



<b>EMPLOYEE MANUAL</b>	
Policy Title: <b>HARASSMENT, DISCRIMINATION, AND RETALIATION REPORTING POLICY</b>	
Policy No.: 37.0	Section Nos.: 37.0 – 37.6
Approval Date:	Effective Date: January 2018
Approved By: Board of Directors	

### **37.0 HARASSMENT, DISCRIMINATION, AND RETALIATION REPORTING POLICY**

The Agency strictly prohibits all forms of harassment, discrimination, and retaliation (“Unlawful Practices”) in the workplace in order to maintain a productive and safe working environment. The purpose of this policy is to provide all employees with a clear understating of the Agency’s procedure for filing and investigating complaints concerning Unlawful Practices.

#### **37.1 Policy Statement**

The Agency has adopted a zero-tolerance policy in regards to unlawful harassment, discrimination, and retaliation. The default disciplinary action for any violation of this policy will be termination of employment.

It is the policy of the Agency to provide each employee and applicant with an employment opportunity and work atmosphere that is free from discrimination. Accordingly, the Agency does not discriminate on the basis of race, religion, religious creed (including religious dress and religious grooming), color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex (including pregnancy, perceived pregnancy, childbirth, breastfeeding, or related medical conditions), gender, gender identity (including transgender identity), gender expression, age (40 or over), sexual orientation, military and veteran status, or any other basis protected by federal, state or local laws (“Protected Categories”).

The Agency is also committed to providing a work environment that is free from unlawful harassment. In furtherance of this commitment, the Agency strictly prohibits all forms of unlawful harassment, including but not limited to harassment on the basis of any of the Protected Categories. The workplace is not a place for engaging in, or for having to fend off harassing remarks, depictions, or representations. Every employee has a right to a work in an environment free from harassment, regardless of the intent of the parties involved.

Similarly, the Agency strictly prohibits retaliation against any employee for making a good faith complaint of discrimination or harassment or for cooperating, assisting, testifying, or participating in any of the internal or external complaint procedures described below. Claims of retaliation are taken seriously and are subject to the same complaint procedures.

#### **37.2 Persons Covered**

This policy is applicable to all applicants and employees of the Agency, including supervisors and managers. The Agency prohibits managers, supervisors, and employees from engaging in any Unlawful Practice against co-workers, customers, vendors, suppliers, independent contractors and others doing business with the Agency. In addition, the Agency prohibits customers, vendors, suppliers, independent contractors and other third parties doing business with the Agency from harassing or discriminating against Agency employees.

This policy applies to all phases of the employment relationship, including recruitment, testing, hiring, upgrading, assignments, promotion/demotion, discipline, transfer, layoff, termination, rates of pay, benefits, and selection for training.



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### **37.3 Prohibited Conduct**

#### **37.3.1 Sexual Harassment**

Sexual harassment (including pregnancy, perceived pregnancy, childbirth, breastfeeding, or related medical conditions, gender identity, gender expression, sex stereotype, sexual orientation, gender and transgender 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 prohibited, unlawful harassment:

- 1) Submission to the conduct is made either an explicit or implicit condition of employment or promotion;
- 2) Submission to or rejection of the conduct is used as the basis for an employment decision;
- 3) The unwelcomed comments or conduct based on sex unreasonably interfere with an employee’s work performance or create an intimidating, hostile, or offensive work environment

Examples of sexual harassment include, but are not limited to, unwelcome sexual propositions, hugging, kissing, or other offensive physical contact of a sexual nature; lewd gestures, remarks or innuendoes; unwelcome discussions of sexual practices or anatomy, and sexually offensive posters, photographs, drawings, cartoons, jokes, stories, nicknames, or comments about appearance; joking about sex; degrading words or terms of a sexual nature; prolonged staring or leering; and continued invitations to social events outside the workplace after being told such are unwelcome.

#### **37.3.2 Other Types of Harassment**

Harassment can take many forms beyond sexual harassment when based on any Protected Category. All other forms of harassment are also strictly prohibited. Such harassment includes, but is not limited to, the following examples:

- Verbal conduct such as making or using derogatory comments, epithets, slurs, jokes, or verbal abuse;
- Visual conduct such as prolong staring or leering at a person, gestures, and displaying of objects, posters, photographs, cartoons, or drawings;



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- Written conduct such as suggestive or obscene letters, emails, drawings, notes or invitations; and
- Physical conduct such as assault, unwanted touching, or blocking normal movement, or violating someone’s “personal space.”

Please note that within the workplace, our right to free speech is necessarily subject to our legal duty to create and foster a workplace free of harassment or discrimination.

Finally, each one of us, regardless of whether we are an individual contributor/employee or a supervisor/manager is legally responsible for our own behavior if and when our actions are determined to be harassing. What does that mean? That means that in addition to the disciplinary consequences for engaging in unlawful harassment, which may include termination, people who harass others in the workplace may also be sued personally by their coworkers and therefore responsible for defending themselves in a lawsuit.

### **37.3.3 Discrimination & Retaliation**

Any adverse employment action taken on the basis of any Protected Category constitutes unlawful discrimination and is strictly prohibited. “Adverse employment action” is defined as an action that results in a substantial adverse change in the terms and conditions of an employee’s employment including, but not limited to, decisions relating to hiring, firing, demoting, failing to promote, laterally transferring, and giving poor performance evaluations.

“Retaliation” is a form of an adverse employment action that is taken against an individual for opposing any legally prohibited employment practice or engaging in any legally protected employment activity. The Agency strictly prohibits any form of retaliation.

## **37.4 Reporting Procedures**

### **37.4.1 Internal Reporting**

The Agency’s complaint procedure provides for an immediate, thorough, objective and confidential investigation of any claim alleging an Unlawful Practice, appropriate disciplinary action against one found to have engaged in an Unlawful Practice, and appropriate remedies for any victim of an Unlawful Practice.

Any employee who believes that he or she has been the victim of an Unlawful Practice or any employee who observes or otherwise becomes aware of such conduct has a duty to immediately notify the Human Resources Supervisor, who is responsible for investigating such complaints. An employee is not required to report the complaint



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to the Human Resources Supervisor if the Human Resources Supervisor is the individual who is engaging in the unlawful conduct, but may in the alternative report the conduct to his or her immediate supervisor or to the General Manager.

Supervisors and other members of management who receive complaints or who observe unlawful conduct must immediately inform the Human Resources Supervisor or the General Manager or other appropriate personnel so that an investigation can be initiated.

All complaints 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 Agency will maintain confidentiality to the extent possible. Any supervisor who is informed of a complaint alleging an Unlawful Practice by an employee, or any other individual, must report said complaint to the Human Resources Supervisor immediately and must otherwise keep the matter confidential. The Human Resources Supervisor must also keep the matter confidential and not disclose the matter to any person who is not involved in the investigation or does not have legitimate work-related reasons for knowing of the complaint. Any supervisor who fails to comply with this paragraph will be subject to disciplinary action, up to and including termination of employment.

**37.4.2 Investigation**

Upon the filing of a complaint with the Agency, the complainant will be provided with a copy of this policy. All incidents of prohibited discrimination, harassment and/or retaliation that are reported will be subject to an impartial, fair, timely and thorough investigation. The investigation will provide all parties appropriate due process and will reach reasonable conclusions based on the evidence collected. The Agency will document the timely, thorough, and objective investigation of the allegations to ensure reasonable progress is being made in the investigation. The Agency will inform the complainant of the progress of the investigation upon request.

The Human Resources Supervisor is the impartial person designated by the Agency to investigate complaints of Unlawful Practices. The Human Resources Supervisor may, however, delegate the investigation at his/her discretion to a qualified, impartial investigator. In the event the Unlawful Practice complaint is against the Human Resources Supervisor, a qualified, impartial investigator shall be appointed by the General Manager.

The Human Resources Supervisor shall maintain tracking documentation for all complaints filed to ensure that investigations progress reasonably and are completed in a timely manner. Based on the report and any other relevant information, the General Manager shall, within a reasonable period of time, determine whether the conduct requires discipline. In making that determination, the General Manager shall look at the record as a whole and at the totality of circumstances, including the nature of the conduct in question, the context in which the conduct, if any, occurred, and the conduct of the complainant.



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**37.4.3 Cooperation**

All employees are required to cooperate truthfully and in good faith with the Agency in any investigation under this policy. Knowingly making a false charge of an Unlawful Practice or a false statement in connection with an investigation, or deliberately interfering with any such investigation is also a violation of this policy.

**37.4.4 Corrective Action**

At the conclusion of the timely investigation, if it is determined that an Unlawful Practice has occurred, the Agency 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 Board of Directors.

The results shall be timely given to the complainant, the alleged wrongdoer, and the General Manager upon the completion of an investigation.

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

**37.4.5 Retaliation**

No employee will be subject to any form of retaliation for reporting any violation or participating in any investigation under this policy truthfully and in good faith. Employees who believe they have been retaliated against in violation of this policy should utilize the same complaint procedure described above.

**37.5 Anti-Harassment Training**

All employees hired as or promoted to a supervisory or management position must undergo at least two (2) hours of interactive sexual harassment training within the first six (6) months of assuming a new supervisory or management position. Additionally, all supervisors and managers must complete at least two (2) hours of interactive sexual harassment training at least once every two (2) years thereafter. An employee who fails to comply with this section may be subject to disciplinary action, up to and including termination of employment.



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**37.6 External Complaint Procedure**

The U.S. Equal Employment Opportunity Commission and the California Department of Fair Employment and Housing are authorized to accept and investigate complaints of employment discrimination, and to mediate settlements. The Fair Employment and Housing Council has authority to issue accusations against employers, conduct formal hearings, and award reinstatement, back pay, damages, and other affirmative relief. State and federal laws also prohibit retaliation against employees because they have filed a complaint with the EEOC, DFEH or FEHC, participated in an investigation, proceeding, or hearing with either agency, or opposed any practice made unlawful by Title VII or the FEHA.

For more information, contact the Human Resources Department. Contact information for the DFEH can be obtained at [www.dfeh.ca.gov](http://www.dfeh.ca.gov). Contact information for the EEOC can be obtained at [www.eeoc.gov](http://www.eeoc.gov).

Questions regarding this policy should be directed to the Human Resources Supervisor, Assistant General Manager or the General Manager. This process is subject to the grievance procedure.