



WALNUT VALLEY WATER DISTRICT
271 South Brea Canyon Road
Walnut, California 91789

PERSONNEL COMMITTEE MEETING
Monday, June 11, 2018, at 4:00 p.m.
Conference Room

❖ **Chair** Director Hilden ❖ **Member** Director Kwong ❖ **Alternate** Director Ebenkamp

1. Public Comment
2. Personnel Policy Amendments
 - A. Discussion
 - B. Committee Recommendation
3. Adjournment

NOTE: To comply with the Americans with Disabilities Act, if you need special assistance to participate in any committee meeting, please contact the General Manager's office at least 48 hours prior to the meeting to inform the District of your needs and to determine if accommodation is feasible.

WVWD – Staff Report



TO: Personnel Committee
FROM: Director of Administrative Services
DATE: June 11, 2018
SUBJECT: Personnel Policy Amendments

Action/Discussion

Fiscal Impact

Resolution

Information Only

Recommendation

That the Personnel Committee review and consider recommending that the Board of Directors adopt the proposed personnel policy amendments as drafted by District staff and reviewed by labor counsel.

Background

In an effort to ensure that the District's personnel policies remain in compliance with state and federal labor laws, staff frequently reviews its policies and updates those which require amendments pursuant to any legislative changes that may have been adopted. Additionally, every three years, similar to the time span for a review and update of the Terms and Conditions of Employment, staff also forwards a copy of all of the personnel policies to labor counsel for a more detailed review. In keeping with this practice, staff recently submitted copies of the personnel policies to District Labor Counsel for the three-year detailed review.

The following is a list and summary of the policy amendments proposed by District staff and reviewed by Labor Counsel:

1. Attendance and Punctuality

Labor Counsel included additional language to this policy to memorialize the importance of regular work attendance and the subsequent ramifications of absences in the work place. The proposed language additions also more clearly outlines the requirements for reporting late arrivals and unforeseen absences.

2. Cellular Telephone and Other Similar Personal Electronic Device Policy

Minor language deletions recommended by staff and Labor Counsel.

3. Policy and Complaint Procedure Against Harassment, Discrimination and Retaliation

Labor Counsel expanded the classification of the various types of harassment to comply with the definitions and classifications adopted by the legislature.

If the proposed policies are adopted by the Board of Directors, they will be distributed to, and reviewed with, all of the employees.

Attached

- *Attendance and Punctuality Policy*
- *Cellular Telephone Policy*
- *Discrimination and Retaliation Policy*

WALNUT VALLEY WATER DISTRICT ATTENDANCE AND PUNCTUALITY POLICY

1. Statement of District Policy

It is incumbent upon all District employees to help ensure that the District continues to meet its ongoing mission of providing quality service to its consumers. An essential element needed to meet the commitment of providing quality service is the dedication among all District employees to perform their daily job duties. In light of the importance of the work performed by each employee in each department, the District has set forth the following attendance and punctuality policy.

2. Policy

In order to serve the needs of the public, the District needs and expects all employees to come to work when able and in a timely manner. **Employees are expected to report to work as scheduled, on time, and maintain regular and consistent attendance. Any tardiness or absences cause problems for your fellow employees and your supervisor. When you are absent, your assigned work must be performed by others.**

If you are unable to report for work on any particular day, you must provide reasonable advance notice to your supervisor before the time you are scheduled to begin working for that day. You must inform your supervisor of the expected duration of any absence. If circumstances arise which will result in your arriving late to work or be absent from work, you shall inform your supervisor as soon as it is safely and practicably possible for you to do so.

Excessive absenteeism or tardiness, providing false information or abuse of leave laws will not be tolerated. Generally, if you fail to report for work without any notification to your supervisor and your absence continues for a period of 3 days, the District will consider that you have voluntarily abandoned or quit your employment.

Absences protected by local, state and federal law do not count as a violation of the punctuality and attendance policy.

Sick leave is leave from duty which may be granted by the District to an employee because of illness, injury, exposure to contagious disease, illness or injury of a member of the employee's immediate family requiring the employee's attendance, and medical, dental and optical appointments to the extent that such appointments cannot be scheduled outside the work day. Employees must utilize sick leave only for the legitimate reasons. Any employee who is found to have misused sick leave, such as by malingering or using sick leave when in fact he or she is not too ill to work, shall be subject to disciplinary action up to and potentially including termination of employment. The District's Human Resources designated staff should be consulted with any questions concerning this policy.

WALNUT VALLEY WATER DISTRICT
CELLULAR TELEPHONE
AND OTHER SIMILAR PERSONAL ELECTRONIC DEVICE
POLICY

1. STATEMENT OF DISTRICT POLICY:

This policy and procedure applies to the use of personal and District cell phone devices by employees within the course and scope of employment. Violation of this policy may result in disciplinary action.

2. POLICY:

2.1 General Policy on the Use of District Cell Phones

All District cell phones are provided as a tool to conduct District related business. District cell phones are issued on an as-needed basis with the approval of the Department Head. All District employees shall use such devices in a responsible, appropriate, and safe manner. All employees assigned communications equipment shall assume the responsibility to use the equipment in accordance with the provisions of this policy.

2.1.1 Employees are prohibited from installing any third party equipment to District cell phones unless approved by the employee's supervisor in writing.

2.1.2 Employees have no expectation of privacy as to data residing in telecommunications devices and /or voice mail. The District may inspect that data at any time and without notice.

2.1.3 Employees shall protect District telecommunications devices from loss or damage.

2.1.4 An employee assigned a District phone is responsible for its good care and will be required to reimburse the District's cost for any damage or lost cell phones due to negligence. If a cellular telephone is damaged, fails to work properly, or is stolen or lost, the employee shall immediately notify the Department Head.

2.1.5 District cell phones should only be used by District employees in the performance of their official duties. Personal use of District cell phones is strictly prohibited and will result in disciplinary action and reimbursement of charges for personal use.

~~2.1.6 Employees shall use their best efforts to make the most economical and cost efficient use of the cell phone. Cell phones are unique in that they may have charges for both in-coming and outgoing calls. In addition, local calls can still incur airtime charges if the plan minutes are exceeded. A call may be made from a cell phone only if it cannot be made at any other time with a provided wired landline telephone. Because cell phones have additional "air time" and possible other charges, employees are expected to use a wired landline telephone when available.~~

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2.1.7 Employees are prohibited from using the camera function on District cell phones, except as authorized by a supervisor for work-related purposes.

2.2 Use of Personal and/or District Cell Phones and other Electronic Devices While Operating a Vehicle in the Course and Scope of Employment

2.2.1 ~~The pervasive use of cellular telephones and other personal electronic devices while operating vehicles is cause for grave concern to the District because of the potential hazards encountered while driving on public streets.~~ Automobile crash data collected by the National Highway Traffic Safety Administration suggests that inattention and distraction created by using a cellular telephone and other personal electronic devices while driving greatly increases the risk of an accident. Conversation, not just dialing, for example, appears to be most associated with accidents linked to cellular phone use.

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2.2.2 Because of the increased safety concerns and liability risks associated with the use of cellular telephones, including hands-free cellular devices, the District has determined that ~~no District employee shall operate a District vehicle while using a cellular telephone.~~ District employees are prohibited from using a cellular telephone while driving a District vehicle during the course of business or on District time. This policy is effective immediately and applies both to cellular telephones provided by the District and employee-owned cellular telephones and other similar personal electronic devices. All employees shall be provided with copies of this policy and are directed to familiarize themselves with it. Any violation of this policy will subject an employee to disciplinary action up to and including termination from employment.

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2.2.3 Cellular telephones may be used by passengers in District vehicles. Calls may be made or answered by the passengers only. If the driver of the vehicle must participate in the conversation or utilize the phone in any way, the driver must pull over to a safe off-road area to respond to the call or message.

2.2.4 Additionally, the use of other similar personal electronic devices, which shall include, but not be limited to, a ~~PDA~~, laptop, IPOD or other handheld electronic equipment, shall be prohibited while driving a District vehicle. District employees may not send or receive text messages, emails or other forms of written communications on cell phone, ~~PDA~~ or electronic devices while operating a vehicle at any time.

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2.2.5 The use of District radios while driving is unaffected by this policy and continues to be a permitted practice.

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**WALNUT VALLEY WATER DISTRICT
POLICY AND COMPLAINT PROCEDURE AGAINST HARASSMENT,
DISCRIMINATION, & RETALIATION**

1. PURPOSE:

It is the District's intent and the purpose of this Policy to provide a work environment that is free from any form of harassment, discrimination or retaliation as defined in this Policy. This Policy is intended to establish the District's strong commitment to prohibit and prevent discrimination, harassment, and retaliation in employment; to define those terms; and to set forth a procedure for investigating and resolving internal complaints. The employer requires all employees, unpaid interns, and applicants to report – as soon as possible – any conduct that is believed to violate this Policy.

2. POLICY:

The District has zero tolerance for any conduct that violates this Policy. Conduct need not arise to the level of a violation of law in order to violate this Policy. Instead a single act can violate this Policy and provide grounds for discipline. If you are in doubt as to whether or not any particular conduct may violate this Policy, do not engage in the conduct, and seek guidance from a supervisor or representative of Human Resources.

Harassment or discrimination on the basis of sex (including pregnancy, childbirth, breastfeeding, or related medical conditions), race, religion (including religious dress and grooming practices), color, **sex/gender (including pregnancy, childbirth, breastfeeding or related medical conditions), sex stereotype, gender identity/gender expression/transgender (including whether or not you are transitioning or have transitioned), sexual orientation**, national origin (including language or use, restrictions, and possession of a driver's license issued under Vehicle Code §12801.9), ancestry, physical or mental disability, medical condition, genetic information, marital status, registered domestic partner status, age, sexual orientation, military and veteran status, or any other basis protected by federal, state, or local law, ordinance, or regulation will not be tolerated.

Disciplinary action or other appropriate sanctions up to, and including, termination will be instituted for prohibited behavior as defined below.

3. DEFINITIONS:

3.1 Protected Classification: This Policy prohibits harassment, discrimination, retaliation, and disrespectful or other unprofessional conduct based on sex (including pregnancy, childbirth, breastfeeding, or related medical conditions), race, religion (including religious dress and grooming practices), color, gender (including gender identity and gender expression), national origin (including language or use, restrictions, and possession of a driver's license issued under Vehicle Code §12801.9), ancestry, physical or mental disability, medical condition, genetic information, marital status, registered domestic partner status, , age, sexual orientation, military and veteran status, or any other basis protected by federal, state, or local law, ordinance, or

regulation. It also prohibits discrimination, harassment, disrespectful or unprofessional conduct based on the perception that anyone has any of those characteristics, or is associated with a person who has, or is perceived as having, any of those characteristics.

3.2 Policy Coverage: The District's policy prohibiting harassment, discrimination, and retaliation applied to all persons involved in the operation of the District. The District prohibits harassment, discrimination, retaliation, disrespectful or unprofessional conduct by any supervisor, manager, co-worker, or non-employee third parties with whom District workers come into contact with vendors and customers.

3.3 Discrimination: The District is committed to compliance with all applicable laws providing equal employment opportunities. This commitment applies to all persons involved in District operations. The District prohibits unlawful discrimination against any job applicant, employee, or unpaid intern by any employee of the District, including supervisors and co-workers.

Pay discrimination between employees of the opposite sex performing substantially similar work, as defined by the California Fair Pay Act and federal law, is prohibited. Pay differentials may be valid in certain situations defined by law. Employees will not be retaliated against for inquiring about or discussing wages. However, the District is not obligated to disclose the wages of other employees except as provided by law.

Discrimination can also include failing to reasonably accommodate religious practices or qualified individuals with disabilities where the accommodation does not pose an undue hardship.

To comply with applicable laws ensuring equal employment opportunities to qualified individuals with a disability, the District will make reasonable accommodations for the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or an employee unless undue hardship would result. Any job applicant or employee who requires an accommodation in order to perform the essential functions of the job should contact Human Resources to discuss the need for an accommodation. The District will engage in an interactive process with the employee to identify possible accommodations, if any that will help the applicant or employee perform the job.

An applicant, employee, or unpaid intern who requires an accommodation of a religious belief or practice (including religious dress and grooming practices, such as religious clothing or hairstyles) should also contact Human Resources to discuss the need for an accommodation. If the accommodation is reasonable and will not impose an undue hardship, the District will make the accommodation.

The District will not retaliate against you for requesting a reasonable accommodation and will not knowingly tolerate or permit retaliation by management, employees, or co-workers.

3.4 Harassment: Prohibited harassment is not just sexual harassment but harassment based on any protected category.

Prohibited harassment, disrespectful or unprofessional conduct includes, but is not limited to, the following behavior:

- Verbal conduct such as epithets, derogatory jokes, or comments, slurs or unwanted sexual advances, invitations, comments, posts, or messages;
- Visual displays such as derogatory and/or sexually-oriented posters, photography, cartoons, drawings, or gestures;
- Physical conduct including assault, unwanted touching, intentionally blocking normal movement, or interfering with work because of sex, race, or any other protected basis;
- Threats and demands to submit to sexual requests or sexual advances as a condition of continued employment, or to avoid some other loss, and offers of employment benefits in return for sexual favors.
- Retaliation for reporting or threatening to report harassment; and
- Communication via electronic media of any type that includes any conduct that is prohibited by state and/or federal law or by District policy.

Sexual harassment does not need to be motivated by sexual desire to be unlawful or to violate this policy. For example, hostile acts toward an employee because of his/her gender can amount to sexual harassment, regardless of whether the treatment is motivated by sexual desire.

By definition, sexual harassment is not within the course and scope of an individual's employment with the District.

Romantic or sexual relationships between supervisors and subordinate employees are discouraged. There is an inherent imbalance of power and potential for exploitation in such relationships. The relationship may create an appearance of impropriety and lead to charges of favoritism by other employees. A welcome sexual relationship may change, with the result that sexual conduct that was once welcome becomes unwelcome and harassing.

3.5 Retaliation: The District prohibits any retaliation including, but not limited to, retaliation based on any protected classification, against individuals who raise complaints of discrimination or harassment, who participate in workplace investigations, and who request accommodations. Retaliation can include, but is not limited to: (1) singling a person out for harsher treatment; (2) lowering a performance evaluation without justification; (3) failing to hire, failing to promote; (4) withholding pay increases; (5) assigning more onerous work; (6) demotion or discharge; or (7) real or implied threats of intimidation to prevent an individual from reporting harassment or discrimination.

4. COMPLAINT PROCEDURE:

4.1 Requirement of Complaints: Any person who believes he or she has been harassed, discriminated against or retaliated against in violation of this Policy should report the

conduct immediately as outlined below so that the complaint can be resolved quickly and fairly. All employees involved in the complaint procedure may be represented by a person of their choosing and at their own expense.

- 4.2 Object to the Behavior: Any person who feels they are being harassed, discriminated against, or retaliated against in violation of the Policy can tell the person who is harassing them, discriminating against them, or retaliating against them to stop the offending behavior. The employee should also report the behavior orally or in writing as stated below. If the employee does not feel comfortable confronting the offender, the employee can make an oral or written complaint as stated below.
- 4.3 Oral Complaint: An individual who believes that this Policy has been violated is required to report the conduct to either (1) his or her immediate supervisor; (2) any supervisor or manager within or outside of the department; (3) department head; or (4) Human Resources. The complaint may be made in writing to any of these persons. The individual may also seek the advice, assistance or consultation of a supervisor, department head, or any District management employee. Any supervisor or department head who receives a complaint is required to notify Human Resources immediately.
- 4.4 Written Complaint: An individual who believes that this Policy has been violated is required to report the conduct to either (1) his or her immediate supervisor; (2) any supervisor or manager within or outside of the department; (3) department head; or (4) Human Resources. The complaint may be made in writing to any of these persons. The individual may also seek the advice, assistance, or consultation of a supervisor, department head, or any District management employee. Any supervisor or department head who receives a complaint is required to notify Human Resources immediately.
- 4.5 Contents of Complaint: When making a complaint, please provide all known details of the incident or incidents, the names of all individuals involved, and the names of any and all witnesses.
- 4.6 Investigation of Complaint: Upon receiving notification of a harassment, discrimination, or retaliation complaint, the Director of Administrative Services shall immediately:
 - 4.6.1 Authorize and supervise the investigation of, and/or investigate, the complaint.
 - 4.6.2 Review the factual information gathered through the investigation to determine whether the alleged conduct constitutes harassment, discrimination or retaliation giving consideration to all factual information, including, but not limited to, the totality of the circumstances, the nature of the conduct, and the context in which alleged incidents occurred.
 - 4.6.3 Report a summary of the determination as to whether a violation of this Policy occurred to appropriate persons, including the supervisor and the department head, and notify the complainant and accused of the general conclusion(s) of the investigation. If discipline is imposed, the level of discipline will not be communicated to the complainant.

- 4.6.4 If conduct in violation of this Policy occurred, take and/or recommend to the appointing authority prompt and effective remedial action. The action will be commensurate with the severity of the offense. Any employee determined to have violated this Policy will be subject to disciplinary action, up to and including, termination. Employees should also know that if they engage in unlawful harassment, they can be held personally liable for the misconduct. Disciplinary action may also be taken against any supervisor or manager who condones or ignores potential violations of this Policy, or who otherwise fails to take appropriate action to enforce this Policy. Any covered person found to have violated this Policy will be subject to appropriate sanctions.
 - 4.6.5 Take reasonable steps to protect the complainant from further harassment, discrimination or retaliation.
 - 4.6.6 Take reasonable steps to protect the complainant from retaliation as a result of communicating the complaint.
 - 4.6.7 Complete the investigation in a timely manner.
- 4.6 The District takes a proactive approach to potential Policy violations and will conduct an investigation if its officers, supervisors, or managers become aware that harassment, discrimination or retaliation may be occurring, regardless of whether the recipient or third party reports a potential violation.
- 4.7 Option to Report to Outside Administrative Agencies: An individual has the option to report harassment, discrimination or retaliation to the U.S. Equal Employment Opportunity Commission (EEOC) or the California Department of Fair Employment and Housing (DFEH). These administrative agencies offer legal remedies and a complaint process. The nearest offices are listed in the government section of the telephone book or employees can check the posters that are located on employer bulletin boards for office locations and telephone numbers.

5. CONFIDENTIALITY:

Every possible effort will be made to assure the confidentiality of complaints made under this Policy. Complete confidentiality cannot occur, however, due to the need to fully investigate and to take effective remedial action. As a result, confidentiality will be maintained to the extent possible. An individual who is interviewed during the course of an investigation is prohibited from discussing the substance of the interview or anything they may learn relating to the complaint, except as otherwise directed by a supervisor or the Director of Administrative Services. Any individual who discusses the content of an investigatory interview, or anything they learned about the complaint made, will be subject to disciplinary action up to, and including, termination. The employer will not disclose a completed investigation report except as it deems necessary to support a disciplinary action, to take remedial action, to defend itself in adversarial proceedings, or to comply with the law or court order.

6. RESPONSIBILITIES

Managers and Supervisors are responsible for:

1. Informing employees of this Policy.
2. Modeling appropriate behavior.
3. Taking all steps necessary to prevent harassment, discrimination or retaliation from occurring.
4. Receiving complaints in a fair and serious manner, documenting steps taken to resolve complaints.
5. Monitoring the work environment and taking immediate, appropriate action to stop potential violations, such as removing inappropriate pictures or correcting inappropriate language.
6. Following up with those who have complained to ensure that the behavior has stopped and that there are no reprisals.
7. Informing those who complain of harassment or discrimination of his or her option to contact the EEOC or DFEH regarding alleged Policy violations.
8. Assisting, advising, or consulting with employees and Human Resources regarding this Policy, and Complaint Procedure.
9. Assisting in the investigation of complaints involving employee(s) in their departments and, if the complaint is substantiated, recommending appropriate corrective or disciplinary action in accordance with employer Personnel Rules up to, and including, discharge.
10. Implementing appropriate disciplinary and remedial actions.
11. Reporting any and all potential violations of this Policy of which he or she becomes aware, regardless of whether a complaint has been made, to Human Resources or the department head.
12. Participating in periodic training and scheduling employees for training.

Each applicant, employee, and unpaid intern is responsible for:

1. Treating all others with respect and consideration.
2. Modeling appropriate behavior.
3. Participating in periodic training, if so required.
4. Fully cooperating with the employer's investigations by responding fully and truthfully to all questions posed during the investigation.
5. Maintaining the confidentiality of any investigation that the employer conducts by not disclosing the substance of any investigatory interview or anything learned about the complaint, except as directed by the department head or Human Resources.

6. Reporting any act he or she believes in good faith constitutes harassment, discrimination, or retaliation as defined in this Policy, to his or her immediate supervisor, or department head, or Human Resources.

7. DISSEMINATION OF POLICY:

All employees shall receive a copy of this Policy when they are hired. The Policy may be updated from time to time and redistributed.

CONFIRMATION OF RECEIPT OF POLICY AND COMPLAINT PROCEDURE AGAINST HARASSMENT, DISCRIMINATION, & RETALIATION

I have received my copy of Walnut Valley Water District's Policy and Complaint Procedure against Harassment, Discrimination, & Retaliation. I understand and agree that it is my responsibility to read and familiarize myself with this policy.

I understand that the District is committed to providing a work environment that is free from harassment, discrimination, and retaliation. My signature certifies that I understand that I must conform to and abide by the rules and requirements described in this policy.

Employee's Signature: _____

Employee's Printed Name: _____

Date: _____