

# DIABLO WATER DISTRICT

## REGULATION NO. 117

### SEXUAL HARASSMENT

#### Section I. Definitions

A. As used in this regulation:

1. “Harassment” is used in this policy to refer to both sexual and other forms of harassment. Below are definitions of sexual and other forms of harassment, as well as examples of conduct that may constitute harassment. These lists are examples only; they are not all-inclusive.
2. “Human Resources” or Human Resources Department” shall mean the General Manager and/or their designee.
3. "Unwelcome" includes that which is or may be objectionable, hostile, offensive, threatening, or intimidating.

#### Section II. District Policy

A. The District strives to maintain a workplace that fosters mutual employee respect and promotes professional conduct as well as harmonious, productive working relationships. The District believes that discrimination, harassment, and retaliation in any form constitute misconduct that undermines the integrity of the employee relationship. All employees, interns, temporary employees, board members, and/or volunteers should be able to enjoy a work environment free from all forms of discrimination, including but not limited to sexual and other illegal harassment.

- B. The District prohibits conduct that constitutes unlawful harassment, discrimination, and retaliation by supervisors, managers and co-workers, as well as by third-parties such as vendors or customers. No supervisor, co-worker, or other person shall cause a District employee to be in jeopardy of losing a job or promotion, be subject to adverse action or retaliation, or otherwise be placed in an intimidation, hostile, or offensive working environment, as a result of being subjected to rejecting, or reporting sexual harassment.
- C. This policy also prohibits retaliation against individuals who raise complaints of discrimination or harassment or who participates in workplace investigations.
- D. No person shall promise or grant favored treatment in hiring, promotion, discipline, or other employment decision, to an individual on the condition that such individual participate in or tolerate otherwise unwelcome sexual behavior. This policy applies to all employees throughout the District and to all individuals who may have contact with any employee of the District such as vendors, customers, interns, temporary workers, board members, volunteers and independent contractors. It applies during normal working hours, at work related or sponsored functions, and while traveling on work related business.
- E. The District will take preventative, corrective and disciplinary action for any behavior that violates this policy. Disciplinary action, up to, and including

termination will be imposed for unlawful behavior.

### **Section III. Sexual Harassment**

- A. Is unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct pertaining to a person's sex (including pregnancy, childbirth, breastfeeding or related medical conditions), and/or of a sexual nature when submission to such conduct:
1. Is made a condition of employment;
  2. Is made the basis for employment decisions; or
  3. Unreasonably interferes with an individual's ability to perform their job duties or otherwise creates an offensive or hostile working environment.
- B. Sexual harassment does not need to be motivated by sexual desire to be unlawful or to violate this policy. For example, 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. Examples of conduct which may result in sexual harassment may include, but are not necessarily limited to, the following:
1. Verbal – unwelcome conduct such as the use of suggestive, derogatory, or vulgar comments; the use of sexual innuendo or slurs; making unwanted sexual advances, invitations, or comments; pestering for dates; making threats; propositions, threats, or suggestive or insulting sounds; inappropriate e-mail; and/or spreading rumors about or rating others as to their sexual activity or performance.

2. Visual/Non-Verbal – unwelcome conduct such as the display of sexually suggestive and/or derogatory objects, pictures, posters, written material, cartoons, or drawings; the use of graffiti and/or computer-generated images of a sexual nature; and/or the use of graphic commentaries, obscene gestures or leering.
3. Physical – unwelcome conduct such as unwanted touching, pinching, kissing, patting, or hugging; the blocking of, or interfering with normal movement; stalking; assault; battery; and/or physical interference with work or study directed at an individual because of the individual’s sex, sexual orientation, or gender.
4. Threats, demands, or pressure – to submit to sexual requests in order to keep a job or job standing or to avoid other loss, and/or offers of benefits in return for sexual favors.

**Section IV. Other Forms of Harassment**

- A. In addition to sexual harassment, other forms of prohibited harassment include offensive comments or conduct pertaining to a person’s sex (including pregnancy, childbirth, breastfeeding or related medical conditions), race, religion (including religious dress and grooming practices), color, gender, gender identity, gender expression, national origin or ancestry (including language use restrictions and possession of a driver’s license issued under Vehicle Code section 12801.9), physical and/or mental disability, medical condition, genetic information, marital status, registered

domestic partner status, age, sexual orientation, military and/or veteran status, association with a person or group with one or more of these actual or perceived characteristics, or any other basis protected by federal, state or local law or ordinance or regulation. Such conduct may include, but is not limited to:

1. Making gestures, threats, derogatory comments, or slurs that may be offensive to individuals in a particular group.
2. Bullying behavior that is threatening, intimidating, verbally abusive or results in other disruptive actions in the workplace.
3. Displaying derogatory objects, photographs, cartoons, calendars, or posters.
4. Sending messages by letters, notes, e-mail, or telephone that may be offensive to individuals in a particular group.

**Section IV. Reasonable Accommodations**

- A. Discrimination can also include failing to reasonably accommodate religious practices or qualified individuals with disabilities where the accommodation does not pose an undue hardship. To comply with the applicable laws ensuring equal employment opportunities to qualified individuals with a disability, the District will make reasonable accommodations for the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or an employee unless undue hardship would result.

- B. Any job applicant or employee who requires an accommodation in order to perform the essential functions of the job should contact the District representative with day-to-day personnel responsibilities and discuss the need for an accommodation. The District will engage in an interactive process with the employee to identify possible accommodations, if any that will help the applicant or employee perform the job. An applicant, employee or temporary employee who requires an accommodation of a religious belief or practice (including religious dress and grooming practices, such as religious clothing or hairstyles) should also contact the District representative with day-to-day personnel responsibilities and discuss the need for an accommodation. If the accommodation is reasonable and will not impose an undue hardship, the District will make the accommodation. Access to an assistive or support animal(s) that provide emotional, cognitive, or other support to a person with a disability, including but not limited to, traumatic brain injuries or mental disabilities such as major depression shall also be evaluated when included with a request for accommodation by an employee.
- C. The District will not retaliate against you for requesting a reasonable accommodation and will not knowingly tolerate or permit retaliation by management, employees or co-workers.

**Section V. Manager/Supervisor Responsibility**

- A. Each supervisor and manager has a responsibility to keep the workplace free of any form of harassment, and in particular, sexual harassment. No

supervisor or manager is to threaten or insinuate, either explicitly or implicitly, that an employee's refusal or willingness to submit to sexual advances will affect the employee's terms or conditions or employment. Further, supervisors and managers are required to report any complaints of violations of the policy to Human Resources or another person in the District so that a prompt internal investigation may occur.

**Section VI. Responsibility to Report Inappropriate Conduct**

- A. Any employee who feels he/she has become aware of, observes, or who has been subjected to any form of harassment and/or discrimination by a manager, supervisor, employee, volunteer, or non-employee through his/her actions or words has a responsibility to report or make a complaint about the situation as soon as possible.
1. The employee should make the report or complaint about that conduct to his/her immediate supervisor, another member of management, or to Human Resources within three calendar days of the offense or otherwise as soon as practicable.
  2. Employees are not required to approach the person who is harassing and/or discriminating against them, and they may bypass any offending member of management to report such conduct.
  3. When making a complaint of harassment or discrimination, you will be asked to provide details of the incident or incidents, names of individuals involved and names of any witnesses. An employee is free to make a

complaint either verbally or in writing.

4. Supervisors will refer all complaints involving harassment or other prohibited conduct to the human resources department, or to the appropriate investigative officer. The District will immediately undertake an effective, thorough and objective investigation of the allegations.

## **Section VII. Additional Resources**

A. Employees should also be aware that the Federal Equal Employment Opportunity Commission (EEOC) and the California Department of Fair Employment and Housing (DFEH) investigate and prosecute complaints of prohibited harassment in employment. If you think you have been harassed or that you have been retaliated against for resisting or complaining, you may file a complaint with the appropriate agency:

1. EEOC – The EEOC may be contacted by consulting the government agency listings in your local phone book.
2. DFEH – The California DFEH staff is available to talk with you by telephone or in-person away from the work location. All information will be handled in an appropriate manner. The nearest office is listed in the telephone book.

## **Section VIII. Investigation of Complaints**

A. The supervisor, other manager, or human resources representative to whom the harassment or discrimination is reported is obligated to take the necessary steps to ensure that a prompt, fair, timely, thorough, and objective

investigation of the alleged discrimination and/or harassment claim is properly initiated. The District will reach reasonable conclusions based on the evidence collected.

B. The District will maintain confidentiality to the extent possible. However, The District cannot promise complete confidentiality. The employer's duty to investigate and take corrective action may require the disclosure of information to individuals with a need to know. The District will not allow the goal of confidentiality to be a deterrent to an effective investigation. The District will ensure that:

1. Impartial and timely investigations will be conducted by qualified personnel and will be documented and tracked to ensure that reasonable progress is being made.
2. Appropriate due process will be given for the complainant, witnesses, and the accused.
3. A reasonable conclusion will be made based on the evidence collected, and appropriate options for remedial actions and resolutions will be considered.
4. A timely resolution of each complaint will be reached, and the results of the investigation will be communicated in a timely manner to the employee and other concerned parties with a business need to know.

#### **Section IX. Corrective and Disciplinary Action**

A. If through the investigatory process, the District determines that harassment,

discrimination, or other prohibited conduct has occurred, effective remedial action will be taken in accordance with the circumstance involved.

- B. Any employee determined by the District to be responsible for harassment, discrimination, or other prohibited conduct will be subject to appropriate corrective and/or disciplinary action, up to, and including termination. The corrective action issued will be proportional to the severity of the conduct.
- C. The alleged harasser's employment history and any similar complaints or prior unlawful discrimination and/or harassment will be taken into consideration.
- D. The District will also take appropriate action to deter future misconduct. Employees should also know that if they engage in unlawful harassment, they can be held personally liable for the misconduct.
- E. The District prohibits retaliation of any kind against employees or others covered by this policy, who, in good faith, report harassment and/or discrimination, participate in an investigation, or who otherwise assist in investigating such complaints. If an employee feels he/she has been subjected to any form of retaliation, the employee should report that conduct to his/her immediate supervisor, another member of management, or Human Resources within three calendar days of the offense. Employees are not required to approach the person who is retaliating against them, and they may bypass any offending member of management. Any employee determined to have retaliated against such employees will be subject to discipline, up to,

and including possible termination of employment.

- F. Knowingly filling a groundless and malicious complaint is also prohibited and will subject such an employee to appropriate disciplinary action, up to, and including possible termination of employment. If after investigation any complaint any complaint of unlawful discrimination, harassment or other prohibited conduct, the District determines that an employee intentionally provided false information regarding the complaint, appropriate disciplinary action may be taken against the one who gave false information.

**Section XI. Training**

- A. All management employees will undergo 2 hours annually of sexual harassment training.
- B. All non-management employees will undergo 1 hour annually of sexual harassment training.

**Section XII. Distribution**

- A. A copy of this regulation shall be delivered to each employee of the District.