

ORDINANCE NO. 24-01

AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE BELL CANYON COMMUNITY SERVICES DISTRICT ESTABLISHING A DISTRICT-WIDE DISCRIMINATION AND HARASSMENT PREVENTION POLICY, AND FINDING OF EXEMPTION FROM CEQA

WHEREAS, Title VII of the Civil Rights Act of 1964 prohibits employment discrimination based on an individual’s race, color, religion, sex, or national origin; and

WHEREAS, the California Fair Employment and Housing Act (“FEHA”) prohibits employers from refusing to hire, discharging, or discriminating against an individual in compensation or in terms, conditions, or privileges of employment because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status of the individual, or any other protected class, as applicable; and

WHEREAS, the FEHA requires employers to take all reasonable steps to prevent discrimination and harassment from occurring in the workplace committed by or against their employees; and

WHEREAS, the Bell Canyon Community Services District (“District”) is committed to preventing discrimination and harassment in the workplace; and

WHEREAS, the District adopted an affirmative action plan to combat discrimination and harassment in its District Policy Manual adopted in 2023; and

WHEREAS, the District desires to prevent discrimination or harassment by its officials, employees, volunteers, and contractors; and

WHEREAS, in order to prevent discrimination or harassment in the workplace, the District has prepared a new Discrimination and Harassment Prevention Policy; and

WHEREAS, the new and updated Discrimination and Harassment Prevention Policy is intended to supersede, rescind, repeal and replace prior discrimination and harassment prevention policies, as embodied in the District Policy Manual.

NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE BELL CANYON COMMUNITY SERVICES DISTRICT DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The above recitals are true and correct and are hereby incorporated by this reference.

SECTION 2. The following regulations for the provision of security services within the District’s jurisdiction is hereby enacted:

DISCRIMINATION AND HARASSMENT PREVENTION POLICY

1. Purpose and Scope.

- A. To reinforce the Bell Canyon Community Services District's commitment to equal employment opportunity and a work environment free of discrimination and harassment, including sexual harassment. This policy is designed to attempt to prevent discrimination or harassment from occurring, and if it does occur, to stop any further discrimination or harassment and correct any effects of discrimination or harassment.
- B. This policy and procedure will apply to all personnel that are employed by the District, those persons who volunteer or serve as unpaid interns for the District, any "special employees" as defined by law, any elected or appointed officials, and any persons providing services pursuant to a contract as described in Government Code Section 12940(j)(1).
- C. This policy is also intended to apply to non-employees to the extent that they are discriminated against or harassed by District employees, any persons serving on the board of directors, or any persons providing services pursuant to a contract with the District as described in Government Code Section 12940(j)(1).
- D. It shall be deemed a violation of this policy to engage in the conduct described herein even if it does not rise to the level of legally actionable harassment or discrimination.

2. Discrimination and Harassment

- A. Under this policy, "Discrimination" includes, but is not limited to:
 - 1. Any practice, process or action in the workplace which works against equality of opportunity and against the ability of each person to be employed and to advance on the basis of merit without regard to the following protected categories/status:
 - a. Age (40 and over)
 - b. Ancestry
 - c. Color
 - d. Religious Creed (including religious dress and grooming practices)
 - e. Denial of Family and Medical Care Leave
 - f. Disability (mental and physical) including HIV and AIDS
 - g. Marital Status
 - h. Medical Condition (cancer and genetic characteristics)
 - i. Genetic Information
 - j. Military and Veteran Status
 - k. National Origin (including language use restrictions)

1. Race
 - m. Sex (which includes pregnancy, childbirth, breastfeeding and medical conditions related to pregnancy, childbirth or breastfeeding)
 - n. Gender, Gender Identity, and Gender Expression
 - o. Sexual Orientation
 - p. Any other basis protected by Federal and/or State law
2. Basing an employment decision affecting a job applicant or employee (e.g., decision to hire, promote, transfer, terminate, etc.) on one's protected status.
 3. Treating an applicant or employee differently with regard to any aspect of employment because of his or her protected status.
 4. Taking adverse employment action (e.g., demotion, transfer, discipline, termination) against an employee based on the employee opposing discrimination and/or harassment in the workplace, assisting, supporting, or associating with a member of a protected category/status who complains about discrimination and/or harassment, or assisting in an investigation of discrimination and/or harassment.
- B. Under this policy, "Harassment" is defined by the existence of the following elements:
1. Conduct that is based on a protected category/status;
 2. Conduct that is unwelcome;
 3. Workplace harm that creates a hostile work environment or results in a tangible employment action (quid pro quo).
- C. Even if conduct does not constitute a hostile work environment, it still may be misconduct that is cause for discipline. Examples of actions that may lead to workplace harassment complaints based on a hostile work environment and which are prohibited include, but are not limited to, the following:
1. Visual Harassment, such as posters, photographs, letters, notes, email, cartoons, or drawings related to the person's protected category/status.
 2. Verbal Harassment, such as epithets, derogatory comments/statements, vulgar, racist or other discriminatory jokes, or slurs based upon a person's protected category/status.

3. Physical Harassment, such as assault, blocking or impeding access or other physical interference, sabotaging work or imposing demeaning work tasks based upon a person's protected category/status.

3. Sexual Harassment.

- A. Sexual harassment includes harassment based on sex or of a sexual nature, gender harassment, and harassment based on pregnancy, childbirth, or related medical conditions.
- B. The definition of sexual harassment includes many forms of offensive behavior, including harassment of a person of the same gender as the harasser.
- C. Sexual harassment can take the form of, but is not limited to:
 1. Unwanted sexual advances.
 2. Offering employment benefits in exchange for sexual favors.
 3. Making or threatening reprisals after a negative response to sexual advances.
 4. Visual conduct, including leering, making sexual gestures, displaying of suggestive objects or pictures, cartoons or posters.
 5. Verbal conduct, including making or using derogatory comments, epithets, slurs, and jokes.
 6. Verbal abuse of a sexual nature, graphic verbal commentaries about an individual's body, sexually degrading words used to describe an individual, suggestive or obscene letters, notes or invitations.
 7. Physical conduct, including touching, assault, impeding or blocking movements.
- D. Sexual harassment can occur in a variety of circumstances, including but not limited to the following:
 1. The victim as well as the harasser may be a woman or a man. The victim does not have to be of the opposite sex.
 2. The harasser can be the victim's supervisor, a supervisor in another area, a manager, a co-worker, or a non-employee.
 3. The victim does not have to be the person harassed but could be anyone affected by the offensive conduct.

4. Unlawful sexual harassment may occur without economic injury to or termination of the victim.
- E. “Hostile Work Environment” cases are a type of Sexual Harassment that can result from various forms of conduct, including, but not limited to the following:
1. Visual Harassment: leering/staring, making sexual gestures, inappropriate gifts, and displaying suggestive or pornographic objects, pictures, magazines, cartoons, posters, letters, notes, or emails.
 2. Verbal Harassment: making or using derogatory comments, epithets, slurs and jokes. Comments about body parts or physical appearance, innuendo, unwanted sexual advances, unfulfilled threats of employment benefits/detriments in exchange for favors, pressure for dates, discussion of a sexual nature, questioning a person’s sexual practice or history, and sexually degrading words used to describe an individual.
 3. Physical conduct: touching, assault, impeding or blocking movements.
- F. “Quid Pro Quo (‘This for that’) Harassment” cases are another type of Sexual Harassment. “Quid Pro Quo” Harassment can occur when submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting that individual, such as a promotion, raise, hiring, or performance appraisals. This kind of Sexual Harassment can only be perpetrated by a supervisor, manager or other person who has the authority to affect the employee’s terms and conditions of employment.
- G. Examples of actions that may lead to sexual harassment complaints and which must be avoided include, but are not limited to, those listed below:
1. Unwanted sexual advances or pressure for dates or sexual favors.
 2. Making implicit or explicit offers of employment benefits in exchange for sexual favors.
 3. Making implicit or explicit threats of retaliation for negative responses to sexual advances.
 4. Leering, sexual looks or sexual gestures with hands or through body movements.
 5. Unwanted touching, including hugging, kissing, patting or stroking.
 6. Pinching, grabbing, assaulting, impeding or blocking movements.
 7. Sexually suggestive objects or pictures, cartoons or posters in the workplace or on computer systems (including email and the internet).

8. Graphic verbal commentaries about an individual's body.
 9. Sexually degrading words used to describe an individual, including inappropriate sex oriented comments about appearance, including dress or physical features.
 10. Lewd propositioning.
 11. Unwanted written communications, telephone calls, or personal gifts.
 12. Sexual teasing, jokes, remarks or questions.
 13. Referring to an adult as a "girl", "hunk", "doll", "babe", or "honey" or whistling at someone.
 14. Sexual innuendoes or stories.
 15. Asking about sexual fantasies, preferences or history.
 16. Questions about sexual life.
 17. Sexual comments about a person's clothing, anatomy or looks.
 18. Telling lies or spreading rumors about a person's personal sex life.
 19. Giving massages, touching a person's clothing, hair or body.
- H. Even if conduct does not constitute Sexual Harassment, it may still be misconduct that is cause for discipline.
- I. The District shall take all reasonable steps to prevent discrimination and harassment from occurring. To that end, the District has prepared this policy, distributed a brochure on sexual harassment, and posted in the workplace a poster made available by the Civil Rights Department. The District further provides training and education to managers and supervisors regarding sexual harassment as required by law.

4 Procedure.

- A. Complaints of Discrimination or Harassment.
1. If any District employee, volunteer, intern, or applicant believes that he or she has been subjected to discrimination or harassment, including sexual harassment, by anyone, including those who may or may not be employed by or officials or officers of the District, he or she has the right to report the incident to any manager or supervisor, and the right to file a complaint with the District. The General Manager or his or her designee shall interview, or cause to be interviewed, the individual filing a complaint and

the individual may be accompanied by a person of his or her choice, as long as that person is not an involved party or a witness. Other individuals will be interviewed as necessary. If the complaint is against the General Manager, then the complaint should be filed with the General Counsel's office.

2. Complaints of acts of discrimination or harassment, including sexual harassment, that are in violation of the District's Discrimination and Harassment Prevention Policy will be accepted in writing or orally, and any anonymous complaint will be taken seriously and investigated. Anyone who has observed or been the target of discrimination or harassment, including sexual harassment should report it to the General Manager.
3. Additionally, individuals can also file complaints with the Equal Employment Opportunity Commission or with the Civil Rights Department.

B. Investigation.

1. When the General Manager receives a complaint, the allegations will be promptly investigated in a fair and expeditious manner. The investigation will be conducted in such a way as to maintain confidentiality to the extent practicable, but confidentiality is neither guaranteed nor likely if discipline is ultimately determined necessary because any employee being so disciplined has the right to a full copy of the investigation report upon which the discipline is based.
2. If it is determined that a violation of this policy has occurred, the District will act promptly to correct the offending conduct, and where it is appropriate disciplinary action will be imposed.

C. Disciplinary Action.

1. If it is determined that a violation of this policy has been committed by a District employee, the District will take such action as is appropriate under the circumstances. Such action may range from counseling to termination from employment, and may include such other forms of disciplinary action as is appropriate under the circumstances.
2. If it is determined that a violation of this policy has been committed by a non-District employee, the District will take such action as is appropriate under the circumstances. Such action may range from notifying the non-District employee's employer, filing a complaint with said employer, or other such reasonable action, including all legal actions and proceedings, designed to stop the offending conduct.

D. Duties of Supervisors and Managers.

1. Inform all employees of District policy and their rights and recourse for activities which come under the Discrimination and Harassment Prevention Policy.
2. Immediately take action when informed of any alleged violations of the Discrimination and Harassment Prevention Policy by informing the General Manager and seek consultation regarding any remedial or investigative response needed to immediately stop continued alleged violations.
3. Recognize that managers and supervisors should report to the General Manager any instances of discrimination or harassment, including sexual harassment, of which they are aware, and instances of discrimination or harassment, including sexual harassment, of which they should be aware in the normal course and scope of their management responsibility.
4. Recognize that managers and supervisors should report to the General Manager any instances of discrimination or harassment, including sexual harassment, of which they are aware, and instances of harassment of which they should be aware in the normal course and scope of their management responsibility even if the employee being subject to alleged discrimination or harassment, including sexual harassment, asks that it not be reported or that no action be taken.

5. Abusive Conduct and Bullying.

It is the policy of the District to maintain a workplace free from any form of abusive conduct or bullying. The receiving of any complaints of alleged acts of abusive conduct or bullying will be taken seriously and will be promptly and objectively investigated, and offenders will be appropriately disciplined.

“Abusive conduct” is defined under Government Code Sections §12950.1(g)(2) as conduct of an employer or employee in the workplace, with malice, that a reasonable person would find hostile, offensive, and unrelated to an employee’s legitimate business interests. For example, abusive conduct may take the form of, but not limited to, repeated infliction of verbal abuse, such as the use of derogatory remarks, insults, and epithets, verbal or physical conduct that a reasonable person would find threatening, intimidating, or humiliating, or the gratuitous sabotage or undermining of a person’s work performance. A single act shall not constitute abusive conduct, unless especially severe or egregious.

Another form of abusive conduct may also be referred to as bullying. In addition to the above definition, examples of workplace bullying may include, but not limited to the spreading of malicious rumors, or insulting someone by word or behavior, ridiculing or demeaning someone, picking on someone or setting them up to fail, exclusion or victimization, unfair or discriminatory treatment, overbearing supervision or other misuse of power or position, making threats or comments about job security without basis, slapping, pushing, shoving, punching, or

otherwise physically attacking someone, or deliberately undermining a competent worker by unnecessarily overloading their work and constant criticism.

6. Malicious Complaint.

While the District vigorously defends the right to work in an environment free of harassment and unlawful discrimination, it also recognizes that false accusations of harassment and discrimination can have serious consequences. Accordingly, anyone who is found, through the District’s investigation, to have knowingly falsely accused another person of harassment or unlawful discrimination will be subject to appropriate disciplinary action, up to and including termination, or other legal proceeding or action, as applicable.

7. Severability.

If any provision, clause, sentence or paragraph of this Ordinance or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this chapter which can be given effect without the invalid provision or application and to this end the provisions of this chapter are declared to be severable.

SECTION 3. The Board of Directors finds and determines that pursuant to Section 15061(b)(3) of the California Environmental Quality Act (CEQA), this Ordinance is an organizational or administrative activity of the District that will not result in direct or indirect physical changes in the environment, and therefore not a project. Accordingly, no further environmental review is necessary. Furthermore, given that the Ordinance is not related to a specific project, the Ordinance (i) will not impact a sensitive environmental resource of hazardous or critical concern; (ii) will not have a cumulative impact on the environment through successive projects of the same type, in the same place, over time; (iii) does not have any unusual circumstances that will have a significant effect on the environment; (iv) does not impact a scenic highway; (v) is not located on a hazardous waste site; and (vi) will not adversely impact a historical resource. Accordingly, none of the exceptions to categorical exemptions set forth in the CEQA Guidelines, Section 15300.2, apply to this Ordinance, and the regulations on graffiti abatement is exempt from CEQA pursuant to Public Resources Code Section 21080.17.

SECTION 4. This Ordinance shall become effective 30 days following its adoption.

PASSED AND ADOPTED this ___ day of _____, 2024.

AYES:

NOES:

ABSENT:

Michael Robkin, President

ATTEST:

Gregor y McHugh, Interim General Manager/Secretary

I, _____, Interim General Manager/Secretary of the Bell Canyon Community Services District, Ventura County, California, DO HEREBY CERTIFY that the foregoing is a true and accurate copy of the Ordinance passed and adopted by the Board of Directors of the Bell Canyon Community Services District on the date and by the vote indicated herein.