

BEFORE THE BOARD OF DIRECTORS
OF THE
APTOS/LA SELVA FIRE PROTECTION DISTRICT

the following resolution is hereby adopted:

RESOLUTION NO. 8-15

On the motion of Director Abendschan
Duly seconded by Director Johnston

A RESOLUTION
OF THE
APTOS/LA SELVA FIRE PROTECTION DISTRICT
PROVIDING FOR THE ESTABLISHING GUIDELINES FOR ENSURING AN
ENVIRONMENT FREE OF

DISCRIMINATION, HARASSMENT, RETALIATION, AND BULLYING

PURPOSE:

The purpose of this policy is to establish a strong commitment on the part of the District to refrain from, prohibit and prevent all forms of workplace, discrimination, harassment and retaliation, to define those terms, to establish management and employee responsibility regarding workplace discrimination, harassment, and retaliation and to set forth a procedure for investigating and resolving internal complaints of workplace discrimination harassment and retaliation.

The District encourages all covered individuals to report any conduct, action or practice that is believed to violate this Policy as soon as possible.

SCOPE:

This policy applies to all managers, supervisors, employees, applicants, volunteers, or individuals providing services pursuant to a contract. This policy also applies to elected officials of the District.

This policy covers discrimination or harassment because of: (1) an individual's protected classification; (2) the perception that the individual has a protected classification; or (3) an individual's association with another individual who has or appears to have a protected classification. This policy also covers retaliation against any individual who has filed a complaint or participated in a complaint resolution process under this policy.

This policy applies to all terms and conditions of employment including, but not limited to: hiring, placement, promotion, disciplinary action, layoff, recall, transfer, leave of absence, compensation, training opportunities and daily work environment.

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POLICY:

It is the policy of the District to provide an employment environment free from discrimination, harassment or retaliation as defined by this policy and federal and state statutes such as Title VII of the Civil Rights Act of 1964, Equal Employment Opportunity Commission (EEOC) Regulations, California Government Code section 12940(h), and Department of Fair Employment & Housing (DFEH) Regulations.

Accordingly, discrimination, harassment and retaliation against an applicant, employee, individual providing services pursuant to a contract or volunteer on the basis of that individual's actual or perceived sex, gender, sexual orientation (including heterosexuality, homosexuality, and bisexuality), race, color, religion, national origin, ancestry, citizenship status, uniformed service member status, age, marital status, pregnancy, medical condition, genetic characteristics, and physical or mental disability is prohibited and will not be tolerated.

Any retaliation against an individual for filing a complaint under this policy or for participating in a complaint resolution process is also prohibited and will not be tolerated.

The District has zero tolerance for any conduct, action or practice that violates this policy. Conduct need not rise to a level of violation of the law in order to violate this policy. Instead, a single act, if substantiated can violate this policy and provide grounds for discipline or other appropriate sanctions.

Employees who feel they have been harassed or discriminated against in any manner or retaliated against in violation of this policy should immediately report such incidents following the procedure described below in section VIII. Confidentiality will be maintained to the extent permitted by the circumstances.

Where violation of this policy has been substantiated, appropriate action to remedy the violation will be taken. Managers, supervisors or employees found responsible for the violation will be subject to disciplinary action or other appropriate sanction, up to and including termination.

DEFINITIONS

Protected Classifications: This policy prohibits discrimination or harassment because of an individual's protected classification. "Protected Classification" means an individual's race, religion, color, sex, gender, sexual orientation (including heterosexuality, homosexuality, and bisexuality), national origin, ancestry, citizenship status, uniformed service member status, marital status, pregnancy, age, medical condition, genetic characteristics, and physical or mental disability.

Discrimination: Discrimination means treating individuals differently because of their protected classification as defined by this policy.

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Harassment: Harassment may include, but is not limited to, the following types of conduct that is taken because of an individual's protected classification.

Harassment can consist of virtually any form or combination of verbal, physical, visual or environmental conduct. It need not be explicit, or even specifically directed at the victim. Sexually harassing conduct can occur between individuals of the same or different genders.

Harassment is not limited to conduct taken only by District employees. Under certain circumstances, harassment can also include conduct taken by those who are not employees, such as elected officials, individuals providing services under contracts, volunteers, or even members of the public.

Harassment includes, but is not limited to, the following misconduct:

Verbal Harassment – For example, epithets, derogatory comments or slurs on the basis of actual or perceived race, religious creed, color, national origin, ancestry, physical handicap, medical condition, age, marital status, sex, sexual orientation, political opinions or affiliations, or lawful employee organization activities. Verbal harassment may also include sexual remarks, well-intentioned compliments about an individual's clothing, body, or sexual activities, or race oriented stories or jokes.

Physical Harassment – For example, assault, unwelcome touching, impeding or blocking movement and/or any physical interference with normal work or movement when directed at an individual on the basis of race, religious creed, color, national origin, ancestry, physical handicap, medical condition, age, marital status, sex, sexual orientation, political opinions or affiliations, or lawful employee organization activities. This includes, but is not limited to, kissing, punching, grabbing, patting, propositioning, leering, looking an individual's up and down, blocking an individual's path, or making explicit or implicit job threats or promises in return for submission to physical acts.

Visual Forms of Harassment – For example, derogatory posters, notices, bulletins, cartoons, drawings or other advertisements on the basis of actual or perceived race, religious creed, color, national origin, ancestry, physical handicap, medical condition, age, marital status, sex, sexual preference, political opinions or affiliations, or lawful employee organization activities. This includes, but is not limited to posters, cartoons, graffiti, magazines, videos, computer graphics, Internet sites or other electronic media.

Sexual Harassment – Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature where submission is made a term or condition of employment, where submission to or rejection of the conduct is used as the basis for employment decisions, or where the conduct is intended to or actually does unreasonable interfere with an individual's work performance or creates an intimidating, hostile, or offensive work environment. Conduct that seems innocent or trivial to one individual may constitute harassment to another individual.

Retaliation: Any adverse conduct taken because an individual has reported discrimination or harassment or has participated in the complaint and investigation process described in this policy. "Adverse conduct" includes, but is not limited to: taking sides because an individual has reported discrimination or harassment, shunning and avoiding an individual who reports discrimination or harassment or real or implied threats of intimidation to prevent an individual from reporting discrimination or harassment.

GUIDELINES FOR IDENTIFYING HARASSMENT

To help clarify what constitutes harassment in violation of this policy, the following guidelines are provided:

Harassment includes any conduct which would be "unwelcome" to an individual of the recipient's same protected classification and which is taken because of the recipient's protected classification.

It is no defense that the recipient appears to have voluntarily "consented" to the conduct at issue. A recipient may not protest for many legitimate reasons, including the need to avoid being insubordinate or to avoid being ostracized.

Simply because no one has complained about a joke, gesture, picture, physical contact, or comment does not mean that the conduct is welcome. Harassment can evolve over time. Small, isolated incidents might be tolerated up to a point. The fact that no one is complaining now does not preclude anyone from complaining if the conduct is repeated in the future.

Even visual, verbal and/or physical conduct between two employees who appear to welcome it can constitute harassment of a third applicant, officer, official, employee or contractor who observes the conduct or learns about the conduct later. Conduct can constitute harassment even if it is not explicitly or specifically directed at an individual.

Conduct can constitute harassment in violation of this policy even if the individual engaging in the conduct has no intention to harass. Even well intentioned conduct can violate this policy if the conduct is directed at, or implicates a protected classification, and if an individual of the recipient's same protected classification would find it offensive (e.g., gifts, over attention, endearing nicknames).

RESPONSIBILITIES

It is the responsibility of all managers, supervisors, employees and contractors of the District to comply with the provisions of this policy. Further responsibility for the policy is delegated as follows:

Managers and supervisors are responsible for:

1. Informing employees of this policy;
2. Modeling appropriate behavior; specifically refraining from discrimination, harassment or retaliation;
3. Taking all steps necessary to prevent discrimination, harassment or retaliation from occurring;
4. Receiving complaints in a fair and serious manner, documenting steps taken to resolve complaints and taking such steps in a timely manner;
5. Monitoring the work environment and taking immediate appropriate action to stop potential violations, such as removing inappropriate pictures or correcting inappropriate language or revising any practice that may result in discrimination, harassment or retaliation;
6. Following up with those who have complained to ensure that the practice or behavior has stopped and that there are no reprisals;
7. Informing those who complain of discrimination, harassment or retaliation of his or her option to contact the EEOC or DFEH regarding alleged policy violations;
8. Assisting, advising, or consulting with employees and the Human Resources Manager regarding this policy and the complaint procedure;
9. Assisting in the investigation of complaints involving employees, and if the complaint is substantiated, recommending appropriate change in practice, corrective or disciplinary action or other sanction in accordance with District policies, up to and including termination;
10. Implementing appropriate disciplinary and remedial actions;
11. Reporting potential violations of this policy of which he or she becomes aware, regardless of whether a complaint has been submitted to the Fire Chief or Business Manager;
12. Participating in periodic training and scheduling employees for training.

All employees, elected officials and volunteers and contractors are responsible for:

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1. Treating all individuals with respect and consideration;
2. Modeling appropriate behavior;
3. Participating in periodic training;
4. Fully cooperating with any District investigation by responding fully and truthfully to all questions posed during the investigation;
5. Maintaining the confidentiality of any investigation that the employer conducts by not disclosing the substance of any investigatory interview, except with their union or legal counsel and as directed by the Fire Chief or Business Manager;
6. Reporting any act he or she believes in good faith constitutes discrimination, harassment or retaliation as defined by this policy to his or her immediate supervisor, the Fire Chief or the Business Manager.

DISSEMINATION OF POLICY

A copy of this policy shall be provided to all managers, supervisors, employees and individuals providing services pursuant to a contract, elected officials, and volunteers of the District upon adoption and as provided below. Managers, supervisors, employees of the District shall receive periodic training on this policy. The policy may be updated from time to time and redistributed.

Each individual identified in paragraph one above will be asked to sign a statement that he or she has received this policy. This policy and statement will also be provided by the Human Resources Manager upon hire, when District trainings are provided on this topic and when the policy is updated.

COMPLAINT PROCESS AND PROCEDURES

To accommodate the unique and sensitive nature of discrimination, harassment and retaliation complaints, a separate process is provided for the primary purpose of resolving these complaints at the earliest possible date. This process is described below:

An employee, job applicant, contractor, or volunteer who believes he or she has been discriminated against harassed or retaliated against in violation of this policy should immediately make a complaint orally or in writing with any of the following individuals.

1. Employee's supervisor;
2. Any supervisor or manager of the District;
3. Business Manager;
4. Fire Chief

There is no need or requirement to follow the chain of command. Oral complaints must be followed up in writing and submitted within seven (7) business days after the original verbal complaint. The supervisor or manager receiving a complaint is responsible for doing all of the following:

1. Collect and preserve any physical evidence that is readily available or may be time or weather sensitive.
2. Obtain a preliminary statement from the complainant and any immediately available witnesses.
3. Provide notice of the receipt of a complaint to the Division Chief or manager on duty. In providing notice, the supervisor shall forward the Complaint Control Form to the Fire Chief via the Division Chief or manager on duty and shall immediately advise the Fire Chief or Fire Chief should the complaint involve serious misconduct of a criminal nature.
4. Provide a copy of the Complaint Control Form to the complainant if the complaint is made in person.

COMPLAINT INVESTIGATION

The Fire Chief will be responsible for the assignment of the complaint for investigation. The Fire Chief shall retain the original Complaint Control Form for tracking purposes. A copy of the Complaint Control Form will be forwarded to the investigator assigned to investigate the complaint. The investigator(s) may be chosen from internal or external sources. If a written investigation report is requested by the Fire Chief, the investigator shall issue findings on each allegation in the complaint as provided under this policy.

Allegations that a District employee violated a criminal law (felony or misdemeanor) in connection with the same issues raised in a complaint of discrimination, harassment or retaliation shall be investigated by the Santa Cruz County Sheriff's Department or the appropriate outside law enforcement agency. An internal administrative investigation may also be conducted concurrently with or after the completion of the criminal investigation, at the discretion of the Fire Chief or his/her designee.

Supervisors who become aware that a District employee is the subject of a criminal investigation which involves alleged discrimination, harassment or retaliation prohibitive by this policy are required to immediately complete a Complaint Control Form and route it to the Fire Chief through the on-duty Division Chief or manager.

Investigations will include an interview process. Employees whose conduct is the focus of the investigation will be presented with a "Notice of Interview" letter. The letter will include the following:

- A statement of the nature of the investigation including the allegation of

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misconduct. This statement will include the date(s) of actions under investigation, if known.

- A listing of any statutes and/or rules and policies or orders that may have been violated.
- The name and rank of the officer, manager or contract investigator in charge of an interrogation, the interrogating officer(s), and all persons to be present during the investigation.
- A statement advising the employee of the right to have a representative who is not subject to the investigation present at his/her own cost.
- Specify the date, time and location of interview.

Notice that the meeting will be recorded and advise the employee of the right to bring his/her own recording device.

Individuals who are interviewed as witnesses, and whose conduct is not the subject of the investigation will receive a witness notification and should receive a Notice of Interview letter.

At the beginning of any interview of an employee who has been accused of misconduct, the investigator shall provide that employee with an admonition. This admonition shall be read aloud to the employee and provided in writing.

Should the complaint involve the investigation of a safety employee, the investigation shall be conducted in accordance with the Firefighter Procedural Bill of Rights Act, if applicable.

The District takes a proactive approach to potential policy violations and will conduct an investigation if its officers, supervisors or managers become aware that discrimination, harassment or retaliation may be occurring, regardless of whether the recipient or third party reports a potential violation.

An individual has the option to report discrimination, harassment or retaliation to the EEOC or the DFEH. These administrative agencies offer legal remedies and a complaint process. The nearest offices are listed in the government section of the telephone book or employee can check the posters that are located on employer bulletin boards for office locations and telephone numbers. General information can also be found on the EEOC and DFEH websites, located at www.eeoc.gov and www.dfeh.ca.gov.

Upon notification of a complaint alleging a violation of this Policy, the Fire Chief or designee shall:

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1. Review the factual information gathered through the investigation to determine whether the alleged conduct action or practice constitutes discrimination, harassment, or retaliation, giving consideration to all factual information, the totality of the circumstances, including the nature of the conduct and the context in which the alleged incidents occurred;
2. Report a summary of the determination as to whether discrimination, harassment, or retaliation occurred, and whether/what action should be taken to remedy or redress such occurrence. Report same to appropriate individuals, including the Fire Chief, the complainant, the accused, and other personnel determined to be relevant except, however that if discipline or other appropriate sanction is imposed on a manager, supervisor or employee, the discipline or other sanction will not be communicated to the complainant. Such report will be made available to the complainant with due diligence from when the complaint was filed;
3. If conduct, action or practice in violation of this policy occurred, take and/or recommend to the appointing authority prompt and effective remedial action. Any disciplinary action or other appropriate sanction is taken will be commensurate with the severity of the offense and will comply with any applicable disciplinary procedures;
4. Take reasonable steps to protect the complainant from further discrimination, harassment, or retaliation;
5. Take reasonable steps to protect the complainant from any retaliation as a result of communicating the complaint;

CONFIDENTIALITY

Every possible effort will be made to assure the confidentiality of complaints made under this policy. Complete confidentiality cannot occur, however, due to the need to fully investigate and the duty to take effective remedial action. As a result, confidentiality will be maintained to the extent possible. An individual who is interviewed during the course of an investigation is prohibited from discussing the substance of the interview except with his/her union or legal representative and as otherwise directed by a supervisor or the Human Resources Manager. Any individual who discusses the content of an investigatory interview except with his/her union or legal representative will be subject to discipline. The employer will not disclose a completed investigation report, except as it deems necessary to support a disciplinary action, to take remedial action, to defend itself in an adversarial proceeding, or to comply with the law or a court order.

OTHER

Romantic or sexual relationships between supervisors and subordinate employees are strongly discouraged. There is an inherent imbalance of power and potential for exploitation in such relationships. The relationship may create an appearance of impropriety and lead to charges of favoritism by other employees. A welcome sexual relationship may change with the result that sexual conduct that was once welcome becomes unwelcome and harassing.

DISTRICT ANTI-BULLYING POLICY

The Aptos/La Selva Fire Protection District considers workplace bullying unacceptable and will not tolerate it under any circumstances. It is the policy of the District that all employees should be able to work in an environment free of bullying.

It is District expectation that all communication and interaction between District workers will, at all times, be professional, courteous and respectful.

Workplace bullying is behavior that harms, intimidates, offends, degrades or humiliates an employee, possibly in front of other employees, clients, or members of the public.

Examples of bullying include, but are not limited to, profane or disrespectful language; hostile and rude behavior and speech directed at a co-worker; derogatory or sarcastic remarks and comments about a co-worker's appearance or job performance, angry outbursts or yelling; name calling; throwing anything at or toward a co-worker; comments that undermine a co-worker's trust and confidence; and, retaliation against any person who has reported disruptive behavior.

Managers and supervisors must take reasonable measures to prevent workplace bullying, and to respond promptly if it is identified to address and prevent future instances.

The District has grievance and investigation procedures to deal with workplace bullying. Any reports of workplace bullying will be treated seriously and investigated promptly, confidentially and impartially. All employees are encouraged to report workplace bullying. Retaliation against any employee who is a target of bullying behavior, as well as any employee who makes complaints about or participated in any investigation or administrative process related to a complaint of workplace bullying is prohibited.

Disciplinary action will be taken against anyone who bullies a co-employee or retaliates against an employee that has reported workplace bullying. Discipline may involve a warning, transfer, counseling, demotion or dismissal, depending on the circumstances.


The contact person for complaints about bullying at this workplace is the Fire Chief or Business Manager in their absence.

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Be it resolved that Resolution 1-93 is hereby rescinded and replaced by this resolution.


PASSED AND ADOPTED by the Board of Directors of the Aptos/La Selva Fire Protection District, County of Santa Cruz, State of California, this 14th day of May 2015, by the following vote:

AYES:	<u>4</u>
NOES:	<u>0</u>
ABSENT:	<u>1</u>
ABSTAIN:	<u>0</u>



President of the Board of Directors

ATTEST:



Secretary to the Board