

		<b>Policy # 601</b>
<b>Subject:</b> Discrimination, Harassment, and Retaliation		
<b>Responsible Department:</b> Personnel Services		
<b>Effective Date:</b> 04/1996		<b>Revision Date:</b> 08/2020
<b>David Devine</b> <b>Director of Personnel Services</b>		<b>Ann Edwards</b> <b>Interim County Executive</b>

**1. Purpose**

Sacramento County is committed to maintaining a workplace that is free from illegal discrimination, harassment, and retaliation. When County employees, agents, contractors, or volunteers are performing their work-related activities for the County, the County will take reasonable measures to protect them from discrimination, harassment, and/or retaliation.

Discriminating against or harassing any applicant, employee, agent, contractor, or volunteer based on any protected characteristic is prohibited. Any County employee, agent, contractor, or volunteer who participates in behavior that is discriminatory, harassing, and/or retaliatory, as defined by this policy, will be subject to disciplinary action or appropriate sanctions.

It is a violation of this policy to retaliate or engage in any form of retaliation because a person has filed a complaint of, participated in an investigation of, or opposed discrimination. The County shall investigate complaints of retaliation and shall take appropriate action.

County employees who are responsible for administering, monitoring, and/or overseeing the work of other County employees, agents, contractors, or volunteers shall ensure that they do not violate this policy. If managers or supervisors become aware of possible discrimination, harassment, and/or retaliation by County employees, agents, contractors or volunteers, they shall take appropriate action. This policy additionally prohibits discrimination, harassment, and/or retaliation toward any client, customer, or vendor.

**2. Authority**

State and Federal laws prohibit discrimination or harassment based on certain protected characteristics, as well as retaliation as defined by this policy.

**3. Scope**

To define conduct that is prohibited and to summarize the responsibilities of County employees for preventing discrimination and harassment, for reporting violations, and for responding to complaints.

**4. Procedures**

- *All Individuals* are responsible for ensuring that discrimination, harassment, or retaliation do not occur in the Sacramento County work environment. Any form of discrimination, harassment, or retaliation, as defined above, is prohibited. In the spirit of maintaining a workplace that does not contribute to a discriminatory or harassing environment, any material which is sexually explicit or is clearly derogatory based on a protected status is prohibited in the workplace. All individuals are required to fully cooperate with all investigations of discrimination, harassment, and/or retaliation.
- *All Supervisory Personnel* are responsible for ensuring that the Sacramento County work environment is free from discrimination, harassment, and/or retaliation. As appropriate for their level in the organization, these individuals are responsible for educating employees regarding this policy; investigating and/or acting upon any report, complaint, or observation of discrimination, harassment, or retaliation; taking reasonable steps to protect the complainant from further discrimination, harassment or retaliation; and, taking appropriate action against any individual who engages in discrimination, harassment and/or retaliation.
- *Making a Complaint.* The County encourages all individuals to immediately report any incidents of conduct prohibited by this policy so that complaints can be quickly and fairly resolved. Any individual who believes that he or she has been subjected to, has been affected by, or is aware of discrimination, harassment,

or retaliation in a County work situation should immediately report such action or incident. Reports can be made to any supervisor or manager, a representative of the Department of Personnel Services, a representative of the County's Equal Employment Opportunity (EEO) Office, or a Department Head.

No individual is required to make a complaint to the person who allegedly engaged in the discriminatory, harassing, and/or retaliatory behavior. Additionally, no individual shall suppress or attempt to suppress a complaint. Complaints may be presented orally or in writing, although written complaints are strongly recommended. However, if a complaint is submitted, it must include the name of the alleged harasser, specific allegations, and witnesses (if any) for action to be taken.

- Complaint Investigation. All complaints involving alleged violations of this policy which are received by Supervisory Personnel should be reported to the Department of Personnel Services as soon as possible. When the County receives a complaint of, or has reason to believe that discrimination, harassment, or retaliation is occurring, it will take all reasonable measures to ensure that the matter is promptly investigated. Proceedings under this policy and all reports and records filed will be kept as confidential as possible and information will be given only to those who have a need to know. Reasonable efforts will be made to protect the privacy interests of the parties.
- Protection from Retaliation. The County will take all reasonable measures to ensure that any individual filing a complaint or participating in an investigation is protected from retaliation. Instances of retaliation should be reported immediately so that the appropriate action can be taken.
- County Decision is Final. Decisions made based upon the outcomes of a County investigation are final. Proceedings under this policy do not prohibit individuals from filing a complaint with the California Department of Fair Employment and Housing (DFEH) or the U.S. Equal Employment Opportunity Commission (EEOC) or exercising other legal action.

- *Use of Outside Investigators.* In some circumstances, the use of an outside investigator may be necessary and/or advisable in order to ensure the integrity of the investigation. An outside investigator shall not be a County employee, but shall be an individual or entity that is retained by the County to investigate complaints of violations of this policy.

It is mandatory that the County use an outside investigator to conduct investigations of discrimination, harassment, or retaliation complaints against any elected officials, the County Executive, or the County Counsel. The County may, in its discretion, use an outside investigator to conduct investigations of complaints against other individuals, as appropriate, depending on their role and function within the County. The selection of an outside investigator shall be made by the County Executive (or designee) in collaboration with the County Counsel (except if either is the subject of the investigation); investigative findings and materials generated by the outside investigator shall be provided to the County Executive (or designee) and the County Counsel (except if either is the subject of the investigation).

- *Mandated Training:* Consistent with applicable State and Federal requirements, the County will provide all personnel with specialized formal training in recognizing and preventing discrimination, harassment, and retaliation.
- *Advice against Supervisor-Subordinate Sexual Relationships Supervisory Personnel:* Supervisory personnel are sternly advised against soliciting or engaging in sexual activity with employees over whom they have authority.

This advice applies regardless of whether the employee has consented to the relationship. A relationship may begin with the employee's consent and then end, which may be followed by a charge of sexual harassment. In such cases, County management will not look with sympathy on a defense that the relationship started with the employee's consent. Situations like this may result in disciplinary action being taken against the supervisory personnel. In the event of a lawsuit, the County may refuse to provide defense counsel or to indemnify the

supervisory personnel for any judgment rendered against him or her.

If a personal relationship develops between a subordinate and his/her superior, it shall be the responsibility of both employees involved to promptly disclose the relationship to an uninvolved superior. Upon notification of a personal or familial relationship, the employee's immediate supervisor and/or manager will review the situation and establish an acceptable solution to any potential conflict.

**Definitions:**

Protected Characteristics/Statures are those which are protected under State and/or Federal anti-discrimination laws, including:

- Race
- Color
- National Origin
- Ancestry
- Sex/Gender
- Pregnancy, including childbirth, breastfeeding, or related medical conditions
- Gender Identity
- Gender Expression
- Marital Status
- Sexual Orientation
- Religion
- Age
- Physical or Mental Disability
- Medical Condition
- Genetic Information
- Political Affiliation or Belief
- Military or Veteran's Status
- Request for Family Medical Leave
- Former Illegal Drug User Who has Successfully Rehabilitated and is No Longer Using Drugs
- Other Protected Status under State or Federal Law

Discrimination is taking an employment action, making an employment decision, and/or treating an employee or applicant differently based on the individual's protected characteristic or status.

Harassment is unwelcome conduct of a verbal, visual, or physical nature that is based on a protected characteristic or status and unreasonably interferes with the individual's ability to do his or her job. Depending on the severity of the behavior, a single incident may violate this policy. Likewise, pervasive conduct can be considered a violation even if it is not severe. Additionally, harassment that is based on the perception that an individual holds one of the above-mentioned protected characteristics/statuses or is based on an individual's association with a protected characteristic/status is prohibited.

Examples of behavior that may be considered harassing include, but are not limited to:

- Verbal conduct, such as slurs, insults, jokes, name calling, teasing, unwanted sexual advances, or otherwise derogatory or offensive comments or gestures that are based on a protected group/status.
- Visual displays, such as wearing t-shirts, clothing, or hats depicting scenes or terminology which is derogatory to a protected group/status.
- Distributing or displaying material in any format (i.e., print, electronic, etc.) which is derogatory, prejudicial, or otherwise offensive to a protected group/status.
- Physical conduct, including physical interference with movement or work, unwelcome touching, or other physical conduct which is directed at an individual on the basis of a protected characteristic/status.
- Comments via electronic media of any type that include any harassing conduct that is prohibited by this policy.
- Other similar conduct.

Sexual Harassment is harassment based on sex; it is any unwelcome sexual advance, request for sexual favor, and/or other verbal or physical conduct of a sexual nature, if such conduct is either:

- Implicit or explicit demands to submit to sexual conduct or requests as a condition of employment or to avoid some other loss.
- Unwelcome conduct of a sexual nature that has the purpose or effect of unreasonably interfering with an individual's work

performance or creating an intimidating, hostile, and/or offensive working environment.

Retaliation is when an individual suffers adverse action in response to making a claim of, participating in the investigation of, or opposing discrimination or harassment.

Supervisory Personnel, in accordance with the broad definition of "supervisor" contained in the California Fair Employment and Housing Act (FEHA), includes all elected officials, department heads, managers, supervisors, and lead workers.

Individual is any County employee, agent, contractor, or volunteer.

## **5. Review**

Annually or as updates are made to State or Federal law that necessitate changes.