



BOARD OF SUPERVISORS COUNTY OF MADERA

MADERA COUNTY GOVERNMENT CENTER
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Members of the Board
Brett Frazier, District 1
David Rogers, District 2
Robert L. Poythress, District 3
Max Rodriguez, District 4
Tom Wheeler, District 5

AGENDA ITEM SUBMITTAL

June 26, 2018

Chairman Tom Wheeler

DEPARTMENT County Administration/Human Resources/Operations Division	DEPARTMENT CONTACT Michele May 559-675-7705	AGENDA ITEM 7.1 Regular Session:											
SUBJECT: Equal Employment Opportunity Plan	REQUIRED VOTE: 3/5 Votes Required	DOC. ID NUMBER 4046	DATE REC'D 6/12/2018										
For Clerk of the Board's Office Use Only													
BOARD'S ACTION:													
<table style="width: 100%; border: none;"> <tr> <td style="width: 15%;">RESULT:</td> <td>APPROVED [UNANIMOUS]</td> </tr> <tr> <td>MOVER:</td> <td>Robert L. Poythress, Supervisor</td> </tr> <tr> <td>SECONDER:</td> <td>Brett Frazier, Chair Pro Tem</td> </tr> <tr> <td>AYES:</td> <td>Brett Frazier, David Rogers, Robert L. Poythress, Tom Wheeler</td> </tr> <tr> <td>ABSENT:</td> <td>Max Rodriguez</td> </tr> </table>				RESULT:	APPROVED [UNANIMOUS]	MOVER:	Robert L. Poythress, Supervisor	SECONDER:	Brett Frazier, Chair Pro Tem	AYES:	Brett Frazier, David Rogers, Robert L. Poythress, Tom Wheeler	ABSENT:	Max Rodriguez
RESULT:	APPROVED [UNANIMOUS]												
MOVER:	Robert L. Poythress, Supervisor												
SECONDER:	Brett Frazier, Chair Pro Tem												
AYES:	Brett Frazier, David Rogers, Robert L. Poythress, Tom Wheeler												
ABSENT:	Max Rodriguez												
Is this item Budgeted? Yes Will this item require additional personnel? No Previous Relevant Board Actions: Other Supporting Documents: Other/Misc.		DOCUMENT NO(S).											

RECOMMENDED ACTIONS:

Discussion and consideration of approval to adopt the Equal Employment Opportunity Plan.

DISCUSSION / BACKUP / FISCAL IMPACT:

The District Attorney's (DA) Office recently underwent a site visit conducted by the California Governor's Office of Emergency Services (Cal OES) to evaluate the DA's compliance with the U.S. Department of Justice (DOJ) requirements as a recipient agency of a federal grant awarded in the amount of \$260,356.00. As a result of the site visit, Cal OES made a determination that the County is required to update its Equal Employment Opportunity Plan (EEOP) and submit it to the DOJ in order to demonstrate grant compliance, by July 2, 2018.

In order to be compliant with federal funding requirements, an EEOP must be a current (defined as adopted within the past two years), comprehensive document that analyzes the relevant labor market data and the agency's employment practices to identify possible employment barriers, and to ensure equal employment opportunities to its employees and applicants without regard to any non-merit protected status by Federal or State law.



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The EEOP presented for your consideration reflects the County's continued commitment to the concept of equal employment opportunity and the overall goal of the County of Madera to obtain and maintain a qualified and diverse workforce reflective of its community. The EEOP memorializes that employees and applicants are to be selected, managed and retained based on merit consistent with the Civil Service System, and all Federal and State Equal Employment Opportunity (EEO) laws and regulations. The EEOP highlights roles and responsibilities of County officials and employees, and designates primary responsibility for implementing the Plan to the Deputy County Administrative Officer-Human Resources/Operations, who also serves as the County's EEO Coordinator.

Additionally, the EEOP includes a workforce analysis that provides a comparison of the County of Madera workforce with similar data for our community. This comparison will determine if there are areas of underutilization overall, as well as within particular job/occupational categories. In summary, the significant findings of the workforce analysis are: 1) we exceed the community labor workforce for female employee representation overall; 2) females and all but one minority group are underrepresented in the Service and Maintenance job category; and 3) the Skilled Craft Workers job category is underrepresented in the Hispanic/Latino and female groups.

There is no fiscal impact associated with the recommended action; however, should the EEOP not be adopted and submitted to the DOJ, there is some risk that the awarded Federal grant will have to be reimbursed to the funding agency.

ATTACHMENTS

1. Equal Employment Opportunity Plan 2018
2. Appendix A - Resolution No. 2016-284

EQUAL EMPLOYMENT OPPORTUNITY PLAN



Adopted by the Board of Supervisors on June 26th, 2018

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County of Madera

Equal Employment Opportunity Plan

Introduction

It is the policy of the Madera County Board of Supervisors to ensure equal employment opportunity to its employees and applicants for employment on the basis of job performance, knowledge base and/or ability and merit, without regard to race, color, religion, sex, gender, gender identity, gender expression, transgender status, national origin, age, disability (physical or mental), medical condition, pregnancy, genetic information, ancestry, marital status, sexual orientation, veteran or military status, political affiliation, or any other basis protected by Federal or State law. This policy shall be followed proactively in recruitment, examination, selection, retention, promotion, compensation, job assignments and training to assure that all qualified individuals within the above-referenced protected groups are provided with an equal opportunity to be represented at all levels within the organization without barriers or practices that are discriminatory in nature.

This policy is adopted pursuant to the California Fair Employment and Housing Act (Government Code Section 12900 et. seq.), Title VII of the 1964 Civil Rights Act (42 U.S.C. Section 2000 et seq.), and any other applicable Federal and/or State law, as may be amended from time to time.

The Madera County Board of Supervisors continues to be committed to the concept of equal employment opportunity. The overall goal of the County of Madera is to obtain and maintain a qualified and diverse workforce reflective of its community wherein employees are selected, managed and retained based on merit consistent with the Civil Service System and all Federal and State Equal Employment Opportunity (EEO) laws and regulations. All employees of Madera County shall take affirmative steps, within the context of their jobs, to implement this policy in furtherance of the County's goal of obtaining and maintaining a qualified and diverse workplace, and to protect the rights this policy guarantees.

In affirming its commitment to equal employment opportunity and to a workplace free from discrimination and harassment, the Madera County Board of Supervisors has adopted Resolution No. 2016-284, "Policy and Guidelines on Discrimination and Harassment", which is attached as Appendix "A".

This Equal Employment Opportunity Plan, upon adoption by the Board of Supervisors, shall supersede all previous Equal Employment Opportunity Plans adopted by the Board of Supervisors.

Objectives

- A. To achieve and maintain employment levels of qualified individuals within protected groups in proportion to their availability in the relevant labor force.
- B. To achieve and maintain an equitable distribution of qualified, protected group members throughout the job categories in County service as outlined by the Equal Employment Opportunity Commission's (EEOC) reporting requirements.
- C. To prevent any arbitrary, artificial, or discriminatory employment practices by the County merit and civil service systems.

Responsibilities

- A. The Board of Supervisors shall appoint and designate an individual(s) to assume responsibility for overseeing and implementing the Equal Employment Opportunity Plan ("the Plan") and the setting and achievement of its objectives.
- B. The primary responsibility for implementing the Plan shall be delegated to the Deputy County Administrative Officer-Human Resources/Operations, who shall also be the Madera County Equal Employment Opportunity (EEO) Coordinator. The EEO Coordinator shall have responsibility and authority for:
 - 1. Developing, directing and monitoring the Plan.
 - 2. Disseminating the Plan to Department Heads and providing assistance in the development and implementation of department procedures to implement the Plan.
 - 3. Reviewing, evaluating, monitoring and revising, where necessary, to ensure that the objectives of the Plan are being achieved.
 - 4. Analyzing the County work force to determine the effectiveness of the Plan.
 - 5. Providing all required data to applicable Federal and State agencies in conformance with reporting requirements and assisting Department Heads with reporting requirements of Federal and State funding sources.
- C. Each Department Head shall promote and implement this Plan within their department and inform all employees in the department of the Plan and the policy of the Board of Supervisors. The Department Head may be responsible for providing statistical data and supplemental information as required or requested by Federal and State funding agencies. Each Department Head shall periodically evaluate the success, failure or other impact of the Equal Employment Opportunity Program within their department, and initiate corrective action, if necessary.

- D. An operational understanding of equal employment opportunity as well as the County's EEO Plan is a responsibility of all management and supervisory personnel.
- E. The Civil Service Commission has oversight responsibilities regarding all matters relating to the administration of the civil service system, as defined by Ordinance, and as provided by law.

Dissemination

The EEO Coordinator is responsible for developing and maintaining a dissemination strategy of the Plan that shall include the following:

- A. Provide the Plan to Department Heads for dissemination to employees involved in personnel selection.
- B. Communicate the existence of the Plan to all new employees during the new hire orientation process.
- C. Coordinate the posting of the Plan with departmental representatives in conspicuous places that are easily accessible to employees and the public.
- D. Upon request, make available copies of the Plan to members of the public.
- E. Job announcements for all open recruitments will be routinely provided to agencies and organizations in the community which are potential sources of protected group applicants.
- F. Job announcements shall include language addressing non-discrimination, equal employment opportunity and reasonable accommodation.

Discrimination and Harassment Policy

The Madera County Board of Supervisors hereby reaffirms its commitment to equal employment opportunity, a workplace free of discrimination and harassment, and the right of all prospective and current employees to be evaluated in an environment free of discrimination and harassment, as provided for in Resolution No. 2016-284 "Policy and Guidelines on Discrimination and Harassment", which was adopted on October 18, 2016. (See Appendix "A")

Specifically, the "Policy and Guidelines on Discrimination and Harassment" provides the following:

1. The definition of discrimination, harassment and abusive conduct in the workplace.
2. Statement about the prohibition of discrimination, harassment and abusive conduct.

3. Explanation of the right to complain and a prohibition of retaliation for bringing forth complaints.
4. The steps of the complaint and investigatory procedure.
5. Disciplinary action, as appropriate for sustained or proven policy violations.
6. A program to prevent discrimination, harassment and abusive conduct, including training requirements consistent with applicable law and as set forth in the "Policy and Guidelines on Discrimination and Harassment".

Reasonable Accommodation

In accordance with applicable Federal and State Laws, the Madera County Board of Supervisors is strongly committed to the principles of equal employment opportunities and non-discrimination of applicants and employees with disabilities.

Job Applicants

The County of Madera's employment processes shall not discriminate against disabled applicants in any manner that limits their access to jobs for which they are qualified. Pre-employment medical examinations* are conducted post-job offer, and are conducted for those classifications as required by law, and for those that are physical in nature, consistent with applicable law. (*Tuberculosis screening, and any follow-up testing as may be necessary, is required for all new hires, and is conducted post-job offer.)

Upon request by applicants, the County of Madera may make reasonable accommodations for applicants with qualifying disabilities. Accommodations for testing and/or selection processes shall be provided on a case-by-case basis, unless inconsistent with essential job functions, and/or requirements of the Americans with Disabilities Act (ADA), the Fair Employment and Housing Act (FEHA), or other applicable legal standards, such as Peace Officer Standards (POST). Prior to any part of the testing and/or selection process, an applicant requesting reasonable accommodation shall notify the Human Resources/Operations Division or the hiring department of the need for reasonable accommodation. Verification of a qualifying disability is required.

Current Employees

Reasonable accommodation requests by those currently employed with the County of Madera are typically coordinated at the department level, but may be coordinated by the County's Human Resources/Operations Division when necessary. Employees requesting reasonable accommodation must advise their immediate supervisor and/or contact their designated departmental representative. The Human Resources/Operations Division, provides County departments with consultation, technical assistance and coordination support with implementing the County's interactive process for reasonable accommodation.

Department heads, managers and supervisors shall immediately, upon receiving oral or written request for accommodation by an employee, or by observing that an employee with an obvious

or perceived disability is having difficulty performing the essential functions of the job, initiate and participate in the interactive process.

Department management staff and/or designated Human Resources/Operations staff will participate in an interactive process to determine if an employee has a disability or condition that interferes with the employee's ability to perform the essential functions of the job, and to discuss and/or identify possible reasonable accommodations to enable the employee to perform the essential functions of the job.

Workforce Analysis

The data utilized in this analysis is based on two (2) sources of information. The Madera County Workforce data is a breakdown, as of November 2017, of the County of Madera workforce utilizing the EEOC's required reporting job categories and is classified by race/ethnic category identified. All workforce data related to gender and race/ethnicity relies on voluntary reporting. The Madera Community Workforce data represents the community labor workforce statistics obtained through the U.S. Census Bureau for Madera County (2010 Census Data).

The utilization charts below summarize the current Madera County workforce profile and compares it with similar data for our community labor workforce. Both gender and race/ethnicity are cross-referenced against various job group categories.

The purpose of this comparison is to determine if there are areas of under-utilization overall as well as within particular job categories. Immediately following the charts is a narrative analysis of the findings as well as a discussion of specific objectives for improvement in specific areas, which have been identified in the next section under 'Action Steps'. The County is committed to consistently reviewing its recruitment, hiring and promotional policies and practices to ensure equal employment opportunity and to employ a workforce reflective of the community we serve.

Workforce Utilization Reports for Madera Community (Based on U.S. Census Data 2010)

EEO Utilization Report

Madera Community Workforce

Source: U. S. Census Bureau 2010 EEO Tabulation for Residence Category (Madera County), Total Population

Job Category	Total Employed, Community Workforce	White (not of Hispanic origin)	Hispanic or Latino	Black (not of Hispanic origin)	Asian	Native Hawaiian or Pacific Islander	American Indian or Alaskan Native	Two or More Races
Officials/Administrators	11.23%	8.10%	2.32%	0.17%	0.28%	0.01%	0.07%	0.27%
Professional	10.57%	7.76%	1.83%	0.26%	0.28%	0.02%	0.20%	0.22%
Technicians	1.79%	1.19%	0.49%	0.01%	0.00%	0.00%	0.01%	0.09%
Protective Service	2.24%	1.41%	0.65%	0.02%	0.01%	0.01%	0.09%	0.05%
Administrative Support	21.98%	13.14%	7.38%	0.48%	0.20%	0.00%	0.22%	0.56%
Skilled Craft Workers	10.04%	6.30%	3.19%	0.14%	0.07%	0.00%	0.13%	0.20%
Service/Maintenance	42.16%	13.73%	25.76%	0.86%	0.32%	0.06%	0.73%	0.69%
Total	100.00%	51.63%	41.62%	1.93%	1.17%	0.10%	1.46%	2.08%

EEO Utilization Report

Madera Community Workforce

Source: U. S. Census Bureau 2010 EEO Tabulation for Residence Category (Madera County), Total Population

		<i>Male</i>						
Job Category	Total Employed (MALE) Community Workforce	White (not of Hispanic origin)	Hispanic or Latino	Black (not of Hispanic origin)	Asian	Native Hawaiian or Pacific Islander	American Indian or Alaskan Native	Two or More Races
Officials/Administrators	7.34%	5.45%	1.54%	0.05%	0.10%	0.01%	0.02%	0.17%
Professional	4.51%	3.50%	0.59%	0.14%	0.15%	0.00%	0.08%	0.06%
Technicians	0.77%	0.53%	0.21%	0.00%	0.00%	0.00%	0.00%	0.03%
Protective Service	1.62%	1.11%	0.38%	0.02%	0.01%	0.01%	0.05%	0.04%
Administrative Support	5.69%	3.40%	1.92%	0.13%	0.08%	0.00%	0.04%	0.12%
Skilled Craft Workers	9.62%	6.02%	3.07%	0.14%	0.07%	0.00%	0.13%	0.20%
Service/Maintenance	27.73%	8.16%	18.01%	0.40%	0.22%	0.03%	0.46%	0.44%
Total	57.28%	28.18%	25.71%	0.87%	0.64%	0.05%	0.79%	1.06%

EEO Utilization Report

Madera Community Workforce

Source: U. S. Census Bureau 2010 EEO Tabulation for Residence Category (Madera County), Total Population

		<i>Female</i>						
Job Category	Total Employed (FEMALE) Community Workforce	White (not of Hispanic origin)	Hispanic or Latino	Black (not of Hispanic origin)	Asian	Native Hawaiian or Pacific Islander	American Indian or Alaskan Native	Two or More Races
Officials/Administrators	3.88%	2.65%	0.79%	0.12%	0.18%	0.00%	0.05%	0.10%
Professional	6.06%	4.26%	1.25%	0.13%	0.14%	0.02%	0.12%	0.16%
Technicians	1.02%	0.66%	0.28%	0.01%	0.00%	0.00%	0.01%	0.06%
Protective Service	0.62%	0.30%	0.27%	0.00%	0.00%	0.00%	0.04%	0.01%
Administrative Support	16.28%	9.73%	5.46%	0.36%	0.12%	0.00%	0.18%	0.44%
Skilled Craft Workers	0.42%	0.28%	0.13%	0.00%	0.00%	0.00%	0.01%	0.00%
Service/Maintenance	14.43%	5.57%	7.75%	0.46%	0.10%	0.03%	0.27%	0.25%
Total	42.72%	23.46%	15.92%	1.07%	0.53%	0.05%	0.68%	1.02%

Workforce Utilization Reports for Madera County Employees (as of November 2017)

EEO Utilization Report <i>Madera County Workforce</i> Source: Madera County Human Resources								
Job Category	Total Employed, County Workforce	White (not of Hispanic origin)	Hispanic or Latino	Black (not of Hispanic origin)	Asian	Native Hawaiian or Pacific Islander	American Indian or Alaskan Native	Two or More Races*
Officials/Administrators	12.67%	7.92%	2.58%	0.67%	1.50%	0.00%	0.00%	0.00%
Professional	25.25%	10.25%	11.25%	2.00%	1.50%	0.00%	0.25%	0.00%
Technicians	14.42%	5.58%	8.08%	0.42%	0.25%	0.00%	0.08%	0.00%
Protective Service	22.08%	9.17%	11.00%	0.75%	0.75%	0.08%	0.33%	0.00%
Administrative Support	17.50%	7.08%	9.75%	0.58%	0.00%	0.00%	0.08%	0.00%
Skilled Craft Workers	6.58%	4.83%	1.50%	0.25%	0.00%	0.00%	0.00%	0.00%
Service/Maintenance	1.50%	0.42%	1.00%	0.08%	0.00%	0.00%	0.00%	0.00%
Total	100.00%	45.25%	45.17%	4.75%	4.00%	0.08%	0.75%	0.00%

*The "Two or More Races" category was not tracked prior to December 2017

EEO Utilization Report

Madera County Workforce

Source: Madera County Human Resources

		<i>Male</i>						
Job Category	Total Employed (MALE) County Workforce	White (not of Hispanic origin)	Hispanic or Latino	Black (not of Hispanic origin)	Asian	Native Hawaiian or Pacific Islander	American Indian or Alaskan Native	Two or More Races*
Officials/Administrators	6.17%	4.17%	1.08%	0.17%	0.75%	0.00%	0.00%	0.00%
Professional	7.00%	3.17%	2.83%	0.50%	0.42%	0.00%	0.08%	0.00%
Technicians	3.08%	1.17%	1.58%	0.08%	0.25%	0.00%	0.00%	0.00%
Protective Service	15.25%	6.58%	7.17%	0.50%	0.75%	0.08%	0.17%	0.00%
Administrative Support	1.83%	0.83%	0.75%	0.25%	0.00%	0.00%	0.00%	0.00%
Skilled Craft Workers	6.50%	4.75%	1.50%	0.25%	0.00%	0.00%	0.00%	0.00%
Service/Maintenance	1.17%	0.17%	0.92%	0.08%	0.00%	0.00%	0.00%	0.00%
Total	41.00%	20.83%	15.83%	1.83%	2.17%	0.08%	0.25%	0.00%

*The "Two or More Races" category was not tracked prior to December 2017

EEO Utilization Report

Madera County Workforce

Source: Madera County Human Resources

		<i>Female</i>						
Job Category	Total Employed (FEMALE) County Workforce	White (not of Hispanic origin)	Hispanic or Latino	Black (not of Hispanic origin)	Asian	Native Hawaiian or Pacific Islander	American Indian or Alaskan Native	Two or More Races*
Officials/Administrators	6.50%	3.75%	1.50%	0.50%	0.75%	0.00%	0.00%	0.00%
Professional	18.25%	7.08%	8.42%	1.50%	1.08%	0.00%	0.17%	0.00%
Technicians	11.33%	4.42%	6.50%	0.33%	0.00%	0.00%	0.08%	0.00%
Protective Service	6.83%	2.58%	3.83%	0.25%	0.00%	0.00%	0.17%	0.00%
Administrative Support	15.67%	6.25%	9.00%	0.33%	0.00%	0.00%	0.08%	0.00%
Skilled Craft Workers	0.08%	0.08%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
Service/Maintenance	0.33%	0.25%	0.08%	0.00%	0.00%	0.00%	0.00%	0.00%
Total	59.00%	24.42%	29.33%	2.92%	1.83%	0.00%	0.50%	0.00%

*The "Two or More Races" category was not tracked prior to December 2017

Underutilization by Occupational/Job Category

The following table reflects the underutilization in the EEO job categories:

Underrepresented Categories - Madera County Workforce						
Job Category	Hispanic /Latino	Black/ African American	Asian	Native Hawaiian/ Pacific Islander	American Indian/ Alaskan Native	Female
Officials/Administrators						
Professional						
Technicians						
Protective Service						
Administrative Support						
Skilled Craft Workers	X					X
Service/Maintenance	X	X	X		X	X

Female employee representation is 59%, which *exceeds* the Madera Community Workforce of 42.72%. Female employees are underrepresented in the following two (2) job categories:

- Skilled Craft Workers
- Service and Maintenance

Hispanic/Latino employee representation is 45.17%, which *exceeds* the Madera Community Workforce of 41.62%. Hispanic/Latino employees are underrepresented in the following two (2) job categories:

- Skilled Craft Workers
- Service and Maintenance

Employee representation for females and all minority groups, except for the Native Hawaiian/Pacific Islander group, is underrepresented in the Service and Maintenance job category.

Action Steps

The following steps will be taken in an effort to achieve the EEO Plan objectives and to address underutilized areas in the County of Madera’s workforce.

- Distribute Plan updates, as they occur, to Department Heads for dissemination of Plan components to employees involved in personnel selection.

- B. Continue to review the job classification structure to ensure the availability of entry level positions, promotional 'ladders', and trainee level positions where appropriate.
- C. Identify recruitment issues for classifications that are difficult to fill.
- D. Continue to post job openings in all Departments, on the website, and by electronic distribution to community organizations, educational institutions, and agencies within the community served.
- E. Review the minimum qualifications for classifications on an ongoing basis to ensure the elimination of any artificial barriers to employment.
- F. Whenever practicable, job openings will be advertised/publicized in publications and sources that target protected and underutilized group members.
- G. Develop recruitment and outreach strategies that target protected and underutilized groups.
- H. Provide training and education to all supervisory and management employees regarding the prevention of harassment and discrimination compliant with the "Policy and Guidelines on Discrimination and Harassment" (Appendix "A") and applicable law.

Appendix A - Madera County Policy and Guidelines on Discrimination and Harassment

BEFORE
THE BOARD OF SUPERVISORS
OF THE COUNTY OF MADERA
STATE OF CALIFORNIA

In the Matter of) Resolution No.: 2016-284
)
POLICY AND GUIDELINES ON) A RESOLUTION ADOPTING POLICY AND
DISCRIMINATION AND) GUIDELINES ON DISCRIMINATION AND
HARASSMENT) HARASSMENT
)
_____)

WHEREAS, every person is entitled to be treated equally by his or her employer or prospective employer, and to be evaluated unbiasedly on the basis of his or her individual skill set, knowledge base and/or abilities, rather than on the basis of his or her race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, transgender status, gender, gender identity, gender expression, age, sexual orientation or military and veteran status.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Madera, a political subdivision of the State of California, that the attached document, Exhibit 'A' entitled "Policy and Guidelines on Discrimination and Harassment (2016 revision)" shall be implemented and is hereby adopted;

BE IT FURTHER RESOLVED that this Resolution and Exhibit 'A' shall be distributed to, and posted in, every Department of the County of Madera, and that copies of this Resolution and 'Exhibit A' shall be available to any person upon request from the Deputy CAO – HR/Operations or designee.

BE IT FURTHER RESOLVED that the policy set forth in Exhibit 'A' does not supersede, impair or affect any affirmative defenses to employment decisions made by the County, as

provided for by law;

BE IT FURTHER RESOLVED that nothing in this Resolution or Exhibit 'A' shall be construed as imposing a mandatory duty upon any worker or officer of the County of Madera to protect others against the risk of injury arising from any acts of discrimination, harassment or retaliation;

BE IT FURTHER RESOLVED that this Resolution and Exhibit 'A' supersede Resolution No. 2016-030 and the Exhibit/Policies adopted therein.

* * * * *

The foregoing Resolution was adopted this 10th day of October, 2016, by the following vote:

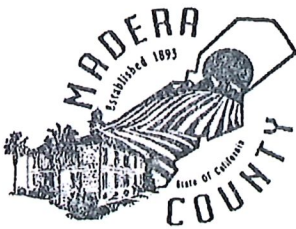
Supervisor Frazier voted: yes

Supervisor Rogers voted: yes

Supervisor Farinelli voted: yes

Supervisor Rodriguez voted: yes

Supervisor Wheeler voted: yes



[Signature]
Chairman, Board of Supervisors

ATTEST:

[Signature]
Clerk, Board of Supervisors

Approved as to Legal Form:
COUNTY COUNSEL

By [Signature]
Meera Bhatt, Deputy County Counsel

Exhibit 'A'

Policy and Guidelines on Discrimination and Harassment

(2016 Revision)

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POLICY AND GUIDELINES ON
DISCRIMINATION AND HARASSMENT

- I. Policies of the County of Madera: The Board of Supervisors believes that all employees, paid and unpaid interns, and volunteers (collectively “workers”) are entitled to work in an environment free of discrimination and harassment and that all prospective employees are entitled to be evaluated in an environment free of discrimination and harassment. Therefore, the Board of Supervisors has adopted the following policies:
- A. Every appointing authority, manager, supervisor and worker is responsible for conducting themselves in the spirit of this policy. The goal of this policy is to create and maintain a work environment that is free from discrimination and harassment. This includes, but is not limited to, conduct that is unlawfully discriminatory or harassing, whether or not such conduct is or is not offensive to any given individual or worker. All such conduct is strictly prohibited.
 - B. Every worker and prospective worker of the County of Madera is entitled to be treated equally by every worker and officer of the County of Madera and to be evaluated on the basis of his or her individual skills, knowledge and abilities.
 - C. Every worker and prospective worker of the County of Madera is entitled to not be discriminated against by any worker or officer of the County of Madera because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, transgender status, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status (collectively “protected categories”).
 - D. Every worker and prospective worker of the County of Madera is entitled to not be harassed by any worker or officer of the County of Madera on the basis of one or more of the protected categories.
 - E. Every worker and prospective worker of the County of Madera is entitled to be free from abusive conduct by any worker or officer of the County of Madera.
 - F. Every worker and prospective worker who believes that he or she has been discriminated against, harassed, subject to abusive conduct, or treated contrary to these policies, shall be permitted to complain of the discrimination, harassment, abusive conduct, or violation of this policy without any fear of retaliation by any employee or officer of the County of Madera.

II. Discrimination, Harassment, and Abusive Conduct Defined:

- A. Discrimination is when an employer unlawfully abridges the right and opportunity of all persons to seek, obtain, and hold employment, whether intentionally or unintentionally, where no reasonable distinction can be found between those favored and those not favored. In the employment setting, discrimination may exist where an employer subjects a person to terms, conditions or privileges of employment not imposed on others, because of one or more of the employee's protected categories. Discrimination may include disparate treatment based on one or more protected categories.
- B. Harassment is a form of discrimination and includes, but is not limited to:
1. verbal harassment such as epithets, derogatory comments, taunting, heckling or slurs, whether or not made in the presence of a worker based on one or more of the worker's protected categories;
 2. physical harassment such as offensive touching, assault, impeding or blocking movement, gestures or physical interference with normal work or movement when directed at a worker based on one or more of the worker's protected categories;
 3. visual harassment such as photographs, posters, cartoons, drawings and physical objects which are derogatory of a person based on one or more of the person's/worker's protected categories; and
 4. unwanted sexual advances which condition an employment benefit upon an exchange of sexual favors.
- C. Abusive Conduct is conduct of an employer or worker in the workplace, with malice, that a reasonable person would find hostile, offensive, and unrelated to an employer's legitimate business interest. Abusive conduct may include repeated infliction of verbal abuse, such as the use of derogatory remarks, insults, and epithets, verbal or physical conduct that a reasonable person would find threatening, intimidating, or humiliating, or the gratuitous sabotage or undermining of a person's work performance.

- III. Discrimination and Harassment Prohibited. Discrimination and harassment, as defined herein, are prohibited by these policies and guidelines, by the California Fair Employment and Housing Act (Government Code Section 12900 et seq.), Title VII of the 1964 Civil Rights Act (42 U.S.C. Section 2000 et seq.), and other applicable state and federal laws.

- A. Civil Service Employees: These policies and guidelines do not supersede or impair Civil Service Rules. Pursuant to Rule 10 of the Civil Service Rules (Madera County Code Section 2.57.130), acts of discrimination, harassment, or abusive conduct by an employee subject to Civil Service Rules may constitute, but are not limited to, “immoral conduct” [Rule 10-2(f)], “discourteous or offensive treatment of fellow employees” [Rule 10-2(g)], and “conduct unbecoming an employee in the county service” [Rule 10-2(r)].
- B. Merit System Employees: These policies and guidelines do not supersede or impair the right of an employee subject to the Interagency Merit System to appeal any disciplinary action taken against him or her to the State Personnel Board or Civil Service Commission.
- C. These policies and procedures do not supersede any internal grievance or complaint procedure adopted by the County of Madera pursuant to the Rehabilitation Act of 1973, as amended (29 U.S.C. Section 794), pertaining to handicap or disability discrimination.

IV. The Right to Complain About Discrimination, Harassment and Abusive Conduct.

- A. The County’s complaint procedure, set out below, is intended to ensure that complaints receive: a timely response; impartial and timely investigations by qualified personnel; documentation and tracking for reasonable progress; appropriate options for remedial actions and resolutions; and timely closures. Confidentiality will be kept to the extent possible. Remedial action will be taken if any misconduct is found.
- B. The Right to Complain. Every worker shall have the right to complain about acts of discrimination, harassment, abusive conduct or violation of this policy committed against him or her, as provided herein.
- C. Retaliation Prohibited. Every worker, including the complaining worker’s co-workers, supervisor, department head, and every other officer of the County of Madera, is prohibited from retaliating against a complaining employee and any other employee who testifies, assists, or participates in any manner in the investigation, order for disciplinary action, or the discipline hearing.
 - 1. Examples of prohibited retaliatory acts. Acts of retaliation include, but are not limited to, verbal or written threats, physical threats, demotion, suspension, failure to give equal consideration in making employment decisions, failure to treat impartially in the context of any recommendations for subsequent employment, the imposition of adverse working conditions not encountered by other workers similarly situated, and/or the denial of any employment benefit.

V. Complaint Procedure.

A. Complaint Against Co-worker or Supervisor/Manager. An employee complaining against a co-worker or a supervisor/manager may initially make a verbal complaint to his or her department head. Thereafter, the employee complaining about a co-worker or a supervisor/manager shall submit a complaint in writing to his or her department head, with a copy to the Deputy CAO – Human Resources/Operations (Deputy CAO), who will notify and provide a copy of the complaint to County Counsel. In the event an employee's complaint involves his or her department head, the employee may file the complaint with the Clerk of the Board of Supervisors as provided in Paragraph V.B., located below. A complaint may be filed by an employee and/or his or her representative.

1. Contents of Complaint. The complaint should contain the following information:

- a. the complaining worker's name;
- b. the name of the co-worker or supervisor who committed the alleged acts of discrimination, harassment, or abusive conduct;
- c. the date(s) the alleged acts were committed;
- d. a brief statement of the alleged acts; and
- e. the basis of the alleged discrimination, harassment, or abusive conduct (e.g. race, color, religion, etc).

2. Investigation Procedure. Investigations will be conducted in a fair, complete and timely manner. When a department head or other investigating party receives a complaint, he or she shall commence the investigation as soon as reasonably possible, and shall make a concerted effort to have all of the following completed in a reasonable time, not to exceed one hundred twenty (120) working days unless the circumstances reasonably warrant a longer time:¹

- a. notify the Deputy CAO and verify that the complaining employee distributed copies of the complaint to the Deputy CAO;
- b. determine whether it is the best interest of the accused and/or complaining worker to immediately reassign or relocate him or her to minimize contact between the co-worker or

¹ Performance of the investigation by other than the department head should only be done when he/she cannot devote the necessary time to this activity or when the use of other management staff or an outside investigator is necessary to insure the integrity of the investigation.

supervisor/manager and the complaining worker, and determine whether the accused co-worker or supervisor/manager should be immediately placed on administrative leave;

- c. interview the complaining worker to:
 - (i) obtain a comprehensive understanding of the facts;
 - (ii) ascertain the names of all witnesses to the alleged acts or omissions;
 - (iii) ascertain the existence of and/or obtain all documents/evidence including, but not limited to, all notes, letters, photographs, drawings and posters relevant to the alleged acts.

- d. interview the co-worker or supervisor/manager who committed the alleged acts of discrimination, harassment or abusive conduct to:
 - (i) provide the co-worker or supervisor with a copy of the worker's complaint and advise the co-worker or supervisor that he or she may respond to the complaint in writing, within five (5) working days;
 - (ii) prepare a written statement of the co-worker or supervisor's response to the alleged acts;
 - (iii) ascertain the names of all witnesses to the alleged acts; and
 - (iv) ascertain the existence of and/or obtain all documents/evidence, including, but not limited to, all notes, letters, photographs, drawings, and posters relevant to the alleged acts.

- e. interview all witnesses to the alleged acts and prepare a written summary of each interview;

- f. consult with County Counsel, or his or her designee, and the Deputy CAO, or his or her designee, and review all written statements, all interview summaries, and all other evidence;

- g. determine the merit of the complaint;

- h. if the complaint is determined to have merit:

- (i) serve a written “Notice of Intended Order for Disciplinary Action” with an “Order for Disciplinary Action” attached, upon the co-worker or supervisor/manager;
 - (ii) consult with the complaining worker and determine whether he or she should be relocated within the office to minimize or eliminate personal contact with the co-worker or supervisor/manager and/or be reassigned to a different supervisor in cases where the discriminating or harassing person is the worker’s supervisor; and
 - (iii) advise the complaining worker that he or she may wish to seek counseling to better enable him or her to handle the psychological impact of the discrimination or harassment.
 - i. if the complaint is determined not to have merit:
 - (i) inform the complaining worker and the co-worker or supervisor/manager in writing that it has been determined that the complaint is without merit, and the reasons supporting the determination; and
 - (ii) inform the complaining worker in writing that he or she may seek any other legal or administrative remedy provided by the law, including but not limited to filing complaints with the EEOC and/or DFEH.
- 3. Discipline: Forceful and appropriate measures will be taken to punish the discriminatory, harassing, or abusive acts of a co-worker or supervisor/manager and to redress harm incurred by the worker, by taking appropriate actions under the circumstances.
 - a. Forms of Discipline.
 - (i) under Civil Service Rules, the department head may dismiss, suspend without pay for up to thirty (30) days, or reduce the rank or salary of the co-worker or supervisor/manager;
 - (ii) the department head may also serve a written reprimand upon the co-worker or supervisor/manager, which orders the co-worker or supervisor/manager to cease and desist his or her unlawful acts of harassment and/or discrimination, or instruct the co-worker or supervisor/manager to

not speak to or have contact with the complaining worker, or to take other appropriate actions under the circumstances.

- b. Determining Discipline. To determine which discipline will be imposed, the department head should consider the severity of the discrimination or harassment, its effect upon the complaining worker and the office environment, the potential for its reoccurrence, and whether the co-worker or supervisor/manager has committed similar acts in the past.
 - c. Cumulative Discipline. The forms of discipline are cumulative, not exclusive, i.e., they may be combined as the department head may deem appropriate.
4. Right of Appeal and Hearing Not Superseded or Affected. These policies and guidelines do not supersede or affect the right of any worker or supervisor/manager within the Civil Service System or the Merit System to appeal any disciplinary action taken against him or her, as provided in Civil Service or Merit Systems rules.
 5. Duty of Department Head. The duties of the department head should not be delegated to his or her assistant. This does not mean that he/she cannot obtain the assistance of subordinate employees, other departments, agencies or private individuals to fulfill the requirements of this policy.
- B. Complaint Against Department Head. Employees complaining against a department head shall submit a complaint in writing to the Clerk of the Board of Supervisors. A complaint may be filed by a worker and/or his or her representative.
1. Contents of Complaint. The complaint should contain the following information:
 - a. the complaining worker's name;
 - b. the name of the party who committed the alleged acts of discrimination, harassment or violation of the policy;
 - c. the date(s) the alleged act(s) were committed;
 - d. a brief statement of the alleged acts; and
 - e. the basis of the alleged discrimination, harassment, abusive conduct or violation of the policy (e.g., race, color, religion, etc.).

2. Investigation.
 - a. Clerk of the Board of Supervisors. When the Clerk of the Board of Supervisors receives a complaint, he or she shall:
 - (i) distribute copies of the complaint to the Deputy CAO, County Counsel, and the department head;
 - (ii) schedule a consideration of the matter at the next available regular meeting of the Board of Supervisors.
 - b. Deputy CAO. Upon receipt of the complaint, the Deputy CAO shall commence the investigation as soon as reasonably possible, and shall make a concerted effort to have all of the following completed in a reasonable time, not to exceed one hundred twenty (120) working days, unless the circumstances reasonably warrant a longer time:
 - (i) obtain a comprehensive understanding of the facts;
 - (ii) ascertain the names of all witnesses to the alleged acts;
 - (iii) ascertain the existence of and/or obtain all documents/evidence including, but not limited to, all notes, letters, photographs, drawings and posters relevant to alleged acts;
 - (iv) interview all witnesses to the alleged acts;
 - (v) review all documents/evidence, relevant to the alleged acts;
 - (vi) consult with County Counsel, or his or her designee, and review the complaint, interview notes, and documents.
3. Hearing. The Board of Supervisors shall consider the complaint, the summary prepared by the Deputy CAO, and any response by the department head in Closed Session of a regular or special meeting of the Board of Supervisors. The complainant and/or department head shall be given Notice of the hearing before the Board of Supervisors and shall have the right to present witnesses and evidence, to cross-examine witnesses, to be represented by Counsel or other representative of his or her choice at his or her own expense, and to compel the attendance of witnesses.

4. Discipline. If discrimination, harassment, abusive conduct or violation of this policy is found, forceful and appropriate measures will be taken to punish the discriminatory or harassing acts of a department head.
 - a. Forms of Discipline. Forms of discipline for appointed department heads include, but are not limited to, dismissal, suspension without pay, reduction of salary, written reprimand which orders the department head to cease and desist his or her unlawful acts, or order the department head to attend appropriate counseling. Forms of discipline for elected department heads are limited to a written censure which directs the elected department head to cease and desist his or her unlawful acts and/or referral to any regulatory agency having authority over the functions of their department and/or professional licensing and/or certification.
 - b. Determining Discipline. To determine which discipline will be imposed, the Board of Supervisors should consider the severity of the discrimination, harassment or violation of the policy, its effect upon the complaining worker and the office environment, the potential for its reoccurrence, and whether the department head has committed similar acts in the past.
 - c. Cumulative Discipline. The forms of discipline are cumulative, not exclusive, i.e., they may be combined as the Board of Supervisors deems appropriate.
5. Redress. If the Board of Supervisors also finds that a department head, through discrimination, harassment or violation of this policy, has denied the complaining worker an employment benefit to which he or she is entitled, it shall order that the employment benefit be conferred upon the complaining worker.

VI. Program to Prevent Discrimination, Harassment and Abusive Conduct.

- A. Purpose. The objectives of the policies of the County of Madera regarding discrimination, harassment, and abusive conduct can best be achieved if County workers and officers are sensitized and trained to recognize and address problems of discrimination, harassment and abusive conduct.
- B. Program. The Deputy CAO shall conduct at least two (2) hours of training on a biennial basis to sensitize and train department heads and supervisors/managers to recognize and address problems of discrimination and harassment within their departments. This training shall also include the prevention of abusive conduct. The

training may be conducted by the Deputy CAO, other certified county staff, a certified, independent contractor or with the assistance of a consultant from the Department of Fair Employment and Housing. All managers and supervisors shall be provided with this training within six (6) months of assuming their manager or supervisor position.

VII. Miscellaneous.

- A. These policies and guidelines do not supersede, impair, or affect any affirmative defenses to employment discrimination provided by law.
- B. These policies and guidelines shall not be construed as imposing a mandatory duty upon any worker or officer of the County of Madera to protect against the risk of injury arising from any acts of discrimination, harassment, retaliation or violation of this policy.
- C. All persons involved in the investigation, review and resolution of a discrimination and/or harassment complaint shall endeavor to preserve the privacy and confidentiality rights of all parties and witnesses, except as the necessity for full resolution or redress of the complaint may otherwise require.
- D. Complaints of discrimination, harassment or abusive conduct against the Deputy CAO shall be submitted directly to the CAO, who shall follow the procedures outlined in Section (V)(A) above.

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