

BOARD MEETING DATE: October 1, 2021

AGENDA NO. 7

PROPOSAL: Amend Section 60 (Harassment) of the South Coast AQMD's Administrative Code

SYNOPSIS: This action is to amend Section 60 (Harassment) of the South Coast AQMD's Administrative Code

COMMITTEE: Administrative, September 10, 2021; Recommended for Approval

RECOMMENDED ACTIONS:

Amend Administrative Code Section 60 (Harassment) as set forth in Exhibit B.

Wayne Nastri
Executive Officer

BTG:lal

Background

The South Coast AQMD Administrative Code prescribes the responsibilities, conduct, and specified reimbursements of South Coast AQMD Board Members, Board Assistants and Consultants, and employees.

Proposal

This action is to approve amendments to the provision of South Coast AQMD's Administrative Code that address harassment and discrimination. Proposed amendments include expanding the section on harassment and adding sections to address discrimination and retaliation. The current version is attached in Attachment A. The proposed amended version is shown in Attachment B.

Resource Impacts

No fiscal impact.

Attachments

- A. Current Administrative Code Section 60 - Harassment
- B. Proposed Amended Administrative Code Section 60 - Harassment And Discrimination

Attachment A

Section 60 – HARASSMENT AND DISCRIMINATION

Sexual harassment is unacceptable conduct, which takes various forms. It is deliberate or repeated unsolicited verbal comments, questions, representations, or physical contacts of an intimate sexual nature that are unwelcome to the recipient. Sexual harassment can also take the form of making or threatening to make decisions affecting an employee's job on the basis of an acceptance or refusal of a request for sexual intimacy.

Sexual harassment is a form of employee misconduct that undermines the integrity of SCAQMD and the employment relationship. It has a negative impact on employee morale and interferes with the productivity of its victims and their co-workers. While it is not SCAQMD's intent to regulate employees' social interactions or relationships freely entered into, conduct constituting sexual harassment will not be tolerated and will be thoroughly investigated. Such investigation may result in appropriate disciplinary or corrective measures being taken.

Attachment B

Section 60 – HARASSMENT AND DISCRIMINATION

It is the policy of the South Coast AQMD to provide its employees, South Coast AQMD Board Members, South Coast AQMD Board Member Assistants and Consultants, and South Coast AQMD Hearing Board Members a work environment that is free from all forms of unlawful employment discrimination, harassment, and retaliation, and that promotes an atmosphere of mutual respect and professionalism.

South Coast AQMD will not tolerate in the workplace or in work-related situations: discrimination or harassment based on race, ethnicity, religion, color, national origin, ancestry, physical or mental disability, medical condition, genetic information, marital status, registered domestic partner status, pregnancy, sex (including childbirth, breast feeding, and related medical conditions), age, gender, gender identity or expression, sexual orientation, uniform service membership, veteran status, or any other characteristic protected by state or federal employment discrimination laws. This includes conduct by any employee, South Coast AQMD Board Member, South Coast AQMD Board Assistant or Consultant, South Coast AQMD Hearing Board Member, or any intern or other non-employee, such as contractors, vendors providing services to South Coast AQMD, members of the public, and others having business with South Coast AQMD. Further, South Coast AQMD does not tolerate unlawful discrimination or harassment by its employees of non-employees with whom South Coast AQMD has a business or service relationship. Retaliation against any individual for making a report, or for participating in an investigation under this policy is strictly prohibited.

TYPES OF PROHIBITED CONDUCT

By way of illustration only, and not limitation, some examples of conduct prohibited by this policy include:

- (1) Verbal Harassment – epithets, derogatory comments, slurs, unwanted comments, inappropriate jokes, unwanted invitations or sexual advances, threats, or negative stereotypes.
- (2) Physical Harassment – assault, touching, impeding or blocking movement, or any physical interference with normal work or movement.
- (3) Visual Forms of Harassment – derogatory posters, notices, cartoons, drawings, photographs, writings, graffiti, gestures, e-mails, and text messages.
- (4) Inappropriate Use of Technology – using the Internet, the e-mail system or telephone and/or voicemail systems, text messages, blogging or any other technological means to transmit, communicate, post or receive: (a) sexually-suggestive, pornographic or sexually explicit pictures, messages or materials or other materials prohibited by this policy; (b) or pictures, messages or other materials that denigrate, threaten, or show

hostility or aversion towards an individual or group based on race, national origin, sex, sexual orientation or any other protected characteristic under the law and this policy.

- (5) Retaliation by any of the above means for having reported harassment or discrimination, or having assisted another to report harassment or discrimination.

Someone's intentions, such as not meaning to give offense or a belief that conduct was welcomed will not excuse behavior that is found to violate this policy.

Examples of Sexual Harassment:

Sexual harassment includes a broad spectrum of conduct including harassment based on sex, gender, gender transition, gender identity or expression, and sexual orientation. By way of illustration only, and not limitation, some examples of unlawful and unacceptable behavior include:

- Unwanted sexual advances;
- Offering an employment benefit (such as a raise, promotion, or career advancement) in exchange for sexual favors, or threatening an employment detriment (such as termination or demotion) for an employee's failure to engage in sexual activity;
- Visual conduct, such as leering, making sexual gestures, and displaying or posting sexually suggestive objects, pictures, cartoons, or posters;
- Verbal sexual advances, propositions, requests, or comments;
- Sending or posting sexually-related messages, videos or messages via email, text, instant messaging, or social media;
- Verbal abuse of a sexual nature, graphic verbal comments about an individual's body, sexually degrading words used to describe an individual, and suggestive or obscene letters, notes, or invitations;
- Physical conduct, such as touching, groping, assault, or blocking movement;
- Physical or verbal abuse concerning an individual's gender, gender transition, gender identity, or gender expression; and
- Verbal abuse concerning a person's characteristics such as pitch of voice, facial hair or the size or shape of a person's body, including remarks that a male is too feminine or a woman is too masculine.

Examples of Harassment Based on Other Protected Characteristics:

South Coast AQMD strictly prohibits harassment concerning race, religion, disability, age, veteran status, or any other protected characteristic. By way of illustration only, and not limitation, such prohibited harassment includes:

- Racial or ethnic slurs, epithets, and any other offensive remarks;
- Inappropriate jokes, whether written, verbal, or electronic;
- Threats, intimidation, and other menacing behavior;
- Inappropriate verbal, graphic, or physical conduct;
- Sending or posting harassing messages, videos or messages via email, text, instant messaging, or social media; and
- Other harassing conduct based on one or more of the protected categories identified in this policy.

PROHIBITION AGAINST RETALIATION

South Coast AQMD is committed to prohibiting retaliation against those who themselves, or whose family members report, oppose, or participate in an investigation of alleged unlawful harassment, discrimination, or other wrongdoing in the workplace. By way of example only, participating in such an investigation includes, but is not limited to:

- Filing a complaint with a federal or state enforcement or administrative agency;
- Participating in or cooperating with a federal or state enforcement agency conducting an investigation of South Coast AQMD regarding alleged unlawful activity;
- Testifying as a party, witness, or accused regarding alleged unlawful activity;
- Making or filing an internal complaint with South Coast AQMD regarding alleged unlawful activity;
- Providing notice to South Coast AQMD regarding alleged unlawful activity;
- Assisting a person who is engaged in any of these activities.

South Coast AQMD is also committed to prohibiting retaliation against:

- those who request a reasonable accommodation for any known physical or mental disability;
- those who request a reasonable accommodation of their religious beliefs and observances; or

- an employee who is a victim of domestic violence, sexual assault, or stalking and requests leave time or changes in the workplace to ensure the employee's safety and well-being.

REPORTING PROCESS

It is the responsibility of every employee to bring concerns and/or problems to the attention of a supervisor, a manager, a Human Resources Manager, an attorney in the General Counsel's Office, or the DEO/Administrative and Human Resources so that appropriate steps to address the situation may be taken. South Coast AQMD Board Members, South Coast AQMD Board Member Assistants and Consultants, and South Coast AQMD Hearing Board Members should bring concerns and/or problems to the attention of the South Coast AQMD Board Chair, the South Coast AQMD Board Vice-Chair, the General Counsel, the Executive Officer or the Clerk of the Board, so that appropriate steps to address the situation may be taken. South Coast AQMD takes all complaints of unlawful harassment, discrimination, or retaliation seriously and will not penalize or retaliate against an employee or anyone else in any way for reporting a harassment, discrimination, or retaliation problem in good faith.

An employee who believes that they have been harassed or discriminated against should immediately report such incidents to a supervisor, a manager, a Human Resources Manager, an attorney in the General Counsel's Office, or the DEO/Administrative and Human Resources. Others who believe that they have been harassed or discriminated against should immediately report such incidents to the attention of the South Coast AQMD Board Chair, the South Coast AQMD Board Vice-Chair, the General Counsel, the Executive Officer or the Clerk of the Board.

Any person who observes or overhears discrimination or harassment by another employee, supervisor, manager, or non-employee should report the incident immediately to the individual(s) listed above.

If a person believes that they have been retaliated against in violation of this policy, the person should immediately report the matter to the individual(s) listed above.

Individuals are protected by law and South Coast AQMD policy from retaliation for opposing unlawful discriminatory practices, for filing a complaint under this policy or for filing a complaint with the state or federal agency charged with enforcing anti-discrimination laws, or for otherwise participating in any proceedings conducted by South Coast AQMD under this policy and/or by either of such governmental agencies.