



# COUNTY OF EL DORADO, CALIFORNIA

## BOARD OF SUPERVISORS POLICY

Subject:  POLICY PROHIBITING DISCRIMINATION, HARASSMENT, AND RETALIATION, AND REPORTING AND COMPLAINT PROCEDURES	Policy Number:  E-5	Page Number:  1 of 9
	Date Adopted: 12/10/2002	Effective Date: 02/13/2018

### I. PURPOSE

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 under this policy; to establish the procedures for reporting conduct believed to violate this policy; and to establish the procedures for filing, investigating, and resolving complaints of discrimination, harassment, and/or retaliation under this policy.

The County of El Dorado (County) 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, agent, contractor, intern/volunteer, 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 filed under this policy. Unlawful discrimination, harassment, and/or retaliation decreases work productivity and morale, and undermine the integrity of employment relationships. Therefore, complaints under this policy will be promptly, thoroughly, and appropriately investigated and addressed.

The County is committed to eliminating unlawful discrimination, harassment, and retaliation and will take all steps necessary to prevent such conduct from occurring in the workplace. This includes, but is not limited to, requiring managers and supervisors to take a proactive role in distributing, implementing, and enforcing this policy, developing appropriate sanctions, informing employees of their right to raise and how to raise the issue of unlawful harassment, discrimination, and/or retaliation, and developing methods to sensitize all concerned.

### II. POLICY

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

The County is an equal opportunity employer providing opportunities to all persons regardless of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex (including pregnancy, childbirth, breastfeeding, and related medical conditions), gender, gender identity, gender expression, sexual orientation, age (40 or over), political affiliation, military and veteran status, or any other legally protected category pursuant to state or federal laws or local ordinances in all aspects of employment, including, but not limited to, recruitment, hiring, placement, compensation, assignments, promotion, training, disciplinary action, layoff, transfer, leave of absence, termination, and reinstatement.

The County prohibits retaliation of any kind against a person who has raised a concern of, filed a complaint of, been witness to, and/or participated in an investigation or proceeding related to unlawful discrimination, harassment, and/or retaliation.

The County will not tolerate any violation of this policy. Employees, agents, contractors, interns/volunteers, and/or elected officials found to be participating in any form of unlawful



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employment-based harassment, discrimination, and/or retaliation against any applicant or employee in violation of this policy will be subject to disciplinary action up to and including termination from employment or termination of vendor contract.

### III. DEFINITIONS

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

- A. Sexual Harassment need not be motivated by sexual desire, and consists of two categories of conduct:

#### 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, and/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, and/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 an employee's job benefits.

- B. Other Forms of Harassment

Unwelcome or offensive conduct motivated by or directed to an employee on the basis of membership in a legally protected category with the purpose or effect of unreasonably interfering with an individual's work performance, or which creates an intimidating, hostile, and/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 an 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 membership in a legally protected category 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



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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 religious creed.

### 2. Physical Harassment

Assault, derogatory gestures, impeding or blocking movement, staring, leering, or any physical interference with work, privacy, or movement on the basis of membership in a legally protected category 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, or other written or graphic material related to membership in a legally protected category, 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 premises or equipment, and to personal property in the workplace.

### 4. Sexual Favors

Unwanted sexual advances, which condition an employment benefit upon an exchange of sexual favors.

### D. Discrimination

Adverse actions, decisions, or other treatment affecting an employee and motivated by or directed toward an employee on the basis of membership in a legally protected category, including, but not limited to, those affecting hiring, placement, compensation, assignments, leave, promotion, training, disciplinary action, layoff, 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 an employee on the basis of an employee's participation as complainant or witness in a report or complaint of discrimination, harassment or retaliation, or an employee's participation in the investigation or proceedings of such a complaint, including, but not limited to, adverse action, decisions, or other treatment



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affecting hiring, placement, compensation, assignments, leave, promotion, training, disciplinary action, layoff, recall, transfer, leave of absence, termination, and reinstatement.

#### IV. RESPONSIBILITIES

##### A. Department Heads/Management/Elected Officials

It is the responsibility of department heads, 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/or retaliation in the workplace; to immediately report any complaint of discrimination, harassment, and/or retaliation to the Human Resources Department; 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 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, and/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. Failure to report conduct that may constitute unlawful discrimination, harassment, and/or retaliation to the Human Resources Department, or failure to cooperate fully and truthfully in an investigation of a complaint of discrimination, harassment, and/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.

##### 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 workplace to ensure compliance with this 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.



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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 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 and/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 to know and follow this policy, and to treat every other employee with dignity and respect. Each employee of the County must refrain from conduct constituting unlawful discrimination, harassment, and/or retaliation. Employees are expected to report such conduct in accordance with the provisions of this policy. Each employee of the County is required to cooperate fully and truthfully in any investigation initiated regarding a complaint of discrimination, harassment, and/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. Director of Human Resources and the Human Resources 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:

- 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;
- Ensuring that qualified applicants and employees in a protected category who are capable of performing the essential functions of their positions are provided with reasonable accommodations;
- Ensuring individuals are treated in a non-discriminatory manner during all personnel actions, such as hire, promotion, transfer, termination, etc.;
- Investigating and resolving complaints of discrimination, harassment, and/or retaliation which fall within the provisions of this policy, or directing and monitoring investigations conducted by independent contractors;



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- Reporting to the Board of Supervisors and department heads concerning developments in the areas of workplace unlawful discrimination, harassment, retaliation, and the effectiveness of implementation of the County's policy;
- Scheduling and auditing periodic training of County management and employees in the areas of unlawful workplace discrimination, harassment, and retaliation, including identification of prohibited conduct, procedures for reporting the occurrence of such conduct, and prohibition against retaliation for complaints;
- Monitoring and measuring the effectiveness of the program on a continuous basis through the development and implementation of an internal audit and reporting system; and
- Reporting the occurrence of such unlawful discriminatory, harassing, and/or retaliatory conduct prohibited by the policy to the appropriate department head and/or supervisor to ensure that appropriate action occurs.

### V. COMPLAINT PROCEDURE

The County 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/or 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, and/or retaliation:

#### A. Filing a Complaint

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

- Immediate supervisor
- Any County supervisor, manager, or department head
- Director of Human Resources/EEO Officer or his/her designee
- Any staff member within the Human Resources Department

Applicants or employees may instead or in addition to, file a complaint with the Department of Fair Employment and Housing (DFEH) or the Equal Employment Opportunity Commission (EEOC).

- DFEH: (800) 884-1684 or TTY (800) 700-2320; [www.dfeh.ca.gov](http://www.dfeh.ca.gov)



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- EEOC: (800) 669-4000 or TTY (800) 669-6820; [www.eeoc.gov](http://www.eeoc.gov)

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

### B. When a Complaint is Received

Upon receipt of a complaint of unlawful discrimination, harassment and/or retaliation, whether verbal or in writing, a supervisor, manager, or department head shall immediately notify the Human Resources Department, who will, in a timely fashion, initiate the appropriate initial fact finding.

If a complaint involves an employee of the Human Resources Department, other than as a witness, then the Chief Administrative Officer or his or her designee shall conduct the investigation to determine whether there has been a violation of this policy.

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

Upon determination of the Director of Human Resources/EEO Officer or designee of an allegation of unlawful discrimination, harassment, or retaliation, a formal investigation may be conducted as appropriate to the complaint. The investigation shall be fair, timely, thorough, and may include collection of relevant documents; and interviews with the complainant, witnesses, 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 conducted in accordance with the Peace Officer's Bill of Rights. The investigation shall proceed toward closure in as timely a fashion as possible given the individual circumstances.

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 shall take and/or recommend prompt and effective remedial action to 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. The Human Resources Department 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,



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the records of the complaint and investigation shall be kept confidential to the extent possible. For example, in the event disciplinary action is taken, the nature of any discipline will not be disclosed to the complainant.

Employees who report discrimination, harassment, and/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, and/or retaliation, and to maintain an environment of full compliance with the provisions of this policy.

### **VI. APPEAL**

In cases alleging unlawful discrimination, 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 Director of Human Resources/ EEO Officer. Such an appeal must contain specific facts by which it is alleged that the unlawful discrimination took place.

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

### **VII. APPLICATION**

This policy applies to all employees and agents of the County, 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, and/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 regarding discrimination, harassment, and/or retaliation which is proven to be intentionally false may result in discipline up to and including termination.





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**IX. RESPONSIBLE DEPARTMENT**

Human Resources Department

**X. DATES ISSUED AND REVISED; SUNSET DATES:**

<b>Issue Date:</b>	12/10/2002	<b>Sunset Review Date:</b>	N/A
<b>Revision Date:</b>	02/13/2018	<b>Sunset Review Date:</b>	02/12/2022