



## MERCED COUNTY ANTI-HARASSMENT AND DISCRIMINATION POLICY

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### I. PURPOSE

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

Merced County is proud of its tradition of a collegial work environment in which all individuals are treated with respect and dignity. Each individual has the right to work in a professional atmosphere that promotes equal opportunities and prohibits discriminatory practices.

**AT MERCED COUNTY, HARASSMENT, WHETHER VERBAL, PHYSICAL OR ENVIRONMENTAL, IS UNACCEPTABLE AND WILL NOT BE TOLERATED.**

#### A. Policy:

Harassment and/or discrimination of an applicant or employee or harassment based on opposition to discrimination or participation in compliant proceedings by a supervisor, management employee, elected official, contract employee, co-worker, or a non employee in the workplace on the basis of race, religion, sex, national origin, ancestry, disability, medical condition, marital status, age, sexual orientation, color, or creed, is not acceptable and will not be tolerated.

This Policy 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.

Disciplinary action up to, and including, termination will be instituted for behavior described in the definition of harassment set forth below.

Any retaliation against a person for filing a harassment or discrimination charge, making a harassment/discrimination complaint or for assisting another in the filing, making or corroboration of such a charge or complaint or otherwise opposing an unlawful employment practice is prohibited. Employees (supervisors, co-workers and management) found to be retaliating against another employee shall be subject to disciplinary action up to, and including, termination.

B. Definition:

Harassment includes, but is not limited to:

Speech such as epithets, derogatory comments or slurs and lewd propositioning on the basis of race, sex, religion, national origin, ancestry, disability, medical condition, marital status, age or sexual orientation. 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 on the basis of race, sex, religion, national origin, ancestry, disability, medical condition, marital status, age or sexual orientation. 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 race, sex, religion, national origin, ancestry, disability, medical condition, marital status, age or sexual orientation.

Unwanted sexual advances, requests for sexual favors, and other acts of a sexual nature, where submission is made a term or condition of employment, where submission to or rejection of the conduct is used as the basis for employment decisions affecting such individual, or where submission to or rejection of the conduct is intended to or actually does unreasonably interfere with an individual's work performance or create an intimidating, hostile, or offensive work environment.

Whether any act(s) or conduct is harassment shall be viewed in the totality of all the circumstances.

**IT IS NO DEFENSE TO A CLAIM OF HARASSMENT THAT THE ALLEGED HARASSER DID NOT INTEND TO HARASS.**

**II. COMPLAINT PROCEDURE**

While Merced County encourages individuals who believe they are being harassed or discriminated against to firmly and promptly notifies the offender that his or her behavior is unwelcome, Merced County also recognizes that real or

perceived status disparities between an alleged harasser and a target may make such a confrontation impossible. Regardless of whether or not any informal, direct communication between the individual and the offender takes place, the following steps, as may be appropriate, shall be followed by all employees or applicants in reporting a harassment/discrimination complaint.

- A. An employee or job applicant who believes he or she has been harassed or discriminated against shall make a complaint orally or in writing with any of the following as appropriate:

Immediate supervisor  
Designated Departmental Managers assigned to EEO functions  
Department Head  
EEO Diversity Director  
Human Resources Director  
Assistant County Executive Officer

In addition, the County's Equal Employment Opportunity (EEO) Complaint Procedure is available to applicants or employees who wish to file complaints concerning sexual harassment. This procedure is found in both the County's Affirmative Action Program Plan and the Human Resources Rules and Regulations that have been distributed to all County departments, and are available for review to all employees and applicants. Applicants or employees may also file a complaint with a government agency such as the following:

Dept of Fair Employment & Housing  
1320 East Shaw Ave., Suite #150  
Fresno, California 93710  
1-800-884-1684

EEO Commission  
1265 W. Shaw Ave., #103  
Fresno, California 93711  
1-800-669-4000

- B. Aggrieved persons should first consider resolving their concerns at the Departmental level. After receiving the complaint, the Department shall within thirty (30) days, consult with the aggrieved person, advise the person of his or her civil rights, make necessary inquiries in an effort to resolve the complaint, and counsel the aggrieved person on issues of the case as necessary.
- C. If the complaint is not resolved at the departmental level within thirty (30) days, the aggrieved person will then be notified of his or her right to appeal to the County EEO Diversity Director.
- D. Any supervisor, manager, department head or Human Resources Analyst who receives a harassment/discrimination complaint should notify the Human Resources Director, EEO Diversity Director, Assistant County Executive Officer, or County Executive Officer immediately.

- E. Upon receiving notification of a harassment complaint, the Human Resources Director, County EEO Diversity Director, Assistant County Executive Officer, or County Executive Officer shall:
1. Authorize and supervise the investigation of the complaint and/or investigate the complaint. The investigation will include interviews with: (a) the complainant; (b) the accused harasser (the right to have a representative present will be given to those covered employees as disciplinary action could result from the investigation); and, (c) any other persons the Human Resources Director, EEO Diversity Director, Assistant County Executive Officer, or County Executive Officer has reason to believe that may have relevant knowledge concerning the complaint. This may include victims of similar conduct.
  2. Review the factual information gathered through the investigation to determine whether the alleged conduct constitutes harassment and/or discrimination giving consideration to all factual information, the totality of the circumstances, including the nature of the verbal, physical, visual or sexual conduct, and the context in which the alleged incidents occurred.
  3. Report the results of the investigation and the determination as to whether harassment or discrimination occurred to appropriate persons, including the complainant, the alleged harasser, the supervisor, and the department head. If discipline is imposed, the discipline will not be communicated to the complainant.
  4. If the harassment and/or discrimination occurred, recommend to the appointing authority prompt and effective remedial action against the harasser. The action will be commensurate with the severity of the offense, taking into account the County's zero-tolerance policy toward unlawful harassment or discriminatory behavior.
  5. Take reasonable steps to protect the complainant from further harassment and/or discrimination.
  6. Take reasonable steps to protect the complainant or witnesses from retaliation as a result of communicating or corroborating the complaint.

### **III. APPLICATION**

This Policy applies to all employees of Merced County, including contract employees, supervisory employees, department heads, and elected officials. All employees shall receive a copy of this Policy and shall sign a written acknowledgment that they have received and read a copy of the zero-tolerance anti-harassment and discrimination policy. A copy of this acknowledgment shall be placed in the employee's official personnel file.

Nothing in this Policy shall be read or construed to prevent the employer or County of Merced from otherwise dealing with an employee's work performance or work deficiencies in a good faith nondiscriminatory and non-retaliatory manner in accordance with existing County policies and personnel rules and regulations.

### **IV. CONCLUSION**

Merced County has developed this Policy to ensure that all its employees can work in an environment free from harassment and discrimination. Merced 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