



**COUNTY OF YUBA
POLICY MANUAL**

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ORIGINATION DATE: MAY 1, 2009
AMENDED: JANUARY 22, 2019

Title:

Policy and Complaint Procedure against Harassment,
Discrimination and Retaliation

Approved By:

Board of Supervisors, Resolution # 2019-9

Purpose / Scope:

The purpose of this Policy is to establish a commitment to prohibit and prevent discrimination, harassment, and retaliation in employment, to define those terms, and to set forth a procedure for investigating and resolving internal complaints. The County of Yuba encourages all individuals to report as soon as possible any conduct that is believed to violate this policy.

Policy:

The County of Yuba has zero tolerance for any conduct that will violate this policy. Conduct need not arise to the level of a violation of the law in order to violate this policy. A single act can violate this Policy and provide grounds for discipline or other appropriate sanctions.

The County of Yuba will not tolerate harassment and/or discrimination against or by any County employee, supervisor or management employee, County official, contract employee, co-worker, applicant, volunteer, intern, visitor or any other non-employee in the workplace. Harassment, discrimination and/or retaliation on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition (including, but not limited to, medical conditions related to pregnancy or childbirth), marital status, sex, gender, gender identity, gender expression, age over 40, or sexual orientation, or military and veteran status, or the perception that a person has any of those characteristics, or that the person is associated with a person who has or is perceived to have any of those characteristics, is not acceptable and will not be tolerated.

This Policy applies to all terms and conditions of employment, including, but not limited to, hiring, placement, promotion, disciplinary action, layoff, recall, transfer, leave of absence, compensation, and training.

Individuals covered within the scope of this policy who believe that they have been subjected to harassment, discrimination and/or retaliation should promptly report the harassment, discrimination and/or retaliation to the person designated to receive harassment and discrimination complaints, as described in the complaint procedure later in this policy.

The County of Yuba will respond to all harassment, discrimination and/or retaliation complaints brought to its attention in a timely and appropriate manner.

Complaints will be investigated and, if found to have merit, the County will promptly take action to prevent any recurrence and remedy the effects of the harassment and/or discrimination.

Persons who engage in harassment and/or discrimination will be subject to discipline up to and including termination of employment.

Any employee who makes a report or complaint which the employees know or should know is false, under this policy, shall be subject to disciplinary action, up to and including termination.

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To prevent harassment and/or discrimination, it is critical that individuals not be deterred from reporting it. Any retaliation against a person for filing a complaint or participating in the investigation complaint resolution process is prohibited. The County of Yuba will not retaliate, nor will it tolerate retaliation. Individuals found to be retaliating in violation of this Policy will be subject to disciplinary action up to and including termination.

Definitions:

Adverse Employment Action

An adverse action is defined as any employer action that is likely to have a substantial and material adverse effect on an employee’s job performance or opportunity for advancement in his or her career; and would dissuade a reasonable employee from making or supporting a complaint.

Confidentiality

Every possible effort will be made to assure the confidentiality of complaints made under this policy. Complaints will be conveyed only to those who have a legitimate need to know about them, such as those investigating the complaint and any others involved in remedial or disciplinary action.

Complete confidentiality cannot be guaranteed, due to the need to fully investigate and the duty to take effective remedial action. Confidentiality will be maintained to the greatest extent possible.

Depending on the nature of the complaint and investigation, an individual who is interviewed during the course of an investigation may be prohibited from discussing the substance of the interview. Any individual who discusses the content of an investigatory interview when prohibited from doing so will be subject to disciplinary action up to and including termination.

The County of Yuba 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 court order.

Discrimination

Discrimination is any adverse employment action taken against someone because of his or her protected characteristics. Examples of discrimination include, but are not limited to, the following:

- Any behavior or practice which treats a person differently because of that person’s actual or perceived protected characteristic or association with a person on the basis of that person’s actual or perceived protected characteristic.
- Systematic exclusion of a person because of that person’s actual or perceived protected characteristic.

Harassment

Harassment is any unwelcome conduct that is taken because of any protected classification, which is listed in this Policy, and that is sufficiently severe or pervasive to alter the conditions of employment and create an intimidating, hostile, offensive, or abusive working environment. Harassment can be written (in print or electronically), verbal, visual, physical or environmental. Examples of harassment include, but are not limited to, the following:

- Written communications such as sending inappropriate jokes or comments in print or in emails.
- Verbal communications, such as making inappropriate, graphic or degrading comments about individual's actual or perceived protected characteristics or about an individual's body, physical appearance, attire; or using epithets, derogatory comments or slurs.
- Physical acts such as unwanted touching, physical interference with normal work or movement, and assault. This also includes pinching, grabbing, patting, propositioning, massaging, leering, staring or making explicit or implied on-the-job threats or promises in return for submission to physical acts.
- Visual insults or displays, such as offensive or derogatory posters, documents, electronic media transmissions, cartoons or drawings or inappropriate gestures related to a protected classification.
- A work environment that is permeated with sexually suggestive statements, innuendo, insults, or abuse not relevant to the subject matter of the job. The determination of whether an environment is hostile depends on the totality of the circumstances, including such factors as the frequency of the conduct, the severity of the conduct, whether the conduct is humiliating or physically threatening and whether the conduct unreasonably interferes with an individual's work.
- Making unwanted sexual advances or propositions, or offering employment benefits or giving preferential treatment in exchange for sexual favors. Making requests for sexual favors or other acts of a sexual nature, where submission is made a term or condition of employment, where submission to or rejection of the conduct is used as the basis for employment decisions, or where the conduct is intended to or actually does unreasonably interfere with an individual's work performance or create an intimidating, hostile, offensive, or abusive working environment.

Sexual harassment is prohibited whether perpetrated by a County employee or non-employee. Where the County employee who engages in sexual harassment is a supervisor or manager, the conduct is especially egregious. Sexual harassment may be perpetrated by someone who is of the same sex as the victim. Harassing conduct need not be motivated by sexual desire.

The person who complains of the harassment may be the target to whom the harassing conduct was directed or a third party who witnessed the harassing conduct. Whether any act or conduct is harassment shall be viewed in the totality of all the circumstances. It is no defense to a claim of harassment that the alleged harasser did not intend to harass.

Protected Classification

This Policy prohibits harassment or discrimination because of an individual's protected classification. "Protected Classification" includes race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition (including, but not limited to, medical conditions related to pregnancy or childbirth), marital status, sex, gender, gender identity, gender expression, age over 40, or sexual orientation, military and veteran status, or the perception that a person has any of those characteristics, or that the person is associated with a person who has or is perceived to have any of those characteristics.

Retaliation

Retaliation is any adverse employment action taken because someone has complained about harassment or discrimination, refused to follow what is believed to be a discriminatory order, supported those who complained about harassment, discrimination or retaliation, or participated in a complaint process regarding harassment or discrimination. Retaliation is also any adverse employment action taken because an employee requested reasonable accommodation including, but not limited to, medical leave.

Exemptions / Exclusions:

None.

Responsibilities:

Managers and Supervisors are responsible for:

- Informing employees of this Policy.
- Modeling appropriate behavior, including behavior that complies with this Policy.
- Taking necessary steps to prevent harassment, discrimination or retaliation from occurring.
- Receiving complaints in a fair and serious manner and documenting steps taken to resolve complaints.
- Monitoring the work environment and taking immediate, appropriate action to stop potential violations of this Policy, such as removing inappropriate pictures or correcting inappropriate language.
- Following up with those who have made complaints to ensure that the offending behavior has stopped and that there is no retaliation.
- Informing all those who complain of harassment or discrimination of their option to contact the Equal Employment Opportunity Commission (EEOC) or Department of Fair Employment and Housing (DFEH) regarding alleged Policy violations.
- Assisting, advising or consulting with employees and the Director of Human Resources regarding this Policy and Complaint Procedure.
- Assisting in the investigation of complaints involving employee(s) in their departments and, if the complaint is substantiated, recommending appropriate corrective or disciplinary action in accordance with Personnel Rules, up to and including termination from employment.
- Maintaining confidentiality to the extent possible in communicating or investigating any claim or alleged discrimination or harassment.
- Implementing appropriate disciplinary and remedial actions.
- Reporting potential violations of this Policy when he/she becomes aware of any complaints of misconduct to the Director of Human Resources or another designated County representative, regardless of whether a complaint has been submitted to the Director of Human Resources or the department head.
- Participating in periodic training and ensuring that employees are scheduled for training.

Each employee is responsible for:

- Treating all employees and non employees with respect and consideration.
- Modeling appropriate behavior, including behavior that complies with this Policy.

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- Participating in periodic training.
- Fully cooperating with the agency’s investigations by responding fully and truthfully to all questions posed during the investigation.
- If directed not to disclose the substance of an investigatory interview, maintain the confidentiality of the investigation.
- Reporting any act he/she believes, in good faith, constitutes harassment, discrimination or retaliation as defined in this Policy, to his or her immediate supervisor, or department head or Director of Human Resources.

Procedures:

Complaint Procedure

While Yuba County encourages individuals who believe that they are being harassed, discriminated or retaliated against to firmly and promptly notify the offender that his/her behavior is unwelcome, Yuba County also recognizes that real or perceived status disparities between an alleged offender and a target may make such an encounter impossible. Regardless of whether or not any informal, direct communication between the individual and the offender takes place, the following steps, as may be appropriate, shall be followed by all employees, applicants or contractors in reporting a harassment/discrimination/retaliation complaint:

- A. An employee or job applicant who believes he or she has been harassed, discriminated or retaliated against shall make a complaint verbally or in writing with any of the following as appropriate:
 - *Immediate supervisor*
 - *Any supervisor or manager within or outside of the department*
 - *Department Head*
 - *Director of Human Resources*
- B. Any supervisor, manager or department head who receives a complaint shall notify the Director of Human Resources immediately.
- C. Individuals have the option to report harassment, discrimination or retaliation to any of the following government agencies:

Dept of Fair Employment & Housing
 2218 Kausen Drive, Suite 100
 Elk Grove, CA 95758
 Email: contact.center@dfeh.ca.gov
 Phone for disability accommodations: (844) 541-2877

Toll free: (800) 884-1684
 TTY: (800) 700-2320

EEOC District Office
 450 Golden Gate Avenue
 San Francisco, CA 94102-3661
 ASL Video Phone: (844) 234-5122

Toll free: (800) 669-4000
 Fax: (415) 522-3415
 TTY: (800) 669-6820

- D. Upon receiving notification of a complaint, the Director of Human Resources shall:

1. Authorize and supervise the investigation of the complaint and/or investigate the complaint. The investigation will include interviews with: (a) the complainant; (b) the accused offender (the right to have a representative present will be given to those covered employees as disciplinary action could result from the investigation); and, (c) any other persons the Director of Human Resources has reason to believe that may have relevant knowledge concerning the complaint. This may include targets of similar conduct.
2. Review the factual information gathered through the investigation to determine whether the alleged conduct constitutes harassment, discrimination and/or retaliation giving consideration to all factual information, the totality of the circumstances, including the nature of the verbal, physical, visual or sexual conduct, and the context in which the alleged incidents occurred.
3. Report the results of the investigation and the determination as to whether harassment, discrimination and/or retaliation occurred to appropriate persons, including the complainant, the alleged offender, the supervisor, and the department head. If discipline is imposed, the discipline will not be communicated to the complainant.
4. If the harassment, discrimination and/or retaliation occurred, recommend to the appointing authority prompt and effective remedial action against the offender. The action will be commensurate with the severity of the offense, taking into account the County's policy toward unlawful harassing, discriminatory or retaliatory behavior.
5. Take reasonable steps to protect the complainant from further harassment, discrimination and/or retaliation.
6. Take reasonable steps to protect the complainant or witnesses from retaliation as a result of communicating or corroborating the complaint.

Dissemination of Policy

All employees shall receive a copy of this Policy when they are hired. The Policy may be updated from time to time and redistributed to current employees.

Conclusion

Yuba County has developed this Policy to ensure that all its employees can work in an environment free from harassment and discrimination. Yuba County will make every effort to ensure that all personnel are familiar with the Policy and know that any complaint received will be thoroughly investigated and appropriately resolved.

Training:

A minimum of two (2) hours of Harassment Prevention Training must be provided to supervisory employees once every two (2) years and to new supervisors within six (6) months of their assumption of a supervisory position.

Forms Used:

Harassment / Discrimination Complaint Form

Revision Record:

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1. This policy incorporates, and therefore supersedes, the Policy Prohibiting Discrimination in the Workplace on the Basis of Physician and Mental Disability, No. 2002-01, issued 9/24/2002.
2. This policy incorporates, and therefore supersedes, the Policy on Harassment, Revision issued April 2004.
3. This policy incorporates, and therefore supersedes, the Policy and Complaint Procedure against Harassment, Discrimination and Retaliation, No. 2.02, issued 10/20/2008.