

ARB Staff Protection Act

Dec 3, 2020 version (DRAFT)

From: Mary Nichols, Chair

To: Richard Corey, EO
Edna Murphy, ASD

BCC: Variety of interested/affected parties

ACTION:

- Provide a guaranteed mediation opportunity for staff seeking conflict resolution
- Provide a trusted third-party reporting and mediation opportunity for internal agency accountability issues
- Adopt a requirement that new hires and existing staff demonstrate ongoing understanding of and a track record of personal and professional support for the agency's mission

BACKGROUND

The California Air Resources Board (CARB) is a world leading air quality and climate mitigation agency.

The agency has grown steadily with increased responsibilities which generate controversy and have implications for society and business, including large and powerful industries.

These generated economic and political pressures, and the rapid institutional growth, have implications for the integrity of our work and the protection of staff.

Currently CARB's nearly 2,000 staff have no recourse to mediation in cases of conflict, and no trusted representative independent of the Executive Office to manage internal complaints, including complaints of the highest order such as discrimination, fraud, dishonesty and embezzlement. In addition, there is no mechanism in place to ensure that new hires are credibly aligned with CARB's mission.

THEREFORE BE IT HEREBY RESOLVED

CARB leadership must quickly address these problems through the provision of new policies and new measures beginning with the following policy proposals.

CARB leadership must take immediate action, adopting a strong commitment and support, to provide safeguards and solutions to the aforementioned agency challenges, and apply those measures proactively to current and future issues as well as retroactively to help heal and resolve past issues.

POLICY PROPOSALS

Adopt some form of the following draft policies, as well as additional policies, measures and support as needed:

ASD-xxx-01 (draft)

All staff have the right to mediation in any conflict before adverse action is taken. All staff have the right to be apprised of any accusations made against them before any adverse action is taken so as to be able to seek mediation as a first recourse. Staff have the right to substitution of mediator if for any reason the mediator appears unsuitable or biased. In cases of repeated rejection staff have a duty to assist in seeking a mediator acceptable to all parties. CARB shall finance all costs of mediation.

ASD-xxx-02 (draft)

Staff whistleblower protections are in the best interest of the agency and the People of California. Protected and facilitated reporting and resolution of accountability issues that arise within CARB is the only option to ensure the expertise for an expedient resolution. Facilitating internal reporting also helps protect the agency from costly external accountability procedures. Openness to reporting and expedient resolution is essential to make CARB a stronger and more credible agency. Reporting complaints to external agencies and to the Executive Office has been determined to be inadequate on multiple grounds due to conflicts of interest, lack of safeguards, and lack of timely and effective response. Staff therefore have the right make anonymous complaints through a trusted representative independent of the Executive Office. The provision of representatives is

funded by CARB. Such complaints shall be mediated by said representative until a satisfactory resolution supported by existing law, policy and societal ethics is obtained. The resolution shall be transparent to the staff complainant as well as CARB management. Lack of resolution satisfactory to the complainant including any sense of retaliation shall be published publicly by the representative and presented to the CARB Board in a regular report at any Board meeting in which an unsatisfactory outcome exists. The third-part representative is mandated to act in the complainant's best interest including the making of and seeing through of external complaints at CARB's expense, should it be deemed warranted due to inability to resolve issues within CARB, and for the protection of the complainant.

ASD-xxx-03 (draft)

The importance of environmental protection is at a paramount as the people of California and the world face the existential threat of disastrous climate change. CARB has the mandate to lead California and the world in effective climate mitigation, as well as protection from death, disease and myriad other deleterious effects of air pollutants broadly. Because environmental protections are sometimes at odds with economic, political and cultural forces, it is incumbent on the agency to ensure as much as possible that all staff are committed to and aware of the importance of effective environmental protection. Therefore CARB requires at all steps in the HR process, from the initial hiring process to performance review and promotions, that staff and candidates demonstrate understanding of and a track record of personal and professional support for CARB's mission. Expertise, training and review for all HR and management staff shall be provided and continuously updated to ensure that CARB is an agency truly and fully committed to its mission. A public statement of said commitment authored by each staff member, updated annually, shall be required in step with the performance review and Annual Development Plan, and published on the CARB website.