

MENDOCINO COUNTY POLICY #23	SEXUAL HARASSMENT
ADOPTED: June 5, 1990	ADOPTED BY: Minute Order

It is the policy of the County of Mendocino to provide for a work environment free from ~~unwelcome sexual behavior and overtures~~ harassment. This policy applies to ~~all~~ applicants, unpaid interns, volunteers and employees, including permanent, probationary, part-time and temporary employees. ~~Sexual Harassment~~ is an unlawful employment practice prohibited by state and federal law and is an unacceptable work behavior that will not be tolerated by the County. County employees are expected to adhere to a standard of conduct while on the job that consists of respect and courtesy towards other employees and persons. County employees shall, under no circumstances, engage in behavior which constitutes ~~sexual~~ harassment. ~~County policy prohibits any unlawful harassment by anyone in its employ based on a person's membership in a protected class.~~

The County shall take all reasonable steps to prevent harassment from occurring, including harassment by third parties such as independent contractors and customers. County officials and employees who perpetrate ~~sexual~~ harassment will be subject to ~~firm~~ disciplinary action up to, and including, termination of employment. ~~Retaliation resulting from~~ Any retaliation against a person for filing a ~~sexual~~ harassment complaint or participating in the complaint resolution process is ~~also unacceptable and prohibited~~ and will subject the violator to disciplinary action. Anyone who engages in ~~sexual~~ harassment may not be entitled to indemnification and defense where ~~the Board of Supervisors finds that~~ such conduct falls outside the scope of employment.

In order to prevent ~~sexual~~ harassment, management and supervisory employees are responsible for, among other things, informing employees of the County policy and complaint procedure, and reporting all complaints of ~~sexual~~ harassment to the departmental management and the County Personnel Department for investigation.

~~It is the responsibility of the County of Mendocino to take appropriate disciplinary action if the findings of the investigation indicate sexual harassment has occurred.~~

Although workplace civility is essential to an efficient and healthful working environment, the County recognizes that a variety of good faith employment actions may nonetheless be viewed negatively by the employee who is subject to the action. This Policy cannot and does not prohibit or impede supervisors from taking good faith employment actions.

- A. PROTECTED CLASSIFICATIONS: The following are "protected classifications" for purposes of this Policy: sex (including gender, gender identity, gender expression, pregnancy, medical conditions related to pregnancy or childbirth, breastfeeding, or medical conditions related to breastfeeding), religious creed (including all aspects of religious belief, observance, and practice, including religious dress and grooming), race, color, national origin or ancestry, citizenship status (including a driver's license issued to undocumented persons), age, physical or mental disability, medical condition, marital status or status as a registered domestic partner, sexual orientation, military status, or any other consideration made unlawful by federal, state or local law.
- B. ~~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. Definition of Harassment

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Harassment means unsolicited or unwelcome words or conduct that are subjectively and objectively offensive to another person. Harassment need not be motivated by sexual desire in order to be unlawful, actionable harassment. An employee alleging harassment is not required to sustain a loss of tangible job benefit in order to sustain a claim of harassment.

Harassment includes, but is not limited to, the following types of behavior undertaken because of a person's membership in a protected classification:

1. Verbal conduct such as epithets (nicknames and slang terms), abusive or derogatory jokes or comments, slurs, including graphic verbal commentary about an individual's body or that identify a person on the basis of his or her protected classification, or unwanted sexual advances, invitations or comments.
2. Visual conduct such as making, sending, or displaying ~~derogatory~~, sexually suggestive ~~and/or~~ obscene letters, notes, ~~e-mails~~, invitations, slurs, jokes, gestures, pictures, cartoons, or posters related to a protected classification.
3. Physical conduct such as assault, unwanted and/or offensive touching (including pinching, grabbing, and patting), leering, and blocking normal movements or interfering with work.

- ~~1. Where submission of 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 or other employees;~~
- ~~3. Where such conduct 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).~~

~~All County employees must refrain from behavior which constitutes sexual harassment, although it is not the intent of the County of Mendocino to regulate or interfere with social interaction or relationships freely entered into by County employees.~~ Harassment need not be explicit or specifically directed at victim and can occur between people who share the same protected classification(s).

3. Definition of Quid Pro Quo Harassment

The essential elements of this type of harassment are:

- ~~1a.~~ Where submission of such conduct is either explicitly or implicitly a term or condition of employment, including advancement or receipt of other job-related benefits;

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2b. Where submission to or rejection of such conduct by an employee is used as a basis for employment decisions affecting the employee or other employees. This applies to all terms and conditions of employment, including, but not limited to, hiring, placement, promotion, disciplinary action, layoff, recall, transfer, leave of absence, compensation, and training.

4. Definition of Hostile Environment Harassment

Hostile environment harassment can arise from harassing conduct that is based on any protected class listed in this policy. The essential elements of this type of harassment are:

- a. The employee affected was subjected to harassing conduct directed toward him or her, or the employee personally witnessed the harassing conduct and it took place in his/her immediate work environment;
- b. The employee's protected status, or membership in a protected class, was a motivating factor for the harassment.
- c. The conduct was unwelcome and is sufficiently severe or pervasive that it had the purpose or effect of altering the conditions of employment and creating an intimidating, hostile, abusive, or offensive working environment.
- d. The environment created by the conduct would have been perceived as intimidating, hostile, abusive, or offensive by a reasonable person in the same position as the affected employee.
- e. The environment created was perceived by the affected employee as intimidating, hostile, abusive, or offensive.

CB. RETALIATION: Any adverse action taken because an applicant, employee, unpaid intern, volunteer, or contractor has reported harassment, or has participated in the complaint and investigation process described herein, is prohibited. "Adverse action" includes but is not limited to: refusal to hire or rehire an individual, denial of promotion, disciplinary action, counseling, extension of probation, denial of overtime, taking sides because an individual has reported harassment, spreading rumors about a complainant, shunning and avoiding an individual who reports harassment, or real or implied threats of intimidation to prevent an individual from reporting harassment.

This Policy prohibits discrimination, harassment or retaliation because of an individual's protected activity. Protected activity includes: making a request for or receiving an accommodation for a disability; making a request for or receiving accommodation for religious beliefs or practices; making or supporting a complaint under this Policy; opposing violations of this Policy; or participating in an investigation pursuant to this Policy.

BD. ~~INSTRUCTIONS FOR FILING SEXUAL HARASSMENT COMPLAINTS~~ COMPLAINT PROCEDURE: ~~Acts of sexual harassment should immediately be reported by the complainant either to~~ departmental management

~~or to the County Personnel Department's Affirmative Action representative. Acts of sexual harassment should, if possible, be reported first to the supervisor or manager. However, it is sometimes more comfortable for the complainant to talk directly with the County Personnel Department's Affirmative Action Coordinator. Anyone who would prefer to contact the County Personnel Department rather than his/her supervisor is encouraged to do so. An employee, job applicant, unpaid intern, volunteer, or contractor who believes he or she has been harassed may make a complaint verbally or in writing with any of the following. There is no need to follow the chain of command.~~

- ~~(1) Immediate supervisor;~~
- ~~(2) Any supervisor or manager within or outside the department;~~
- ~~(3) Department head; or~~
- ~~(4) Human Resources Director.~~

The complaint form, along with instruction for filing it, may be obtained upon request from your supervisor or the County Personnel Department at 175 South School Street, Room 107, Ukiah (Courthouse Annex), (707) 463-4261.

The County takes a proactive approach to potential Policy violations and will conduct an investigation if its supervisory or management employees become aware that harassment, discrimination or retaliation may be occurring, regardless of whether the recipient or third party reports a potential violation.

Any supervisory or management employee who receives a harassment complaint should immediately notify the Human Resources Director. Upon receiving notification of a harassment complaint, the Human Resources Director will complete and/or delegate the investigation process. If the Human Resources Director is accused, or a witness to the events at issue, an individual with higher authority will complete and/or delegate the investigation process.

The County will conduct a fair, complete, and timely investigation of the Complaint. The complainant and the alleged harasser will be interviewed, along with any other persons with relevant information. The investigator will review the factual information gathered through the investigation to determine whether the alleged conduct violates the Policy, giving consideration to all factual information, the totality of the circumstances, including the nature of the conduct, and the context in which the alleged incidents occurred. The investigator will then report a summary of the determination as to whether harassment occurred to the Director of Human Resources.

It is the responsibility of the County ~~of Mendocino~~ to take appropriate disciplinary action if the findings of the investigation indicate harassment has occurred, ~~commensurate with the severity of the offense.~~ If discipline or sanctions are imposed, the level of discipline or sanctions will not be communicated to the complainant.

The County shall not retaliate against any employee for filing a complaint, and prohibits retaliation by supervisors or co-workers against any employee who makes a complaint regarding harassment or who cooperates in an investigation. The County will take all reasonable steps to protect a complainant from further harassment, discrimination, or retaliation.

Option to Report to Outside Administrative Agencies: An individual has the option to report

harassment to the U.S. Equal Employment Opportunity Commission (EEOC) or the California Department of Fair Employment and Housing (DFEH). These administrative agencies offer legal remedies and a complaint process. The nearest offices are listed in the government section of the telephone book or on the internet at EEOC.gov or DFEH.ca.gov. Employees can also check the posters that are located on employer bulletin boards for office locations and telephone numbers.

DE. RESPONSIBILITIES: Each non-manager or non-supervisor is responsible for:

1. Treating all individuals in the workplace or on worksites with respect and consideration.
2. Modeling behavior that conforms to this Policy.
3. Participating in periodic training.
4. Cooperating with the County's investigations by responding fully and truthfully to all questions posed during the investigation.
5. Taking no actions to influence any potential witness while the investigation is ongoing.
6. Reporting any act he or she believes in good faith constitutes harassment, discrimination, or retaliation as defined in this Policy, to his or her immediate supervisor, or department head, or Human Resources Director

In addition to the responsibilities listed above, each manager and supervisor is responsible for:

1. Informing employees of this Policy.
2. Taking all steps necessary to prevent harassment, discrimination and, retaliation from occurring, including monitoring the work environment and taking immediate appropriate action to stop potential violations, such as removing inappropriate pictures or correcting inappropriate language.
3. Receiving complaints in a fair and serious manner, and documenting steps taken to resolve complaints.
4. Following up with those who have complained to ensure that the behavior has stopped and that there are no reprisals.
5. Informing those who complain of harassment or discrimination of his or her option to contact the EEOC or DFEH regarding alleged Policy violations.
6. Assisting, advising, or consulting with employees and the Human Resources Director regarding this Policy.
7. Assisting in the investigation of complaints involving employee(s) in their departments and, when appropriate, if the complaint is substantiated, recommending appropriate corrective or disciplinary action in accordance with these Policies, up to and including termination.

8. Implementing appropriate disciplinary and remedial actions.
 9. Reporting potential violations of this Policy of which he or she becomes aware to the Human Resources Director, regardless of whether a complaint has been submitted.
 10. Participating in periodic training and scheduling employees for training.
- F. CONFIDENTIALITY: Every possible effort will be made to assure the confidentiality of complaints made under this Policy. Complete confidentiality cannot occur, however, due to the need to fully investigate and the duty to take effective remedial action. As a result, confidentiality will be maintained to the extent possible. An individual who is interviewed during the course of an investigation is prohibited from discussing the substance of the interview, except as otherwise directed by a supervisor or the Human Resources Director. Any individual who discusses the content of an investigatory interview will be subject to discipline or other appropriate sanction. The County will not disclose a completed investigation report except as it deems necessary to support a disciplinary action, to take remedial action, to defend itself in adversarial proceedings, or to comply with the law or court order.
- G. TRAINING: In accordance with Government Code section 12950.1, all supervisors shall receive harassment, discrimination, bullying and abusive conduct, and retaliation prevention training every two years. Newly appointed supervisor must receive this training within six months of appointment.
- H. DISTRIBUTION OF POLICY: All employees will receive a copy of this Policy when they are hired. Employees will be required to sign a form confirming that they received a copy of the Policy. The Policy may be updated from time to time and redistributed.