

<b>ID #</b>	BRD-034
<b>Rev</b>	14
<b>Date</b>	April 11, 2024
<b>Reso</b>	24-21

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

---

### **1.0 PURPOSE**

The Santa Clara Valley 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. It prohibits harassment, discrimination, and disrespectful or unprofessional conduct by any employee of the Authority, including supervisors, managers, coworkers, independent contractors, Board members, or 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, contractor, applicant, volunteer, intern, or agent of the Authority to discriminate against, harass, sexually harass, or perpetrate violent or abusive acts against any employee, supervisor, Board member, vendor, contractor, applicant, volunteer, intern, or agent of the 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

**Santa Clara Valley Open Space Authority**  
**BRD-034-14 – Non-Discrimination and Unlawful/Sexual Harassment Policy**

---

Authority prohibits unlawful discrimination against any job applicant, employee, intern or volunteer by any employee of the Authority, including supervisors, managers, co-workers and Board members.

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.

Applicants are considered for employment based on their qualifications to meet the requirements of the job. The Authority does not seek information regarding applicants' criminal conviction history prior to making a conditional offer of employment, nor does it utilize salary history in determining employment offers or salaries.

It is the policy of the Authority that persons hired are 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 applies equally to Board members, employees, committee members, applicants, interns, volunteers, and independent contractors. 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.

**Santa Clara Valley Open Space Authority**  
**BRD-034-14 – Non-Discrimination and Unlawful/Sexual Harassment Policy**

---

Sexual Harassment

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, including harassment based on gender-identity, gender expression, sexual orientation, or pregnancy and childbirth, 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;
- 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, voicemails, emails, texts, 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.

This 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

**Santa Clara Valley Open Space Authority**  
**BRD-034-14 – Non-Discrimination and Unlawful/Sexual Harassment Policy**

---

during his/her course of business interacts with an Authority employee. Unpaid interns and volunteers working for or on behalf of the Authority are also considered non-employees for the purposes of this policy. In reviewing allegations involving the acts of non-employees, the extent of the Authority's control and any other legal responsibility that the Authority may have with respect to the conduct of those non-employees shall be considered.

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, verbal or non-verbal 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 Authority considers this behavior unacceptable and shall actively work to educate managers and employees in order to ensure early reporting and intervention.

Violence

The Authority will not tolerate any form of threats or violence committed by or against Authority employees, contractors, 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 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, while representing the Authority, or conducting Authority business;

**Santa Clara Valley Open Space Authority**  
**BRD-034-14 – Non-Discrimination and Unlawful/Sexual Harassment Policy**

---

- Committing acts motivated by, or related to, domestic violence on Authority premises while representing the Authority, or conducting Authority business;
- 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 Board members. 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 Authority.

**4.0 RESPONSIBILITIES**

Employees, Board members, Applicants, and Non-employees

Early reporting and intervention have proven to be the most effective method of resolving actual or perceived incidents of the behaviors listed above. Therefore, every employee, Board member, applicant, and non-employee, as that term is defined, above, (“Person”) should promptly report complaints or concerns so that the Authority can take rapid and constructive action.

Persons who have experienced, or 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, Assistant General Manager of Administrative and Field Operations or the General Manager immediately. The Person 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 incident(s) will be respected to the extent possible in accordance with the circumstances involved.

Persons are not 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 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 that may violate this policy shall report it immediately to the Human Resources Manager, Assistant General Manager of Administrative and Field Operations, the General Manager, or the Chairperson of the Board of Directors.

The Open Space Authority

**Santa Clara Valley Open Space Authority**  
**BRD-034-14 – Non-Discrimination and Unlawful/Sexual Harassment Policy**

---

The Authority will make every effort to stop every alleged violation of this policy before it becomes severe or pervasive. All complaints or concerns regarding violations of this policy will receive a timely response. Qualified personnel will promptly and impartially investigate reports describing conduct that is inconsistent with this policy. 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.

If the Authority finds that it is more likely than not that the misconduct alleged occurred, the Authority will take appropriate remedial measures. The Authority may put reasonable interim measures in place, such as a leave of absence or a transfer, while the investigation proceeds. Any Person determined to be responsible for alleged discrimination, harassment, or other prohibited conduct will be subject to appropriate disciplinary action, ranging from additional training to termination of employment. An Authority representative will timely close any investigation and advise all parties concerned of the investigation's results. Authority representatives will document and track all investigations to ensure transparency and reasonable progress on any complaint subject to this policy.

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 investigate such harassment or discrimination and take appropriate action. Such action may include termination of the Authority's relationship with any Person found to perpetrate harassment or discrimination.

Any Person, or agent of the Authority will not be subject to retaliation as a result of lodging a complaint or participating in an investigation under this Policy.

Training

In order to satisfy the requirements of California law, Authority Board members and any supervisory employees of the Authority shall receive a minimum of two (2) hours of sexual harassment prevention training and education within the first six (6) months of taking office or commencing employment, and an additional two (2) hours every two (2) years thereafter. Authority employees who do not hold supervisory positions shall receive a minimum of one (1) hour of sexual harassment prevention training within the first six (6) months of commencing employment, and one (1) hour of training every two (2) years thereafter. Seasonal or temporary employees, or employees hired to work less than six (6) months, are to receive training within thirty (30) calendar days after their hire date or within 100 hours worked, whichever occurs first.

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 include curriculum regarding harassment based on gender identity, gender expression, and sexual orientation, as well as the prevention of abusive conduct. It shall also include practical examples aimed at instructing supervisors in the prevention of harassment, discrimination, and retaliation, as well as practical examples for all

**Santa Clara Valley Open Space Authority**  
**BRD-034-14 – Non-Discrimination and Unlawful/Sexual Harassment Policy**

---

employees and supervisors of harassment based on gender identity, gender expression, and sexual orientation. This training and education shall be presented by trainers or educators with knowledge and expertise in the prevention of harassment, including harassment based on gender identity, gender expression, and sexual orientation, as well as discrimination and retaliation.

The Authority shall maintain records indicating both of the following:

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

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

Federal and State Agencies

Persons 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 a Person thinks the Person has been harassed or that the Person has been retaliated against for resisting or complaining, the Person may file a complaint with the appropriate agency. The nearest office 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 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

**Santa Clara Valley Open Space Authority**  
**BRD-034-14 – Non-Discrimination and Unlawful/Sexual Harassment Policy**

---

4/26/2012	02	Updated and Ratified
4/25/2013	03	Updated and Ratified
5/22/2014	04	Updated and Ratified
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
8/08/2019	09	Updated and Ratified
5/28/2020	10	Updated and Ratified
4/8/2021	11	Updated and Ratified
4/28/2022	12	Updated and Ratified
4/27/2023	13	Ratified
4/11/2024	14	Ratified