed has demonstrated questionable actions over this year probation period, to include his interaction with internal and external customers, and his use of language in violation of the District's code of conduct. These coupled with his resistance to change is of serious concern in the organizational influence he may project. The position/role of a Captain at TMFPD is highly influential. Captains have the most contact with the most employee on a regular basis. Ed has demonstrated traits and actions that are not in alignment with the department's vision and values, these could have a negative influence on others.

Competency Section | TM 5 Point Rating Scale
(N/A)

Section Weight 40 %

Job Specific Competencies

This grouping of the Job Specific Competencies consists of items developed for each job class individually. Comments are not required for each individual competency, however a comment is required for the overall section.

Apparatus Maintenance

Item Weight 11.12 %

Has a thorough understanding of the different types of apparatus, their primary uses, employee responsibility, and is able to operate the auxiliary power units on each apparatus.

Rater & Rating	Comment
Christopher Black 7.3 Meets Expectations	Demonstrates an understanding of the importance of apparatus maintenance.

Records and Reports

Item Weight 11.11 %

Understands how to Quality Assurance FireRMS reports and Patient Care Records, document training and utilize the functions of the District's online resources.

Produces clear and complete written reports, use words and tone that are appropriate for the intended audience and are produced and distributed in a timely manner. Writes clearly and informatively, edits work for spelling and grammar, varies writing style to meet needs, presents numerical data effectively, and is able to read and interpret written information.

Rater & Rating	Comment
Christopher Black 7.3 Meets Expectations	Meets the standards regarding report completion.

Station Duties

Item Weight 11.11 %

Observance of rules and regulations; safety practices; application to duties; care of work place and equipment, punctuality and attendance.

Rater & Rating

Comment

Christopher Black
7.3 Meets Expectations

Consistently demonstrates the ability to ensure station duties are completed.

Documentation

Item Weight 11.11 %

Obtains and logs necessary information as required by work processes and policies. Keeps factual and legally compliant documentation using professional language and tone.

Rater & Rating

Comment

Christopher Black
7.3 Meets Expectations

Safety

Item Weight 11.11 %

The degree to which safety standards and procedures are followed and accidents are avoided. The level of demonstrated emphasis on creating and maintaining a safe work environment. The degree to which an employee understands the importance of good physical fitness as it pertains to safety in the workplace.

Rater & Rating

Comment

Christopher Black
7.3 Meets Expectations

Appearance & Uniform

Item Weight 11.11 %

Follow the Grooming and Appearances SOP and the Uniform SOPs and SOGs. Reports for duty in compliance and ready to start shift.

Rater & Rating

Comment

Christopher Black
7.3 Meets Expectations

EMS Skills

Item Weight 11.11 %

Completion of assigned Med Drills Current with all medical certifications (s) Patient/Customer Interaction General EMS knowledge Overall Patient Care

Rater & Rating

Comment

Christopher Black
7.3 Meets Expectations

Continues to maintain his Paramedic licensure. This requires yearly training and re-certification every two years.

Equipment Maintenance

Item Weight 11.11 %

The degree to which one complies with proper use, maintenance, and record keeping of assigned equipment.

Rater & Rating

Comment

Christopher Black
7.3 Meets Expectations

Motivating Others

Takes action that results in a high level of morale and motivation among team members. Assesses and communicates progress on work goals and objectives as well as the level of morale on the team. Raises the motivation level of the team and heads off issues that might lower morale if they were not handled in a timely and effective manner. This is quite different from those who pay little attention to team morale and fail to take steps that would positively effect motivation levels.

Rater & Rating**Comment**

Christopher Black
7.9 Meets Expectations

Ed does not have a consistent crew due to technically being a floater. However, we were able to keep him with a consistent crew for 16 weeks during these last quarters of his probation. He did not demonstrate issues with motivating his crew. He since then has been moved through two different crews. This can be difficult, and it can be a struggle for a new Captain to motivate others. I have not heard from any of the crew members that would lead me to believe Ed is not meeting this expectation.

In Ed's first quarter he did have difficulty with the other crews at the station he was assigned to. This was mentioned earlier in this document.

Narrative Section | Text Only

Job Specific Competencies Comments

Please provide all comments for Job Specific competencies here.

Job Specific Competencies Comments

Add comments for Job Specific Competencies section here.

Rater**Comment**

Christopher Black

Ed meets expectations regarding job specific requirements

Narrative Section | Text Only

Supervisor Comments

Please offer any information regarding the performance period being evaluated.

Areas of strength

Describe at least two areas in which the employee excels on a continuous basis. Provide specific examples.

Rater**Comment**

Christopher Black

Self-improvement/Motivation in the Wildland Discipline

improvement of wildland Knowledge/Skills/Abilities, through involvement on Type III IMT and initiation of Line Safety Taskbook.

Job Specific Skills

Ed has a solid grasp of the job specific skills of an Engine Captain. He is able to manage his crew and daily needs without issue. He remains flexible and is able to assist with extra duties as they arise.

Areas in need of improvement

Describe at least two areas in which the employee can improve his/her skills. Also describe areas in which the employee is having difficulties or obstacles and make suggestions for improvement.

Rater	Comment
Christopher Black	<p>Officer Level Decision Making</p> <p>As listed throughout this evaluation, Ed has shown a trend of decision making that has failed to align with the values and mission of the District.</p> <p>Communication Skills</p> <p>As documented throughout this evaluation, Ed has demonstrated a concerning trend of communicating with both internal and external customers in a manner that is in contrast to the District's values and Code of Conduct</p>

Overall Comments (Supervisor)

Please add any additional comments regarding this employee.

Rater	Comment
Christopher Black	<p>Ed's technical job functions meet expectations. Ed can manage a crew and handle the day-to-day operational needs placed on an Captain. However, this is only part of the job of an Captain. As a Captain, Ed is required to have sound, consistent decision-making capabilities. Ed does not meet expectations in this area. The District's needs and the needs of the customers should come before his own. Ed has demonstrated this may not be the case. This is also a concern in relation to his influence on those he is in charge of supervising. A Captain has the ability to influence numerous employees, many times at very impactful points in their career. Ed has demonstrated values that are not in alignment with the District, this is of serious concern.</p> <p>Reference coaching/counseling and progressive discipline documents can be found in Ed's personnel files.</p>

Goal Section I Future/List

Next Evaluation Period Goals

Please add a minimum of 2 goals for this employee to accomplish in the upcoming evaluation period. 1. List the goals, tasks and /or job responsibilities to be accomplished. All employees should have at least one goal or project to work on during the review period. 2. Write SMART goals (Specific, Measurable, Attainable, Results-oriented, and Time-bound) that have outcomes related to the District and Division objectives. 3. Objectives should be revised as new responsibilities arise or priorities change.

Line Safety Qualification

Due Date 03/17/2026

Ed should have ample opportunity to work on his Safety Officer taskbook (line safety), being part of a Type III IMT. While it is an aggressive goal to complete this taskbook in this review period, it is not likely. This goal will likely be extended to Ed's next review period, if not further. These taskbooks can take years to complete and the training should not be rushed to check this checkbox. Instead, Ed should ensure he gets as much opportunity to train under the taskbook umbrella.

Decision Making

Due Date 07/18/2024

Ed must continue to improve the foundational base which he uses for his decision making while representing TMFPD. Ed needs to determine how he can align his decisions, based on his values, with these values of the department, Integrity, Service, Compassion, and Professional Excellence. Ed must work on remembering that the decision he makes should be in the best interest of our internal/external customers, then the department, and lastly himself. This can be measured by a decrease in the frequency in which decisions by Ed have resulted in discipline, counseling and coaching.

Improved Communication

Due Date 07/18/2024

Ed needs to invest more effort in understanding and practicing professional communication while representing TMFPD. Ed's current use of "direct communication" does not allow for true communication. Ed needs to increase his awareness of how the receiver of his communication hears his message, it is not how he intends it as the sender. This will require a continual effort to respect others and try to see things from their perspectives. It will also mean that he should invest in the time to build relationships with his peers and supervisors, this will allow open, honest and regular conversation. Avoiding conversations to avoid issues with communication does not meet the expectation of a Captain at TMFPD. Measurement will be of decreased errors in communication and an increased ability to communicate with others and take their perspective into account.

Evaluation Overall Section I _TM 5 Point Rating Scale (N/A)

Overall Rating

Reviewer & Rating

Comment

Christopher Black

5.5 Does Not Meet Expectations

Process

- 1 Manager Add Goals For The Current Evaluation Period
Christopher Black Completed On Mon, Jun 5, 2023
Christopher Black
- 2 Rater
Christopher Black Completed On Mon, Jul 10, 2023
By clicking certify and submit, you confirm that your rating is complete and accurate. Once your rating is submitted, you will no longer be able to make changes without Human Resources assistance.
- 3 Approval & Signature
Christopher Black Completed On Tue, Jul 11, 2023
I have reviewed and acknowledge this Employee Self-Evaluation, its rating and comments I have added any comments I feel appropriate.
x *Christopher Black*
- 4 Signature
Carla Arribillaga Completed On Tue, Jul 11, 2023
x *Carla Arribillaga*
- 5 Approval & Signature
Joe Schum Completed On Tue, Jul 11, 2023
I have reviewed and acknowledge this Employee Self-Evaluation, its rating and comments I have added any comments I feel appropriate.
x *Joe Schum*
- 6 Approval & Signature
Chris Ketrng Completed On Tue, Jul 11, 2023
I have reviewed and acknowledge this Employee Self-Evaluation, its rating and comments. I have added any comments I feel appropriate.
x *Chris Ketrng*
- 7 Signature
Edwin Martin III Completed On Tue, Jul 11, 2023
Comment
I disagree with the ratings pertaining to my annual evaluation compiled above. I am signing under duress in fear of disciplinary action, disobeying direct orders and a potential violation of Code of Conduct
I have reviewed this Performance Evaluation and I acknowledge I have received its rating and comments I have added any comments I feel appropriate. I have clearly stated any objections I may have in the comments section above.
x *Edwin Martin III*
- 8 HR Add to employee record
HR Review

EXHIBIT 6

EXHIBIT 6

Fwd: Staffing assignment

— Martin, Edwin <EMartin@tmfspd.us>

Wed 7/12/2023 6:25 PM

To: Ketring, Chris T <CKetring@tmfspd.us>

Please review the email string for a second opinion and for accuracy. Thank you

Sent from my iPhone

Begin forwarded message:

From: "Schum IV, Joseph M" <JSchum@tmfspd.us>

Date: July 12, 2023 at 4:37:26 PM PDT

To: "Martin, Edwin" <EMartin@tmfspd.us>

Cc: "Walsh, Patrick S." <PWalsh@tmfspd.us>

Subject: RE: Staffing assignment

Good afternoon,

— I am sorry to inform you that you do not have Acting Captain status. According to P702.0 Acting Out of Classification section A and C, qualified actors are either on a promotional list or pass a skills assessment in years that are opposite testing years. A promotional exam for Captain was administered in October 2022 and that list is the most current. Under section C, there is the ability to regain the qualified actor status through the Training Division.

Regards,

Joe Schum

Division Chief | Truckee Meadows Fire & Rescue

jschum@tmfspd.us | Office: 775.326.6000 | Cell: 775.313.1582

3663 Barron Way, Reno, NV 89511

-----Original Message-----

From: Martin, Edwin <EMartin@tmfspd.us>

Sent: Wednesday, July 12, 2023 2:29 PM

To: Schum IV, Joseph M <JSchum@tmfspd.us>

Cc: Walsh, Patrick S. <PWalsh@tmfspd.us>

Subject: Re: Staffing assignment

— Thank you for the response. Does my Acting Captain role still apply to assist with the situation?

Sent from my iPhone

On Jul 12, 2023, at 2:00 PM, Schum IV, Joseph M <JSchum@tmfpd.us> wrote:

Good afternoon,

Thank you for reaching out with this information. Following the direction in the letter to you from Chief Moore, your probation as a Fire Captain has ended effective today. Unfortunately, I am not able to extend your Captain probation to July 22nd. Please consider exercising Article 32, B - Three-way trades. If this is not possible, I am prepared to offer those employees the ability to use their accrued leave banks to remain off-duty. You may contact them directly or I am happy to contact them directly in a discrete manner to ensure confidentiality while advising that the shift trade has been canceled.

Please let me know so I can ensure Telestaff is adjusted, and station coverage is maintained.

Regards,

Joe Schum

Division Chief | Truckee Meadows Fire & Rescue jschum@tmfpd.us |

Office: 775.326.6000 | Cell: 775.313.1582

3663 Barron Way, Reno, NV 89511

-----Original Message-----

From: Martin, Edwin <EMartin@tmfpd.us>

Sent: Wednesday, July 12, 2023 11:35 AM

To: Schum IV, Joseph M <JSchum@tmfpd.us>; Arribillaga, Carla

<CArribillaga@TMFPD.us>; Whitlock, Ryan M <RWhitlock@tmfpd.us>

Subject: Staffing assignment

Good morning,

I hope this email finds you well. In looking at Telestaff, I have 3 Captain Shift Trade Working shifts next week. The dates are July 18, 20 and 21. Both individuals are already out of town and will not be in the area to work those shifts. For an easy fix, I would like to recommend extending my Captain probation until July 22 at which time my return to the Engineer ranks would take affect. I do not have enough HC time to cover those three days to gift them an alleviate any issues. I will support your decision and the Districts Mission Vision and Values regarding your decision.

Sent from my iPhone

EXHIBIT 7

EXHIBIT 7

**TRUCKEE MEADOWS FIRE PROTECTION DISTRICT
Employee Performance Review
& Development Plan**



DEPARTMENT Operations

EMPLOYEE NAME Ed Martin

POSITION Fire Captain

SAP PERSONNEL # _____ (8 digit number starting with 0000 on your paystub or SAP timecard)

DATE OF REVIEW 9/27/2022

REVIEW PERIOD 7/18/2022 10/15/2022
From: 6/48/2022 RR **To:** 9/18/2022 RR

Annual review Other (please specify) 3 month Captain Probationary

The signatures below indicate that the named supervisor and employee have read and discussed the performance and development review for the performance period. The employee signature does not imply agreement with the contents of the evaluation. All employees have the right to attach additional comments and/or discuss the evaluation with the reviewing officer of their respective departments.

[Signature] _____ 10/15/22
Employee Signature Date

[Signature] _____ 10-15-2022
Supervisor Signature Date

Ryan Rizzuto
Supervisor's Name Please Print

[Signature] _____ 11/8/2022
Department Head / Reviewing Officer Signature Date

Joe Schmitt DIVISION CHIEF
Department Head/Reviewing Officer's Name Please Print

Part 1 – Review of Performance for Past Review Period

Goals/Tasks/Responsibilities and Results for the Review Period

1. List the goals, tasks and /or job responsibilities assigned.
2. Evaluate performance on each with a narrative that describes:
 - Was the task completed?
 - Was it completed in the expected timeframe?
 - Were the expected outcomes/results achieved?
 - What outside factors contributed to the (non)achievement of results?

1. Continue task book progression
Captain Martin is progressing in his task book with ease. He has been assigned to station 46 which should help accelerate completion through increased call volume and managing both Engine and Medic resources
2. Build relationships with subordinates
- Captain Martin is developing as a leader and continues to look out for his crew and their development. He was also a strong advocate for solutions regarding station 30 living conditions.
3. Continue to build routine and gain confidence both on incidents and day to day operations.
- Captain Martin reaches out with questions as needed but requires little direction for day to day operations such as daily checks, training and projects assigned.

Other Significant Accomplishments Not Related to a Specific Goal

List any major accomplishments and the results achieved that were not assigned as part of goal setting for the review period.

As mentioned above, Captain Martin provided insight and recommendations for station 30 prior to it being closed. He was active in trying to improve the station condition and the surrounding grounds.

Truckee Meadows Fire Protection District Core Competencies Used / Not Used to Achieve Goals - Strengths & Development Opportunities

1. Identify competencies that were used to achieve the desired outcomes/results during the past review period (strengths)
2. Provide a narrative that details examples of when/how the competency was demonstrated and how it contributed to achievement of the goal or completion of the task.
3. Indicate any competencies that were not used in achievement of goals and may have contributed to better outcomes (development opportunities).
4. Provide a narrative that details when/how the competency may have been better utilized to carry out the assigned responsibilities.

Customer Service: Knows who the customer is. Assesses and understands the needs and expectations of internal and external customers. Handles all interactions promptly. Is responsive, pleasant, professional, courteous, approachable, friendly, and easy to do business with. Manages complaints with tact and respect. Takes ownership of problems to find solutions. Acts as an ambassador of the County in all interactions.

Action and Results: Pushes self to set and deliver on goals. Able to plan, prioritize and execute work. Gets things done efficiently and well. Stays focused and energized under distraction and high workload. Acts with minimal direction and supervision. Manages own and others' time and resources well.

Continuous Learning: Recognizes own strengths and weaknesses. Seeks feedback and accepts criticism non-defensively. Works to develop knowledge, skills and abilities needed for current job. Anticipates future needs of the organization and pursues learning to meet those needs. Is a quick learner when faced with new problems and information. Uses a variety of methods to learn and develop.

Decision Making: Recognizes need for a decision. Able to make a timely decision with available data. Understands impact of decision making on others and can explain position when necessary. Able to alter decision if new information indicates. Exercises sound judgment and makes reasonable decisions that demonstrate critical and strategic thinking. Involves citizens and others in decision making as appropriate.

Leading and Inspiring Others: Articulates a vision for the organization and uses it to drive daily decisions. Converts strategies into effective actions. Inspires engagement and a commitment to excellence. Builds relationships and develops strategies to include divergent opinions and overcome adversity. Able to motivate diverse teams to achieve results.

Functional Competencies / Essential Job Requirements

1. List the specific functional / technical job competencies required for this position
2. Provide a detailed narrative with specific examples of when/how the competency was or was not demonstrated and the impact on achievement of goals or performance of job responsibilities.
3. Rate proficiency in each competency using the following guidelines.

Exceeds Requirements Performance is consistently exceptional. This person is a role model of this competency.

Meets Requirements Performance meets and periodically exceeds expectations. This person is a strong contributor.

Needs Improvement Performance does not consistently meet reasonable expectations and standards. Immediate steps must be taken to improve.

Add more rows as needed

Supervises the fire suppression, emergency medical services, control and containment of a hazardous situation, and fire prevention activities assigned to their station.

- Captain Martin is performing as expected. Limited complex incidents but he has participated in training and is eager to seek and apply feedback.

Exceeds Requirements Meets Requirements Needs Improvement

Supervises the response to fires and other emergency or public assistance incidents and coordinates personnel in hose laying, ladder operation, ventilation, extinguishment, extrication, salvage, and other activities; directs and coordinates emergency scene activity unless and until relieved of command by a supervisor.

- Captain Martin as the IC for one of the acquired structure training evolutions and performed very well. I would like to see him on an actual live incident but do not see any deficiencies at this time.

Exceeds Requirements Meets Requirements Needs Improvement

Perform as an intermediate emergency medical technician; rescue people endangered by fires or other hazards and administer first aid to injured parties.

<p>- Captain Martin maintains his Paramedic certification and is at times the sole ALS provider on his apparatus. He also provides guidance to new employees and non medics when needed on medical calls.</p> <p><input checked="" type="checkbox"/> Exceeds Requirements <input type="checkbox"/> Meets Requirements <input type="checkbox"/> Needs Improvement</p>
<p>Plans and schedules work assignments of assigned personnel, which may include volunteers, responsible for ensuring staff compliance with the District's policies, procedures and guidelines; evaluates the work performance and establishes performance goals of assigned staff and conducts performance evaluations.</p> <p>- Captain Martin completes required duties in the station and follows district policies. If he has any questions, he seeks clarification and attempts to handle issues at his level before escalating them.</p> <p><input type="checkbox"/> Exceeds Requirements <input checked="" type="checkbox"/> Meets Requirements <input type="checkbox"/> Needs Improvement</p>
<p>Directs maintenance of station; inspects personnel and maintains discipline.</p> <p>See above comments with regards to station 30.</p> <p><input type="checkbox"/> Exceeds Requirements <input checked="" type="checkbox"/> Meets Requirements <input type="checkbox"/> Needs Improvement</p>
<p>Evaluates fire and hazardous situations to determine the appropriate equipment and techniques to combat or control the situation; supervises and participates in EMS and rescue activities.</p> <p>Limited call volume of actual incidents but he does perform well in trainings both in person and virtually.</p> <p><input type="checkbox"/> Exceeds Requirements <input checked="" type="checkbox"/> Meets Requirements <input type="checkbox"/> Needs Improvement</p>
<p>Ensures that all equipment is returned to its proper place; supervises the preventive maintenance, repair, and replacement of equipment and apparatus; directs the maintenance of fire apparatus and equipment to maintain constant readiness.</p> <p><input type="checkbox"/> Exceeds Requirements <input checked="" type="checkbox"/> Meets Requirements <input type="checkbox"/> Needs Improvement</p>
<p>Supervises the gathering and preservation of evidence when a fire is of suspicious origin and testifies in court as to the findings.</p> <p>Not evaluated in this period.</p> <p><input type="checkbox"/> Exceeds Requirements <input type="checkbox"/> Meets Requirements <input type="checkbox"/> Needs Improvement</p>
<p>Drives fire apparatus and other emergency vehicles used in the transport of equipment and personnel in response to fire, rescue, emergency medical, hazardous material, and other public service alarms.</p> <p><input type="checkbox"/> Exceeds Requirements <input checked="" type="checkbox"/> Meets Requirements <input type="checkbox"/> Needs Improvement</p>

<p>Supervises staff in the performance of basic maintenance and flow tests on fire hydrants.</p> <p>Not evaluated in this period.</p> <p><input type="checkbox"/> Exceeds Requirements <input checked="" type="checkbox"/> Meets Requirements <input type="checkbox"/> Needs Improvement</p>
<p>Trains and/or participates in training and classes in firefighting, including wildland fire, emergency medical service, and related duties.</p> <p>Captain Martin participates in trainings and seeks out feedback almost instantly. He takes feedback well and attempts to implement it as soon as possible.</p> <p><input type="checkbox"/> Exceeds Requirements <input checked="" type="checkbox"/> Meets Requirements <input type="checkbox"/> Needs Improvement</p>
<p>Directs the operation of specialized equipment such as wildland apparatus, chain saws, portable pumps, and hydraulic rescue equipment as assigned.</p> <p><input type="checkbox"/> Exceeds Requirements <input checked="" type="checkbox"/> Meets Requirements <input type="checkbox"/> Needs Improvement</p>
<p>Supervises and conducts inspections and other fire prevention tasks including fire safety public education and presentations to eliminate or reduce fire hazards and enforce fire codes</p> <p>Not evaluated in this period.</p> <p><input type="checkbox"/> Exceeds Requirements <input type="checkbox"/> Meets Requirements <input type="checkbox"/> Needs Improvement</p>
<p>Performs various public information and public relations tasks; answers questions from the general public.</p> <p>Captain Martin is professional to the public and answers questions appropriately. He did attend the West Washoe Valley CAB picnic at Bowers Mansion which had some citizen concerns and complaints that he was able to address up to his level and seek additional information on items that he could not speak to.</p> <p><input type="checkbox"/> Exceeds Requirements <input checked="" type="checkbox"/> Meets Requirements <input type="checkbox"/> Needs Improvement</p>
<p>Writes reports of all fires and related emergency activities and reports concerning the use and condition of apparatus, related equipment, and supplies.</p> <p>Completes reports in a timely manner with good descriptions and understanding of processes such as MVA billing and transport needs.</p> <p><input type="checkbox"/> Exceeds Requirements <input checked="" type="checkbox"/> Meets Requirements <input type="checkbox"/> Needs Improvement</p>
<p>May act as Battalion Chief as needed and as assigned on a relief basis.</p> <p>N/A</p> <p><input type="checkbox"/> Exceeds Requirements <input type="checkbox"/> Meets Requirements <input type="checkbox"/> Needs Improvement</p>
<p>Stays abreast of new trends and innovations in education and training in the fire science field.</p> <p><input type="checkbox"/> Exceeds Requirements <input checked="" type="checkbox"/> Meets Requirements <input type="checkbox"/> Needs Improvement</p>

Functions within the Incident command system as a safety officer for the purpose of observing operations and identifying and mitigating safety hazards.

Not evaluated in this period.

Exceeds Requirements Meets Requirements Needs Improvement

Evaluates training course effectiveness and makes changes necessary to assure desired results.

Exceeds Requirements Meets Requirements Needs Improvement

Orients volunteers to the department to which assigned; provides information regarding policies, procedures and regulations and conducts informational or training sessions as required.

N/A

Exceeds Requirements Meets Requirements Needs Improvement

Maintains records and prepares a variety of written reports and materials regarding the volunteer program; plans and implements activities, awards and other methods for the recognition of volunteer staff.

N/A

Exceeds Requirements Meets Requirements Needs Improvement

Ensures that assigned personnel perform duties and responsibilities in a safe and prudent manner which does not expose them or others to unnecessary harm or risk of on-the-job injury.

Exceeds Requirements Meets Requirements Needs Improvement

Performs related duties and responsibilities as assigned

Exceeds Requirements Meets Requirements Needs Improvement

Knowledge of:

- Policies and procedures of the Truckee Meadows Fire Protection District.
- Firefighting and rescue methods, tools, and equipment.
- Principles, use and limitations of basic mechanical tools.
- Fire behavior and fire control techniques to carry out wildland fire suppression.
- Fire line terminology required to communicate with other crew members.
- Construction methods and materials as related to combustion and fire suppression and prevention techniques.
- Symptoms of medical emergencies and of appropriate responses to such conditions.
- Basic cardio and basic trauma/life support treatment.
- Invasive and non-invasive therapy drug therapy as allowed by EMT certification.

- Emergency medical procedures and in-patient assessment techniques.
- Specialized patient monitoring devices and life support systems such as heart monitor/defibrillator, external pacing devices, and pulse oximeters as allowed by EMT certification.
- Geography of the district, including major streets and landmarks.
- Operation and maintenance of firefighting equipment, apparatus, and special devices and materials.
- Goals, objectives, functions, protocol, staffing, and activity guidelines for the respective assigned program.
- Principles and practices of program planning, implementation, and evaluation.
- Research techniques, data collection, analysis, and report preparation.
- Methods and practices for developing and presenting public information and/or training programs.
- Principles and practices of adult learning and training methodologies.

Exceeds Requirements Meets Requirements Needs Improvement

Ability to:

- Plan, organize, and deploy personnel and equipment in highly complex emergency situations.
- Assess and treat patient's medical condition.
- Read and interpret building and construction plans.
- Recognize and train staff in work methods and procedures that promotes a safe working environment for employees and others.
- Develop and implement program components and services.
- Evaluate programs to determine their effectiveness in meeting goals and objectives and develop and implement program modifications.
- Interpret and apply regulations, policies and procedures.
- Maintain accurate records.
- Write narrative reports, educational, or promotional materials and other documents.
- Communicate in a clear, concise manner both orally and in writing, tailoring the message to the intended audience.
- Establish and maintain effective working relationships with departmental personnel, other public safety agencies, the public, and others contacted in the course of work.
- Exercise emotional control and work under stressful situations.
- Work independently in the absence of direct supervision.
- Analyze emergency situations and quickly develop effective and reasonable courses of action.

Exceeds Requirements Meets Requirements Needs Improvement

Additional supervisor comments:

He performs well and applies common sense to most situations. He also displays good mechanical knowledge and can fix many small items around the station.

Captain Martin has an assertive nature and command presence. This can be seen as offensive if not tactfully navigated. I would encourage Captain Martin to soften his approach in selective situations when dealing with internal and external customers. Regardless of issue, all problems should be approached from a team perspective where solutions are suggested, and recognition of good intent is validated.

Continue to use the chain of command and handle internal issues at the lowest level possible while keeping your direct supervisor informed.

Additional employee comments:

[Empty Box]

Overall Evaluation:

Below Expectations

Achieved some goals, but missed significant others. Demonstrated some requisite skills, knowledge and abilities but lacks significant others. Performance below accepted levels for the time in the position.

Meets Expectations

Achieved goals. Demonstrated requisite skills, knowledge and abilities and applied them to achieve goals. Performance consistently aligned with requirements of the position.

Exceeds Expectations

Goals achieved. Performance consistently above requirements. Demonstrated all requisite skills and a willingness to continuously improve self and work processes.

Part 2 – Goals and Results Expected for Next Review Period

Goals/Tasks/Responsibilities and Results Expected During the Review Period

1. List the goals, tasks and /or job responsibilities to be accomplished. All employees should have at least one goal or project to work on during the review period.
2. Write **SMART** goals (Specific, Measurable, Attainable, Results-oriented, and Time-bound) that have outcomes related to the division/department/county objectives.
3. Objectives should be revised as new responsibilities arise or priorities change.

- [Empty Box]
1. Continue task book progression
 2. Complete Blue Card Command
 3. Continue to work on NWCG certifications.

Development Objectives for the Review Period

1. Identify 1-3 developmental objectives to work on during the next review period.
2. Include critical functional competencies (skills, knowledge) needed for effectiveness in the current position or to achieve goals and/or core competencies needed to enhance success.
3. Be sure to include any areas identified as Development Opportunities or rated as Needs Improvement In Part 1.
4. Development objectives for job enrichment or to prepare for a new role may also be included here.
5. Write these goals with **SMART(S)** – Specific, Measurable, Attainable, Results-oriented, Time-bound, (and Stretch).
- 6.

Development Need (current performance)	Desired Performance	Learning Activities	Measurement Criteria	Timeframe
Task book completion	Completion	Training	Complete sign off and completion of	January 2022
Blue Card Command	Completion	Online training	Certification	Feb. 2023

Part 1 – Review of Performance for Past Review Period

Goals/Tasks/Responsibilities and Results for the Review Period

1. List the goals, tasks and /or job responsibilities assigned.
2. Evaluate performance on each with a narrative that describes:
 - Was the task completed?
 - Was it completed in the expected timeframe?
 - Were the expected outcomes/results achieved?
 - What outside factors contributed to the (non)achievement of results?

1. Task book progress

- Captain Martin is progressing in his task book. He has been assigned to station 46 which should help accelerate completion through increased call volume and managing both Engine and Medic resources. Remaining 3 items which are his Reflection paper, SOP submission, and budget request.

2. Build relationships with subordinates

- Captain Martin is developing as a leader and continues to look out for his crew and their development. Continues to work on horizontal peer-to-peer relationships by a looking to understand first perspective.

3. Continue to build routine and gain confidence both on incidents and day to day operations.

- Captain Martin reaches out with questions as needed but requires little direction for day-to-day operations such as dail checks, training and projects assigned.

Other Significant Accomplishments Not Related to a Specific Goal

List any major accomplishments and the results achieved that were not assigned as part of goal setting for the review period.

Truckee Meadows Fire Protection District Core Competencies Used / Not Used to Achieve Goals - Strengths & Development Opportunities

1. Identify competencies that were used to achieve the desired outcomes/results during the past review period (strengths).
2. Provide a narrative that details examples of when/how the competency was demonstrated and how it contributed to achievement of the goal or completion of the task.
3. Indicate any competencies that were not used in achievement of goals and may have contributed to better outcomes (development opportunities).
4. Provide a narrative that details when/how the competency may have been better utilized to carry out the assigned responsibilities.

Customer Service: Knows who the customer is. Assesses and understands the needs and expectations of internal and external customers. Handles all interactions promptly. Is responsive, pleasant, professional, courteous, approachable, friendly, and easy to do business with. Manages complaints with tact and respect. Takes ownership of problems to find solutions. Acts as an ambassador of the County in all interactions.

Action and Results: Dealing with emergency response and external customers that call for those services can be challenging. Captain Martin is learning and gaining experience in those face-to-face interactions. He understands and is incorporating a supportive disposition in dealing with those sometimes emotionally charged upset customers. Internal customers and peers also require interpersonal skills. These forms of communication require skills in having difficult conversations. Captain Martin has had some of these difficult conversations requiring these skills to maintain and build relationships with peers.

Continuous Learning: Recognizes own strengths and weaknesses. Seeks feedback and accepts criticism non-defensively. Works to develop knowledge, skills and abilities needed for current job. Anticipates future needs of the organization and pursues learning to meet those needs. Is a quick learner when faced with new problems and information. Uses a variety of methods to learn and develop.

Action: Blue Card, IC4 complete to submit for review.

Decision Making: Recognizes need for a decision. Able to make a timely decision with available data. Understands impact of decision making on others and can explain position when necessary. Able to alter decision if new information indicates. Exercises sound judgment and makes reasonable decisions that demonstrate critical and strategic thinking. Involves citizens and others in decision making as appropriate. **Captain Martin has had one working incident requiring an OODA-Loop flow throughout incident. More working incidents will help evaluate this skill set.**

Leading and Inspiring Others: Articulates a vision for the organization and uses it to drive daily decisions. Converts strategies into effective actions. Inspires engagement and a commitment to excellence. Builds relationships and develops strategies to include divergent opinions and overcome adversity. Able to motivate diverse teams to achieve results.

Functional Competencies / Essential Job Requirements

1. List the specific functional / technical job competencies required for this position
2. Provide a detailed narrative with specific examples of when/how the competency was or was not demonstrated and the impact on achievement of goals or performance of job responsibilities.
3. Rate proficiency in each competency using the following guidelines:

Exceeds Requirements	Performance is consistently exceptional. This person is a role model of this competency.
Meets Requirements	Performance meets and periodically exceeds expectations. This person is a strong contributor.
Needs Improvement	Performance does not consistently meet reasonable expectations and standards. Immediate steps must be taken to improve.

*Add more rows as needed

Supervises the fire suppression, emergency medical services, control and containment of a hazardous situation, and fire prevention activities assigned to their station.

- Limited complex incidents but he has participated in training and is eager to seek and apply feedback. This review period he has had critical medical and trauma related incidences as well as vehicle accidents, extrications, and a smoke investigation in an extreme life hazard occupancy (assisted care facility).

Exceeds Requirements Meets Requirements Needs Improvement

Supervises the response to fires and other emergency or public assistance incidents and coordinates personnel in hose laying, ladder operation, ventilation, extinguishment, extrication, salvage, and other activities; directs and coordinates emergency scene activity unless and until relieved of command by a supervisor.

Exceeds Requirements Meets Requirements Needs Improvement

Perform as an intermediate emergency medical technician; rescue people endangered by fires

or other hazards and administer first aid to injured parties.

- Captain Martin maintains his Paramedic certification and is at times the sole ALS provider on his apparatus. He also provides guidance to new employees and non-medics when needed on medical calls.

Exceeds Requirements Meets Requirements Needs Improvement

Plans and schedules work assignments of assigned personnel, which may include volunteers; responsible for ensuring staff compliance with the District's policies, procedures and guidelines; evaluates the work performance and establishes performance goals of assigned staff and conducts performance evaluations.

- Captain Martin completes required duties in the station and follows district policies. If he has any questions, he seeks clarification and attempts to handle issues at his level before escalating them.

Exceeds Requirements Meets Requirements Needs Improvement

Directs maintenance of station; inspects personnel and maintains discipline.

- Captain Martin was stationed at 46 where he supervises an engine company as well as an ambulance crew.

Exceeds Requirements Meets Requirements Needs Improvement

Evaluates fire and hazardous situations to determine the appropriate equipment and techniques to combat or control the situation; supervises and participates in EMS and rescue activities.

- Limited call volume of actual incidents but he does perform well in trainings both in person and virtually.

Exceeds Requirements Meets Requirements Needs Improvement

Ensures that all equipment is returned to its proper place; supervises the preventive maintenance, repair, and replacement of equipment and apparatus; directs the maintenance of fire apparatus and equipment to maintain constant readiness.

Exceeds Requirements Meets Requirements Needs Improvement

Supervises the gathering and preservation of evidence when a fire is of suspicious origin and testifies in court as to the findings.

Not evaluated in this period.

Exceeds Requirements Meets Requirements Needs Improvement

Supervises Engineers that drives fire apparatus and other emergency vehicles used in the transport of equipment and personnel in response to fire, rescue, emergency medical, hazardous material, and other public service alarms.

<input type="checkbox"/> Exceeds Requirements <input checked="" type="checkbox"/> Meets Requirements <input type="checkbox"/> Needs Improvement
<p>Supervises staff in the performance of basic maintenance and flow tests on fire hydrants.</p> <p>Not evaluated in this period.</p>
<input type="checkbox"/> Exceeds Requirements <input type="checkbox"/> Meets Requirements <input type="checkbox"/> Needs Improvement
<p>Trains and/or participates in training and classes in firefighting, including wildland fire, emergency medical service, and related duties.</p> <ul style="list-style-type: none"> - Captain Martin supervises and participates in the development of 2 probationary firefighters. His duty also requires supervision of a TMCC paramedic student.
<input type="checkbox"/> Exceeds Requirements <input checked="" type="checkbox"/> Meets Requirements <input type="checkbox"/> Needs Improvement
<p>Directs the operation of specialized equipment such as wildland apparatus, chain saws, portable pumps, and hydraulic rescue equipment as assigned.</p>
<input type="checkbox"/> Exceeds Requirements <input checked="" type="checkbox"/> Meets Requirements <input type="checkbox"/> Needs Improvement
<p>Supervises and conducts inspections and other fire prevention tasks including fire safety public education and presentations to eliminate or reduce fire hazards and enforce fire codes.</p> <ul style="list-style-type: none"> - Captain Martin's crew participated in the Today's Show on NBC. Ashley's Closet and Katie Grace Foundation was the local focus. His crew participated in support and unloading of toys and games for families/children of fire loss as a result of residential fires and floods.
<input type="checkbox"/> Exceeds Requirements <input checked="" type="checkbox"/> Meets Requirements <input type="checkbox"/> Needs Improvement
<p>Performs various public information and public relations tasks, answers questions from the general public.</p> <ul style="list-style-type: none"> - Captain Martin regularly handles face-to-face inquiries from the public regarding open burning, Christmas tree drop-off, sandbags for flooding, and other fire related issues
<input type="checkbox"/> Exceeds Requirements <input checked="" type="checkbox"/> Meets Requirements <input type="checkbox"/> Needs Improvement
<p>Writes reports of all fires and related emergency activities and reports concerning the use and condition of apparatus, related equipment, and supplies.</p> <ul style="list-style-type: none"> - Completes reports in a timely manner with good descriptions and understanding of processes such as MVA billing and transport needs.
<input type="checkbox"/> Exceeds Requirements <input checked="" type="checkbox"/> Meets Requirements <input type="checkbox"/> Needs Improvement
<p>May act as Battalion Chief as needed and as assigned on a relief basis.</p> <p>N/A</p>
<input type="checkbox"/> Exceeds Requirements <input type="checkbox"/> Meets Requirements <input type="checkbox"/> Needs Improvement
<p>Stays abreast of new trends and innovations in education and training in the fire science field.</p>

<input type="checkbox"/> Exceeds Requirements <input checked="" type="checkbox"/> Meets Requirements <input type="checkbox"/> Needs Improvement <p>Functions within the incident command system as a safety officer for the purpose of observing operations and identifying and mitigating safety hazards.</p> <p>Not evaluated in this period.</p> <input type="checkbox"/> Exceeds Requirements <input type="checkbox"/> Meets Requirements <input type="checkbox"/> Needs Improvement
<input type="checkbox"/> Exceeds Requirements <input checked="" type="checkbox"/> Meets Requirements <input type="checkbox"/> Needs Improvement <p>Evaluates training course effectiveness and makes changes necessary to assure desired results.</p>
<input type="checkbox"/> Exceeds Requirements <input type="checkbox"/> Meets Requirements <input type="checkbox"/> Needs Improvement <p>Orients volunteers to the department to which assigned; provides information regarding policies, procedures and regulations and conducts informational or training sessions as required.</p> <p>N/A</p> <input type="checkbox"/> Exceeds Requirements <input type="checkbox"/> Meets Requirements <input type="checkbox"/> Needs Improvement
<input type="checkbox"/> Exceeds Requirements <input type="checkbox"/> Meets Requirements <input type="checkbox"/> Needs Improvement <p>Maintains records and prepares a variety of written reports and materials regarding the volunteer program; plans and implements activities, awards and other methods for the recognition of volunteer staff.</p> <p>N/A</p> <input type="checkbox"/> Exceeds Requirements <input type="checkbox"/> Meets Requirements <input type="checkbox"/> Needs Improvement
<input type="checkbox"/> Exceeds Requirements <input checked="" type="checkbox"/> Meets Requirements <input type="checkbox"/> Needs Improvement <p>Ensures that assigned personnel perform duties and responsibilities in a safe and prudent manner which does not expose them or others to unnecessary harm or risk of on-the-job injury.</p>
<input type="checkbox"/> Exceeds Requirements <input checked="" type="checkbox"/> Meets Requirements <input type="checkbox"/> Needs Improvement <p>Performs related duties and responsibilities as assigned.</p>

- Knowledge of:**
- Policies and procedures of the Truckee Meadows Fire Protection District.
 - Firefighting and rescue methods, tools, and equipment.
 - Principles, use and limitations of basic mechanical tools.
 - Fire behavior and fire control techniques to carry out wildland fire suppression.
 - Fire line terminology required to communicate with other crew members.
 - Construction methods and materials as related to combustion and fire suppression and prevention techniques.
 - Symptoms of medical emergencies and of appropriate responses to such conditions.
 - Basic cardio and basic trauma/life support treatment.
 - Invasive and non-invasive therapy; drug therapy as allowed by EMT certification.

- Emergency medical procedures and in-patient assessment techniques.
- Specialized patient monitoring devices and life support systems such as heart monitor/defibrillator, external pacing devices, and pulse oximeters as allowed by EMT certification.
- Geography of the district, including major streets and landmarks.
- Operation and maintenance of firefighting equipment, apparatus, and special devices and materials.
- Goals, objectives, functions, protocol, staffing, and activity guidelines for the respective assigned program.
- Principles and practices of program planning, implementation, and evaluation.
- Research techniques, data collection, analysis, and report preparation.
- Methods and practices for developing and presenting public information and/or training programs.
- Principles and practices of adult learning and training methodologies.

Exceeds Requirements Meets Requirements Needs Improvement

Ability to:

- Plan, organize, and deploy personnel and equipment in highly complex emergency situations.
- Assess and treat patient's medical condition.
- Read and interpret building and construction plans.
- Recognize and train staff in work methods and procedures that promotes a safe working environment for employees and others.
- Develop and implement program components and services.
- Evaluate programs to determine their effectiveness in meeting goals and objectives and develop and implement program modifications.
- Interpret and apply regulations, policies and procedures.
- Maintain accurate records.
- Write narrative reports, educational, or promotional materials and other documents.
- Communicate in a clear, concise manner both orally and in writing, tailoring the message to the intended audience.
- Establish and maintain effective working relationships with departmental personnel, other public safety agencies, the public, and others contacted in the course of work.
- Exercise emotional control and work under stressful situations.
- Work independently in the absence of direct supervision.
- Analyze emergency situations and quickly develop effective and reasonable courses of action.

Exceeds Requirements Meets Requirements Needs Improvement

Additional supervisor comments:

Additional employee comments:

Overall Evaluation:

Below Expectations

Achieved some goals, but missed significant others. Demonstrated some requisite skills, knowledge and abilities but lacks significant others. Performance below accepted levels for the time in the position.

Meets Expectations

Achieved goals. Demonstrated requisite skills, knowledge and abilities and applied them to achieve goals. Performance consistently aligned with requirements of the position.

☐ Exceeds Expectations

Goals achieved. Performance consistently above requirements. Demonstrated all requisite skills and a willingness to continuously improve self and work processes.

Part 2 – Goals and Results Expected for Next Review Period

Goals/Tasks/Responsibilities and Results Expected During the Review Period

1. List the goals, tasks and /or job responsibilities to be accomplished. All employees should have at least one goal or project to work on during the review period.
2. Write **SMART** goals (Specific, Measurable, Attainable, Results-oriented, and Time-bound) that have outcomes related to the division/department/county objectives.
3. Objectives should be revised as new responsibilities arise or priorities change.

- | |
|---|
| <ol style="list-style-type: none">1. Continue task book progression (3/4 completed)2. Continue to work on NWCG certifications.3. SOB/G revision4. Successful completion of probationary firefighters quarterly eval or confirmation. |
|---|

Development Objectives for the Review Period

1. Identify 1-3 developmental objectives to work on during the next review period.
2. Include critical functional competencies (skills, knowledge) needed for effectiveness in the current position or to achieve goals and/or core competencies needed to enhance success.
3. Be sure to include any areas identified as Development Opportunities or rated as Needs Improvement in Part 1.
4. Development objectives for job enrichment or to prepare for a new role may also be included here.
5. Write these goals with **SMART(S)** – Specific, Measurable, Attainable, Results-oriented, Time-bound, (and Stretch).

Development Need (current performance)	Desired Performance	Learning Activities	Measurement Criteria	Timeframe
Task book completion	Completion	Training	Complete sign off and completion of probation.	4 th quarter (3/2022)

SOP/G revision	Final draft for review	Document for implementation	Ready for review pending approval	End of 2 nd quarter
Mentorship	Increased KSA for probationary employees	Task book requirements	Successful completion of probationary emp. for quarter or confirmation	End of 2 nd quarter

TRUCKEE MEADOWS FIRE PROTECTION DISTRICT
Employee Performance Review
& Development Plan



DEPARTMENT Operations

EMPLOYEE NAME Ed Martin

POSITION Fire Captain

SAP PERSONNEL # 00009209 (8 digit number starting with 0000 on your paystub or SAP timecard)

DATE OF REVIEW 4/12/2023

REVIEW PERIOD From: 12/18/2022 To: 3/18/2023

Annual review Other (please specify) 9-month probation evaluation

The signatures below indicate that the named supervisor and employee have read and discussed the performance and development review for the performance period. The employee signature does not imply agreement with the contents of the evaluation. All employees have the right to attach additional comments and/or discuss the evaluation with the reviewing officer of their respective departments.

[Signature] 4/12/23
 Employee Signature Date

[Signature] 4/12/2023
 Supervisor Signature Date

C. BUACK (#7236)
 Supervisor's Name Please Print

[Signature] 4/12/2023
 Department Head / Reviewing Officer Signature Date

JOE SEYMOUR
 Department Head/Reviewing Officer's Name Please Print

Part 1 – Review of Performance for Past Review Period

Goals/Tasks/Responsibilities and Results for the Review Period

1. List the goals, tasks and /or job responsibilities assigned.
2. Evaluate performance on each with a narrative that describes:
 - Was the task completed?
 - Was it completed in the expected timeframe?
 - Were the expected outcomes/results achieved?
 - What outside factors contributed to the (non)achievement of results?

1. Task book progression

Captain Martin has continued to work through his task book. It appears to be short of a few signatures for total completion, nearly three months ahead of schedule. This shows Captain Martin's dedication and commitment to his training, and ensuring he can be successful in his probationary year. It is this dedication and hard work that Captain Martin should strive to continue for the remaining years of his career.

2. Continue to work on NWCG Certificates

During this review period Captain Martin was able to finalize his ICT4 taskbook. He also has initiated a Line Safety Officer (NWCG) taskbook which he will be working to complete over this next wildland season.

3. SOP/G Revision

At this time Captain Martin had not completed this goal. He does have a plan in place to complete it, but due to his need to prioritize and execute other higher priority needs this goal will be extended into the next review period. This is a requirement of his probationary year and will need to be completed by his evaluation on 22JUNE2023.

4. Successfully complete Probationary Firefighter's Quarterly Evaluation

Captain Martin had the opportunity to complete a Probationary Firefighter's quarterly evaluation. Captain Martin took the extra step when his time was done with his crew by sending out a synopsis to the new supervisors of the employees that he had been entrusted with. Captain Martin explained their strengths/weakness/needs/goals, ensuring as much as possible a seamless transition, and ensuring the employees would not be set back by a change in supervision.

Other Significant Accomplishments Not Related to a Specific Goal

List any major accomplishments and the results achieved that were not assigned as part of goal setting for the review period.

Nevada Type III (Sierra Front) Team

Captain Martin has accepted a trainee position on one of the Nevada's Type III Incident Management Teams. Captain Martin will be working as a Safety Trainee. This is a great way to get a foot in the door and begin work towards further NWCG certification. As wildland firefighting is a third of what we do at TMFPD, it is encouraging to see Captain Martin taking this initiative. Being committed to a team requires sacrifice from both the employee and the employee's family, but the return on this investment can greatly benefit the employee and the district.

Truckee Meadows Fire Protection District Core Competencies Used / Not Used to Achieve Goals - Strengths & Development Opportunities

1. Identify competencies that were used to achieve the desired outcomes/results during the past review period (strengths).
2. Provide a narrative that details examples of when/how the competency was demonstrated and how it contributed to achievement of the goal or completion of the task.
3. Indicate any competencies that were not used in achievement of goals and may have contributed to better outcomes (development opportunities).
4. Provide a narrative that details when/how the competency may have been better utilized to carry out the assigned responsibilities.

Communication: Expresses information correctly, clearly and effectively in writing and speaking. Actively listens; attends to non-verbal cues and uses clarifying questions to ensure understanding. Keeps management informed of decisions. Uses multiple channels to ensure effective communication (email, phone, meetings, memos).

Captain Martin has continued utilizing suggestions and tools required for effective communication from last quarter to this quarter. This includes verbal and written styles of communications.

Captain Martin has in our time together communicated well with me. He ensures as his supervisor I am aware of his needs, and he communicates information in a timely manner that may affect his crew's readiness, response, or impact the district. This communication has helped build our relationship as new supervisor/employee. Captain Martin has had instances where his communication with internal and external customers has been an issue (see note below). In this area Captain Martin, needs improvement.

Quality Improvement: Challenges the status quo and seeks to create and implement improvements leading to more efficient and effective work systems and processes. Identifies problems and uses sound judgment and logic to generate, analyze and evaluate effective and innovative solutions. Uses tools and techniques to execute solutions that meet the requirements of internal and external customers.

Captain Martin has recently been assigned to Station #37. Station #37 has just been remodeled. Captain Martin has on numerous occasions taken his own time/effort to handle issues that have arisen at the station. He is demonstrating pride in his station/work and leading by example as to what it means to be a steward of our department and for our citizens.

Adaptability: Is open to and able to effectively cope with change. Handles multiple and changing priorities quickly and comfortably. Anticipates new and changing demands for programs and services. Has tolerance for risk and uncertainty. Is able to modify style to successfully meet organizational priorities.

On Captain Martin's arrival on our shift, he was a floater. We then assigned him to Station #39, and then Station #37. Captain Martin appeared to adapt to all this change without issue. While stationed at #37 Captain Martin also led his crew through the move from the old station into the new, dealing with many challenges along the way. Captain Martin appears to have kept his crew focused and away from the negativity that tends to creep in through times such as this.

Functional Competencies / Essential Job Requirements

1. List the specific functional / technical job competencies required for this position.
2. Provide a detailed narrative with specific examples of when/how the competency was or was not demonstrated and the impact on achievement of goals or performance of job responsibilities.
3. Rate proficiency in each competency using the following guidelines:

Exceeds Requirements Performance is consistently exceptional. This person is a role model of this competency.

Meets Requirements Performance meets and periodically exceeds expectations. This person is a strong contributor.

Needs Improvement Performance does not consistently meet reasonable expectations and standards. Immediate steps must be taken to improve.

*Add more rows as needed

Supervises the fire suppression, emergency medical services, control and containment of a hazardous situation, and fire prevention activities assigned to their station. <input type="checkbox"/> Exceeds Requirements <input checked="" type="checkbox"/> Meets Requirements <input type="checkbox"/> Needs Improvement
Supervises the response to fires and other emergency or public assistance incidents and coordinates personnel in hose laying, ladder operation, ventilation, extinguishment, extrication, salvage, and other activities; directs and coordinates emergency scene activity unless and until relieved of command by a supervisor. <input type="checkbox"/> Exceeds Requirements <input checked="" type="checkbox"/> Meets Requirements <input type="checkbox"/> Needs Improvement
Perform as an intermediate emergency medical technician; rescue people endangered by fires or other hazards and administer first aid to injured parties. <i>Captain Martin maintains his Paramedic EMT licensure. He has served as the sole Paramedic on his engine at times.</i> <input checked="" type="checkbox"/> Exceeds Requirements <input type="checkbox"/> Meets Requirements <input type="checkbox"/> Needs Improvement
Plans and schedules work assignments of assigned personnel, which may include volunteers; responsible for ensuring staff compliance with the District's policies, procedures and guidelines; evaluates the work performance and establishes performance goals of assigned staff and conducts performance evaluations. <i>Handles the daily scheduling of his crew without the need for supervisor input.</i> <input type="checkbox"/> Exceeds Requirements <input checked="" type="checkbox"/> Meets Requirements <input type="checkbox"/> Needs Improvement
Directs maintenance of station; inspects personnel and maintains discipline. <input type="checkbox"/> Exceeds Requirements <input checked="" type="checkbox"/> Meets Requirements <input type="checkbox"/> Needs Improvement
Evaluates fire and hazardous situations to determine the appropriate equipment and techniques to combat or control the situation; supervises and participates in EMS and rescue activities. <input type="checkbox"/> Exceeds Requirements <input checked="" type="checkbox"/> Meets Requirements <input type="checkbox"/> Needs Improvement

Ensures that all equipment is returned to its proper place; supervises the preventive maintenance, repair, and replacement of equipment and apparatus; directs the maintenance of fire apparatus and equipment to maintain constant readiness.

Has performed above expectations regarding the extra work performed with moving into the new Station 37. Has submitted requests for minor repairs and has maintained station and equipment in this quarter.

Exceeds Requirements Meets Requirements Needs Improvement

Trains and/or participates in training and classes in fire fighting, including wildland fire, emergency medical service, and related duties.

Exceeds Requirements Meets Requirements Needs Improvement

Directs the operation of specialized equipment such as wildland apparatus, chain saws, portable pumps, and hydraulic rescue equipment as assigned.

Exceeds Requirements Meets Requirements Needs Improvement

Supervises and conducts inspections and other fire prevention tasks including fire safety public education and presentations to eliminate or reduce fire hazards and enforce fire codes.

Exceeds Requirements Meets Requirements Needs Improvement

Performs various public information and public relations tasks; answers questions from the general public.

Exceeds Requirements Meets Requirements Needs Improvement

Writes reports of all fires and related emergency activities and reports concerning the use and condition of apparatus, related equipment, and supplies.

FireRMS reports are completed on time and appropriately. Ensures his crew uses Check-It as appropriate.

Exceeds Requirements Meets Requirements Needs Improvement

Stays abreast of new trends and innovations in education and training in the fire science field.

Exceeds Requirements Meets Requirements Needs Improvement

Functions within the incident command system as a safety officer for the purpose of observing operations and identifying and mitigating safety hazards.

N/A

Exceeds Requirements Meets Requirements Needs Improvement

Evaluates training course effectiveness and makes changes necessary to assure desired results.

Exceeds Requirements Meets Requirements Needs Improvement

Ensures that assigned personnel perform duties and responsibilities in a safe and prudent manner which does not expose them or others to unnecessary harm or risk of on-the-job injury. *Incidents in this quarter and previous, Captain Martin has shown to follow TM's Risk Management Plan and provides for safety first in situations regarding training and working emergency incidents.*

Exceeds Requirements Meets Requirements Needs Improvement

Performs related duties and responsibilities as assigned.

Exceeds Requirements Meets Requirements Needs Improvement

Knowledge of:

- Policies and procedures of the Truckee Meadows Fire Protection District.
- Firefighting and rescue methods, tools, and equipment.
- Principles, use and limitations of basic mechanical tools.
- Fire behavior and fire control techniques to carry out wildland fire suppression.
- Fire line terminology required to communicate with other crew members.
- Construction methods and materials as related to combustion and fire suppression and prevention techniques.
- Symptoms of medical emergencies and of appropriate responses to such conditions.
- Basic cardio and basic trauma/life support treatment.
- Invasive and non-invasive therapy; drug therapy as allowed by EMT certification.
- Emergency medical procedures and in-patient assessment techniques.
- Specialized patient monitoring devices and life support systems such as heart monitor/defibrillator, external pacing devices, and pulse oximeters as allowed by EMT certification.
- Geography of the district, including major streets and landmarks.
- Operation and maintenance of firefighting equipment, apparatus, and special devices and materials.
- Goals, objectives, functions, protocol, staffing, and activity guidelines for the respective assigned program.
- Principles and practices of program planning, implementation, and evaluation.
- Research techniques, data collection, analysis, and report preparation.
- Methods and practices for developing and presenting public information and/or training programs.
- Principles and practices of adult learning and training methodologies.

Exceeds Requirements Meets Requirements Needs Improvement

Ability to:

- Plan, organize, and deploy personnel and equipment in highly complex emergency situations.
- Assess and treat patient's medical condition.
- Read and interpret building and construction plans.
- Recognize and train staff in work methods and procedures that promotes a safe working environment for employees and others.
- Develop and implement program components and services.
- Evaluate programs to determine their effectiveness in meeting goals and objectives and develop and implement program modifications.
- Interpret and apply regulations, policies and procedures.
- Maintain accurate records.
- Write narrative reports, educational, or promotional materials and other documents.
- Communicate in a clear, concise manner both orally and in writing, tailoring the message to the intended audience.
- Establish and maintain effective working relationships with departmental personnel, other public safety agencies, the public, and others contacted in the course of work.
- Exercise emotional control and work under stressful situations.
- Work independently in the absence of direct supervision.
- Analyze emergency situations and quickly develop effective and reasonable courses of action.

Exceeds Requirements Meets Requirements Needs Improvement

Additional supervisor comments:

Captain Martin during his probationary year has now been coached/counseled three times regarding similar issues dealing with his communication, with both internal and external customers. During each of the coaching/counseling events Captain Martin reported he would continue to focus on improving the way in which he communicates. Captain Martin will need to ensure that moving forward he does not have any similar incidents. Communication with internal and external customers is paramount to his success as a Captain, and to the overall success of the district. Failure to communicate in a manner that is in alignment with the district's vision and values could result in re-training, and escalation of coaching/counseling.

THIS EVALUATION WAS COMPLETED BY BC BLACK AND BC REID, AS BOTH SUPERVISED CAPTAIN MARTIN DURING THIS REVIEW PERIOD.

Additional employee comments:

Overall Evaluation:

Below Expectations

Achieved some goals, but missed significant others. Demonstrated some requisite skills, knowledge and abilities but lacks significant others. Performance below accepted levels for the time in the position.

Meets Expectations

Achieved goals. Demonstrated requisite skills, knowledge and abilities and applied them to achieve goals. Performance consistently aligned with requirements of the position.

Exceeds Expectations

Goals achieved. Performance consistently above requirements. Demonstrated all requisite skills and a willingness to continuously improve self and work processes.

Part 2 – Goals and Results Expected for Next Review Period

Goals/Tasks/Responsibilities and Results Expected During the Review Period

1. List the goals, tasks and /or job responsibilities to be accomplished. All employees should have at least one goal or project to work on during the review period.
2. Write SMART goals (Specific, Measurable, Attainable, Results-oriented, and Time-bound) that have outcomes related to the division/department/county objectives.
3. Objectives should be revised as new responsibilities arise or priorities change.

1. Captain Taskbook

One of the requirements for Captain Martin to be released from probation is the completion of his Captain taskbook. At the time of this evaluation Captain Martin had only a few outstanding signature items required. It is his goal to get these completed prior to his next evaluation date of 22JUNE2023. The dedication and work ethic that Captain Martin has thus demonstrated to complete what he has in the taskbook indicates that he should have no issue with achieving this goal. Measurement will be its completion.

2. Line Safety Officer Taskbook (NWCG)

Captain Martin should have ample opportunity to work on his Safety Officer taskbook, being part of a Type III IMT. While it is an aggressive goal to complete this taskbook in this review period it is not likely. This goal will likely be extended to Captain Martin's next review period, if not further. These taskbook can take years to complete and the training should not be rushed to check this checkbox. Instead, Captain Martin should ensure he gets as much opportunity to train under the taskbook umbrella.

3. Reflection Paper

As part of the requirements to be released from probation, Captain Martin is required to write a reflection paper for the Training Division. Captain Martin will need to ensure he accomplishes the requirements set by the Training Division in their directions for this paper. Its completion will need to occur so that he can submit it at his next evaluation on 22JUNE2023. Achieving this goal will be measured by the Training Division's acceptance of a successful reflection paper.

Development Objectives for the Review Period

1. Identify 1-3 developmental objectives to work on during the next review period.
2. include critical functional competencies (skills, knowledge) needed for effectiveness in the current position or to achieve goals and/or core competencies needed to enhance success.
3. Be sure to include any areas identified as Development Opportunities or rated as Needs Improvement in Part 1.
4. Development objectives for job enrichment or to prepare for a new role may also be included here.
5. Write these goals with **SMART(S)** – Specific, Measurable, Attainable, Results-oriented, Time-bound, (and Stretch).

Development Need (current performance)	Desired Performance	Learning Activities	Measurement Criteria	Timeframe
Communication skills	Improve verbal/written communication skills	Education on human interaction Extreme Ownership (books/online portal) TMCC/UNR educational opportunities	No further reports of communication issues	0-3 months
All risks firefighter (Captain) KSA	Continued education/training on all aspects of all risk job requirements.	Local training opportunities Outside the region training opportunities	Continued performance of incidents. Able to provide training to crew.	0-3 months

1 **BEFORE THE EMPLOYEE MANAGEMENT RELATIONS BOARD**

2 **STATE OF NEVADA**

3 ***

4 EDWIN MARTIN,
Complainant.

Case No. 2023-036

5 v.

6 TRUCKEE MEADOWS FIRE
PROTECTION DISTRICT

7 Respondent.

8 **FILED**
February 12, 2024
State of Nevada
E.M.R.B.
2:31 p.m.

9
10 **REPLY IN SUPPORT OF MOTION TO DISMISS FIRST AMENDED COMPLAINT**

11 Respondent, Truckee Meadows Fire Protection District ("TMFPD"), by and through
12 their undersigned counsel, hereby files their reply brief in support of the Motion to Dismiss First
13 Amended Complaint that was filed on January 17, 2024. This reply is based upon the following
14 Memorandum of Points and Authorities, all pleadings and papers on file with the Board, and
15 any evidence the Board wishes to consider.

16 **MEMORANDUM OF POINTS AND AUTHORITIES**

17 **I. INTRODUCTION**

18 Martin has filed the instant action for the purpose of contesting TMFPD's decision to
19 not confirm Martin's promotion after he failed to successfully complete his probationary period.
20 See First Amended Complaint, pp. 2-5. Under the applicable collective bargaining agreement
21 ("CBA"), Martin was required to raise his disagreement with the promotional decision through
22 the grievance procedures. By failing to do so, he failed to exhaust his contractual remedies.
23 Martin cannot circumvent exhaustion requirements by disguising his First Amended Complaint
24 ("Complaint") as a prohibited practice claim. Even if the Board were to entertain Martin's
25 prohibited practice claims, his Complaint should be dismissed on the grounds that no probable
26 cause exists for the Complaint because claims are insufficiently pled.

1 TMFPD moved to dismiss Martin’s Complaint on January 17, 2024. As demonstrated
2 in the motion, Martin’s Complaint should be dismissed because Martin (1) he failed to exhaust
3 his contractual remedies, and (2) he failed to state a viable prohibited practice claim under NRS
4 288.270. Martin opposed the motion on January 31, 2023. *See* Reply in Opposition to Motion
5 to Dismiss First Amended Complaint (“Opposition”).

6 In his Opposition, Martin erroneously argues that he did not have the ability to grieve
7 the promotional decision. Martin also fails to demonstrate how he alleged a plausible
8 prohibited practice claim. A complaint filed with the Board must satisfy certain statutory and
9 regulatory requirements to be considered. Martin fails to adequately plead a prohibited practice
10 claim because he does not assert sufficient factual allegations that he is a member of a protected
11 class or that he engaged in protected activity. Additionally, Martin’s Complaint does not allege
12 facts showing that Martin’s protected class or political/personal reasons were the motivating
13 factor for the promotional decision at issue. Rather than identifying facts to show that he has
14 asserted plausible claims, Martin regurgitates the conclusory allegations in his Complaint and
15 insists he is entitled to a hearing. For the reasons discussed in TMFPD’s motion and the instant
16 reply brief, Martin’s Complaint should be dismissed with prejudice.

17 **II. ARGUMENT**

18 **A. Martin Failed to Exhaust Contractual Remedies**

19 Martin’s Complaint must be dismissed pursuant to NAC 288.375(2) because he failed to
20 exhaust contractual remedies as required by the CBA. Martin conveniently ignores the
21 provision of the CBA that pertain to promotions in his Opposition. Article 14 of the CBA sets
22 forth the rules and procedures pertaining to promotions. *See* Exhibit 1 to the Motion to Dismiss,
23 pp. 6-9. Section “F” of Article 14 addresses the procedures for the confirmation process of an
24 employee’s promotion when he or she is required to serve a probationary period. *Id.* Decisions
25 regarding an employee’s promotion are clearly grievable. *Id.* at 9. Article 14(F)(3) provides
26 that a promotion “is not final until any resulting grievances have been resolved.” *Id.*

1 It is undisputed that Martin was required to successfully complete a probationary period
2 for this promotion to be confirmed. *See* Complaint, p. ¶ 6. Based on Article 14(F)(3), Martin
3 clearly had the ability to file a grievance regarding TMFPD's decision pertaining to his
4 promotion. *See* Exhibit 1 to the Motion to Dismiss, pp. 6-9. Martin was informed on July 12,
5 2023, that his promotion would not be confirmed due to his failure to successfully complete his
6 probationary period. *See* Complaint, p. 6 ¶ 22. Martin never grieved the decision to not
7 confirm his promotion. *Id.* at 6-7 ¶¶ 23-26. Because Martin never initiated a grievance
8 regarding the decision to not confirm his promotion, he failed to exhaust contractual remedies
9 required by the CBA.

10 In a desperate attempt to avoid dismissal of his Complaint, Martin makes contradictory
11 arguments in his Opposition regarding the exhaustion issue. Martin first argues that he did not
12 initiate a grievance because complaints regarding his promotion are procedurally barred from
13 the grievance process. *See* Opposition, pp. 4-5. Second, Martin argues that he did exhaust his
14 contractual remedies by filing a grievance regarding his promotion prior to filing his EMRB
15 Complaint. *Id.* at 5-6. Both of Martin's arguments are meritless.

16 **1. Martin was not Procedurally Barred from Filing a Grievance**

17 Martin's first argument fails because a grievance contesting the promotion is not
18 procedurally barred pursuant to Article 14(F)(3) as discussed above. Article 14(F)(3) is the
19 operative CBA provision. *See* Exhibit 1 to the Motion to Dismiss, p. 6-9. The CBA
20 contemplates the filing of grievances related to promotional decisions and the grievance process
21 is the proper avenue for employees to raise issues regarding their promotions. *Id.*

22 Martin's reliance on Article 8(A) of the CBA in arguing that he was precluded from
23 initiating a grievance is unavailing. Article 8(A) of the CBA provides that an employee cannot
24 be discriminated against pursuant to NRS 613.330 and addresses how complaints of
25 discrimination under NRS 613.330 are to be handled. *Id.* at 3-4. Article 8(D) requires that
26 alleged violations of discrimination under NRS 613.330 "shall be submitted to the appropriate

1 administrative agency(ies) having responsibility for enforcing State and Federal laws governing
2 non-discrimination in employment and shall not be subject to the Article 48 (Grievance
3 Procedure). *Id.* at 4. Here, Martin is not alleging discrimination under NRS 613.330. Instead,
4 the gravamen of his Complaint is that he was improperly denied a promotion. However, even if
5 the Board construes his Complaint as one for discrimination under NRS 613.330 he still failed
6 to properly exhaust his claims. The Nevada Equal Rights Commission (“NERC”) and the U.S.
7 Equal Employment Opportunity Commission (“EEOC”) have statutory authority to investigate
8 and resolve allegations of discrimination pursuant to NRS 613.405 and 42 U.S.C. § 2000e-4 and
9 2000e-5, respectively. NERC and EEOC are the agencies referred to in Article 8(D) of the
10 CBA. Accordingly, if Martin’s claims fall under Article 8(D) of the CBA, he was required to
11 exhaust his remedies by filing claims with NERC or the EEOC before he can file an action with
12 the EMRB. *Id.* at 4. Martin’s Complaint is void of allegations that he filed his claims with
13 either NERC or the EEOC. This being so, he failed to exhaust his claims under Article 8(D) of
14 the CBA if that section applies to his case. *Id.* Dismissal is appropriate where there has been a
15 failure to file a complaint with NERC or the EEOC. *Kora v. Renown Health*, No.
16 309CV00176RCJVP, 2010 WL 2609049, at *4 (D. Nev. June 24, 2010).

17 **2. Martin Still Failed to Exhaust Even if he Filed a Grievance**

18 Martin’s second argument that he did exhaust contractual remedies because he
19 participated in step 1 of the grievance process fails. Although not asserted in his Complaint,
20 Martin contends that he initiated a grievance when he sent Division Chief Joe Schum an email
21 on July 12, 2023. *See* Opposition, p. 5. The email is attached to the Opposition as Exhibit 6.
22 Martin’s reliance on the email in arguing that he filed a grievance is tenuous at best. A simple
23 reading of the email establishes that it cannot be characterized as a grievance. *Id.* Nowhere in
24 the email does Martin indicate that he disagreed with the promotional decision or that he was
25 contesting it in any way. *Id.* Instead, Martin requests an extension of his probationary period
26 and states that he would return to working as an Engineer at the end of that period. *Id.* Martin’s

1 email states, in pertinent part, "For an easy fix, I would like to recommend extending my
2 Captain probation until July 22 at which time my return to the Engineer ranks would take affect.
3 ..." *Id.* Martin also states that he will support the decision. *Id.* This email correspondence
4 cannot, in any way, shape or form be construed as a grievance contesting the promotional
5 decision.

6 And for the sake of argument, even if the email correspondence could be construed as a
7 grievance, Martin still failed to exhaust all contractual remedies by abandoning his grievance.
8 The Board has held that "[w]hile the Board has exclusive jurisdiction over unfair labor
9 practices, the parties must first exhaust their contractual remedies, including all rights to
10 arbitration." *Operating Engineers Local Union No. 3 v. Incline Village General Improvement*
11 *District*, Case No. 2020-012, Item No. 864-C (2021). The grievance process outlined in Article
12 48 contains three steps. *See* Exhibit 1 to Motion to Dismiss, p. 36. Employee do not exhaust
13 the contractual remedies unless they avail themselves of every step in the process. Martin
14 concedes that he abandoned his purported grievance after step 1 upon the advice of counsel.
15 *See* Opposition, pp. 5-7. Exhausting the bargained contractual remedies are mandatory prior to
16 bringing the instant action. NAC 288.375. Under Article 48 of the CBA, nothing forces a
17 grievant to move beyond Step 1 to Step 2 (Washoe County Labor Relations Manager) and Step
18 3 (Arbitration). *See* Exhibit 1 to Motion to Dismiss, p. 36-37. However, abandoning a
19 grievance midway through the grievance process and failing to take it arbitration does not
20 constitute exhaustion of an employee's contractual remedies. Here, Martin voluntarily
21 abandoned his purported grievance after consulting with his Association representatives. *See*
22 Opposition, p. 6. Because Martin failed to pursue and/or exhaust his contractual remedies
23 before filing this action, the Board must dismiss his Complaint under NAC 288.375.

24 Martin does not make a clear showing that his Complaint should survive dismissal due
25 to special circumstances or because he will suffer extreme prejudice. He had the opportunity to
26 avail himself of the grievance process and/or pursue his claims NERC or the EEOC, but he

1 made a strategic decision to not do so. Martin cannot hide behind the advice he received from
2 the Association and their counsel as an excuse to not follow required procedures outlined in the
3 CBA. A similar situation was contemplated by this Board in *Operating Engineers Local Union*
4 *No. 3 v. Incline Village General Improvement District*, Case No. 2020-012, Item No. 864-C,
5 2021, 2021 WL 5493956, at *2 (2021). The board held that “It is of no defense to argue that
6 Complainant’s own failure to timely comply [with the provisions of the CBA] should allow
7 Complainant to circumvent the bargained for processes. The logical end to this argument would
8 be to permit the perverse incentive to ignore bargained for processes in order to skip straight to
9 Board review.” *Id.* The grievance procedures exist so that employers and employees have an
10 opportunity to resolve their disputes prior to litigation. Martin has no legitimate excuse for
11 filing the instant action without first attempting to address the issues with TMFPD.

12 **B. Martin Failed to State a Viable Claim for a Prohibited Practice**

13 Even if the Board decides not to dismiss Martin’s Complaint for failure to exhaust, his
14 Complaint should be dismissed because he fails to state a viable prohibited practice claim. The
15 Board dismisses complaints for lack of probable cause when a claim is insufficiently pled on the
16 face of the Complaint. *See Williams v. Las Vegas Metropolitan Police Department*, Case No.
17 AI-045866, Item No. 619, 2006 WL 7137892, at *5 (2006).

18 A complaint must satisfy certain pleading requirements in order to be considered by the
19 EMRB. Under NAC 288.200(1)(c), a complaint *must* include, “[a] clear and concise statement
20 of the facts constituting the alleged practice sufficient to raise a justiciable controversy under
21 chapter 288 of NRS, including the time and place of the occurrence of the particular acts and the
22 names of persons involved” While allegations of a complaint are generally accepted as
23 true and must be construed in the light most favorable to the petition for purposes of deciding a
24 motion to dismiss, legal conclusions cast in the form of factual allegations in the complaint are
25 not entitled to an assumption of truth. *Clegg v. Cult Awareness Network*, 18 F.3d 752, 754 (9th
26 Cir. 1994). A petitioner cannot rely on mere labels and conclusions in pleading his or her

1 claims for relief to avoid dismissal. *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007)
2 (discussing the standard for reviewing a motion to dismiss when a plaintiff is required to assert
3 specific facts to state a claim).

4 Discrimination claims brought under NRS 288.270(1)(f) are generally analyzed under
5 the framework set forth in *Reno Police Protective Ass'n v. City of Reno*, 102 Nev. 98, 715 P.2d
6 1321 (1986) and later modified in *Bisch v. Las Vegas Metro Police Dep't*, 129 Nev. Adv. Op.
7 36, 302 P.3d 1108 (2013). An aggrieved employee must allege prima facie case by alleging
8 specific facts showing that the protected conduct was a motivating factor in the employer's
9 decision. *Nye County Law Enforcement Association, Complainant v. Nye County*, Case No.
10 2020-025, Item No. 872, 2021 WL 5493960, at *22 (2021) (emphasis added). Under the
11 revised framework, "it is not enough for the employee to simply put forth evidence that is
12 capable of being believed; rather, this evidence must actually be believed ..." *Bisch*, 302 P.3d at
13 1116 (emphasis added). Martin does not state a plausible claim for discrimination under NRS
14 288.270(1)(f) because he does not allege sufficient facts establishing his membership in a
15 protected class, his political or personal beliefs, and that the protected characteristics were the
16 motivating factor behind the promotional decision.

17 Martin alleges he was discriminated against for three (3) different reasons: (1) because
18 his children are half-Hispanic, (2) because of personal reasons, and (3) for political reasons. *See*
19 *Complaint*, pp.4-7. Martin's claim fails on the face of the Complaint under all three theories of
20 discrimination.

21 **I. Racial Discrimination**

22 Martin's discrimination claim which is based on the race of his children is not a
23 cognizable cause of action. To state a prima facie case of racial discrimination an employee
24 must show that *he* belongs to a protected class. *Tragon v. Republic Silver State Disposal Inc.*,
25 292 F.3d 654, 658 (9th Cir. 2002) (stating the elements of racial discrimination under Title VII).
26 Plain and simply, the race of an employee's children does not make them a member of a

1 protected class. Martin erroneously cites to the U.S. Supreme Court case of *Bostock v. Clayton*
2 *Cnty., Georgia*, 140 S. Ct. 1731 (2020) in arguing that Martin has established the first element
3 of a discrimination claim by demonstrating membership of a protected class. The case cited by
4 Martin does not stand for the proposition that an employee's familial racial makeup places him
5 in a protected class. *Bostock* involved two cases where one plaintiff was discriminated against
6 because of his own sexual orientation and the other plaintiff was discriminated against because
7 of their transgender status. *Id.* at 1737-38. The discrimination claims asserted by both plaintiffs
8 were based on their own protected characteristics, and not the characteristics of their children.
9 As such, *Bostock* lends nothing to this case.

10 Martin does not cite to any authority whatsoever which stands for the proposition that an
11 employee can prevail on a discrimination claim based on the protected characteristics of their
12 children. This is because no such authority exists. Because Martin does not plead facts
13 demonstrating that *he* is a member of a protected class, he does not state a plausible claim for
14 racial discrimination.

15 Martin's racial discrimination claim also fails because his Complaint does not
16 adequately allege causation. Even if Martin was in a protected class due to the race of his
17 children, Martin does not allege specific facts demonstrating that the promotional decision at
18 issue was motivated by the race of his children. Even if it was true that Chief Solaro used dark
19 emojis in text messages to Martin, there are zero facts in the Complaint indicating that there was
20 any sort of racial animus behind the texts or that the race of Martin's children had anything to
21 do with the promotional decision. Martin's argument that TMFPD does not offer a legitimate
22 non-discriminatory reason for Chief Solaro's use of dark emojis in text messages is meritless. It
23 is Martin's responsibility to allege specific facts in his Complaint to state a viable
24 discrimination claim and he does not do so. NAC 288.200(1)(c). Accordingly, his
25 discrimination claim should be dismissed.

26 /

1 **2. Personal Discrimination**

2 Martin's claim that he was discriminated against for personal reasons is also not
3 adequately pled in his Complaint. Discrimination based on personal reasons occurs where an
4 employer takes adverse action against an employee for "non-merit-or-fitness factors" such the
5 dislike of or bias against a person which is based upon an individual's characteristics, beliefs,
6 affiliations, or activities that do not affect the individuals merit or fitness for a particular job."
7 *Kilgore v. City of Henderson*, Case No. A1-045763, Item No. 550H, 2015 WL 5638189, at *5-6
8 (2005). The clause prohibiting discrimination for personal reasons in NRS 288.270(1)(f) "was
9 not intended to prohibit an employer from taking adverse action against an employee for issues
10 that are related to an employee's fitness for a job or ability to perform a job." *Shannon*
11 *D'Ambrosio v. Las Vegas Metropolitan Police Department*, Case Nos. A1-046119 and A1-
12 046121 (Consolidated), Item No. 808, 2015 WL 6168157, at *3 (2015).

13 In his Complaint, Martin alleges that during the last evaluation for his probationary
14 period he received an evaluation of "not meeting requirements." See Complaint, pp. 4-5, ¶ 15.
15 Specifically, Martin acknowledges that the evaluation stated Martin did not meet expectations
16 for the following categories: accountability, continuous learning, communication skills,
17 customer services, personal relationships, ethics and integrity, organizational knowledge
18 decision making, organizational talent, leading and inspiring others, and values and leverages
19 diversity. *Id.* Although Martin disagreed with this evaluation, it clearly demonstrates that the
20 decision to not confirm his promotion was in fact based on merit or fitness factors and not
21 personal reasons. This being so, Martin's discrimination claim fails on the face of the
22 Complaint.

23 The fact that Chief Solaro conducted an investigation of Martin after he was arrested
24 while off-duty does not mean that the promotional decision was motivated by personal reasons
25 and had nothing to do with his merit or fitness to be promoted to Captain. In fact, the exhibits
26 attached to Martin's Opposition demonstrate that that the promotional decision was not carried

1 out for personal reasons. Martin filed a complaint with HR regarding the investigation
2 conducted by Chief Solaro. TMFPD hired an independent fair and impartial investigator to
3 conduct the investigation into your client. *See* Exhibit 2 to Opposition, pp. 1-2. That
4 investigation revealed that Chief Solaro did not slander or otherwise harm Martin. *Id.* at 2. The
5 investigation also concluded that Chief Solaro's actions had nothing to do with the decision to
6 not confirm Martin's promotion. *Id.* The investigation revealed that Chief Solaro failed to
7 follow protocols regarding not following the chain of command when gathering information
8 about Martin's arrest. *Id.* at 1. The Board has routinely rejected discrimination claims like this
9 where the petitioner cannot demonstrate that personal reasons were a motivating factor in the
10 employer's actions. *See Elko County Employees Association, Nevada Classified School*
11 *Employees and Public Workers Association Local 6181 v. Elko County*, Item No. 807, Case No.
12 A1-046068, 2015 WL 5638189, at *5 (2015) (finding that the association did not state a *prima*
13 *facie* case of discrimination based on personal reasons because personal reasons were not a
14 motivating factor in the employers actions). There are no facts in Martin's Complaint or the
15 investigative report attached to Martin's Opposition that demonstrate that the promotional
16 decisions were motivated by any personal animus that Chief Solaro harbored toward Martin.
17 Martin relies on nothing but speculation and assumptions that the promotional decisions were
18 based on personal reasons. Accordingly, Martin discrimination claim is inadequately pled.

19 3. Political Discrimination

20 Martin's political discrimination claim also fails on the face of the Complaint. To
21 adequately state a claim for political discrimination under NRS 288.270(1)(f), Martin is
22 required to allege facts that political reasons were a motivating factor in TMFPD's promotion
23 decision. NAC 288.200(1)(c); *David O'leary v. Las Vegas Metro. Police Department*, Item No.
24 803, Case No. A1-046116, 2015 WL 2345197, at *6 (2015). Martin's Complaint does not
25 identify his political affiliation or what political activity he engaged in, and does not assert
26 factual allegations demonstrating the promotional decision was motivated by his political

1 affiliation/activity. See Complaint, pp. 2-7. Martin completely ignores this issue in Opposition.
2 Because Martin does not state a plausible claim for political discrimination, his Complaint
3 should be dismissed for failure to state a claim.

4 **III. CONCLUSION**

5 In conclusion, Martin failed to exhaust his contractual remedies, and he failed to
6 adequately plead a cognizable claim for discrimination under NRS 288.270(1)(f). Accordingly,
7 Martin's Complaint should be dismissed pursuant to NAC 288.375(1)-(2). TMFPD therefore
8 requests that the EMRB grant its motion and dismiss Martin's Complaint with prejudice.

9 DATED 12th day of February, 2024

10 CHRISTOPHER J. HICKS
11 Washoe County District Attorney

12 By /s/ Brandon Price
13 Wade Carner, Esq.
14 Deputy District Attorney
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17 One South Sierra St.
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19 ATTORNEYS FOR TRUCKEE MEADOWS
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1 CERTIFICATE OF SERVICE

2 Pursuant to NRCP 5(b), I certify that I am an employee of the Office of the District
3 Attorney of Washoe County, over the age of 21 years and not a party to nor interested in the
4 within action. I certify that on this date, a true and correct copy of the foregoing document was
5 emailed to the following electronic mail address:

6 Employee Management Relations Board
emrb@business.nv.gov

7
8 Ronald J. Dreher, Esq.
ron@dreherlaw.net

9
10 Dated this 12th day of February, 2024.

11 /s/ N. Stapledon
12 N. Stapledon
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