



## COUNTY OF SAN BERNARDINO POLICY MANUAL

No. 06-01

ISSUE 3

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By

EFFECTIVE 08-30-05

SUBJECT

APPROVED

**NON-DISCRIMINATION/HARASSMENT POLICY**

CHAIRMAN, BOARD OF SUPERVISORS

### **POLICY STATEMENTS**

#### **NON-DISCRIMINATION POLICY**

It is the Policy of the Board of Supervisors that the County of San Bernardino shall not discriminate against or tolerate the harassment of employees or applicants for employment on the basis of actual or perceived age, ancestry, color, race, sex, religion, national origin, marital status, physical or mental disability, medical condition, or sexual orientation or any other basis protected by law. All County employees or applicants for employment are to be treated with respect and dignity. In addition, the County shall not discriminate on the basis of disability in admission or access to, or in operations of, its programs, services or activities. It is the responsibility of all County employees to adhere to and implement this Policy. The County has zero tolerance for any conduct that violates this Policy. Conduct need not arise to the level of a violation of the law in order to violate this Policy. Instead, failure to follow the Policy provides grounds for disciplinary action up to and including termination of employment or vendor contracts.

Persons who believe they have experienced any form of discrimination or harassment are encouraged to report this immediately, using the Complaint Resolution Procedure provided in the Section entitled **INDIVIDUAL RIGHTS AND RESPONSIBILITIES AND COMPLAINT PROCEDURE**.

#### **ANTI-RETALIATION**

It is the Policy of the Board-of Supervisors to prohibit the taking of any adverse employment action against those who report, oppose, or participate (as witnesses or accused) in investigations into complaints of alleged violations of this Policy or State or Federal law in retaliation for that reporting, opposition, or participation. Disciplinary action, up to and including termination, will be taken against any employee who is found to have violated this Anti-Retaliation provision. Any contractor who violates this provision will be subject to appropriate sanctions.

#### **SEXUAL HARASSMENT POLICY**

It is the policy of the County of San Bernardino to provide a work environment free from unwelcome sexual overtures, advances or coercion. Employees are expected to adhere to a standard of conduct that is respectful to all persons within the work place. The County will not tolerate any form of sexual harassment, nor will it tolerate any act of retaliation against any person filing a complaint of sexual harassment. In addition, favoritism that arises from consensual romantic or sexual relationships between employees may be construed as harassment. This Policy applies to regular status, probationary or contract employees; applicants for County employment; elected officials, department heads, exempt employees and vendors' actions towards County employees.

#### **DEFINITIONS**

**Discrimination** is any practice, process or action in the work place which works against equality of opportunity and against the ability of each person to be employed and to advance on the basis of merit, due to age, ancestry, color, race, sex, religion, national origin, marital status, physical or mental disability, medical condition, or sexual orientation or other status protected by law unless such practice, process or action is necessary for employment purposes.

**Harassment** may be verbal, physical, visual, or sexual. It may be made in general or directed to an individual, or a group of people. Harassment may occur regardless of whether the behavior was intended to harass. Harassers may be supervisors, managers, co-workers, contractors or members of the public. General forms of harassment on the basis of age, ancestry, color, race, sex, religion, national origin, marital status, physical or mental disability, medical condition, or sexual orientation or other status protected by law include, but are not limited to, the following examples:

**Verbal** - repeated, unsolicited derogatory comments, epithets or slurs; or continued requests for social or sexual contact after being advised such contact is unwelcome.

**Physical** - assault, impeding or blocking movement, unwelcome touching, leering, or any physical interference with normal work or movement when directed at an individual.

**Visual** - derogatory, prejudicial, stereotypical, or otherwise offensive email messages, web pages, screen savers and other computer images; posters, photographs, cartoons, notes, notices, bulletins, or drawings; staring or leering.

**Sexual** - advances which condition an employment benefit in exchange for sexual favors, or which may be perceived as such.

**Retaliation** – includes, but is not limited to discipline; transfer; denial of promotional opportunity, training or assignment; as a result of filing a complaint or participating in an investigate.

**Sexual Harassment** is defined as unsolicited or unwelcome sexual advances, requests for sexual favors, and/or other verbal, physical or visual conduct of a sexual nature when:

1. submission to such conduct is made either explicitly or implicitly as a term or condition of an individual's employment;
2. submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
3. such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

### **SEXUAL HARASSMENT POLICY AMPLIFICATION**

Sexual harassment is a violation of federal and state law. Sexual harassment can cause physical, emotional and economic problems for its victims. In addition to the anxiety these demands may cause, there may be an underlying message that noncompliance will lead to reprisals. These reprisals can include escalation of the harassment, poor work assignments, sabotaging work, unsatisfactory evaluations, threatened demotions, transfers, poor job references, slander, gossip, blackmail, and other forms of retribution.

Sexual harassment undermines the integrity of the employment relationship. Sexual harassment can result in economic loss to the County of San Bernardino and its employees, excessive absenteeism and turnover, loss of morale, polarization of staff, a decrease in management credibility, and a decrease in productivity. . It is critical that appointed and elected department heads ensure compliance with this policy. Failure to ensure compliance will be deemed just cause for action against the appointing authority.

### **EXAMPLES OF SEXUAL HARASSMENT**

For the purpose of clarification, sexual harassment may include, but is not limited to:

1. Making unsolicited written, verbal, physical and/or visual contact with sexual overtones. Written examples: suggestive or obscene letters, notes or invitations. Verbal examples: comments on physical attributes, derogatory comments, slurs, jokes and epithets. Physical examples: assault, touching, following, impeding or blocking movements. Visual examples: leering, gestures, display of sexually suggestive objects, pictures, cartoons or posters.
2. Continuing to express sexual interest after being informed that such interest is unwelcome. (Reciprocal attraction is not considered sexual harassment.)
3. Making reprisals, threats of reprisal, or implied threats of reprisal following a negative response. For example, either implying or actually withholding support for an appointment, promotion, or change of assignment; suggesting a poor work performance evaluation will be prepared, or suggesting a demotion or probationary period will be extended or failed.
4. Engaging in implicit or explicit coercive sexual behavior, which is used to control, influence, or affect the career, salary, and/or work environment of another employee.
5. Offering favors of employment benefits such as, promotions, favorable work performance evaluations, favorable assigned duties or shifts, recommendations, reclassifications, etc., in exchange for sexual favors.

## COUNTY RESPONSIBILITIES

The County recognizes its obligation to take prompt and appropriate action if an incident of discrimination or harassment occurs and to avoid or minimize the impact of any incident of discrimination or harassment. The County will pursue all reasonable preventive measures to ensure the work place; programs and services are free of discrimination or harassment. Pursuant to these obligations, the County shall do the following:

1. Investigate any complaint of discrimination, harassment or retaliation. The investigation of complaints will be prompt, thorough, objective and complete. The investigation will be conducted in a confidential manner as is compatible with a thorough investigation of the complaint and consistent with the rights of employees under the Personnel Rules and relevant laws.
2. Fully inform complainant of his/her rights and any obligation to secure those rights.
3. If a complaint of discrimination, harassment or retaliation is made, the accused will be informed of the allegations and given an opportunity to respond. If discrimination, harassment or retaliation is proven by the impartial investigation, prompt and appropriate remedial action will be taken. An employee found to have violated this policy will be subject to disciplinary action, up to and including termination. In addition, appropriate steps will be taken to prevent any further discrimination, harassment or retaliation. Action will be taken to remedy the complainant's loss, if any.
4. The County will disseminate this policy to all employees (i.e., regular, probationary, extra help, recurrent, and contract) and will include this policy in orientation packages for new employees. This policy applies to all elected officials, appointed department heads and exempt employees.

## INDIVIDUAL RIGHTS AND RESPONSIBILITIES AND COMPLAINT PROCEDURE

The County does not intend to regulate or control any relationship or social interaction of individuals, which is freely entered into by all parties. However, the cooperation of individuals is necessary to insure a professional and healthy working environment where discrimination and harassment are not tolerated.

An individual should make it clear that he/she is not interested in, or flattered by, uninvited sexual advances.

An individual should make it clear that he/she is offended by actions or speech in violation of this policy.

If appropriate, and the individual feels comfortable in doing so, he/she should inform the offending party what specific conduct or behavior is offensive and unwelcome and request that any such harassing or discriminatory action/speech be stopped immediately.

If the individual does not believe it is appropriate to speak directly to the offending party, or does not feel comfortable doing so, the individual should promptly notify his/her immediate supervisor of the offending conduct, or the supervisor of the offending party.

If the individual is not comfortable in reporting the matter to his/her supervisor, or if the supervisor is the offending party, the individual should report the discrimination, harassment, or retaliation to a representative from the County's Equal Employment Opportunity (EEO) Office or to a Human Resources Officer, refer to **Addendum 1** for contact information.

If an individual feels a complaint is not adequately resolved, he/she has the right to file a formal complaint of discrimination, harassment, or retaliation with the County's EEO Office. Any individual who believes he/she has been discriminated, harassed, or retaliated against has the right to file a complaint with the County's EEO Office. In the event the investigative findings of the EEO Office are not satisfactory to the complainant, the complainant may appeal the findings to the Human Resources Director.

The processing of complaints is accomplished according to the Complaint Resolution Procedure provided to new employees at orientation and included in the County's EEO Plan established by the Human Resources Department. Copies of the Complaint Resolution Procedure are available from the County's EEO Office.

Individuals who believe they have been discriminated, harassed, or retaliated against may also file a complaint of discrimination and seek legal remedies, including reinstatement and back pay, through state and federal agencies, refer to **Addendum 1** for specific contact information.



## Non-Discrimination/Harassment Policy (06-01)

### Addendum 1

#### Contact Information for Processing Complaints:

County of San Bernardino Equal Employment Opportunity Office	157 W. Fifth Street San Bernardino, CA 92415-0440	Telephone TDD	(909) 387-5584 (909) 387-6091	<a href="http://www.sbcounty.gov/hr/">www.sbcounty.gov/hr/</a>
County of San Bernardino Employee Relations Division (Human Resources Officers)	157 W. Fifth Street San Bernardino, CA 92415-0440	Telephone TDD	(909) 387-5564 (909) 387-6091	<a href="http://www.sbcounty.gov/hr/">www.sbcounty.gov/hr/</a>
California Department of Fair Employment and Housing (DFEH)	<p><b>Los Angeles District Office</b> 611 West Sixth Street, Suite 1500 Los Angeles, CA 90017</p> <p><b>Santa Ana District Office</b> 2101 East 4th Street, Suite 255-B Santa Ana, CA 92705-3855</p> <p><b>Sacramento District Office</b> 2000 O Street, Suite 120 Sacramento, CA 95814-5212</p> <p><b>San Bernardino District Office</b></p>	<p>Telephone Toll-free FAX  TTY</p> <p>Telephone Toll-free FAX TTY</p> <p>Telephone Toll-free FAX TTY  Telephone</p>	<p>(213) 439-6799 (800) 884-1684 (213) 439-6715 (213) 892-6494 (800) 700-2320</p> <p>(714) 558-4266 (800) 884-1684 (714) 558-6461 (800) 700-2320</p> <p>(916) 445-5523 (800) 884-1684 (916) 323-6092 (800) 700-2320 (800) 884-1684</p>	<a href="http://www.dfeh.ca.gov">www.dfeh.ca.gov</a>
U.S. Equal Employment Opportunity Commission (EEOC)	Roybal Federal Building, 255 E. Temple Street, 4 <sup>th</sup> Floor, Los Angeles, CA 90012,	Telephone Toll-free FAX TTY TTY	(213) 894-1000 (800) 669-4000 (213) 894-1118 (213) 894-1121 (800)-669-6820	<a href="http://www.eeoc.gov/">www.eeoc.gov/</a>