



# Policy 6.06

EFFECTIVE 27 APR 21

SUPERSEDES 26 FEB 19

## EQUAL EMPLOYMENT OPPORTUNITY (EEO)

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### IT IS THE POLICY OF THE EAST BAY MUNICIPAL UTILITY DISTRICT TO:

Ensure equal employment opportunity for all persons in all aspects of employment.

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**Purpose** To provide equal employment opportunity (EEO) for all persons on the basis of job-related merit and ensure fairness in the District's employment practices. Procedure 227 implements this policy and sets forth the complaint process and complaint mechanisms, in compliance with state and federal law.

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**Scope** This policy prohibits unlawful discrimination, harassment, and retaliation by any supervisor, manager, coworker, and/or any other third party that comes into contact with an employee. This policy prohibits EEO discrimination against any job applicant, employee or student/trainee by an employee of the District on the basis of a protected group status. Board members will not discriminate against or harass any person, as provided in the Ethics of the EBMUD Board of Directors (Policy 6.04), and consistent with this policy.

Consistent with, and in furtherance of, this policy and applicable federal and state laws, the District develops and implements Affirmative Action Programs. The District uses inclusive and creative recruitment, outreach and placement methods that further the District's efforts to achieve a diverse workforce composition reflective of the labor market in regards to gender and race/ethnicity. The District uses good faith outreach efforts that are neutral and do not favor, discriminate against, or disparately impact any group. The District also takes affirmative action to employ and advance in employment qualified protected veterans and individuals with disabilities.

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### Definitions

#### Applicant

An individual who has completed an employment application for a specific, available position at the District.

#### Complaint

An oral or written allegation of discrimination, harassment, and/or retaliation.

#### EEO Discrimination

EEO discrimination involves making employment decisions on the basis of an individual's protected group status, including but not limited to, decisions regarding the following aspects of the employment relationship:

- Recruitment
- Hiring
- Placement
- Promotion
- Transfer
- Training
- Working terms and conditions
- Wage and salary administration
- Employee benefits and application of policies

Discrimination includes harassment on the basis of a protected group and failure to accommodate a religious practice or provide a reasonable accommodation for a qualified individual with a disability.

In addition, discrimination includes retaliation. Retaliation against employees alleging discrimination and/or harassment, or involved as witnesses in a discrimination or harassment investigation is prohibited, regardless of whether or not the original complaint is substantiated. Employees who oppose and/or refuse to participate in prohibited discrimination or harassment are also protected against retaliation.

### **Employee**

An individual selected and/or appointed to a position created and authorized by the Board of Directors and receiving compensation and benefits from the District, including individuals in Board authorized job classifications with the term intern in the title.

### **Student/Trainee**

Any District authorized student or trainee who is not compensated by the District but is either paid by a third party or retained by a third party to work at the District in order to gain job experience or academic credit.

### **Protected Groups**

This policy prohibits discrimination or harassment on the basis of race (i.e. racial characteristics including hair style/texture),, color, religion, creed, sex, gender, gender identity (including transgender status), gender expression, marital or registered domestic partnership status, age for individuals forty or older, national origin, ancestry, disability (mental and physical), medical condition (cancer and genetic characteristics), genetic information, sexual orientation, military and veterans status, family or medical leave status, pregnancy (including childbirth, lactation or related medical condition), pregnancy disability leave status, domestic violence victim status, political affiliation, or any other status protected by federal, state and/or local laws.

### **Retaliation**

As used in this policy, retaliation is defined as any adverse employment action taken against an employee because the employee engaged in an activity protected under this policy. Protected activities may include, but are not limited to, reporting or assisting in reporting suspected violations of this policy and/or cooperating in investigations or proceedings arising out of a violation of this policy.

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 a 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.

Examples of retaliation under this policy include, but are not limited to: demotion; suspension; reduction in pay; denial of a merit salary increase; failure to hire or consider for hire; refusing to promote or consider for promotion because of reporting a violation of this policy; harassing another employee for filing a complaint; denying employment opportunities because of making a complaint or for cooperating in an investigation; changing someone's work assignments for identifying harassment or other forms of discrimination in the workplace; treating people differently such as denying an accommodation; or not talking to an employee when otherwise required by job duties, or otherwise excluding the employee from job-related activities because of engagement in activities protected under this policy.

### **Workplace**

The workplace exists where there is a nexus between the behavior and the EEO rights of employees or others (customers, vendors, member of the public, etc.). The workplace may include District facilities and worksites, or off-site locations, outside of the District's facilities, such as off-site meetings and trainings and social functions involving District employees or related to District activities.

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## **Responsibilities**

### **All District Employees**

All District employees are expected to report to their supervisor and/or manager, or any supervisor or manager at the District, and/or to the Diversity and Inclusion Office (DIO) any EEO discrimination or workplace harassment which they become aware of.

### **Supervisors/Managers**

Supervisors and/or managers are held to a higher reporting standard. They must report to their supervisor and/or manager **and** the DIO any apparent or suspected EEO discrimination, workplace harassment or retaliation. The report should be made within two (2) business days of the supervisor and/or manager becoming aware of the conduct prohibited by this policy.

Supervisors at all levels act on behalf of the District. A supervisor's duties include monitoring his or her work unit for discriminatory or harassing behavior and taking appropriate steps to stop and correct behavior that violates the District's EEO policy. At the same time, supervisors must enforce this policy as well as adhere to it. Each supervisor is expected to familiarize himself or herself with the District's policies prohibiting EEO discrimination and harassment, to incorporate them into his or her own workplace conduct, and to inform employees in the work unit to do the same.

Once conduct prohibited by this policy has been reported in a work unit, periodic and regular follow-up by the supervisor or the DIO shall be taken to monitor the workplace for discriminatory or harassing behavior, and to prevent retaliation from occurring. Employees are also responsible for notifying the DIO or supervisors if retaliation occurs.

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## **Remedies**

Violations of this policy, regardless of whether an actual law has been violated, will not be tolerated. The District will promptly, thoroughly and fairly investigate every issue that is brought to its attention in this area and will take corrective actions, as appropriate, up to and including termination of employment. The investigation will provide all parties appropriate due process and reach reasonable conclusions based on the evidence collected.

**Authority**

Resolution 32952-95, December 12, 1995  
As amended by Motion 173-01, October 9, 2001  
As amended by Resolution 33438-04, September 14, 2004  
Reaffirmed by Motion 195-07, November 13, 2007  
As amended by Motion 016-09, February 10, 2009  
Reaffirmed by Motion 006-11, January 11, 2011  
As amended by Resolution 33864-12, January 24, 2012  
Reaffirmed by Motion 026-14, February 11, 2014  
As amended by Resolution 35029-17, March 28, 2017  
As amended by Resolution 35132-19, February 26, 2019  
As amended by Resolution 35221-21, April 27, 2021

Title VII, Civil Rights Act of 1964 as amended (42 U.S.C. §2000e et seq.), including The Pregnancy Discrimination Act; The Equal Pay Act of 1963 (29 U.S.C. §206(d) et seq.); The Age Discrimination in Employment Act of 1967 (29 U.S.C. §621 et seq.); Title I of the Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); The Genetic Information Nondiscrimination Act of 2008; Immigration Reform and Control Act (8 U.S.C. 1101 et seq.); Executive Order 11246; Family and Medical Leave Act ([29 U.S.C. §2601, et seq.](#)); Rehabilitation Act of 1973, Section 503; Uniformed Services Employment and Reemployment Rights Act ([38 U.S.C. §§ 4301–4335](#)); Vietnam Era Veterans' Readjustment Assistance Act ([38 U.S.C. § 4212](#)); California Fair Employment and Housing Act (Gov. Code §12900 et seq.), including the California Family Rights Act ([Gov. Code §12945.2](#)).

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**References**

Policy 2.02	Accommodation for Individuals with Disabilities in the Workplace
Policy 2.05	Employee Discipline
Policy 2.26	Prevention of Workplace Harassment
Policy 6.04	Ethics of the EBMUD Board of Directors
Procedure 201	Accommodation for Individuals with Disabilities in the Workplace
Procedure 223	Discipline
Procedure 227	Equal Employment Opportunity (EEO) Discrimination, Harassment and Retaliation Complaints, Investigations and Appeals

District Affirmative Action Programs