

## SECTION 23.0

### DISCRIMINATORY WORKPLACE HARASSMENT POLICY

#### 23.1 Policy Statement

It is the policy of the County of Sutter that employees have a working environment free of unlawful and improper discriminatory harassment. The work environment should be businesslike and assure fair, courteous treatment for employees and the public we serve. All employees should treat each other with dignity and respect. It is the responsibility of every employee, supervisor and manager to make sure there is no discriminatorily harassing behavior in the work place. Discriminatory harassment may constitute illegal discrimination and may violate both state and federal law. This policy is intended to address such conduct.

All employees should be informed of the discrimination complaint process and be assured of their right to file complaints without fear of reprisal. All employees, including supervisors and managers should be trained regarding behavior that constitutes discriminatory harassment. Employees should also understand the importance of reporting incidents promptly to assure that further incidents do not occur.

The Board of Supervisors expects County department heads to convey to their employees strong disapproval of discriminatory harassment. All employees including supervisors and managers should be informed, clearly, regarding behavior that constitutes discriminatory harassment and the consequences of such actions. They should be aware that discriminatory harassment of another employee may be grounds for disciplinary action up to and including termination.

#### Definition of Discriminatory Harassment

1. Verbal Harassment – Epithets, derogatory comments, slurs, propositioning, or otherwise offensive words or comments on the basis of race, religious creed, color, national origin, ancestry, mental or physical disability (including AIDS or HIV), medical condition, marital status, sex, age, sexual orientation, gender identity, gender expression, military or veteran status, pregnancy, or childbirth and related medical conditions whether made in general, directed to an individual, or to a group of people regardless of whether the behavior was intended to harass. This includes but is not limited to inappropriate sexually orientated comments on appearance, including dress or physical features, sexual rumors, and race oriented stories.
2. Physical Harassment – Assault, impeding or blocking movement, leering, or the physical interference with normal work, privacy or movement when directed at an individual on the basis of race, religious creed, color, national origin, ancestry, mental or physical disability (including AIDS or HIV), medical condition, marital

status, sex, age, sexual orientation, gender identity, gender expression, military or veteran status, pregnancy, or childbirth and related medical conditions. This includes pinching, patting, grabbing, or making explicit or implied threats or promises in return for submission to physical acts.

3. Visual Forms of Harassment – Derogatory, prejudicial, stereotypical or otherwise offensive posters, photographs, cartoons, notes, bulletins, drawings or pictures on the basis of race, religious creed, color, national origin, ancestry, mental or physical disability (including AIDS or HIV), medical condition, marital status, sex, age, sexual orientation, gender identity, gender expression, military or veteran status, pregnancy, or childbirth and related medical conditions. This applies to both posted material, or material maintained in or on County equipment or personal property in the workplace.
4. Sexual Harassment – Any act which is sexual in nature and is made explicitly or implicitly a term or condition of employment, is used as the basis of an employment decision, unreasonably interferes with an individual's work performance or creates an intimidating, hostile or offensive work environment.
5. This policy is intended not only to address and correct acts of discriminatory harassment, but to prevent them. Therefore, the County, as part of the implementation of this policy, may act to correct what is viewed as discriminatory harassment prior to the behavior reaching the level that would constitute "discriminatory harassment" as defined in law.

(Amended 02/10/15, General, Supervisory & Professional Units MOU)

(Amended 02/10/15, Confidential Unit Agreement)

(Amended 02/10/15, Resolution 15-008, Management Unit)

(Amended 02/10/15, Deputy County Counsels & Assistant County Counsel Agreement)

(Amended 03/10/15, Law Enforcement Unit MOU)

(Amended 03/28/17, Fire Safety Unit MOU)

### 23.2 Department Obligation and Responsibility

Every department has an obligation to assure that the work environment is free from all types of unlawful discrimination. Prevention is the best tool. Prompt, appropriate action may help to avoid, or at least minimize, the incidence of discriminatory harassment.

By law, department heads, other managers and supervisors are responsible to ensure that employees, supervisors and managers are aware of the County's policy. Supervisors' training should include information about the County's Discriminatory Workplace Harassment Policy.

(Amended 01/11/00, General, Supervisory, Professional Units MOU)

(Amended 02/01/00, Confidential Unit Agreement)

(Amended 02/01/00, Resolution 2000-06, Management Unit)

(Amended 02/01/00, Deputy County Counsels & Assistant County Counsel Agreement)  
(Amended 01/09/01, Fire Safety Unit MOU)  
(Amended 01/08/02, Law Enforcement Unit MOU)

### 23.3 Employee Action

Some people are not aware that their behavior is offensive or potentially harassment. Often simply advising someone of the offensive nature of their behavior can resolve the problem. Whenever possible, employees should inform the harassing party that his or her behavior is unwelcome, offensive, in poor taste or highly inappropriate. If this does not resolve the concern or if an employee feels uncomfortable, threatened, or has difficulty expressing his or her concern, informal assistance or counseling should be sought from any supervisor, manager, department head or the County Human Resources Director.

(Amended 06/27/89, General, Supervisory, Professional Units MOU)  
(Amended 07/18/89, Confidential Unit Agreement)  
(Amended 08/01/89, Resolution 89-69, Management Unit)  
(Amended 08/08/89, Deputy County Counsels & Assistant County Counsel Agreement)  
(Amended 07/18/89, Fire Safety Unit MOU)  
(Adopted 09/18/89, Letter of Approval, Law Enforcement Unit)

### 23.4 Investigative Procedure

Any complaint which cannot be satisfactorily resolved through a discussion between the aggrieved person and the harassing party should be referred to either (1) the department head or (2) the County Human Resources Director. Either person will have full authority to investigate all aspects of the complaint. The investigatory authority includes accessibility to records and cooperation of any involved employees. No influence will be used to suppress any complaint, and no one will be subject to any recrimination or reprisal for filing a complaint.

(Amended 06/27/89, General, Supervisory, Professional Units MOU)  
(Amended 07/18/89, Confidential Unit Agreement)  
(Amended 08/01/89, Resolution 89-69, Management Unit)  
(Amended 08/08/89, Deputy County Counsels & Asst. County Counsel Agreement)  
(Amended 07/18/89, Fire Safety Unit MOU)  
(Adopted 09/18/89, Letter of Approval, Law Enforcement Unit)

### 23.5 Informal Resolution

If an employee desires primarily to discuss personal thoughts and feelings or consider meetings in which to deal individually with the incident(s) the department head or the County Human Resources Director will offer consultation and advice.

When any complaint is received, the department head or the County Human Resources Director will ask the complainant to define his or her perception of the problem and the desired solution. The department head or County Human Resources Director will explain the rights involved and discuss potential solutions. The department head or County Human Resources Director may conduct a brief informal investigation and make every effort to resolve the problem on a very informal basis.

(Amended 11/14/00, General, Supervisory, Professional Units MOU)

(Amended 11/21/00, Confidential Unit Agreement)

(Amended 11/21/00, Resolution 2000-088, Management Unit)

(Amended 11/21/00, Deputy County Counsels & Assistant County Counsel Agreement)

(Amended 01/09/01, Fire Safety Unit MOU)

(Amended 01/08/02, Law Enforcement Unit MOU)

### 23.6 Formal Investigation

If any informal investigation does not successfully resolve the issue, with the filing of a written complaint by the employee to the department head (with a copy to the Human Resources Director) or to the County Human Resources Director, or if in the opinion of the Human Resources Director and/or County Administrative Officer a formal investigation is warranted, a formal investigation will be initiated. As appropriate, the formal investigation may include, but not necessarily be limited to, the following:

- a. Obtaining the date and place of the alleged act and the names of persons alleged to be involved or to have relevant knowledge.
- b. Interviewing the persons named above and any other persons determined to possibly have relevant knowledge concerning the complaint. Providing a copy of the formal complaint to the employee or employees being accused of harassment insofar as it relates to them at the onset of the investigation.
- c. Reviewing any pertinent documents or records. Making a survey of action in similar situations involving other employees or applicants for employment.
- d. A written report, including a proposed resolution of the matter will be made. The report will be forwarded to and reviewed by the department head who will determine the appropriate resolution, including the possibility of formal disciplinary action.
- e. The department head will provide a confidential written response to the employee who filed the complaint advising the employee of the resolution to the extent legally permitted. A copy of this response will be provided to the alleged harassing party.

(Amended 08/31/04 General, Supervisory & Professional Units MOU)

(Amended 08/26/08, Fire Safety Unit MOU)

(Amended 01/30/07, Confidential Unit Agreement)  
(Amended 01/30/07, Resolution 07-006, Management Unit)  
(Amended 01/30/07, Deputy County Counsels & Assistant County Counsel Agreement)  
(Amended 01/30/07, Law Enforcement Unit MOU)

### 23.7 Retaliation

Retaliation in any manner against a person for filing a harassment charge or initiating a harassment complaint, testifying in an investigation, providing information or assisting in an investigation, is expressly prohibited and subject to disciplinary action up to and including termination. The Human Resources Director will take reasonable steps to protect the victim and other potential victims from further harassment, and to protect the victim from any retaliation as a result of communicating the complaint. This section will not prohibit the County from disciplining an employee pursuant to section 18.5(v), *Sutter County Personnel Rules and Regulations*.

(Amended 01/11/00, General, Supervisory, Professional Units MOU)  
(Amended 02/01/00, Confidential Unit Agreement)  
(Amended 02/01/00, Resolution 2000-06, Management Unit)  
(Amended 02/01/00, Deputy County Counsels & Assistant County Counsel Agreement)  
(Amended 01/09/01, Fire Safety Unit MOU)  
(Adopted 01/08/02, Law Enforcement Unit MOU)

### 23.8 FEHC/EEOC Complaints

The filing of a complaint pursuant to this policy or the decision of the department head does not prevent the employee from filing a complaint with the Fair Employment and Housing Commission (FEHC) or the Equal Employment Opportunity Commission (EEOC) or from filing any action in the courts.

(Amended 06/27/89, General, Supervisory, Professional Units MOU)  
(Amended 07/18/89, Confidential Unit Agreement)  
(Amended 08/01/89, Resolution 89-69, Management Unit)  
(Amended 08/08/89, Deputy County Counsels & Assistant County Counsel Agreement)  
(Amended 07/18/89, Fire Safety Unit MOU)  
(Adopted 09/18/89, Letter of Approval, Law Enforcement Unit)

### 23.9 Confidentiality

#### A. General, Supervisory, Professional, Confidential, Management and Law Enforcement Units, Deputy County Counsels and Assistant County Counsel

To the extent feasible, proceedings under this policy and all reports and records filed shall be confidential to the parties involved, and reasonable effort shall be made to protect the privacy interests of the parties. Confidentiality may not be feasible under certain circumstances, including, but not limited to: (1) disclosure

of any fact is necessary to the appropriate investigation of or response to a harassment or discrimination incident; (2) disclosure of any fact is necessary to assure due process to any person accused of harassment or discrimination if that person may be subject to disciplinary action; or (3) disclosure of any fact is necessary to comply with lawful orders or rules governing any court proceeding.

(Amended 08/31/04 General, Supervisory & Professional Units MOU)  
(Amended 01/30/07 Confidential Unit Agreement)  
(Amended 01/30/07 Resolution 07-006, Management Unit)  
(Amended 01/30/07 Deputy County Counsels & Assistant County Counsel Agreement)  
(Amended 01/30/07 Law Enforcement Unit MOU)

B. Fire Safety Unit

To the extent feasible, proceedings under this policy and all reports and records filed shall be confidential to the parties involved, and reasonable effort shall be made to protect the privacy interests of the parties.

(Amended 07/18/89, Fire Safety Unit MOU)

23.10 Distribution

This policy and any revisions thereof, shall be distributed to all, County officers and employees.

(Amended 06/27/89, General, Supervisory, Professional Units MOU)  
(Amended 07/18/89, Confidential Unit Agreement)  
(Amended 08/01/89, Resolution 89-69, Management Unit)  
(Amended 08/08/89, Deputy County Counsels & Assistant County Counsel Agreement)  
(Amended 07/18/89, Fire Safety Unit MOU)  
(Adopted 09/18/89, Letter of Approval, Law Enforcement Unit)