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San Diego Unified Port District  
Document No. 53895  
Filed AUG 28 2008  
Office of the District Clerk

## BPC Policy No. 361

**SUBJECT:** EQUAL EMPLOYMENT OPPORTUNITY AND NONDISCRIMINATION POLICY

**PURPOSE:** To affirm the San Diego Unified Port District's (District) commitment to equal employment opportunity and nondiscrimination in all personnel actions including: recruitment, employment, transfer, demotion, promotion, suspension or discharge of any individual based on age (40 and above), ancestry, color, disability (mental or physical), gender (including identity, appearance, or behavior, whether or not that identity, appearance, or behavior is different from that traditionally associated with the person's sex at birth), marital status, medical condition, national origin, pregnancy, race, religion, sexual orientation, genetic information, or veteran status.

**AUTHORITY:** Title VII of the Civil Rights Act of 1964, as amended; the Civil Rights Act of 1991; the Genetic Information Nondiscrimination Act of 2008, the California Fair Employment and Housing Act; and any other applicable Federal, State, and local law or regulation relating to equal employment opportunity and nondiscrimination, including any such law, regulation, and policy hereinafter enacted.

### POLICY STATEMENT:

The District firmly believes in, and is committed to, the principles and practices of equal employment opportunity and nondiscrimination. It is the policy of the District to recruit, hire, train, and promote persons in all job classifications without regard to age (40 and above), ancestry, color, disability (mental or physical), gender (including identity, appearance, or behavior, whether or not that identity, appearance, or behavior is different from that traditionally associated with the person's sex at birth), marital status, medical condition, national origin, pregnancy, race, religion, sexual orientation, genetic information, or veteran status.

While the District seeks to attain a work force that is inclusive of all the communities of San Diego, the District shall insure that all personnel actions are administered in a manner so as to further the principles of equal employment opportunity and nondiscrimination.

Additionally, all employees of the District are required to conduct themselves in a

professional manner at all times. Discrimination based upon the above protected classes is also prohibited by federal and state law.<sup>1</sup> Therefore, discrimination by any employee based upon the grounds set forth above is strictly prohibited.

Further, the District shall provide a procedure for filing complaints of alleged discrimination by aggrieved parties, including members of the public. The District's Diversity and Inclusion Program shall prescribe the procedures for implementation of this policy. The President and Chief Executive Officer has ultimate responsibility for assuring the development and implementation of the program. Overall responsibility for implementation of the program will be with the Equal Opportunity Program Manager, who is also responsible for developing the procedures used to implement and monitor the program and to process discrimination complaints. Accountability for achieving the objectives of the program will be shared by all District management.

Any aggrieved party who feels to have been subjected to discrimination by District or representatives of the District, for any of those reasons cited above, can file a discrimination complaint with the Equal Opportunity Program Manager.

The District recognizes that confidentiality is important to all parties involved in a discrimination investigation. Confidentiality will be maintained to the extent possible; however, it cannot be guaranteed. Only those individuals with a legitimate right to know or who are necessary for resolution of a complaint will be involved in the investigatory process.

Further, any witness or party involved in an investigation will be directed to keep confidential his or her involvement in the investigation and/or any information learned as a result of his or her involvement in the investigation and admonished that any breach of such direction or of the confidentiality of the investigation could constitute an independent basis for discipline and/or other corrective action.

The District will not tolerate retaliation against any employee or other person for initiating, pursuing or assisting with a complaint of alleged discrimination to the District or to any government agency. For example, it is improper, and inappropriate, to withhold or imply to withhold, any support for appointment or recruitment, promotion, transfer, non-retention, or termination, or to suggest that a poor performance evaluation will be prepared based upon a retaliatory basis.

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<sup>1</sup> A violation of this policy may not constitute a violation of federal or state law, although discrimination is prohibited by both.  
BPC Policy No. 361

The District also prohibits retaliation against any employee for participating in any manner in the investigation of a complaint or report leading to investigation of discrimination. Any individual who engages in retaliation against a complainant or reporting party in violation of this policy may be subject to discipline up to and including termination.

Copies of this policy will be provided to all employees who must sign a form acknowledging receipt of this information. A copy will be retained for their personnel records.

This policy shall be reviewed and updated annually and when required by law.

RESOLUTION NUMBER AND DATE: 2008-141, dated August 5, 2008 (Supersedes BPC Policy 361, Resolution 2004-18, dated February 3, 2004; Resolution 2002-266, dated October 8, 2002; Resolution 2001-164, dated July 24, 2001; and Resolution 2000-41, dated February 8, 2000)

**SAN DIEGO UNIFIED PORT DISTRICT**  
**BOARD OF PORT COMMISSIONERS POLICY**  
**ON NONDISCRIMINATION**

**I.**

**POLICY**

The San Diego Unified Port District (District) is committed to the principles and practices of equal employment opportunity and nondiscrimination as set forth in the Equal Employment Opportunity and Nondiscrimination Policy Statement. It is the policy of the District to recruit, hire, train, and promote persons in all job classifications without regard to the following protected classes:

- Age (over 40)
- Ancestry
- Color
- Disability (mental or physical)
- Gender (including identity, appearance, or behavior, whether or not that identity, appearance, or behavior is different from that traditionally associated with the person's sex at birth)
- Marital Status
- Medical Condition
- National Origin
- Pregnancy
- Race
- Religion
- Sexual Orientation
- Veteran Status

Additionally, all employees of the District are required to conduct themselves in a professional manner at all times. Discrimination based upon the above protected classes is also prohibited by federal and state law.<sup>1</sup> Therefore, discrimination by any employee based upon the grounds set forth above is strictly prohibited.

Copies of this policy and the Equal Employment Opportunity and Nondiscrimination Policy Statement of the Board of Port Commissioners will be provided to all employees at the time of hire. Each employee shall sign a form acknowledging receipt of both. Another copy will be retained in their personnel

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<sup>1</sup> A violation of this policy may not constitute a violation of federal or state law, although discrimination is prohibited by both.

records. The policy and policy statement is also available on the District's intranet site, <http://internal>.

## II.

### **CONFIDENTIALITY**

The District recognizes that confidentiality is important to all parties involved in a discrimination investigation. Confidentiality will be maintained to the extent possible; however, it cannot be guaranteed. Only those individuals with a legitimate right to know or who are necessary for resolution of a complaint will be involved in the investigatory process.

Further, any witness or party involved in an investigation will be directed to keep confidential his or her involvement in the investigation and/or any information learned as a result of his or her involvement in the investigation and admonished that any breach of such direction or of the confidentiality of the investigation could constitute an independent basis for discipline and/or other corrective action.

## III.

### **RETALIATION PROHIBITED**

The District will not tolerate retaliation against any employee or other person for initiating, pursuing, or assisting with a complaint of alleged discrimination to the District or to any government agency. For example, it is improper, and inappropriate, to withhold or imply to withhold, any support for appointment or recruitment, promotion, transfer, non-retention, or termination, or to suggest that a poor performance evaluation will be prepared based upon a retaliatory basis.

The District also prohibits retaliation against any employee for participating in any manner in the investigation of a complaint or report leading to investigation of discrimination. Any individual who engages in retaliation against a complainant or reporting party in violation of this policy may be subject to discipline up to and including termination.

## IV.

### **COMPLAINT PROCEDURE**

- A. Any employee, former employee, applicant for employment, District vendor or tenant, or member of the public, may file a complaint alleging discrimination on any of the bases set forth in Section I. above, including age (40 and over); ancestry; color; disability

(physical or mental); gender (including identity, appearance, or behavior, whether or not that identity, appearance, or behavior is different from that traditionally associated with the person's sex at birth); marital status; medical condition; national origin; pregnancy; race; religion; sexual orientation; or, veteran status. The complaint should be filed with the office of Equal Opportunity Management (EOM).

- B. Additionally, any employee of the District who believes that he or she, or someone else in the District, has been subjected to unlawful discrimination based upon any of the protected classes set forth in Section I above is strongly encouraged to immediately report the matter to the Director, Equal Opportunity Management (EOM), the Director, Human Resources, the Senior Director, Organization Effectiveness, or the employee's immediate supervisor, via their established chain of command.
- C. A complaint or report of discrimination should be filed with EOM within ninety (90) days of the date the alleged discriminatory act occurred. The complainant is also advised that there are time limitations to file a complaint of employment discrimination, which include discriminatory acts: 1) for the California Department of Fair Employment and Housing (DFEH), the time limitation is one (1) year from the date the discriminatory act allegedly occurred; and 2) for the United States Equal Employment Opportunity Commission (EEOC), charges must be filed within one hundred-eighty (180) days of the date the allegedly discriminatory act occurred.
- D. Upon the receipt of a complaint or a report of alleged discrimination, EOM shall conduct a prompt and thorough investigation. The investigator will strictly adhere to the confidentiality terms of this policy; remind the complainant or reporting party, the accused, and all interviewees of the confidentiality policy and that retaliation will not be tolerated; maintain a written record of the investigation; and, keep the complainant informed of the progress of the investigation and the results of the investigation. Based upon his or her investigation, the EOM investigator will determine the following:
  - 1. Whether the complaint or report of alleged discrimination is subject to the Nondiscrimination Policy;
  - 2. Whether the conduct complained of or reported occurred;
  - 3. Whether such conduct constituted disparate treatment of the complainant;
  - 4. Whether the conduct complained of or reported occurred constitutes a violation of this Policy; and,

5. Whether there exists any policies and/or practices, verbal or written related to the work situation, which may constitute disparate treatment of the complainant due to his or her protected class.

**V.**

**REVIEW BY SENIOR DIRECTOR**

- A. Upon completion, the written investigation and all findings shall be provided to the Senior Director, Organization Effectiveness for review. The Senior Director's review shall determine whether there was evidence sufficient to support the findings made by the EOM investigator.
- B. If the Senior Director concurs with the EOM investigator's findings, such concurrence shall be set forth in writing and made a part of the written EOM investigation.
- C. If the Senior Director does not concur with the EOM investigator's findings, then the Senior Director will direct the EOM investigator to further investigate the complaint or report of discrimination in the manner set forth by the Senior Director, which shall be made in writing and made a part of the EOM investigation. Once such investigation is completed, the EOM investigator will submit the investigation to the Senior Director for review consistent with Section A above.

**VI.**

**CONSULTATION WITH COMPLAINANT**

After the investigation has been completed and reviewed by the Senior Director, the EOM investigator will notify the complainant or reporting party, and will discuss the findings in a face to face meeting.

**VII.**

**REMEDIATION**

In the event there is a determination that discrimination has occurred, the District will assess what remedial steps are required to address and correct the discriminatory conduct. Remedial measures include but are not limited to

mediation, disciplinary action against the perpetrator, reorganization of personnel, training and education, counseling and other employee assistance.

#### **VIII.**

#### **DISCIPLINARY ACTION**

Any employee found to be responsible for discrimination or retaliation in violation of this policy will be subject to appropriate disciplinary action up to and including termination. False complaints may also subject an employee to discipline. The severity of the discipline will be based upon the totality of the circumstances and may include counseling, training, education, and/or other remedial steps as a condition of employment.

#### **IX.**

#### **TRAINING**

As a preventative and proactive step, all employees of the District will receive training on discrimination and knowledge and utilization of the complaint process.





## SAN DIEGO UNIFIED PORT DISTRICT

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### **Acknowledgment of Receipt of Equal Employment Opportunity and Nondiscrimination Policy**

This is to acknowledge that I have received an orientation on the District's Equal Employment Opportunity and Nondiscrimination Policy. I understand that the District believes and is firmly committed to the principles and practices of equal employment opportunity and nondiscrimination for employing and developing personnel.

I acknowledge that, as an employee of the District, I have a responsibility to comply with District policies, and all applicable state and federal laws, regarding nondiscrimination against any applicant or employee, or members of the public, because of age (40 and above), ancestry, color, disability (mental or physical), gender (including identity, appearance, or behavior, whether or not that identity, appearance, or behavior is different from that traditionally associated with the person's sex at birth), marital status, medical condition, national origin, pregnancy, race, religion, sexual orientation, genetic information, or veteran status.

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Employee's Printed Name

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Employee's Signature

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Date of Equal Opportunity Program Orientation

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Department

#### **Exhibit A-1 – Policy 361**

EEO \ (Form) Acknowledgment of Receipt ... (Rev 2/00)

(Rev. 24 July 2001)

(Rev. 8 October 2002)

(Rev. 2 February 2004) - Docs #63135 v2

**53895**

(1)

REFERENCE  
COPY  
53895

Re Amendment of BPC Policy No. 361, ]  
Equal Employment Opportunity and ]  
Non-Discrimination Policy . . . . . ]  
\_\_\_\_\_ ]

RESOLUTION 2008 - 141

BE IT RESOLVED by the Board of Port Commissioners of the San Diego Unified  
Port District, as follows:

That Board of Port Commissioners Policy No. 361, Equal Employment Opportunity  
and Non-Discrimination Policy, as amended, a copy of which shall be placed on file in the  
office of the District Clerk, is hereby adopted.

ADOPTED this 5th day of August, 2008.

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8/5/08

**SAN DIEGO UNIFIED PORT DISTRICT****REFERENCE****COPY****53895****DATE:** August 5, 2008**SUBJECT: RESOLUTIONS ADOPTING REVISIONS TO THE FOLLOWING:**

- A) BOARD OF PORT COMMISSIONERS (BPC) POLICY NO. 358 – CONTRACTORS' AND LESSEES' COMPLIANCE WITH EQUAL EMPLOYMENT OPPORTUNITY AND NONDISCRIMINATION**
- B) BPC POLICY NO. 359 – EQUAL OPPORTUNITY CONTRACTING**
- C) BPC POLICY NO. 361 – EQUAL EMPLOYMENT OPPORTUNITY AND NONDISCRIMINATION**

**EXECUTIVE SUMMARY:**

Staff is reviewing all existing BPC Policies to ensure that they are current and in a similar format. The updates to the policies noted above involve reformatting and minor changes.

**RECOMMENDATION:**

Adopt Resolutions adopting revisions to the following:

- A) Board of Port Commissioners (BPC) Policy No. 358 – Contractors' and Lessees' Compliance with Equal Employment Opportunity and Nondiscrimination
- B) BPC Policy No. 359 – Equal Opportunity Contracting
- C) BPC Policy No. 361 – Equal Employment Opportunity and Nondiscrimination

**FISCAL IMPACT:**

This Board agenda item has no direct fiscal impact.

**DISCUSSION:**

The recommended revisions are summarized below:

<b>BPC Policy No.</b>	<b>Title</b>	<b>Revisions</b>
358	Contractors' and Lessees' Compliance with Equal Employment Opportunity and Nondiscrimination	<ul style="list-style-type: none"> <li>• Reformatted to current standard</li> <li>• Added new category of "Two or more races" in accordance with Equal Employment Opportunity Commission (EEOC) and U.S. Census data</li> <li>• Added new job category to differentiate between Executive and First/Mid-Level Officials and Managers in accordance with EEOC and U.S. Census data</li> <li>• Added nondiscrimination on the basis of</li> </ul>

ACTION TAKEN: 08-05-08 - Resolutions 2008-139, 2008-140 and 2008-141

<b>BPC Policy No.</b>	<b>Title</b>	<b>Revisions</b>
		genetic information in accordance to new law <ul style="list-style-type: none"><li>Deleted requirement to list specific job titles in job categories</li></ul>
359	Equal Opportunity Contracting	<ul style="list-style-type: none"><li>Reformatted to current standard</li><li>Added nondiscrimination on the basis of genetic information in accordance to new law</li><li>Updated employment titles as appropriate</li></ul>
361	Equal Employment Opportunity and Nondiscrimination	<ul style="list-style-type: none"><li>Reformatted to current standard</li><li>Added nondiscrimination on the basis of genetic information in accordance to new law</li><li>Consolidated Nondiscrimination Policy language into Equal Employment Opportunity Policy document rather than having it as an attachment</li><li>Changed title of Equal Employment Opportunity and Nondiscrimination Plan to Diversity and Inclusion Program</li><li>Updated employment titles as appropriate</li><li>Moved Exhibit A, complaint procedures attachment from Policy statement to administrative procedure</li><li>Moved Exhibit B, Acknowledgement Form attachment from Policy statement to administrative procedure</li></ul>

**Port Attorney's Comments:**

Not applicable.

**Environmental Review:**

This proposed Board action is not subject to CEQA, as amended.

**Equal Opportunity Program:**

Not applicable.

**PREPARED BY:** Shirley Grothen  
Equal Opportunity Program Manager



## BPC Policy No. 358

**SUBJECT:** CONTRACTORS' AND LESSEES' COMPLIANCE WITH EQUAL EMPLOYMENT OPPORTUNITY AND NONDISCRIMINATION POLICY

**PURPOSE:** To promulgate a formal policy statement of the Board of Port Commissioners (Board) to ensure that contractors and lessees adhere to Title VII of the Civil Rights Act of 1964, as amended; the Civil Rights Act of 1991; the California Fair Employment and Housing Act; and any other applicable Federal, State, and local law or regulation relating to equal employment opportunity and nondiscrimination, including any such law, regulation, and policy hereinafter enacted.

**POLICY STATEMENT:**

It is the policy of the San Diego Unified Port District (District) that all contractors and lessees interested in conducting business with the District shall not discriminate against any employee or applicant for employment because of age (over 40), ancestry, color, disability (mental or physical), gender (including identity, appearance, or behavior, whether or not that identity, appearance, or behavior is different from that traditionally associated with the person's sex at birth), marital status, medical condition, national origin, pregnancy, race, religion, sexual orientation, genetic information or veteran status, and shall take action to assure applicants are employed, and that employees are treated during employment, without regard to age (over 40), ancestry, color, disability (mental or physical), gender (including identity, appearance, or behavior, whether or not that identity, appearance, or behavior is different from that traditionally associated with the person's sex at birth), marital status, medical condition, national origin, pregnancy, race, religion, sexual orientation, genetic information or veteran status.

Comment: Added genetic information

Comment: Added genetic information

The District shall require all prospective contractors and lessees to complete and file with the District an Equal Employment Opportunity and Nondiscrimination Program and Statement of Compliance for the promotion of equal employment opportunities and nondiscrimination.

Further, the District believes that diversity in the workforce provides a variety of perspectives, promotes the exchange of ideas, and provides the ability to respond to a diverse community. This statement is provided to reaffirm the District's commitment to equal employment opportunity and nondiscrimination, and to require its contractors and lessees to insure that all employment actions shall be administered in a manner to

lessees to insure that all employment actions shall be administered in a manner to further the principle of equal employment opportunity and nondiscrimination.

**PROVISIONS:**

1. The Board hereby declares that from the effective date of this policy statement, there shall be included in contract and lease documents covering services or lands under the control of the District, a provision requiring the contractor or lessee to formulate and file with the District an Equal Employment Opportunity and Nondiscrimination Program, and Statement of Compliance, for the promotion of equal employment opportunities and nondiscrimination. The contract or lease provision shall be included in all new, renewed, and substantially amended contracts or leases. A sublessee who is the prime operator on leased premises shall be considered the lessee for the purposes and provisions of this policy.
2. The contract or lease provision incorporating the Equal Employment Opportunity and Nondiscrimination Program, and Statement of Compliance, requirement shall provide that the District may, upon reasonable notice and at reasonable times, have access to employment records so that the effectiveness of the Equal Employment Opportunity and Nondiscrimination Program may be evaluated. Contractor or lessee shall further be required to file the Equal Employment Opportunity and Nondiscrimination Program, and Statement of Compliance, annually with the District for approval, and make such progress reports as required by the District.
3. Prior to final Board action on a new, renewed, or substantially amended contract or lease, contractor or lessee shall file with the office of Equal Opportunity Management an Equal Employment Opportunity and Nondiscrimination Program and Statement of Compliance for review and approval.
4. Currently exempt from the requirements of this policy is:
  - a. Any lessee granted a lease for a term of five (5) years or less.
  - b. Any lessee with an average annual employment of fifty (50) or less employees operating from the premises, provided, however, said policy shall be applicable at any time said annual employment level exceeds fifty (50) employees.

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- c. Any contractor or lessee who is subject to a federally mandated affirmative action program for employees, provided such contractor or lessee shall annually certify to the District that it is subject to such a program, and, upon request of the District, shall furnish evidence thereof.

5. This policy shall be reviewed and updated annually and when required by law.

Attachment: Exhibit A - Equal Employment Opportunity and Nondiscrimination Program and Statement of Compliance

RESOLUTION NUMBER AND DATE: 2008-XX, dated August 5, 2008 (Supersedes BPC Policy 358, Resolution 2004-16, dated February 3, 2004; Resolution 2002-265, dated October 8, 2002; Resolution 2001-62, dated July 24, 2001; and Resolution 2000-41, dated February 8, 2000)

Deleted: 002





## **Equal Employment Opportunity and Nondiscrimination Program and Statement of Compliance**

### ***Submitted to:***

Equal Opportunity Program Manager  
San Diego Unified Port District

Deleted: Management office

### ***Submitted by:***

Name of Business: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip Code: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Fax Number: \_\_\_\_\_

E-Mail: \_\_\_\_\_

Date: \_\_\_\_\_

**A. Respondent's Equal Employment Opportunity and Nondiscrimination Program**

Employment at this establishment – Report all permanent full- and part-time employees. Every employee must be accounted for in ONLY one category. Blank spaces will be considered as zeros.

Job Categories	Number of Employees (Report employees in only one category)													
	Race/Ethnicity													
	Hispanic or Latino		Not-Hispanic or Latino											
			Male						Female					
	Male	Female	White	Black or African American	Native Hawaiian or Other Pacific Islander	Asian	American Indian or Alaska Native	Two or More Races	White	Black or African American	Native Hawaiian or Other Pacific Islander			
	A	B	C	D	E	F	G	H	I	J	K			
Executive/Senior Level Officials and Managers														
First/Mid-Level Officials and Managers														
Professionals														
Technicians														
Sales Workers														
Administrative Support Workers														
Craft Workers														
Operatives														
Laborers and Helpers														
Service Workers														
TOTAL														

Comment: Added new category

Comment: Added new category

### **[E. Working Titles]**

**Comment:** Deleted requirement to list specific job titles in each job category

List the working titles of all employees by category, e.g., Professionals: Civil Engineer, Structural Engineer; and Technicians: Drafter, Computer Programmer, Surveyor.

[illegible]

## B. Explanation for Completing Employment Data

Employment data must include ALL current full-time and part-time employees. Employees must be counted by sex and race/ethnic category for each of the occupational categories. You may acquire the race/ethnic information necessary for this report either by self identification surveys of the work force, or from post-employment records as to the identity of employees, or visual surveys of the work force. Eliciting information on the race/ethnic identity of an employee by direct inquiry is not encouraged.

For the purpose of this report, an employee may be included in the group to which he or she appears to belong, identifies with, or is regarded in the community as belonging. However, no person should be counted in more than one race/ethnic group. The race/ethnic categories for this survey are:

**Hispanic or Latino** – A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin regardless of race.

**White** – A person having origins in any of the original peoples of Europe, the Middle East, or North Africa.

**Black or African American** – A person having origins in any of the Black racial groups of Africa.

**Native Hawaiian or Other Pacific Islander** – A person having origins in any of the peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

**Asian** – A person having origins in any of the original peoples of the Far East, Southeast Asian, or the Indian Subcontinent, including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.

**Two or More Races** – All persons who identify with more than one of the above five races.

Comment: Added new category description

Every employee must be accounted for in ONLY one of the categories. Employment data must be reported by job category.

To assist you in determining where to place your jobs within the occupational categories, a description of job categories is as follows:

**Executive/Senior Level Officials and Managers:** Individuals, who plan, direct and formulate policies, set strategy and provide the overall direction of enterprises/organizations for the development and delivery of products or services, within the parameters approved by boards of directors or other governing bodies. Residing in the highest levels of organizations, these executives plan, direct or coordinate activities with the support of subordinate executives and staff managers. They include, in larger organizations, those individuals within two reporting levels of the CEO, whose responsibilities require frequent interaction with the CEO. Examples of these kinds of managers are: chief executive officers, chief operating officers, chief financial officers, line of business heads, presidents or executive vice presidents of functional areas or operating groups, chief information officers, chief human resources officers, chief marketing officers, chief legal officers, management directors and managing partners.

**First/Mid Level Officials and Managers:** Individuals who serve as managers, other than those who serve as Executive/Senior Level Officials and Managers, including those who oversee and direct the delivery of products, services or functions at group, regional or divisional levels of organizations. These managers receive directions from the Executive/Senior Level management and typically lead major business units. They implement policies, programs and directives of executive/senior management through subordinate managers and within the parameters set by Executive/Senior Level management. Examples of these kinds of managers are: vice presidents and directors, group, regional or divisional controllers; treasurers; human resources, information systems, marketing, and operations managers. The First/Mid Level Officials and Managers subcategory also includes those who report directly to middle managers. These individuals serve at functional, line of business segment or branch levels and are responsible for directing and executing the day-to-day operational objectives of enterprises/organizations, conveying the directions of higher level officials and managers to subordinate personnel and, in some instances, directly supervising the activities of exempt and non-exempt personnel. Examples of these kinds of managers are: first-line managers; team managers; unit managers; operations and production managers; branch managers; administrative services managers; purchasing and transportation managers; storage and distribution managers; call center or customer service managers; technical support managers; and brand or product managers.

Comment: Added new category description

**Professionals:** Most jobs in this category require bachelor and graduate degrees, and/or professional certification. In some instances, comparable experience may establish a person's qualifications. Examples of these kinds of positions include: accountants and auditors; airplane pilots and flight engineers; architects; artists; chemists; computer programmers; designers; dieticians; editors; engineers; lawyers;

EEO and Nondiscrimination Program

Updated 3 February 2004, Docs #63131 v2

Updated 5 August 2008, Docs #63131 v4

librarians; mathematical scientists; natural scientists; registered nurses; physical scientists; physicians and surgeons; social scientists; teachers; and surveyors.

**Technicians:** Jobs in this category include activities that require applied scientific skills, usually obtained by post secondary education of varying lengths, depending on the particular occupation, recognizing that in some instances additional training, certification, or comparable experience is required. Examples of these types of positions include: drafters; emergency medical technicians; chemical technicians; and broadcast and sound engineering technicians.

**Sales Workers:** These jobs include non-managerial activities that wholly and primarily involve direct sales. Examples of these types of positions include: advertising sales agents; insurance sales agents; real estate brokers and sales agents; wholesale sales representatives; securities, commodities, and financial services sales agents; telemarketers; demonstrators; retail salespersons; counter and rental clerks; and cashiers.

**Administrative Support Workers:** These jobs involve non-managerial tasks providing administrative and support assistance, primarily in office settings. Examples of these types of positions include: office and administrative support workers; bookkeeping; accounting and auditing clerks; cargo and freight agents; dispatchers; couriers; data entry keyers; computer operators; shipping, receiving and traffic clerks; word processing and typists; proofreaders; desktop publishers; and general office clerks.

**Craft Workers** (formerly Craft Workers (Skilled)): Most jobs in this category include higher skilled occupations in construction (building trade craft workers and their formal apprentices) and natural resource extraction workers. Examples of these types of positions include: boilermakers; brick and stone masons; carpenters; electricians; painters (both construction and maintenance); glaziers; pipe layers; plumbers, pipe fitters and steamfitters; plasterers; roofers; elevator installers; earth drillers; derrick operators; oil and gas rotary drill operators; and blasters and explosive workers. This category also includes occupations related to the installation, maintenance and part replacement of equipment, machines and tools, such as: automotive mechanics; aircraft mechanics; and electric and electronic equipment repairers. This category also includes some production occupations that are distinguished by the high degree of skill and precision to perform them, based on clearly defined task specifications, such as millwrights, etchers and engravers; tool and die makers; and pattern makers.

**Operatives** (formerly Operatives (Semi-skilled)): Most jobs in this category include intermediate skilled occupations and include workers who operate machines or factory-related processing equipment. Most of these occupations do not usually require more than several months of training. Examples include: textile machine workers; laundry and dry cleaning workers; photographic process workers; weaving machine operators; electrical and electronic equipment assemblers; semiconductor processors; testers, graders and sorters; bakers; and butchers and other meat, poultry and fish processing workers. This category also includes occupations of generally intermediate skill levels that are concerned with operating and controlling equipment to facilitate the movement of people or materials, such as: bridge and lock tenders; truck, bus or taxi drivers; industrial truck and tractor (forklift) operators; parking lot attendants; sailors; conveyor operators; and hand packers and packagers.

**Laborers and Helpers** (formerly Laborers (Unskilled)): Jobs in this category include workers with more limited skills who require only brief training to perform tasks that require little or no independent judgment. Examples include: production and construction worker helpers; vehicle and equipment cleaners; laborers; freight, stock and material movers; service station attendants; construction laborers; refuse and recyclable materials collectors; septic tank services; and sewer pipe cleaners.

**Service Workers:** Jobs in this category include food service, cleaning service, personal service, and protective service activities. Skill may be acquired through formal training, job-related training or direct experience. Examples of food service positions include: cooks; bartenders; and other food service workers. Examples of personal service positions include: medical assistants and other healthcare support positions; hairdressers; ushers; and transportation attendants. Examples of cleaning service positions include: cleaners; janitors; and porters. Examples of protective service positions include: transit and railroad police and fire fighters; guards; private detectives and investigators.

## **C. Equal Employment Opportunity and Nondiscrimination Policy**

Describe respondent's equal employment opportunity and nondiscrimination policy and detail how that policy will be applied to this solicitation to extend employment opportunities to local residents:

Equal Employment Opportunity and Nondiscrimination Policy:

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Recruitment Methods:

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## Statement of Compliance

### EQUAL EMPLOYMENT OPPORTUNITY AND NONDISCRIMINATION

THE FOLLOWING CERTIFICATE SHALL BE SIGNED BY THE CHIEF EXECUTIVE OFFICER OF THE CONTRACTOR OR LESSEE AND SUBMITTED WITH CONTRACTOR'S OR LESSEE'S REQUIRED EQUAL EMPLOYMENT OPPORTUNITY AND NONDISCRIMINATION PROGRAM.

Contract/Lease Description: \_\_\_\_\_

Contractor/Lessee: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip Code: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

The Contractor/Lessee shall not discriminate against any employee or applicant for any employment action because of age (over 40), ancestry, color, disability (mental or physical), gender (including identity, appearance, or behavior, whether or not that identity, appearance, or behavior is different from that traditionally associated with the person's sex at birth), marital status, medical condition, national origin, pregnancy, race, religion, sexual orientation, genetic information, or veteran status.

Comment: Added genetic information

Contractor/Lessee shall certify that Contractor/Lessee is in compliance with and throughout the term of the contract or lease will comply with: Title VII of the Civil Rights Act of 1964, as amended; the Civil Rights Act of 1991; the California Fair Employment and Housing Act; and any other applicable Federal, State, and local law, regulation and policy including without limitation, those adopted by the District relating to equal employment opportunity and nondiscrimination, including any such law, regulation, and policy hereinafter enacted.

\_\_\_\_\_  
Signature of CEO

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date



## BPC Policy No. 359

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**SUBJECT:** EQUAL OPPORTUNITY CONTRACTING POLICY

**PURPOSE:** To promulgate a formal policy statement of the Board of Port Commissioners (Board) to ensure that all businesses that want to do business with the San Diego Unified Port District (District), shall have the maximum opportunity to participate in the performance of District contracting and leasing opportunities, and to insure that, workers on public works projects of one thousand dollars (\$1,000) or more, are paid the general prevailing rate of per diem wages for regular, holiday, and overtime work as provided by California Labor Code Section 1771.

**POLICY STATEMENT:**

It is the policy of the District that all businesses be provided equal opportunity to participate in the performance of District contracting and leasing opportunities, and to insure that, workers on public works projects of one thousand dollars (\$1,000) or more are paid the general prevailing rate of per diem wages for regular, holiday, and overtime work as provided by California Labor Code Section 1771.

The District is committed to take all necessary and reasonable steps to increase its utilization of small businesses for a positive economic impact to the region. District policy prohibits discrimination against any person because of age (over 40), ancestry, color, disability (mental or physical), gender (including identity, appearance, or behavior, whether or not that identity, appearance, or behavior is different from that traditionally associated with the person's sex at birth), marital status, medical condition, national origin, pregnancy, race, religion, sexual orientation, genetic information, or veteran status, in the award or performance of District contracts or leases.

Comment: Added genetic information

The District will create a level playing field on which small businesses can compete fairly for District contracts. This policy will help remove barriers to the participation of small businesses in District contracts and assist in the development of firms to compete successfully in the marketplace outside the District's Equal Opportunity Contracting Program.

The Equal Opportunity Program Manager shall be responsible for managing the District's Equal Opportunity Contracting Program and ensuring that District employees,



agents, lessees, and contractors adhere to the provisions of the Equal Opportunity Contracting Program. Implementation of the Equal Opportunity Contracting Program is accorded the same priority as compliance with all other legal obligations incurred by the District.

This policy shall be reviewed and updated annually or when required by law.



## BPC Policy No. 361

**SUBJECT:** EQUAL EMPLOYMENT OPPORTUNITY AND NONDISCRIMINATION POLICY

**PURPOSE:** To affirm the San Diego Unified Port District's (District) commitment to equal employment opportunity and nondiscrimination in all personnel actions including: recruitment, employment, transfer, demotion, promotion, suspension or discharge of any individual based on age (40 and above), ancestry, color, disability (mental or physical), gender (including identity, appearance, or behavior, whether or not that identity, appearance, or behavior is different from that traditionally associated with the person's sex at birth), marital status, medical condition, national origin, pregnancy, race, religion, sexual orientation, genetic information, or veteran status.

Deleted: (1)

Deleted: over

**AUTHORITY:** Title VII of the Civil Rights Act of 1964, as amended; the Civil Rights Act of 1991; the Genetic Information Nondiscrimination Act of 2008, the California Fair Employment and Housing Act; and any other applicable Federal, State, and local law or regulation relating to equal employment opportunity and nondiscrimination, including any such law, regulation, and policy hereinafter enacted.

Deleted: (2) To provide a process for the filing, investigation, and resolution of discrimination complaints.

### POLICY STATEMENT:

The District firmly believes in, and is committed to, the principles and practices of equal employment opportunity and nondiscrimination. It is the policy of the District to recruit, hire, train, and promote persons in all job classifications without regard to age (40 and above), ancestry, color, disability (mental or physical), gender (including identity, appearance, or behavior, whether or not that identity, appearance, or behavior is different from that traditionally associated with the person's sex at birth), marital status, medical condition, national origin, pregnancy, race, religion, sexual orientation, genetic information, or veteran status.

Deleted: over

While the District seeks to attain a work force that is inclusive of all the communities of San Diego, the District shall insure that all personnel actions are administered in a manner so as to further the principles of equal employment opportunity and nondiscrimination.

Additionally, all employees of the District are required to conduct themselves in a

professional manner at all times. Discrimination based upon the above protected classes is also prohibited by federal and state law.<sup>1</sup> Therefore, discrimination by any employee based upon the grounds set forth above is strictly prohibited.

**Comment:** This paragraph is from the Nondiscrimination Policy language which has now been consolidated into one Policy.

Further, the District shall provide a procedure for filing complaints of alleged discrimination by aggrieved parties, including members of the public. The District's Diversity and Inclusion Program shall prescribe the procedures for implementation of this policy. The President and Chief Executive Officer has ultimate responsibility for assuring the development and implementation of the program. Overall responsibility for implementation of the program will be with the Equal Opportunity Program Manager, who is also responsible for developing the procedures used to implement and monitor the program and to process discrimination complaints. Accountability for achieving the objectives of the program will be shared by all District management.

**Deleted:** Equal Employment Opportunity and Nondiscrimination Plan ("Plan")

**Deleted:** Plan

**Deleted:** Plan

**Deleted:** Director,

**Deleted:** Management

**Deleted:** Plan

**Deleted:** Plan

Any aggrieved party who feels to have been subjected to discrimination by District or representatives of the District, for any of those reasons cited above, can file a discrimination complaint with the Equal Opportunity Program Manager.

**Deleted:** Management ("EOM") office by following the procedures described in the Nondiscrimination Policy

The District recognizes that confidentiality is important to all parties involved in a discrimination investigation. Confidentiality will be maintained to the extent possible; however, it cannot be guaranteed. Only those individuals with a legitimate right to know or who are necessary for resolution of a complaint will be involved in the investigatory process.

**Comment:** This paragraph is from the Nondiscrimination Policy language which has now been consolidated into one Policy.

Further, any witness or party involved in an investigation will be directed to keep confidential his or her involvement in the investigation and/or any information learned as a result of his or her involvement in the investigation and admonished that any breach of such direction or of the confidentiality of the investigation could constitute an independent basis for discipline and/or other corrective action.

**Comment:** This paragraph is from the Nondiscrimination Policy language which has now been consolidated into one Policy.

The District will not tolerate retaliation against any employee or other person for initiating, pursuing or assisting with a complaint of alleged discrimination to the District or to any government agency. For example, it is improper, and inappropriate, to withhold or imply to withhold, any support for appointment or recruitment, promotion, transfer, non-retention, or termination, or to suggest that a poor performance evaluation will be prepared based upon a retaliatory basis.

**Comment:** This paragraph is from the Nondiscrimination Policy language which has now been consolidated into one Policy

**Deleted:** 002

<sup>1</sup> A violation of this policy may not constitute a violation of federal or state law, although discrimination is prohibited by both.  
BPC Policy No. 361

The District also prohibits retaliation against any employee for participating in any manner in the investigation of a complaint or report leading to investigation of discrimination. Any individual who engages in retaliation against a complainant or reporting party in violation of this policy may be subject to discipline up to and including termination.

**Comment:** This paragraph is from the Nondiscrimination Policy language which has now been consolidated into one Policy.

Copies of this policy will be provided to all employees who must sign a form acknowledging receipt of this information. A copy will be retained for their personnel records.

**Deleted:** e Nondiscrimination

**Deleted:** and the Equal Employment Opportunity and Nondiscrimination Policy statement

This policy shall be reviewed and updated annually and when required by law.

**Deleted:** Attachments. . Exhibit A – Nondiscrimination Policy  
Exhibit B – Acknowledgment Form

RESOLUTION NUMBER AND DATE: 2008-XX, dated August 5, 2008 (Supersedes BPC Policy 361, Resolution 2004-18, dated February 3, 2004; Resolution 2002-266, dated October 8, 2002; Resolution 2001-164, dated July 24, 2001; and Resolution 2000-41, dated February 8, 2000)

**Deleted:** 002

**SAN DIEGO UNIFIED PORT DISTRICT**  
**BOARD OF PORT COMMISSIONERS POLICY**  
**ON NONDISCRIMINATION**

**I.**

**POLICY:**

**Comment:** Policy language consolidated into one EEO & Nondiscrimination Statement

The San Diego Unified Port District (District) is committed to the principles and practices of equal employment opportunity and nondiscrimination as set forth in the Equal Employment Opportunity and Nondiscrimination Policy Statement. It is the policy of the District to recruit, hire, train, and promote persons in all job classifications without regard to the following protected classes:

- Age (over 40)
- Ancestry
- Color
- Disability (mental or physical)
- Gender (including identity, appearance, or behavior, whether or not that identity, appearance, or behavior is different from that traditionally associated with the person's sex at birth)
- Marital Status
- Medical Condition
- National Origin
- Pregnancy
- Race
- Religion
- Sexual Orientation
- Veteran Status

Additionally, all employees of the District are required to conduct themselves in a professional manner at all times. Discrimination based upon the above protected classes is also prohibited by federal and state law.<sup>1</sup> Therefore, discrimination by any employee based upon the grounds set forth above is strictly prohibited.

Copies of this policy and the Equal Employment Opportunity and Nondiscrimination Policy Statement of the Board of Port Commissioners will be provided to all employees at the time of hire. Each employee shall sign a form acknowledging receipt of both. Another copy will be retained in their personnel

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<sup>1</sup> A violation of this policy may not constitute a violation of federal or state law, although discrimination is prohibited by both.

records. The policy and policy statement is also available on the District's intranet site, <http://internal>.

## II.

### **CONFIDENTIALITY**

The District recognizes that confidentiality is important to all parties involved in a discrimination investigation. Confidentiality will be maintained to the extent possible; however, it cannot be guaranteed. Only those individuals with a legitimate right to know or who are necessary for resolution of a complaint will be involved in the investigatory process.

Further, any witness or party involved in an investigation will be directed to keep confidential his or her involvement in the investigation and/or any information learned as a result of his or her involvement in the investigation and admonished that any breach of such direction or of the confidentiality of the investigation could constitute an independent basis for discipline and/or other corrective action.

## III.

### **RETALIATION PROHIBITED**

The District will not tolerate retaliation against any employee or other person for initiating, pursuing, or assisting with a complaint of alleged discrimination to the District or to any government agency. For example, it is improper, and inappropriate, to withhold or imply to withhold, any support for appointment or recruitment, promotion, transfer, non-retention, or termination, or to suggest that a poor performance evaluation will be prepared based upon a retaliatory basis.

The District also prohibits retaliation against any employee for participating in any manner in the investigation of a complaint or report leading to investigation of discrimination. Any individual who engages in retaliation against a complainant or reporting party in violation of this policy may be subject to discipline up to and including termination.

## IV.

### **COMPLAINT PROCEDURE**

- A. Any employee, former employee, applicant for employment, District vendor or tenant, or member of the public, may file a complaint alleging discrimination on any of the bases set forth in Section I. above, including age (40 and over); ancestry; color; disability

**Comment:** Complaint procedure to become an administrative procedure.

(physical or mental); gender (including identity, appearance, or behavior, whether or not that identity, appearance, or behavior is different from that traditionally associated with the person's sex at birth); marital status; medical condition; national origin; pregnancy; race; religion; sexual orientation; or, veteran status. The complaint should be filed with the office of Equal Opportunity Management (EOM).

- B. Additionally, any employee of the District who believes that he or she, or someone else in the District, has been subjected to unlawful discrimination based upon any of the protected classes set forth in Section I above is strongly encouraged to immediately report the matter to the Director, Equal Opportunity Management (EOM), the Director, Human Resources, the Senior Director, Organization Effectiveness, or the employee's immediate supervisor, via their established chain of command.
- C. A complaint or report of discrimination should be filed with EOM within ninety (90) days of the date the alleged discriminatory act occurred. The complainant is also advised that there are time limitations to file a complaint of employment discrimination, which include discriminatory acts: 1) for the California Department of Fair Employment and Housing (DFEH), the time limitation is one (1) year from the date the discriminatory act allegedly occurred; and 2) for the United States Equal Employment Opportunity Commission (EEOC), charges must be filed within one hundred-eighty (180) days of the date the allegedly discriminatory act occurred.
- D. Upon the receipt of a complaint or a report of alleged discrimination, EOM shall conduct a prompt and thorough investigation. The investigator will strictly adhere to the confidentiality terms of this policy; remind the complainant or reporting party, the accused, and all interviewees of the confidentiality policy and that retaliation will not be tolerated; maintain a written record of the investigation; and, keep the complainant informed of the progress of the investigation and the results of the investigation. Based upon his or her investigation, the EOM investigator will determine the following:
  - 1. Whether the complaint or report of alleged discrimination is subject to the Nondiscrimination Policy;
  - 2. Whether the conduct complained of or reported occurred;
  - 3. Whether such conduct constituted disparate treatment of the complainant;
  - 4. Whether the conduct complained of or reported occurred constitutes a violation of this Policy; and,

5. Whether there exists any policies and/or practices, verbal or written related to the work situation, which may constitute disparate treatment of the complainant due to his or her protected class.

**V.**

**REVIEW BY SENIOR DIRECTOR**

- A. Upon completion, the written investigation and all findings shall be provided to the Senior Director, Organization Effectiveness for review. The Senior Director's review shall determine whether there was evidence sufficient to support the findings made by the EOM investigator.
- B. If the Senior Director concurs with the EOM investigator's findings, such concurrence shall be set forth in writing and made a part of the written EOM investigation.
- C. If the Senior Director does not concur with the EOM investigator's findings, then the Senior Director will direct the EOM investigator to further investigate the complaint or report of discrimination in the manner set forth by the Senior Director, which shall be made in writing and made a part of the EOM investigation. Once such investigation is completed, the EOM investigator will submit the investigation to the Senior Director for review consistent with Section A above.

**VI.**

**CONSULTATION WITH COMPLAINANT**

After the investigation has been completed and reviewed by the Senior Director, the EOM investigator will notify the complainant or reporting party, and will discuss the findings in a face to face meeting.

**VII.**

**REMEDATION**

In the event there is a determination that discrimination has occurred, the District will assess what remedial steps are required to address and correct the discriminatory conduct. Remedial measures include but are not limited to



mediation, disciplinary action against the perpetrator, reorganization of personnel, training and education, counseling and other employee assistance.

#### **VIII.**

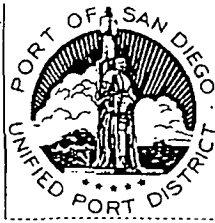
##### **DISCIPLINARY ACTION**

Any employee found to be responsible for discrimination or retaliation in violation of this policy will be subject to appropriate disciplinary action up to and including termination. False complaints may also subject an employee to discipline. The severity of the discipline will be based upon the totality of the circumstances and may include counseling, training, education, and/or other remedial steps as a condition of employment.

#### **IX.**

##### **TRAINING**

As a preventative and proactive step, all employees of the District will receive training on discrimination and knowledge and utilization of the complaint process.



## SAN DIEGO UNIFIED PORT DISTRICT

**Comment:** This form will be removed from the Policy statement and be used under internal administrative procedures.

### **Acknowledgment of Receipt of Equal Employment Opportunity and Nondiscrimination Policy**

This is to acknowledge that I have received an orientation on the District's Equal Employment Opportunity and Nondiscrimination Policy. I understand that the District believes and is firmly committed to the principles and practices of equal employment opportunity and nondiscrimination for employing and developing personnel.

I acknowledge that, as an employee of the District, I have a responsibility to comply with District policies, and all applicable state and federal laws, regarding nondiscrimination against any applicant or employee, or members of the public, because of age (40 and above), ancestry, color, disability (mental or physical), gender (including identity, appearance, or behavior, whether or not that identity, appearance, or behavior is different from that traditionally associated with the person's sex at birth), marital status, medical condition, national origin, pregnancy, race, religion, sexual orientation, genetic information, or veteran status.

\_\_\_\_\_  
Employee's Printed Name

\_\_\_\_\_  
Employee's Signature

\_\_\_\_\_  
Date of Equal Opportunity Program Orientation

\_\_\_\_\_  
Department

#### **Exhibit A-1 – Policy 361**

EEO \ (Form) Acknowledgment of Receipt . (Rev 2/00)  
(Rev. 24 July 2001)  
(Rev. 8 October 2002)  
(Rev. 2 February 2004) - Docs #63135 v2