

Discrimination & Harassment Policy

The SBPHTD seeks to maintain a work environment that respects dignity and worth and permits workers to feel free from intimidation, coercion, and unlawful discrimination and harassment, including sexual harassment and/or reprisal. This policy articulates SBPHTD's position concerning harassment, discrimination, and retaliation; emphasizes SBPHTD's commitment to preventing and/or correcting workplace sexual harassment; defines sexual harassment and describes prohibited behaviors; provides guidelines to employees and supervisors to assist in the identification, reporting, discouragement, and avoidance of harassment situations; describe the procedures to follow when harassment is alleged and outline the consequences of non-compliance with this policy.

Please Refer To the Following Detailed Policy for Further Information.

1. Purpose

- a. SBPHTD seeks to maintain a work environment that respects the dignity and worth of each individual and permits workers to feel free from intimidation, coercion, unlawful discrimination, retaliation, and harassment, including sexual harassment. Any form of discrimination against an individual based on race, color, sex (whether sexual), protected activity (such as opposition to prohibited discrimination or participation in the statutory complaint process), national origin, religion, age, disability, pregnancy, veteran status, or any other characteristic protected by applicable law is considered misconduct that undermines the integrity of the employment relationship and the business principles that SBPHTD highly values. Discriminatory harassment infringes on an individual's right to a work environment free from intimidation or offensive behavior and will not be tolerated. This policy articulates SBPHTD's position concerning harassment, discrimination, and retaliation; emphasizes SBPHTD's commitment to preventing and/or correcting workplace sexual harassment; defines sexual harassment and describes prohibited behavior; provides guidelines to employees and supervisors to allow them to identify, report, discourage, and avoid harassment situations; describes the procedures to be followed when harassment is alleged and outlines consequences of non-compliance with this policy.

2. References

- a. The SBPHTD uses the Federal Equal Employment Opportunity

Policy Act to guide its written policies.

3. Definitions

- a. **Harassment** prohibited by this policy includes any annoying act or persistent actions that single out a worker, to that worker's objection or detriment, because of, but not limited to, their race, color, sex (whether sexual), religion, national origin, age, disability, veteran status, or other characteristic protected by law. Although prohibited harassment is a pattern of behavior that interferes with an individual's work performance or creates a hostile, offensive or intimidating work environment, a single incident may be considered harassment.
- b. **Sexual harassment** is one form of prohibited harassment. Sexual harassment includes unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual or gender-biased nature when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

4. Responsibility

a. Executive Director

- i) The Executive Director ensures compliance with this policy and interprets it with the assistance of the District Attorney's Office.
- ii) The Executive Director assists supervisory personnel in maintaining the guidelines stated in this policy and managing investigations resulting from any alleged violations of these guidelines.
- iii) The Executive Director has specific responsibilities for ensuring appropriate training, implementation, and communication of this policy.
- iv) The Executive Director sets the tone and provides direction to discourage harassment and discrimination of any type.

b. Employee

All employees of SBPHTD have responsibility for implementing this policy. Each SBPHTD Employee conducts themselves in a manner that does not violate this policy, discouraging and prohibiting harassing activity and reports any suspected or alleged violations of this policy. All employees of

SBPHTD have responsibility for implementing this policy. All employees are also responsible for ensuring that both the letter and the spirit of this policy are consistently demonstrated.

5. **Prohibited Conduct**—SBPHTD prohibits any form of harassment, including sexual harassment, by employees, supervisors, or third parties, including non-employees, such as customers, vendors, contractors, and agents. Conduct prohibited by these policies is unacceptable in the workplace and any work-related setting outside the workplace, such as on business trips, in business meetings, and at business-related social events.
6. **Improper Conduct**—Prohibited conduct, including prohibited sexual harassment, encompasses a broad range of verbal and non-verbal behavior, which includes, but is not limited to:
 - a. Making offensive or derogatory statements, comments, slurs, or gestures because of a person's race, color, religion, sex, pregnancy, national origin, age, disability, veteran status, protected activity, or any other basis prohibited by law.
 - b. Engaging in any verbal or non-verbal behavior of an offensive or derogatory nature because of or that references a person's race, color, religion, sex, pregnancy, national origin, age, disability, veteran status, protected activity, or any other basis prohibited by law.
 - c. Deciding related to a person's employment, evaluation, wages, advancement, assigned duties, or any other conditions of employment based on race, color, religion, sex, pregnancy, national origin, age, disability, veteran status, protected activity, or any other basis prohibited by law.
 - d. Unreasonably interfering with work performance or creating an offensive or intimidating working environment because of a person's race, color, creed, religion, sex, pregnancy, national origin, age, disability, veteran status, protected activity, or any other basis prohibited by law.
 - e. Engaging in unwelcome flirtation, sexual advances, requests for sexual favors, propositions, and other verbal or physical sexual conduct, or displaying sexually suggestive objects, pictures, or drawings.
 - f. Conditioning a person's employment, evaluation, wages, advancement, assigned duties, or other conditions of employment upon their submission to sexual advances.
 - g. Workplace transmittal or accessing any message or data that could be construed to disparage others based on their sex, race, sexual orientation, age, disability, national origin, religious or political

beliefs, or any other characteristic protected by law.

7. **Disciplinary Action**—Improper conduct may result in disciplinary action against the offender, including termination.
8. **Retaliation Prohibited**—SBPHTD prohibits retaliation against any individual who reports discrimination or harassment, takes part in an investigation of a complaint under this policy, or otherwise acts to enforce or uphold this policy. Retaliation seriously violates this policy, and an offender will be subject to appropriate disciplinary actions, including discharge. If individuals feel that they have been retaliated against in violation of this policy, they will follow the complaint procedures outlined below.
9. **Application of this Policy**—This policy should not, and may not, be used as a basis for excluding or separating individuals, based on a protected characteristic, from participating in business activities or work-related social activities or discussions to avoid allegations of harassment. Disparate treatment based on protected characteristics listed above is prohibited under the law and this policy concerning terms, conditions, privileges, and employment requirements. In addition to this policy, the prohibitions against harassment, discrimination, and retaliation should support and advance it rather than serving as an exception.

10. Procedures

- a. **Need to Report:** Early reporting and intervention are the most effective methods for resolving actual or perceived incidents of discrimination, harassment, or retaliation. SBPHTD cannot remedy a problem unless it knows about it.

SBPHTD's reporting and the investigative process do not extend any time period that an individual may have by law to file a complaint with the Equal Employment Opportunity Commission or the applicable state Human Rights Commission, which may be as short as six months after prohibited conduct. Therefore, while no fixed reporting period has been established, individuals should immediately report all improper conduct, incidents, and concerns to take rapid and constructive action. Employees who have experienced or observed conduct they believe is contrary to this policy must take advantage of the complaint procedure outlined in this policy. Failure to fulfill this obligation could affect an Employee's rights in pursuing legal action.

- b. **Reporting and Investigation of Suspected Harassment**—Each Employee's responsibility to ensure that their conduct does not include or imply harassment in any form. Discriminatory harassment is a serious breach of SBPHTD's policy and violates the law. If an Employee in good faith believes harassment or suspected harassment is taking place, the

following procedures should be followed:

- i) Employees immediately report harassment or suspected harassment to the Executive Director, the Director of Administration/Planning Services, and the Board President.
- ii) All received reports of discriminatory harassment will be promptly, thoroughly, and fairly investigated by the Executive Director and/or the President of the Board. The investigation may include interviews with the complaining Employee, any witnesses, and the individual or individuals accused of violating this policy.
- iii) All complaints will be kept confidential to the maximum extent possible, consistent with SBPHTD's commitment to conduct a full and fair investigation, any obligations established by applicable law, and SBPHTD's duty to prevent and correct harassment and discrimination and retaliation.
- iv) As soon as the investigation is concluded and an evaluation of the investigation results, appropriate action will be taken.

11. **Disciplinary Action**—If it is concluded that discriminatory harassment has occurred, appropriate corrective action will be taken immediately to rectify the situation. Corrective action will stop the harassment, correct the effects on the victim, and ensure that further harassment does not recur. The type of action to be taken depends on the kind of harassment. The action taken may include but is not limited to verbal or written counseling, referral to professional counseling, demotion, disciplinary suspension or probation, immediate termination from employment of the offending individual, or reinstatement of the victim. Remedial action taken against an offender may not be the action requested by the victim if SBPHTD deems it an adequate response.

12. **Appeal**—If an individual disagrees with resolving any complaint, they appeal to the President of the Board or the District Attorney's Office.

13. **No Retaliation**—Any form of retaliation against an individual for making a report of harassment or helping investigate such a report is prohibited. Reports of perceived retaliation are made promptly and as reports of discriminatory harassment. These reports will be investigated, and if it is concluded that retaliation has occurred, appropriate action will be taken to correct the situation immediately. Action may include immediate termination from employment of any person found to have engaged in retaliatory conduct.

Section 3.2 Grievance Procedure

1. **Purpose:** To establish the procedure for handling Employee grievances with the SBPHTD.

2. **Scope and Applicability:** These instructions apply to all full-time employees of the SBPHTD who want to start and/or appeal a grievance.

3. Policy

- a. Open communication is encouraged between administrators and employees so that a grievance can be resolved before it reaches the formal appeal stage.
- b. Employees are given full opportunity to present their views without fear of coercion or retaliation. No retaliation will be taken against any grievant, witness, representative, or other participant in a Grievance Procedure.
- c. All grievances are to be processed promptly and confidentially by all people involved.
- d. The party observes all assignments and applicable rules and regulations during any grievance's pendency.

4. Definitions

- a. A grievance is an allegation of a work-related problem or condition that the "aggrieved Employee" believes to be unfair, inequitable, discriminatory, hindering their effective operation, or violating their employment rights.
- b. For this procedure, the term days mean the days on which the SBPHTD's administrative office is open for the usual conduct of its business.
- c. An "immediate Supervisor" is the person to whom the aggrieved Employee is accountable for successfully executing their duties.

5. General Provisions

- a. A grievant at any stage in the Grievance Procedure, failing to file a request for action by the deadline, indicates acceptance of the ruling of the previous stage. A grievant who does not receive a response by the deadline may immediately proceed to the next stage.
- b. A grievant has the right of representation at any step in the Grievance Procedure. The grievant may choose to be represented by counsel, legal or personal; however, the grievant must be present during the formal grievance hearing.
- c. The grievant obtains the official's signature responsible at each supervisory level in the chain of command, indicating the date the

complete appeal was received for their review and response.

- d. The grievant may pursue the Grievance Procedure to its conclusion even if the grievant leaves their job with the SBPHTD.
- e. Any time limit given in this Grievance Procedure may be extended by only ten (10) days by mutual written agreement of the parties. A deadline may be extended by the Grievance Committee in case of extreme hardship.

6. Processing The Grievance

a. First Level–All Supervisory Levels

- i) An Employee who feels that they have a job-related grievance should discuss it with their immediate (First Level) Supervisor. This discussion should occur as soon as possible after the event (s) giving rise to the claimed violation. The Supervisor should attempt to solve the grievance during this informal discussion or within three (3) days afterward. This initial presentation is oral.
- ii) Should an aggrieved Employee desire to pursue their grievance formally, they present their grievance within ten (10) days of the event (s) giving rise to the grievance to their immediate Supervisor on the special form (NO. GL1) available in the SBPHTD Office.
- iii) Upon receiving the grievance form, the Supervisor investigates the grievance and confers with the aggrieved Employee and others who may be involved. Within ten (10) days, the Supervisor advises in writing the aggrieved Employee, the Director, and others involved in their findings and resolution of the grievance.

b. Second Level–Executive Director

- i) Unless the aggrieved Employee's immediate Supervisor is the Executive Director, they may appeal an adverse resolution of the grievance to the Executive Director or their designee at the First Level.
- ii) The appeal is on the form available at the SBPHTD Office and designated as Form No. G-L2 and specify why the resolution at the First Level was not proper. The appeal is to be submitted to the Executive Director within five days of the grievance resolution at the First Level.
- iii) Upon receiving the appeal, the Executive Director or the designee determines if the grievance is severe enough to lead to administrative disciplinary action or a recommendation for discharge. The Grievance Procedure will be terminated. The

Executive Director will take any other action they deem appropriate.

c. Third Level–Port Commission

- i) If the aggrieved Employee is not satisfied with resolving their grievance at the lower level (s), they may request a Port Commission review of the matter. The request must be submitted to the Secretary to the Commission within five (5) days of the Executive Director's decision at the Second Level. It should include a statement of the relief sought for review and the specific reasons the decision at the Second Level was not proper. In submitting the request to the Secretary of the Commission, the aggrieved Employee also attaches to it all documents prepared or used during their grievance at the lower level (s).
- ii) The Executive Director may include with the documents submitted by the aggrieved Employee a statement to the Board in response to the aggrieved Employee's request for a Commission review.
- iii) Should the Commission decide to review the matter, it will be by the full Commission at a regularly scheduled meeting or at a special meeting called for that purpose.
 - (1) In such cases, the Commission may limit its review to the documents submitted, require additional statements or other evidence, and require the aggrieved Employee and/or other persons to appear before the Commission to respond to any inquiries the Commission members may have in connection with the review.
 - (2) In appropriate cases, the Commission may hold an executive session for its review. The decision to hold the review in a public or private session is at the discretion of the Grievant.