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*HR to notify employees of revisions to this policy*

Effective May 2, 1995

Revised Effective December 12, 2000

Revised Effective January 8, 2002

Revised Effective August 23, 2005

Revised Effective June 20, 2017

Revised Effective August 10, 2021

Revised Effective April 23, 2024\*\*, Resolution 20240-\*\*

### POLICY: DISCRIMINATION, HARASSMENT, AND RETALIATION PREVENTION POLICY

#### PREAMBLE

Napa County is committed to providing a professional work environment free from discrimination and harassment, including but not limited to 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 is also committed to providing equal employment opportunities to all employees and job applicants ~~for employment~~. Accordingly, this anti-discrimination policy is designed to encourage professional and respectful behavior, and prevent discriminatory and harassing conduct in our workplace.

~~-Although this Policy prohibits violations of state and federal law, it also applies to conduct that does not violate the law. The County's interpretations, findings, and actions pursuant to this Policy are internal administrative determination that are not and should not be construed as legal findings or conclusions.~~

#### **A. Discrimination, Harassment, and Retaliation Prohibited.**

Napa County prohibits Discrimination, Harassment, and/or Retaliation, as those terms are defined below. The County will take appropriate corrective action(s) up to and including formal discipline against any employee(s) when an investigation has found that misconduct occurred. Such corrective action(s) may include, but are not limited to: letters of reprimand, suspension, demotion, or termination. ~~Additionally, depending on the nature of the violation, civil liability could be imposed on the violator as well as Napa County.~~ If persons other than employees violate this policy, the County will take all reasonable actions to remedy the violation and prevent further violations from occurring. Conduct prohibited by this policy includes, but is not limited to, conduct ~~in violation of that violates the~~ law.

#### **B. Definitions.**

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For purposes of this policy, the terms listed below have the following meanings:

**Discrimination.** “Discrimination” means the unequal treatment of an employee or applicant in any aspect of employment, including but not limited to discrimination based solely or in part on the employee’s or applicant’s membership or perceived membership in a protected category. “Discrimination” includes unequal treatment based upon the employee or applicant’s association with a member of these protected classes. Harassment is also a form of Discrimination.

**Harassment.** “Harassment” means disrespectful or unprofessional conduct, including disrespectful or unprofessional conduct based on any of the protected categories listed ~~below~~ ~~above~~. Harassment can be verbal (such as slurs, jokes, insults, epithets, or teasing), visual (such as the posting or distribution of offensive posters, symbols, cartoons, drawings, computer displays, or emails), or physical conduct (such as disrespectful gestures, physically threatening another person, blocking someone’s way, making physical contact in an unwelcome manner, etc.).

**Hostile Working Environment.** “Hostile Working Environment” means an unwelcome and uncomfortable working environment arising ~~from~~ discriminatory, harassing, or retaliatory conduct and/or comments directed against you or another individual.

**Protected Category.** “Protected Category” means race (inclusive of traits historically associated with race, including, but not limited to, hair texture and protective hairstyles); ethnic group identification, 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.

**Retaliation.** “Retaliation” means taking an action or engaging in conduct that has a materially adverse effect on the terms or conditions of an employee’s employment status, either because the employee engaged in ~~a legally protected act or a protected~~ activity ~~protected~~ under this policy, such as 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, or in order to deter a reasonable employee from engaging in an activity protected under this policy. Examples of actions or conduct that have a materially adverse effect on the terms or conditions of employment include ~~but are not limited to~~: demotion; suspension; reduction in pay; denial of a

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merit salary increase; failure to hire or consider for hire; refusing to promote or consider for promotion; harassment; denying a reasonable accommodation; not talking to an employee when otherwise required by job duties; or otherwise excluding the employee from job-related activities.

**Sexual Harassment.** “Sexual Harassment” means harassment based on sex or conduct of a sexual nature, and includes harassment based on actual or perceived sex, gender, gender identity, gender expression, or sexual orientation. It may include all of the actions described in the definition of Harassment, as well as other unwelcome sex-based conduct, such as unwelcome or unsolicited sexual advances, requests for sexual favors, conversations regarding sexual activities, leering, inappropriate or unwanted touching, or other verbal or physical conduct of a sexual nature. “Sexual Harassment” includes Quid Pro Quo and Hostile Working Environment Sexual Harassment.

**Quid Pro Quo Sexual Harassment.** “Quid Pro Quo Sexual Harassment” means implicitly or explicitly making submission to sexual conduct a term or condition of an individual's employment or using an employee's submission to or rejection of sexual conduct as a basis for employment decisions affecting the employee.

**Hostile Working 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 but are not limited to: 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.

### C. Scope of Protection.

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This policy applies to Napa County applicants, employees, and officials. As used in this policy, the term “employee” includes co-workers, supervisors, managers, as well as contractors and volunteers in the County workplace. As used in this policy, the term “official” includes elected and appointed officials and members of Napa County boards or commissions.

### **D. Reporting Violations of This Policy.**

Napa County encourages any employee or applicant who experiences or ~~witnesses-sees~~ behavior that they believe violates this policy 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. However, while self-help is encouraged, it is not required. The applicant or employee should immediately report the alleged violation to their supervisor, manager or the HR Director who serves as the EEO Officer. There is no chain of command for contacting the EEO Officer; 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, manager or the EEO Officer. A complaint may be brought forward verbally or in writing. Written complaints can be made using the EEO Complaint Form (attached to this policy).

Supervisors or managers who learn of any potential violation of this policy are *required* to immediately report the matter to the EEO Officer, regardless of whether the person who may have experienced or witnessed the violation wishes to report it, and regardless of whether the supervisor or manager believes that someone else has or will report the violation. The supervisor or manager must follow the EEO Officer’s instructions as to how best to proceed.

### **E. Special Reporting Requirements For Violations of this Policy.**

Napa County recognizes that when violations of this Policy involve certain positions and departments a specific process is required. The following are the processes that shall be observed when the alleged policy violation involves:

1. The County Executive Officer, County Counsel, Agricultural Commissioner/Sealer of Weights and Measures, or the Board of Supervisors. When the Complaint involves an above-

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described position, the Chair of the Board of Supervisor's (Board) shall receive the complaint and all documents, communications, and records related to the complaint (collectively, "complaint"). The Board shall convene an ad hoc committee consisting of two Board members and any other necessary individuals. The ad hoc committee shall review the complaint and determine if an investigation is warranted. If an investigation is warranted, the County shall retain an outside investigator. The ad hoc committee shall work with the outside investigator and shall receive the investigation report. Based on the outside investigator's report and any other relevant information, the ad hoc shall make a recommendation to the Board regarding if discipline should be implemented and at what level. So long as County Counsel is not involved in the investigation, the County Counsel's office may assist the ad hoc and/or Board at its request. If the complaint involves County Counsel, outside counsel shall advise the ad hoc committee and/or Board.

2. When the complaint involves the employees of the County Executive Office or Elected Officials, other than those listed above in subsection 1. When the complaint involves the above-described office or elected officials, the County Counsel, or designee, shall receive the complaint. The County Counsel or designee shall review the complaint and determine if an investigation is warranted. If an investigation is warranted, County Counsel shall retain an outside investigator. The County Counsel or designee shall work with the outside investigator and shall receive the report.

3. When the complaint involves the Human Resources Division. When the Complaint involves a Human Resources Division employee, the CEO, or their designee, shall receive the Complaint. The CEO or their designee shall review the complaint, and with the assistance of County Counsel, determine if an investigation is warranted. If an investigation is warranted, the CEO, their designee or County Counsel shall retain an outside investigator. The CEO or their designee shall work with the outside investigator and shall receive the report.

**FF. Investigation.**

Napa County will promptly look into the facts and circumstances of any alleged violation in the manner it deems appropriate. Investigations will be fair, impartial, timely, and completed by qualified personnel. The County may initiate an investigation when it has reason to believe that conduct in violation of this policy has occurred regardless of whether it receives a complaint, and it may continue its investigation despite a request from the complaint to withdraw their

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complaint. Anonymous complaints will also be investigated. Except as stated in Section E, County may internally investigate complaints or retain an outside investigator.

### **G. Liability for Policy Violations.**

The County has zero tolerance for violations of this Policy. This means that findings of harassment, discrimination or retaliation related to a complaint made pursuant to this Policy shall lead to discipline up to and including a recommendation for immediate termination. A County contractor or vendor found to violate this Policy may have their business relationship with County terminated.

### **H Right To Representation.**

Both complainants and respondents have the right to be represented by ~~a-one~~ person of their choosing during the investigation and will receive appropriate information about its outcome- [Individuals who are the subject of an investigation based on this Policy, the outcome of which may ~~reasonable~~reasonably lead to discipline, have the right to have a representative during investigatory interviews and or meetings.]

### **IF. Confidentiality.**

To the extent possible, Napa County will attempt to keep the reporting of the applicant or employee's concerns confidential; however, complete confidentiality cannot be guaranteed when it interferes with Napa County's ability to fulfill its obligations under this policy. All employees are required to cooperate fully with any investigation and should refrain from discussing the complaint and investigation process. ~~This includes, but is not limited to,~~ maintaining an appropriate level of discretion regarding the investigation. Employees are required and to ~~disclosing-disclose any and all~~ information that may be pertinent to the investigation.

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The Napa County Director of Human Resources serves as Napa County's EEO Officer

Contact information for Napa County's EEO Officer is:

~~{Insert name and contact info here}~~Christine Briceño, Director of Human Resources

[Christine.Briceno@countyofnapa.org](mailto:Christine.Briceno@countyofnapa.org) 707-253-8341

### FILING COMPLAINTS OUTSIDE NAPA 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~~Civil Rights Department  
2218 Kausen Drive, Suite 100  
Elk Grove, CA 95758

[Communication Center: 800-884-1684 \(voice\), 800-700-2320 \(TTY\) or](tel:800-884-1684)  
~~800-884-1684 (voice), 800-700-2320 (TTY)~~ or California's Relay Service at 711  
~~contact.center@calcivilrights.ca.gov~~[contact.center@dfeh.ca.gov](mailto:contact.center@dfeh.ca.gov)  
~~https://calcivilrights.ca.gov/https://www.dfeh.ca.gov~~

U.S. Equal Employment Opportunity Commission  
450 Golden Gate Avenue 5 West,  
P.O Box 36025  
San Francisco, CA 94102-3661  
1-800-669-4000 or 510-735-8909 (Deaf/hard-of-hearing callers only)  
<http://www.eeoc.gov/employees>

**COMPLAINT OF DISCRIMINATION, HARASSMENT, OR RETALIATION FORM**

1. NAME: \_\_\_\_\_

2. DEPARTMENT: \_\_\_\_\_

3. OFFICE LOCATION: \_\_\_\_\_

4. WORK PHONE: \_\_\_\_\_

5. IMMEDIATE SUPERVISOR: \_\_\_\_\_

6. Please describe the conduct that you believe violates the Discrimination, Harassment or Retaliation Prevention Policy. In your narrative, describe:

- (1) What happened to you;
- (2) Why you believe you are being discriminated, harassed, or retaliated against, including the reason or evidence you have to support your belief, and;
- (3) When the acts of discrimination, harassment, or retaliation occurred (attach additional pages if needed). If you require assistance with completing this form as a reasonable accommodation, please contact the EEO officer.

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**7. PERSON(S) ALLEGED TO HAVE VIOLATED THE POLICY**

	<b>Person #1</b>	<b>Person #2</b>	<b>Person#3</b>
<b>Name</b>			
<b>Position</b>			
<b>Work Location</b>			

**8. PERSON(S) WITH INFORMATION/KNOWLEDGE OF THE ALLEGED INCIDENTS**

	<b>Witness #1</b>	<b>Witness #2</b>	<b>Witness #3</b>
<b>Name</b>			
<b>Position</b>			
<b>Work Location</b>			

**9. HAVE YOU COMPLAINED TO ANYONE AT NAPA COUNTY ABOUT THIS MATTER?**

- If yes, explain the situation. When did you complain, to whom, and what was the result?

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**Please submit completed form to the Equal Employment Opportunity Officer.**