

M E M O

To: Board of Directors

From: District Manager

Subject: Sexual Harassment Policy

Date: December 8, 2005

RECOMMENDATION:

It is recommended that the Board of Directors review this memo, attached Sexual Harassment Policy and approve the attached resolution which establishes the San Lorenzo Valley Water District Sexual Harassment Policy.

BACKGROUND:

State and federal laws prohibit sexual harassment. In 1987 the District adopted a written Administrative Policy regarding sexual harassment. See Attachment 1. California Assembly Bill 1825 signed into law in 2004 required the District to provide all supervisory employees with two (2) hours of sexual harassment training every two (2) years. The first round of training was required to be completed by January 1, 2006. In August 2005, the District completed the required supervisory employee training.

District staff reviewed the existing Administrative Policy regarding sexual harassment adopted in 1987 and determined that said policy should be revised and updated. Staff has drafted an amended policy regarding sexual harassment.

It is recommended that the Board of Directors review this memo, attached Sexual Harassment Policy and approve the attached resolution which establishes the San Lorenzo Valley Water District Sexual Harassment Policy.

James Mueller
District Manager

JAM/kas

SAN LORENZO VALLEY WATER DISTRICT

RESOLUTION NO. (05-06)

SUBJECT: SEXUAL HARASSMENT POLICY

WHEREAS, state and federal laws prohibit sexual harassment; and

WHEREAS, San Lorenzo Valley Water District is committed to ensuring and providing a work place free of sexual harassment; and

WHEREAS, District Legal Counsel has reviewed the San Lorenzo Valley Water District Sexual Harassment Policy;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the San Lorenzo Valley Water District that the San Lorenzo Valley Water District Sexual Harassment Policy is hereby adopted.

* * * * *

PASSED AND ADOPTED by the Board of Directors of the San Lorenzo Valley Water District, County of Santa Cruz, State of California, on the 15th day of December, 2005, by the following vote of the members thereof:

AYES:

NOES:

ABSENT:

Kelly Stephens
District Secretary

M E M O

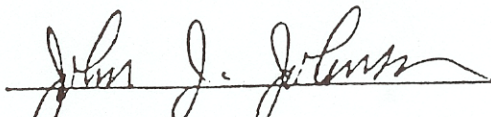
TO: District Staff
FROM: District Manager
SUBJECT: POLICY REGARDING SEXUAL HARASSMENT
DATE: August 17, 1987

The following shall be known as the San Lorenzo Valley Water District's Policy Regarding Sexual Harassment.

The Equal Employment Opportunity Commission (EEOC) has issued guidelines setting forth the Commission's interpretation regarding sexual harassment as a violation of Title VII of the Civil Rights Acts of 1964. These guidelines are consistent with the District's belief that conduct creating an intimidating, hostile, or offensive working environment will not be tolerated by the District, and those violating this practice may be subject to disciplinary action up to and including discharge. Any employee who feels that he or she is being subjected to sexual or racial harassment is urged to immediately contact the Office Supervisor, Operations Superintendent, Utilities Engineer or the District Manager, collectively known as management staff.

Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors and other like verbal, visual or physical contact that results in submission being expressed or implied as a condition of employment, or interfering with an individual's work performance, or creating an intimidating, hostile, or offensive working environment.

Any management employee who receives such a complaint shall immediately document it. The complaint shall be immediately submitted to the District Manager, who shall direct investigation of all charges by one non-involved management staff person. Disciplinary action shall be taken against any employee found to be in violation of this policy, up to and including dismissal. Such disciplinary action shall be documented in writing.



John J. Johnson
District Manager

JJJ/dj

Sec. 1604.11 Sexual Harassment

(a) Harassment on the basis of sex is a violation of Sec. 703 of Title VII. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment 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.

(b) In determining whether alleged conduct constitutes sexual harassment, the Commission will look at the record as a whole and the totality of the circumstances, such as the nature of the sexual advances and the context in which the alleged incidents occurred. The determination of the legality of a particular action will be made from the facts, on a case by case basis.

(c) Applying general Title VII principles, an employer, employment agency, joint apprenticeship committee or labor organization (hereinafter collectively referred to as "employer") is responsible for its acts and those of its agents and supervisory employees with respect to sexual harassment regardless of whether the specific acts complained of were authorized or even forbidden by the employer and regardless of whether the employer knew or should have known of their occurrence. The Commission will examine the circumstances of the particular employment relationship and the job functions performed by the individual in determining whether an individual acts

in either a supervisory or agency capacity.

(d) With respect to conduct between fellow employees, an employer is responsible for acts of sexual harassment in the workplace where the employer (or its agents or supervisory employees) knows or should have known of the conduct, unless it can show that it took immediate and appropriate corrective action.

(e) An employer may also be responsible for the acts of nonemployees, with respect to sexual harassment of employees in the workplace, where the employer (or its agents or supervisory employees) knows or should have known of the conduct and fails to take immediate and appropriate corrective action. In reviewing these cases the Commission will consider the extent of the employer's control and any other legal responsibility which the employer may have with respect to the conduct of such non-employees.

(f) Prevention is the best tool for the elimination of sexual harassment. An employer should take all steps necessary to prevent sexual harassment from occurring, such as affirmatively raising the subject, expressing strong disapproval, developing appropriate sanctions, informing employees of their right to raise and how to raise the issue of harassment under Title VII, and developing methods to sensitize all concerned.

(g) Other related practices: Where employment opportunities or benefits are granted because of an individual's submission to the employer's requests for sexual favors, the employer may be held liable for unlawful sex discrimination against other persons who were qualified for but denied that employment opportunity or benefit. [Sec. 1604.11 reads as last amended by 45 FR 74676, effective November 10, 1980]

SAN LORENZO VALLEY WATER DISTRICT SEXUAL HARASSMENT POLICY

1. **PURPOSE.** It is legally mandated by state and federal laws that all employees have a right to work in an environment that is free from all forms of discrimination, including sexual harassment. Sexual harassment is a form of discrimination that is prohibited by Title VII of the Civil Rights Act of 1964 and California Government Code Section 12940 et. seq. Sexual harassment is a costly form of discrimination that can result in expensive litigation that may result in back pay or punitive damage awards, withdrawal of federal support funds and/or other adverse actions. District employees have a grave responsibility for maintaining high standards of honesty, integrity, impartiality and conduct to assure proper performance of the District's business and the maintenance of confidence of the people it serves. It is the policy of the San Lorenzo Valley Water District that sexual harassment is unacceptable and will not be condoned or tolerated. San Lorenzo Valley Water District is committed to a workplace free of unlawful discrimination and harassment.
2. **DEFINITION.** Sexual harassment is generally defined as harassment based on sex or of a sexual nature; gender harassment; and harassment based on pregnancy, childbirth, or related medical conditions. The definition of sexual harassment includes many forms of offensive behavior, including harassment of a person of the same gender as the harasser. Sexual harassment may be written, verbal, physical and/or visual.
3. **EXAMPLES.** Sexual harassment manifests itself in many forms. The following provides a partial list of offensive conduct which would constitute sexual harassment:
 - Written communications of a sexual nature, obscene letters, notes and/or invitations (this includes electronic formats).
 - Verbal conduct such as making or using derogatory comments, slurs, jokes or epithets.
 - Visual conduct such as leering, making sexual gestures, and/or displaying sexually suggestive objects, pictures, cartoons, calendars or posters.
 - Physical conduct such as touching, assaulting, impeding and/or blocking movements.

- Sexual comments including graphic, verbal and/or visual commentary about an individual's body.
- Sexually degrading words used to describe an individual.
- Offering employment benefits in exchange for sexual favors (this may include situations where an individual is treated less favorably because others have acquiesced to sexual advances).
- Unwanted sexual advances or propositions (this may include situations which began as reciprocal attractions, but later ceased to be reciprocal).
- Implied, actual and/or threatened retaliation after negative response(s) to sexual advances.
- Implied, actual and/or threatened offering and/or withholding employment benefits in exchange for sexual favors, or if requests for sexual favors are not met.

4. **POLICY PUBLICIZING.** All District officers and employees shall be informed of the District's Sexual Harassment Policy and reporting process prior to their need to know. Also, said policy and reporting process shall be readily available to all officers, employees and members of the general public utilizing the District's facilities and services.

All new District officers and employees shall be given a copy of this Sexual Harassment Policy at the time of appointment or hiring. The contents of this policy shall be discussed with said officers and employees at said times by the responsible managing employee. All employees, at the time of hire, shall be required to sign an acknowledgment of this Sexual Harassment Policy stating that he or she has read the policy and knows its contents, including reporting procedures.

Whenever the Board of Directors adopts revisions to this Sexual Harassment Policy, the District Manager shall promptly distribute a copy of the revised policy to all officers and employees of the District.

At least annually, on or about June 15th of each calendar year, the District Manager shall distribute a copy of this Sexual Harassment Policy to all officers and employees of the District.

5. **SUPERVISORY EMPLOYEE EDUCATION AND TRAINING.** In accordance with California Government Code Section 12950.1, all supervisory employees of the District, at a minimum shall be provided no less than two (2) hours of sexual harassment education and training at least once every two (2) years. Solely for the purpose of this policy, supervisory employees shall be defined as individuals having the authority to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline other employees, or effectively to recommend said actions. The District Manager shall designate supervisory employees for the purpose of this policy.
6. **REPORTING PROCEDURES.** Any officer or employee of the District or member of the public, who feels or believes that they have been or are being harassed by an officer or employee of the District is strongly encouraged to report such incident either verbally or in writing to the District Manager as promptly as feasible after the occurrence. Individuals who report an incident of alleged harassment can do so without fear of reprisal, regardless of the outcome of the report.
- a) Any supervisory employee who receives, witnesses or becomes aware of an incident of alleged harassment shall immediately report the matter to the District Manager.
 - b) Upon receipt of a report of alleged harassment by an officer of the District, the District Manager shall assign the investigation of the alleged misconduct to an outside party.
 - c) Upon receipt of a report of alleged harassment by an employee of the District, the District Manager shall promptly conduct a thorough and impartial investigation of the incident. All reports shall be kept confidential to the extent possible. Witnesses to sexual harassment and victims of sexual harassment shall not be retaliated against in any way for making a report or cooperating in an investigation. Any incident of implied, actual and/or threatened retaliation should be reported as set out in this policy. The District Manager may assign the investigation of a report of alleged harassment to an outside party.
 - d) In the event the report of alleged harassment involves the District Manager, the incident shall be reported to the President of the Board of Directors. Thereafter, the President of the Board of Directors shall be responsible for processing the investigation and appropriate necessary actions.
 - e) Any person who initiates a report of an alleged incident of harassment shall have the right to be accompanied by advocates(s) when

discussing the incident. Said person shall be advised of this right prior to the commencement of discussions.

- f) A written record of any investigation of an alleged incident of harassment shall be maintained.

7. **ENFORCEMENT PROCEDURES.** The District's Sexual Harassment Policy shall be enforced by the District Manager unless otherwise stated in this policy. Upon conclusion of the investigation of an alleged incident of harassment, if it has been determined that harassment has occurred in violation of this policy, the District may impose appropriate disciplinary action up to and including discharge.

- a) Officers and employees of the District who report harassment, and/or individuals cooperating in an investigation of a report of harassment shall be protected thereafter from any form of reprisal and/or retaliation regardless of the outcome of the report.
- b) Officers and employees of the District who knowingly make false reports will be subject to appropriate disciplinary actions.

-END OF POLICY-