

# County of Monterey Board Policy Manual

<b>Policy Name</b> Nondiscrimination Policy	<b>Policy Number</b>	<b>Page</b>
	P-160	1 of 5
<b>Policy Category</b> Personnel		

## I. Purpose

1. To expand upon Chapter 2.80 of the Monterey County Code, the Civil Rights Ordinance.
2. To comply with federal and state civil rights laws including California's Fair Employment and Housing Act, the Civil Rights Act of 1964, the American with Disabilities Act, the Age Discrimination Act of 1975, and the Rehabilitation Act of 1973.
3. To support an organizational culture that values inclusion, equity, and diversity.

## II. Definitions

*Employee:* all persons employed by Monterey County including but not limited to managers, supervisors, Department Heads, frontline staff, elected officials, appointed officials (including commissioners), unpaid interns, and volunteers.

*Harassment:* any behavior that intimidates, threatens, degrades, torments, or places demands on another, based on one more of the protected categories. Examples include, but are not limited to:

1. Racial or ethnic slurs, epithets, and any other offensive remarks;
2. Jokes, whether written, verbal or electronic;
3. Threats, intimidation and other menacing behavior;
4. Inappropriate verbal, graphic or physical conduct;
5. Sending or posting harassing messages, videos or messages via text, instant messaging, or social media;
6. Other harassing or discriminatory conduct based on one or more of the protected categories identified in this policy.

## III. Background

The 2017 creation of the Nondiscrimination Policy is in response to last year's revision of the Fair Employment and Housing Act and a countywide effort to ensure compliance with Title VI and Title VII of the Civil Rights Act. This policy combines elements of the previous Equal Opportunity and Non-Discrimination Policy and Resolution 80-12 that allows for equal opportunities for persons serving on County commissions.

#### **IV. Policy**

Monterey County is committed to providing equal opportunities to all employees, applicants, customers, persons receiving services from, and persons doing business with the County and will ensure that people may participate in, enjoy the benefits of, and be free from discrimination under any program or activity it administers without regard to:

- Age (40 or older);
- Ancestry;
- Color;
- Religious creed (including religious dress and grooming practices);
- Denial of family and medical care leave;
- Disability (mental and physical) including HIV and AIDS;
- Marital status;
- Medical condition (cancer and genetic characteristics);
- Genetic information;
- Military and veteran status;
- National origin (including language use restrictions);
- Race;
- Sex (including pregnancy, child birth, breastfeeding and medical conditions related to pregnancy, child birth or breastfeeding);
- Gender;
- Gender identity and gender expression;
- Sexual orientation; or,
- Any other protected status in accordance with all applicable federal, state and local laws (Further referred to as "protected categories").

In addition, Monterey County is committed to providing a work environment that is free of unlawful harassment. In furtherance of this commitment, the County strictly prohibits all forms of unlawful harassment, including harassment based on the protected categories and any other protected status in accordance with all applicable federal, state, and local laws. In addition, Monterey County does not tolerate sexual harassment. The County's sexual harassment policy clarifies this position.

Similarly, the County is committed to complying with all laws protecting qualified individuals with disabilities, as well as employees' religious beliefs and observances. This policy extends to all aspects of the County's employment practices, including recruiting, hiring, discipline, termination, promotions, transfers, compensation, benefits, training, leaves of absence, and other terms and conditions of employment.

Monterey County will provide a reasonable accommodation for any known physical or mental disability of a qualified individual or for employees' religious beliefs and observances, provided the requested accommodation does not create an undue hardship for the County and does not pose a direct threat to the health or safety of others in the workplace or to the individual. The County will not retaliate or discriminate against a person for requesting an accommodation for his or her disability, regardless of whether the accommodation was granted.

The County prohibits managers, supervisors, and employees from discriminating against or harassing co-workers as well as customers, vendors, suppliers, independent contractors, and others doing business with the County. In addition, the County prohibits customers, vendors, suppliers, independent contractors, and others doing business with the County from discriminating against or harassing the County's employees.

Employees who have any questions about what constitutes harassing or discriminatory conduct should contact their supervisor, manager, Department Head, Human Resources, or the Civil Rights Office.

The County has a separate policy directly addressing sexual harassment, and the standards of conduct regarding sexual harassment can be found in that policy.

## **V. Procedure**

### *Reporting Harassment or Discrimination*

If an employee feels that he or she is being harassed or discriminated against by another employee, supervisor, manager, or third party doing business with the County, in violation of this policy, the employee shall immediately contact their supervisor, manager, Department Head, Human Resources, or the Civil Rights Office. In addition, if an employee observes harassment or discrimination by another employee, supervisor, manager, or nonemployee, the employee shall immediately report the incident to one or more of the individuals identified above. Appropriate action will also be taken in response to violation of this policy by any nonemployee.

If a customer, person receiving services from, or person doing business with the County feels that he or she is being harassed or discriminated against by an employee, supervisor, manager, or third party doing business with the County, in violation of this policy, the person should contact an appropriate supervisor or manager, or the Civil Rights Office.

All supervisors, managers, Department Heads, and Human Resources professionals shall report complaints of misconduct under this policy and the Sexual Harassment Policy to the Civil Rights Office immediately so the County can investigate and try to resolve the claim at the most appropriate level.

All complaints of unlawful harassment and discrimination that are reported to management or to the persons identified above will be investigated as promptly as possible, and corrective action will be taken where warranted. All complaints of unlawful harassment that are reported to management or to the persons identified above will be

treated with as much confidentiality as possible, consistent with the need to conduct an adequate investigation. Complaints will be investigated by impartial and qualified internal personnel unless external involvement is warranted. The process will be documented and tracked for reasonable progress, and all investigations will be completed timely. If the County determines that a County employee intentionally provided false information during an investigation or regarding a complaint, corrective action may be taken against that employee, up to and including termination.

The California Department of Fair Employment and Housing (DFEH) may also investigate and process complaints of harassment and discrimination. Violators are subject to penalties and remedial measures that may include sanctions, fines, injunctions, reinstatement, back pay, and damages. The toll-free number from the DFEH is (800) 884-1684.

Notification to the County is essential to enforcing this policy. All employees and individuals are assured that they will not be penalized in any way for reporting a harassment or discrimination problem. It is unlawful for an employer to retaliate against employees who oppose the practices prohibited by the California Fair Employment and Housing Act (FEHA), or who file complaints or otherwise participate in an investigation, proceeding or hearing conducted by the Monterey County Civil Rights Office, the DFEH, or the Equal Employment Opportunity Commission (EEOC). Similarly, the County prohibits employees from hindering its internal investigations or its internal complaint procedure. Intentionally hindering an investigation may subject the employee to corrective action, up to and including termination.

This procedure is not intended to prohibit complainants from filing complaints with the DFEH, the federal Equal Employment Opportunity Commission (EEOC), other relevant state and federal agencies, or pursuing any legal remedies available to them.

The Civil Rights Officer will maintain detailed complaint procedures which can be obtained by contacting the Civil Rights Office at (831) 755-5117 or at <http://www.co.monterey.ca.us/eqopp>.

### *Violations of this Policy*

Violation of this policy may subject an employee or those doing business with the County to remedial, disciplinary, and/or corrective action, up to and including immediate termination. In addition, under California law, employees may be held personally liable for harassing or discriminating conduct that violates the FEHA.

### *Retaliation Prohibited*

Monterey County prohibits retaliation against those who report, oppose, or participate in an investigation of alleged violations of this policy, or against those who participate in protected activity. Participating in an investigation of alleged wrongdoing in the workplace may include:

1. Filing a complaint internally with the Civil Rights Office, a federal, or state enforcement or administrative agency;
2. Participating in or cooperating with the County, a federal, or state enforcement agency that is conducting an investigation of the County regarding alleged unlawful activity;
3. Testifying as a party, witness, or accused regarding alleged unlawful activity;
4. Associating with another employee who is engaged in any of these activities; and/or,
5. Providing informal notice to the County regarding alleged unlawful activity.

The County strictly prohibits any adverse action or retaliation against an employee for participating in an investigation of alleged violation of this policy. If an employee feels that he or she is being retaliated against, the employee shall immediately contact their supervisor, manager, Department Head, Human Resources, or the Civil Rights Office. In addition, if an employee observes retaliation by another employee, supervisor, manager, or nonemployee, he or she should immediately report the incident to the individuals identified above.

Any employee determined to be responsible for violating this policy will be subject to appropriate disciplinary action, up to and including termination. Moreover, any employee, supervisor, or manager who condones or ignores potential violations of this policy will be subject to appropriate disciplinary action, up to and including termination.

#### *Training and Policy Dissemination*

The Civil Rights Office shall be responsible for formulating and coordinating training on this policy for county employees and officials.

Each Department Head shall be responsible for ensuring its employees complete the training provided by the Civil Rights Office.

#### **VI. Review Date**

- a. This Policy will be reviewed for continuance by January 8, 2023.

#### **VII. Board Action**

- a. Legistar File Number 17-1262, January 9, 2018.