



**Policy Type:** Administrative

**Category:** Administrative Practices

**Policy Name:** County Employees Serving as Disaster Service Workers

**Policy Owner:** County Executive

### **Policy Purpose**

The purpose of this Policy is to explain the circumstances in which, and the means through which, County of Santa Clara employees may be required to fulfill emergency assignments carrying out Disaster Service Activities in their roles as Disaster Service Workers.

### **Policy Summary**

In Government Code Section 3100, the California Legislature “declared that the protection of the health and safety and preservation of the lives and property of the people of the state from the effects of natural, manmade, or war-caused emergencies which result in conditions of disaster or in extreme peril to life, property, and resources is of paramount state importance requiring the responsible efforts of public and private agencies and individual citizens,” and required that “[i]n furtherance of the exercise of the police power of the state in protection of its citizens and resources, all public employees are hereby declared to be disaster service workers subject to such disaster service activities as may be assigned to them by their superiors or by law.”

Under California law, all public employees are designated as Disaster Service Workers (DSWs). Whenever an authorized County official proclaims a local emergency, the Governor of the State of California proclaims a state



of emergency, or a state of war emergency exists, the County has the power to assign employees to serve as DSWs assisting with any Disaster Service Activity that promotes the protection of public health and safety, promotes the preservation of lives and property, or is otherwise deemed necessary by the County's Director of Emergency Services in the execution of his or her duties under County Ordinance Code Sections A8-8 and A8-9(f).

County employees are required to perform duties as DSWs, as directed by the County, in the event of a Disaster. Employees may be assigned by the County to fulfill emergency action needs outside the course and scope of their regular job duties. When serving as a DSW, an employee may also be directed to report to a different supervisor and/or to work at a different location than normal in order to fulfill the DSW role.

## **Procedures**

### *Determining Staffing Needs During a Disaster*

- 1) *Disaster Service Worker Staffing Needs:*
  - 1a) Following activation of the Emergency Operations Center (EOC) during a Disaster, the EOC determines the need for DSWs to fulfill staffing needs within the EOC and/or staffing needs for other Disaster Service Activity roles. Identification of the need for DSW staffing occurs within the EOC Management Section in consultation with the EOC Operations Section.
  - 1b) Once the EOC has determined that specific DSW staffing needs exist, the Personnel Branch of the EOC Logistics Section communicates those needs to the Employee Services Agency Human Resources Department. The Human Resources Department coordinates with department heads to identify available personnel within each respective department who possess the required skills or



qualifications. The Human Resources Department creates a database of DSWs with particular skills or qualifications and sends that database to the Personnel Branch of the EOC Logistics Section.

- 1c) The Personnel Branch of the EOC Logistics Section determines which individual employee(s) should be deployed for each DSW role.
  - 1d) As deemed necessary by the County Director of Emergency Services and authorized by County Ordinance Code Section A8-9(f), service by County employee DSWs may be supplemented by volunteer DSWs and County contractors.
- 2) *Continuity of Operations/Departmental Staffing Needs:*
- 2a) Through the County's Continuity of Operations Planning process, each department head proactively identifies the staffing each department needs to ensure the continued performance of the department's minimum essential functions during any Disaster.
  - 2b) During a particular Disaster, a department may also require the support of DSWs from outside the department. If a department head identifies a DSW need during a Disaster, the department head reports that need to the Employee Services Agency Human Resources Department and the Office of the County Executive's Continuity of Operations Plan leadership group.
  - 2c) The Office of the County Executive's Continuity of Operations Plan leadership group determines which employee(s) should be deployed to meet departmental staffing needs.

### *Deploying and Supervising DSWs*

- 1) Department Head Role in DSW Preparation and Deployment



- 1a) Once the EOC has determined that an employee needs to be deployed as a DSW, the Personnel Branch of the EOC Logistics Section notifies the appropriate department head of the employee's name and the Disaster Service Activity to which the employee is being assigned. The department head (or designee) notifies the employee that the employee is being activated as a DSW. The department head gives the employee the Disaster Service Worker County Employees Frequently Asked Questions Sheet, contact information for the Personnel Branch of the EOC Logistics Section, and information about where and when to report for the employee's first DSW shift. Generally, the employee will be supervised by the department at which the employee is assigned to perform a DSW assignment but this may vary depending on the assignment.
  
- 1b) It is the responsibility of each department head (or designee) to ensure all employees are aware of the procedures to follow in the event of a Disaster, and to establish and maintain personal-contact and emergency-contact information for all department employees. If a Disaster occurs during non-working hours, the department head (or designee) must be able to communicate with employees who need to return to work to perform Disaster Service Activities.

The Department Head Disaster Service Worker Frequently Asked Questions Sheet provides further information regarding guidance and management of employees being deployed as DSWs.



*Procedures for Employees Serving as DSWs*

- 1) During a Disaster, all employees must follow their department's Continuity of Operations Plan and internal procedures, which may include calling in to a specific phone number for information or waiting to be contacted by the County's or department's emergency coordinators. During non-business hours, employees may be contacted at home via their personal phone, text messaging, or e-mail.
- 2) To allow for timely DSW deployment and other Disaster-related notifications, employees must ensure that the Employee Services Agency has their current contact information on file, including but not limited to home and cellular phone number(s) and personal e-mail address(es).
- 3) When the County needs to deploy an employee as a DSW, the employee will receive a notification from the department head (or designee). The employee will receive a copy of the Disaster Service Worker County Employees Frequently Asked Questions Sheet and information about where and when to report for the employee's first DSW shift.
- 4) When serving as DSWs, employees may be required to: (a) work in an assignment that requires them to serve at locations, days, times, or in conditions other than their normal work assignment, schedule, and/or conditions; (b) work in an assignment outside the general scope of their typical duties and responsibilities; and/or (c) work for a supervisor, division, or department different from their normal work



assignment. Employees will never be asked to perform any duty or function they are physically unable or unqualified to do.

- 5) On a daily basis, employees serving as DSWs may be required to complete additional timekeeping forms to account for the kind of Disaster Service Activity performed, the number of hours worked, and the location where Disaster Service Activity work was performed.

The Disaster Service Worker County Employees Frequently Asked Questions Sheet provides further information for employees regarding their service as DSWs.

## Definitions

- 1) **“Disaster”** means any catastrophic event, including, but not limited to an earthquake, flood, pandemic, fire, or other disaster causing disruption of daily life or damage to infrastructure during a state of emergency, state of war emergency, or local emergency, as defined in Government Code Sections 3100 & 8558 and Labor Code Section 3211.92.
- 2) **“Disaster Service Activity”** means any activity necessary for the County to carry out its responsibilities to people, property, and resources within the county during a Disaster, as set forth in Government Code Sections 3100-3109 and Labor Code Section 3211.93.
- 3) **“Disaster Service Worker”** means any County employee performing any Disaster Service Activity as may be assigned to them by their superiors or by law, whether assigned normal job duties or disaster service-specific location(s), as set forth in Government Code Sections 3100-3109 and Labor Code Sections 3211.92-3211.93.



## **Frequently Asked Questions**

### **1) What does “disaster service” mean?**

Disaster service means all activities required to assist the County in carrying out its responsibilities during times of disaster. County employees are required by law to assist in disaster service in a proclaimed emergency. During a large-scale disaster or emergency situation, public employees may need to be released from any non-essential normal duties so that they can be reassigned for disaster service to assist with emergency operations needing additional staff.

### **2) Who in the County is a “Disaster Service Worker”?**

Under state law, all County employees are potential Disaster Service Workers. Employees may be assigned by the County to fulfill emergency-action needs outside the course and scope of their regular job duties. When serving as a DSW, an employee may be directed to report to a different supervisor and/or work at a different location than normal in order to fulfill the DSW role.

### **3) What is the scope of duties of the Disaster Service Worker?**

All Disaster Service Workers are considered to be acting within the scope of disaster service duties while assisting any unit of the County in performing any act contributing to the protection of life or property or mitigating the effects of an emergency.

### **4) How will I be notified of a Disaster Service Worker assignment?**

If County employees are needed during non-business hours, they may be contacted at home via their land line, cellular phone, text message,



or email and advised to report to a specific location based on needs the County has identified. It is therefore important that the employee's contact information be up-to-date and accurate in the County's human resources information system. The County has a public- and employee-notification system that will contact employees via telephone, text message, or e-mail for information and instructions (on both work and personal devices). This service is a means to contact employees for all emergency situations and instructions. Certain County departments also have "call-in" plans that require their employees to call a designated number if a disaster occurs.

**6) Can I refuse a Disaster Service Worker assignment?**

All County employees are obligated to serve as Disaster Service Workers under the California Constitution and state law. (California Government Code sections 3100-3109.) County Disaster Service Workers must perform a Disaster Service Worker assignment faithfully. This is a condition of employment, and therefore, failure to accept and/or perform a Disaster Service Worker assignment may lead to discipline, including termination of employment. An employee cannot refuse a Disaster Service Worker assignment unless the employee has a legitimate qualifying reason, which the County must approve.

**7) Can a Disaster Service Worker be sued for actions that occur while performing disaster services?**

The County is immune from liability for carrying out, or failing to carry out, any discretionary action during a proclaimed emergency. In other words, the County can exercise its discretion to respond to conditions during disasters without fear of being sued. This immunity extends to employees serving as Disaster Service Workers during a disaster while the employees are acting within the scope of their responsibilities. The County also has a duty to defend and indemnify employees for all such work.



## Authorities

### 1) **California Government Code, Sections 3100-3109**

**3100.** It is hereby declared that the protection of the health and safety and preservation of the lives and property of the people of the state from the effects of natural, manmade, or war-caused emergencies which result in conditions of disaster or in extreme peril to life, property, and resources is of paramount state importance requiring the responsible efforts of public and private agencies and individual citizens. In furtherance of the exercise of the police power of the state in protection of its citizens and resources, all public employees are hereby declared to be disaster service workers subject to such disaster service activities as may be assigned to them by their superiors or by law.

**3101.** For the purpose of this chapter the term "disaster service worker" includes all public employees and all volunteers in any disaster council or emergency organization accredited by the Office of Emergency Services. The term "public employees" includes all persons employed by the state or any county, city, city and county, state agency or public district, excluding aliens legally employed.

**3102.** (a) All disaster service workers shall, before they enter upon the duties of their employment, take and subscribe to the oath or affirmation required by this chapter.

(b) In the case of intermittent, temporary, emergency or successive employments, then in the discretion of the employing agency, an oath taken and subscribed as required by this chapter shall be effective for the purposes of this chapter for all successive periods of



employment which commence within one calendar year from the date of that subscription.

(c) Notwithstanding subdivision (b), the oath taken and subscribed by a person who is a member of an emergency organization sanctioned by a state agency or an accredited disaster council, whose members are duly enrolled or registered with the Office of Emergency Services, or any accredited disaster council of any political subdivision, shall be effective for the period the person remains a member with that organization.

**3103.** The oath or affirmation required by this chapter is the oath or affirmation set forth in Section 3 of Article XX of the Constitution of California.

**3104.** The oath or affirmation may be taken before any officer authorized to administer oaths. The oath or affirmation of any disaster service worker may be taken before his appointing power or before any person authorized in writing by his appointing power. No fee shall be charged by any person before whom the oath or affirmation is taken and subscribed.

**3105.** (a) The oath or affirmation of any disaster service worker of the state shall be filed as prescribed by State Personnel Board rule within 30 days of the date on which it is taken and subscribed.

(b) The oath or affirmation of any disaster service worker of any county shall be filed in the office of the county clerk of the county or in the official department personnel file of the county employee who is designated as a disaster service worker.

(c) The oath or affirmation of any disaster service worker of any city shall be filed in the office of the city clerk of the city.



(d) The oath or affirmation of any disaster service worker of any other public agency, including any district, shall be filed with any officer or employee of the agency that may be designated by the agency.

(e)(1) In its discretion, the board of supervisors of a county may require every disaster service worker of that county who legally changes his or her name, within 10 days from the date of the change, to file a new oath or affirmation in the same manner as the original filing. The county may maintain a record of each person so required to file a new oath of office indicating whether or not the person has complied. Any record maintained pursuant to this paragraph is a public record subject to disclosure under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7).

(2) Notwithstanding any other law, including, but not limited to, Sections 3108 and 3109, failure of a disaster service worker to file a new oath of office required by the board of supervisors pursuant to this subdivision shall not be punishable as a crime.

(f) The oath or affirmation of any disaster service worker may be destroyed without duplication five years after the termination of the disaster service worker's service or, in the case of a public employee, five years after the termination of the employee's employment.

**3106.** Compliance with this chapter shall, as to state employees, be deemed full compliance with Chapter 4, Part 1, Division 5, Title 2 of this code, requiring taking of oaths by state employees.

**3107.** No compensation nor reimbursement for expenses incurred shall be paid to any disaster service worker by any public agency unless such disaster service worker has taken and subscribed to the



oath or affirmation required by this chapter. It shall be the duty of the person certifying to public payrolls to ascertain and certify that such disaster service worker has taken such oath or affirmation.

Whenever there is more than one officer certifying to public payrolls the governing body of a city or county or school district may designate and make it the duty of a certain officer or officers to ascertain and certify that such disaster service worker has taken such oath or affirmation. The governing body of a city or county or school district may designate and make it the duty of a local disaster service officer to ascertain and certify that each volunteer disaster service worker has taken such oath or affirmation.

Nothing in this chapter, however, shall prevent the correction of any technical error or deficiency in an oath taken pursuant to this chapter; provided, such correction is made before the disaster service worker is actually paid or reimbursed.

**3108.** Every person who, while taking and subscribing to the oath or affirmation required by this chapter, states as true any material matter which he or she knows to be false, is guilty of perjury, and is punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for two, three, or four years.

**3109.** Every person having taken and subscribed to the oath or affirmation required by this chapter, who, while in the employ of, or service with, the state or any county, city, city and county, state agency, public district, or disaster council or emergency organization advocates or becomes a member of any party or organization, political or otherwise, that advocates the overthrow of the government of the United States by force or violence or other unlawful means, is guilty of a felony, and is punishable by



imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code.

2) **California Labor Code, Sections 3211.92-3211.93, 4351**

**3211.92.** (a) "Disaster service worker" means any natural person who is registered with an accredited disaster council or a state agency for the purpose of engaging in disaster service pursuant to the California Emergency Services Act without pay or other consideration.

(b) "Disaster service worker" includes public employees performing disaster work that is outside the course and scope of their regular employment without pay and also includes any unregistered person impressed into service during a state of war emergency, a state of emergency, or a local emergency by a person having authority to command the aid of citizens in the execution of his or her duties.

(c) Persons registered with a disaster council at the time that council becomes accredited need not reregister in order to be entitled to the benefits provided by Chapter 10 (commencing with Section 4351).

(d) "Disaster service worker" does not include any member registered as an active firefighting member of any regularly organized volunteer fire department, having official recognition, and full or partial support of the county, city, or district in which the fire department is located.

**3211.93.** "Disaster service" means all activities authorized by and carried on pursuant to the California Emergency Services Act, including training necessary or proper to engage in such activities.

**4351.** Compensation provided by this division is the exclusive remedy of a disaster service worker, or his or her dependents, for injury or death arising out of, and in the course of, his or her activities



as a disaster service worker as against the state, the disaster council with which he or she is registered, and the county or city which has empowered the disaster council to register and direct his or her activities. Liability for compensation provided by this division is in lieu of any other liability whatsoever to a disaster service worker or his or her dependents or any other person on his or her behalf against the state, the disaster council with which the disaster service worker is registered, and the county or city which has empowered the disaster council to register and direct his or her activities, for any injury or death arising out of, and in the course of, his or her activities as a disaster service worker.

3) **Santa Clara County Ordinance Code, Division A8 [selected sections]**

**Sec. A8-4. County emergency organization.**

All employees of the County of Santa Clara are designated as disaster service workers under Government Code § 3100 et seq. All officers and employees of the County, together with those volunteer forces registered to aid them during a duly proclaimed emergency; and all groups, organizations, and persons who may by agreement or by operation of law, including persons impressed into service under the provisions of Government Code § 8585.5 and Section A8-[9](f)(3) of this Division, be charged with duties incident to the protection of life, property, or environment in the Operational Area during such emergency, shall constitute the County Emergency Organization.

The County Emergency Organization also includes the American Red Cross, members of the Collaborating Agencies' Disaster Relief Effort (CADRE), Civil Air Patrol, and such other organizations and groups as may offer and have their services accepted prior to, during, or after an emergency.



**Sec. A8-8. Office of Director of Emergency Services created.**

The County Executive shall be the Director of Emergency Services. The Chief Operating Officer or other individuals designated by the County Executive and approved by the Board shall serve as Director of Emergency Services during any temporary absence or disability of the County Executive.

**Sec. A8-9. - Powers, duties of Director of Emergency Services.**

The Director of Emergency Services is hereby empowered to:

- (a) Request the Board to proclaim the existence or threatened existence of a local emergency if the Board is in session, or to issue such a proclamation if the Board is not in session. Whenever a local emergency is proclaimed by the Director, the Board shall take action to ratify the proclamation within seven days thereafter or the proclamation shall have no further force or effect.
- (b) Request the Governor to proclaim a state of emergency when, in the opinion of the Director, locally available resources are inadequate to cope with the emergency.
- (c) Control and direct the effort of the County Emergency Organization for the accomplishment of the purposes of this Division.
- (d) Direct cooperation between and coordination of services and staff of the County Emergency Organization; and resolve questions of authority and responsibility that may arise between them.
- (e) Represent this County in all dealings with public or private agencies on matters pertaining to emergencies as defined herein.
- (f) In the event of the proclamation of a local emergency as herein provided, the proclamation of a state of emergency by the Governor or the Director of the California Office of Emergency Services, or the



existence of a state of war emergency, the Director is hereby empowered:

- (1) Subject to Section A8-15, to make and issue rules and regulations on matters reasonably related to the protection of life, property, and/or the environment as affected by such emergency; provided, however, that such rules and regulations must be confirmed at the earliest possible time by the Board;
- (2) To obtain vital supplies, equipment, and such other properties found lacking and needed for the protection of life, property, and/or the environment, and to exercise the authority set forth in Section A34-79 in doing so; if required immediately, to commandeer the same for public use; and to make expenditures, binding the County for the fair value thereof;
- (3) To require emergency services of any County officer or employee and, in the event of the proclamation of an emergency, to command the aid of as many citizens of this County as he or she deems necessary in the execution of his or her duties; provided that such persons shall be entitled to all privileges, benefits and immunities as are provided by state law for registered disaster service workers;
- (4) To requisition necessary personnel or material of any County department or agency; and
- (5) To execute all of the power of the County Executive, all of the special powers conferred upon him or her by this Division or by resolution or emergency plan pursuant hereto adopted by the Board, by any statute, by any agreement approved by the Board, and by any other lawful authority.
- (6) This subsection shall be construed to grant the broadest powers permissible to the Director to effectively deal with a proclaimed emergency.



(g) During a proclaimed emergency, if none of the individuals designated pursuant to Section A8-8 is available, then the Director of Emergency Services shall establish an order of succession to that office, a copy of which shall be filed with the Clerk of the Board of Supervisors as soon as practicable.

### **Related Policies**

County of Santa Clara Emergency Operations Plan, <https://www.sccgov.org/sites/oes/partners/Documents/Santa-Clara-County-OES-Emergency-Operations-Plan-2017-01.pdf>

### **Related Forms and Information**

- 1) Disaster Service Worker County Employees Frequently Asked Questions Sheet
- 2) Department Head Disaster Service Worker Frequently Asked Questions Sheet

### **History**

Date	Changes Made
4/13/20	Policy Adopted.