



COUNTY OF SONOMA

EQUAL EMPLOYMENT OPPORTUNITY POLICY & COMPLAINT PROCEDURE

Approved: Board of Supervisors

Authority: Human Resources/County Administrator

Revised Date: September 2016

SECTION I. PURPOSE

- A. To achieve equality of employment opportunities for all qualified persons without regard to race, color, ancestry, national origin, religious creed, belief or grooming, sex (including sexual orientation, gender identity, gender expression, transgender, pregnancy, childbirth, medical conditions related to pregnancy, childbirth or breast feeding), marital status, age, medical condition, physical or mental disability, genetic information, military or veteran status, or any other legally protected category, in accordance with federal and state laws and County ordinances.
- B. To remove any artificial, arbitrary or unnecessary barriers to employment which operate to discriminate on the basis of race, color, ancestry, national origin, religious creed, belief or grooming, sex (including sexual orientation, gender identity, gender expression, transgender, pregnancy, childbirth, medical conditions related to pregnancy, childbirth or breast feeding), marital status, age, medical condition, physical or mental disability, genetic information, military or veteran status, or any other legally protected category.
- C. To increase employment opportunities of all qualified persons by eliminating non job-related factors, conditions and requirements from all position specifications.
- D. To evaluate the County of Sonoma's ("the County of Sonoma" or "the County") personnel activities so as to enable the County to take action, where appropriate, so as to achieve full utilization of persons in historically disadvantaged groups, where any deficiencies exist.
- E. To provide a timely, fair, thorough and impartial internal complaint system to resolve allegations of discrimination, harassment, or retaliation against the County of Sonoma or involving its employees, officers or affected third parties in violation of this policy.

SECTION II. SCOPE

- A. This policy applies to all employees, applicants, volunteers and interns of the County, County agencies, and special districts. Where the policy uses terms such as “employees”, “departments”, or “department heads”, these include, but are not limited to, part-time, extra help, probationary and permanent County employees, as well as executives and employees of the Sonoma County Agricultural Preservation and Open Space District, the Sonoma County Community Development Commission, the Sonoma County Fair and Exposition, Inc., the Sonoma County Employees’ Retirement Association, and the Sonoma County Water Agency.
- B. The scope of this Equal Employment Opportunity Policy will encompass all phases of personnel management including, but not limited to, recruitment, appointment, examination, selection, promotion, retention, compensation, training, and discipline.

SECTION III. POLICY

A. NONDISCRIMINATION POLICY

The County of Sonoma is committed to the principle that equal employment opportunity in the public service of the County must be afforded to all persons regardless of race, color, ancestry (including language use), national origin, citizenship, possession of a driver’s license issued under section 12801.9 of the Vehicle Code, religious creed, religious belief or grooming (including dress or grooming practices), sex (which is defined to include gender (including sex stereotyping), and also including a person’s gender identity (i.e. a person’s identification as male, female, a gender different from the person’s sex at birth, or transgender); gender expression (i.e. a person’s gender-related appearance or behavior, whether or not stereotypically associated with the person’s sex at birth); transgender (i.e. a person whose gender identity differs from the person’s sex at birth); pregnancy or medical conditions related to pregnancy; childbirth or medical conditions related to childbirth; breastfeeding or medical conditions related to breastfeeding; and sexual orientation), marital or domestic partner status, age, medical condition (including, but not limited to cancer, AIDS and HIV), physical or mental disability (the term disabled or disability shall be construed to apply to those individuals covered by Title 2 California Administrative Code, Sec. 7293.6 (c) et seq. and 42 U.S. Code Sec. 12102 and the regulations promulgated pursuant to that section), genetic information or characteristics, status as a victim of domestic violence, sexual assault or stalking, military or veteran status, or any other legally protected category, as required by applicable federal and state laws. No person shall suffer discrimination, harassment, or retaliation in his or her employment or with respect to any term or condition of employment by any County employee, manager or supervisor or by any volunteer, vendor, contractor or other third party who may be in the workplace by reason of such person's status in one or more of the protected classifications as enumerated above.

The County of Sonoma recognizes that equal employment opportunity may be ensured only by a carefully administered and practiced program designed to eliminate any

practices, standards or conditions tending to result in discrimination, harassment, or retaliation and by initiating positive efforts in recruitment, examination, selection, promotion, pay and training procedures to extend equal employment opportunities to all qualified persons without limiting, segregating or classifying employees or applicants for employment in any way which would deprive any individual of employment opportunities or otherwise adversely affect his or her status as an employee because of such individual's race, color, ancestry, national origin, religious creed, belief or grooming, sex (including sexual orientation, gender identity, gender expression, transgender, pregnancy, childbirth, and medical conditions related to pregnancy, childbirth or breast feeding), marital status, age, medical condition, physical or mental disability, genetic information, military or veteran status, or any other legally protected category.

B. EQUAL EMPLOYMENT OPPORTUNITY POLICY

The County of Sonoma will take appropriate neutral steps to maximize the employment opportunities of individuals in historically disadvantaged groups whose representation in the County work force is less than could reasonably be expected given their availability in the area labor force.

C. UNLAWFUL HARASSMENT, INCLUDING SEXUAL HARASSMENT POLICY

It is the policy of the County of Sonoma to provide for a work environment free from unwelcome harassment resulting from an individual's status in one or more of the protected classes enumerated in Paragraph A above. This policy includes, but is not limited to, ensuring that the workplace is free from behavior constituting sexual harassment as defined below. This anti-harassment policy applies to all employees, including permanent, probationary, extra help, part-time and temporary employees and volunteers and paid and unpaid interns. Harassment of an individual because of their status in a protected class, including but not limited to sexual harassment, is an unlawful employment practice prohibited by state and federal law. It is also unapproved and unacceptable work behavior that will not be tolerated by the County. County employees, managers, supervisors, contractors, vendors, volunteers, interns and all other third parties who may be in the workplace are expected to adhere to a standard of conduct while on the job or on County property that consists of respect and courtesy towards other employees and persons. All such persons shall under no circumstances engage in behavior which constitutes harassment of an individual because of their status in a protected classification, including but not limited to, sexual harassment.

County officials and employees who are found to committed workplace harassment will be subject to firm disciplinary action up to and including termination of employment. Anyone who engages in unlawful workplace harassment may be personally liable for such conduct and will not be entitled to indemnification and defense in those cases in which the Board of Supervisors determines that such conduct falls outside the scope of employment.

In order to prevent unlawful workplace harassment, management and supervisory employees are responsible for, among other things, informing employees of the County policy and complaint procedure, and promptly reporting all complaints of workplace harassment to the Department Head and the Human Resources Department for investigation. It is also the responsibility of the Department Head to take appropriate disciplinary action if the findings of the investigation indicate workplace harassment has occurred.

D, RETALIATION POLICY

The County strictly prohibits any form of retaliation against any applicant or employee who, in good faith, makes a complaint, raises a concern, provides information, or otherwise assists in an investigation, complaint or proceeding related to any alleged violation of this policy. The County is committed to ensuring that all employees feel comfortable in raising issues regarding conduct that violates this policy without fear of retaliation. It also is intended to encourage County employees to cooperate in investigations of alleged violations of this policy by providing honest, truthful, and complete information without fear of retaliation.

E. PROHIBITED CONDUCT

Under no circumstances shall employees engage in behavior which constitutes discrimination or harassment (including, but not limited to sexual harassment) of an individual because of their membership in a protected category or retaliation against an employee who, in good faith, makes a complaint, raises a concern, provides information, or otherwise assists in an EEO investigation, complaint or proceeding related to any alleged violation of this policy. Employees who engage in such conduct may be subject to disciplinary action, up to and including termination of employment.

SECTION IV. DEFINITIONS

A. SPECIFIC DEFINITION OF SEXUAL HARASSMENT

Sexual harassment is defined as any unwelcome sexual advance, request for sexual favors, or other verbal, physical or visual conduct of a sexual nature that occurs under any of these circumstances:

1. Where submission to such conduct is either explicitly or implicitly a term or condition of employment, including advancement or receipt of other job-related benefits;
2. Where submission to or rejection of such conduct by an employee is used as a basis for employment decisions affecting the employee;
3. Where unlawful conduct unreasonably interferes with an employee's work performance or creates an intimidating, hostile or otherwise offensive working environment.

The type of conduct that may constitute sexual harassment when it occurs under the foregoing circumstances includes making unsolicited written or oral communications and physical or visual contact with sexual overtones (e.g., making, sending, or displaying sexually suggestive or obscene letters, notes, invitations, slurs, jokes, gestures, objects, pictures, cartoons or posters). Note that conduct may constitute sexual harassment even when the harassing conduct was not motivated by sexual desire.

A. OTHER FORMS OF HARASSMENT

Unlawful harassment is unwelcome or offensive conduct with the purpose or effect of unreasonably interfering with an individual's work performance, or which creates an intimidating, hostile or offensive working environment that is motivated by or directed to an employee on the basis of the employee's race, color, ancestry, national origin, religious creed, belief or grooming, sex (including sexual orientation, gender identity, gender expression, transgender, pregnancy, childbirth, medical conditions related to pregnancy, childbirth or breast feeding), marital status, age, medical condition, physical or mental disability, genetic information, military or veteran status, or any other legally protected category.

B. RETALIATION

Retaliation prohibited by this policy includes, but is not limited to, any one or more of the following that is substantially related to making a complaint, raising a concern, providing information, or otherwise assisting in an investigation or proceeding related to any alleged violation of this policy:

1. Intimidation;
2. Adverse actions with respect to the terms and conditions of employment including, but not limited to, criticism, transfer, demotion, discipline, and/or termination;
3. Threats of any of the above.

SECTION V. COMPLAINTS

- A. An employee or applicant for employment with the County of Sonoma who believes he/she has suffered discrimination on the basis of race, color, ancestry, national origin, religion, sex (which is defined to include gender (including sex stereotyping), and also including a person's gender identity (i.e. a person's identification as male, female, a gender different from the person's sex at birth, or transgender); gender expression (i.e. a person's gender-related appearance or behavior, whether or not stereotypically associated with the person's sex at birth); transgender (i.e. a person whose gender identity differs from the person's sex at birth); pregnancy or medical conditions related to pregnancy; childbirth or medical conditions related to childbirth; breastfeeding or medical conditions related to breastfeeding; and sexual orientation), marital status, age, medical condition (including, but not limited to cancer, AIDS and HIV), physical or mental disability, genetic information, military or veteran status, or any other legally protected category, or

any County employee who believes he/she has been harassed as a result of being in any of the above protected classifications, or any County employee who believes he/she has been retaliated against for engaging in protected activity is encouraged to promptly bring such claim to the attention of the County of Sonoma Equal Employment Opportunity Manager in accordance with the County's EEO Policy as described below. All supervisors or managers who witness any discriminatory, harassing or retaliatory misconduct that may constitute a violation of this policy are required to immediately report the conduct to the County of Sonoma Equal Employment Opportunity Manager.

All employees who witness any discriminatory, harassing or retaliatory misconduct that may constitute a violation of this policy are encouraged to promptly report the conduct to the County of Sonoma EEO Manager.

County of Sonoma Equal Employment Opportunity Manger
(707) 565-8059

- B. This policy is not intended to prohibit employees or applicants from filing complaints with the California Department of Fair Employment and Housing or the federal Equal Employment Opportunity Commission or to prevent them from pursuing other available judicial remedies.

California Department of Fair Employment & Housing (DFEH)
(800) 884-1684 or www.dfeh.ca.gov

Federal Equal Employment Opportunity Commission (EEOC)
(800) 669-4000 or www.eeoc.gov.

For all employees, this discrimination, harassment and retaliation complaint procedure shall be the exclusive internal mechanism for pursuing claims and complaining of discrimination, harassment or retaliation in any aspect of County employment.

- C. An employee who makes a complaint of discrimination, harassment, or retaliation is in no manner excused or exempt from the same performance standards to which other employees performing the same or similar work are held accountable. All job performance standards will be maintained throughout and following any investigation undertaken as a result of this procedure.

SECTION VI. COMPLAINT PROCEDURE

The process described in this policy is intended to provide the means by which employees may make complaints, raise concerns, or provide information regarding conduct in the workplace that an employee believes, in good faith, constitutes unlawful discrimination, harassment, and/or retaliation in violation of the County's EEO Policy.

Employees are encouraged to first discuss any complaints or concerns of discrimination, harassment, or retaliation with their immediate supervisor or their appointing authority. If an employee feels uncomfortable addressing his or her complaint or concern with his

or her immediate supervisor or appointing authority, or such discussion produces no satisfactory result, the employee shall raise his or her complaint or concern through the following procedure:

A. INITIAL INFORMAL PRE-COMPLAINT COUNSELING

1. Any applicant or employee who feels uncomfortable addressing his or her complaint or concern with his or her Department or such discussion produces no satisfactory result, is encouraged to discuss his/her complaints or concerns regarding unlawful discrimination, harassment, or retaliation informally with the County EEO Manager as soon as possible after the occurrence of the alleged incident. At the initial meeting, the EEO Manager shall inform the complainant of the opportunity to file a formal complaint with the County or with the DFEH and EEOC and shall attempt to resolve the complaint. Such informal discussion shall remain confidential to the extent legally possible, except for statistical purposes, unless the complainant takes some further County, State or Federal action.
2. Where resolution is not immediately obtainable and the complainant requests further investigation, the EEO Manager shall conduct an informal inquiry of all relevant parties, including the department head, in order to resolve the claim to the reasonable satisfaction of the complainant and the County. The EEO Manager shall ensure this process is completed in a prompt and timely matter from the date of the initial contact with the employee. The EEO Manager will maintain communication with all relevant parties throughout the process. At the conclusion of the informal process, the complainant shall be given a closeout letter summarizing the outcome.

B. FORMAL COMPLAINT OF EMPLOYMENT DISCRIMINATION, HARASSMENT, AND/OR RETALIATION

1. As soon as possible, and in no case more than two hundred sixty (260) County business days after an alleged incident of discrimination, harassment, or retaliation, an applicant or employee shall file a written complaint with the EEO Manager by completing a copy of the County of Sonoma Discrimination Complaint Form available from the Human Resources Department. The complainant shall state the facts upon which the allegation of discrimination is based, any resulting adverse employment action, and any remedy sought. The EEO Manager shall discuss the complaint and all applicable procedures with the complainant.
2. Upon receipt of a formal complaint of discrimination, harassment, or retaliation, and it has been determined an investigation is warranted, the EEO Manager shall promptly do all of the following:
 - a. Notify all relevant parties, including the appropriate department head, of the complaint.
 - b. Investigate, or direct a fair, timely, thorough and impartial investigation of the allegations by a qualified investigator and document and track the investigation's progress so as to ensure reasonable and timely progress and closure.

- c. Complete a written report setting forth a statement of the allegations, factual findings and conclusions based on the evidence collected, and recommended remedial or corrective actions, if any.
- d. Discuss the findings of the investigation with appropriate individuals. In cases where a finding of misconduct in violation of this Policy is sustained, appropriate remedial measures will be discussed and taken, as fashioned by the EEO Manager. At the conclusion of the investigation, the complainant shall be given a closeout letter, summarizing the investigation outcome, findings and appropriate remedial measures if any.

All parties shall cooperate fully with the EEO Manager, who shall have access to any and all records necessary for completion of the investigation. All employees involved as a party or witness in an investigation pursuant to this Policy are required to answer all questions truthfully and fully. The investigation process will be completed in a prompt and timely matter. The amount of time necessary to complete the investigation will depend in each circumstance on the availability of all relevant parties, access to relevant documentation, and other circumstances that may extend the time period involved to allow completion of the investigation and recommendation. The EEO Manager will maintain communication with all relevant parties throughout the investigation process. Should the investigation take longer than one hundred eighty (180) County business days, the EEO Manager will notify all relevant parties with the estimated timeframe of completion. The investigation shall provide all parties with appropriate due process.

C. RIGHT OF REPRESENTATION

In general, employees have a right to union representation on matters related to the employee's terms and conditions of employment. More specifically, employees and applicants who file a complaint of unlawful discrimination, harassment, or retaliation have the right to be represented by a person of their choosing.

In those instances in which an interview of an employee conducted as part of an investigation commenced pursuant to this policy may reasonably lead to information that could form the basis for disciplinary action against that employee or relates to the terms and conditions of that employee's employment, the employee shall be entitled to representation at the interview by a representative of the recognized employee organization of which the affected employee is a member.

D. APPEAL OF RECOMMENDED CORRECTIVE ACTIONS

1. In the event the complainant suffered an adverse employment action (e.g. a demotion, reduction in pay, failure to receive a promotion, and the like), and the EEO Investigation Report has a sustained finding that the adverse employment action suffered by the complainant was due to actionable harassment, discrimination or retaliation towards the complainant, to the extent the complainant is a permanent

classified employee who is entitled to a hearing before the Civil Service Commission under the County of Sonoma Civil Service Ordinance, the complainant may appeal to the Civil Service Commission any remedial or corrective actions recommended by the EEO Manager in the Report that are intended to redress the adverse employment action that was suffered by the complainant, to the extent such recommended corrective action(s) are not satisfactory to the complainant, or the Department fails to implement the recommended corrective action(s). To do so, the complainant must submit a written request for an appeal hearing before the Civil Service Commission to the Human Resources Director within twenty (20) County business days from the date of receipt of the notification of the recommended remedial action(s).

Note that the complainant's appeal rights are limited to the above-described situation involving the adverse employment action experienced by the complainant; the complainant may not appeal any other associated issues, including, but not limited to: a) whether the complainant agrees with the scope of or completeness of the Report, the identification of which witnesses to interview, the facts and findings of the Report – or any other aspect of the Report or perceived deficiencies of the Report by the complainant; and b) whether the complainant agrees with the form or level of discipline or corrective action taken by the appointing authority – or not taken by the appointing authority - against the individual who is the subject of the complainant's complaint (the accused). The complainant has no Civil Service Commission appeal rights in instances where the allegations of harassment, discrimination and/or retaliation are not sustained. In such instances, the complainant may have other appropriate external venues, such as with the DFEH/EEOC.

2. During the appeal hearing, the Commission shall consider the EEO Manager's recommendations and the complainant's concerns and, after deliberation, will issue a decision upholding the status quo and affording the complainant no additional rights or remedies, or alternatively, the Commission may grant, deny or recommend other actions that are within their purview. Examples of the range of possible decisions the Commission may make beyond upholding the status quo include, but are not limited to, issuing cease and desist orders, ordering placement on an employment list, ordering reinstatement, or ordering appointment or promotion to the next available position for which the complainant is qualified. The decision of the Commission is final.

E. CONSOLIDATION OF DISCIPLINARY APPEALS TO THE CSC AND DISCRIMINATION, HARASSMENT, RETALIATION COMPLAINTS

Permanent classified employees who are entitled to a hearing before the Civil Service Commission ("CSC") for dismissal, suspension, or reduction in rank or compensation under County of Sonoma Civil Service Ordinance, Section 12A, and Civil Service Rule 10.5, and who file such an appeal, may raise any unlawful discrimination, harassment, or retaliation claims they believe they may have at the CSC hearing as a defense to the disciplinary action. An employee raising a claim of unlawful discrimination, harassment, or retaliation as a defense to an adverse employment action being taken against them shall bear the burden of proving by a preponderance of the evidence that the adverse employment action was substantially motivated by unlawful discriminatory or retaliatory

animus.

With regard to such claims of unlawful discrimination, harassment, or retaliation, attempted resolution with the EEO Manager is a prerequisite to raising such an issue as a defense before the CSC. The disciplined employee alleging unlawful discrimination, harassment, or retaliation, who has not done so prior to the disciplinary action, shall file a written complaint with the EEO Manager before the Civil Service hearing. If it is determined an EEO investigation is necessary, the CSC hearing will be placed on hold until the investigation process has been completed.

If the affected employee does not file a written complaint prior to the Civil Service hearing date, the disciplinary hearing will proceed as scheduled.

SECTION VII. ADMINISTRATION

- A. Under the general direction of the Board of Supervisors, the Sonoma County Human Resources Director shall be responsible for the overall administration and coordination of this program of Equal Employment Opportunity. The Human Resources Director shall periodically monitor and analyze Sonoma County employment patterns in accordance with the Equal Employment Opportunity Program adopted by the Board of Supervisors.

All department heads and County agencies shall cooperate with the Director in the continued implementation of this program.

- B. This Policy of Equal Employment Opportunity may be amended as needed by a majority vote of the Board of Supervisors.
- C. Each department head will post the Equal Employment Opportunity Policy on bulletin boards, so as to enable employees to avail themselves of its benefits; and he/she will endeavor to obtain the understanding and cooperation of all employees in the Program's implementation and on-going maintenance.
- D. Department heads will notify the Director of Human Resources of any positions identified for which nonessential qualifications might discourage the employment of protected group members.
- E. All department heads will be responsible for implementing, practicing, and ensuring equal employment opportunity within his/her department.
- F. The Equal Employment Opportunity (EEO) Manager will counsel employees and investigate complaints of discrimination, harassment and/or retaliation in violation of this policy.
- G. The EEO staff of the Human Resources Department shall be available to explain the EEO Policy, its purpose and objectives to all County employees and applicants for employment.

- H. The Human Resources Department shall make a copy of this policy available to each employee organization and to each employee or applicant upon request. A copy of the policy shall also be posted on bulletin boards in each department and on the Human Resources Department website.

SECTION VIII. RELATED COUNTY POLICIES AND FORMS

- Discrimination Complaint Form
- Disability and Reasonable Accommodation Policy
- Medical Leave Policy
- Applicable Memorandum of Understanding

For an accessible version of this content, please see Equal Employment Opportunity Policy & Complaint Procedure at <http://sonomacounty.ca.gov/HR/EEO/Policy/>