

		<b>Policy # 602</b>
<b>Subject:</b> Sexual Harassment in County Employment		
<b>Responsible Department:</b> Personnel Services		
<b>Effective Date:</b> 08/1981		<b>Revision Date:</b> 07/2005
<b>David Devine</b> <b>Director of Personnel Services</b>		<b>Navdeep S. Gill</b> <b>County Executive</b>

**1. Purpose**

The County of Sacramento is committed to maintaining a work environment that is free from sexual harassment. This policy:

1. Defines and provides examples of the conduct that is prohibited.
2. Summarizes the responsibilities of County employees for preventing and reporting violations.
3. Summarizes the responsibilities of County employees for investigating and responding to complaints and
4. Gives clear warning of the potential consequences of violating this policy.

**2. Authority**

Sacramento County Board of Supervisor’s Approval August 25, 1981.

**3. Scope**

This policy, including any revisions, applies to all departments and shall be distributed to all County officers and employees. Reasonable efforts will be made to distribute to County agents, contractors, and volunteers.

**4. Procedures**

**Definition:** Sexual harassment is any unwelcome sexual advance, request for sexual favor and/or other verbal or physical conduct of a sexual nature if such conduct is either:

1. An employment condition: submission to such conduct is made either explicitly or implicitly a term or condition of employment.
2. An employment consequence: submission or rejection of such conduct is used as a basis for employment decisions.

3. An offensive job interference: such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

**Policy:** All County employees, agents, contractors, and volunteers are prohibited from engaging in sexual harassment.

**Examples:** Sexual harassment may include:

1. Displaying or transmitting in person or through any media sexually suggestive pictures, objects, cartoons, or posters that are known or should be known to be unwelcome.
2. Regularly telling sexual jokes or using sexually vulgar or explicit language.
3. Regularly using foul language or gestures.
4. Making derogatory or provocative remarks about or relating to an employee's sex or appearance.
5. Engaging in physical harassment, such as assault or physical interference with movement or work, including pinching, grabbing, patting, or leering.
6. Unwelcome touching or grabbing of any part of the body.
7. Explicitly or implicitly conditioning any term of employment (continued employment, wages, evaluation, promotion, assigned duties or shifts) on the provision of sexual favors.
8. Retaliation for rejection of sexual advances or for complaining about offensive behavior.
9. Providing preferential treatment because of a sexual relationship other similar conduct.

**Mandated training:** Department Heads, managers, and supervisory personnel, as defined by the Fair Employment Housing Act (FEHA), shall receive, consistent with applicable State and Federal requirements specialized formal training in recognizing and preventing sexual harassment.

**Protection measures:** When County employees, agents, contractors, and volunteers are performing their work-related activities for the County, the County will take reasonable measures to protect them from sexual harassment.

**Investigation mandated:** The County or its designee shall promptly investigate complaints of sexual harassment.

**Retaliation prohibited:** It is a violation of this policy to retaliate or engage in any form of retaliation because a person has raised a concern of, filed a complaint of, participated in an investigation of, or been a witness to, discrimination. The County shall investigate complaints of retaliation and shall take appropriate corrective action.

**Suppressing a complaint prohibited:** No County employee, agent, contractor or volunteer shall suppress, or attempt to suppress a complaint of sexual harassment.

**Responsibility for agents, contractors, and volunteers:** County employees responsible for administering, monitoring or overseeing the work of County agents, contractors, or volunteers shall ensure that they do not violate this policy.

If managers or supervisors become aware of possible sexual harassment by County agents, contractors or volunteers, they shall conduct a timely investigation and take appropriate corrective action.

### **Responsibilities of All County Employees**

**Policy:** All County employees, agents, contractors and volunteers are responsible for ensuring that sexual harassment does not occur in the Sacramento County work environment.

**Timely reporting critical:** Any employee, agent, contractor or volunteer who believes that he or she has been the object of, or has been affected by sexual harassment in County work situations, or who is aware of an occurrence of sexual harassment should immediately report such action or incident to any of the following individuals:

1. His or her supervisor.
2. Departmental Equal Employment Coordinator.
3. Departmental Human Resources Representative.
4. The County's Chief of Equal Employment Opportunity (EEO), or
5. Department Head.

**Note:** Under no circumstances shall such report be required or expected to be made to a person who allegedly engaged in the conduct that is being reported.

**Cooperation required:** County employees, agents, contractors and volunteers shall cooperate fully with all investigations of sexual harassment and shall not retaliate against complainants or witnesses.

## **Responsibilities of Management and Supervisory Personnel**

**Policy:** All Department Heads, managers, and supervisory personnel, as defined by FEHA, shall ensure that the Sacramento County work environment is free from sexual harassment.

**Advice against supervisory sexual relationships:** Supervisory and management employees are strongly advised against soliciting or engaging in sexual activity with employees over whom they have authority. This advice applies regardless of whether the employee has consented to the relationship. Such relationships expose the County and the supervisor or manager to:

1. Potential claims of sexual harassment.
2. Possible liability.
3. Appearances of favoritism and
4. Dissension among other employees because of the relationships.

**Potential results: supervisory sexual relationships:** A relationship may begin with the employee's consent, then end, and be followed by a charge of sexual harassment against the supervisor or manager. In such cases, County management will not look with sympathy on a defense that the relationship started with the employee's consent.

Situations like this may result in disciplinary action being taken against the supervisor or manager.

In the event of a court suit, the County may refuse to provide defense counsel and to indemnify the supervisor or manager for any judgment rendered against him/her.

**Educating employees:** As appropriate for their level in the organization, Department Heads, managers, and supervisory personnel, as defined by FEHA, are responsible for:

1. Ensuring all employees are aware that:
  - Sexual harassment is prohibited.
  - They have a right to complain about such behavior.
  - They will be protected from retaliation.
  - Incidents should be reported to help ensure they will not recur.
  - Prompt appropriate follow-up action will be taken to stop such behavior if the supervisor or manager learns of the problem.
  - Sexual harassment may be grounds for disciplinary action.

2. Ensuring that all employees have a copy of the Sexual Harassment in County Employment Policy # 602.

**Dealing with complaints:** As appropriate for their level in the organization, Department Heads, managers, and supervisory personnel, as defined by FEHA, are responsible for:

1. Promptly and thoroughly investigating any complaint of sexual harassment.
2. Taking reasonable steps to protect the complainant from further harassment or retaliation.
3. Taking appropriate corrective action against anyone in County employment who engages in sexual harassment.
4. Taking appropriate corrective action against any agent, contractor, or volunteer who engages in sexual harassment.

**Appointing a department investigator:** Management shall appoint one or more departmental Equal Employment Coordinators or Human Resources Representatives. This person or persons will provide information related to sexual harassment and will typically be the initial investigator of such complaints.

The individual(s) selected must:

1. Be credible.
2. Be at an appropriate level in the organization, and
3. Have received training consistent with the County's investigator training.

**Note:** Changes to the above appointed individual(s) must be communicated to the Chief of EEO in a timely manner.

**Chief of Equal Employment Opportunity:** The County's Chief of EEO, in cooperation with Department Heads, is responsible for:

1. Educating managers, supervisors, and employees, and informing them of their rights and responsibilities under this policy.
2. Developing processes for conducting investigations of alleged violations of this policy.
3. Advising departments on handling sexual harassment complaints.
4. Advising individuals of the process for handling sexual harassment concerns and complaints.
5. Investigating and attempting to resolve sexual harassment complaints.

6. Advising all parties about the confidentiality of the complaints and the process.
7. Providing training to departmental Equal Employment Coordinators and Human Resources Representatives.

### **Use of Outside Investigators**

**Introduction:** In some circumstances, the use of an "outside investigator" may be necessary and/or advisable in order to ensure the integrity of the investigation. An "outside investigator" shall not be a County employee, but shall be an individual or entity that is retained by the County to investigate complaints of violations of the County's Sexual Harassment in County Employment Policy # 602.

**Mandatory use:** The County shall use an outside investigator to conduct investigations of sexual harassment complaints against any of the following individuals:

1. All elected officials.
2. The County Executive.
3. The County Counsel.

**Discretionary use:** The County may, in its discretion, use an outside investigator to conduct investigations of sexual harassment complaints against any of the following individuals:

1. Agency Administrators.
2. Department Heads.
3. Assistant or Deputy Department Heads (or individuals who serve as the second-in-command for the Department).
4. Other County employees, agents, contractors or volunteers, as appropriate, depending on their role and function within the County.

**Coordination and consultation needed:** The selection of an outside investigator shall be made in coordination and consultation with:

1. County Executive (except if subject of the investigation).
2. County Counsel (except if subject of the investigation).
3. The elected official of the affected department.
4. The Deputy County Executive of Administrative Services or
5. Director of Personnel Services (except if subject of the investigation).

**Referrals to Chief of EEO:** The departmental Equal Employment Coordinator or Human Resources Representative shall refer any complaints regarding those individuals listed under Discretionary use to the Chief of EEO.

**Factors to consider:** For those circumstances in which the County may, but is not required to use an outside investigator, the factors to be considered in determining whether an outside investigator should be used include, but are not limited to:

1. Seriousness of the allegations(s).
2. The number of departments involved.
3. Involvement of non-County agencies and/or vendors.
4. The complexity and nature of the allegation(s).

**Presenting a complaint:** Complaints may be presented orally or in writing. However, written complaints are strongly recommended. Any complaint should include the following information:

1. Basis for the alleged sexual harassment.
2. Specific harassment or incident(s) that occurred.
3. Names of any persons thought to be responsible for the harassment.
4. Remedy being sought by the complainant.
5. Name of the complainant's representative, if any.

**Who to notify:** Any employee or applicant for employment who believes he or she has been the victim of sexual harassment or retaliation in violation of this policy is encouraged to file a complaint with any of the following individuals:

1. His or her supervisor.
2. His or her manager.
3. Departmental Equal Employment Coordinator.
4. Departmental Human Resources Representative.
5. Chief of Equal Employment Opportunity.
6. Department Head.

**County's action:** When the County receives a complaint of sexual harassment or retaliation, or otherwise has reason to believe that sexual harassment or retaliation is occurring, it will take all reasonable measures to ensure that the matter is promptly investigated and that prompt, appropriate, corrective action is taken.

At the conclusion of the investigation, the County will determine whether there is sufficient evidence to substantiate a violation of the County's policy and whether corrective action is necessary to resolve the issue(s) of the complaint. The County will advise the complainant, the accused, the Department Head, and as appropriate, management and/or supervisory staff of such determination.

**Other complaint options:** The filing of a complaint pursuant to this policy does not prevent the filing of a complaint with the State Department of Fair Employment and Housing (DFEH) or the U.S. Equal Employment Opportunity Commission (EEOC) or in court.

**County's decision is final:** The decision of the County is final. If a complainant is not satisfied with the outcome of the investigation, the complainant may file a complaint with the DFEH or EEOC or exercise other appropriate legal action.

**Investigation without a complaint:** An investigation may be undertaken even if a complaint has not been filed, if there is a reasonable basis to believe that there is, or has been a violation of this policy.

**Investigator authority:** The person investigating a complaint under this policy has a right to full access to records and to the cooperation of any involved employee, agent, contractor or volunteer.

**Confidentiality considerations:** To the extent permitted by law, proceedings under this policy and all reports and records filed shall be kept confidential. Reasonable efforts shall be made to protect the privacy interests of the parties. Information will be given only to those who have a need to know.

The complainant, the accused, the Department Head, and, as appropriate, management and/or supervisory personnel will be advised of the results of the investigation and whether any corrective action will be taken.

**Protection from retaliation:** The County shall take all reasonable measures to ensure that the complainant is protected from retaliation, particularly if the complaint involves the complainant's supervisor or someone in a position of authority over the complainant.

Management personnel are responsible for investigating all allegations of retaliation and taking appropriate corrective action.

**Findings of other issues:** In the course of an investigation, an investigator may become aware of actual or alleged operational/management issues, which, while they do not constitute

sexual harassment as defined in this policy, should be brought to the attention of management.

In those instances, the investigator shall summarize such issues in a separate report addressed to the appropriate management level. Management shall follow-up on such issues via appropriate means, including conducting its own operational reviews.

**5. Review** Not Applicable.