



**Human Resources/Risk Management**  
**County of Humboldt**  
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| <b>REFERENCE:</b> State of California Department of Fair Employment and Housing | PAGE 1 OF 8                                |
| <b>BOARD APPROVED:</b> June 7, 2016                                             | <b><u>POLICY:</u></b><br><b>HARASSMENT</b> |

### **PURPOSE**

The purpose of this policy is to express the County's strong commitment to prohibit and prevent unlawful harassment, discrimination and retaliation in County operations and to set forth a procedure for investigating and resolving internal complaints of such conduct. This policy prohibits treating any County employee, client, customer or citizen in a discriminatory or harassing manner. This policy also advises employees of the procedures to report incidents of harassment by, or to, employees of Humboldt County.

### **APPLICABILITY**

This policy applies to all Humboldt County employees, including permanent, probationary, part-time and extra help employees, as well as all volunteers, contract employees, private contractors, appointing authorities and elected officials. Harassment and discrimination are unlawful employment practices prohibited by state and federal law and are unacceptable work behaviors that will not be tolerated by Humboldt County. County employees are expected to adhere to a standard of conduct while on the job that conveys respect and courtesy towards other employees, County officials, vendors and the general public.

### **POLICY**

All employees and customers shall be treated with dignity, respect and courtesy. A working environment free from harassment and discrimination is essential to the well-being of an employee and an employee's right to perform his or her job effectively without distraction or interference from any unlawful discrimination or harassment.

#### **I. UNLAWFUL PROHIBITED CONDUCT: DISCRIMINATION, HARASSMENT, & RETALIATION**

- A. Examples of behaviors constituting Discrimination, Harassment and Retaliation, include, but are not limited to:
- Verbal Abuse;
  - Visual Abuse;
  - Physical Abuse; and

- Preferential Treatment.

1. **Discrimination:** Adverse actions, decisions or other treatment affecting an employee and motivated by or directed toward the employee on the basis of race, religion, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, gender, gender identification, sexual orientation, pregnancy, genetic information or age, including but not limited to those affecting hiring, placement, compensation, assignments, leave, promotion, training, disciplinary action, lay-off, recall, transfer, leave of absence, termination, and reinstatement.
2. **Harassment:** Any unwelcome or offensive conduct motivated by or directed to a person on the basis of race, religion, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, gender, gender identification, sexual orientation, pregnancy, genetic information or age, including harassment of a person of the same gender as the harasser.
3. **Sexual Harassment:** Any unwelcome or offensive behaviors regarding sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when submission to or rejection of this conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance or creates an intimidating, hostile or offensive work environment. This also includes any unsolicited written or oral communications and physical or visual contact with sexual overtones including emails, internet links, screen savers, etc.

There are two common types of Sexual Harassment, which include:

- **“quid pro quo”** harassment: commonly referred to under Equal Employment Opportunity Commission (EEOC) guidelines, as “conditional” harassment. Quid pro quo (this for that - i.e., something offered or given in exchange for something else) harassment occurs when submission to the harassing conduct described above is made an explicit or implicit term or condition of employment; or rejection of such conduct is used as the basis for employment decisions.
  - **“hostile environment”** harassment: commonly referred to under EEOC guide-lines as “work environment” harassment. Hostile environment harassment occurs when the unwelcome sexual advances, requests for sexual favors (even if not of a quid pro quo or a conditional nature), verbal, visual and physical conduct of a sexual nature creates an intimidating, hostile or offensive work environment.
4. **Retaliation:** Adverse actions, decisions or other treatment including but not limited to threats or coercion affecting an employee and motivated by or directed toward the employee on the basis of the employee’s participation as complainant or witness in a report or complaint of discrimination, harassment

or retaliation, or the employee's participation in the investigation of such a complaint, including but not limited to actions, decisions, or other treatments affecting hiring, placement, compensation, assignments, leave, promotion, training, disciplinary action, lay off, recall, transfer, leave of absence, termination, and reinstatement.

## **II. RESPONSIBILITIES**

- A. It is the responsibility of all Humboldt County employees to know and follow this policy and avoid engaging in any conduct that constitutes unlawful discrimination, harassment or retaliation. All employees shall be informed of this discrimination and harassment policy and complaint process which ensures their right to file a complaint without fear of retaliation. This policy will be reviewed with employees during their annual performance evaluation. Employees will be given the opportunity to review the policy and ask questions of their supervisor during this time. Every employee is required to sign his or her Performance Evaluation noting the fact that the harassment policy was reviewed during his or her evaluation.
- B. All supervisors, managers and department heads shall be trained in harassment training pursuant to California Assembly Bill AB1825, effective January 1, 2005, all supervisors must attend Sexual Harassment training for a minimum of two (2) hours every two (2) years and all newly hired or promoted supervisors must attend Sexual Harassment training within six (6) months of appointment and every two (2) years, thereafter.
- C. Sexual Harassment training must consist of two (2) hours of classroom or other effective interactive training designed to assist California employers in preventing and/or changing or modifying workplace behaviors that create or contribute to "sexual harassment" and to develop, foster and encourage a set of values in supervisory employees that will assist them in preventing and effectively responding to incidents of sexual harassment.

## **III. COMPLAINT PROCEDURE**

### **A. Reporting**

- 1. Notifying an offender that his or her behavior is unwelcome and offensive may be an effective way to end inappropriate conduct. However, confronting the perceived offender may be difficult and complicated and is not required before initiating a formal complaint.
- 2. If, for any reason, the incident remains unresolved, it is of the utmost importance for any person described in this policy, who believes that he or she has been subjected to unlawful discrimination, harassment, or retaliation, to report the incident immediately. The following step should be taken to report a complaint of discrimination, harassment or retaliation: a complaint may be made orally or in writing and one report of the incident is sufficient.

Employees are not required to follow their usual chain of command in making a complaint concerning unlawful discrimination, harassment or retaliation. The person(s) to whom you may and are entitled to report your complaint include:

- Your immediate supervisor, or
- Any other supervisor, or
- The Assistant Department Head, or
- The Department Head, or
- The Director of Human Resources, or
- The County Administrative Officer.

a. Choose the person from the above list with whom you feel most comfortable and report the incident to him or her; you need only make one report. If you submit a complaint and there is no response, you may contact the Department of Fair Employment and Housing (DFEA) or the Equal Employment Opportunity Commission (EEOC).

### **3. Prohibitions**

- No one shall be subjected to retaliation or reprisal due to filing a complaint or participating in an investigation about harassment, discrimination or retaliation.
- No person shall deliberately and knowingly make a false accusation against another person. Deliberate and knowingly false accusations of sexual harassment will result in disciplinary action if substantiated.
- No subordinate supervisor or manager shall attempt to suppress a complaint about sexual harassment.

a. All complaints shall be forwarded to the Department Head and the Human Resources Office immediately.

i. Department Heads shall forward a copy of all reports, investigations and resolutions of prohibited harassment, discrimination or retaliation to the EEO Compliance Officer (Director of Human Resources).

- If the Director of Human Resources or the County Administrative Officer receives the initial complaint, said person shall forward the results of the investigation to the Department Head of the complaining employee, except and unless the Department Head is the person accused of prohibited conduct.

a. In the case of a Department Head being the accused, the results

of the investigation will be forwarded to the appropriate authority for resolution. Under no circumstances shall a Department Head, alleged to have engaged in prohibited conduct, investigate the complaint.

#### **4. Responsibility for Contractors**

- County employees responsible for administering or monitoring the work of contractors shall assure that the contractors do not engage in harassment, discrimination or retaliation of County employees.
- Contractors will be provided a copy of Humboldt County's Harassment policy.
  - a. If inappropriate behavior by a contractor is committed or persists, necessary steps will be taken to prevent further harassment, up to and including the exclusion of the offending contractor and the procurement of another contractor.

#### **5. Distribution**

- This policy, including any revisions, shall be distributed to all County offices, including elected officials, managers, supervisors and employees, as well as contractors as the need arises.

### **B. Management Response to Complaints**

#### **1. Investigate**

- All reports shall be promptly and thoroughly investigated by the Human Resources Office or County Administrative Officer.
  - a. The Director of Human Resources or County Administrative Officer may delegate the investigation to an appropriate designee.
  - b. The depth of the investigation will vary depending upon the circumstances of each case, but management personnel will be sensitive and respectful of all persons involved in the incident during investigations.

#### **2. Document**

- All designated persons receiving complaints shall document the allegations reported, the investigation conducted and the resolution decided upon.
- All investigations shall be thoroughly documented and all interviews shall be recorded by Humboldt County investigators.

The County may provide a copy of the interview, to the interviewee, if requested.

### **3. Take action**

- Where charges are substantiated, appropriate corrective action will be taken to remedy the situation and to prevent future episodes of inappropriate behavior.
- Appropriate corrective action, depending upon the circumstances, might range from participation in mandatory training, up to and including discharge from County employment consistent with Humboldt County Merit Systems Rules, or termination of a contract in the case of a County vendor/contractor.
- As both a precautionary and an informative measure, all unsubstantiated claims will result in the re-education of the parties involved by providing them with a copy of this policy, or other educational measures determined by the Director of Human Resources to be appropriate under the circumstances.

## **C. General Responsibilities of Management**

### **1. Duty to implement policy**

- All department heads, other managers and supervisors have the duty to implement and enforce this policy.

### **2. Educate, investigate and cure**

- Department heads, other managers and supervisors have the responsibilities, as appropriate for their level in the organization, to:
  - a. Ensure all employees are aware that:
    - i. Harassment is prohibited.
    - ii. They have a right to complain about such behavior.
    - iii. They will be protected from retaliation.
    - iv. Incidents should be reported to help ensure they will not recur.
    - v. Prompt and appropriate follow-up action will be taken to stop such behavior when the supervisor or manager learns of the problem.
    - vi. Harassment may be grounds for disciplinary action.
  - b. Ensure that all employees have a copy of this Harassment Policy, as amended.
  - c. Promptly and thoroughly report any complaint of harassment, discrimination or retaliation to Department Heads, Director of

Human Resources and/or County Administrative Officer or their designees.

- d. Take appropriate corrective action (sufficient to stop the inappropriate behavior).
- e. Ensure that all personnel with supervisory authority attend County-sponsored training in recognizing and preventing sexual harassment on a bi-annual basis.
- f. Take appropriate corrective action to prevent the possible existence of a "hostile work environment".
- g. This may include the removal or discouragement of offensive pictures, cartoons, e-mail messages, off-color jokes or conversations in the workplace where the communication may be offensive to a "reasonable person".
- h. Maintain confidentiality of all complaints by limiting dissemination of information to only necessary parties.

### 3. Director of Human Resources

- The Director of Human Resources has the responsibility for:
  - a. Advising Department Heads on how to handle complaints under this policy.
  - b. Accepting claims from County officers, elected officials and employees who believe they are being subjected to harassment, discrimination or retaliation.
  - c. Investigating and attempting to resolve complaints.
  - d. Advising all parties about the limited confidentiality of the complaints and the investigative process.

IV. **DEFINITION(S):** For the purpose of clarification, unlawful discrimination and harassment include, but are not limited to, the following behaviors:

- A. **Disparate Treatment:** Treating an individual differently because of his or her protected status.
- B. **Disparate Impact:** Following a policy or practice that has a discriminatory impact on a protected person or group of persons.
- C. **Quid Pro Quo:** Any sexual advance or act which is sexual in nature and is made explicitly or implicitly a term or condition of employment, or where submission to, or rejection of, the conduct is used as a basis for an employment action, decision, or other treatment affecting such individual.
- D. **Hostile Work Environment:** Unwelcome or offensive conduct that is sexual in nature and is motivated by or directed to an employee on the basis of gender with the purpose or effect of unreasonably interfering with an individual's work

performance, or which creates an intimidating, hostile, or offensive work environment. The conduct need not be explicitly sexual to meet this definition and may include repeated or continuing unwelcome or offensive romantic advances, requests, invitations, or unwelcome or offensive overtures to express a romantic or intimate interest in another employee. Conduct creating a hostile work environment is a violation of this policy whether or not there is any tangible, adverse impact on the employee's job benefits.

**REFERENCE(s)**

- Department of Fair Employment and Housing (DFEH)
- Title VII of the Civil Rights Act of 1964

**BOARD APPROVED:**



MARK LOVELACE, Board Chairperson

10-7-2016

Date

Pursuant to Board Order C-10 Dated June 7, 2016

**I have read and understand this policy on Harassment. I was given the opportunity to ask questions or express concerns regarding this policy.**

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Date