

TITLE:
Anti-Harassment, Discrimination and Retaliation Policy
ADOPTED BY BOARD OF HARBOR COMMISSIONERS:
December 10, 2018
EFFECTIVE DATE:
This Administrative Policy is effective upon approval by the Board of Harbor Commissioners.
SUPERSESION:
This policy supersedes Administrative Policy #503
PURPOSE:
The purpose of this policy is to affirm the Oxnard Harbor District’s commitment to providing a work environment that is free from all forms of harassment, discrimination and related retaliation.
POLICY:
<p>1. BACKGROUND.</p> <p>This policy is applicable to all regular, temporary, and part-time employees of the Oxnard Harbor District, and Harbor Commissioners or by any outside persons in contact with District employees and independent contractors (including District customers, potential customers, vendors, delivery persons, etc.). This policy does not preclude any additional policies being issued regarding harassment, discrimination, or retaliation which are more stringent or broader in context. In the event of any conflict with Federal and/or State law covering this policy, Federal and/or State law shall control.</p> <p>2. POLICY.</p> <p>The District is committed to providing a workplace free of unlawful harassment. In accordance with applicable law, the District prohibits harassment based on race, religion, religious creed (including religious dress and religious grooming), color, gender, sex (including pregnancy, perceived pregnancy, childbirth, breastfeeding and related medical conditions, gender identity and gender expression, transgender status, those who are transitioning or have transitioned, and sexual stereotypes), sexual orientation, age, national origin (including possessing a driver’s license issued under Vehicle Code § 12801.9), ancestry, physical or mental disability, medical condition, genetic characteristics, genetic information, family care, marital status, enrollment in any public assistance program, military or veteran status or qualified</p>

disabled veteran, domestic partner status, status as a victim of domestic violence, sexual assault or stalking, and/or any other basis protected by federal, state or local laws.

All such harassment is unlawful and will not be tolerated, whether it be harassment of employees, applicants, unpaid interns, persons providing services pursuant to a contract or volunteers by managers, supervisors, co-workers, or non-employees with whom the District has a business, service or professional relationship, like vendors and clients. Similarly, the District will not tolerate harassment by its employees of non-employees with whom the District has a business, service or professional relationship, like vendors and clients.

Additionally, all District employees, including new hires, are mandated to participate in District sponsored Anti-Harassment training courses.

Sexual Harassment

Sexual harassment (including pregnancy, perceived pregnancy, childbirth, breastfeeding, or related medical conditions, gender identity, gender expression, transgender status, those who are transitioning or have transitioned, sexual stereotypes, sexual orientation, and gender harassment) is defined as unwanted sexual advances, or visual, written, verbal or physical conduct of a sexual nature that creates an intimidating, offensive, or hostile working environment or that interferes with an employee's work performance. Such conduct constitutes harassment when (1) submission to the conduct is made either an explicit or implicit condition of employment or promotion; (2) submission or rejection of the conduct is used as the basis for an employment decision; or (3) the unwelcomed comments or conduct based on sex unreasonably interferes with an employee's work performance or creates an intimidating, hostile, or offensive work environment.

Sexual harassment includes many forms of offensive behavior and includes gender-based harassment of a person of the same sex as the harasser. Furthermore, sexually harassing conduct need not be motivated by sexual desire. The following is a partial list of violations:

- Unwanted sexual advances, propositions or requests for sexual favors;
- Offering employment benefits in exchange for sexual favors;
- Making or threatening reprisals after a negative response to sexual advances;
- Visual conduct: leering, making sexual gestures, displaying of suggestive objects, posters, photographs, cartoons, or drawings;
- Verbal conduct: making or using derogatory comments, epithets, slurs, jokes, verbal abuse of a sexual nature, graphic verbal commentaries about an individual's body, sexually degrading words used to describe an individual, foul or obscene language, conversation containing sexual comments;

- Written conduct: suggestive or obscene letters, emails, drawings, notes or invitations;
- Physical conduct: unwanted touching, assault, impeding or blocking movements, and violating someone’s “personal space”; and
- Retaliation for reporting harassment or threatening to report harassment.

Other Types of Harassment

Harassment can take many forms beyond sexual harassment. Harassment on the basis of race, religion, religious creed (including religious dress and religious grooming), color, age, national origin (including possessing a driver’s license issued under Vehicle Code § 12801.9), ancestry, physical or mental disability, medical condition, genetic characteristics, genetic information, family care, marital status, enrollment in any public assistance program, military or veteran status or qualified disabled veteran, domestic partner status, status as a victim of domestic violence, sexual assault or stalking, enrollment in a public assistance program, and/or any other basis protected by federal, state or local laws, is also prohibited and will not be tolerated by the District. Such harassment includes but is not limited to the following when based upon an employee’s protected status as noted above:

- Verbal conduct such as making or using derogatory comments, epithets, slurs, jokes, or verbal abuse;
- Visual conduct such as gestures and displaying of objects, posters, photographs, cartoons, or drawings;
- Written conduct such as suggestive or obscene letters, emails, drawings, notes or invitations;
- Physical conduct such as assault, unwanted touching, or blocking normal movement, or violating someone’s “personal space”; and
- Retaliation for reporting harassment or threatening to report harassment.

Retaliation Prohibition

California law and the District also prohibit retaliation against any employee for making a good faith complaint of harassment or for cooperating, assisting, testifying, or participating in any of the harassment Internal or External Complaint Procedures below. Claims of retaliation are taken seriously and are subject to the same Internal and External Complaint Procedures below.

Internal Complaint Procedure

The District’s complaint procedure provides for an immediate, thorough, objective and confidential investigation of any claim of unlawful or prohibited harassment and/or retaliation, appropriate disciplinary action against one found to have engaged in prohibited harassment and/or retaliation, and appropriate remedies for

any victim of harassment and/or retaliation. A claim of harassment may exist even if the employee has not suffered an adverse employment action.

If you believe you have been harassed and/or retaliated on the job, or if you are aware of the harassment and/or retaliation of others, you must provide a written or verbal complaint to your immediate supervisor or with the Chief Finance & Administrative Officer or CEO & Port Director as soon as possible after the incident as soon as possible. You are not required to complain to any individual who is the one harassing and/or retaliating against you, nor do you have to complain directly to your immediate supervisor. Instead, as is mentioned above, you may report harassment and/or retaliation to any other member of management, including but not limited to the Chief Finance & Administrative Officer or CEO & Port Director. Your complaint should be as detailed as possible, including the names of individuals involved, the names of any witnesses, direct quotations when language is relevant, and any documentary evidence (notes, pictures, cartoons, etcetera).

The District will maintain confidentiality to the extent possible. Any supervisor or manager who is informed of a complaint of harassment and/or retaliation by an employee, or any other individual, must report said complaint to the Chief Finance & Administrative Officer or CEO & Port Director immediately and must otherwise keep the matter confidential. Human Resources must also keep the matter confidential and not disclose the matter to any person who does not have legitimate work-related reasons for knowing of the complaint. Any supervisor, manager or Human Resources employee who fails to comply with this paragraph will be subject to disciplinary action, up to and including termination of employment.

All incidents of prohibited harassment and/or retaliation that are reported will be subject to an impartial, fair, timely and thorough investigation by either a Human Resources representative qualified to perform the investigation or an independent third-party investigator, depending on the circumstances. The investigation will provide all parties appropriate due process and will reach reasonable conclusions based on the evidence collected. The District will document the timely, thorough, and objective investigation of the harassment and/or retaliation allegations to ensure reasonable progress is being made in the investigation. The District will inform the employee who initiated the complaint of the progress of the investigation upon request of that employee.

Corrective Action

At the conclusion of the timely investigation, if it is determined that prohibited harassment and/or retaliation has occurred, The District will take immediate and effective remedial action commensurate with the circumstances. Corrective action may include, for example: training, referral to counseling, or disciplinary action including but not limited to verbal or written warning, suspension, transfer, demotion, and termination of employment, depending on the circumstances. With regard to acts of harassment by clients or vendors, corrective action will be taken after consultation with the appropriate management personnel.

The employee who initiated the complaint will be notified when the investigation has been completed and will be informed of the general outcome of the investigation, i.e., whether the complaint has been substantiated or

unsubstantiated. However, the employee is not entitled to know the corrective action, if any, imposed on the accused harasser as that information is protected by the accused harasser’s right to privacy. Appropriate action will be taken to ensure the employee who has been found to have been harassed and/or retaliated against will not be harassed and/or retaliated against in the future, including but not limited to redistribution of this policy, training, transfer, etc.

External Complaint Procedure

In addition to the District’s internal complaint procedure, employees who believe that they have been unlawfully harassed and/or retaliated against may file a complaint with the federal Equal Employment Opportunity Commission (EEOC), and/or the California Department of Fair Employment and Housing (DFEH).

For more information, contact the Human Resources Department. Contact information for the DFEH can be obtained at www.dfeh.ca.gov. Contact information for the EEOC can be obtained at www.eeoc.gov.

RELATED POLICIES AND PROCEDURES:

Policy No. 502.2: Equal Employment Opportunity

DEFINITIONS:

None.