



COUNTY OF LOS ANGELES

DEPARTMENT OF HUMAN RESOURCES

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LISA M. GARRETT
DIRECTOR OF PERSONNEL

November 8, 2017

To: All Department Heads

From: Lisa M. Garrett
Director of Personnel

Subject: **REVISION OF POLICY, PROCEDURE, AND GUIDELINE NO. 812,
COUNTY POLICY OF EQUITY**

Attached is the revised Countywide Policy, Procedure, and Guideline (PPG) 812 – *County Policy of Equity*, originally issued on July 25, 2011. PPG 812 was updated to incorporate amendments to California Government Code Section 12940, which took effect on April 1, 2016. The statute protects employees from discrimination or retaliation by employers and expands protected classes to also include: religious creed, ancestry, physical or mental disability, medical condition, genetic information, gender, gender identity, gender expression, military and veteran status.

Please include the revised PPG 812 in Tab 8 – Performance Management, of the Human Resources Management System Manual. Your Departmental Human Resources Manager will also receive a copy of this memorandum and attachment for inclusion in the department's master copy of the PPG Manual, and for distribution in your department. The policy may also be found on the DHR website at <http://dhr.mylacounty.info/>.

Should you have questions, please contact me at (213) 974-2406 or your staff may contact Marisa Lopez, Senior Human Resources Manager, at (213) 351-8945.

LMG:EP:JAWT
ML:DMM:rp

c: Chief Deputies
Administrative Deputies
Departmental Human Resources Managers

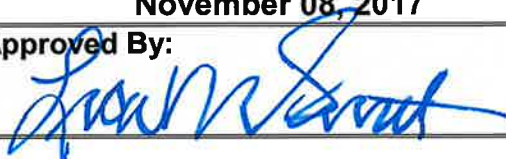
Attachment

HRDS\PPG-related\PPG 812 CPOE\LMG Memo to DHs Re Revised PPG 812.docx

To Enrich Lives Through Effective and Caring Service



County of Los Angeles
Department of Human Resources
POLICIES, PROCEDURES, AND GUIDELINES

Subject: COUNTY POLICY OF EQUITY	Policy Number: 812	Pages: 9
	Effective Date: November 08, 2017	
	Approved By: 	

POLICY

This Policy is intended to preserve the dignity, respect, and professionalism of the workplace, as well as protect the right of employees to be free from discrimination, sexual harassment, unlawful harassment (other than sexual), retaliation, and inappropriate conduct toward others based on a protected status. Retaliation, as well as discrimination, sexual harassment, unlawful harassment (other than sexual), and inappropriate conduct toward others based on a protected status, are contrary to the values of the County of Los Angeles (County).

The County will not tolerate unlawful discrimination on the basis of age (40 and over); ancestry; color; ethnicity; religious creed (including religious dress and grooming practices); denial of family and medical care leave; disability (including mental and physical disability); marital status; medical condition (cancer and genetic characteristics); genetic information; military and veteran status; national origin (including language use restrictions); race; sex (including pregnancy, childbirth, breastfeeding, and medical conditions related to pregnancy, childbirth, or breastfeeding); gender; gender identity; gender expression; sexual orientation; and any other characteristic protected by state or federal law. Further, the County will not tolerate retaliation for filing a complaint under the Policy or similar state or federal law, for participating in an administrative investigation or proceeding under the Policy, for performing duties under the Policy, or for otherwise opposing conduct prohibited by the Policy.

As a preventive measure, the County also will not tolerate inappropriate conduct toward others based on a protected status, even if the conduct does not meet the legal definition of discrimination or unlawful harassment. All County employees are responsible for conducting themselves in accordance with this Policy and its associated Procedures. Violation of the Policy and/or Procedures will lead to prompt and appropriate administrative action including, but not limited to, counseling, training, written warning, written reprimand, suspension, demotion, or discharge.

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The law prohibits coworkers, supervisors and managers, and third parties from engaging in conduct prohibited by the Fair Employment and Housing Act (FEHA).

All County employees are required to conduct themselves in accordance with this Policy, and all applicable local, county, state, and federal laws.

PROHIBITED CONDUCT

Each County employee is responsible for understanding and abiding by the following definitions of prohibited conduct as they may impact any administrative process/proceeding for potential violations of this Policy and/or associated Procedures.

Section 1. Discrimination

Discrimination is the disparate or adverse treatment of an individual based on or because of that individual's age (40 and over); ancestry; color; ethnicity; religious creed (including religious dress and grooming practices); denial of family and medical care leave; disability (including mental and physical disability); marital status; medical condition (cancer and genetic characteristics); genetic information; military and veteran status; national origin (including language use restrictions); race; sex (including pregnancy, childbirth, breastfeeding, and medical conditions related to pregnancy, childbirth, or breastfeeding); gender; gender identity; gender expression; sexual orientation; and any other characteristic protected by state or federal law.

Section 2. Sexual Harassment

Sexual harassment includes unwelcome sexual advances, requests for sexual favors, and other verbal, visual or physical conduct of a sexual nature which meets any one of the following criteria:

- Submission to such conduct is made, either explicitly or implicitly, a term or condition of an individual's employment;
- Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- Such conduct has the purpose or effect of unreasonably interfering with the individual's employment or creating an intimidating, hostile, offensive, or abusive working environment.

Section 3. Unlawful Harassment (Other than Sexual)

Unlawful harassment of an individual because of the individual's age (40 and over); ancestry; color; ethnicity; religious creed (including religious dress and grooming practices); denial of family and medical care leave; disability (including mental and

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physical disability); marital status; medical condition (cancer and genetic characteristics); genetic information; military and veteran status; national origin (including language use restrictions); race; sex (including pregnancy, childbirth, breastfeeding, and medical conditions related to pregnancy, childbirth, or breastfeeding); gender; gender identity; gender expression; sexual orientation; and any other protected characteristic protected by state or federal law is also discrimination and prohibited. Unlawful harassment is conduct which has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, offensive, or abusive work environment.

Section 4. Third-Person Harassment

Third-person unlawful harassment is indirect harassment of a bystander, even if the person engaging in the conduct is unaware of the presence of the bystander. When an individual engages in harassing behavior, they assume the risk that someone may pass by or otherwise witness the behavior; the County considers this to be the same as directing the harassment towards that individual.

Section 5. Inappropriate Conduct Towards Others

Inappropriate conduct toward others is any physical, verbal, or visual conduct based on or because of age (40 and over); ancestry; color; ethnicity; religious creed (including religious dress and grooming practices); denial of family and medical care leave; disability (including mental and physical disability); marital status; medical condition (cancer and genetic characteristics); genetic information; military and veteran status; national origin (including language use restrictions); race; sex (including pregnancy, childbirth, breastfeeding, and medical conditions related to pregnancy, childbirth, or breastfeeding); gender; gender identity; gender expression; sexual orientation; and any other characteristic protected by state or federal law, when such conduct reasonably would be considered inappropriate for the workplace.

This provision is intended to stop inappropriate conduct based on a protected status before it becomes discrimination or unlawful harassment. As such, the conduct need not meet the legally actionable state and/or federal standards of severe or pervasive to violate this Policy. An isolated derogatory comment, joke, racial slur, sexual innuendo, etc., **may** constitute conduct that violates this policy and is grounds for discipline, up to and including discharge from County service. Similarly, the conduct need not be unwelcome to the party against whom it is directed; if the conduct reasonably would be considered inappropriate by the County for the workplace, it **may** violate this Policy.

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Section 6. Retaliation

Retaliation for the purposes of this Policy is an adverse employment action against another for reporting a protected incident or filing a complaint of conduct or opposing conduct that violates this Policy or the law or participating in an investigation, administrative proceeding or otherwise exercising their rights or performing their duties under this Policy or the law.

Section 7. Duty to Cooperate

In accordance with County PPG 910, Employees' Cooperation in the Administrative Investigation Process, all County employees are responsible for fully cooperating in any administrative investigation related to this Policy.

Section 8. No Retaliation

This Policy absolutely prohibits retaliation. No County employee will be subjected to an adverse employment action for: making a complaint of conduct, or opposing conduct that potentially violates this Policy, or cooperating in any administrative investigation or otherwise preventing prohibited practices or performing duties under this Policy. The County will take corrective administrative action to prevent retaliation, including the imposition of appropriate discipline to any County employee who engages in retaliation.

Section 9. Confidentiality

The County shall maintain all complaint-related information in confidence to the extent possible given the obligation to conduct a full and fair investigation. For more information concerning confidentiality, County employees should contact the County Intake Specialist Unit (CISU).

GUIDELINES

EXAMPLES OF CONDUCT THAT MAY VIOLATE THIS POLICY AND SCOPE OF COVERAGE

Depending on the facts and circumstances, below are examples of conduct that may violate this Policy. Please be advised that this list is not exhaustive:

- Posting, sending, forwarding, soliciting or displaying in the workplace any materials, documents or images that are, including but not limited to, sexually suggestive, or racist;

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- Verbal conduct such as whistling and cat calls, using or making lewd or derogatory noises or making graphic comments about another's body, or participating in discussions about sexual experiences and/or desires;
- Verbal conduct such as using sexually, racially or ethnically degrading words or names, using or making racial or ethnic epithets, slurs, or jokes;
- Verbal conduct such as comments or gestures about a person's physical appearance, which have a racial, sexual, disability-related, religious, age or ethnic connotation or derogatory comments about religious differences and practices;
- Physical conduct such as inappropriate touching, pinching, massaging, hugging, kissing, rubbing the body or making sexual gestures;
- Visual conduct such as staring, leering, displaying or circulating sexually suggestive objects, pictures, posters, photographs, cartoons, calendars, drawings, magazines, computer images or graphics;
- Sexual advances or propositions, including repeated requests for a date;
- Adverse employment actions like discharge and/or demotion against someone who perceives it to be because of their race, or gender.

SCOPE OF COVERAGE

County Workforce: For purposes of this Policy, County Workforce, includes but is not limited to, County employees, applicants for employment, unpaid volunteers, and interns and persons providing services pursuant to a contract.

Location: This Policy prohibits discrimination, unlawful harassment, retaliation, and inappropriate conduct toward others based on a protected status, whether in the workplace or in an environment with a nexus to the workplace, including in other work-related settings such as offsite work-related events (e.g., retirement parties).

Communication System/Equipment: This Policy also applies to the use of any communication system or equipment in the workplace, including, but not limited to, electronic mail, internet, intranet, telephone lines, computers, facsimile machines, voice-mail, radio, cell phones, tablets, and mobile digital terminals. Employees may be disciplined for using any communication system or equipment to deliver, display, store, forward, publish, circulate, or solicit material in violation of this Policy.

PROCEDURES

REPORTING VIOLATIONS OF THIS POLICY

Any County employee who believes to have been subjected to conduct that potentially violates this Policy is strongly encouraged to report the matter to a supervisor or

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manager, whether or not the employee is directly supervised by that person, or to the County Intake Specialist Unit (CISU). The CISU may be reached by phone: **1-855-999-CEOP (2367)** or via its website: <https://CEOP.bos.lacounty.gov> and is located at: **Kenneth Hahn Hall of Administration, 500 West Temple Street, Room # B-26, Los Angeles, CA 90012.**

Any County employee who believes they have been subjected to conduct that potentially violates this Policy has the right to, without undue obstruction or interference, report the potential violation to a supervisor or manager other than their direct supervisor.

Any non-supervisory County employee who has knowledge of conduct that potentially violates this Policy is also strongly encouraged to report the matter.

Supervisors and managers have an *affirmative duty* to report potential violations of this Policy to the CISU. Supervisors and managers also have additional duties and responsibilities as detailed in the procedures associated with this Policy.

All complaints filed under the Policy will undergo a fair, complete, and timely investigation, followed by a reasonable conclusion drawn from the evidence collected. The County will take appropriate corrective action if misconduct is revealed.

The County will promptly, fully and fairly investigate any reports/complaints and take appropriate corrective action.

County employees may also contact the California Department of Fair Employment and Housing (DFEH) by calling (800) 884-1684 or via their website at www.dfeh.ca.gov; and/or may contact the Federal Equal Employment Opportunity Commission (EEOC) by calling (213) 894-1000 or (800) 669-4000 or via their website at www.eeoc.gov.

Section 10: Duties of Supervisors and Managers

Under these Procedures, supervisors and managers have an *affirmative duty* to perform certain duties as enumerated below.

For purposes of this Policy, supervisors and managers, include: any employee regardless of job description or title, having authority, in the interest of the employer, to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or effectively to recommend this action, if, in connection with the foregoing, the exercise of this authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

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NOTE: FAILURE BY ANY SUPERVISOR OR MANAGER TO CARRY OUT THESE DUTIES MAY BE CAUSE FOR DISCIPLINE.

Section 11: Duty of All Supervisors and Managers to Report

Supervisors and managers have an *affirmative duty* to report potential violations of the Policy. Supervisors and managers are required to report potential violations of the Policy to the CISU even when a complaining or reporting party requests that no action be taken. The supervisor or manager *shall*:

Immediately notify the CISU of the incident(s) or complaint and any initial steps taken by the supervisor or manager, and complete a County Policy of Equity Report/Notification form ("County POE Report Form") with the CISU.

Section 12: Additional Duties of All Supervisors and Managers

Supervisors and managers are also responsible for:

- Being aware of, abiding by, and understanding the Policy and Procedures, as well as any modifications that may be made to them;
- Actively monitoring the work environment to ensure that conduct which potentially violates the County Policy of Equity is not occurring;
- Informing County employees under their supervision of the types of prohibitive behavior, and the County's procedures for reporting and resolving complaints arising under the Policy;
- Stopping conduct that potentially violates the Policy and taking immediate and **appropriate administrative action** whether or not the involved County employees are within their line of supervision; and
- If a situation requires separation of the involved parties, particular care must be taken to avoid actions that appear to punish the complaining party. (Note: Supervisors are not required to place themselves in physical harms way to separate the parties.)

Supervisors and managers have the foregoing duties whether or not a complaint has been made.

Section 13: Additional Duties of Department Heads

In addition to the duties described above, Department Heads have the following duties:

- Ensuring that the CPOE is disseminated to every employee in the Department; and

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- Ensuring that each employee is provided reasonable access to a computer capable of utilizing the County's online CPOE reporting portal, and reasonable time to make use of the portal or file a CPOE Report/Notification form, and ensuring that blank CPOE Report/Notification forms are maintained in a prominent and accessible place in every Department Unit. It is the further duty of the Department Head to ensure that the location, availability, and purpose of the computer portal and the CPOE Report/Notification forms are made known to each Department member.

DUE PROCESS, GRIEVANCE AND APPEAL RIGHTS

County Employee Rights

All applicable County employee due process, grievance and appeal rights remain intact under this Policy and Procedure Guideline.

Represented County employees may grieve disciplinary actions according to the terms of applicable memoranda of understanding ("MOU") negotiated by the Department and the union representing said members. As such, these MOUs may require separate or additional procedures according to their respective terms.

Supervisors' and Managers' Responsibilities

Any supervisor authorized to conduct grievances shall promptly communicate, in writing, to the Executive Director of the County's Equity Oversight Panel and to the involved subject's Department Head the factual basis for any decision to modify the County Equity Oversight Panel's recommendation. Failure to do so may be cause for discipline.

Appeals to Civil Service Commission

County employees also may appeal final determinations of discipline to the Civil Service Commission in accordance with the Civil Service Rules. The Department shall notify the Executive Director of the County's Equity Oversight Panel of a settled Civil Service Commission case.

EXTERNAL COMPLAINT MONITORING

The CISU shall receive and process all external discrimination, harassment, and/or retaliation complaints. A Department in receipt of an external discrimination, harassment and/or retaliation complaint shall forward the complaint to the CISU for processing. Where appropriate, the CISU will forward the complaint to the County

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Equity Investigations Unit (CEIU) for investigation and any required contact, communication and/or closure with the involved external entity.

AUTHORITY

California Government Code Section 12940

May 31, 2011, Chief Executive Office and Executive Office, Board of Supervisors:
Approval of County of Los Angeles Policy of Equity
<http://file.lacounty.gov/bos/supdocs/61126.pdf>

BOS Policy 9.010, Equal Employment Opportunity Non-Discrimination Policy Statement and Poster

BOS Policy 9.015, County Policy of Equity

Los Angeles County Code Chapter 5.09 Policy of Equity

Department of Human Resources, *Gender Nondiscrimination Guidelines* Number 812-R

Department of Human Resources, Policies, Procedures and Guidelines Number 910,
Employees' Cooperation in the Administrative Investigations Process

DATE ISSUED

Original Issue Date: July 25, 2011
Review Date: October 10, 2017