

PROHIBITION AGAINST WORKPLACE HARASSMENT, DISCRIMINATION, AND RETALIATION

Policy # **1105**
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Type of Policy: ☒ BOARD ☐ DISTRICT ☐ FIRE ☐ PARKS

POLICY

1105.1 Cosumnes Community Services District ("District") prohibits workplace harassment, illegal discrimination, and retaliation in employment.

PURPOSE AND SCOPE

- 1105.2 The District is committed to equal employment opportunity and a work environment free of discrimination and harassment, including sexual harassment.
- 1105.3 This policy applies to all District elected officials, executives, employees, interns, volunteers, contractors, vendors, suppliers, members of the public, and other persons who participate in District programs and services.

APPLICATION / PROCEDURE

- 1105.4 Definitions:
- a. Discrimination: the definition includes the following, but is not limited to:
 - 1. Unequal treatment of District personnel or applicant in any aspect of employment, including discrimination based solely or in part on the employee's or applicant's protected category. Protected categories include:
 - i. Race
 - ii. Color
 - iii. Religion (Religious Creed)
 - iv. National Origin
 - v. Citizenship
 - vi. Ancestry
 - vii. Age (40 and above)
 - viii. Sex (Including pregnancy, childbirth, breastfeeding and/or related medical conditions)
 - ix. Disability (Physical and/or Mental)
 - x. Marital Status
 - xi. Domestic Violence Victim Status
 - xii. Medical Condition (Cancer/genetic characteristics)
 - xiii. Gender, Gender Identity, and Gender Expression
 - xiv. Military Status and Veteran Status

- xv. Genetic Information
 - xvi. Sexual Orientation
 - xvii. Political Affiliation
 - xviii. Any other status protected by state or federal law
2. Hostile behavior towards applicants or employees because of their protected category.
 3. Basing an employment decision affecting a job applicant or employee (e.g., decision to hire, promote, transfer, terminate, etc.) on one's protected status; (e.g., race, color, religion, sex, etc.).
 4. Treating an applicant or employee differently about any aspect of employment because of his or her protected status.
 5. Taking adverse employment action (i.e., demotion, transfer, discipline, termination) against an employee based on the employee opposing discrimination and/or harassment in the workplace, assisting, supporting, or associating with a member of a protected category/status who complains about discrimination and/or harassment, or assisting in an investigation of discrimination and/or harassment.
- b. Harassment: unwelcome conduct that is based on any of the protected categories listed above. "Hostile Work Environment" is defined as conduct of a sexual nature or on the basis of sex by any person in the workplace that unreasonably interferes with an employee's work performance and/or creates an intimidating, hostile, or otherwise offensive work environment.
1. Examples of actions that may lead to workplace harassment complaints based on a hostile work environment and which are prohibited include, but are not limited to, the following:
 - i. Visual Harassment, such as posters, photographs, letters, notes, email, text messages, cartoons, or drawings related to the person's protected category/status (including using District computer systems related to such materials).
 - ii. Verbal Harassment, such as epithets, derogatory comments/statements, sexual objectification (either favorably or unfavorably), vulgar, racist or other discriminatory jokes, or slurs based upon a person's protected category/status.
 - iii. Physical Harassment, such as assault, blocking or impeding access or other physical interference, sabotaging or undermining work or imposing demeaning work tasks based upon a person's protected category/status.

2. Even if the conduct does not constitute a hostile work environment, it may still be misconduct that is cause for discipline.
- c. Sexual harassment: form of workplace harassment as described above and is defined to include, but is not limited to:
 1. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when this conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile, or offensive work environment.
 2. Sexual harassment can occur in a variety of circumstances, including but not limited to, the following:
 - i. The victim, as well as the harasser, may be any gender. The victim does not have to be of the opposite sex.
 - ii. The harasser can be the victim's supervisor, a supervisor in another area, a manager, a co-employee, or a non-employee like a vendor or member of the public.
 - iii. The victim does not have to be the person harassed but could be anyone affected by the offensive conduct.
 - iv. Unlawful sexual harassment may occur without economic injury to or termination of the victim.
 - v. The harasser's conduct must be unwelcome.
 3. Determining what constitutes sexual harassment depends upon the specific facts and context. Sexual harassment:
 - i. May be subtle and indirect or blatant and overt.
 - ii. May consist of repeated actions or may arise from a single incident.
 - iii. Conduct of a sexual nature or on the basis of sex by any person in the workplace that unreasonably interferes with an employee's work performance and/or creates an intimidating, hostile or otherwise offensive working environment.
 4. Sexual harassment can result from various forms of conduct, including, but not limited to, the following:
 - i. Visual harassment: leering/staring, making sexual gestures, displaying sexually suggestive or pornographic objects, pictures, magazines, cartoons, posters, letters, notes, emails, or text

messages.

- ii. Verbal harassment: making or using derogatory comments, epithets, slurs, and jokes. Comments about body parts or physical appearance, innuendo, unwanted sexual advances, unfulfilled threats of employment benefits/detriments in exchange for sexual favors, pressure for dates, discussion of a sexual nature, questioning a person's sexual practice or history, sexually degrading words used to describe an individual.
 - iii. Physical conduct: touching, assault, impeding, or blocking movements.
5. Quid Pro Quo ('This for that') harassment cases are another type of Sexual harassment.
- i. "Quid Pro Quo" harassment can occur when submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting that individual, such as a promotion, raise, hiring, or performance appraisals.
 - ii. This kind of sexual harassment can only be perpetrated by a supervisor, manager, or another person who has the authority to affect the employee's terms and conditions of employment.
6. Examples of actions that may lead to sexual harassment complaints and which must be avoided include, but are not limited to, those listed below:
- i. Unwanted sexual advances or pressure for dates or sexual favors.
 - ii. Making implicit or explicit offers of employment benefits in exchange for sexual favors.
 - iii. Making implicit or explicit threats of retaliation for negative responses to sexual advances.
 - iv. Leering, sexual looks or sexual gestures with hands or through body movements.
 - v. Unwanted touching, including hugging, kissing, patting or stroking.
 - vi. Pinching, grabbing, assaulting, impeding or blocking movements.
 - vii. Sexually suggestive objects or pictures, text messages, cartoons or posters in the workplace or on computer systems (including email and the Internet).
 - viii. Graphic verbal commentaries about an individual's body.

- ix. Sexually degrading words used to describe an individual, including inappropriate sex-oriented comments about appearance, including dress or physical features.
 - x. Lewd propositioning.
 - xi. Unwanted written communications, telephone calls, or personal gifts.
 - xii. Sexual teasing, jokes, remarks or questions.
 - xiii. Referring to an adult as a “girl”, “hunk”, “doll”, “babe”, or “honey” or whistling at someone.
 - xiv. Sexual innuendoes or stories.
 - xv. Asking about sexual fantasies, preferences or history.
 - xvi. Questions about sexual life.
 - xvii. Sexual comments about a person’s clothing, anatomy or looks.
 - xviii. Telling lies or spreading rumors about a person’s personal sex life.
 - xix. Giving massages, touching a person’s clothing, hair or body.
 - xx. Making remarks or comments that are homophobic or transphobic.
7. Even if the conduct does not constitute sexual harassment, it may still be misconduct that is cause for discipline.
8. Retaliation: any adverse employment action taken against an employee because the employee is engaged in activity protected under Federal and State laws or this policy.

1105.5 The District, as a public employer and a provider of services, will not tolerate nor condone discrimination or harassment from any employee, regardless of employment status. All District employees are responsible for maintaining a work environment free from discrimination and harassment as defined below and will be held fully accountable for complying with this policy and for taking appropriate measures to ensure that such conduct does not occur.

1105.6 A employee who believes that they have been the victim of discrimination or harassment should immediately report the alleged harassment or discrimination as described under "Complaint Procedures" below. Any District employee who believes that they have witnessed or has knowledge of any harassment or discrimination in the workplace is strongly encouraged to report the acts or occurrences.

District employees who violate this policy are subject to disciplinary action up to and

including termination from District service. Supervisors/managers who know or should have known of discrimination or harassment throughout the normal course of their employment duties and fail to report such conduct and fail to take immediate corrective action are also subject to disciplinary action up to and including termination from District service. Contractors, members of the public or other persons who participate in District programs and services who violate this policy are subject to appropriate sanctions.

Since the District provides many public and essential services, working with members of the public is often required. Employees are expected to interface with the public as their duties require, at times in difficult situations. However, employees are not expected to endure actual harassment by members of the public. If an employee feels that they are being subjected to harassment by a member of the public, the employee should report such behavior using the complaint procedure outlined below.

Retaliation or reprisals against witnesses or employees who in good faith file harassment or discrimination complaints or provide information in an investigation will not be tolerated. However, intentionally making a false report or providing false information is cause for discipline.

- 1105.7 The District will not tolerate nor condone District employees who, in the workplace or on District technology, view, display, print, send, download, or distribute content that contains or depicts nudity or sexually explicit material. Additionally, material that contains slurs, or racist, homophobic, transphobic, sexist, or other discriminatory statements or depictions is prohibited.

District employees who view, display, print, send, download, or distribute such content or depictions in the workplace or on District technology are subject to disciplinary action up to and including termination from District service, regardless of whether or not another employee raises a concern with the material. Further, any such content or depictions that could have criminal implications will be immediately reported to the City of Elk Grove's Police Department.

Also, District employees who access content that contains or depicts nudity or sexually explicit material using the District's email or internet systems may also be in violation of other District policies, including, but not limited to, the District's Computer Systems Use, Internet Use, and Email Use.

- 1105.8 The District desires to avoid misunderstandings, complaints of favoritism, or lack of objectivity, claims of sexual harassment, and the morale and dissension problems that potentially result from romantic or other close non-work-related relationships between employees. Therefore, all employees must report immediately to the Director of Human Resources any past or present consensual relationships with anyone in a direct supervisory or subordinate capacity. The Director of Human Resources will consult with the General Manager and applicable Department Head to develop a plan to manage or eliminate conflicts of interest and mitigate adverse effects on the involved parties and other third parties. If, in the District's opinion, potential problems noted above cannot be avoided in a reasonable manner, the District may take appropriate action to address the situation.

1105.9 Employees have the right to communicate problems, suggestions, or issues to District management. Federal and State laws prohibit the punishment of employees for asserting their rights to be free from employment discrimination, including harassment. No employee shall sufferer retaliation as the result of exercising their rights under Federal and State laws and this policy.

As used in this policy, retaliation is defined as any adverse employment action taken against an employee because the employee is engaged in activity protected under Federal and State laws or this policy.

Acts of retaliation could take many forms. For example, retaliation could include, but is not limited to, the following:

- a. Receiving a reprimand or given a performance evaluation that is lower than it should be.
- b. Being transferred to a less desirable position.
- c. Denial of a promotion or salary increase.
- d. Verbal or physical abuse.
- e. Increased scrutiny.
- f. Spreading false rumors.
- g. Adjusting work schedules with no legitimate business reason to do so.
- h. Denying access to resources or training.
- i. Exclusion from meetings, correspondences, or other types of activities that would make it difficult to perform job duties.
- j. Termination from District service.

1105.10 Pursuant to California Labor Code Section 1102.5 (as amended from time to time) the District will comply with Whistleblower regulations as specified in Board Policy 1110.

1105.11 Responsibilities:

- a. Employees, Interns, Volunteers, and Contractors shall be responsible for:
 1. Maintaining a work environment free of discrimination and harassment, complying with the policy.
 2. Reporting complaints of discrimination or harassment to a supervisor, Department Head, or the Human Resources Division immediately.
 3. Cooperating fully with all investigations of discrimination and harassment and implementation of remedial measures.
 4. Refraining from retaliating against any employee who participates in an investigation or opposes discriminatory practices.
- b. Supervisors/Managers shall be responsible for:

1. Contacting the Department Head and the Human Resources Division immediately upon receiving a complaint or when aware of a situation involving potential violations of this policy.
 2. Supervisors/Managers who know or should have known of discrimination or harassment and fail to report such conduct and fail to take immediate corrective action are also subject to disciplinary action up to and including termination from District service.
- c. Division Heads and Department Heads shall be responsible for:
1. Assisting the Director of Human Resources by disseminating this policy to department employees and ensuring that the workplace remains free of discrimination and harassment.
 2. Contacting the Human Resources Division immediately upon receiving a complaint from an employee or notification that a complaint has been filed with the EEOC or CRD, or when aware of a situation involving potential violations of this policy. Coordinating and cooperating with the Director of Human Resources in resolving complaints involving employees in their respective departments; when discrimination and/or harassment has occurred:
 - a. Taking prompt and appropriate remedial action.
 - b. Taking reasonable steps to protect the complainant from further discrimination/ harassment.
 - c. Taking reasonable steps to protect the complainant from retaliation as a result of communicating the complaint.
 - d. Taking action to remedy the effects of discrimination/harassment.
- d. Director of Human Resources shall be responsible for:
1. Ensuring this policy is disseminated to all employees.
 2. Providing training and assistance to Department Heads, supervisors, Board Members, and employees in preventing and addressing discrimination and harassment.
 3. Ensuring District Counsel is advised of all complaints made.
 4. Investigating, resolving, and, when appropriate, making recommendations for corrective actions of complaints.
 5. Advising the complainant and individual against whom a complaint has been made of the resolution of the investigation.

6. Responding to complaints filed with the EEOC or CRD.

1105.12 A report of discrimination or harassment shall be made in writing; the employee will be asked to communicate all known facts and information about the acts or occurrences so that an investigation can be conducted.

Allegations of discrimination or harassment will be promptly and objectively investigated. The investigation and findings will be based on the totality of circumstances, and each situation will be evaluated on a case-by-case basis. Where discrimination or harassment has occurred, prompt and effective remedial action commensurate with the severity of the offense will be taken per existing District discipline procedures.

The District recognizes the sensitivity of discrimination and harassment complaints and respects the confidentiality and privacy of the individual reporting or accused of harassment or discrimination or providing information in connection to a claim of harassment or discrimination to the extent reasonably or legally possible. For example, information related to a complaint may need to be disclosed in responding to a complaint made to an outside governmental agency such as the California Civil Rights Department (CRD), or the Federal Equal Employment Opportunity Commission (EEOC). Also, there are circumstances, such as if disciplinary action is taken, when details of the investigation, including the identity of the complainant and witnesses, may be disclosed. Concerns regarding confidentiality can be directed to the Human Resources Division.

Complaint procedures are described in detail under “Complaint Procedure” below. The options to file complaints of discrimination or harassment which involve District personnel include filing the complaint with:

- a. A Department Head
- b. The Human Resources Division
- c. The Equal Employment Opportunity Commission (EEOC)
- d. The California Civil Rights Department (CRD)

If an employee is uncomfortable filing a complaint with a Department Head, the complaint can be made to the Human Resources Division. Employees have the right to lodge a complaint with an outside agency (EEOC or CRD). Note that a violation of this policy may exist even when there is no violation of the law. If a complaint is filed with a department, the department shall immediately notify the Human Resources Division.

Complaints which involve the Board of Directors must be made to the District Counsel. Complaints that involve Board Appointed Executives must be made to another Board Appointee.

Complaints of discrimination or harassment raised by District employees against employees, agents or representatives of contractors, vendors, members of the public or suppliers doing business with the District shall be promptly reported to the Human Resources Division or Department Head.

Firms whose employees discriminate against or who sexually harass District personnel in the course of doing business with the District may be subject to termination of a contract, suspension or debarment from doing business with the District; or to other measures as the District General Manager and the District Counsel may deem appropriate.

COMPLAINT PROCEDURES

- 1105.13 Filing a Complaint. Employees who believe they have been discriminated against or harassed are to report the act or occurrence to the Human Resources Division or Department Head, in writing. It is highly recommended that the employee reports the act or occurrence immediately. Any Supervisor who receives a complaint of discrimination or harassment or who becomes aware of a situation involving potential violations of this policy shall notify the Department Head and the Human Resources Division. Any Department Head who receives a discrimination or harassment complaint from an employee or notification that a complaint has been filed with the EEOC or CRD shall notify the Director of Human Resources as soon as possible after receiving the complaint.

Investigation and Resolution. After reviewing the discrimination or harassment complaint, the Director of Human Resources shall conduct introductory fact finding in collaboration with District Counsel to determine if an investigation is necessary to resolve the issues of the complaint and if so, recommend to the General Manager to authorize the investigation of the complaint.

If the complaint contains no assertion that the alleged acts occurred based on one or more of the protected categories, the alleged misconduct is not covered by this policy. In that situation, the Director of Human Resources will determine whether and to recommend to the General Manager, what extent to investigate the allegations.

When the investigation of complaints covered by this policy is completed, the Director of Human Resources, with concurrence of District Counsel, will determine if there is sufficient evidence to substantiate a violation of this policy or if any other misconduct has occurred, and if remedial action is necessary to resolve the issues of the complaint. The complainant, alleged harasser, and management with a legitimate need to know will be notified of the determination as to the outcome of the investigation only (meaning whether the complaint is “sustained” or “not sustained.”)

After investigation, if there is a finding that harassment, discrimination, or retaliation in violation of this policy has occurred, the District will take appropriate and immediate action to end any harassment/discrimination and prevent its recurrence.

- 1105.14 Employees remain free to pursue complaints of discrimination or harassment with two outside agencies: the California Civil Rights Department or the United States Equal Employment Opportunity Commission, whether or not complainants choose to use the Cosumnes Community Services District complaint procedure. Time limits for filing complaints with State and Federal compliance agencies vary, and those agencies should be contacted directly for specific information. The addresses and telephone numbers (as of the revision date of this procedure) are:

Civil Rights Department
2218 Kausen Drive #100
Elk Grove, California 95758
Phone: (916) 478-7251

Equal Employment Opportunity Commission
Oakland Office
1301 Clay Street Suite 1170-N
Oakland, California 94612
Phone: 800-669-4000

REFERENCES

- 1105.15 Board Policy, Duty to Report Unlawful or Improper Actions Policy (1110)
- 1105.16 California Labor Code Section 1102.5