



PERSONNEL MANUAL
EMPLOYEE CONDUCT / BEHAVIOR EXPECTATIONS
APPROVED SEPTEMBER 29, 2020 / RESOLUTION #2020-0520
WORKPLACE HARASSMENT, DISCRIMINATION
AND RETALIATION PREVENTION POLICY

Revised 09/2020

PURPOSE

Stanislaus County is proud of its tradition of a collegial work environment in which all individuals are treated with respect and dignity. Individuals have the right to work in a professional atmosphere that promotes equal opportunities and prohibits discriminatory practices. **At Stanislaus County, harassment, discrimination and retaliation whether verbal, physical or environmental, is unacceptable and will not be tolerated.**

It is the intention of this Policy to prohibit, eliminate and prevent harassment, discrimination and retaliation and its effects in the workplace. To do this, the County, through this Policy, defines harassment, discrimination, and retaliation and sets forth a procedure for filing, investigating and resolving internal complaints.

POLICY

Harassment, discrimination, and retaliation of an applicant or employee by an employee or non-employee on the basis of a protected classification is not acceptable and will not be tolerated. Protected classifications include, but are not limited to: race, color, religion, sex, national origin, ancestry, physical or mental disability, medical condition, marital status, age (over 40), sexual orientation, genetic information, gender, gender identity, gender expression, military and veteran status, or other protected classifications under the law. Annually, the Board of Supervisors reaffirms its commitment to non-discrimination by adopting the County's Equal Employment Opportunity Non-Discrimination Statement. Please review the annual Non-Discrimination Statement for updates to protected classifications. The Non-Discrimination statement is located in each department, in the Personnel Manual, and on-line on the County's Equal Rights website.

This Policy applies to all terms and conditions of employment, including, but not limited to: applications, screening, interviews, hiring, job assignments, promotion, disciplinary action, layoff, re-employment, transfer, leave of absence, compensation and training.

Disciplinary action up to, and including, termination will be instituted for an employee's behavior which conflicts with expectations as described in the definition of harassment, discrimination, and retaliation set forth in this policy.

An employee may be subject to discipline for engaging in harassing conduct that is not covered by the definition of harassment under the law, but, if repeated or allowed to continue, may fall under that definition.

HARASSMENT AND DISCRIMINATION

Discrimination and harassment behavior is a form of misconduct that violates this Policy and in some cases may constitute misconduct that violates federal and state laws. When evaluating complaints of hostile, offensive, or abusive conduct, the County will consider both current legal standards and County Policy. Examples of harassment, discrimination, and prohibited behavior include, but are not limited to:

- Discrimination is the unequal treatment of individuals with respect to the terms and conditions of their employment, based on their membership in a protected classification.
- Harassment is unwelcomed verbal, physical, visual, or electronically communicated conduct based on a person's actual or perceived membership in a protected classification. Examples of prohibited behavior include but is not limited to, the following:
 - Speech such as epithets, derogatory comments, offensive remarks or slurs and lewd propositioning based on a protected classification. This includes inappropriate sex-oriented comments on appearance, including dress or physical features, or race-oriented stories and jokes.
 - Physical acts such as assault, impeding or blocking movement, offensive touching, or any physical interference with normal work or movement when directed at an individual based on a protected classification. This includes pinching, grabbing, patting, propositioning, leering, or making explicit or implied on-the-job threats or promises in return for submission to physical acts.
 - Visual insults, such as derogatory posters, cartoons or drawings related to a protected classification.
 - Circulation or posting of inappropriate materials including but not limited to jokes, messages, cartoons, or pictures, through written, electronic, or other means.
 - Conduct that affects or interferes with an individual's job performance when it creates a hostile, offensive, or abusive working environment.
- Sexual harassment is illegal and is a form of sex discrimination under federal and state law. The Equal Employment Opportunity Commission (EEOC) defines sexual harassment as:
 - Unsolicited and unwelcomed sexual advances, requests for sexual favors, and other verbal, physical, visual, or written conduct of a sexual nature directed at persons of the same or opposite sex when such conduct is made either explicitly or implicitly as a term or condition of an individual's employment.

- When submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual.
- When such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or otherwise offensive working environment.
- Other examples of types of conduct which may constitute sexual harassment include:
 - Explicit sexual propositions, preferential treatment in exchange for sexual favors, retaliating or getting back at someone who turns down sexual advances.
 - Sexual innuendos, suggestive comments, sexually oriented joking or teasing, or jokes about gender specific traits.
 - Dissemination of printed visual material, display or electronic communication of offensive or obscene jokes, messages, or pictures.
- All harassers, including both supervisory and non-supervisory employees, may be held personally liable for harassment or facilitating and/or promoting such harassment.
- **It is no defense to a claim of harassment that the alleged harasser did not intend to harass.**

TRAINING

California law requires that all employers of five or more employees provide one hour of sexual harassment and abusive conduct prevention training to non-supervisory employees, and two hours of sexual harassment and abusive conduct prevention training to supervisory employees. These trainings are legally required and designed to educate everyone about what is, and is not, acceptable behavior in the workplace. All employees must receive training by January 1, 2021. The law requires new supervisory employees to be trained within six months of assuming their supervisory position, and most new non-supervisory employees to be trained within six months of hire. Per this Policy, the County requires all employees to be trained within 60 days of hire, or assignment to a supervisory classification. After the initial training, all employees must repeat the training course once every two years.

RETALIATION

Retaliation against an individual who reports, files a complaint, or assists in the investigation of a complaint or otherwise opposes conduct the individual reasonably believes to be harassment, discrimination, or retaliation, is prohibited. Retaliation occurs when adverse action is taken against an individual specifically for reporting a concern about an unlawful employment practice. Employees (supervisors, co-workers and management) found to be retaliating against another employee shall be subject to disciplinary action up to, and including, termination.

RESPONSIBILITY FOR RESPONDING TO AND REPORTING DISCRIMINATION, HARASSMENT AND RETALIATION

All employees are encouraged to report discriminatory, harassing, or retaliatory behavior, whether directed at themselves or at co-workers.

Supervisory employees are required to take corrective action if employees are subjected to discrimination, harassment, or retaliation based on a protected classification. If a complaint is made to a supervisor, or if a supervisor becomes aware of potential discrimination, harassment, or retaliation, the supervisor must immediately report it to the Departmental Equal Rights Officer or Department Human Resources personnel. Any supervisor who receives a complaint of discrimination, harassment, or retaliation and fails to report it may be subject to disciplinary action.

Departments must follow the Equal Employment Opportunity (EEO) Complaint Procedure for all complaints of discrimination, harassment, and retaliation. Departments are responsible for ensuring that all employees know of and are trained periodically regarding this policy.

COMPLAINT PROCEDURE

Employees are encouraged to resolve issues and concerns under this policy at the lowest supervisory level of the organization possible given the circumstances of the issues involved. While Stanislaus County encourages individuals who believe they are being harassed to firmly and promptly notify the offender that his or her behavior is unwelcome, Stanislaus County also recognizes that power and status disparities between the individuals involved in the situation may require an alternative resolution process. In the event that such informal, direct communication between individuals is either ineffective or impractical, the County's Equal Employment Opportunity (EEO) Complaint Procedures should be followed in reporting a complaint of harassment, discrimination or retaliation. The County's EEO Complaint Procedure is located in the County's Personnel Manual and on-line on the County's Equal Rights website. To initiate the EEO Complaint Procedure, any employee, job applicant, or person seeking County services who believes he or she has been subject to harassment, discrimination or retaliation in violation of this policy may make a complaint orally or in writing with any of the following:

1. Immediate supervisor;
2. Any supervisor or manager within or outside the department;
3. Department Head;
4. Departmental Equal Rights Officer;
5. Director of Personnel or Chief Executive Office designee; or
6. County Equal Rights Officer.

This procedure shall apply to allegations of harassment, discrimination and retaliation in any employment action or in the delivery of public services based upon a protected classification. County departments may develop separate policies and procedures related to processing complaints regarding the delivery of public services in compliance with all applicable federal and state laws and regulations. Applicants or employees may also file a complaint with a government agency such as the Department of Fair Employment and Housing (DFEH) or the Equal Employment Opportunity Commission (EEOC).

All complaints are kept strictly confidential and disclosed only for business necessity on a need to know basis. All complaints are responded to timely, investigated (if necessary) by qualified personnel in a timely and impartial manner, and documented and tracked. If it is determined that a violation of this Policy occurred, the County will take appropriate remedial action.

APPLICATION

This Policy applies to all employees of Stanislaus County, including volunteers, interns, contract employees, supervisory employees, department heads, and elected officials. All employees shall review and acknowledge this Policy electronically in PeopleSoft and a record of such acknowledgment shall be maintained electronically as part of the employee's personnel record.

CONCLUSION

Stanislaus County has developed this Policy to ensure that all of its employees can work in an environment free from harassment, discrimination, and retaliation. Stanislaus County will make every effort to ensure that all personnel are familiar with the Policy and know that any complaint received will be thoroughly investigated and appropriately resolved. Employees are encouraged to contact their department's designated Human Resources Representative, or any member of the Chief Executive Office Human Relations Division at (209) 525-6341, with any questions related to the provisions of this policy.