

# Prohibition on Harassment and Discrimination

## 328.1 PURPOSE AND SCOPE

The Orange County Sheriff's Department is committed to providing a professional and supportive work environment free from harassment, discrimination, and retaliation for participating in any protected activity. Department policy prohibits harassment and/or discrimination, against or by any individual subject to this policy, based on the following protected categories: race, color, religion, religious creed (including religious dress and grooming practices), national origin, ancestry, citizenship, physical or mental disability, medical condition (including cancer and genetic conditions), genetic information, marital status, sex (including pregnancy, childbirth, breastfeeding, or related medical conditions), gender, gender identity, gender expression, age (40 years and over), sexual orientation, veteran or military status, and reproductive health decision-making and any other characteristic protected by federal, state or local anti-discrimination laws covering employment.

This policy applies to Members, applicants, independent contractors, interns, and volunteers.

Discrimination and harassing behavior can not only be personally damaging to the individual(s) involved, but can also be damaging to the workplace in terms of conflict, decreased productivity, unpleasant environment, the degradation of interpersonal relationships and overall morale.

The prohibitions in this policy also extend to locations and situations where individuals may find themselves in connection with their jobs as well as to other settings that impact the workplace, even if offsite.

The Department will implement appropriate disciplinary action, up to and including termination, for violations of this policy, even if the violation does not rise to the level of unlawful conduct.

## 328.2 DEFINITIONS

**Discrimination** is defined as unequal treatment in any aspect of employment based solely or in part on an individual's protected characteristic listed above, including their perceived protected characteristic. Discrimination also includes unequal treatment based upon a person's association with a member of these protected classes.

Examples of discrimination include, but are not limited to, hostile or demeaning behavior because of a person's protected characteristic; allowing a person's protected characteristic to be a factor in hiring, promotion, compensation, or other employment-related decisions unless otherwise permitted by applicable law; and providing unwarranted assistance or withholding work-related assistance, cooperation, and/or information to a person because of their protected characteristic.

**Harassment** is defined as unwelcome, disrespectful, or unprofessional conduct based on any of the protected characteristics listed above.

Harassment can be verbal (such as slurs, jokes, insults, epithets, gestures, or teasing), visual (such as the posting or distribution of offensive posters, symbols, cartoons, drawings, computer

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displays, or emails), or physical conduct (such as physically threatening another person, blocking someone's way, or making physical contact in an unwelcome manner).

**Sexual Harassment** is defined as harassment based on sex (including pregnancy, childbirth, breastfeeding, or related medical conditions), gender, gender identity, gender expression, or sexual orientation. It may include all the actions described above as harassment, as well as other unwelcome sex-based conduct, such as unwelcome or unsolicited sexual advances, request(s) for sexual favors, conversations regarding sexual activities, or other verbal or physical conduct of a sexual nature. Sexually harassing conduct need not be of a sexual nature or be motivated by sexual desire. It may include situations that began as reciprocal relationships, but then later cease to be reciprocal.

Sexual harassment may generally be categorized into two types:

1. Quid Pro Quo Sexual Harassment ("this for that")
  - Submission to sexual conduct (or other harassing conduct) is made explicitly or implicitly a term or condition of an individual's employment.
  - Submission to or rejection of the conduct is used as the basis for employment decisions affecting the individual.
2. Hostile Work Environment Sexual Harassment
  - Unwelcome conduct based on sex, gender, gender identity, gender expression, or sexual orientation by any person in the workplace that unreasonably interferes with a person's work performance and/or creates an intimidating, hostile, or otherwise offensive working environment. When unwelcome, examples include but are not limited to:
    - Sexual advances, flirtation, teasing, sexually suggestive or obscene letters, invitations, notes, emails, voicemails, or gifts.
    - Sex, gender, or sexual orientation-related comments, slurs, jokes, remarks, or epithets.
    - Leering, obscene, or vulgar gestures or making sexual gestures.
    - Displaying or distributing sexually suggestive or derogatory objects, pictures, cartoons, or posters.
    - Impeding or blocking movement, touching, or assaulting others.
    - Reprisals or threats after a negative response to sexual advances.
    - Conduct or comments consistently targeted at one gender, even if the content is not sexual.

Sexual harassment can happen regardless of the gender, gender identity, orientation, or gender expression of the individuals involved. When determining whether conduct constitutes sexual harassment, a person's intent does not excuse inappropriate conduct.

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**Retaliation** is defined as any adverse action that materially affects the terms and conditions of a person's employment status or is reasonably likely to deter a person from making or supporting a claim of harassment or discrimination.

Examples of retaliation include, but are not limited to, demotion; suspension; reduction in pay; denial of a merit salary increase; failure to hire or consider for hire; refusing to promote or consider for promotion due to reporting of a violation of this policy; intimidating, threatening, or harassing a person for filing a complaint; denying employment or other opportunities for making a complaint or for cooperating in an investigation; changing someone's work assignments for identifying harassment or other forms of discrimination in the workplace; treating someone differently such as denying an accommodation or not communicating with an employee when otherwise required by job duties; or intentionally excluding the person from job-related activities because of engagement in activities protected under this policy.

### **328.3 REPORTING VIOLATIONS**

Supervisors and/or Managers who learn of any potential violation of this policy are required to promptly report such conduct to the Professional Standards Division. Supervisors and managers have a specific responsibility to maintain a professional and respectful work environment. Failure by supervisors and managers to report such conduct is a violation of Policy and could result in disciplinary action. The Sheriff's Human Resources/Professional Standards Division ("HR/PSD") shall report violations within this policy to the County's Equal Employment Opportunity Access Office.

If you believe you are being unlawfully harassed and/or discriminated against by another person, you are encouraged to tell that person that their conduct is unwelcome and that you want it to stop. The affected individual or witness should also report the matter to any of the following: their immediate supervisor or manager, or any supervisor or manager, or the Sheriff's Human Resources/Professional Standards Division ("HR/PSD") at (714) 834-5100, or the County's Equal Employment Opportunity Access ("EEO") Office at (714) 834-5259 or by email at [eeo.support@ocgov.com](mailto:eeo.support@ocgov.com), or the County Compliance Line at (855) 387-4432. The Compliance Line is a hotline run by live operators 24 hours a day, 7 days a week. Complaints through this line may be made anonymously. If your immediate supervisor is the offending person, you should report the conduct to another supervisor, HR/PSD, or the EEO Office.

A person making a report does not need supervisor or manager approval to make a report and there is no chain of command when reporting violations of this policy.

### **328.4 INVESTIGATING COMPLAINTS**

Every complaint of harassment and/or discrimination reported to the Department shall be investigated in a fair, timely, thorough, impartial, and confidential manner by qualified personnel. The investigation will reach reasonable conclusions based on the evidence collected. A Department representative will notify the complainant and respondent of the results of the Department's investigation in a timely manner.

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To the extent possible, the Department will endeavor to keep reporting of the complainant's concerns confidential; however, complete confidentiality cannot be guaranteed if it interferes with the Department's ability to fulfill its obligations under this Policy or any applicable law or order. All individuals subject to this policy are required to cooperate fully with any investigation. This includes, but is not limited to, maintaining an appropriate level of discretion regarding the investigation, and disclosing all information that may be pertinent to the investigation.

If, upon completion of the investigation, the Department determines that harassment and/or discrimination has occurred in violation of Department Policy, effective remedial action shall be taken appropriate to the circumstances. Any Member determined by the Department to be responsible for harassment and/or discrimination shall be subject to appropriate disciplinary action, up to and including termination.

To ensure all Members are aware of this policy, it shall be posted in common areas, reissued annually with the Member's performance evaluations, distributed during new Member orientations, incorporated in the Policy manual, and shall be available for copy or review at the Professional Standards Division.

### **328.5 PROHIBITED RETALIATION**

It is prohibited to retaliate against anyone subject to this policy who reports, assists in reporting, or expresses an intent to report perceived discrimination, harassment, or other violations of this policy, or who participates in the investigation of or in proceedings related to any claim of discrimination, harassment, or other violations of this policy.

Anyone covered by this Policy who makes a good-faith allegation of potential harassment and/or discrimination can be assured that the matter will be handled with sensitivity, and the person reporting will not experience retaliation from any source, regardless of the ultimate disposition of the matter. The maintenance of an environment where Members feel comfortable bringing matters of this nature to the attention of the Department is critical.

### **328.6 TRAINING REQUIREMENTS**

All Members must take the County's workplace harassment prevention training as assigned by the EEO Office in partnership with the Learning and Organizational Development Office. In addition, the California Civil Rights Department provides free online training courses on preventing sexual harassment in the workplace.

For additional information see:

Refer to Policy 330 – Prohibition of Abusive Conduct for prohibitions against harassing incidents or behavior not directed at or based on a person's protected characteristics.

The County of Orange Equal Employment Opportunity and Anti-Harassment Policy and Procedures approved by the Board of Supervisors.