

1 [Administrative Code - Catastrophic Illness Programs]

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3 Ordinance amending the Administrative Code to authorize the Department of *Public*
4 ~~*Health to designate another City department*~~ *Human Resources* to carry out various
5 functions in the administration of the T.J. Anthony Employee Catastrophic Illness
6 Program for City employees and the Catastrophic Illness Program for Family Members
7 of City employees. ~~*The Department of Public Health designated the administration of*~~
8 ~~*the Catastrophic Illness Program to the Department of Human Resources in 2015.*~~

9 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
10 **Additions to Codes** are in *single-underline italics Times New Roman font*.
11 **Deletions to Codes** are in ~~*strikethrough italics Times New Roman font*~~.
12 **Board amendment additions** are in Arial font.
13 **Board amendment deletions** are in ~~Arial font~~.
14 **Asterisks (* * * *)** indicate the omission of unchanged Code
15 subsections or parts of tables.

16 Be it ordained by the People of the City and County of San Francisco:

17 Section 1. Article I of Chapter 16 of the Administrative Code is hereby amended by
18 revising Sections 16.9-29A and 16.9-29B, to read as follows:

19 **SEC. 16.9-29A. T. J. ANTHONY EMPLOYEE CATASTROPHIC ILLNESS**
20 **PROGRAM – TRANSFER OF SICK LEAVE AND VACATION CREDITS TO ~~INDIVIDUAL~~**
21 **~~CATASTROPHICALLY ILL EMPLOYEES OR~~ A POOL FOR THE BENEFIT OF**
22 **CATASTROPHICALLY ILL CITY EMPLOYEES.**

23 (a) **Purpose.** To enable catastrophically-ill ~~City~~ employees *of the City and County of San*
24 *Francisco (“City”)* to continue to be paid through donations of sick leave and vacation hours
25 from other *City* employees, as authorized by Charter Sections A8.364 and A8.441. This
program shall be known as the *T. J. Anthony* Catastrophic Illness Program, or "CIP." This

1 Section 16.9-29A only provides for receipt of such credits as are donated and does not provide
2 for an absolute right of continued paid leave.

3 (b) **Establishment of Catastrophic Illness Leave Pool; Administration and Rule-**
4 **Making Authority.** There is hereby established a pool into which City employees may donate
5 sick leave and/or vacation credits to benefit catastrophically ill City employees. The Human
6 Resources Director, in consultation with the Controller, shall have authority to administer the CIP
7 program, including the authority to make and enforce rules not inconsistent with this Section
8 16.9-29A, ~~with consultation from the Director of Health or his or her designee.~~

9 (c) **Definitions.**

10 ~~(1) A~~ "Catastrophic illness" shall mean a life-threatening illness or injury, as
11 determined by the ~~Department of Public Health or its~~ Human Resources Director or the Director's
12 designee.

13 ~~(2) A~~ "active participant" in the "CIP employee" is defined as means a City
14 employee who has applied for Catastrophic Illness Status and has been notified of ~~his or~~
15 ~~her~~their acceptance in the CIP by the ~~Department of Public Health~~ Human Resources Director or
16 ~~its~~ the Director's designee and whose participation in the CIP has not terminated, regardless of
17 whether or not the employee has actually received or used any ~~donated sick leave and/or~~
18 ~~vacation credits~~ Catastrophic Illness Leave.

19 "CIP Pool" means the bank of sick leave credits and vacation hours from all employees
20 who have donated to the Catastrophic Illness Program.

21 (d) **Eligibility of Employees to Participate in CIP.** Any City employee ~~of the City and~~
22 ~~County of San Francisco~~ may participate in the CIP if the employee meets all of the following
23 conditions:

24 (1) The employee is eligible to accumulate and use sick leave ~~and vacation~~
25 ~~credits;~~

1 (2) The employee is catastrophically ill;

2 (3) The employee has exhausted all of ~~his/her~~ their available paid leave; and

3 (4) The employee does not participate in a short or long-term disability program

4 for which the City pays in whole, directly or indirectly, or if the employee participates in such a

5 program, the employee agrees to, and does, apply for disability benefits immediately upon

6 becoming eligible for such benefits. Any employee who participates in a short or long-term

7 disability program for which the City pays in whole, directly or indirectly, may participate in the

8 CIP program until the employee receives or is qualified to receive benefits under the terms of

9 a short or long-term disability program for which the City pays in whole, directly or indirectly.

10 Any employee who is receiving or is qualified to receive short or long term disability benefits

11 from a short or long term disability program for which the City pays in whole, directly or

12 indirectly, may not participate in the CIP program until and unless the employee's disability

13 benefits terminate. Any employee who, while or after participating in the CIP program,

14 retroactively receives or is qualified to receive short or long-term disability benefits from a

15 short or long-term disability program for which the City pays in whole, directly or indirectly,

16 must reimburse the City for the CIP payments received during the period which the short or

17 long-term disability program applies. Failure to do so will result in the City's placing a lien for

18 the unreimbursed amount on the employee's future wages and benefits (not including

19 workers' compensation or retirement). Subsection (d)(4)~~This paragraph~~ does not apply to

20 employees who are active participants in the CIP as of April 29, 2002 and have been active

21 participants since March 29, 2002.

22 (e) **Procedure for Applying for Catastrophic Illness Status.**

23 (1) An employee must complete a prescribed application form and return it to

24 the ~~Department of Public Health~~ Human Resources Director or ~~its~~ the Director' designee together

25 with supporting medical documentation. The ~~Department of Public Health~~ Human Resources

1 Director or ~~its~~ the Director's designee shall produce and maintain ~~sufficient quantities of~~ the
2 prescribed application for employee access and distribution on the Department of Human
3 Resources' website.

4 (2) The ~~Department of Public Health~~ Human Resources Director or ~~its~~ the Director's
5 designee shall examine the documentation supporting the application. The ~~Department of~~
6 ~~Public Health~~ Human Resources Director or ~~it's~~ the Director's designee may ask the applicant to
7 submit further documentation and/or to submit to examination by a physician that ~~is~~ the
8 Director or the Director's designee designates to determine in fact that the applicant does suffer
9 from a catastrophic illness within the meaning of this Section 16.9-29A. An applicant's failure to
10 comply with these requirements may be grounds for rejection of the application.

11 (3) In order to continue to qualify as catastrophically ill, a CIP employee may
12 ~~from time to time~~ be required to submit to specified examination, or to supply further
13 documentation of current medical status, as is necessary in the opinion of ~~the Department of~~
14 ~~Public Health or its designee~~ a physician or other healthcare provider designated by the Human
15 Resources Director or ~~its~~ the Director's designee; ~~provided, however, that s~~Such requests shall ~~not~~
16 be made for the sole purpose of ~~harassing~~ determining the continued qualification of said
17 employee to participate in the CIP. In addition, an employee may be required to submit
18 documentation of application for and/or status of disability benefits. The Department of Human
19 Resources may reevaluate employee program eligibility annually or as necessary.

20 (4) If the ~~Department of Public Health~~ Human Resources Director or ~~its~~ the
21 Director's designee determines that an employee is not catastrophically ill, the Human
22 Resources Director or the Director's designee ~~employee shall have a right to a review by the Director~~
23 ~~of Health and, finally, a hearing before the Health Commission. The Department of Public Health or~~
24 ~~its designee~~ shall provide the employee with a written letter setting forth the reasons for denial
25 and the procedure for filing an administrative appeal. The ~~Health Commission shall promulgate~~

1 ~~and post the administrative appeal rules.~~ employee may appeal the rejection to the Human Resources
2 Director within 10 days of the date of the notice of rejection. The Human Resources Director shall
3 appoint a medical specialist not employed by the City to conduct an evaluation and to report the
4 findings. The decision of the medical specialist shall be final and no further appeal shall be allowed.

5 The administrative appeal process in its entirety shall not exceed 60 days. An employee
6 whose application has been disapproved is not obligated to exhaust the administrative
7 appeals process before reapplying. Instead, the employee may reapply after observing a 30-
8 day waiting period from the date of the initial denial.

9 (f) ~~Posting of Eligible Recipients~~ Records of Catastrophic Illness Program Applicants

10 (1) The ~~Department of Public Health~~ Human Resources Director ~~or its the Director's~~
11 designee shall ~~assign an exclusive number to each catastrophically ill employee deemed eligible~~
12 maintain confidential files for all applicants who have applied to participate in the CIP.

13 (2) The ~~Department of Public Health~~ Human Resources Director ~~or its the Director's~~
14 designee shall ~~maintain, reproduce and post a running list of CIP employees, to be identified only by~~
15 ~~their exclusive numbers, in order to let transferring employees designate a recipient~~ send confidential
16 quarterly notifications to the eligible employee's Human Resources Representative(s) of any employee
17 participating in CIP.

18 (3) The quarterly notifications information ~~list~~ may include the amounts of sick
19 leave ~~and vacation credits already~~ transferred ~~or on reserve~~ to each CIP employee.

20 (4) In all cases, the ~~Department of Public Health~~ Human Resources Director ~~and its~~
21 the Director's designees shall shield and protect the true identities of CIP employees except as
22 required for the administration of the program.

23 (g) **Eligibility to Transfer Sick Leave and/or Vacation Credits.** Any City employee ~~of~~
24 ~~the City~~ who is eligible to accumulate and use vacation credits and/or sick leave may transfer

1 sick leave and/or vacation credits to the CIP pool ~~or to an individual CIP employee~~, subject to
2 the following conditions:

3 (1) The transferring employee must retain a minimum sick leave balance of 64
4 hours except upon retirement when employees may transfer all unused balances.

5 (2) Transfers must be in units of eight hours.

6 (3) All transfers are irrevocable.

7 (4) The transferring employee may transfer hours to the CIP pool only once per
8 pay period.

9 ~~(5) The transferring employee may transfer a maximum of 160 hours per pay of which
10 no more than 80 hours may be to individual CIP employees.~~

11 ~~—————(6) The transferring employee may transfer a maximum of 480 hours per fiscal year to
12 the pool and to individual CIP employees combined.~~

13 ~~—————(7) Neither a transferring employee nor a CIP employee may be in violation of
14 Subsection (k).~~

15 (h) **Use of Transferred Sick Leave and Vacation Credits.**

16 (1) All hours transferred to the eligible CIP employee shall be credited as sick
17 leave for the CIP employee. As they are used, they shall be treated as the employee's own
18 sick leave for all purposes, including for continued accrual of vacation credits, sick leave, and
19 retirement service; service for pay increments; and eligibility for holiday pay.

20 (2) At the beginning of each pay period, a CIP employee must use all sick
21 leave and vacation credits accrued during the previous pay period before using any
22 transferred hours.

23 (3) A CIP employee may use transferred hours retroactively from the date of
24 certification of eligibility back to the date of application.

1 (4) A CIP employee may use transferred credits in a pay period to the extent
2 that when combined with other compensation from the City ~~and County~~ and all other benefits
3 from public sources, the total does not exceed the pay for 100% ~~percent~~ of the employee's
4 regularly scheduled hours for such pay period (excluding regularly scheduled overtime and
5 premium pay). A CIP employee may be required to provide financial records to prove
6 compliance with ~~this~~ Subsection (h)(4). Failure to provide such records is grounds for
7 exclusion from the CIP.

8 (i) **Redistribution of Transferred Hours Upon Termination of Participation In CIP.**

9 If a CIP employee dies, retires, resigns or begins receiving disability benefits before
10 having used all hours transferred pursuant to ~~this Subsection (h)(i)Section~~, the unused hours
11 shall be transferred to the CIP pool. ~~If a CIP employee's participation in the CIP expires or is~~
12 ~~terminated before the employee has used all hours transferred pursuant to this Section, all unused~~
13 ~~hours in excess of 64 hours shall be transferred to the CIP pool.~~

14 If a CIP employee is able to return to work for the City following a catastrophic illness, the
15 employee may continue to draw up to 64 hours of CIP credits in lieu of accrued sick leave as necessary
16 for 90 days after the date the employee returns to work.

17 (j) **Confidentiality.**

18 (1) All medical records submitted by an employee pursuant to this statute shall
19 be kept confidential by the ~~Department of Public Health~~ Human Resources Director or ~~its~~ the
20 Director's designee.

21 (2) Until the ~~Department of Public Health~~ Human Resource Director or ~~its~~ the
22 Director's designee has rendered ~~its~~ an opinion pursuant to Subsection (d) that the employee
23 is catastrophically ill, the fact of an employee's application shall be kept confidential by the
24 parties processing the application and not shared with the employee's department head.

1 (3) The names of employees donating hours pursuant to this provision shall
2 remain confidential.

3 (4) Violation of the provisions of this subsection (j) or any other provision
4 relating to confidentiality protections shall be grounds for disciplinary action.

5 ~~(k) **No Selling or Coercion.**~~

6 ~~(1) No individual shall directly or indirectly solicit the receipt of, or accept, any~~
7 ~~compensation in full or partial exchange, directly or indirectly, for sick leave or vacation credits to be~~
8 ~~transferred pursuant to this Section.~~

9 ~~(2) No individual shall solicit the receipt of, or accept, the transfer of any sick leave or~~
10 ~~vacation credits pursuant to this Section in full or partial exchange, directly or indirectly, for any~~
11 ~~compensation.~~

12 ~~(3) No individual shall threaten or in any way attempt to coerce an employee with~~
13 ~~respect to transfer of sick leave or vacation credits pursuant to this Section.~~

14 ~~(4) Violation of the provisions of this subsection (k) shall be grounds for termination of~~
15 ~~participation in the CIP and for disciplinary action.~~

16 ~~(l)~~ **Notices.** The ~~Civil Service Commission~~ Human Resources Director or the Director's
17 designee shall develop notices with relevant information about the CIP. These notices shall be
18 distributed to all appointing officers, who shall then post them in public places where other
19 notices advising employees of rights and benefits are posted.

20 ~~(m)~~ **Termination of this Provision.** Unless otherwise specified by ordinance or
21 Charter provision, the provisions of this Section shall expire upon the effective date of an
22 ordinance or Charter section instituting, or upon the effective date of the last MOU through
23 which all City employees are covered by, a long-term disability program.

24 ~~(n)~~ **Limitation.** In undertaking the adoption and enforcement of this ordinance, the
25 City ~~and County of San Francisco~~ is assuming an undertaking only to promote the general

1 welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for
2 breach of which it is liable in money damages to any person who claims that such breach
3 proximately caused injury.

4 **SEC. 16.9-29B. PROGRAM FOR EMPLOYEES WITH CATASTROPHICALLY ILL FAMILY**
5 **MEMBERS -TRANSFER OF VACATION CREDITS TO INDIVIDUAL EMPLOYEES WITH A**
6 **CATASTROPHICALLY ILL FAMILY MEMBER.**

7 (a) **Purpose.** To create a program, as authorized by Charter Section A8.441, to allow
8 employees *of the City and County of San Francisco ("City")* with catastrophically ill family
9 members to receive donations of vacation credits to take time off to care for their ill family
10 member. This program shall be known as the Catastrophic Illness Program for Family
11 Members, or "CIP-FM." This Section 16.9-29B only provides for receipt of such credits as are
12 donated and does not provide for an absolute right of continued paid leave.

13 (b) **Administration and Rule-Making Authority.** The *Human Resources Director, in*
14 *consultation with the* Controller, shall have authority to administer the CIP-FM program,
15 including the authority to make and enforce rules not inconsistent with this Section 16.9-29B,
16 ~~with consultation from the Director of Health or his or her designee.~~

17 (c) **Definitions.**

18 ~~(1) A~~ Catastrophic illness shall mean a life-threatening illness or injury, as
19 determined by the ~~Department of Public Health~~ Human Resources Director or ~~its~~ the Director's
20 designee.

21 ~~(2)~~ "Family member" means an employee's spouse, registered domestic partner,
22 or another dependent as dependent is defined in the Internal Revenue Code (26 U.S.C. sec.
23 152, as amended from time to time).

24 (d) **Eligibility of Employee ~~To~~ Participate in CIP-FM Program.** In order to participate
25 in the CIP-FM, an employee must meet all of the following conditions:

- 1 (1) The employee must be eligible to accumulate and use sick leave credits;
- 2 (2) The employee must have exhausted all of ~~his/her~~ their available paid leave;
- 3 (3) The employee must have a catastrophically-ill family member; and
- 4 (4) The employee must need to take time off from work to care for the
- 5 catastrophically ill family member.

6 (e) **Procedure for Applying to Participate in CIP-FM.**

7 (1) An employee must complete a prescribed application form and return it to the
8 ~~Department of Public Health Human Resources Director~~ or its the Director's designee, together
9 with supporting medical documentation. The ~~Department of Public Health Human Resources~~
10 ~~Director~~ or its the Director's designee shall produce and maintain ~~sufficient quantities of the~~
11 ~~prescribed~~ application~~s~~ for employee access and distribution on the Department of Human
12 Resources' website.

13 (2) The ~~Department of Public Health Human Resources Director~~ or its the Director's
14 designee shall examine the application and supporting documentation. The ~~Department of~~
15 ~~Public Health Human Resources Director~~ or its the Director's designee may ask the employee to
16 submit further documentation or the family member to submit to examination by a physician.
17 Failure to comply with these requirements may be grounds for rejection of the application.

18 (3) In order for the employee to continue to participate in the program, ~~an~~ the
19 employee may from time to time be required to supply further documentation, or the family
20 member may be required to submit to specified examination, as is necessary in the opinion of
21 the ~~Department of Public Health Human Resources Director~~ or its the Director's designee;
22 provided, however, that such requests shall not be made for the sole purpose of determining the
23 continued qualifications of said employee to participate in the CIP-FM. ~~harassment.~~

24 (4) If the ~~Department of Public Health Human Resources Director~~ or its the Director's
25 designee determines that an employee's family member is not catastrophically ill, the Human

1 ~~Resources Director or the Director's designee~~ employee shall have a right to appeal the decision
2 ~~through an administrative appeal process to be established by the Health Commission, which shall~~
3 ~~include the right to a review by the Director of Health and, finally, a hearing before the Health~~
4 ~~Commission. The Department of Public Health or its designee~~ shall provide the employee with
5 written notice setting forth the reasons for denial and the procedure for filing an administrative
6 appeal. The ~~Health Commission shall promulgate and post the administrative appeal rules.~~ employee
7 may appeal the rejection to the Human Resources Director within 10 days of the date of the notice of
8 rejection. The Human Resources Director shall appoint a medical specialist not employed by the City
9 to conduct an evaluation and to report the findings. The decision of the medical specialist shall be final
10 and no further appeal shall be allowed. The administrative appeal process in its entirety shall not
11 exceed 60 days. An employee whose application has been disapproved is not obligated to
12 exhaust the administrative appeals process before reapplying. Instead, the employee may
13 reapply after observing a 30-day waiting period from the date of the initial denial.

14 (f) **Posting of Eligible Recipients.**

15 (1) The ~~Department of Public Health~~ Human Resources Director or ~~its~~ the Director's
16 designee shall assign an exclusive number to each employee deemed eligible to participate in
17 the CIP-FM.

18 (2) The ~~Department of Public Health~~ Human Resources Director or ~~its~~ the Director's
19 designee shall maintain, reproduce and post a running list of CIP-FM employees, to be
20 identified only by their special numbers, in order to let transferring employees designate a
21 recipient.

22 (3) The list may include the amount of vacation credits already transferred or on
23 reserve to each employee.

1 (4) ~~In all cases, The Department of Public Health Human Resources Director and its or~~
2 ~~the Director's~~ designees shall keep confidential the true identities of CIP-FM employees and
3 their catastrophically ill family member.

4 (g) **Eligibility to Transfer Vacation Credits to Individual CIP-FM Employees.** Any
5 ~~City~~ employee ~~of the City and County of San Francisco~~ who is eligible to accumulate and use
6 vacation credits may transfer vacation credits to an individual CIP-FM employee, subject to
7 the following conditions:

8 (1) Transfers must be in units of eight hours;

9 (2) All transfers are irrevocable;

10 ~~(3) The transferring employee may transfer hours to the CIP-FM only once per~~
11 ~~pay period;~~

12 ~~(4) The transferring employee may transfer a maximum of 80 hours per pay~~
13 ~~period;~~

14 ~~(5) The transferring employee may transfer a maximum of 480 hours per fiscal~~
15 ~~year to the CIP-FM program; and~~

16 ~~(6)~~ Neither a transferring employee nor a recipient may be in violation of
17 Subsection (k).

18 (h) **Use of Transferred Vacation Credits By a CIP-FM Employee.**

19 (1) All hours transferred shall be credited as sick leave for the CIP-FM
20 employee. As they are used, they shall be treated as use of the employee's own sick leave for
21 all purposes, including for continued accrual of vacation credits, sick leave, and retirement
22 service; service for pay increments; and eligibility for holiday pay.

23 (2) At the beginning of each pay period, a CIP-FM employee must use all sick
24 leave and vacation credits accrued during the previous pay period before using any
25 transferred hours.

1 (3) A CIP-FM employee may use transferred credits in a pay period to the extent
2 that when combined with other compensation from the City and County and all other benefits
3 from public sources, the total does not exceed the pay for 100 percent of the employee's
4 regularly scheduled hours for such pay period (excluding regularly scheduled overtime and
5 premium pay). A CIP-FM employee may be required to provide financial records to prove
6 compliance with ~~this~~ subsection (h)(3). Failure to provide such records is grounds for exclusion
7 from the CIP-FM and disciplinary action.

8 (i) **Redistribution of Transferred Hours Upon Termination of Participation in CIP-**
9 **FM.** If a CIP-FM employee dies, retires, resigns, or otherwise ends participation in the CIP-FM
10 before having used all hours transferred pursuant to this provision, all unused hours in excess
11 of 64 shall be redistributed to other CIP-FM employees by the Human Resources Director or the
12 Director's Designee.

13 (j) **Confidentiality.**

14 (1) All medical records submitted pursuant to this statute shall be kept
15 confidential by the ~~Department of Public Health~~ Human Resources Director or ~~its~~ the Director's
16 designee;

17 (2) Until the ~~Department of Public Health~~ Human Resources Director or ~~its~~ the
18 Director's designee has rendered its opinion pursuant to Subsection (d) that an employee's
19 family member is catastrophically ill, the fact of an employee's application shall be kept
20 confidential by the parties processing the application and not shared with the employee's
21 department head.

22 (3) The names of employees donating hours pursuant to this provision shall
23 remain confidential.

24 (4) Violation of the provisions of this subsection (j) or any other provision relating
25 to confidentiality protections shall be grounds for disciplinary action.

1 (k) **No Selling or Coercion.**

2 (1) No individual shall directly or indirectly solicit the receipt of, or accept, any
3 compensation in full or partial exchange, directly or indirectly, for vacation credits to be
4 transferred pursuant to this Section.

5 (2) No individual shall solicit the receipt of, or accept, the transfer of any
6 vacation credits pursuant to this Section in full or partial exchange, directly or indirectly, for
7 any compensation.

8 (3) No individual shall threaten or in any way attempt to coerce an employee
9 with respect to transfer of vacation credits pursuant to this Section.

10 (4) Violation of the provisions of this subsection (k) shall be grounds for
11 termination of participation in the CIP-FM and for disciplinary action.

12 (l) **Notices.** The ~~Civil Service Commission~~ Human Resources Director shall develop
13 notices with relevant information about the CIP-FM. These notices shall be distributed to all
14 appointing officers who shall then post them in public places where other notices advising
15 employees of rights and benefits are posted and shall be available on the Department of Human
16 Resources' website.

17 (m) **Limitation.** In undertaking the adoption and enforcement of this ordinance, the
18 City ~~and County of San Francisco~~ is assuming an undertaking only to promote the general
19 welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for
20 breach of which it is liable in money damages to any person who claims that such breach
21 proximately caused injury.

22
23 Section 2. Effective Date. This ordinance shall become effective 30 days after
24 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
25

1 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
2 of Supervisors overrides the Mayor's veto of the ordinance.

3
4 Section 3. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
5 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
6 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
7 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
8 additions, and Board amendment deletions in accordance with the "Note" that appears under
9 the official title of the ordinance.

10
11 APPROVED AS TO FORM:
12 DAVID CHIU, City Attorney

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14 By: /s/
 JONATHAN C. ROLNICK
 Chief Labor Attorney

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