



## Lake Shastina Community Services District

### RESOLUTION 1-90

#### A RESOLUTION ESTABLISHING A SEXUAL HARASSMENT POLICY

WHEREAS, the law now requires employers to take all reasonable steps to prevent discrimination and harassment from occurring (Gov. Code 12940), and

WHEREAS, the Fair Employment and Housing Commission has set forth specific requirements that are "intended to establish the parameters for an appropriate response by an employer" where sexual harassment is alleged. These requirements include:

1. Establishing a written sexual harassment policy which clearly states that sexual harassment will not be tolerated;
2. Establishing a complaint process for the prompt, objective, and thorough handling of sexual harassment complaints;
3. Ensuring that all employees are informed of the District's discrimination complaint process and sexual harassment policy prior to the need to know, and again when a complaint is brought forth;
4. Taking appropriate action to remedy the victim's loss, if any, resulting from the harassment;
5. Taking appropriate action against the harasser where sexual harassment is found - whatever punishment is meted out to the harasser must be made known (within the guidelines of the Information Practices Act) at least to the victim to give them a sense of redress;
6. Taking action to remedy the situation in a manner which protects potential future victims; and
7. Protecting the employee(s) complaining of harassment from any form of reprisal/retaliation, and

WHEREAS, to satisfy the intent of the law, the District's sexual harassment policy and complaint procedure must be readily available to all employees and members of the general public utilizing District facilities and/or services. NOTE: the mere existence of these documents in administrative manuals does not satisfy this intent, and

WHEREAS, the complaint procedure must allow more than one avenue for complainants to raise concerns; e.g., employees cannot be required to direct complaints only to the immediate supervisor since they may be the alleged harasser;

NOW, THEREFORE, IT IS RESOLVED THAT:

1. Exhibit "A", by reference incorporated herein, shall be considered the District's Sexual Harassment Policy, and

2. Copy of said Policy shall be provided to each District officer, agent, employee and volunteer, and

3. Fire/Police Commissioner shall be responsible for implementation of the District's Policy for the Fire and Police Departments, and

4. General Manager shall be responsible for implementation of the District's Policy for all other District employees and shall be available to the Fire/Police Commissioner for conducting investigations of complaints of sexual harassment in a timely, thorough and confidential manner.

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I hereby certify that the forgoing is a full, true and correct copy of a resolution duly passed and adopted by the Board of Directors of the Lake Shastina Community Services District, Siskiyou County, California, at a meeting thereof duly held on the 9th day of January, 1990, by the following vote:

AYES: and in favor thereof, Directors Wallace, Spahr and Johns

NOES: None

ABSENT: Directors Trager and Applegate

  
DONALD WALLACE, Vice President

ATTEST:

  
MARY M. KROLAK, District Secretary

EXHIBIT "A"  
TO  
CSD RESOLUTION 1-90

POLICY ON SEXUAL HARASSMENT

It is the policy of the Lake Shastina Community Services District that sexual harassment is unacceptable conduct in the workplace and shall not be condoned. Supervisors, Department Heads, Manager, Commissioner, and Directors are responsible for maintaining a favorable working atmosphere free from sexual harassment for all employees. All conversations, discussions, or meetings by District employees, volunteers, officers and agents thereof in the conduct of District business are to be free of sexually suggestive comments or gestures.

Sexual harassment is generally defined as unsolicited and unwelcomed sexual advances of a severe and/or pervasive nature, be they written, verbal, physical and/or visual, that usually occur when:

1. Submission to that conduct or communication is made either explicitly or implicitly a term or condition of employment;
2. Submission to or rejection of that conduct or communication by an employee is used as a basis for employment decisions affecting the employee; or
3. Such conduct or communications has the potential to affect an employee's work performance negatively and/or create an intimidating, hostile or otherwise offensive work environment; e.g.,
  - a. unwelcome physical contact
  - b. sexually explicit language or gestures
  - c. use of vulgar language, the presence of sexually explicit photographs or other materials, and the telling of sexual stories or jokes.

Sexual harassment can come from superiors, fellow employees, or customers. Men as well as women can be victims of sexual harassment. The District cannot stress enough that it will not tolerate any form of sexual harassment.

The supervisors and department heads are generally responsible for dealing with harassment incidents that may come to their attention. This includes dealing with complaints employees bring to his or her attention and identifying harassing situations on his or her own. Similarly, the general manager and commissioner are responsible for their specific areas of responsibility, and the directors of the District are responsible for the District as a whole.

Complaints against employees or customers are to be brought in the first instance to the appropriate supervisor, department head and/or general manager/commissioner. It is to be noted that any level can be bypassed if the complainant has knowledge that the appropriate level in the first instance has prior knowledge and has not taken appropriate action to address the incident.

All investigations shall be initiated at the department head level unless the department head is the individual involved, then the next level shall conduct the investigation.

Note: This specific policy requires supervisors to bring complaint to the attention of his/her department head immediately and prior to initiation of any investigation.

If the allegation is sustained, the responsible individual will be disciplined. If harassment continues, the responsible individual will be terminated immediately.

Responsible customers who do not change their behavior after a polite request from the general manager or commissioner will be denied entrance.

If the complaint is against the commissioner, director, general manager or any agent of the District, it is to be brought to the president of the Board of Directors.

If the complaint is against the president of the Board of Directors, it is to be brought to any other director of the District.

If, at any point in the process, the complainant is unsatisfied with the investigation being conducted, the complainant is to bring the matter to the attention of the president of the District.

Once a sexual harassment complaint has been filed (formally or informally), the District is legally obligated to ensure that the work environment is free of discrimination. To this end and in responding to all complaints the District shall

1. be fair in investigation of the facts.
2. discover what remedy the victim seeks.
3. take appropriate action as soon as findings are in.

This policy shall be provided to all employees, officers, agents and volunteers and pertains to any other form of harassment (i.e., harassment on the basis of race, age, religion, or national origin).

## REMEDYING HARASSMENT: TOO LITTLE TOO LATE?

The only way an organization can escape liability for sexual harassment is to take prompt and *adequate* remedial action in response to complaints of harassment. The same goes for any other form of harassment (i.e., harassment on the basis of race, age, religion, or national origin). This raises an important question: What kind of response to charges of harassment is adequate?

**CASE IN POINT** → A company's office manager received numerous complaints from female clerical workers that one of their supervisors had made sexually suggestive remarks and had touched some of them. Several other men in the office had also made improper sexual comments and had touched some of the women.

The office manager convened a meeting to warn the men not to engage in sexual harassment. He also spoke privately to the supervisor who had been accused of sexual harassment. He cautioned him not to harass the women.

The same supervisor subsequently hired a woman who would eventually charge him and the company with sexual harassment. During her interview, the supervisor had apparently asked her how she would respond to sexual harassment on the job. Although the office manager was present during the interview and considered the question inappropriate, he did not reprimand the supervisor. The woman was soon hired.

### History Repeats

During her first few months on the job, the woman became the latest target of the supervisor's sexual advances. He made sexually suggestive comments to her and even rubbed her back on one occasion, continuing to do so despite her objection.

**What kind of response to charges of harassment on the basis of sex, race, age, religion, or national origin is adequate?**

The brewing conflict culminated one day in January when a severe snowstorm forced the office to close early. The woman had no way to get home, so she accepted a ride from the supervisor. During the ride home, the supervisor made physical advances and suggestive remarks. Finally, when they arrived at her apartment, he insisted on coming in despite her objections. Once in the apartment, he began kissing and touching her, despite her attempts to fend him off. She eventually convinced him to leave.

The woman informed the office manager of the incident the very next day. The office manager promised that it would not happen again. The company then launched an investigation. Ultimately, the supervisor received a

stern warning, stating that "[i]f there are any recurrences or if any form of retaliation occurs . . . such will be grounds for immediate termination of your employment." The company instructed him to seek counseling and to strictly limit contact with any female employees to official company business. It also delayed his planned promotion and salary increase.

When the company notified the woman of the action it had taken, she was not satisfied. She had learned that previous warnings about similar incidents had failed to deter the supervisor from repeating such behavior. The company offered her two weeks off, but she quit and charged the supervisor and the company with sexual harassment and constructive discharge.

The company claimed its response to the woman's complaint after the assault was adequate. It had reprimanded the supervisor, given him a written warning that threatened discharge for any future offenses, and delayed his promotion and pay raise. There was no evidence that he attempted to harass her after this warning, and by quitting she had failed to give the remedy a chance to work.

But the court ruled that the woman might have reasonably believed that the company's action was inadequate. Previous warnings had failed to prevent the supervisor from harassing her, so

*continued on page 8*

er to brainstorm about what kinds of things we could do to improve our overall corporate technical leadership," says Ruiz. "Experts in two-way radio communication sit at the same table with semiconductor experts. They come up with ideas on how to improve the performance of the radio that they would not have generated if they had not spent that time together.

"For example, a components expert who is exposed to people with backgrounds in radio begins to see how we can improve the portability of the radio because he knows how to integrate lower power consumption. A large percentage of our equipment is a result of that sort of interaction."

**People often simply don't know who people in other departments are.**

There are lots of mechanisms you can put in place to promote cross-functional interaction, says Stein. "People often simply don't know who people in other departments are. Or, if they do, they have no personal relationships with them. Under those circumstances, it's very difficult to build relationships—they have no contact, no direct access. All of that can be changed." For example, Stein suggests the following:

☛ Simply bring people together—talk to other managers and say, "Look, maybe we ought to get some of our people together; they just don't meet very often."

☛ Circulate names of people, pictures, the organizational chart.

☛ Put someone in your organization in charge of getting to know another department and represent their interests for you. You might say to another manager, for example: "I'd like to have one of my people spend part of his or her time over in your shop, getting to know more about x."

☛ Set up task forces or informal groups that involve people from different units.

☛ Swap information. Say, "I'm going to put some of your people—or your whole group—on the distribution list for the stuff we're working on." Or vice versa.

Some additional pointers on stimulating innovation:

☛ Be patient with seemingly far-fetched ideas. When an employee comes to you with an idea that seems radically different from anything you've ever considered, resist any initial temptation to reject it out of hand. While that may seem to run counter to an emphasis on implementation, it's absolutely essential initially, says Nan McLaod, manager of Production Employee Involvement at General Dynamics in Texas.

"Drop all biases, and free-float with it for a while," she urges. "Don't make any instant judgments. It's the off-the-wall ideas that are going to carry us into the future. It's going to be the innovative people who will help us survive in the next century. And there's no way that any one mind can be capable of predicting which suggestions are good and which ones aren't."

"People react much too strongly early on when somebody comes up with an idea," Stein observes.

"Ideas are simply seeds; they're very delicate. People have to restrain their natural tendency to be critical. What you have to say is 'If you truly think that's a great idea, show me why it will make sense and what we can do about it that's concrete. Do a little back burner work—see what other people think about it.'

"What is really important is not whether one person thinks it's a good idea, but whether he or she

**There's no way any one mind can predict which suggestions are good and which aren't.**

can get a little bandwagon going on it," Stein points out. This is another area where regular cross-functional communication is invaluable. In fact, Stein maintains, "people who are effective and innovative won't even raise an issue until they've checked it out with other people."

☛ Encourage employees to follow through on their ideas.

"When you take an idea from somebody and pass it on to somebody else, you've just killed everybody," says Stein. "The person who gets it doesn't understand it and doesn't care about it; it's by the numbers. And the person who had it has now lost his or her baby, and the energy that goes with it is dissipated."

Moreover, as Michael Treadwell, president of Profit Development Corporation of Seattle and also of the Houston-based Treadwell Com-

## CONDUCTING A SEXUAL HARASSMENT INVESTIGATION: THE RIGHT WAY

How you investigate sexual harassment complaints can go a long way in determining whether you're going to end up in court and how much it will cost if you do. A thorough investigation may not be a complete defense. But it can help. Indifferent efforts will cost a lot of money and aggravation.

**FOR INSTANCE:** Company investigated sexual harassment charge, found it had merit, warned manager he would be fired for future violations. Harassment continued. Company did nothing more.

Employee filed complaint with EEOC. Company sat on its collective hands. Situation exploded when manager grabbed employee's arm, shoved pornographic photo in her face. She responded by throwing coffee on him. Both quit. Court awarded her \$48,000 because company didn't act on its investigation, allowed harassment to continue. (*Brooms v. Regal Tube Co.*, CA 7, No. 87-2522)

Sexual harassment can include:

1. Verbal: sexual innuendo, suggestive comments, threats, insults, jokes about gender-specific traits, sexual propositions.

2. Nonverbal: making suggestive or insulting noises, obscene gestures, whistling, leering.

3. Physical: touching, pinching, brushing body, coercing sexual intercourse, assault.

**BEST ADVICE:** Take every complaint seriously, investigate it thoroughly, using step-by-step procedure. (Note: We use "she" for convenience. Could be either gender.)

**Step 1.** Interview complainant. What does she say happened? Who does she name as harassers? Where and when did incident take place? How did she react? Witnesses?

Was it isolated incident or part of series? Has she spoken to anyone else about incident?

**Step 2.** Interview accused harasser(s). Stay objective. Assume nothing. Put every statement in writing. Remember your notes may end up in court.

**Step 3.** Interview witnesses. Phrase questions so you don't give information. Better to say, "Have you heard anyone say something to so-and-so that made her uncomfortable?"

**Step 4.** Weigh evidence. Consider credibility of each party, based on reputations of employee and alleged harasser(s). Any reason for employee lying because of poor performance review or discipline? Any previous complaints against accused harasser(s)?

**Step 5.** Take action. Once you have all facts, ask yourself if sexual harassment did occur. If you decide accusation is without merit, write detailed report explaining why and have evidence to back it up. If harassment did occur, you have several options based on severity of case.

**Option 1.** First offense: written warning. Should include statement that sexual harassment is against company policy, any additional charges will result in disciplinary action up to discharge.

**Option 2.** Consider transferring accused or offering transfer to complainant. Transfer of complainant mustn't look like retaliation.

**Option 3.** Suspension or discharge, usually for severe first or repeated offense.

**IMPORTANT POINT:** You are responsible for sexual harassment *by supervisor* whether you knew about it or not. You are responsible for sexual harassment *by employee* if you knew about it and did nothing to stop it.

This bulletin, which was specially prepared by the editors of the Alexander Hamilton Institute, is not designed to render legal advice or legal opinion. Such advice may only be given by a licensed, practicing attorney, and only when related to actual fact situations. The warning is particularly pertinent because of the nature of the topics covered herein; these cases are largely controlled by individual state law, and such matters should always be checked with the company's corporate counsel.

b. Consolidation Status - Consensus of Board is to remove this item from the agenda until POAs request CSD to take further action.

c. Parks & Recreation - General Manager reported that decision has been reached regarding the grant allocations, but notification is being held up at this time in order to follow proper channels of dissemination.

(1) CSD ltr 12/20/89 and SDIA response dtd 12/21/89 re: Liability Coverage for proposed park development. No response has been received as of this date.

B. Siskiyou County STAGE Services to Lake Shastina - By reference Director Johns ltr dtd 1/8/90 is incorporated herein.

VI. NEW BUSINESS

A. Resolution 1-90 pertaining to a Sexual Harassment Policy - Director Johns moved and duly seconded by Director Spahr to adopt Resolution 1-90 pertaining to policy on Sexual Harassment. Upon vote, motion carried unanimously.

B. Resolution 2-90 pertaining to a Salary Deferral Plan - Director Spahr moved and duly seconded by Director Johns to adopt Resolution 2-90 pertaining to a Salary Deferral Plan. Upon vote, motion carried unanimously.

VII. PUBLIC COMMENT - Board requested General Manager to check number of volunteers being covered under Worker's Comp. NOTE: Answer - 7 volunteer Fire Fighters. The last time volunteers other than firefighters were covered was during the period of time the Fire/Police Station was being built. Any additional volunteer services for CSD should be cleared through General Manager prior to commencement of any work so that Workers Comp (Program CSDA) can be notified and a rate established.

VIII. ADJOURNED There being no further business noted, Director Johns moved and duly seconded by Director Spahr to adjourn at 4:15 p.m. Upon vote, motion carried unanimously.

Respectfully submitted,

*Mary M. Krolak*  
MARY M. KROLAK  
District Secretary