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## **Non-Discrimination and Unlawful/Sexual Harassment Policy**

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### **1.0 PURPOSE**

The Open Space Authority (Authority) believes in respecting the dignity of each and every employee and expects each and every employee to show respect for all of the Authority's colleagues, clients, and vendors. Respectful, professional conduct furthers the Authority's mission, promotes productivity, minimizes disputes, and enhances the Authority's reputation.

The Authority's anti-harassment and anti-discrimination policies apply to all persons applying for positions within the Authority and to all individuals involved in the operation of the Authority and prohibits harassment, discrimination, disrespectful or unprofessional conduct by any employee of the Authority, including supervisors, managers, coworkers, independent contractors, members of the Board, and any other persons. Applicants, employees, interns, volunteers, and independent contractors are all protected from harassment, discrimination, and disrespectful or unprofessional conduct.

The Authority is committed to maintaining a secure work environment free of all forms of discrimination, harassment, violence and abusive conduct. It is the Authority's firm belief that a safe and secure work environment free from discrimination and violence is fundamental to all employees, clients, contractors, vendors, guests, and members of the public.

Accordingly, the Authority maintains a zero-tolerance policy for the types of prohibited conduct outlined within this policy.

### **2.0 COVERAGE**

This policy forbids any employee, supervisor, board member, vendor, client, contractor, applicant, volunteer, intern, or agent of the Open Space Authority to discriminate against, harass, sexually harass, or perpetrate violent or abusive acts against any employee, supervisor, board member, vendor, client, contractor, applicant, volunteer, intern, or agent of the Open Space Authority, in any aspect of its business.

### **3.0 TYPES OF PROHIBITED CONDUCT**

#### Discrimination & Harassment

The Authority is committed to compliance with all applicable laws providing equal employment opportunities and the prohibition of discrimination and unlawful harassment including sexual harassment. This commitment applies to all persons involved in Authority operations. The Authority prohibits unlawful discrimination against any job applicant, employee, intern or

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volunteer by any employee of the Authority, including supervisors, managers, co-workers and members of the Board.

The Authority is committed to providing a work environment free from discrimination based on race, color, religion, national origin, creed, gender (including pregnancy, childbirth, breastfeeding or related medical conditions), gender identity, gender expression, sex, sexual orientation, , age (over 40), physical or mental disability, ancestry, medical condition, genetic information, marital status, registered domestic partner status, military and veteran status, citizenship status, or any other consideration made unlawful under federal, California, or local laws.

The Authority will act affirmatively to ensure that: applicants are considered for employment based on their qualifications to meet the requirements of the job and persons hired will be treated equally in all aspects of employment and employee relations matters, including but not limited to: promotions, demotions, transfers, work force reductions, terminations, salary increases, rates of pay, training, participation in any Authority sponsored programs, and all conditions or privileges of employment.

Any harassing conduct is also forbidden by this policy regardless of whether the individual engaged in harassment and the individual being harassed are of the same or are of different genders. This policy forbids harassment regardless of whether the offensive conduct is sexual in nature.

Examples of discriminatory and harassing conduct prohibited by this policy are:

- Verbal conduct such as epithets, derogatory comments, slurs and jokes;
- Visual conduct such as derogatory posters, cartoons, drawings or gestures;
- Physical conduct such as blocking normal movement, restraining, touching or otherwise physically interfering with the work of another individual; and
- Threatening or demanding that an individual submit to certain conduct or perform certain actions outside the normal scope or normal conditions of employment in order to keep or get a job or avoid some other loss, or as a condition of job benefits, security or promotion.

Even where the conduct is not sufficiently severe or pervasive to constitute legally actionable harassment, the Authority prohibits any such harassing conduct in the workplace.

Sexual Harassment

Sexual harassment is a form of harassment that requires specific mention. 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 their gender can amount to sexual harassment, regardless of whether the treatment is motivated by any sexual desire.

This policy forbids sexual or gender-based harassment regardless of whether it rises to the level of a legal violation. Examples of sexual or gender-based harassment forbidden by this policy include, but are not limited to:

- Offensive sexually-oriented verbal kidding, teasing, or jokes;

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- Aggressive or repeated unwanted sexual flirtations, advances, or propositions;
- Aggressive, continued or repeated verbal abuse of a sexual nature;
- Graphic or degrading comments about an individual's appearance or sexual activity;
- Offensive visual conduct, including making sexual gestures, the display of offensive sexually suggestive objects or pictures, cartoons, or posters;
- Unwelcome pressure for sexual activity;
- Offensively suggestive or obscene letters, notes, invitations, voice mail, email, text, or social media messages;
- Offensive physical contact such as patting, grabbing, pinching, or brushing against another's body;
- Threats and/or demands that an individual submit to sexual requests as a condition of continued employment, advancement, promotion, compensation or benefits, or to avoid some other loss, in return for sexual favors;
  
- Showing favoritism based on sex;
  
- Retaliation for reporting or threatening to report harassment, or assisting another employee in reporting harassment or discrimination; and
  
- Communication via electronic media of any type that includes any conduct that is prohibited by state and/or federal law, or by Authority policy.

The policy covers harassment regardless of whether the harasser is the victim's employer, manager, coworker, employee, applicant, or a non-employee. (For purposes of this policy, a non-employee is any individual representing a vendor, subcontractor, supplier or consultant who during his/her course of business interacts with an Authority employee.)

Abusive Conduct

Abusive conduct is defined as malicious conduct of an employer or employee in the workplace that a reasonable person would find hostile, offensive, and unrelated to an employer's legitimate business interests. Abusive conduct may include repeated infliction of verbal abuse, such as the use of derogatory remarks, insults, and epithets, verbal or physical conduct that a reasonable person would find threatening, intimidating, or humiliating, or the gratuitous sabotage or undermining of a person's work performance. A single act shall not constitute abusive conduct, unless especially severe and egregious.

Abusive conduct is not considered an unlawful offense. However, the Open Space Authority considers this behavior unacceptable and shall actively work to educate managers and employees in order to ensure early reporting and intervention.

Violence

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Authority will not tolerate any form of threats or violence committed by or against Authority employees, contractors, customers/clients, vendors, volunteers, interns, or visitors on Authority premises or through Authority communications equipment, nor will the Open Space Authority tolerate or condone any forms or threats of violence by Authority employees while engaged in business on behalf of the Open Space Authority.

This list of behaviors, while not inclusive, provides examples of violent conduct that are prohibited under this policy:

- Causing physical injury to another person;
- Possession of a weapon while on Authority property or while on Authority business unless permitted as a function of the person's role;
- Fighting, hitting, biting, kicking, pushing, or shoving another person;
- Threatening, intimidating, bullying, or abusing another person;
- Aggressive or hostile behavior that creates a reasonable fear of injury to another person;
- Intentionally damaging Authority property or property of another employee on workplace premises;
- Committing acts motivated by, or related to, domestic violence on Authority premises;
- Bothering someone by following or with an excessive number of unwelcome visits, calls, pages, faxes, letters, gifts, texts or any form of electronic communication.

Retaliation

This policy also prohibits retaliation against a person who reports prohibited behaviors or assists someone with a report of such behavior. The Authority will not retaliate against employees for filing a complaint and will not tolerate or permit retaliation by management, employees, co-workers, or members of the Board. Retaliation includes, but is not limited to, threats, intimidation, reprisals, and/or adverse actions related to employment, or requests to withdraw a report or complaint as a condition of continuing any professional relationship within the Open Space Authority.

**4.0 RESPONSIBILITIES**

Employee

Early reporting and intervention have proven to be the most effective method of resolving actual or perceived incidents of the behaviors listed above. Therefore, everyone is required to promptly report complaints or concerns so that rapid and constructive action can be taken.

Individuals who believe they have experienced conduct that they believe violates this policy, or who have concerns about such matters, should report their complaints verbally or in writing to their supervisor, the Human Resources Manager or the General Manager immediately. The employee will be asked to provide details of the incident(s), names of individuals involved, and names of any witnesses. The confidentiality and sensitivity of all persons involved in the

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incident(s) will be respected to the extent possible in accordance with the circumstances involved.

Individuals should not feel obligated to report their complaints to their immediate supervisor first before bringing the matter to the attention of one of the other designated representatives identified above. If the General Manager is either unavailable or the General Manager is the subject of the complaint, complaints should be filed with the Chairperson of the Board of Directors.

Any manager or supervisor who is aware of conduct inconsistent with this policy or who receives a report of conduct inconsistent with this policy is to report it immediately to the Human Resources Manager, the General Manager or the Chairperson of the Board.

The Open Space Authority

The Authority will make every effort to stop every alleged violation of this policy before it becomes severe or pervasive. All reports describing conduct that is inconsistent with this policy will be investigated promptly and with impartiality. The Authority will conduct a fair, timely, and thorough investigation that reaches reasonable conclusions based on the evidence collected. The Authority will keep the complaint and investigation confidential to the extent possible in accordance with circumstances involved. The Authority may put reasonable interim measures in place, such as a leave of absence or a transfer, while the investigation proceeds.

Any employee determined to be responsible for the alleged discrimination, harassment or other prohibited conduct, will be subject to appropriate disciplinary action, ranging from counseling to termination of employment. An Authority representative will advise all parties concerned of the results of the investigation. Depending on the circumstances, the investigation may also conclude that no violation of the policy occurred or that the Authority cannot conclude whether or not a violation occurred.

If the person who engaged in the violation is not employed by the Authority, then the Authority may take reasonable and corrective action as is appropriate under the circumstances. Complaints concerning volunteers, contractors, and third-party vendors should also be reported in accordance with Authority procedures so that the Authority can determine the existence of such harassment or discrimination, and the Authority can take appropriate action against such person, including termination of the Authority's relationship with the person.

Training

In order to satisfy the requirements of California law, Authority board members and any supervisory employees of the Authority are to receive two (2) hours of sexual harassment prevention training and education within the first six (6) months of taking office or commencing employment, and every two (2) years thereafter. The training and education shall include information and practical guidance regarding the federal and state statutory provisions concerning the prohibition against and the prevention and correction of sexual harassment and the remedies available to victims of sexual harassment in employment. The training and education shall also include practical examples aimed at instructing supervisors in the prevention of harassment, discrimination, and retaliation, and shall be presented by trainers or educators with knowledge and expertise in the prevention of harassment, discrimination, and

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retaliation. A component of that prescribed training shall include training inclusive of harassment based on gender identity, gender expression, and sexual orientation.

The Authority shall maintain records indicating both of the following:

- (1) The dates that the board members and any supervisory employees satisfied the sexual harassment prevention training and education.
- (2) The entity that provided the training.

The Authority shall maintain these records for at least five (5) years after the board members or supervisory employees receive the training. These records are public records subject to disclosure under the California Public Records Act.

Federal and State Agencies

Employees also should be aware that the Federal Equal Employment Opportunity Commission and the California Department of Fair Employment and Housing investigate and prosecute complaints of prohibited harassment in employment. If an employee thinks they have been harassed or that they have been retaliated against for resisting or complaining, the employee may file a complaint with the appropriate agency. The nearest office is listed in the telephone book or can be found by visiting the agency websites at [www.dfeh.ca.gov](http://www.dfeh.ca.gov) and [www.eeoc.gov](http://www.eeoc.gov).

**5.0 PROCEDURES FOR COMPLAINTS AGAINST BOARD MEMBERS**

Complaints of unlawful harassment or discrimination may also be filed against a member of the Board of Directors. If a Board Member is the subject of a complaint, the General Manager should consult the Chairperson of the Board of Directors (or if the Chairperson is the subject of the complaint, the Vice Chairperson) and Legal Counsel to ensure that all complaints are handled lawfully and to ensure integrity in the processing of such a complaint.

**6.0 ANNUAL REVIEW OF NON-DISCRIMINATION AND UNLAWFUL/SEXUAL HARASSMENT POLICY**

The Open Space Authority's General Counsel will review this policy on an annual basis and will recommend, as necessary, policy amendments to the Board of Directors. The Board shall ratify this policy and adopt necessary amendments on an annual basis.

**7.0 REVISION HISTORY**

Date	Revision	Modification
3/12/2009	N/A	Reviewed and Ratified as part of the Employee Handbook
4/8/2010	00	No changes. Separated policy from EE Handbook for ease in review and ratification.
4/28/2011	01	Updated and Ratified
4/26/2012	02	Updated and Ratified
4/25/2013	03	Updated and Ratified
5/22/2014	04	Updated and Ratified

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7/09/2015	05	Updated and Ratified
4/28/2016	06	Updated and Ratified
5/11/2017	07	Updated and Ratified
6/28/2018	08	Updated and Ratified