

**C-5 EQUAL EMPLOYMENT
OPPORTUNITY (EEO) AND
ANTI-HARASSMENT
POLICY**



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By: Human Resources
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REVIEW TIME: Annually in March of each Year

5.1.0 PURPOSE

5.1.1 It is the policy of the County of Solano that all applicants, employees, unpaid interns, volunteers and persons providing services to the County under a contract shall work in an environment free from harassment, discrimination, retaliation, hostile work environment, and bullying. The County of Solano is committed to providing equal employment opportunities to all employees and applicants for employment. Conduct which harasses or discriminates against an applicant, employee, unpaid intern, volunteer or contractor on the basis of an actual or perceived status in a Protected Class is against the law and will not be condoned or tolerated by the County. Applicants, employees, unpaid interns, volunteers and contractors are also protected under this policy from harassment/discrimination/retaliation/hostile work environment/bullying by a County elected or appointed officer, department head, manager, supervisor, employee or non-employee. "Protected Class" includes: age (40 years and above), ancestry, color, religion, protected medical leaves (under the Family and Medical Leave Act or the California Family Rights Act), disability (physical and mental, including HIV and AIDS), marital status, medical condition (cancer and genetic characteristics), genetic information, military and veterans status, national origin, race, sex (including pregnancy, childbirth, breastfeeding and medical conditions related to pregnancy, childbirth or breastfeeding), gender, gender identity, gender expression, pregnancy, sexual orientation, political belief or affiliation, and any other status protected by state or federal law. Those found to have violated this policy will be subject to discipline that is commensurate with the severity of the offense, that is designed to stop the harassing, discriminatory, hostile, abusive or bullying behavior and to prevent such future or retaliatory conduct.

5.2.0 RETALIATION

5.2.1 Retaliation constitutes a violation of this policy and is defined as any adverse employment action taken against an employee because the employee engaged in an activity protected under this policy. Adverse employment action is a conduct or an action that materially affects the terms and conditions of the employee's employment status or is reasonably likely to deter the employee from engaging in a protected activity. An applicant, employee, unpaid intern, volunteer or contractor who opposes harassment/discrimination, files a complaint of harassment/discrimination or participates in a harassment/discrimination investigation or complaint proceeding shall be free from retaliation. Retaliation includes the following types of conduct:

- A. Disciplining (e.g., demotion, suspension, discharge) an employee-complainant or rejecting an applicant-complainant because it is believed the allegation of harassment/discrimination/hostile work environment/bullying is untrue or the allegation of harassment/discrimination/hostile work environment/bullying is not supported by the subsequent findings of an investigation.
- B. Subjecting complainants or witnesses to materially adverse employment decisions

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(e.g., denial of promotion, refusal to hire, denial of job benefits, negative evaluations) because of their participation in a workplace harassment/discrimination/hostile work environment/bullying complaint or investigation.

- C. Ostracizing or demonstrating hostility (e.g., threats) to a complainant or witnesses because of their participation in a workplace harassment/discrimination/hostile work environment/bullying complaint or investigation.

The source of retaliation may be from a manager, supervisor, co-worker or applicant for reporting a violation of this policy.

If the County finds that an appointed officer, department head, manager, supervisor or employee has engaged in retaliation, such employee shall be subject to disciplinary action up to and including dismissal.

5.3.0 ABUSIVE CONDUCT

- 5.3.1 “Abusive conduct” is defined by California Government Code section 12950.1(h)(2) as the “conduct of an employer or employee in the workplace, with malice, that a reasonable person would find hostile, offensive, and unrelated to an employer’s legitimate business interests.” Abusive conduct “may include repeated infliction of verbal abuse, such as the use of derogatory remarks, insults, and epithets, verbal or physical conduct that a reasonable person would find threatening, intimidating, or humiliating, or the gratuitous sabotage or undermining of a person’s work performance.”

Abusive conduct can take many forms. The examples listed below may constitute abusive conduct, but these examples are not exhaustive:

- A. Verbal Abuse: Slandering, ridiculing, bullying, gossiping, or maligning someone against others; persistent name calling which is hurtful, insulting, or embarrassing; yelling, screaming, or cursing; chronic teasing, belittlement, or frequent criticism that undermines the victim’s ability to perform his/her job. Verbal abuse may also include sexual innuendo, graphic or explicit jokes, suggestive sounds, or stories of a sexual nature, disparaging terms, unwanted sexual advances or comments possibly including well-intentioned comments on a person’s appearance, religious dress, grooming practices, or race-related stories.
- B. Nonverbal and Visual Abuse: Threatening gestures, actions, or glances; shunning, excluding, or disregarding a person; offensive depictions of another through a visual medium such as a drawing or doctored photograph; mimicking another in an offensive manner; objects or clothing that contain offensive language or other depictions that target individuals on the basis of an actual or perceived status in a Protected Class.

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- C. Physical Abuse: Assault, touching, gestures, impeding, interfering, or blocking movement, grabbing, patting, leering, making expressed or implied job-related threats in return for submission to intimate or physical acts, threatening physical harm or damaging another's work area or property.
- D. Cyber Abuse: Tormenting, threatening, cyber-bullying, harassing, embarrassing, or otherwise targeting another using social media, email, instant messaging, text messaging, or any other type of digital technology.
- E. Workplace Interference: Sabotaging another's work; deliberately tampering with a person's work area or property; assigning menial tasks outside of a person's normal job duties.

5.4.0 BULLYING

5.4.1 Generally, bullying is repeated mistreatment of another employee. Examples of prohibited bullying include but are not limited to: screaming; swearing; name calling; stealing; giving dangerous work assignments; using threatening, intimidating, or cruel behaviors; deliberately humiliating a person, or stealing work credit. It may involve: (1) written, verbal, graphic or physical acts (including electronically transmitted content); (2) behavior that substantially interferes with work, opportunities, and benefits of one or more employees, sometimes through actual sabotaging of work; (3) behavior that adversely affects an employee's ability to function at work by placing the employee in reasonable fear of physical harm or by causing emotional distress.

5.5.0 HOSTILE WORK ENVIRONMENT

5.5.1 Generally, hostile work environment is a form of harassment where the conduct is unwelcome based on a Protected Class. Examples of offensive conduct include but are not limited to: offensive jokes, slurs, epithets or name calling, physical assault or threats, intimidation, ridicule or mockery, insults or put-downs, offensive objects or pictures, and interference with work performance. The behavior or actions that create the hostility are pervasive and long-lasting and not limited to one or two remarks. Severity of the behavior outranks longevity and one single event may be enough to create a hostile work environment.

5.6.0 SEXUAL HARASSMENT

5.6.1 Sexual harassment is one form of prohibited workplace harassment. California's Fair Employment and Housing Act (FEHA) defines sexual harassment as harassment based on sex or conduct of a sexual nature, and includes harassment based on gender, gender identity or gender expression or, based on sex (including pregnancy, childbirth, breastfeeding or related medical conditions). This definition includes many forms of

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offensive behavior and includes gender-based harassment of a person of the same sex as the harasser. Conduct of a sexual nature does not have to be motivated by sexual desire to constitute harassment.

5.6.2 As stated above, sexual harassment will violate this policy and be considered misconduct even if it does not rise to the level of legally actionable harassment.

Examples of the types of sexually harassing conduct that are prohibited by this policy include:

- A. Unwelcome, unwanted sexual advances overtures;
- B. Requests for sexual favors or offering employment benefits in exchange for sexual favors;
- C. Sexual jokes, comments, teasing or innuendo;
- D. Leering, staring, obscene or vulgar gestures, posters, pictures, e-mails, letters, or other written or graphic material;
- E. Uninvited touching or assault, as well as impeding or blocking movement;
- F. Threatening, intimidating or hostile acts targeted at only one gender, even if the content is not sexual;
- G. Derogatory comments based on gender;
- H. Workplace favoritism arising from a romantic or sexual relationship between employees;
- I. Manager or supervisor conditioning employment status on submission to sexual advances or other conduct based on sex;
- J. Verbal abuse of sexual nature, graphic, verbal commentaries about an individual's body, sexually degrading words used to describe an individual; and
- K. Making or threatening retaliatory action after receiving a negative response to sexual advances.

5.6.3 Employees who violate this policy shall be subject to disciplinary action, up to and including dismissal. Conduct of the nature prohibited by this policy will be considered misconduct and will subject an offending employee to disciplinary action even if the conduct may not rise to the level of legally actionable harassment/discrimination.

5.7.0 COMPLAINT PROCEDURE

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- 5.7.1 Every complaint of conduct covered by this policy by an applicant, employee, unpaid intern, volunteer or contractor will be investigated and addressed as soon as possible with the purpose of preventing or ending the inappropriate conduct and ensuring such conduct will not reoccur.
- 5.7.2 It is the responsibility of County management and supervisory employees to create an atmosphere free of discrimination, harassment, sexual or otherwise, retaliation, and bullying. In addition, it is the responsibility of each employee to respect the rights of supervisors, co-workers, clients and visitors to County facilities. All supervisory employees who learn of or have notice of any harassment, discrimination, retaliation, or bullying in any County work environment must document their knowledge of the behavior and are expressly required to promptly notify the Human Resources Director or their designee. Furthermore, supervisory employees must take all reasonable steps to stop the behavior and protect the victim. Failure by any manager or supervisor to report known or suspected incidents of discrimination, harassment, retaliation, or bullying may be subject to disciplinary action.
- 5.7.3 Applicants, employees, unpaid interns, volunteers and contractors who believe they have been subjected to inappropriate conduct under this policy are encouraged to file a complaint with any supervisor or manager or to the Director of Human Resources or designee—at the earliest opportunity. The County will investigate all complaints of harassment/discrimination that are made within three years of an alleged act(s) of harassment/discrimination. The complaint or report may be made orally or in writing.

Complainants should use the following applicable complaint process:

- 5.7.4 Self-Help Option: Some harassment, discrimination, retaliation, hostile work environment or bullying may be stopped by means of self-help. Some people who engage in inappropriate conduct are unaware their conduct is offensive and will stop if told to do so. Therefore, if it is reasonable under the circumstances, employees, unpaid interns, volunteers and contractors are encouraged to tell the perpetrator in person or in writing in clear and unambiguous words that the conduct is offensive and ask the perpetrator to stop. It is not necessary to attempt self-help; this should only be done if the employee or contractor feels comfortable with this approach.

The employee/unpaid intern/volunteer/contractor should keep a written record of the alleged harassment/discrimination. The employee/unpaid intern/volunteer/contractor also should document attempts to use the self-help approach, again noting dates, times, witnesses, etc., and retain any written letters or notes from the alleged perpetrator pertaining to the harassment/discrimination.

- 5.7.5 Departmental Complaint: If the employee/unpaid intern/volunteer/contractor chooses not to use the self-help option or the self-help option has been unsuccessful in resolving the problem, the employee/contractor can file a complaint with their immediate supervisor or with any supervisor or manager in the department.

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The manager and/or supervisor who obtains knowledge of a complaint must immediately notify the department head (unless the department head is the subject of the complaint) and the Director of Human Resources, or designee. Investigation of the complaint will be undertaken promptly by the appropriate official.

- 5.7.6 County Complaint: An employee, unpaid intern, volunteer or contractor who does not wish to file the complaint with his/her department can file the complaint directly with the Department of Human Resources, to the Director of Human Resources or designee located at 675 Texas Street, Suite 1800, Fairfield, California 94533, telephone number (707) 784-6170.
- 5.7.7 County Civil Service Commission Complaint: An employee who is covered by County Civil Service Rules (a non-exempt employee) and alleges a loss of a tangible employment benefit (e.g., the employee is terminated from employment) because of harassment/discrimination on the basis of a protected class/activity as identified in Section 5.1.1. may file a complaint directly with the County Civil Service Commission. Pursuant to Section 1.034 of the County Civil Service Rules, a written request for a hearing before the Civil Service Commission should be filed with the Director of Human Resources, at 675 Texas Street, Suite 1800, Fairfield, California 94533.
- 5.7.8 Investigation: Upon receipt of a complaint or report, the County will conduct a neutral inquiry by a qualified investigator to determine the facts and to identify any appropriate corrective action. Individuals must respond to requests for interviews in a timely manner and supervisors must ensure employees are available to meet during regular business hours. Should the County determine impartiality may be called into question, the County will retain an independent investigator through an outside firm. The County also will ensure that statements of the complainant, alleged offender and all witnesses are documented thoroughly, and the investigation is considerate of the rights and emotions of all parties involved.
- 5.7.9 Discipline: If harassment is found to have occurred, the County will take appropriate disciplinary action commensurate with the severity of the offense pursuant to the County's disciplinary process. The HR Director may recommend appropriate action even if the investigation is inconclusive or if it is determined there has been no violation of policy.
- 5.7.10 Closure: Once the factual inquiry is completed and a determination has been made as to the merits of the complaint, the individual who brought the complaint will be notified of the outcome.
- 5.7.11 Other Resources:
The U.S. Equal Employment Opportunity Commission (EEOC) and the California Department of Fair Employment and Housing (DFEH) also investigate complaints of employment harassment, discrimination and retaliation. To file a complaint with those agencies, use the following contact information:

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EEOC: (800) 669-4000 or TTY (800) 669-6820; or online at www.eeoc.gov
DFEH: (800) 884-1684 or TTY (800) 700-2320; or online at www.dfeh.ca.gov

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5.8.0 CONFIDENTIALITY

5.8.1 Every possible effort will be made to ensure the confidentiality of complaints made under this policy to protect the integrity of the investigation. Complete confidentiality cannot be guaranteed, however, due to the need to investigate the allegations of the complaint and the County's duty to take appropriate remedial action. As a result, confidentiality will be maintained to the extent possible. All investigative materials related to this process are confidential and are released only to authorized individuals. This restriction does not limit an individual's rights or ability to exercise his/her rights under the law.

5.9.0 COMPLAINTS INVOLVING ELECTED OFFICERS

5.9.1 A complaint that involves conduct covered by this policy by an elected official shall be directed to County Counsel, located at 675 Texas Street, Suite 6600, Fairfield, California 94533. County Counsel will facilitate an investigation by a qualified neutral, third-party investigator who does not work for the County. The complainant will be asked to provide all available documentation regarding the allegations. Once the factual inquiry is complete and a determination has been made as to the merits of the complaint, the individual who brought the complaint will be notified of the outcome and given an opportunity to address a County representative. Any elected official found to have violated County policy will be subject to appropriate action.

5.10.0 PREVENTION

5.10.1 Supervisory and managerial employees are charged with the responsibility of taking steps to prevent harassment/discrimination and retaliation from occurring in the workplace. Failure to take appropriate action to prevent conduct covered by this policy shall be deemed a violation of this policy and may result in disciplinary action.

5.11.0 EDUCATION

5.11.1 All County employees, unpaid interns and volunteers shall complete sexual harassment prevention training. All elected and appointed officers, supervisory and managerial employees are required to complete at least two hours of certified sexual harassment prevention training every two years. Employees who are promoted to supervisory positions must complete such training within six months of their promotion to a supervisory position. Department managers must provide the names of employees hired into or promoted to supervisory positions for which they are responsible to their Department Training Coordinator to ensure compliance with this training requirement.

5.11.2 All County non-supervisory employees must receive at least one hour of harassment training within six months of hire and at least every two years thereafter. The County

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further requires unpaid interns and volunteers receive sexual harassment prevention training every two years. Department Training Coordinators are responsible for scheduling employees for the harassment training.

5.11.3 Extra-help employees, or any employees who are hired and anticipated to work less than six months are required to undergo the applicable supervisory or non-supervisory training within 30 calendar days after the hire date or within 100 hours worked, whichever occurs first. Department Training Coordinators are responsible for scheduling employees for the harassment training.

5.11.4 To comply with Assembly Bill No. 2053 (2014), the County shall include in its training and education a component related to prevention of abusive conduct. (Government Code § 12950.1(g)(2).)

5.12.0 WORKPLACE RELATIONSHIPS

5.12.1 This policy is not intended to regulate the social interaction or relationships freely entered into by County personnel. However, to ensure a workplace as free as possible from real or perceived bias or acts of favoritism, the County has a policy restricting the supervision and work assignments of employees in personal relationships with other employees under certain circumstances. For more detailed information on this policy, refer to the section entitled, "Personal Relationships," in the [County Civil Service Rules and the Personnel and Salary Resolution](#).