

**HARASSMENT, DISCRIMINATION, RETALIATION POLICY
AND
COMPLAINT PROCEDURE**

A. PURPOSE

It is the County's intent and the purpose of this Policy to provide all employees, applicants, and contractors with an environment that is free from any form of discriminatory harassment, discrimination or retaliation as defined in this Policy. This Policy prohibits harassment or discrimination on the basis of any of the following classifications: an individual's race, religion, color, sex, gender identity, sexual orientation (including heterosexuality, homosexuality and bisexuality), national origin, ancestry, citizenship status, uniformed service member status, marital status, pregnancy, age, medical condition and physical or mental disability (whether perceived or actual) or any other category protected by law.

It is also the policy of the County to provide a procedure for investigating alleged harassment, discrimination and retaliation in violation of this Policy. The protection from discrimination includes protection from retaliation for having taken action either as a complainant, or for assisting a complainant in taking action, or for acting as a witness or advocate on behalf of an employee in a legal or other proceeding to obtain a remedy for a breach of this policy.

B. POLICY

The County has zero tolerance for any conduct that violates this Policy. Conduct need not rise to the level of a violation of law in order to violate this Policy. Instead, a single act can violate this Policy and provide grounds for discipline or other appropriate sanctions. If you are in doubt as to whether or not any particular conduct may violate this Policy, do not engage in the conduct, and seek guidance from a supervisor or the Director of Human Resources.

C. DEFINITIONS

1. Protected Classifications:

This Policy prohibits harassment or discrimination because of an individual's protected classification(s). "Protected Classification" includes race, religion, color, sex, gender identity, sexual orientation (including heterosexuality, homosexuality and bisexuality), national origin, ancestry, citizenship status, uniformed service member status, marital status, pregnancy, age, medical condition and physical or mental disability (whether perceived or actual).

2. Policy Coverage:

This Policy prohibits elected officials, officers, employees and contractors from harassing or discriminating against applicants, officers, officials, employees and contractors

because: (1) of an individual's protected classification, (2) of the perception of an individual's protected classification, or (3) the individual associates with a person who has or is perceived to have a protected classification.

3. Discrimination:

This Policy prohibits treating individuals differently because of the individual's protected classification as defined by this Policy.

4. Harassment:

Harassment means unsolicited words or conduct which subjectively and objectively offend another person. Harassment includes, but is not limited to, the following examples of behavior undertaken because of an individual's protected classification:

- a. Verbal harassment**, such as epithets (nicknames and slang terms), derogatory or suggestive comments, propositioning, jokes or slurs, or graphic verbal commentaries about an individual's body on the basis of his or her protected classification. Verbal harassment includes comments on appearance and stories that tend to disparage those of a protected classification.
- b. Visual forms of harassment**, such as derogatory posters, notices, bulletins, cartoons, drawings, sexually suggestive objects, or e-mails on the basis of a protected classification. Visual harassment includes mimicking the way someone walks or talks because of their protected classification.
- c. Physical harassment**, such as assault, touching, impeding or blocking movement, grabbing, patting, leering, making express or implied job-related threats in return for submission to physical acts, taunting, or any physical interference with normal work or movement based on an individual's protected classification.
- d. Sexual harassment**, such as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature or any of the above described conduct when:
 - Submission to such conduct is either an expressed or implied term or condition of an individual's employment, or
 - Submission to or rejection of such conduct is used as the basis for employment decisions affecting such individual, or
 - Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating a hostile, intimidating or offensive work environment.
 - By definition, sexual harassment is not within the course and scope of an individual's employment with the County.

D. ROMANTIC AND SEXUAL RELATIONSHIPS BETWEEN SUPERVISORS AND SUBORDINATES

Romantic or sexual relationships between supervisors and subordinate employees are discouraged. There is an inherent imbalance of power and potential for exploitation in such relationships. The relationship may create an appearance of impropriety and lead to charges of favoritism by other employees. A welcome sexual relationship may change, with the result that sexual conduct that was once welcome becomes unwelcome and harassing.

E. RETALIATION

Retaliation against a person (or his or her associates) who reports or provides information about harassment or discrimination is strictly prohibited. Any act of reprisal violates this Policy and will result in appropriate disciplinary action. Examples of actions that might be retaliation against a complainant, witness or other participant in the complaint process include: (1) singling a person out for harsher treatment; (2) lowering a performance evaluation; (3) failing to hire, failing to promote, withholding pay increases, assigning more onerous work, abolishing a position, demotion or discharge; or (4) real or implied threats of intimidation to prevent an individual from reporting harassment or discrimination.

Any act of retaliation will be treated as a separate and distinct incident, regardless of the outcome of the harassment or discrimination complaint.

F. REPORTING HARASSMENT, DISCRIMINATION OR RETALIATION

An applicant, employee, volunteer, officer, contractor, or a witness who feels he or she has been harassed, discriminated against, retaliated against; or has witnessed someone being harassment, discrimination against, or retaliated against in violation of this Policy, should report the conduct immediately as outlined below so that the complaint can be resolved quickly and fairly. All employees involved in the complaint process may be represented by a person of their choosing and at their own expense.

1. Object to the Conduct

Sometimes an individual is unaware that his/her conduct is offensive. The offensive behavior may be eliminated by simply informing the offender that the conduct or language in question is unwelcome and offensive and request that it be discontinued immediately. A person who believes he/she is being harassed is encouraged to use this process. When the conduct in question continues after the offending person has been informed it is offensive or if a person does not feel comfortable talking to the offending person directly, the employee should make a report in accordance with subsection 2 below or go directly to the formal reporting process.

2. Oral Report

If a person who believes that this Policy has been violated does not want to confront the offending person, he/she should report the conduct to a supervisor, department head or any County management employee. The individual may also seek the advice, assistance or consultation of a supervisor, department head, or any County management employee. Any supervisory or management employee who receives such a report must in turn direct it to the Director of Human Resources. The Human Resources Director will determine

what level of investigation and response is necessary.

3. Written Process

An individual who believes this Policy has been violated may provide a written complaint to a supervisor, department head or any management employee who in turn must direct the complaint to the Human Resources Department. Individuals are encouraged to use the Confidential Complaint Form for this purpose. A written complaint may be submitted anonymously.

4. Option to Report to Outside Administrative Agencies

Applicants, employees, volunteers, officers and contractors have the option to report harassment, discrimination, or retaliation to the U.S. Equal Employment Opportunity Commission (EEOC) or the California Department of Fair Employment and Housing (DFEH).

G. COUNTY'S RESPONSE TO COMPLAINT OF HARASSMENT, DISCRIMINATION OR RETALIATION

1. Investigation

Upon receipt of a complaint of alleged harassment, discrimination or retaliation, the Director of Human Resources will be responsible for coordinating a thorough investigation (unless he/she is named in the complaint). The Human Resources Director may coordinate the investigation with the complainant's department head and may hire an outside investigator if the County deems it appropriate. The type of investigation undertaken, and the party chosen to conduct the investigation will depend on the nature of the complaint made and will be determined by the Director of Human Resources. The Director of Human Resources will report the status of investigations to the County Administrative Officer and/or the County Counsel as appropriate.

The Human Resources Director, in concurrence with the County Administrative Officer and/or County Counsel, may take interim action to diffuse volatile circumstances. The investigator will review the complaint allegations. The investigation will normally include interviews with the reporting individual, the accused, and any other person who is believed to have relevant knowledge concerning the allegations. The investigator will remind all witnesses to maintain the confidentiality of the interview and that retaliation against those who report alleged harassment or discrimination or who participate in the investigation is prohibited.

The County takes a proactive approach to potential Policy violations and will conduct an investigation if its officers, supervisors, or managers become aware that harassment, discrimination or retaliation may be occurring, regardless of whether or not the recipient of the alleged action or a third party reports a potential violation.

2. Remedial and Disciplinary Action

If the investigation determines that the alleged conduct occurred and that the conduct violated this Policy, the County will notify the complainant and perpetrator of the general conclusion(s) of the investigation and take effective remedial action that is designed to

end the violation(s). Any employee or officer determined to have violated this Policy will be subject to disciplinary action, up to and including termination. Disciplinary action may also be taken against any supervisor or manager who condones or ignores potential violations of this Policy, or who otherwise fails to take appropriate action to enforce this Policy. Any official or contractor found to have violated this Policy will be subject to appropriate sanctions.

3. Closure

At the conclusion of the investigation, the Director of Human Resources will notify the complainant in general terms of the outcome of the investigation.

4. Confidentiality

Every possible effort will be made to assure the confidentiality of complaints made under this Policy. Complete confidentiality cannot occur, however, due to the need to fully investigate potential Policy violations and take effective remedial action. An individual who is interviewed during the course of an investigation is prohibited from discussing the substance of the interview, except as otherwise directed by a supervisor or the Director of Human Resources.

Any individual who discusses the content of an investigatory interview will be subject to discipline or other appropriate sanction. The County will not disclose a completed investigation report except as it deems necessary to support a disciplinary action, to take remedial action, to defend itself in adversarial proceedings, or to comply with the law or a court order.

H. RESPONSIBILITIES OF EMPLOYEES, MANAGEMENT AND SUPERVISORY EMPLOYEES

1. Employees

In order to establish and maintain a professional working environment, while at the same time preventing harassment, discrimination, and retaliation, employees are expected to:

- Set an example of acceptable conduct by not participating in or provoking behavior that violates this Policy. Try not to be angry or insulted if an individual tells you that your behavior is offensive. People have different ethical values and standards and may be offended by behavior you think is proper. Tell the individual you did not realize your behavior was offensive, and immediately cease the conduct. Let fellow employees know when you consider behavior offensive. The County hires people from a wide variety of cultural and ethnic backgrounds, and an individual may not realize behavior he or she thinks is proper could be seen by others as offensive.
- Report harassment, discrimination or retaliation as quickly as possible, whether the employee is the target of the conduct or a witness.
- If an employee witnesses harassment, he or she should tell the individual being harassed that the County has a policy prohibiting such behavior, and that he or she can demand

that the harasser cease the behavior.

- Maintain confidentiality as required by this Policy.
- Fully cooperate with the County's investigation of complaints made under this Policy.

2. Managers and Supervisors

In addition to the responsibilities listed above, managers and supervisors are responsible for the following:

- Implementing this Policy by taking all complaints seriously and modeling behavior that is consistent with this Policy. Direct all complaints to the Director of Human Resources.
- Taking positive steps to eliminate any form of harassment, discrimination or retaliation observed or brought to his/her attention.
- Making sure no department director, supervisor or other employee retaliates through any action of intimidation, restraint, coercion or discrimination.
- Monitoring the work environment and taking appropriate action to stop potential Policy violations.
- Following up with those who have complained to ensure the behavior complained of has ceased.
- Informing complainants of their option to contact the EEOC or DFEH regarding a potential Policy violation.

I. MANDATORY TRAINING

As part of its commitment to ensuring a work environment free from harassment and discrimination, the County requires that all employees who hold a supervisory position receive training on this Policy at least once every two years. Human Resources will schedule training sessions each year to ensure that employees are able to complete the mandatory training. Attendance at the training will be documented.