

# KENSINGTON FIRE PROTECTION DISTRICT EMPLOYEE HANDBOOK

## **Policy Number and Title 170 Discrimination, Harassment, and Retaliation Prevention**

### **170.10 Establishment and Purpose.**

The Kensington Fire Protection District (“District”) is committed to providing and maintaining a respectful and inclusive work environment that is free from discrimination and harassment based on a protected category, and an environment free from retaliation for participating in any protected activity covered by this policy. In accordance with this commitment, it is the policy of the District to provide equal employment opportunities to all employees and applicants for employment.

Accordingly, the Kensington Fire Protection District hereby adopts this Discrimination, Harassment, and Retaliation Prevention Policy (“DHR Policy”) in order to reaffirm the District’s commitment to preventing and correcting unlawful discrimination, harassment, and retaliation in the workplace; to provide equal employment opportunities to all employees and applicants for employment; to define discrimination, harassment, and retaliation prohibited under this policy; and to set forth procedures and guidelines for investigating and resolving complaints of conduct prohibited by this policy.

The DHR Policy is intended to describe the District’s procedures regarding compliance with state and federal laws and regulations. Nothing in the DHR Policy is intended to be in conflict with such laws and regulations, or inconsistent with other personnel policies maintained by the District including, but not limited to, the Employee Handbook or the Code of Conduct. Should any conflict exist as to the District’s personnel policies, the DHR Policy shall supersede.

### **170.20 Basis of Authority.**

In accordance with Policy No. 1030 of the Policy Handbook, the Board of Directors (“Board”) is the unit of authority within the District.

Effective September 9, 2020, the Board of Directors hereby adopts the Discrimination, Harassment, and Retaliation Prevention Policy and the provisions contained herein.

### **170.30 Protected Categories and Protected Activities.**

It is the District’s policy to provide a workplace free of unlawful discriminatory or harassing conduct. As such, the District prohibits discrimination or harassment based on any of the following categories: race, color, religion, creed (including religious dress and grooming practices), national origin, ancestry, citizenship status, physical or mental disability, medical condition (including HIV/AIDS, cancer, or a record or history of cancer), genetic information or genetic characteristics, marital status, sex (including pregnancy, childbirth, breastfeeding, or related medical conditions), gender, gender identity, gender expression, sexual orientation, age (40 years and over), veteran and/or military status, political activities or affiliations, status as a victim of domestic violence, assault, or stalking, protected medical leaves (requesting or being approved for leave due to one’s own serious health condition or

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to care for one's family), and any other status protected by state or federal law (“**protected categories**” or “**protected characteristics**”).

**170.31** This policy applies to all aspects of employment, including, but not limited to hiring, job assignment, compensation, promotion, benefits, training, discipline, and termination. Reasonable accommodation may be available for qualified individuals with disabilities or religious beliefs or practices, as defined by law.<sup>1</sup>

**170.32** In addition, the District prohibits retaliation against a person who engages in activities protected under this policy, such as: reporting, or assisting in reporting, suspected violations of this policy and cooperating in investigations or proceedings arising out of a violation of this policy (“**protected activities**”).

### **170.40 Scope of Protection.**

The DHR Policy applies to all District employees<sup>2</sup> (co-workers, supervisors, and managers), applicants, interns, volunteers, contractors, and elected or appointed officials in the workplace. In addition, the DHR Policy extends to conduct with a connection to an employee's work, even when the conduct takes place away from District premises, such as a business trip or business-related social function.

All employees, as well as any individual who comes in contact with such employees, are expected to support the District's anti-discrimination, anti-harassment, anti-retaliation, and equal employment opportunity policies, and to take all steps necessary to maintain a workplace free from discrimination, harassment, and retaliation.

Discriminatory or harassing conduct by or towards any employee, applicant, or anyone who comes into contact with a District employee in the course of their employment will not be tolerated. Any employee who violates this policy will be subject to disciplinary action, up to and including termination of their employment. The District will take appropriate corrective action to remedy any policy violations made by an intern, volunteer, contractor, elected or appointed official, or any other person with whom the District has a business, service, or professional relationship.

### **170.50 Responsibilities and Rights.**

**170.51** All employees are expected to assume responsibility for maintaining a work environment that is free from discrimination, harassment, and retaliation. Employees are encouraged to promptly report conduct that they believe violates the DHR Policy so that the District has an opportunity to address and resolve any concerns.

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<sup>1</sup> The District recognizes and supports the obligation to reasonably accommodate employees with disabilities or religious beliefs or practices in order to allow those employees to perform the essential functions of their jobs. If an employee believes they need a reasonable accommodation based on disability or a religious belief or practice, the employee should discuss the matter with their supervisor or the General Manager.

<sup>2</sup> Hereinafter, as used in the DHR Policy, “employees” includes interns, volunteers, contractors, and elected or appointed officials in the workplace.

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**170.52** Managers and supervisors<sup>3</sup> are required to promptly report conduct that they believe violates the DHR Policy. All managerial and supervisory employees must report any complaints of misconduct to the General Manager or their designee. The District is committed to responding to alleged violations of this policy in a timely and fair manner and to taking appropriate action aimed at ending the prohibited conduct.

**170.53** All District employees have the following rights:

**170.531** The right to a discrimination, harassment, and retaliation-free work environment.

**170.532** The right to file a complaint of discrimination, harassment, or retaliation. Employees are encouraged to report inappropriate conduct immediately and, whenever possible, to put the complaint or concern in writing.

**170.533** The right to a full, impartial and prompt investigation by a District representative or designee into allegations of conduct that would violate this policy.

**170.534** The right to be timely informed of appropriate information related to the outcome of an investigation either as a complainant or a respondent in the investigation.

**170.535** The right to be represented by a person of the complainant's choosing at each and all steps of the complaint process.

**170.536** The right to be free from retaliation or reprisal after filing a complaint or participating in the complaint process.

**170.537** The right to file a complaint directly with the California Department of Fair Employment and Housing, the federal Equal Employment Opportunity Commission or other appropriate state or federal agencies, or to file a civil action in the appropriate court.

### **170.60 Prohibited Conduct.**

Discrimination or harassment based solely, or in part, on an individual's protected characteristic or association with a member of a protected category, as defined in Policy No. 170.30, is expressly prohibited. In addition, the District also prohibits retaliation against a person engaging in any protected activities, as defined in Policy No. 170.32. The definition of what constitutes discrimination, harassment, and retaliation for purposes of this DHR Policy is provided in further detail below.

Conduct need not rise to the level of a violation of law to violate this policy. A single act can violate the DHR Policy and provide grounds for discipline or other appropriate corrective actions. When the District determines that this policy has been violated, it will take

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<sup>3</sup> "Managers" or "supervisors" means any individual having the authority, in the interest of the employer, to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other employees, or the responsibility to direct them, or to adjust their grievances, or effectively to recommend that action.

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immediate and appropriate action to remedy and prevent such discrimination or harassment in the workplace, in the conduct of employment, or other personnel practices of the District, which may include discipline, up to and including termination. In addition, any employee found to have retaliated against another employee who engages in any protected activities as defined by this policy shall be subject to disciplinary action, up to and including termination.

### **170.70 Discrimination.**

As used in the DHR Policy, discrimination is defined as the unequal treatment of an employee or applicant in any aspect of employment, including discrimination based solely, or in part, on the employee or applicant's protected characteristic, as provided in Policy No. 170.30.

**170.71** Discrimination includes any adverse employment action or differential treatment of an employee or other person doing business with the District based on the individual's protected characteristic. In addition, prohibited discriminatory conduct under this policy also includes unequal treatment based upon the employee or applicant's association with a member of these protected categories or classes.

**170.72** Discrimination may include, but is not necessarily limited to: hostile or demeaning behavior towards applicants or employees because of a protected characteristic; allowing the applicant's or employee's protected characteristic to be a factor in hiring, promotion, compensation or other employment-related decisions unless otherwise permitted by applicable law, and providing unwarranted assistance or withholding work-related assistance, cooperation, and/or information to applicants or employees because of their protected characteristic.

### **170.80 Harassment.**

Harassment under this policy is defined as disrespectful or unprofessional conduct, including disrespectful or unprofessional conduct based on any of the protected categories provided in Policy No. 170.30.

Harassment can be verbal (such as slurs, jokes, insults, epithets, gestures, or teasing), visual (such as the posting or distribution of offensive posters, symbols, cartoons, drawings, computer displays, or emails), or physical conduct (such as physically threatening another person, blocking someone's way, making physical contact in an unwelcome manner, etc.).

### **170.81 Sexual Harassment**

As used in this policy, sexual harassment is defined as harassment based on sex or conduct of a sexual nature, and includes harassment based on sex (including pregnancy, childbirth, breastfeeding, or related medical conditions), gender, and gender identity or gender expression. It may include all of the actions described above as harassment, as well as other unwelcome sex-based conduct, such as unwelcome or unsolicited sexual advances, requests for sexual favors, conversations regarding sexual activities, or other verbal or

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physical conduct of a sexual nature. Sexually harassing conduct need not be motivated by sexual desire and may include situations that began as reciprocal relationships, but that later cease to be reciprocal.

Some examples of sexual harassment are:

**170.811** Verbal conduct such as epithets, derogatory jokes or comments, slurs or unwanted sexual advances, invitations or comments;

**170.812** Visual conduct such as derogatory and/or sexually oriented posters, photography, cartoons, drawings, e-mail, faxes, or gestures;

**170.813** Physical conduct such as assault, unwanted touching, blocking normal movement or interfering with work directed at an employee because of the employee's sex or other protected characteristic;

**170.814** Use of social media to conduct sexual advances and or harassment;

**170.815** Threats and demands to submit to sexual requests in order keep one's job or avoid some other loss, and offers of employment benefits in return for sexual favors;

**170.816** Retaliation for having reported or threatened to report unlawful harassment.

**170.82** Sexual harassment is generally categorized into two types:

**170.821** Quid Pro Quo ("this for that")

1. Submission to sexual conduct is made explicitly or implicitly a term or condition of an individual's employment.
2. Submission to or rejection of the conduct by an employee is used as the basis for employment decisions affecting the employee.

**170.822** Hostile Work Environment

This type of sexual harassment is defined as 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. Examples include:

- Unwelcome sexual advances, flirtation, teasing, sexually suggestive or obscene letters, invitations, notes, emails, voicemails or gifts.
- Sex, gender or sexual orientation-related comments, slurs,

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jokes, remarks or epithets.

- Leering, obscene or vulgar gestures or making sexual gestures.
- Displaying or distributing sexually suggestive or derogatory objects, pictures, cartoons, or posters or any such items.
- Impeding or blocking movement, unwelcome touching or assaulting others.
- Any sexual advances that are unwelcome as well as reprisals or threats after a negative response to sexual advances.
- Conduct or comments consistently targeted at one gender, even if the content is not sexual.

### **170.90 Retaliation.**

**170.91** The District values its employees and has an affirmative duty to take reasonable steps to prevent and promptly correct discriminatory and harassing conduct. Accordingly, the District will not retaliate against any employee who files a good faith complaint because of their belief that someone or they themselves were subjected to workplace discrimination or harassment in violation of the DHR Policy.

**170.92** As used in this policy, retaliation is defined as any adverse employment action taken against an employee because the employee engaged in 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.

**170.93** An "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.

**170.94** 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.