

	Orange County Sanitation District Personnel Policies	Policy Number: 1.1
		Effective Date: September 26, 2018
Subject: Harassment & Discrimination		Supersedes: June 8, 2011
		Approved by: General Manager

1.0 PURPOSE

- 1.1 The purpose of this policy is to provide a working environment for all employees, contractors, interns, volunteers, and temporary workers that is free of harassment and discriminatory behavior, whether based on race, color, religion, sex (including pregnancy, childbirth, and breastfeeding), sexual orientation, age, national origin, ancestry, actual or perceived disability, medical condition, genetic information, military and veteran status, marital status, gender, gender identity, gender expression, exercise of rights relating to any legally-provided leave of absence, or any other legally protected basis.

2.0 ORGANIZATIONAL UNITS AFFECTED

- 2.1 This policy applies to all Orange County Sanitation District (OCSD) employees, applicants, and all persons who perform services for the OCSD, including interns, volunteers, and persons working under contract.

3.0 DEFINITIONS

- 3.1 Discrimination is the unfavorable or unfair treatment of a person in the work environment, based on a legally protected class.
- 3.2 Harassment includes premising the granting or denial of employment benefits on the acceptance of unwanted verbal or physical conduct or verbal, physical or visual conduct based on a legally protected class that is so severe and/or pervasive that it creates a hostile or abusive working environment, and interferes with an employee's ability to do his or her job.
- 3.3 Legally Protected Class includes race, religious creed, color, national origin, ancestry, physical or mental disability, medical condition, genetic information, marital status, sex (including pregnancy, childbirth, and breastfeeding), gender, gender identity, gender expression, age (40 years or older), sexual orientation, military and veteran status, and exercise of rights relating to any legally-provided leave of absence.
- 3.4 Sex includes, but is not limited to, pregnancy or medical conditions related to pregnancy, childbirth or medical conditions related to childbirth, breastfeeding or medical conditions related to breastfeeding. "Sex" also includes, but is not limited to, a person's gender.
- 3.5 Sexual Harassment may involve the behavior of a person of either sex against a person of the opposite or same sex, and occurs when such behavior constitutes unwelcome sexual advances, unwelcome requests for sexual favors, and other unwelcome verbal, physical, or visual behavior of a sexual nature where:

- 3.5.1 Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's current or future employment;
- 3.5.2 Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting the individual's welfare; or
- 3.5.3 Such conduct has the purpose or effect of substantially interfering with an individual's welfare or work performance, or creates an intimidating, hostile, offensive, and/or demeaning work environment.
- 3.5.4 Prohibited acts that constitute sexual harassment may take a variety of forms.

4.0 POLICY

- 4.2 OCSD does not tolerate any form of harassment or discrimination and is committed to providing a work environment that is free of harassment and discrimination.
- 4.3 OCSD is an Equal Opportunity Employer, and does not discriminate against any person in matters of employment, application for employment, participation in programs and benefits, or in the application of rules and regulations with regard to any legally protected class.
- 4.4 All OCSD employees, contractors, interns, volunteers, and temporary workers are expected to support and comply with this policy. Any supervisor or manager observing or knowing of a harassing situation shall take immediate action to stop it and report the matter.
- 4.5 Supervisory and management personnel who receive reports of harassment or discrimination are expected to take all such complaints seriously, report the complaint to the Director of Human Resources, and take immediate steps to implement this policy in accordance with the provisions contained herein.
- 4.5 OCSD will also take reasonable steps to prevent or eliminate reported discrimination or harassment by non-employees, including vendors and contractors, who are likely to have workplace interactions with employees.
- 4.6 No employee shall be subjected to any form of retaliation for reporting any violation of this policy when it is reported truthfully and in good faith. A report is made in good faith when the complainant reasonably believes there is a violation of policy.
- 4.7 Hostile Work Environment An environment may be hostile if unwelcome behaviors, sexual or other, are directed specifically at an individual or if an individual witnesses unlawful harassment in his/her immediate surroundings.
- 4.8 **Examples of Prohibited Behavior**
 - 4.8.1 Examples of the kinds of conduct that may constitute harassment when based on a legally protected class as defined in this policy include but are not limited to:
 - 4.8.1.1 Verbal conduct such as racial epithets, demeaning comments of a personal nature, derogatory jokes, slurs, yelling, screaming, intimidation, threats or stereotypical statements.

- 4.8.1.2 Patronizing or ridiculing statements that convey derogatory attitudes about a particular gender.
- 4.7.1.3 Displaying or distributing posters, cartoons, computer graphics or electronic media transmissions containing material that could be viewed as offensive.
- 4.7.1.4 Physical contact such as assault, unwanted touching, blocking normal movement, pushing or interfering with work because of sex, race or any other protected basis.
- 4.7.1.5 Retaliation for having reported or threatened to report harassment.
- 4.8.2 Examples of the kinds of conduct that may constitute sexual harassment include, but are not limited to:
 - 4.8.2.1 Unwelcome sexual propositions, invitations, solicitations, flirtations and gestures.
 - 4.8.2.2 Threats or insinuations that a person's employment, wages, promotional opportunities, or other conditions of employment may be adversely affected by not submitting to sexual advances.
 - 4.8.2.3 Unwelcome verbal expressions of a sexual nature, including graphic sexual commentaries about a person's body, dress, appearance or sexual activities; the unwelcome use of sexually degrading language, jokes or innuendoes; unwelcome suggestive or insulting sounds or whistles; leering.
 - 4.8.2.4 Sexually suggestive objects, pictures, videotapes, audio recordings or literature placed in the work area which may embarrass or offend individuals.
 - 4.8.2.5 Unwelcome touching, patting, or pinching.
 - 4.8.2.6 Romantic or sexual relationships between supervisors and subordinate employees are 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 which was once welcome becomes unwelcome and harassing.

5.0 PROCEDURE

- 5.1 Any employee who believes that he or she has been the victim of conduct prohibited by this policy must immediately report the matter, verbally or in writing, to his or her supervisor or manager, or to any other supervisor or manager, including the General Manager or Assistant General Manager, or to the Human Resources Department.
- 5.2 All reported incidents of harassment, discrimination and/or retaliation will be fairly, timely and thoroughly investigated, and appropriate corrective action will be taken based on the findings of the investigation.

- 5.3 OCSD will document and track the complaint's progress and inform the complainant that the investigation has concluded, each issue was thoroughly investigated, and the outcome (sustained, or not sustained).
- 5.4 Investigations will be conducted in such a way as to maintain confidentiality to the extent practicable under the circumstances and permissible under the law.
- 5.5 It is important to be aware that under the California Fair Employment and Housing Act ("FEHA"), employees may be held personally liable for any acts of unlawful harassment.

6.0 EXCEPTIONS

- 6.1 Any employee who knowingly files a false and malicious report of harassment, as opposed to a complaint which, even if erroneous, is made in good faith; or anyone who fails to report an actual or perceived form of harassment or discrimination as outlined in this policy, may be subject to appropriate disciplinary action, up to and including termination.

7.0 PROVISIONS AND CONDITIONS

8.0 RELATED DOCUMENTS

- 8.2 U.S. and California State Constitutions
- 8.3 Title VII of the Civil Rights Act of 1964
- 8.4 California Fair Employment and Housing Act (FEHA)
- 8.5 Policy 1.2, Retaliation & Whistleblowing
- 8.6 Policy 1.3, Workplace Violence & Weapons
- 8.7 Policy 5.1, Rules of Conduct