



Policy 6.07

EFFECTIVE 28 MAR 17

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PREVENTION OF WORKPLACE HARASSMENT

IT IS THE POLICY OF EAST BAY MUNICIPAL UTILITY DISTRICT TO:

Provide a workplace for all employees that is free from any form of harassment.

Purpose To prohibit workplace harassment and establish commitments to address violations and take appropriate corrective actions. Procedure 614 implements this policy and sets forth the complaint process and complaint mechanisms, in compliance with state law.

Scope This policy prohibits workplace harassment against an employee by any supervisor, manager, coworker, and/or any other third party (e.g., applicants, vendors, customers, members of the public, independent contractors) that comes into contact with an employee. This policy also prohibits workplace harassment by employees against third parties (e.g., vendors, customers, volunteers, students/trainees, members of the public and independent contractors). Board members will not discriminate against or harass any person, as provided in the Ethics Policy of the EBMUD Board of Directors (Policy 6.04), and consistent with this policy.

This policy applies to conduct in the workplace.

Definitions

Applicant

An individual who has completed an employment application and met minimum qualifications for a specific, available position at the District.

Customer

A person who receives District water and/or wastewater services.

Equal Employment Opportunity (EEO) Discrimination

EEO discrimination involves making employment decisions on the basis of an individual's protected group status, including but not limited to, decisions regarding the following aspects of the employment relationship:

- Recruitment
- Hiring
- Placement
- Promotion
- Transfer
- Training
- Working terms and conditions
- Wage and salary administration
- Employee benefits and application of policies

Discrimination includes harassment on the basis of a protected group and failure to accommodate a religious practice or provide a reasonable accommodation for a qualified individual with a disability.

Employee

An individual selected and/or appointed to a position created and authorized by the Board of Directors and receiving compensation and benefits from the District, including individuals in Board authorized job classifications with the term intern in the title.

Independent Contractor

A person that is not an employee of the District and provides goods or services to the District under terms specified in a contract.

Student/Trainee

Any District authorized student or trainee who is not compensated by the District but is either paid by a third party or retained by a third party to work at the District in order to gain job experience or academic credit.

Protected Groups

District policy prohibits discrimination or harassment on the basis of race, color, citizenship or immigration status, religious creed, gender (including gender identity and gender expression), marital or registered domestic partnership status, age, national origin, ancestry, disability (mental or physical, including AIDS and HIV), medical condition (cancer and genetic characteristics), genetic information, sexual orientation, military and veterans status, family or medical leave status, pregnancy disability leave, or any other status protected by federal, state and/or local laws.

Retaliation

Retaliation involves taking an adverse action, e.g., firing, demoting, harassing, or otherwise "retaliating" against someone, because they engaged in a protected activity, i.e., filed a charge of discrimination, complained to the District or other entity about discrimination on the job, or participated in an employment discrimination proceeding (such as an investigation or lawsuit).

Sexual Harassment

See Workplace Harassment definition below.

Vendor

An employee, owner, or agent of a company that provides goods or services to the District.

Volunteer

Individuals serving as unpaid helpers for various community events. Individuals who volunteer or donate their services, usually on a limited basis, for public service, religious or humanitarian objectives for non-profit organizations that receive their service.

Workplace

The workplace exists where there is a nexus between the behavior and the EEO rights of employees or others (customers, vendors, member of the public, etc.). The workplace may include District facilities and worksites, or off-site locations, outside of the District's facilities, such as off-site meetings and trainings and social functions involving District employees or related to District activities.

Workplace Harassment

Workplace harassment is unwelcome conduct that is based on protected group status, including **sexual harassment**. **Workplace harassment** is a form of EEO discrimination and may include verbal, written or physical conduct that denigrates or shows hostility or aversion toward an individual because of his/her protected group status that:

- has the purpose or effect of creating an intimidating, hostile or offensive work environment,
- has the purpose or effect of unreasonably interfering with an individual's work performance, or
- otherwise adversely affects an individual's employment opportunities.

Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal, physical, visual, or other conduct of a sexual nature, when:

- submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, or
- submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, e.g., explicitly or implicitly conditioning a job or promotion on an applicant or employee's submission to sexual advances or other conduct based on sex, or
- such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

An employee alleging sexual harassment is not required to sustain a loss of tangible job benefits to establish sexual harassment. In addition, hostile acts toward an employee because of his/her gender can amount to sexual harassment, regardless of whether the treatment is motivated by any sexual desire.

This policy prohibits harassing conduct, regardless of whether the conduct rises to the level of a legal violation.

Prohibited workplace harassment conduct includes, but is not limited to:

- **Verbal Conduct** such as epithets, derogatory jokes or comments, slurs (including racial and ethnic slurs), negative stereotyping, sexual innuendoes, suggestive comments, jokes of a sexual nature, sexual propositions, lewd remarks and threats, requests for any type of sexual favor (this includes repeated, unwelcome requests for dates), and verbal abuse.
- **Visual Conduct** such as threatening or intimidating acts; written or graphic material, including calendars, posters and cartoons, including items that are sexually suggestive or show hostility toward an individual or group because of sex; leering, staring; obscene gestures; offensive or abusive content in letters and notes, facsimiles, email, photos, text messages, tweets and Internet postings; and or other forms of communication based on a protected group status.
- **Physical Conduct** such as forced sexual intercourse, sexual acts or assault; unwanted physical contact, including touching, tickling, pinching, patting, brushing up against, hugging, cornering, kissing and fondling; intentionally blocking normal movement.
- **Threats or Demands** to submit to sexual requests in order to keep a job or affecting other employment status.
- **Offers** of employment benefits in return for sexual favors.

Prevention

The District believes that prompt appropriate action should be taken to prevent or stop incidents of workplace harassment, and strongly encourages employees to express their objections to unwelcome conduct, either to the perpetrator directly or to the Diversity and Inclusion Office (DIO) or any District supervisor. However, just because an employee has not complained about harassment does not mean that the employee has not been harassed. Failure to communicate with the perpetrator does not prevent an employee from filing a complaint, nor does it in any way exonerate the harasser.

Responsibilities

All District employees are required to report to their supervisor and/or manager and/or to the DIO any workplace harassment of which they become aware. Supervisors and/or managers are held to a higher reporting standard. They must report to their supervisor and/or manager **and** the DIO any apparent or suspected workplace harassment or retaliation. The report should be made within two (2) business days of becoming aware of the offending conduct. Managers and supervisors who knowingly allow or tolerate workplace harassment or retaliation, including the failure to timely report such misconduct, are in violation of this policy and subject to corrective action.

In cases of potential workplace harassment, including sexual harassment, supervisors have a legal responsibility to take timely action if they know or should have known of a harassing situation. When a supervisor learns of, observes, has reason to believe, or is informed of a potential harassment situation, the supervisor must consult with the DIO. The supervisor, upon learning of a possible harassment incident, *especially sexual harassment*, is required to take timely action, in coordination with the DIO, to address the concern regardless of the victim's stated desire to pursue or not to pursue the matter.

Enforcement

Workplace harassment, including sexual harassment, will not be condoned or tolerated. The District provides training to its managers, supervisors, and employees to prevent and address workplace harassment and abusive conduct, and to assist them in dealing sensitively and effectively with incidents of harassment. When any District supervisor or manager is notified or becomes aware of any behavior that violates this policy, they are required to take corrective actions.

Complaints and cases of harassment brought to the attention of the Diversity and Inclusion Officer or any District supervisor shall be handled promptly through a confidential procedure. Appropriate remedial or disciplinary action will be taken when warranted, up to and including termination. Retaliation against employees alleging harassment or involved as witnesses in a harassment investigation is prohibited, regardless of whether or not the original complaint is substantiated. Employees who oppose and/or refuse to participate in harassment are also protected against retaliation. If retaliation occurs, the District will take further corrective actions up to and including termination.

Consensual Relationships

The District is aware that consensual intimate relationships sometimes develop between District employees. Although these relationships do not in and of themselves violate this harassment policy, the District is sensitive to the potential for such relationships to give rise to conditions where sexual harassment might occur, especially where the relationship involves supervisor and subordinate. The District therefore adopts the following:

If current employees become involved in consensual intimate relationships where one employee is in a position to directly make or influence employment decisions about the other or to directly affect any term or condition of the other's employment, it is the responsibility of each of the employees to advise their supervisor of the relationship. The supervisors shall consult with Human Resources regarding the appropriate organizational response which will best protect both the District and the employees involved.

Authority

Resolution No. 32952-95, December 12, 1995
As amended by Resolution No. 33438-04, September 14, 2004
Reaffirmed by Motion 006-11, January 11, 2011
As amended by Resolution No. 33864-12, January 24, 2012
Reaffirmed by Motion 026-14, February 11, 2014
As amended by Resolution No. 35029-17, March 28, 2017

Title VII, Civil Rights Act of 1964 as amended (42 USC §2000e et seq.), including The Pregnancy Discrimination Act; The Age Discrimination in Employment Act of 1967 (29 U.S.C. §621 et seq.); Title I of the Americans with Disabilities Act of 1990 (42 USC §12101 et seq.); The Genetic Information Nondiscrimination Act of 2008; Immigration Reform and Control Act (8 USC 1101 et seq.); Executive Order 11246; Family and Medical Leave Act (29 U.S.C. §2601, et seq.; Rehabilitation Act of 1973, Section 503; Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. §§ 4301–4335); Vietnam Era Veterans’ Readjustment Assistance Act (38 U.S.C. § 4212); California Fair Employment and Housing Act (Gov. Code §12900 et seq.), including the California Family Rights Act (Gov. Code §12945.2).

References

Policy 2.05	Employee Discipline
Policy 6.04	Ethics Policy of the EBMUD Board of Directors
Policy 6.06	Equal Employment Opportunity (EEO)
Procedure 223	Discipline
Procedure 614	Equal Employment Opportunity (EEO) Discrimination, Harassment and Retaliation Complaints, Investigations and Appeals
