



**COUNTY OF EL DORADO, CALIFORNIA
BOARD OF SUPERVISORS POLICY**

Subject: POLICY PROHIBITING DISCRIMINATION, HARASSMENT AND RETALIATION, AND REPORTING AND COMPLAINT PROCEDURE	Policy Number E-5	Page Number: 1 of 16
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I. BACKGROUND:

This policy is being issued to update prior County policies on discrimination and harassment in order to incorporate changes in law and provide for an updated reporting and complaint procedure.

II. POLICY

A. Purpose and Scope

The purpose of this policy is to establish the County of El Dorado's commitment to provide a work environment free from unlawful discrimination, harassment, and retaliation, to define discrimination, harassment, and retaliation, and to establish the procedure for reporting conduct believed to violate this policy. This policy also describes procedures for filing, investigating, and resolving complaints of discrimination, harassment, and/or retaliation.

The County of El Dorado is committed to a work environment in which all individuals are treated with respect and dignity. It is the responsibility of each and every employee, supervisor and manager, department head, and elected official to refrain from conduct constituting unlawful discrimination, harassment, and/or retaliation, to prevent such conduct from occurring in the workplace and to cooperate fully and truthfully with the investigation of complaints of discrimination, harassment, and/or retaliation. Discrimination, harassment, and retaliation are unlawful under federal and state law, and such conduct decreases work productivity and morale, and undermines the integrity of employment relationships. Therefore, complaints of discrimination,



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harassment, and retaliation will be promptly, thoroughly and appropriately investigated and addressed.

El Dorado County is committed to eliminating unlawful discrimination, harassment and/or retaliation of any kind and to providing a workplace free of discrimination, harassment and retaliation. The County of El Dorado is committed to take all steps necessary to prevent unlawful discrimination, harassment, and retaliation from occurring. This includes, but is not limited to, requiring managers and supervisors to take a proactive role in distributing, implementing, and enforcing this policy, expressing strong disapproval for violating the policy, developing appropriate sanctions, informing employees of their right to raise and how to raise the issue of unlawful harassment, discrimination, or retaliation, and developing methods to sensitize all concerned.

B. Prohibited Conduct: Discrimination, Harassment and Retaliation

El Dorado County maintains a standard of zero tolerance for unlawful Discrimination, harassment and retaliation whether verbal, physical or otherwise, and all employees are expected to conform to this policy of zero tolerance.

Unlawful discrimination, harassment, or retaliation directed toward an applicant, employee, supervisor, manager, elected official, contract employee, or other co-worker on the basis of race, religion, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, sexual



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orientation, or age is a violation of State and/or Federal law and will not be tolerated by the County of El Dorado.

The County of El Dorado prohibits retaliation of any kind against a person for reporting or filing a complaint of unlawful discrimination, harassment or retaliation and prohibits retaliation for participating in any such report, complaint, or investigation, whether as a complainant or witness.

Employees, supervisors, managers, contract employees, elected officials and/or other co-workers found to be participating in any form of employment-based harassment, discrimination or retaliation against any applicant or employee may be subject to disciplinary action up to and including termination from employment.

This zero tolerance policy is applicable to all terms and conditions of employment including but not limited to hiring, placement, compensation, assignments, leave, promotion, training, disciplinary action, layoff, recall, transfer, leave of absence, termination, and reinstatement.

III. DEFINITIONS

For the purpose of clarification, unlawful discrimination or harassment includes, but is not limited to, the following behaviors:



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A. Sexual Harassment

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; or

Hostile Work Environment

Unwelcome or offensive conduct that is sexual in nature and/or that 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.

B. Other Forms of Harassment

Unwelcome or offensive conduct motivated by or directed to an employee on the basis of race, religion, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, sexual orientation or



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age, with the purpose or effect of unreasonably interfering with an individual's work performance, or which creates an intimidating, hostile or offensive working environment. 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.

C. Examples of Behaviors Constituting Harassment

1. Verbal Harassment

Epithets, derogatory comments, slurs, propositioning, graphic or descriptive comments, or other offensive words or comments on the basis of race, religion, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, sexual orientation, or age whether made in general, directed to an individual, or to a group of people and regardless of whether the behavior was intended to harass or offend. Such behavior may include, but is not limited to, comments about appearance, dress, body type or physical features, comments about personal life which may be perceived as offensive or sexual behavior; sexual rumors; or comments, jokes, or anecdotes related to race, disability, age or religion.

2. Physical Harassment

Assault, impeding or blocking movement, staring, leering, or any physical interference with work, privacy or movement on the basis of race, religion, color, national origin, ancestry, physical disability, mental



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disability, medical condition, marital status, sex, sexual orientation, or age whether made in general, directed to an individual or to a group of people, and regardless of whether the behavior was intended to harass or offend. Physical harassment may include, but is not limited to pinching, patting, grabbing, inappropriate behavior in or near bathrooms, sleeping facilities, and eating areas, or explicit or implied threats or promises in return for submission to physical requests or demands.

3. Visual Forms of Harassment

Derogatory, prejudicial, stereotypical, pornographic, or otherwise offensive posters, pictures, objects, cartoons, notes, bulletins, drawings, photographs related to race, religion, color, national origin, ancestry, mental disability, physical disability, medical condition, marital condition, sex, sexual orientation, or age, whether made in general, directed to an individual or to a group of people, and regardless of whether the behavior was intended to harass or offend. These provisions apply to posted material, material maintained in or on County of El Dorado premises or equipment, and to personal property in the workplace.

D. 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, sexual orientation or age, including but not limited to those affecting hiring, placement, compensation, assignments, leave,



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promotion, training, disciplinary action, lay off, recall, transfer, leave of absence, termination, and reinstatement.

E. 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 action, decisions, or other treatment affecting hiring, placement, compensation, assignments, leave, promotion, training, disciplinary action, lay off, recall, transfer, leave of absence, termination, and reinstatement.

IV. RESPONSIBILITIES

A. Department Heads/Management/Elected Officials

It is the responsibility of department heads and other management and elected officials to refrain from conduct constituting unlawful discrimination, harassment and/or retaliation; to enforce and maintain policies to prevent and prohibit unlawful discrimination, harassment, and retaliation in the workplace; to immediately report any complaint of discrimination, harassment or retaliation to Human Resources and/or the CAO; to maintain a departmental work environment that is free of unlawful discrimination, harassment, and/or retaliation; to ensure that all employees within the department are provided with a copy of the policy and are provided with training on its provisions; and to



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ensure that any violation of this policy that is brought to management's attention is handled promptly, fairly, and impartially.

It is their further responsibility to monitor compliance with this policy by subordinates and to ensure attendance at County-sponsored training in prevention of unlawful discrimination, harassment, and retaliation in the workplace.

Failure to refrain from conduct found to constitute unlawful discrimination, harassment, and/or retaliation will result in disciplinary action up to and including termination. Failure to take corrective action when a department head/manager/elected official knew, or should have known, that an employee was being subjected to unlawful discrimination, harassment, or retaliation on the job is a violation of this policy and may subject the department head/manager/elected official to disciplinary action up to and including termination or other appropriate sanctions. A failure to report conduct that may constitute unlawful discrimination, harassment, and/or retaliation to the Department of Human Resources (EEO Officer) or CAO, or failure to cooperate fully and truthfully in an investigation of a complaint of discrimination, harassment, or retaliation, or failure to require such cooperation from subordinates, may result in disciplinary action up to and including termination.

All department heads, managers and elected officials have the responsibility to set a professional and proper example in complying with the provisions of this policy.



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B. Supervisors

It is the responsibility of supervisors to refrain from conduct constituting unlawful discrimination, harassment, and/or retaliation, to enforce this policy, to ensure employees attend relevant County-sponsored training concerning this policy, and to monitor the work place to ensure compliance with the policy. When a supervisor is informed of, or observes a violation of this policy, the supervisor shall bring the information to the attention of management immediately.

Failure to refrain from conduct found to constitute unlawful discrimination, harassment, and/or retaliation, will result in disciplinary action up to and including termination. A failure to report conduct that may constitute unlawful discrimination, harassment and/or retaliation to management, or failure to cooperate fully and truthfully in an investigation of a complaint of discrimination, harassment or retaliation, or failure to require such cooperation from subordinates may subject the supervisor to disciplinary action up to and including termination.

All supervisors have the responsibility to set a professional and proper example in complying with the provisions of this policy.

C. All Employees

It is the responsibility of each and every employee of the County of El Dorado to know and follow this policy and to treat every other employee with dignity and respect. Each employee of the County of El Dorado must refrain from conduct constituting unlawful discrimination, harassment, or retaliation. Employees are



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expected to report occurrence of such conduct in accordance with the provisions of this policy. Each employee of the County of El Dorado is required to cooperate fully and truthfully in any investigation initiated regarding a complaint of discrimination, harassment, or retaliation. Failure to refrain from conduct found to constitute unlawful discrimination, harassment, and/or retaliation will result in disciplinary action up to and including termination. Failure to cooperate fully and truthfully in such an investigation may subject the employee to a separate disciplinary action, up to and including termination for insubordination.

All employees have the responsibility to set a professional and proper example in complying with the provisions of this policy.

D. Human Resources Director and Department

The Director of Human Resources is the County's Equal Employment Opportunity Officer (EEO Officer). The Director and the Human Resources Department shall be responsible for:

- rr Fostering the cooperation of Department Heads and other managers in meeting program goals in relation to the identification, prevention, and elimination of unlawful discrimination, harassment, and retaliation in the workplace;
- rr Ensuring that qualified applicants and employees with disabilities, who are capable of performing the essential functions of their positions, are provided with reasonable accommodations;



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- rr Reviewing job classifications, pre-employment, and performance testing requirements and qualifications to ensure that they are relevant to the functions of the positions and do not adversely affect qualified applicants and employees whose disabilities can be reasonably accommodated so as to allow them to perform the essential functions of their positions;
- rr Investigating and resolving complaints of discrimination, harassment, and retaliation which fall within the provisions of this policy or directing and monitoring investigations conducted by independent contractors.
- rr Reporting to the Board of Supervisors and department heads concerning developments in the area of workplace unlawful discrimination, harassment, retaliation, and the effectiveness of implementation of the County's policy;
- rr Scheduling and auditing periodic training of County management and employees in the areas of unlawful workplace discrimination, harassment, retaliation, including identification of prohibited conduct, procedures for reporting the occurrence of such conduct, and prohibition against retaliation for complaints;
- rr Reporting the occurrence of such unlawful discriminatory, harassing, or retaliatory conduct prohibited by the policy to the appropriate department head and/or supervisor to ensure that appropriate action occurs.



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V. COMPLAINT PROCEDURE

The County of El Dorado encourages individuals who believe they have suffered unlawful discrimination, harassment, and/or retaliation to promptly notify the offender that his or her behavior is unwelcome or objectionable. One-on-one confrontation may be an effective way to end inappropriate behaviors. However, confrontation may be difficult and due to the complex nature of issues relating to discrimination, harassment, and retaliation, employees are not required to confront an offending party prior to initiating a complaint process. All persons are required to report conduct, even if the behavior stops. The following steps should be taken to report a complaint of discrimination, harassment, or retaliation:

A. Applicants and Employees

An applicant or employee who believes that he or she has been subjected to unlawful discrimination harassment or retaliation may make a complaint orally or in writing with any of the following:

- ff Immediate supervisor
- ff Any supervisor or manager within or outside the Department Head
- ff Director of Human Resources/Equal Employment Opportunity Officer
- ff Chief Administrative Officer



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Applicants or employees may instead or in addition file a complaint with the Department of Fair Employment and Housing or the Equal Employment Opportunity Commission.

Employees are **not** required to follow their usual chain of command in making a complaint concerning unlawful discrimination, harassment, or retaliation. A complainant is never required to report unlawful discrimination, harassment, or retaliation to a supervisor, manager or other employee whom the complainant believes is engaging in or tacitly supporting the unlawful discrimination, harassment, or retaliation.

B. When a Complaint is Received

Upon receipt of a complaint of unlawful discrimination, harassment or retaliation, whether verbal or in writing, a supervisor, manager, or department head shall immediately notify the Department of Human Resources or the Chief Administrative Officer who will initiate the appropriate initial fact finding. If an employee of the Department of Human Resources is the complainant or accused of unlawful discrimination, harassment, or retaliation, then the investigator shall be the Chief Administrative Officer or his or her designee.

C. Formal Investigation Upon Allegation of Unlawful Discrimination, Harassment or Retaliation

Upon determination of the Director of Human Resources, C.A.O., or designee of an allegation of unlawful discrimination, harassment, or retaliation, a formal investigation may be conducted as appropriate to the complaint. The



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investigation may include collection of relevant documents and interviews with the complainant, witnesses, including the accused employee(s), and all persons whom the investigator reasonably believes would have relevant knowledge concerning the complaint. Employees are entitled to have a Union or legal representative present during their interviews where the employee reasonably believes the investigation could result in the imposition of disciplinary action against them. If the accused person is a public safety officer, the investigation will be in accordance with the Peace Officer's Bill of Rights.

Following the completion of the investigation, the complainant and accused employee(s) will be notified of the completion of the investigation and of the ultimate outcome, i.e. whether the evidence establishes a violation of County policy. If the determination is made that discrimination, harassment, and/or retaliation occurred which violates County policy, the Director of Human Resources (EEO Officer) or CAO shall take and/or recommend prompt and effective remedial action commensurate with the severity of the offense(s), taking into account the principles of progressive discipline as well as the County's zero tolerance policy towards unlawful discrimination, harassment, and retaliation. Human Resources may provide investigation materials and evidence to the relevant department head or other employee(s) as strictly necessary to carry out any disciplinary or corrective action. However, preservation of the confidentiality of the records pursuant to applicable statutes shall apply. For example, in the event disciplinary action is taken, the nature of any discipline will not be disclosed to the complainant.



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Employees who report discrimination, harassment, or retaliation will be protected from retaliation. Relevant supervisors and managers must continue to monitor the workplace during and after the complaint and investigation process to ensure that there is no recurrence of behavior constituting discrimination, harassment, or retaliation and to maintain an environment of full compliance with the provisions of this policy.

VI. APPEAL

If the complainant is not satisfied with the determination or resolution of the complaint, the complainant may file an appeal with the Civil Service Commission within thirty (30) days of the determination/recommendation of the EEO Officer or CAO.

Appeals to the Civil Service Commission are to be filed in writing to:

County of El Dorado Civil Service Commission
c/o Human Resources Department
330 Fair Lane
Placerville, CA 95667

The filing of a complaint in accordance with this policy does not preclude the employee from filing a complaint with the agencies listed below:

Department of Fair Employment and Housing (DFEH)
2000 O Street
Sacramento, CA 95814
(800) 884-1684



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Equal Employment Opportunity Commission (EEOC)
901 Market Street, Suite 500
San Francisco, CA 94103
(415) 356-5100

VII. APPLICATION

This policy applies to all employees of the County of El Dorado, including contract employees, permanent employees, temporary/extra help employees, supervisory employees, department heads, private contractors, volunteers, and elected officials. All such persons and employees shall receive a copy of the policy and shall sign a written acknowledgment that they have received and read a copy of this policy. A copy of this acknowledgment will be placed in each employee's official personnel file.

VIII. FALSE COMPLAINTS

This section is not intended to discourage employees from making complaints regarding discrimination, harassment, or retaliation. However, intentionally false complaints adversely impact the workplace and the career of the accused, even when disproved, and will not be tolerated. Any complaint made by an employee of the County of El Dorado regarding discrimination, harassment, or retaliation which is proven to be intentionally false may result in discipline up to and including termination.

Primary Department: Human Resources

References: None