

**OTAY WATER DISTRICT  
BOARD OF DIRECTORS POLICY**

Subject: POLICY AGAINST DISCRIMINATION AND HARASSMENT AND COMPLAINT PROCEDURE	Policy Number	Date Adopted	Date Revised
	47	10/11/05	3/4/15

PURPOSE

The purpose of this policy is to (i) advise all employees, unpaid interns, and volunteers that the Otay Water District ("District") disapproves of and will not tolerate unlawful discrimination or harassment of its employees, unpaid interns or volunteers, or retaliation against those who report such behavior, and (ii) set forth a procedure for investigating and resolving internal complaints of discrimination, harassment, or retaliation.

POLICY

The District is committed to providing a work environment free of unlawful discrimination, harassment, or retaliation against those who report discrimination or harassment. Discrimination or harassment based on sex (including gender, gender identity, gender expression, pregnancy, childbirth or related medical condition), race, color, religious creed, national origin, ancestry, physical or mental disability, medical condition, genetic information, marital status, age, sexual orientation, military or veteran status or any other basis protected by federal, state or local law is prohibited. Discrimination or harassment based on the perception that a person has any of those characteristics, or is associated with a person who has or is perceived as having any of those characteristics, is prohibited. Retaliation against any person who complains of unlawful discrimination or harassment or who provides evidence relating to such a complaint, is prohibited.

This Policy applies to all terms and conditions of employment, including, but not limited to: hiring, placement, advancement, promotion, disciplinary action, layoff, recall, transfer, leave of absence, compensation and training. It applies to each District employee, member of the Board of Directors, unpaid interns, volunteers and to all vendors conducting business with the District. Similarly, the District will not tolerate discrimination or harassment by its employees, unpaid interns, or volunteers of non-employees with whom the District employees, unpaid interns or volunteers have a business, service or professional relationship. The District will also attempt to protect employees, unpaid interns, and volunteers from harassment by non-employees in the workplace.

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DEFINITIONS

Discrimination - Any decision or action that is based on an individual's status as a member of a protected class that adversely affects a District employee, unpaid intern or volunteer, or the employee's, unpaid intern's, or volunteer's work conditions, terms of employment, or work environment.

Harassment - Any decision or action that is based on a District employee's, unpaid intern's, or volunteer's status as a member of a protected class, made for the purpose or having the effect of adversely affecting that employee's, unpaid intern's, or volunteer's work conditions, terms of employment, or work environment. Harassment may include, but is not limited to:

- Verbal conduct such as epithets, derogatory jokes or comments, slurs, or unwelcome sexual advances, invitations or comments;
- Visual displays such as derogatory and/or sexually-oriented posters, photography, cartoons, drawings or gestures;
- Physical conduct including assault, unwanted touching, intentionally blocking normal movement or interfering with work;
- Threats and demands to submit to sexual requests as a condition of continued employment or to avoid an adverse consequence, and offers of employment benefits in return for sexual favors.

Such conduct constitutes harassment when (1) submission to the conduct is made either an explicit or implicit condition of employment; (2) submission or rejection of the conduct is used as the basis for an employment decision; or (3) the harassment interferes with an employee's work performance or creates an intimidating, hostile, or offensive work environment.

Protected Class - Any class of persons who share a common sex, race, color, religious creed, national origin, ancestry, physical or mental disability, medical condition, genetic information, marital status, age, sexual orientation, military or veteran status or any other "protected class" recognized by federal, state or local laws. For purposes of this definition, "sex" includes gender, gender

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identity, gender expression, pregnancy, childbirth, or a pregnancy- or childbirth-related medical condition.

Retaliation - Any decision or action that is based on the fact that a District employee, unpaid intern, or volunteer has previously complained of discrimination, harassment, or retaliation prohibited by this Policy (regardless of whether a formal complaint has been made) or has provided evidence in the investigation of another District employee's, unpaid intern's, or volunteer's complaint under this Policy, made for the purpose of adversely affecting the employee's, unpaid intern's, or volunteer's conditions of employment, terms of employment, or work environment.

Sexual Harassment - A form of harassment that is based on an employee's, unpaid intern's, or volunteer's gender but which objectively and subjectively creates an adverse impact on the employee, unpaid intern, or volunteer regardless of the purpose or intent of the alleged harasser.

COMPLAINT PROCEDURE

An employee, unpaid intern, volunteer, or job applicant who believes he or she has been the victim of discrimination, harassment, or retaliation by a District employee, a member of the Board of Directors, or a vendor may make a complaint verbally, or in writing by completing the District's Discrimination and Harassment Complaint Form. An employee, unpaid intern, or volunteer may make a complaint to any of the following:

- Human Resources;
- Any supervisor, manager, Assistant Department Chief, Department Chief, Assistant General Manager, or General Manager;
- Complaints against the General Manager should be directed to the President of the Board of Directors.

Applicants may make a complaint to any of the following:

- Human Resources or;
- General Manager.

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Any person described above shall forward each written discrimination complaint to the General Manager or designee immediately of receiving the complaint or having knowledge of the complaint. If a complaint is made verbally, the person receiving the complaint shall notify Human Resources immediately.

Every reported complaint of discrimination, harassment or retaliation will be investigated thoroughly and promptly. If any manager, supervisor, Assistant Department Chief, Department Chief, or Assistant General Manager becomes aware of or suspects discrimination, harassment, or retaliation against a District employee, unpaid intern, volunteer, or applicant, or any allegation thereof, he/she must immediately notify the Human Resources Manager of the relevant facts and circumstances.

The General Manager or designee may conduct the investigation of alleged discrimination, harassment, or retaliation, or may delegate responsibility for the investigation to another District management employee. If the complaint is against the General Manager, the President of the Board of Directors shall be responsible for conducting the investigation, assigning another management employee, or outside investigator and overseeing the investigation. If the complaint is against the Board of Directors, the General Manager shall be responsible for contracting with an outside investigator to conduct the investigation. The Board will take appropriate action based on the findings.

During its investigation, the District shall take appropriate steps to protect the privacy of all parties involved. However, this shall not be construed to justify refusing to inform a person who has been accused of violating this Policy of the identity of the complainant and witnesses against him/her. Reports of discrimination, harassment, or retaliation may not be made anonymously, but information regarding any report and subsequent investigation will be disseminated on a "need to know" basis.

In the event that an investigation will take longer than 60 calendar days to complete, the investigator must notify the complainant of this fact prior to the expiration of 60 days and provide an anticipated completion date, in writing.

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If a finding is made that discrimination, harassment, or retaliation has occurred, the District shall take remedial action appropriate to the circumstances, which may include disciplinary action up to and including termination for an employee, separation from the internship or volunteer opportunity for an unpaid intern or volunteer who has violated this Policy, or sanctions for a vendor who has violated this Policy.

Every District employee, unpaid intern, and volunteer has a duty to participate in good faith in any investigation conducted under this Policy. Failure to participate in good faith is a ground for disciplinary action appropriate to the circumstances. All employees, unpaid interns, and volunteers are encouraged to report in good faith discrimination, harassment, or retaliation. The District will not tolerate retaliation against any employee, unpaid intern, or volunteer making a good faith complaint of discrimination, harassment or retaliation, or for cooperating in an investigation. However, reports made maliciously or in bad faith may subject an employee, unpaid intern, or volunteer to disciplinary action appropriate to the circumstances up to and including termination or separation from the internship or volunteer opportunity.

The action of making a complaint does not preclude a complainant from filing a complaint with the appropriate State or Federal agency. For information as to where to file a claim, an employee may contact the Equal Employment Opportunity Commission at [www.eeoc.gov](http://www.eeoc.gov) or (213) 894-1000 or the Department of Fair Employment and Housing at [www.dfeh.ca.gov](http://www.dfeh.ca.gov) or (800) 884-1684.

POLICY HISTORY

Human Resources Policy and Procedure, Effective August 4, 1993.  
Board Policy adopted October 11, 2005.