



**STANISLAUS COUNTY
PERSONNEL MANUAL
BOARD OF SUPERVISORS RESOLUTION
APPROVED JANUARY 24, 2012/RESOLUTION #2012-026
EQUAL EMPLOYMENT OPPORTUNITY (EEO) COMPLAINT PROCEDURE**

Stanislaus County is committed to maintaining equal opportunity in all employment actions and public services in compliance with all applicable federal and state laws. The County's Workplace Harassment, Discrimination and Retaliation Policy is intended to prohibit, eliminate and prevent unlawful harassment, discrimination and retaliation and its effects in the workplace. The policy is located in the County's Personnel Manual and on-line on the County's Equal Rights website.

The following Equal Employment Opportunity Complaint (EEO) Procedure was developed to provide specific procedures to address complaints under the County's Workplace Harassment, Discrimination and Retaliation Policy and associated complaints regarding public services. These procedures apply to every County employee, job applicant, or person seeking County services who believes he or she may have been treated differently based upon a protected classification.

All employee labor organizations have agreed to the Equal Employment Opportunity Complaint Procedure which follows. Using this procedure is the most effective way to have an equal rights complaint reviewed, investigated and possibly resolved locally and in a timely manner.

- A. Intent - It is the intent of this procedure to provide an effective means of resolving individual or group problems of a sensitive nature in a timely manner and with a minimum of formal procedural requirements.
- B. Scope - This procedure shall apply to allegations of harassment, discrimination and retaliation in any employment action or in the delivery of public services based upon a protected classification. County departments may develop separate policies and procedures related to processing complaints regarding the delivery of public services in compliance with all applicable federal and state laws and regulations.
- C. Limitations - the establishment of this procedure for resolving complaints of discrimination, as it relates to matters of County employment practices, is not intended to supplant regular grievance or complaint procedures or prohibit employees or applicants from filing complaints with the Department of Fair Employment and Housing (DFEH), Equal Employment Opportunity Commission (EEOC), or the courts. This procedure is intended and should be viewed as a means of providing the special skills needed to promptly and fairly handle the sensitive issues involved, and to ensure full cooperation with Federal and State compliance agencies.
- D. Representatives - In presenting and resolving complaints, persons submitting complaints may represent themselves or may designate a representative of their own choosing. Costs associated with such representation, if any, will be borne by the complainant.

E. Definitions

Complainant: An employee or applicant for employment who alleges that he or she has been the subject of harassment, discrimination or retaliation on the basis of a protected classification. May also be a member of the public who alleges that he or she has been denied access to County government services or been discriminated against in the provision of such services on the basis of a protected classification.

Third Party: A separate individual from the subject (Complainant) who alleges that he or she witnessed another party be subjected to harassment, discrimination, or retaliation on the basis of a protected classification and brings forward a complaint.

County Equal Rights Officer: The Deputy Executive Officer assigned to the Chief Executive Office Human Resources Division, who is in close reporting relationship to top management and is assigned the responsibility of managing the County's Equal Rights Program including the procedure for handling complaints under this policy.

Departmental Equal Rights Officer: An employee assigned the responsibility of managing a department's equal rights program trained in EEO procedures and who provides informal counseling on matters pertaining to discrimination. Each County Department Head shall have an assigned Departmental Equal Rights Officer. Departmental Equal Rights Officers may be required to offer assistance to other Departments as requested by the County Equal Rights Officer or designee.

Protected Classification: The term describes characteristics or factors which are specifically protected from harassment, discrimination or retaliation based on federal or state laws. Protected classifications include, but are not limited to, race, color, national origin, ancestry, sex, sexual orientation, religion, political affiliation, action, or belief, marital status, age (over 40), pregnancy related condition, medical or physical disability, and genetic history.

Annually, the Board of Supervisors reaffirms its commitment to non-discrimination by adopting the County's Non-Discrimination Statement. Please review the Non-Discrimination Statement for updates to the list of protected classifications. The Non-Discrimination Statement is located in each department, in the Personnel Manual, and on-line on the County's Equal Rights website.

F. Steps in the Procedure

To initiate the EEO Complaint Procedure, any employee, job applicant, or person seeking County services who believes he or she has been subject to harassment, discrimination or retaliation based on a protected classification may make a complaint orally or in writing with any of the following:

1. Immediate supervisor;
2. Any supervisor or manager within or outside the department;
3. Department Head;
4. Departmental Equal Rights Officer;
5. Director of Personnel; or
6. County Equal Rights Officer.

Complainants are encouraged to report complaints as soon as learning of the issues related to their complaint. Any delays in reporting complaints may impact the department's ability to fully investigate and respond to the issues presented.

Complainants are encouraged to use the County EEO Complaint form to assist in documenting all of the issues in the complaint. The form is located in the County's Personnel Manual and on-line at <http://www.stancounty.com/personnel/equal-rights/doc/eoo-complaint-form.doc>.

Department Level Complaints

Complaints should first be addressed at the department level in an effort to resolve the issues presented. The Departmental Equal Rights Officer (or alternate Departmental Equal Rights Officer) will be responsible for evaluating and responding to the complaint. Due to the nature of certain complaints, the Department and the County Equal Rights Officer may assign an alternate Departmental Equal Rights Officer to complete the departmental level review or may forward the matter directly to the County Equal Rights Officer to coordinate the appropriate follow-up.

The Department process will typically include the following:

- a) Consult with the complainant to reach a complete understanding of the issues presented.
- b) Make necessary inquiries in an attempt to resolve the complaint. This may include interviews with other witnesses or subjects as necessary.
- c) Seek informal resolution of problems by facilitating open communications between the complainant and any other involved parties.

The Departmental Equal Rights Officer will provide a response to the complainant in writing within 60calendar days of learning of the complaint. If the complaint will require more than 60-calendar days to fully evaluate and respond, the Departmental Equal Rights Officer will notify the complainant of the additional period of time necessary to complete their findings.

County Level Complaints

Complainants may appeal the findings of the Departmental Equal Rights Officer to the County Equal Rights Officer. It is recommended Complainants appeal to the County Equal Rights Officer as quickly as possible to assist the County Equal Rights Officer in completing a timely investigation.

The County Equal Rights Officer, upon receipt of a complaint:

Shall review the case with the Departmental Equal Rights Officer.

- a) May assign an investigator to conduct a prompt, impartial investigation, if necessary, and review finding thereafter. The complainant will be notified of the assigned investigator.
 - b) The County Equal Rights Officer shall be authorized to issue subpoenas as necessary.
 - c) Explore further the possibility of informal adjustment of the problems through negotiation or conciliation with Department Head or the parties to the complaint.
- d) Respond to the Complainant in writing with the County Equal Rights Officer decision and provide notification of appeal rights. If the Complainant wishes to appeal the County Equal Rights Officer's decision, he/she may do so in writing to the County Chief Executive Officer within fourteen (14) working days of receipt of the County Equal Rights Officer's decision.
1. Appeal to Chief Executive Officer: Upon receipt of an appeal of the County Equal Rights Officer's decision the County Chief Executive Officer shall:
 - a) Review the case with the County's Equal Rights Officer, the Investigator, or Departmental Equal Rights Officer as appropriate.
 - b) Request the Investigator gather further information and analysis as appropriate.
 - c) Provide the complainant with a written decision and advise complainant of appeal rights.
 2. Appeal to Hearing Board: Shall the affected individual wish to appeal the Chief Executive Officer's decision; he/she may request a hearing with the Hearing Board established pursuant to Stanislaus County Ordinance Code 3.28.060 within fourteen (14) calendar days of receipt of the Chief Executive Officer's decision. The appeal shall be in writing and shall be filed with the Chief Executive Officer. The Chief Executive Officer shall forthwith transmit the appeal request to the Hearing Board. The Hearing Board shall, within a reasonable time from the filing of the appeal, commence the hearing and shall notify the interested parties of the time and place of hearing at least five (5) working days in advance.

At the hearing, both the complainant and the County shall have the right to be heard publicly, to be represented by counsel, and to present evidentiary facts. The parties may agree to a hearing closed to the public and the Hearing Board may, at any time, exclude any persons who may be a witness in the appeal under consideration. The hearing shall be informal and the Hearing Board shall not be bound by any of the rules of evidence governing trial procedure and State courts. The Hearing Board shall render a written decision, a copy of which shall be transmitted to the Chief Executive Officer. The Chief Executive Officer shall serve a copy of the decision upon the appellant. The decision is final.