

**16-02**  
**Discrimination and  
Harassment  
Prevention Policy**

Signed By	Lori Lopez Equal Employment Opportunity Officer	Number	16-02
Distribution	All Employees	Date Issued	April 11, 2016
Subject	Discrimination and Harassment Prevention Policy	Expires	When Cancelled
Guide Section	<a href="#">Equal Employment Opportunity Office</a>	Reference	Replaces: Anti-Harassment Policy dated March 16, 2006, Sexual Harassment Prevention Policy dated December 2, 2008, Procedures for filing a Discrimination Complaint dated May 15, 2015 and the Discrimination Complaint Form dated May 15, 2015.  <a href="#">Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, et seq; California Government</a>

The Air Resources Board (ARB) is committed to creating a harassment and discrimination-free work environment for all employees. ARB has a zero tolerance policy, which means ARB will take appropriate corrective action, up to and including formal disciplinary action, in response to violations of this policy, even if the violation does not rise to the level of unlawful conduct.

Questions regarding this policy should be directed to ARB's [Equal Employment Opportunity Officer](#) at (916) 323-7053.

# **DISCRIMINATION AND HARASSMENT PREVENTION POLICY**

**April 11, 2016**

**AIR RESOURCES BOARD  
Executive Office  
Equal Employment Opportunity Office**

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## **POLICY STATEMENT**

It is the policy of the Air Resources Board (ARB) to provide a workplace that is free of harassment, discrimination and retaliation. All employees are expected to work with ARB to create a workplace free from harassment, discrimination, and retaliation. Employees are requested to promptly report conduct that they believe violates this policy. Managers and supervisors are required to promptly report conduct that they believe violates this policy. ARB is committed to responding to allegations of violations of this policy in a timely and fair manner and will take appropriate action to end prohibited conduct.

ARB has a zero tolerance policy which means ARB will take appropriate corrective action, up to and including formal disciplinary action, in response to substantiated violations of this policy, even if the violation does not rise to the level of unlawful conduct.

## **DEFINITIONS**

Discrimination: The unequal treatment of an employee in any aspect of employment based solely or in part on the employee's protected category. Discrimination does not exist where ARB can establish a legitimate business reason for its actions.

Harassment: Unwelcome conduct that is based on any protected category.

Sexual Harassment: Harassment based on sex, or conduct of a sexual nature. Harassment based on sex includes the protected categories of (i) pregnancy, including childbirth, breastfeeding, or pregnancy related medical conditions, and (ii) gender including gender identity or gender expression. Unwelcome sexual advances, requests for sexual favors, and other verbal, graphic, or physical conduct or communication of a sexual nature may constitute sexual harassment when this conduct is offensive to a reasonable person under similar circumstances.

The two types of sexual harassment are *quid pro quo* sexual harassment and hostile work environment sexual harassment. Both Quid Pro Quo and Hostile Work Environment Sexual Harassment are prohibited in the workplace and in any work-related settings, such as business trips or business-related social functions, regardless of who is engaging in the conduct.

Quid Pro Quo Sexual Harassment: From the Latin "this for that," *quid pro quo* sexual harassment is the submission for sexual conduct in exchange for a reward or benefit. It can be made explicitly or implicitly. It is commonly committed by a supervisor or another individual who has the power to confer or withhold a tangible employment benefit. It may include situations that began as reciprocal relationships, but that later cease to be reciprocal.

Hostile Work Environment Sexual Harassment: Conduct of a sexual nature or on the basis of sex by any person in the workplace that unreasonably interferes with an employee's work performance and/or creates an intimidating, hostile, or otherwise offensive working environment.

Retaliation: Any adverse employment action that is motivated by the employee's participation in protected activity such as filing a complaint of harassment or discrimination, participating in an investigation, making a request for reasonable accommodation or participating in the reasonable accommodation program.

Adverse Employment Action: Adverse employment action is conduct or an action that materially affects the terms and conditions of the employee's employment status or is reasonably likely to deter the employee from engaging in protected activity. Even actions that do not result in a direct loss of compensation may be regarded as an adverse employment action when considered in the totality of the circumstances.

Protected Categories: Race, religion, religious creed (including religious dress and grooming practices), color, age, sex, sexual orientation, gender identity, gender expression, genetic information, national origin, citizenship, ancestry, marital status, medical condition, disability, military and veteran status, pregnancy, childbirth, breastfeeding and pregnancy related medical conditions, protected medical leaves (requesting or approved for leave under the Family and Medical Leave Act or the California Family Rights Act), domestic violence victim status, political affiliation, and request for/participation in the reasonable accommodation process, and any other status protected by state or federal law. Reporting, or assisting in reporting suspected violations of this policy, and cooperating in investigations or proceedings arising out of a violation of this policy are protected activities under this policy.

Employees: Includes staff, managers, supervisors, applicants, vendors, contractors, interns and volunteers.

Unwelcome: Unsolicited conduct that an individual regards as undesirable or offensive and a reasonable person would also regard as undesirable or offensive.

Complainant: The individual filing a complaint of discrimination, harassment, or retaliation pursuant to this Policy.

Respondent: The individual that allegedly violated this policy and is the subject of an investigation.

## **CONDUCT PROHIBITED BY THIS POLICY**

### Discrimination

ARB prohibits discrimination as it is defined above by this policy.

## Harassment

ARB prohibits harassment. Harassment can be verbal (such as slurs, jokes, insults, epithets, gestures, or teasing related to a protected category), graphic (such as the posting or distribution of offensive posters, symbols, cartoons, drawings, computer displays, or emails again related to a protected category) or physical conduct (such as physically threatening another person, blocking someone's way, etc.). Such conduct violates this policy, even if it is not unlawful.

## Sexual Harassment

ARB prohibits sexual harassment. The object (or target) of the harassment and the harasser may be male or female. They may be of the same or the opposite sex. The offensive conduct does not have to be motivated by sexual desire.

The harasser might be a supervisor or manager, a co-worker, or a non-employee on the premises or under the control of the employer (such as an ARB contractor).

"Third party sexual harassment" recognizes that persons other than the direct target of the harasser may be adversely affected by the offensive conduct.

Sexual harassment can take many different forms, including:

Written: Sexually suggestive, offensive, or obscene emails, letters, notes, or invitations.

Graphic or Visual: Sexually suggestive visual depictions, including cartoons, posters, photos, obscene gestures, leering, "or looking someone up and down."

Verbal: Derogatory comments, slurs or jokes of a sexual nature, epithets, verbal sexual advances or propositions, verbal abuse of a sexual nature, comments about someone's body, or sexually degrading words to describe someone.

Physical: Touching, assaulting, impeding or blocking someone's movement or invading his or her personal space.

## Retaliation

ARB prohibits retaliation as defined above in this policy

## **SHARED RESPONSIBILITY**

### Responsibility of Air Resources Board

It is the responsibility of ARB to provide a safe and welcoming workplace, free from discrimination, harassment, and retaliation. Prevention is the best tool to eliminate

discrimination and harassment in the workplace. This policy is maintained in a manner accessible to all employees, including interns and volunteers, and communicated continually on its website and postings of the Equal Employment Opportunity (EEO) Office.

ARB will take prompt and appropriate corrective action, including formal disciplinary action, for incidents of harassment, discrimination or retaliation.

### Responsibility of the Employee

Every employee has the right to work in an environment free from harassment, discrimination, and retaliation. An employee who perceives comments, gestures, or actions of another to be offensive or unwelcome is strongly encouraged to communicate to that person that such behavior is not welcome or acceptable. However, failure to do so does not preclude the employee from complaining to a supervisor or filing a complaint with the EEO Officer.

Any employee who is the recipient of harassing, discriminatory, or retaliatory behavior as described in this policy, or who witnesses that behavior, should report it to a supervisor or manager or to the EEO Officer. All employees have a shared responsibility to help prevent and address such behavior on the job and at job-related functions.

### Supervisor Responsibility

Supervisors and managers have the responsibility to know, understand, apply, and model this policy. A basic knowledge of the law and thorough understanding of this policy and procedures for handling complaints are essential to preventing discrimination, harassment, and retaliation in the workplace.

Supervisors or managers who learn of any potential violation of this policy are immediately required to report the matter to the EEO Officer to receive assistance on how best to proceed. The supervisor or manager should retain a record that s/he referred the matter to the EEO Officer.

## **COMPLAINT PROCESS**

Individuals who believe they have been the subject of discrimination, harassment, or retaliation in the workplace or an employee that feels they have witnessed discrimination, harassment, or retaliation in the workplace may file a complaint with ARB utilizing the process outlined below.

Individuals may also report discrimination, harassment, or retaliation to a manager or supervisor. The manager or supervisor then must notify the EEO Officer of the allegations. The manager or supervisor will provide the EEO Officer with information

about the allegations, including the name of the individual making the complaint and the names and any witnesses identified by the individual.

ARB will promptly look into the facts and circumstances of any alleged violation of this policy, as appropriate. Even in the absence of a formal complaint, ARB may initiate an investigation where it has reason to believe that a violation of this policy has occurred. Moreover, even where a complainant requests to withdraw his or her initial complaint, ARB may continue the investigation to ensure that the workplace is free from discrimination, harassment, and retaliation.

All investigations will be fair, impartial, timely, and completed by qualified personnel. All employees are required to cooperate fully with any investigation. All individuals who participate in the investigation process are protected from retaliation for their participation. The complainant and respondent may each have a representative present during their investigative interview, provided the representative is not a party or witness to the complaint. The representative cannot interfere with the interview, answer questions, or impede the investigation.

To the extent possible, ARB will make every effort to keep the complainant's concerns confidential; however, complete confidentiality cannot be guaranteed when it interferes with ARB's ability to fulfill its obligations under this policy or under the law. Upon completion of the investigation, if misconduct is substantiated, ARB will take appropriate corrective action to end the prohibited conduct, up to and including formal discipline.

## **COMPLAINT FORM**

To help the EEO Officer better understand your complaint, it is recommended that you complete the [Discrimination Compliant Form](#) and return the completed form to the EEO Officer.

## **FILING OF COMPLAINTS WITH OTHER JURISDICTIONS**

Employees and applicants may also file formal complaints of discrimination, harassment, or retaliation with the agencies listed below. These agencies have specific time limits for filing complaints. Individuals who wish to pursue filing with these agencies should contact them directly to obtain further information about their processes and time limits.

### **California Department of Fair Employment and Housing (DFEH)**

2218 Kausen Drive, Suite 100

Elk Grove, California 95758

(800) 884-1684 or (916) 478-7251 or TTY at (800) 700-2320. <http://www.dfeh.ca.gov>

### **Federal Equal Employment Opportunity Commission (EEOC)**

450 Golden Gate Avenue 5 West, P.O. Box 36025 San Francisco, CA 94102-3661 1-

800-669-4000 or 510-735-8909 (Deaf/HoH callers only) <http://www.eeoc.gov/employees>



**State Personnel Board Appeals Division**

801 Capitol Mall

Sacramento, CA 95814

(916) 653-0799 or TDD Line (916) 653-1498

[www.spb.ca.gov](http://www.spb.ca.gov)

NOTE: The SPB only hears discrimination complaints based on medical condition, mental disability, physical disability or denial of reasonable accommodation. (Gov. Code § 19702)

Questions regarding this Policy should be directed to ARB's [Equal Employment Opportunity Officer](#) at (916) 323-7053.