

DEPARTMENT: Personnel

BY: Richard J. Benson

PHONE: 966-3222

RECOMMENDED ACTION AND JUSTIFICATION:

Approve a minor revision to the County's Policy Against Discrimination and Harassment in the Workplace. In a recent review of the Policy, it was noted that a portion of the paragraph entitled "Physical Harassment" was a duplication of the subsequent paragraph called "Visual Harassment." This action will correct the duplication and language pertaining to physical harassment will be added.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

In June 1990, the Board of Supervisors adopted the Harassment Policy and in March 2000, the Board approved an update of the policy.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Do not adopt this action, however, a negative action will continue to allow erroneous information within the policy.

| | | |
|---|---------------------|--|
| Financial Impact? () Yes (X) No | Current FY Cost: \$ | Annual Recurring Cost: \$ |
| Budgeted In Current FY? () Yes () No () Partially Funded | | |
| Amount in Budget: \$ _____ | | List Attachments, number pages consecutively _____ |
| Additional Funding Needed: \$ _____ | | |
| Source: | | Policy Against Discrimination and Harassment in the Workplace |
| Internal Transfer _____ | | |
| Unanticipated Revenue _____ 4/5's vote | | |
| Transfer Between Funds _____ 4/5's vote | | |
| Contingency _____ 4/5's vote | | |
| () General () Other | | |

CLERK'S USE ONLY:

Res. No.: 10-206 Ord. No. _____
 Vote - Ayes: 5 Noes: _____
 Absent: _____
 (X) Approved
 () Minute Order Attached () No Action Necessary

COUNTY ADMINISTRATIVE OFFICER:

Requested Action Recommended
 No Opinion
 Comments: _____

The foregoing instrument is a correct copy of the original on file in this office.

Date: _____
 Attest: MARGIE WILLIAMS, Clerk of the Board
 County of Mariposa, State of California

By: _____
 Deputy

CAO: RJB

Mariposa County Policy Against Discrimination and Harassment in the Workplace

COUNTY POLICY

Mariposa County is committed to providing a work environment free of all forms of discrimination and harassment. Actions, words, jokes or comments based on such things as race, color, religion, national origin, ancestry, disability, medical condition, marital status, sex, sexual orientation, or age are prohibited. Those subject to this policy include all employees (including permanent, temporary, probationary, part-time, and full-time), supervisors, managers, volunteers, contractors, and elected officials. All phases of the employment relationship including recruitment, testing, hiring, upgrading, promotion/demotion, layoffs, discipline, rates of pay, benefits and selection for training are covered by this policy.

Because the County is committed to a workplace free of discrimination and harassment of any kind, the County policy sets a higher standard for behavior than is set by the law. Under both federal and state law, illegal harassment occurs when it is based on a person's protected class (race, color, religion, national origin, ancestry, disability, medical condition, marital status, sex, sexual orientation, or age) and the harassment reaches a level that is sufficiently severe or pervasive to alter a person's working conditions. However, Mariposa County's policy against discrimination and harassment covers all harassing and discriminatory behavior whether or not it would be found to be illegal. This policy reflects the County's desire to maintain work environments that are harmonious and productive. Therefore, County employees are expected to adhere to a standard of conduct during the course and scope of employment that consists of respect and courtesy towards other employees and persons. County employees shall under no circumstances engage in behavior that constitutes any type of harassment based on ones protected class. Those found to have violated the County Policy will be subject to discipline that is commensurate with the severity of the offense.

Retaliation: Retaliation against a person bringing a complaint or against a person participating in an investigation of a complaint is strictly prohibited. Those engaging in retaliatory behavior will be subject to discipline up to and including termination. Retaliatory conduct may exist when a person is subject to discipline, denied promotion, or is shunned as a result of bringing a complaint of harassment or participating in an investigation. Put simply, a person bringing a complaint of harassment or supporting a claim of harassment cannot be treated differently or punished in any way for bringing the complaint.

FORMS OF HARASSMENT

Harassment includes but is not limited to:

Verbal Harassment

Examples could include epithets, derogatory comments, jokes, or slurs on the basis of a protected class (race, color, religion, national origin, ancestry, disability, medical condition, marital status,

sex, sexual orientation, or age). This may include well-intentioned comments on a person's appearance or race-related stories. This may also include referring to an adult as "girl" or "boy" or using terms such as "hunk," "babe," "stud," or "honey." Verbal harassment may also include sexual innuendo, jokes, suggestive sounds, or stories of a sexual nature.

Physical Harassment

Examples could include assault, touching, impeding or blocking movement, grabbing, patting, leering, making express or implied job-related threats in return for submission to physical acts, taunting, or any physical interference with normal work or movement. Put simply, physical harassment may include any kind of unwanted physical contact.

Visual Harassment

Examples could include posters, cartoons, gestures or written materials which discuss or depict people based on their race, color, religion, national origin, ancestry, disability, medical condition, marital status, sex, sexual orientation, or age. Visual harassment may also include Internet sites or other electronic media of a sexual or offensive nature.

Sexual Harassment

Sexual harassment is a form of gender discrimination that can take any of the forms of harassment described above. Sexual harassment under this policy refers to unwelcome physical, verbal or visual conduct of a sexual nature or that is based on an employee's gender that has the effect of interfering with a person's work performance or creating an intimidating, hostile or offensive working environment. Also included are overt forms of sexual harassment such as conditioning employment benefits on sexual favors. Sexual harassment includes behavior by women directed at men, by men directed at women, same-sex harassment, and harassment based on sexual orientation.

STANDARDS OF BEHAVIOR

Any conduct which discriminates or harasses a person covered by this policy on the basis of race, color, religion, national origin, ancestry, disability, medical condition, marital status, sex, sexual orientation, or age violates the County's policy and will not be tolerated. Because employees come to work with different backgrounds and experiences, it is natural that various levels of sensitivity are represented. Well-meaning people can disagree about what is offensive or inappropriate. In order to clarify what type of behavior is acceptable and unacceptable in the workplace, the following examples are provided as a means of offering guidance, and promoting a comfortable and harassment free work environment for all.

Prohibited conduct includes, but is not limited to:

- Disparaging or offensive comments or jokes about a person's race, color, religion, national origin, ancestry, disability, medical condition, marital status, sex, sexual orientation, or age.

- Any behavior or practice which treats an individual differently because of his or her race, color, religion, national origin, ancestry, disability, medical condition, marital status, sex, sexual orientation, or age.
- Systematic exclusion of an individual because of his or her race, color, religion, national origin, ancestry, disability, medical condition, marital status, sex, sexual orientation, or age.
- Slang names or labels related to religion, race or sexual orientation.
- Ignoring or failing to take seriously a person who reports or complains of harassment.
- Blaming the person who reports or complains of harassment, or suggesting that they are “thin skinned,” “too sensitive,” or that they don’t have a sense of humor.
- Continuing behavior directed at a person’s race, color, religion, national origin, ancestry, disability, medical condition, marital status, sex, sexual orientation, or age once a person has objected to the behavior.
- Displaying sexual pictures, cartoons or calendars.

COMPLAINT PROCEDURE

It is the County’s intent to prevent harassment and to encourage appropriate and respectful conduct between people. The County strongly encourages those who feel they are being harassed to use the complaint procedure set forth below. Although the County will investigate any complaint of harassment regardless of when the harassment occurred, those who feel they are being harassed are strongly encouraged to use the complaint procedure as soon as the harassment begins. It is the County’s desire to eliminate harassment at the earliest stages. Be assured that the County will take seriously any complaint raised, and will engage in an appropriate factual inquiry. If harassment is found to have occurred, the offending party will be disciplined and the complaining party will be protected from retaliation.

Direct Communication

In some cases a person may be unaware that his/her conduct is offensive. In these cases, direct communication between the individuals may be all that is required to eliminate offensive behavior. If the offended person is uncomfortable talking to the offending person alone, he or she is encouraged to include his/her supervisor or manager in an informal discussion. If this informal step is ineffective, a formal complaint should be made.

The informal step is encouraged but is not mandatory. If the offended person is uncomfortable talking directly to the offending party or to his/her supervisor, or if the harassing behavior is of such a serious nature that the person feels the informal step would be ineffective, he or she may proceed directly to the formal complaint step.

Formal Complaint

Any supervisor or manager who receives a complaint of harassment has a duty to follow this policy. If the complaining party is willing to engage in the informal process, the supervisor or manager should assist in that process and monitor the situation to ensure that the informal process is effective. If the complaining person is making a formal complaint, the supervisor or manager must inform the Department Head and the County Administrative Officer. If the Department Head or Administrative Officer is named in the complaint, then the harassment should be reported to a member of management up the chain of command who is not named in the complaint.

The County will make every effort to handle complaints in a confidential manner except as is necessary to conduct an appropriate factual inquiry.

Factual Inquiry

Upon receiving a complaint of harassment, the County will conduct the necessary factual inquiry to determine if the County's policy has been violated.

Discipline

If harassment is found to have occurred, the County will take appropriate disciplinary action pursuant to the County's disciplinary policy, which is commensurate with the severity of the offense.

Closure

Once the factual inquiry is complete and a determination has been made as to the merits of the complaint, the individual who brought the complaint will be notified of the outcome and given an opportunity to address a County representative. After the matter has been closed, the County will periodically follow up with the individual who made the complaint to ensure that the harassment has been eliminated and the individual has not experienced any retaliation.

Created: 6/90 (Res. No. 90-301)

Revised: 3/2000 (Res. No. 00-110); 5/2010 (Res. No. 10-206)