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**COUNTY OF ALAMEDA**

**DISCRIMINATION, HARASSMENT,  
AND RETALIATION PREVENTION  
POLICY**

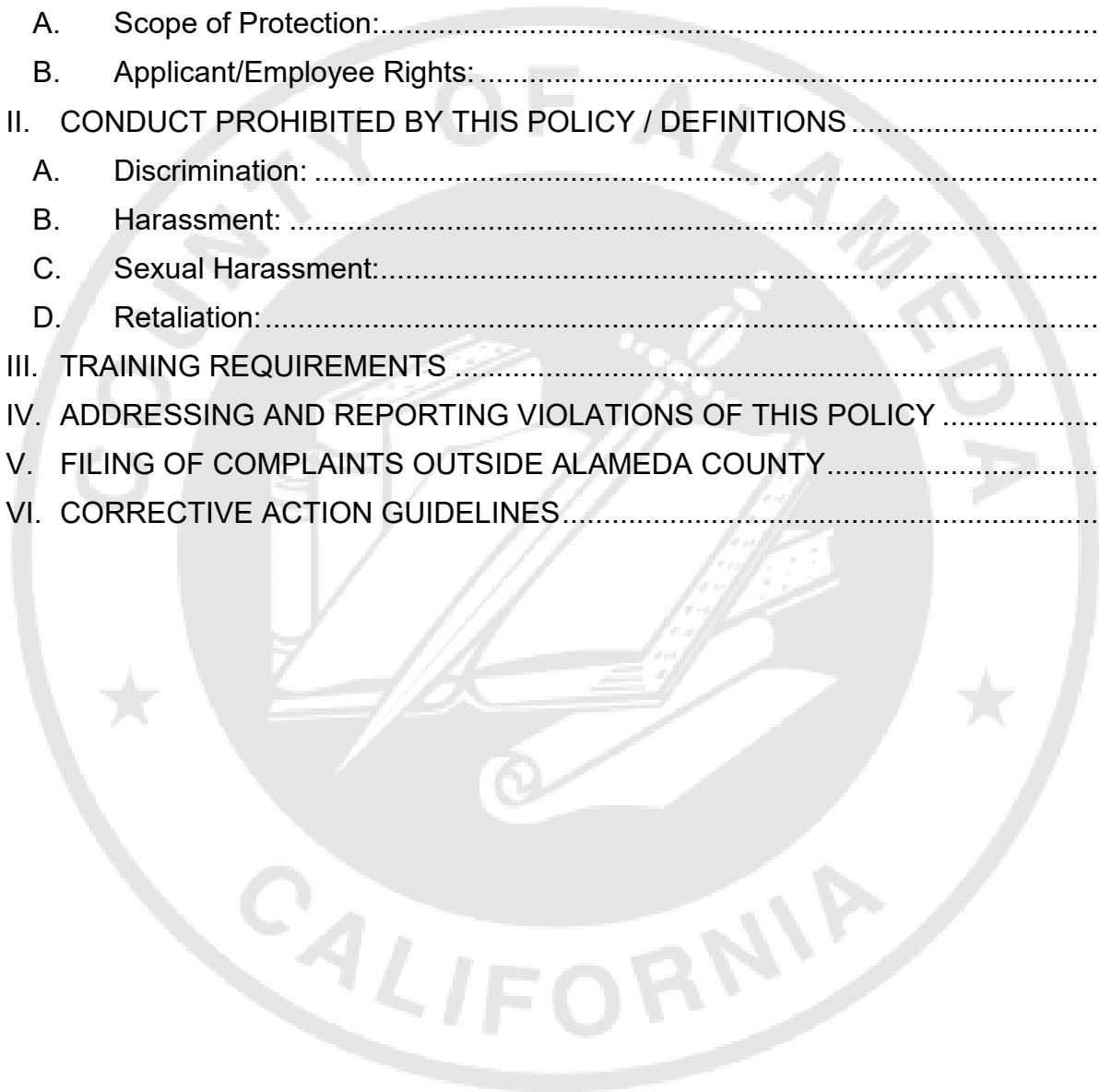
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**JUNE 9, 2022**

(Adopted by the Board of Supervisors, September 20, 2022)

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## **Policy: Discrimination, Harassment, and Retaliation Prevention Policy**

### **I. POLICY**

The County of Alameda is committed to providing a professional work environment free from discrimination and harassment, including discrimination and harassment based on a protected category, and an environment free from retaliation for participating in any protected activity covered by this policy. The County of Alameda is committed to providing equal employment opportunities to all employees and applicants for employment. Accordingly, we have adopted and maintain this anti-discrimination policy designed to encourage professional and respectful behavior and prevent discriminatory and harassing conduct in our workplace. We will implement appropriate corrective action(s) -- which may involve formal discipline, up to and including termination of employment -- in response to misconduct, including violations of this policy, even if the violation does not rise to the level of unlawful conduct.

The County of Alameda prohibits discrimination or harassment based on the following categories: race (inclusive of traits historically associated with race, such as hair texture and protective hairstyles including braids, locks, and twists), color, religion, religious creed (including religious dress and grooming practices), national origin, ancestry, citizenship, physical or mental disability,<sup>1</sup> medical condition (including cancer and genetic characteristics), 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 and/or military status, protected medical leaves (requesting or approved for leave under the Family and Medical Leave Act or the California Family Rights Act), domestic violence victim status, political affiliation, and any other status protected by state or federal law. In addition, the County prohibits retaliation against a person who engages in activities protected under this policy. Reporting, or assisting in reporting, suspected violations of this policy and cooperating in investigations or proceedings arising out of a violation of this policy are protected activities under this policy.

All employees are expected to assume responsibility for maintaining a work environment that is free from discrimination, harassment, and retaliation. Employees are encouraged to promptly report conduct that they believe violates this policy so that we have an opportunity to address and resolve any concerns. Managers and supervisors are required to promptly report any conduct that they believe violates this policy. We are committed to responding to alleged violations

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<sup>1</sup>The County recognizes and supports its obligation to reasonably accommodate employees with disabilities or religious beliefs or practices in order to allow those employees to perform the essential functions of their jobs. If an employee believes they need a reasonable accommodation based on disability or a religious belief or practice, the employee should discuss the matter with their supervisor, their Department/Agency's human resources unit, or Human Resource Services' Disability Programs Division. A complete description of Alameda County's disability management program can be found at [www.acgov.org/hrs/divisions/dp](http://www.acgov.org/hrs/divisions/dp).

of this policy in a timely and fair manner and taking appropriate action aimed at ending the prohibited conduct.

**A. Scope of Protection:**

This policy applies to Alameda County's applicants and employees (co-workers, supervisors, and managers). As used in this policy, the term "employee" includes contractors and volunteers in our workplace. In addition, this policy extends to conduct with a connection to an employee's work, even when the conduct takes place away from Alameda County's premises, such as a business trip or business-related social function.

**B. Applicant/Employee Rights:**

- The right to a discrimination, harassment, and retaliation-free work environment.
- The right to file a complaint of discrimination, harassment, or retaliation. Employees are encouraged to report inappropriate conduct immediately and, whenever possible, to put the complaint or concern in writing.
- The right to a full, impartial, and prompt investigation by an Alameda County representative or designee into allegations of conduct that would violate this policy.
- The right to be timely informed of appropriate information related to the outcome of an investigation either as a complainant or a respondent in the investigation.
- The right to be represented by a person of the complainant's choosing at each and all steps of the complaint process.
- The right to be free from retaliation or reprisal after filing a complaint or participating in the complaint process.
- The right to file a complaint directly with the California Department of Fair Employment and Housing, the federal Equal Employment Opportunity Commission, or other appropriate state or federal agencies, or to file a civil action in the appropriate court.

**II. CONDUCT PROHIBITED BY THIS POLICY / DEFINITIONS**

**A. Discrimination:**

As used in this policy, discrimination is defined as the unequal treatment of an employee or applicant in any aspect of employment, including discrimination based solely or in part on the employee's, or applicant's, protected category. Protected categories include: race (inclusive of traits historically associated with race, such as hair texture and protective hairstyles including braids, locks, and twists), color, religion, religious creed (including religious dress and grooming

practices), national origin, ancestry, citizenship, physical or mental disability, medical condition (including cancer and genetic characteristics), 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 and/or military status, protected medical leaves (requesting or approved for leave under the Family and Medical Leave Act or the California Family Rights Act), domestic violence victim status, political affiliation, and any other status protected by state or federal law. Discrimination includes unequal treatment based upon the employee or applicant's association with a member of these protected classes.

Discrimination may include, but is not necessarily limited to: hostile or demeaning behavior towards applicants or employees because of their protected category; allowing the applicant's or employee's protected category 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 applicants or employees because of their protected category.

**B. Harassment:**

As used in this policy, harassment is defined as unwelcome conduct based on any of the protected categories listed above that unreasonably interferes with an employee's work performance and/or creates an intimidating, hostile, or otherwise offensive working environment. 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 displays, or emails), or physical conduct (such as physically threatening another person, blocking someone's way, making physical contact in an unwelcome manner, etc.). Harassment by co-workers, supervisors, and non-employees (such as independent contractors, vendors, clients, or customers) is prohibited.

**C. Sexual Harassment:**

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

Sexual harassment is generally categorized into two types:

1. Quid Pro Quo Sexual Harassment (“this for that”)

- Submission to sexual conduct is made explicitly or implicitly a term or condition of an individual's employment.
- Submission to or rejection of the conduct by an employee is used as the basis for employment decisions affecting the employee.

2. Hostile Work Environment Sexual Harassment

Conduct of a sexual nature or on the basis of sex by any person in the workplace that unreasonably interferes with an employee’s work performance and/or creates an intimidating, hostile, or otherwise offensive working environment. Examples include:

- Unwelcome 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 or any such items.
- Impeding or blocking movement, unwelcome touching, or assaulting others.
- Any sexual advances that are unwelcome as well as 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.

**D. Retaliation:**

As used in this policy, retaliation is defined as any adverse employment action taken against an employee because the employee engaged in activity protected under this policy. Protected activities may include, but are not limited to, reporting, or assisting in reporting suspected violations of this policy and/or cooperating in investigations or proceedings arising out of a violation of this policy. Retaliation against applicants and employees engaged in protected activities is prohibited regardless of whether the County ultimately finds the underlying conduct violated this policy.

Adverse employment action is conduct or an action that materially affects the terms and conditions of the employee’s employment status or is reasonably likely to deter the employee from engaging in protected activity. Even actions that do not result in a direct loss of compensation may be regarded as an adverse employment action when considered in the totality of the circumstances.

Examples of retaliation under this policy 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 because of reporting a violation of this policy; harassing another employee for filing a complaint; denying employment opportunities because of 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 people differently, such as denying an accommodation; or not talking to an employee when otherwise required by job duties, or otherwise excluding the employee from job-related activities because of engagement in activities protected under this policy.

### **III. TRAINING REQUIREMENTS**

Every two years, all employees must attend Sexual Harassment Prevention and Abusive Conduct Prevention<sup>2</sup> training aimed at increasing their understanding of and preventing workplace sexual harassment (including harassment on the basis of sexual orientation, gender identity, and gender expression) and their role in creating an underlying culture of mutual respect in our workplace.

### **IV. ADDRESSING AND REPORTING VIOLATIONS OF THIS POLICY**

Any employee or applicant who experiences or witnesses behavior that they believe violates this policy is encouraged to immediately tell the offending individual that the behavior is inappropriate and, if they feel comfortable doing so, to tell the offending individual to stop the behavior. The applicant or employee should also immediately report the alleged violation to their supervisor, manager, Department/Agency's Diversity Coordinator, or the Diversity Programs Unit. There is no chain of command when contacting the Diversity Coordinator or the Diversity Programs Unit; an individual does not need supervisor or manager approval to do this. If the alleged offender is the employee's supervisor or manager, the employee should report the conduct to any other supervisor or manager, or to their Diversity Coordinator or the Diversity Programs Unit. A detailed description of the complaint investigation process, together with a complaint form, may be found on the Diversity Programs Unit's website at <http://www.acgov.org/diversity/file-a-complaint.htm>.<sup>3</sup>

Supervisors or managers who learn of any potential violation of this policy are

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<sup>2</sup> A copy of the County's Abusive Conduct Prevention Policy can be found at <https://acgovt.sharepoint.com/:b:/r/sites/AlamedaCountyDocumentCenter/Policies/Abusive%20Conduct%20Policy.pdf?csf=1&web=1&e=sZaYDT>

<sup>3</sup> More information regarding the County's complaint investigation process is addressed in [Administrative Code Chapter 3.48](#).

required to immediately report the matter to their Department/Agency's Diversity Coordinator and must follow the Coordinator's instructions as to how best to proceed.

The County of Alameda will promptly explore the facts and circumstances of any alleged violation of this policy, as appropriate under the circumstances. An employee or applicant who experiences or witnesses behavior that they believe violates this policy may contact their Agency/Department Diversity Coordinator to seek informal resolution of their concerns. The Diversity Coordinator will consult with the employee or applicant, look into the matter raised, and seek to address their concerns at the earliest stage possible. The Diversity Coordinator is also available to provide general information regarding this policy, the Agency/Department's investigation process, and other processes available to the employee or applicant. However, an employee or applicant is not required to pursue informal resolution before making a formal complaint.

Even in the absence of a formal complaint, the County may initiate an investigation where it has reason to believe that conduct that violates this policy has occurred. Moreover, even where a complainant conveys a request to withdraw their initial formal complaint, the County may continue the investigation to ensure that the workplace is free from discrimination, harassment, and retaliation. Anonymous complaints will also be investigated. The investigatory method will depend on the level of detail provided in the anonymous complaint. If sufficiently detailed, the investigation may be able to proceed in the same manner as any other complaint. If the complaint is more general, the County may have to follow an alternative method, such as an environmental assessment or survey. No matter how conducted, all investigations will be fair, impartial, timely, and completed by qualified personnel.

The County will endeavor to keep the reporting of the applicant or employee's concerns confidential to the extent possible; however, complete confidentiality cannot be guaranteed when it interferes with the County's ability to fulfill its obligations under this policy. All employees 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 any and all information that may be pertinent to the investigation. The County will notify the complainant and respondent once the investigation is concluded and provide appropriate information regarding to the disposition of the complaint. Upon completion of the investigation, if misconduct is substantiated, the County will take appropriate corrective and preventive action calculated to end the conduct, including formal discipline up to an including termination of employment where warranted.



**The County of Alameda's** Diversity Programs Unit can be reached as follows:

Diversity Programs Unit  
1106 Madison Street, Suite 233  
Oakland, CA 94612  
Phone: 510-272-6700  
Fax: 510-272-5020  
QIC: 20104

## **V. FILING OF COMPLAINTS OUTSIDE ALAMEDA COUNTY**

Employees and applicants may file formal complaints of discrimination, harassment, or retaliation with the agencies listed below. Individuals who wish to pursue filing with these agencies should contact them directly to obtain further information about their processes and time limits.

### **California Department of Fair Employment and Housing**

1330 Broadway, Suite 1326  
Oakland, CA 94612  
800-884-1684 (voice), 800-700-2320 (TTY) or California's Relay Service at 711  
[contact.center@dfeh.ca.gov](mailto:contact.center@dfeh.ca.gov)  
<https://www.dfeh.ca.gov>

### **U.S. Equal Employment Opportunity Commission**

1301 Clay Street  
Suite 1170-N  
Oakland, CA 94612-5217  
1-800-669-4000 or 510-735-8909 (Deaf/hard-of-hearing callers only)  
<http://www.eeoc.gov/employees>

## **VI. CORRECTIVE ACTION GUIDELINES**

The County of Alameda will take appropriate corrective action(s), including formal discipline, against any employee(s) when an investigation has found that they have violated this policy. Such corrective action(s) may include, but are not limited to, letters of reprimand, suspension, demotion, or termination.