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Dear County Employee:

The County and its employees share a stake in maintaining a discrimination, harassment, and retaliation free work environment. The Board of Supervisors has adopted a policy regarding non-discrimination and equal employment opportunity. The EEO Policy and Procedure affirms the County's longstanding commitment to a respectful, productive work environment. The policy explains that **unlawful** discrimination, harassment, and retaliation will not be tolerated, contains examples of **legally prohibited** discriminatory and harassing conduct that could create a hostile work environment, and describes complaint resolution procedures.

The County also forbids harassing conduct even if it is not based on a protected category or basis and **does not violate the law**. Some of the conflicts and conduct which employees experience may not fall within the legal framework of workplace discrimination or harassment. Rather, they may involve strained interpersonal relations, disagreements, or misunderstandings. Attached are some examples of discrimination and harassment conduct that, while possibly being upsetting or disappointing, are probably not illegal. These are examples only. For a broader description of prohibited and offensive conduct, please refer to the language in the Board's EEO Policy and Procedure.

An employee who experiences upsetting or disappointing conduct should make his/her displeasure clearly and completely known to the offender and their supervisor as soon as possible. Such concerns can often be resolved when the parties meet together and discuss the issues. Employees may also contact their Agency/Department Human Resources Office or the EEO Access Office for assistance.

**The best course of action is to avoid any conduct that might be offensive to a co-worker.**

Please take the time to read the EEO Policy and Procedure, and take any questions you may have to your supervisor, Agency/Department Human Resources staff, or the EEO Access Office at (714) 834-5259. You may reference this letter and the EEO Policy and Procedure on the HR Portal under the EEO Section.

  
John M. W. Moorlach  
Chairman of the Board of Supervisors

**Examples of *legally prohibited* harassing conduct that could create a hostile environment:**

- Regularly telling sexual jokes or using sexually vulgar or explicit language
- Repeatedly making comments to an employee about sex, sexual orientation, race, color, national origin or ethnicity
- Pressuring another to conform to particular religious beliefs
- Making negative comments to a pregnant employee about her condition and appearance
- Derogatory cartoons about age given to an employee over 40
- Mimicking a physical impairment
- Teasing about a medical condition
- Criticizing unmarried employees

**Examples of conduct that may be offensive, inappropriate, upsetting or disappointing but probably *does not violate* the law:**

- A co-worker does not consistently and/or intentionally say “good morning,” or does not speak to or ignores another
- Not including an employee in group social activities at the office
- Raising one’s voice to another
- Being consistently argumentative, harsh and disrespectful during conversations
- Physically intimidating another by getting close and making them feel threatened and uncomfortable
- When performance is an issue, a supervisor’s need to review one’s work more frequently
- Use of the terms “discrimination”, “harassment”, and “hostile work environment” when in a situation that is upsetting to you but the reasoning is not connected with a protected class and/or basis

**COUNTY OF ORANGE EQUAL EMPLOYMENT OPPORTUNITY**  
**and ANTI-HARASSMENT POLICY AND PROCEDURE**  
**(Board Resolution )**

This policy and procedure shall be known as the County of Orange Equal Employment Opportunity and Anti-Harassment Policy and Procedure. It may be referred to as the EEO/Anti-Harassment Policy.

**PURPOSE**

The purpose of the County of Orange EEO/Anti-Harassment Policy is to ensure equal opportunity in all terms and conditions of employment, including but not limited to hiring, placement, promotion, disciplinary action, layoff, recall, transfer, leaves of absence, compensation, and training. The County is committed to ensuring that no employee is subjected to unlawful discrimination, harassment or retaliation. Unlawful discrimination, harassment or retaliation in any form will not be tolerated.

**SCOPE**

- A. The EEO/Anti-Harassment Policy is applicable to all County Agencies and Departments and their employees.
- B. Agencies/Departments and their employees are responsible for full support and commitment to a policy of equal employment opportunity and a workplace free of discrimination, harassment and retaliation.

**POLICY**

- A. **Equal Employment Opportunity**
  - 1. Agencies and Departments are responsible for preparing and submitting to the Human Resource Services/Equal Employment Opportunity Access Office (EEO Access Office) each calendar year a Certification of Compliance and/or an Equal Employment Opportunity Plan.
  - 2. Equal employment opportunity will be achieved through leadership and aggressive implementation of programs designed to achieve equal employment opportunity. The program will include the periodic and systematic review of recruitment, selection and promotional practices, attention to upward mobility, periodic training and educational opportunities and audits of progress through a review of statistics, and annual Certificates of Compliance and/or Equal Employment Opportunity Plans.
  - 3. In all cases, the better qualified applicant or employee shall be selected for a position, promotion, assignment, training, or other employment action, unless the provisions of an applicable MOU require a different result.

## **B. Discrimination**

1. The County of Orange is committed to ensuring that no employee or applicant is a victim of discrimination based on an employee's legally protected status, whether actual or perceived, including race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, or sexual orientation, veteran status, citizenship status, use of family medical leave, military leave or any other legally protected classification under state or federal law (collectively referred to as "protected classification"). Unlawful discrimination of any kind will not be tolerated.
2. Any person who believes that he or she has been the victim of unlawful discrimination should report the incident immediately to his or her supervisor, manager, Agency or Department Human Resources staff, or the Human Resource Services/EEO Access Office. All allegations will be investigated promptly. Complaints will be kept as confidential as possible. If the allegation is sustained, prompt, appropriate remedial action shall be taken. Employees may also make complaints to the Equal Employment Opportunity Commission (EEOC) and/or California Department of Fair Employment and Housing (DFEH).
3. Discrimination is misconduct which could result in severe discipline up to and including discharge.

## **C. Harassment**

1. Harassment consists of unwelcome conduct, whether verbal, physical, or visual, that is based upon a person's legally protected status, whether actual or perceived, including race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, or sexual orientation, veteran status, citizenship status, use of family medical leave, military leave or any other legally protected classification under state or federal law.
2. Occasional, isolated, sporadic, or trivial acts that are simply annoying in nature may not constitute unlawful harassment. A hostile work environment exists when harassing conduct is severe or pervasive enough to alter the conditions of employment so as to create an abusive working environment. Nonetheless, Agencies/Departments are expected to investigate and remedy promptly even seemingly minor acts of harassment to avoid the development of a hostile work environment.

Examples of harassment include, but are not limited to:

- Explicitly or implicitly conditioning any term of employment (e.g. continued employment, wages, evaluation, advancement, assigned duties or shifts) on the provision of sexual favors;

- Participating in conduct the purpose or effect of which is to unreasonably interfere with an individual's work performance or create an intimidating, hostile, or offensive working environment;
  - Unwelcome touching or grabbing any part of an employee's body;
  - Continuing to ask an employee to socialize on or off-duty when that person has indicated she or he is not interested;
  - Displaying or transmitting, in person or through any media, sexually suggestive pictures, words, objects, cartoons, or posters if it is known or should be known that such behavior is unwelcome;
  - Sending sexually suggestive notes or letters if it is known or should be known that the recipient does not welcome such behavior;
  - Telling sexual jokes or using sexually vulgar or explicit language in the presence of another person;
  - Using foul language or gestures;
  - Harassing acts or behavior directed against a person on the basis of his or her sex or any other protected classification:
  - Derogatory or provocative remarks about or relating to an employee's sex or appearance;
  - Off-duty conduct which falls within any of the above that nonetheless affects the work environment; and
  - Making unwelcome or inappropriate inquiries about a person's private or personal behavior.
3. Any person who believes he or she has been the victim of unlawful harassment should report the incident immediately to his or her supervisor, manager, Agency/Department Human Resources staff, or the Human Resource Services/EEO Access Office. All allegations will be investigated promptly. Complaints will be kept as confidential as possible. If the allegation is sustained, prompt, appropriate remedial action shall be taken. Employees may also make complaints to the Equal Employment Opportunity Commission (EEOC) and/or California Department of Fair Employment and Housing (DFEH).
  4. The County of Orange will not tolerate harassing conduct that affects tangible job benefits, that interferes unreasonably with an individual's work performance, or that creates an intimidating, hostile, or offensive work environment. Whenever an employee alleges harassment, or at any time when it is believed that harassment is taking place, the County of Orange will act promptly to investigate and take swift and appropriate remedial action in dealing with those found in violation of the County's EEO and Anti-Harassment Policy.
  5. Harassment in the form of retaliation for complaints of discrimination will likewise not be tolerated.
  6. Harassment is misconduct which could result in discipline, up to and including discharge.

#### **D. Retaliation**

1. Retaliation is defined as taking an adverse employment action(s) against an employee because of the employee's protected activities, including but not limited to the reporting of violations of law or policy, unlawful discrimination, harassment, retaliation, and any other violation of this policy. Adverse employment actions may include, but are not necessarily limited to, denial of a promotion, refusal to hire, and/or imposition of discipline.
2. Any person who believes he or she has been the victim of retaliation should report the incident immediately to his or her supervisor, manager, Agency/Department Human Resources staff, or the Human Resource Services/EEO Access Office. All allegations will be investigated promptly. Complaints will be kept as confidential as possible. If the allegation is sustained, prompt, appropriate remedial action shall be taken. Employees may also make complaints to the Equal Employment Opportunity Commission (EEOC) and/or California Department of Fair Employment and Housing (DFEH).
3. Retaliation is misconduct which could result in severe discipline up to and including discharge.

#### **E. Disability Accommodation**

1. The County of Orange is dedicated to providing equal employment opportunities to persons with disabilities in accordance with the Americans with Disabilities Act and Fair Employment and Housing Act. Discrimination based on a person's actual, perceived, or record of disability will not be tolerated.
2. Qualified employees with disabilities shall have the same access to benefits as employees without disabilities.
3. An individual with a disability is responsible for making his or her supervisor or HR recruiter aware of his or her need for a reasonable accommodation. When the need for accommodation has been identified, or if the supervisor is aware of the disability, the supervisor or HR recruiter is responsible for entering into an "Interactive Process" with the individual. The "Interactive Process" is case specific and may include one or more of the following steps:
  - i. Identifying the essential functions of the job based upon the job description, job announcement, policies and procedures manuals;
  - ii. Consulting with the individual who requested the accommodation to identify which duties are affected by the individual's disability and what accommodations could enable the individual to perform those duties or the duties of another vacant position;
  - iii. Conferring with the Agency/Department Human Resources team, Human Resource Services/EEO Access Office to evaluate the

reasonableness of the requested accommodations and/or to identify alternate accommodations on a case-by-case basis. The EEO Access Office shall provide support and assistance in determining the reasonableness of an accommodation;

- iv. Providing a qualified applicant with a disability, who is able to perform the essential functions of the position, an equal opportunity to compete for the position and
- v. Implementing those reasonable accommodations that allow an employee to perform the essential functions of his or her position without imposing an undue hardship on the operation of the business of the County or creating a direct threat of harm to the safety of the employee or others.

### **COMPLIANCE AUTHORITY and PROCEDURES**

- A. The EEO Access Office is responsible for overseeing the administration of the County's EEO and Anti-Harassment Policy and may act through the County Executive Office and County Agencies/Departments as necessary to carry out this Policy.
- B. The Compliance Oversight Committee, comprised of the County Counsel, Chief Human Resources Officer and Internal Audit Director, will provide oversight for the proper adjudication of all discrimination, harassment and retaliation complaints.
- C. Executive Managers, managers, and supervisors are expected to foster support for the EEO/Anti-Harassment Policy and to show leadership in supporting the County's commitment to providing a working environment free of discrimination, harassment and retaliation.
- D. Agencies/Departments are responsible for ensuring that they do not discriminate, harass or retaliate in any policy, practice or procedure on the basis of any legally protected classification.
- E. The EEO Access Office will gather and provide to Agencies and Departments work force statistics for their particular Agency or Department. This information may be used to ensure that employment related decisions are made in compliance with federal and state non-discrimination law and this Policy.
- F. Each Agency/Department will appoint an EEO Coordinator who is responsible for administering this Policy within its respective Agency/Department.
- G. All Agency/Department Heads and EEO Coordinators shall on an annual basis timely submit a Certificate of Compliance to Equal Employment Opportunity. Those Agencies and Departments required under the provisions of state or federal contracts or grants to prepare Equal Employment Opportunity Plans must do so by timely preparing and updating their existing plans and contacting the EEO Access Office for assistance as needed.

## PROCESSING COMPLAINTS

### A. Filing of a Complaint

1. Any employee or applicant for employment who believes he or she has been the victim of discrimination, harassment or retaliation in violation of the County's EEO Policy is encouraged to file a complaint. When the County of Orange receives a complaint of discrimination, harassment or retaliation or otherwise has reason to believe that discrimination, harassment or retaliation is occurring, it will take all necessary steps to ensure that the matter is promptly investigated and that prompt, appropriate remedial action is taken. The County of Orange is committed to take action if it learns of discrimination, harassment or retaliation in violation of this Policy whether or not the aggrieved employee files a complaint.
2. All supervisory and management employees are responsible for promptly responding to, and/or reporting any suspected acts of discrimination, harassment (hostile work environment and/or quid pro quo), and retaliation. Supervisors and managers must immediately report suspected discrimination, harassment and retaliation to their Agency/Department Human Resources team. The Agency/Department Human Resources team shall, in turn, report any suspected discrimination, hostile work environment, harassment and retaliation to the EEO Access Office. Failure by a manager/supervisor to appropriately report and address known or suspected incidents of discrimination, hostile work environment, harassment or retaliation shall be considered to be a violation of this Policy and appropriate disciplinary action may be taken.
3. The complainant must be given the option to file a discrimination, hostile work environment, harassment or retaliation complaint with his or her department manager/supervisor, Agency/Department Human Resources team, the EEO Access Office, or with an outside compliance agency such as the California Department of Fair Employment and Housing (DFEH) or the United States Equal Employment Opportunity Commission (EEOC), or the Civil Rights Division of the U.S. Department of Labor.
  - a. California Department of Fair Employment and Housing  
1055 W. 17<sup>th</sup> Street, Suite 1400  
Los Angeles, CA 94612  
(800) 884-1684  
[www.dfeh.ca.gov](http://www.dfeh.ca.gov)
  - b. United States Equal Employment Opportunity Commission  
555 W. Beach Street, Suite 504  
San Diego, CA 92101  
(800) 669-4000



- c. Civil Rights Center  
U.S. Department of Labor  
Room N-4123  
200 Constitution Avenue, NW  
Washington, DC 20210  
(202) 693-6500

B. Initial Review of Complaint by Compliance Oversight Committee (CoC)

1. Once a complaint is received, it will be routed to the CoC. The initial review will consist of:
  - a. Ascertain the type of complaint (e.g., discrimination, harassment, retaliation, other)
  - b. Identification of identified vs. anonymous complainant
  - c. Identification if accused is Executive Manager or non-Executive
  - d. Review specificity of allegations
2. Determination of who should do Preliminary (prima facie) Review: HRS Operations Team or EEO Access Office. If complaint is filed against an employee with whom HRS Operations Team or EEO Access Office has a reporting relationship, County Executive Officer will determine investigator.
3. If complaint is made anonymously, CoC recommends the best approach for conducting the preliminary review.

C. Preliminary Review of Complaint Allegations (by HRS Operations Division or EEO Access Office)

1. For Identified Complainant

Meet with complainant and discuss particulars of case to ascertain whether complaint meets the legal standards of a discrimination, harassment or retaliation claim and presents a prima facie (i.e., evidence which appears true at first impression) case for investigation.

- If it does not meet the legal standard or does not present prima facie case, discuss with the complainant, document the process, and inform the CoC. Case closed.
- If complaint meets the legal standard and makes a prima facie case, and is filed against an elected official or executive management employee, refer complaint back to CoC for assignment to an outside investigator; if complaint is not made against an elected official or executive manager, the HRS Operations Division or EEO Access Office begins the investigation.

2. For Anonymous Complainant

Per CoC guidance, HRS Operations Division or EEO Access Office initiates recommended strategy to gather information to determine veracity of complaint, including interviewing and examining documents mentioned in the complaint. After reasonable efforts to collect data/information, recommend to CoC whether prima facie (i.e, evidence which appears true at first impression) has been made and whether complaint meets the legal standard for a discrimination, harassment or retaliation claim. CoC reviews recommendation and determines course of action.

If complaints moves forward, and is filed against an elected official or executive manager, CoC refers complaint to outside investigator; if complaint is not made against elected official or executive manager, case is assigned to HRS Operations Division or EEO Access Office.

#### D. Investigation

1. Once the investigation is complete, submit written report to the Chief Human Resources Officer who will review investigative report and submit to the CoC. CoC will review the report for thoroughness and validation of conclusions (i.e., substantiated, unsubstantiated).
2. The complainant and the accused are entitled to know and shall be promptly informed at the conclusion of any investigation by the County of Orange whether allegations have been found to be substantiated or unsubstantiated. HRS notifies complainant and accused of investigation results (substantiated, unsubstantiated).
3. If complaint is substantiated, offender's agency/department will work with HRS to determine the appropriate action to be taken against offender.
4. Although the County encourages an employee who believes he or she may be the victim of discrimination, hostile work environment, harassment or retaliation to report such conduct, the County will not tolerate false accusations of discrimination, hostile work environment harassment or retaliation. The filing of any false claim is considered unlawful and may result in severe discipline up to and including discharge. If complaint is unsubstantiated, and it is determined that complainant knowingly filed a false claim, the agency/department will work with HRS to determine the appropriate action against the complainant.

### **ADMINISTRATION OF THE COUNTY OF ORANGE EQUAL EMPLOYMENT OPPORTUNITY AND ANTI-HARASSMENT POLICY AND PROCEDURE**

The Human Resource Services/EEO Access Office is responsible for administering this EEO and Anti-Harassment Policy and Procedure. To ensure that this Policy is administered consistently on a countywide basis and to ensure accurate record-keeping, information regarding Agency/Departmental investigations, including the nature of the complaint or the suspected misconduct involved, the steps taken in the investigation, and the proposed disposition must be reported to the EEO Access Office before any final action is taken. The EEO Access Office will coordinate with Agency/Department Human

Resources teams to ensure that all employees are advised of this Policy and to ensure uniform and effective implementation of this Policy.

Effective date: 6/18/13  
Last updated: 8/22/13

cj 9/18/14