

McCLOUD COMMUNITY SERVICES DISTRICT
Policy and Procedure Manual

POLICY TITLE: Unlawful Harassment Including Sexual Harassment
POLICY NUMBER: 2420
ADOPTED: May 8, 2017
REVIEWED: April 11, 2017
AMENDED:

2420.10 Policy Statement

2420.11 The District strictly prohibits unlawful harassment. All employees, applicants, and independent contractors (“workers”) working with the District are to be treated with respect and dignity. The District is committed to providing an atmosphere free of harassment and discrimination. This includes harassment on the basis of sex, sexual orientation, race, color, ancestry, religious creed, disability, pregnancy or related medical condition, medical condition, age, genetic characteristic, national origin or ancestry, military or veteran status, marital status, gender, gender identity, gender expression, or any other protected class under applicable law.

2420.20 Application

2420.21 This policy applies to all phases of the employment relationship, including recruitment, testing, hiring, upgrading, promotion/demotion, transfer, layoff, termination, rates of pay, benefits, and selection for training.

2420.22 This policy applies to all officers and employees of the District, including, but not limited to, full- and part-time employees, per diem employees, temporary employees, and persons working under contract for the District. It prohibits co-workers, third parties, supervisors, and managers from engaging in discrimination, harassment, or retaliatory conduct toward workers.

2420.30 Harassment Defined

2420.31 Harassment may consist of offensive verbal, physical, or visual conduct when such conduct is based on or related to an individual’s sex and/or membership in one of the above-described protected classifications, and:

2420.311 Submission to the offensive conduct is an explicit or implicit term or condition of employment;

2420.312 Submission to or rejection of the offensive conduct forms the basis for an employment decision affecting the employee; or

2420.313 The offensive conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creates an intimidating, hostile, or offensive working environment.

2420.40 Examples

2420.41 Examples of what may constitute prohibited harassment include, but are not limited to the following:

2420.411 Kidding or joking about sex or membership in one of the protected classifications;

2420.412 Hugs, pats, and similar physical contact;

2420.413 Assault, impeding or blocking movement, or any physical interference with normal work or movement;

2420.414 Cartoons, posters, e-mails and other materials referring to sex or membership in one of the protected classifications;

2420.415 Threats intended to induce sexual favors;

2420.416 Continued suggestions or invitations to social events outside the workplace after being told such suggestions are unwelcome;

2420.417 Degrading words or offensive terms of a sexual nature or based on the individual's membership in one of the protected classifications;

2420.418 Prolonged staring or leering at a person;

2420.419 Similar conduct directed at an individual on the basis of race, color, ancestry, religious creed, disability, medical condition, age (over 40), marital status, sexual orientation, gender identity or any other protected classification under applicable law.

2420.50 Procedure

2420.51 Internal Reporting Procedure

2420.511 Any employee who believes that he or she or any co-worker has been the victim of sexual or other prohibited harassment by coworkers, supervisors, clients or customers, visitors, vendors, or others must immediately notify his or her supervisor or, in the alternative, the General Manager, depending on which individual the employee feels most comfortable in contacting.

2420.512 Additionally, supervisors who observe or otherwise become aware of harassment that violates this policy have a duty to take steps to investigate and remedy such harassment and prevent its recurrence.

2420.60 Investigation

2420.61 Upon the filing of a complaint with the District, the complainant will be provided with a copy of this policy. The General Manager is the person designated by the District to investigate complaints of harassment. The General Manager may, however, delegate the investigation at his/her discretion. In the event the harassment complaint is against the General Manager, an investigator shall be appointed by the Board of Directors and the Board will assume the role of the General Manager throughout the process. The District will ensure that a prompt and thorough investigation is undertaken and will track progress to ensure timely closure.

2420.70 Internal Documentation Procedure

2420.71 When an allegation of harassment is made by an employee, the person to whom the complaint is made shall immediately prepare a report of the complaint according to the preceding section and submit it to the General Manager.

2420.711 The investigator shall make and keep a written record of the investigation, including notes of verbal responses made to the investigator by the person complaining of harassment, witnesses interviewed during the investigation, the person against whom the complaint of harassment was made, and any other person contacted by the investigator in connection with the investigation. The investigator's notes shall be made at the time the verbal interview is in progress. Any other documentary evidence shall be retained as part of the record of the investigation. Upon completion of the investigation, the results (i.e., the finding only) shall be given to the complainant, the alleged harasser, and the General Manager. All information obtained in connection with the investigation shall remain confidential to the extent possible.

2420.712 Based on the report and any other relevant information, the General Manager shall, within a reasonable period of time, determine whether the conduct of the person against whom a complaint has been made constitutes harassment. In making that determination, the General Manager shall look at the record as a whole and at the totality of circumstances, including the nature of the conduct in question; the context in which the conduct, if any, occurred; and the conduct of the person complaining of harassment. The determination of whether harassment occurred will be made on a case-by-case basis by the General Manager.

2420.80 Remedies

2420.81 Disciplinary Action:

2420.811 If the General Manager determines that the complaint of harassment is founded, the General Manager, in connection with appropriate management, shall take immediate and appropriate disciplinary action consistent with the requirements of law and any personnel rules or regulations pertaining to employee discipline. Other steps may be taken to the extent reasonably necessary to prevent recurrence of the harassment.

2420.812 Disciplinary action shall be consistent with the nature and severity of the offense, the rank of the harasser, and any other factors relating to the fair and efficient administration of the District's operations.

2420.90 Confidentiality

2170.91 All records and information relating to the investigation of any alleged harassment and resulting disciplinary action shall be confidential, except to the extent disclosure is required by law, as part of the investigatory or disciplinary process, or as otherwise reasonably necessary.

2420.100 Reports to DFEH

2420.110 In addition to this policy, the State of California Department of Fair Employment and Housing ("DFEH") provides additional information regarding the legal remedies and complaint process available through government agencies. If a worker thinks he or she has been harassed, discriminated against, or that he or she has been retaliated against for complaining, that person may file a complaint or obtain additional information from DFEH at (800) 884-1684. Charges filed with the DFEH are investigated by the DFEH.

2420.110 Retaliation

2420.111 Retaliation against anyone for opposing conduct prohibited by this policy or for filing a complaint with or otherwise participating in an investigation, proceeding or hearing conducted by the District, DFEH, or FEHC is strictly prohibited by the District and state regulations. It may subject the offending person to, among other things, disciplinary action, up to and including, termination of employment.

2420.120 Employee Obligation

2420.121 Employees are not only encouraged to report instances of harassment; they are obligated to report instances of harassment.

2420.122 Employees are obligated to cooperate in every investigation of harassment, including, but not necessarily limited to:

2420.123 Coming forward with evidence, both favorable and unfavorable to a person accused of harassment; and

2420.124 Fully and truthfully making a written report or verbally answering questions when required to do so during the course of a District investigation of alleged harassment.

2420.125 Knowingly, falsely accusing someone of harassment or otherwise knowingly giving false or misleading information in an investigation of harassment shall be grounds for disciplinary action, up to and including, termination of employment.