

ANALYSIS

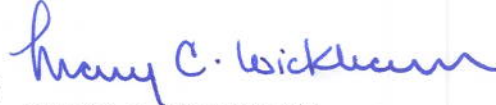
This ordinance repeals previously existing Chapter 5.09 of the Los Angeles County Code which relates to the County's Sexual Harassment Policy.

This ordinance adds a new Chapter 5.09 to the Los Angeles County Code to address unlawful harassment, discrimination, sexual harassment, retaliation, and inappropriate conduct toward others based on a protected status.

This ordinance defines unlawful harassment, discrimination, sexual harassment, retaliation, and inappropriate conduct toward others based on a protected status. This ordinance also provides for the administration of the County's Policy of Equity.

ANDREA SHERIDAN ORDIN
County Counsel

By



MARY C. WICKHAM
Principal Deputy County Counsel
Labor & Employment Division

MCW:js

Requested: 03-08-11
Revised: 05-20-11

ORDINANCE NO. 2011-0029

An ordinance amending Title 5 - Personnel of the Los Angeles County Code to repeal Chapter 5.09 and add a new Chapter 5.09 relating to unlawful harassment, discrimination, retaliation and inappropriate conduct toward others based on a protected status and the administration of the County's Policy of Equity.

The Board of Supervisors of the County of Los Angeles ordain as follows:

SECTION 1. Chapter 5.09 is hereby repealed in its entirety.

SECTION 2. Chapter 5.09 is hereby added to read as follows:

5.09 POLICY OF EQUITY

5.09.010 Policy of Statement

It is the policy of the County to preserve the dignity and professionalism of the workplace as well as to protect the right of employees to be free from discrimination, unlawful harassment, retaliation and/or inappropriate conduct toward others based on a protected status. Discrimination, unlawful harassment, retaliation and/or inappropriate conduct on the basis of sex, race, color, ancestry, religion, national origin, ethnicity, age (40 and over), disability, sexual orientation, marital status, medical condition or any other protected characteristic protected by State or federal employment laws are unacceptable. Inappropriate conduct based on a protected status includes conduct that may not meet the legal definition of discrimination or unlawful harassment. County employees are responsible for conducting themselves according to this policy, including the reporting of conduct which potentially violates this policy.

5.09.020 Definitions

A. Discrimination is the disparate or adverse treatment of an individual based on the individual's sex, race, color, ancestry, religion, national origin, ethnicity, age (40 and over), disability, sexual orientation, marital status, medical condition or any other protected characteristic protected by State or federal employment laws.

B. Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal, visual or physical conduct of a sexual nature which includes any of the following:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; or

2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or

3. 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.

C. Unlawful harassment (other than sexual) 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 based upon the individual's race, color, ancestry, religion, national origin, ethnicity, age (40 and over), disability, sexual orientation, marital status, medical condition or any other protected characteristic protected by State or federal employment laws.

D. Inappropriate conduct toward others is any physical, verbal, or visual conduct based on or because of sex, race, color, ancestry, religion, national origin, ethnicity, age (40 and over), disability, sexual orientation, marital status, medical condition or any other protected characteristic protected by State or federal employment laws when such conduct reasonably would be considered inappropriate for the workplace. Such conduct need not meet legally actionable State and/or federal standards of severe or pervasive to violate this policy.

E. Retaliation is an adverse employment action against another for reporting a protected incident, for filing a complaint regarding conduct that violates this policy, for participating in an investigation or administrative proceeding, or for otherwise exercising their rights or performing their duties under this policy.

5.09.030 Scope of Coverage

This policy prohibits discrimination, unlawful harassment, retaliation, and inappropriate conduct toward others based on a protected status in the workplace, in other work-related settings such as off site work-related events with a nexus to the workplace, and through 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, and mobile or digital devices. This policy applies not only to county employees and applicants for employment, but also persons who have a nexus with the county such as county volunteers and outside vendors.

5.09.040 Administration of Policy

A. The Executive Office of the Board of Supervisors or its designee shall be responsible for the administration, implementation and maintenance of this policy and procedures.

B. The County Department of Human Resources is responsible for:

1. Educating managers, supervisors and employees, and informing them of their rights and responsibilities under this policy and its procedures;
2. Developing processes for conducting investigations of alleged, potential violations and advising management on corrective actions when such actions appear to be warranted;
3. Investigating employee complaints of potential violations of this policy or of federal or State law, or of County ordinance, policy, or departmental regulation;
4. Responding to external equity complaints filed by County employees with State and federal enforcement agencies; and
5. Investigating, at the request of a department head, potential violations of this policy or complaints of other types of employment discrimination, harassment or related misconduct prohibited by federal or State law, or County ordinance, policy, or departmental regulation.

C. The Executive Director County Equity Oversight Panel (EDCEOP) is established and responsible for the following:

1. The operations of the County Equity Oversight Panel (CEOP), including the panel of attorneys who review all policy investigations and the recommendations regarding disposition and discipline for violations of this policy.

2. Supervision of the CEOP staff who perform the review, analysis, and other related functions including audits of departments to ensure that appropriate corrective administrative actions are taken, if necessary.

3. County Intake Specialist Unit (CISU) staff who report to and work at the direction of the EDCEOP regarding the initial investigation and designation of all complaints, ensuring that initial investigations and designations are complete, timely, objective and appropriate.

4. Review and evaluate all County Equity Investigation Unit (CEIU) investigations of potential violations of this policy, including ensuring that investigations are complete, timely, objective and appropriate.

5. Development and maintenance of an operation manual that sets forth the necessary guidelines and procedures for the operation of the CEOP and maintaining the County's Policy of Equity and its procedures.

6. Serving as advisor on the County's Policy of Equity to all County department heads.

[509010MWCC]

SECTION 3. This ordinance shall be published in The Daily Commerce a newspaper printed and published in the County of Los Angeles.



Mike Antonovich
Mayor

ATTEST:

Sachi A. Hamai
Sachi A. Hamai
Executive Officer -
Clerk of the Board of Supervisors
County of Los Angeles

I hereby certify that at its meeting of June 14, 2011 the foregoing ordinance was adopted by the Board of Supervisors of said County of Los Angeles by the following vote, to wit:

Ayes
Supervisors Gloria Molina
Mark Ridley-Thomas
Zev Yaroslavsky
Don Knabe
Michael D. Antonovich

Noes
Supervisors None

Effective Date: July 14, 2011

Operative Date:

Sachi A. Hamai
Sachi A. Hamai
Executive Officer -
Clerk of the Board of Supervisors
County of Los Angeles

I hereby certify that pursuant to
Section 25103 of the Government Code,
delivery of this document has been made.

SACHI A. HAMAI
Executive Officer
Clerk of the Board of Supervisors

By Antela
Deputy



APPROVED AS TO FORM:
ANDREA SHERIDAN ORDIN
County Counsel

By Leela Kapur
Leela Kapur
Chief Deputy County Counsel