

OLIVEHURST PUBLIC UTILITY DISTRICT

ORDINANCE NO. 107.3

AN ORDINANCE RESCINDING ORDINANCE NO. 107.2, ADOPTED JULY 16, 1987, AND ESTABLISHING AN ORDINANCE PROVIDING FOR THE CLASSIFICATION, EXAMINATION, CERTIFICATION, APPOINTMENT, DISCIPLINE AND LAYOFF OF EMPLOYEES PURSUANT TO A CLASSIFIED CIVIL SERVICE SYSTEM.

BE IT ENACTED by the Board of Directors of the Olivehurst Public Utility District, Yuba County, California, as follows:

1. Ordinance No. 107.2, adopted July 16, 1987, is hereby rescinded.

Provisions for the recruitment, examination, certification, appointment, discipline, and layoff of employees pursuant to a Classified Civil Service System be as follows:

Article I. DEFINITIONS Unless the context otherwise indicates, terms used herein have the following meanings:

Section 1.01 DISTRICT means Olivehurst Public Utility District.

Section 1.02 BOARD means the Board of Directors of the District.

Section 1.03 POSITION means any duties and responsibilities performed by one District employee.

Section 1.04 CLASSES or CLASSES OF POSITIONS means that group of positions sufficiently similar in respect to duties and responsibilities so that the same descriptive title may be used to designate each position allocated to the class, the same entrance qualifications be required of candidates applying for appointment to positions in the class, the same tests of fitness may be used to choose qualified employees and that the same salary range may be made to apply with equity.

Section 1.05 SPECIFICATIONS or CLASS SPECIFICATIONS means the description approved by the Board, of any class setting forth the duties, responsibilities and tasks assigned to the position in the class, and the minimum qualifications necessary to insure that persons appointed are capable of performing the assigned duties.

Section 1.06 CLASSIFICATION PLAN means an orderly arrangement of classes covering all positions, together with salary ranges for each class.

Section 1.07 ELIGIBILITY LIST means a list of persons qualified to accept employment under this ordinance in anyone class.

Section 1.08 REGULAR FULL-TIME APPOINTMENT means a full time appointment in a position covered in the classification plan.

Section 1.09 REGULAR PART-TIME APPOINTMENT means a part time appointment in a position covered in the classification plan.

Section 1.10 VOLUNTEER FIRE FIGHTER means members of the Fire Department who are employed on an emergency call for fire call basis. Said employees shall not be considered regular full-time or regular part-time employees of the District.

Section 1.11 INTERMITTENT APPOINTMENT means an appointment of a person from an eligible list to a position on an irregular or seasonal basis, or in the case of the Fire Department, the appointment of an individual from the waiting list to probationary status with the Department.

Section 1.12 TEMPORARY APPOINTMENT means an intermittent appointment of a person not on an eligible list.

Section 1.13 EMERGENCY APPOINTMENT means a temporary appointment not to exceed thirty (30) working days.

Section 1.14 LIMITED TERM APPOINTMENT means the appointment of a person to a position for a fixed or specified term of employment.

Section 1.15 APPOINTING AUTHORITY means any person empowered by the Board to make appointments.

Section 1.16 MEMORANDUM OF UNDERSTANDING AN AGREEMENT means the memorandum of understanding and agreement between the District and employee organizations.

Article II. GENERAL PROVISIONS

Section 2.01 MERIT SYSTEM: A merit system for the selection and retention of regular classified employees is hereby established.

Section 2.02 POLICY: It is the policy of the District that employees in its service be selected on the basis of merit and fitness ascertained through practical and competitive examinations; that regular classified employees be given reasonable security of tenure; and that the acts and decisions of the Board and its officers be in accordance with good merit system practices and policies.

Section 2.03 AUTHORITY OF THE GENERAL MANAGER: The General Manager shall enforce and implement the provisions of this ordinance.

Section 2.04 SERVICE AND TENURE: Employees of the District are required to give their faithful and complete service and shall understand that tenure will be dependent upon good behavior, efficiency, necessity of the work and the appropriation of sufficient funds.

Section 2.05 COMPENSATION: Salary ranges for regular classified employees shall be as outlined in the current memorandum of understanding between the District and employee organizations or by otherwise appropriate action of the Board. Compensation for Volunteer fire fighters shall be established by the Board.

Section 2.06 SHORT TITLE: This ordinance shall be known and may be cited as the OLIVEHURST PUBLIC UTILITY DISTRICT MERIT SYSTEM ORDINANCE.

Section 2.07 SEPARABILITY: If any section, subsection, subdivision, sentence, clause, or phrase of this ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 2.08 POSTING: Copies of this ordinance shall be posted in three public places in the District at least one week before the expiration of thirty days from its passage.

Article III. STATUS OF PERSONNEL

Section 3.01 Intermittent, Limited Term, Temporary and Volunteer Fire Fighters shall not be subject to the provisions of the current memorandum of understanding between the District and employee organizations. Said memorandum of agreement shall apply only to regular full-time and regular part-time employees.

Section 3.02 SICK LEAVE, VACATION, HOLIDAYS, HOURS, HEALTH AND WELFARE BENEFITS, AND PENSION BENEFITS: All employee benefits and fringe benefits shall be as outlined in the current memorandum of understanding and agreement between the District and employee organizations or other appropriate act of the Board.

Section 3.03 POWER OF THE BOARD: Class specifications do not modify or limit the power of the Board to assign other duties or to direct and control the work of employees as necessary or appropriate.

Section 3.04 CHANGES IN CLASSIFICATIONS: The Board may adopt, amend, or abolish any classes of positions, or it may establish, amend or abolish any class specifications as may be necessary through re-assignment of duties or such other changes in District in organization by appropriate action.

Section 3.05 PRESENT EMPLOYEES: All permanent classified, currently employed, employees who have served at least six months in their present positions shall be deemed to retain their present positions without further working tests or examinations.

Section 3.06 PROBATIONARY PERIOD: All persons appointed to positions in the service of the District shall serve a probationary period of six months, or as designated for the class of positions in which appointment is made. The probationary period is a definite part of the examination and satisfactory performance on the job during the probationary period shall be a requirement of any examination.

Section 3.07 PROBATIONARY EMPLOYEES: All personnel appointed to a classified position are deemed to be so serving as the final phase of the examination and recruitment process, and therefore are serving at the pleasure of the appointing authority, and may be terminated from employment at the discretion of the appointing authority. Prior to termination, however, such employees are entitled to a statement of the reasons for dismissal. A regular classified employee who is promoted to a higher position, and who is considered to be on probation in that position, shall retain his rights, privileges, and tenure in the lower position until termination of the probationary period in the higher position.

Section 3.08 CLASSIFIED SERVICE: All regular positions in the service of the District shall be placed under the merit system and such positions shall be known as the classified service, except:

- (a) Elective officers;
- (b) Persons rendering professional, technical, or expert services;
- (c) District Clerk/Resource Coordinator, ex-officio secretary, Finance Manager, Treasurer, Office Manager/Human Resource Coordinator, Director of Public Works, General Manager, and manager of each utility division.

Article IV. RECRUITMENT OF PERSONNEL

Section 4.01 GENERAL: The Board shall conduct or cause to be conducted tests or examinations for each class of positions to which appointment is to be made, including in-house promotions to classified positions. Examinations may be oral, written, written and oral, performance, or unassembled, or any combination of such tests. The Board shall determine at the time of announcement of the examination, the type of examination to be used.

Section 4.02 CONTRACT: The Board may contract with any competent agency or person for the performance by the other agency of such technical services in connection with the establishment or operation of the personnel system as may be desired.

Section 4.03 EXAMINATIONS POLICY: It is the policy of the Board that the written examinations may be administered by a specialized agency or firm. Upon completion of the examinations, the specialized agency or firm shall deliver to the General Manager, the names and percentile ratings of the applicants who have successfully passed the examination.

Section 4.04 NATURE: Examinations shall fairly test the skills, knowledge, and abilities required for performance of the duties assigned to the class of positions for which candidates are seeking employment. Any investigation of experience, education, character or identity and any test of technical knowledge, manual skill or physical or mental fitness which in the opinion of the Board, General Manager, or delegated examining agency be appropriate may be employed.

Section 4.05 ANNOUNCEMENTS: The Board shall publicly announce any examination at least two weeks in advance of the date after which applications will no longer be accepted. Examination announcements shall include the title of the class of positions, probable rate of pay, a general statement of the duties to be performed, minimum qualifications required, methods of securing official application forms, and the final date by which applications must be filed. The Board may postpone or cancel any examination prior to its completion.

Section 4.06 DISQUALIFICATIONS: The District may refuse to examine or recruit any candidate for employment if it is found that he/she:

- (a) is so disabled as to be rendered unfit to perform the duties of the class;
- (b) is addicted to narcotics or habitual use of intoxicating liquors to excess;
- (c) is a spouse, sibling, parent, or child of any officer or employee of the District;

- (d) has been convicted of a crime involving moral turpitude;
- (e) has previously been dismissed, or forced to resign from any employment for good cause;
- (f) has attempted to use pressure, political or otherwise, bribery, deception or fraud to secure advantage in the examination or appointment;
- (g) has taken part in the compilation, administration, or correction of the examination;
- (h) is found to lack any requirement for the class or positions for which he is applying;
- (i) has made any material false statement of fact in his application;
- (j) does not possess a valid California driver's license or, because of driving record or other reasons, is not insurable under the District's policy of vehicular liability insurance.

The General Manager is authorized to obtain criminal history information and records from any appropriate custodian of such information, for the sole purpose of determining suitability of a candidate for employment.

Section 4.07 DUAL SUPERVISORY POSITIONS: The Board may determine that a person acting in a supervisory capacity in one department may not be concurrently appointed to a supervisory position in another department. Such determination is to assure the District of as little disruption as possible in the event of termination of a person in a supervisory capacity.

Section 4.08 APPEAL ON REJECTION: An applicant may appeal directly to the Board on rejection of his application and the Board's decision shall be final.

Section 4.09 GRADING: The minimum grade or standing shall be determined on all parts of the examination except that failure on one part of the examination may preclude consideration as to other parts of the test. The grades for the various parts shall be given weight as determined by the appointing authority or examining agency and the passing grade determined in terms of the examination, number of candidates, and the needs of the District. Physical tests, as applicable, may be required.

Section 4.10 APPEAL ON EXAMINATION FAILURE: section of the examination to the Board basis of fraud, bias, irregularity or erroneous interpretation of the minimum requirements for the class of positions for which he is applying. The Board may grant a mark not exceeding

passing on such appeals except if fraud is found, a suitable grade shall be given. The examining agency may make recommendations to the board. The Board's decision is final.

Section 4.11 MEDICAL REPORTS: Medical examinations for entrance to the District service may include standard medical reports to be completed by licensed physicians at the expense of the District.

Article V. CERTIFICATION

Section 5.01 ELIGIBLE LIST: The names of successful candidates shall be placed on the appropriate eligible list for the examination. When a vacancy occurs, the five highest qualifying names on the eligible list for the class in which the vacancy occurs, shall be certified.

Section 5.02 EFFECTIVE DATES: Eligible lists shall be effective on approval of the Board and lists shall be effective for one year with the option to extend for an additional year upon Board approval.

Section 5.03 REMOVAL FROM LIST: The General Manager may remove the name of any eligible from an eligible list for the following:

- (a) failure to respond to notice within five days of mailing notice;
- (b) upon receipt of notice from eligible declining appointment and asking that his name be removed;
- (c) if the eligible has been offered and refused employment.

Article VI. APPOINTMENTS

Section 6.01 GENERAL: All appointments shall be made from the appropriate certified eligible list. In case no eligible list is available, a list for the comparable class may be used, or a temporary appointment may be made.

Section 6.02 INTERMITTENT APPOINTMENT: If the needs of the District indicate that there should be positions in a class requiring performance of duties on an irregular, or intermittent, or seasonal basis, an intermittent appointment shall be made from those on the eligible list wishing to accept such work. Such an employee shall not be a regular classified employee.

Section 6.03 TEMPORARY APPOINTMENT: In case no eligible accepts an intermittent appointment, a temporary appointment may be made. No temporary appointment made in the absence of an eligible list shall continue longer than six months in any calendar year. and no more than one temporary appointment shall be given any individual in one calendar year. Such an employee shall not be a regular classified employee.

Section 6.04 EMERGENCY APPOINTMENT: In the event of threatened stoppage of public business, emergency appointments of 15 working days may be made. No individual is to receive more than two successive emergency appointments. Such an employee shall not be a regular classified employee.

Section 6.05 APPOINTING AUTHORITY: The General Manager is the appointing authority, subject to ratification by the Board.

Article VII. DISCIPLINARY ACTIONS

Section 7.01 POLICY: The merit system principle connotes that no person holds any position in the service of the District as a matter of right except through efficiency and good faith in the performance of duties.

Section 7.02 DISCIPLINARY ACTIONS: The General Manager, after consultation with the appropriate utility division manager, may suspend, demote, or dismiss any probationary, temporary, intermittent, emergency, or limited term appointed employee without cause at any time, without right of appeal as provided herein, by written directive notifying said employee of the action so taken. Regular full time and regular part time employees who have successfully completed the probationary period in a prior position and who are promoted or placed in a different position, and who are dismissed during the probationary period in the new position, shall have the right to return to the former position held unless charges are filed and an appeal is heard in accordance with these rules. The General Manager may dismiss, suspend, or demote any regular full time or regular part time classified employee for cause only upon serving the employee a written statement setting forth the reasons for such action.

Section 7.03 CAUSE FOR DISMISSAL OR OTHER ADVERSE ACTION: A regular full time or regular part time classified employee may be suspended, dismissed, or demoted by the General Manager for cause only. Cause for such action may be only one or more of the following categories of conduct:

- (a) Having made a material false statement in the application for employment.

- (b) Incompetence.
- (c) Inefficiency.
- (d) Insubordination.
- (e) Dishonesty.
- (f) Insobriety while on duty.
- (g) Failure or refusal to perform duties.
- (h) Conviction of a crime of moral turpitude.
- (i) Violation of the rules, regulations, or orders of the District.

Section 7.04 PROCEDURES FOR DISCIPLINARY ACTION: Prior to the imposition of any disciplinary action, the person affected by said action shall receive written notice of intent to discipline containing the following: (1) level of discipline intended to be imposed; (2) the specific charges upon which the intended discipline is based; (3) a summary of the facts upon which the charges are based; (4) a copy of all written materials, reports, or documents upon which the intended discipline is based; (5) notice of the employees right to respond regarding the charges within five (5) calendar days from the date of the Notice, either by requesting an information conference (the “Skelly Conference”), or by providing a written response, or both; (6) notice of the employee’s right to have a representative of their choice at the Skelly Conference, should they choose to respond orally; and (7) notice that the failure to respond at the time specified shall constitute a waiver of the right to respond prior to the imposition of discipline. If the employee requests a Skelly Conference to respond to the charge(s), the conference will be scheduled within a reasonable time after the date of the Notice. The Skelly Conference will be an informal meeting with the General Manager or designee, at which the employee has an opportunity to rebut the charges against them and present any mitigating circumstances. The General Manager or designee will consider the employee’s presentation before any final disciplinary action. The employee’s failure to make an oral response at the arranged conference time, or the employee’s failure to submit their written response by the date and time specified in the notice, constitutes a waiver of the employee’s right to respond prior to the imposition of the discipline. In that case, the proposed disciplinary action will be imposed on the date specified.

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Deleted: At the time of said hearing before the General Manager, any personnel with knowledge of the facts causing said disciplinary action shall appear and be heard. Individuals affected by said proposed disciplinary action will be permitted to be represented by an attorney or other individual of his choice and may make such statements and provide such evidence as may be pertinent and relevant to the inquiry conducted by the General Manager...

Upon conclusion of the Skelly Conference, the General Manager shall issue their decision on the imposition of disciplinary action within five (5) working days thereof. The General Manager or designee will (a) dismiss the notice of intent and take no disciplinary action against the employee, (b) modify the intended disciplinary action, or (c) impose the intended disciplinary action. In any event, the General Manager or designee shall prepare and provide the employee with a notice containing the following: (1) level of discipline intended to be imposed, if any, and the effective date of the discipline; (2) the specific charges upon which the discipline is based; (3) a summary of the facts upon which the charges are based; (4) a copy of all written materials, reports, or documents upon which the intended discipline is based; (5) a statement of the nature of the employee's right to appeal.

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Section 7.05 APPEAL OF DISCIPLINARY ACTION: Any person subjected to any disciplinary action may appeal the order of the General Manager or designee to the Board of Directors within fifteen (15) calendar days of the receipt of notice thereof. Said appeal shall be in writing and shall specify the grounds justifying the reversal of the decision of the General Manager or designee. Upon receipt of such notice of appeal by the Clerk of the Board, the Clerk should notify the Board of its appeal at its next meeting. The Board should then set the matter for hearing no later than thirty (30) days thereafter, giving at least ten (10) days written notice thereof to the affected employees. The Board shall fully and fairly hear all parties concerned and then render its decision within ten (10) days thereafter, based upon the evidence heard, and either approve the action taken by the General Manager, disapprove the action, or order other action to be taken. The Board may continue the matter for further hearing if necessary to adduce additional evidence.

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Article VIII. LEAVE OF ABSENCE

Section 8.01 REGULAR EMPLOYEES: A Regular Full-Time or Regular Part-Time who has completed his probationary period may request a absence after the exhaustion of all available leave time, including vacation and/or sick leave. All requests for leave of absence should be directed to the manager of the individual employee's utility division. The manager shall review the request in light of the District's work force requirements and forward it to the General Manager with a recommendation for granting or denial. The General Manager, in consultation with the appropriate committee of the Board of Directors, and subject to the approval of the Board of Directors, will independently review the request and manager's recommendation and may grant a leave of absence for up to twelve (12) months. Each leave of absence request will be evaluated on an individual basis based on the employee's service record, work force limitations, availability of "fill-in" employees, and length of requested leave. Any employee on authorized leave of absence who should seek reinstatement during the period of such leave of absence, will be entitled to reinstatement at its former position. No probationary period will be required in order to achieve full reinstatement. Unless prior written authorization is obtained, absence for

any time in excess of the approved leave of absence shall be considered a voluntary resignation from service and shall disqualify the individual from employment and reinstatement rights.

Section 8.02 VOLUNTEER FIRE FIGHTERS: Should a Volunteer Fire Fighter be unable to continue to perform the duties, and functions of a fire fighter within the Department, or should geographical relocation, or job conflicts result in inability to maintain the drill and call performance required for the position, then said individual may request a leave of absence, which request in writing should be directed to the Chief of the Fire Department. The General Manager, in consultation with the Fire Department Liaison Committee, and approval of the Board, may grant a leave of absence, for a period of up to twelve (12) months. Any employee on authorized leave of absence, who should seek reinstatement to the Fire Department during the period of such leave of absence, will be entitled to reinstatement at its former position, if that position is vacant, or if not vacant, at such lower position within the Fire Department that may be open, assuming the reinstated employee has maintained the necessary skills and competence to perform the duties and functions of an OPUD fire fighter. If the reinstated fire fighter returns during the period of said leave of absence, no probationary period will be required in order to achieve full reinstatement. The OPUD Fire Department does not guarantee that any position will be available at the time reinstatement is required. Absence from the Department for a period in excess of the allowable leave of absence shall not entitle the fire fighter to reinstatement but said fire fighter may reapply for membership in the Fire Department subject to all necessary training and probationary review.

Article IX. LAYOFF

Section 9.01 ABOLITION AND CONSOLIDATION OF POSITIONS: Whenever in the judgment of the Board, it becomes necessary in the interests of economy and efficiency or because the need for the performance of duties no longer exists, the Board may abolish or consolidate any position or positions in the classified service.

Section 9.02 BASIS FOR LAYOFF AND SEVERANCE PAY: In the event of a reduction of force for any reason, persons so laid off shall be laid off in accordance with seniority in the class to which their position is allocated, or in higher classes.

- (a) No regular employee shall be discharged from the District without being given at least two (2) weeks' notice and severance pay, nor shall he leave his employment without giving similar notice to the District.
- (b) This article will not apply to an employee who is discharged for just cause.

Section 9.03 PREFERENCE: Should any position or positions that have been abolished be recreated or reinstated, or new positions be created which involve substantially the same or comparable duties and responsibilities as those abolished during the next one year from the effective date of the abolishment of the position or positions, the employee or employees laid off from the position or positions discontinued shall be appointed in preference to any eligible on an eligible list for such position or positions.

Section 9.04 ELECTION TO DEMOTE: In the event of layoff, those persons with probationary appointments or who have successfully completed the probationary period for their current position, may elect to demote to the next lower class in the series of classes in which layoff is made. In this event, layoff will be made in the lower class in the same manner as above.

Section 9.05 INMIXABLE ACTIVITIES: An officer or employee in the classified service shall not engage in any other activity or enterprise inconsistent, incompatible, or in conflict with his duties as an officer or employee, nor shall District employees perform plumbing and sewer services on private property.

PASSED AND ADOPTED THIS 21st DAY OF JULY, 2012.

OLIVEHURST PUBLIC UTILITY DISTRICT

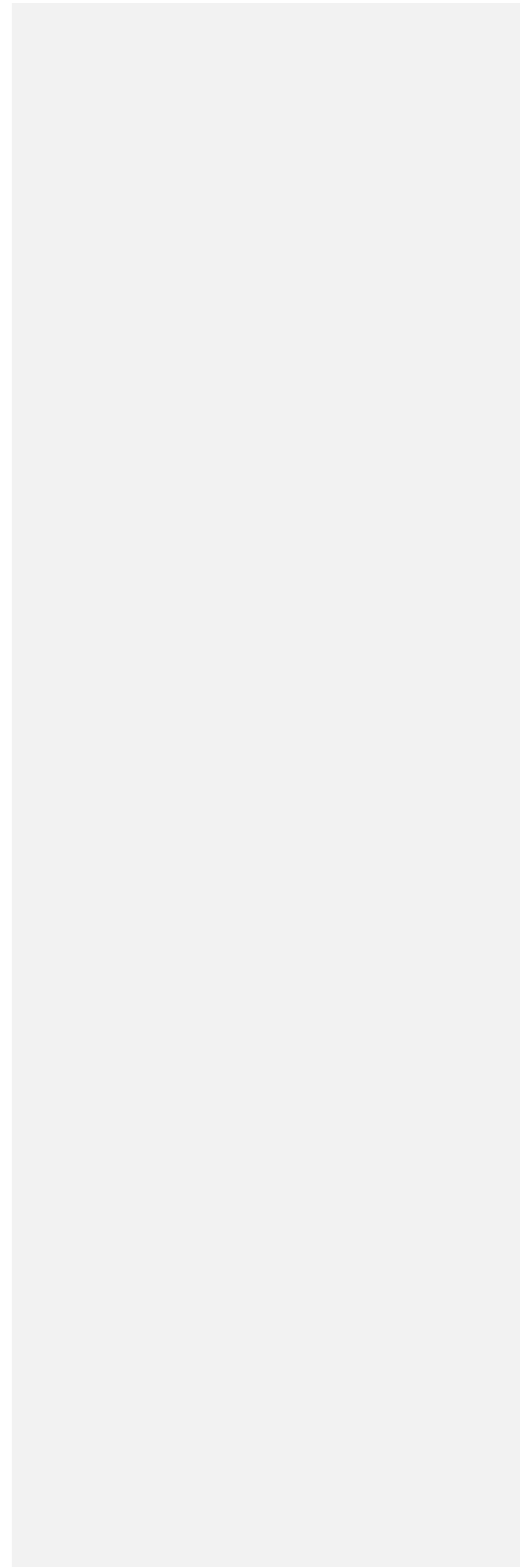
President, Board of Directors

ATTEST:

District Clerk & ex-officio Secretary

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY

Legal Counsel



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I hereby certify that the foregoing is a full, true and correct copy of an Ordinance duly adopted and passed by the Board of Directors of the Olivehurst Public Utility District, Yuba County, California, at a meeting thereof held on the 21st day of July, 2012, by the following vote:

AYES, AND IN FAVOR THEREOF: DIRECTOR PHINNEY, DOUGHERTY,
BRADFORD, MORRISON, AND
CARPENTER.

NOES, : NONE.

ABSTAIN : NONE.

ABSENT : NONE.

District Clerk & ex-officio Secretary

