This procedure shall be utilized to ensure that the Fresno County Office of Education (“FCOE”) employees are free from all forms of illegal harassment, discrimination, and retaliation, and to provide a mechanism for the reporting and resolution of complaints of harassment, discrimination, and retaliation. This policy will be included in the New Employee Orientation and/or Training, and the Annual Employee Notifications packet which is provided to all FCOE employees via U.S. Mail or FCOE email (hard copy or electronically) on an annual basis.

FCOE prohibits harassment or discrimination of County Office employees, volunteers, students, third party persons, and job applicants. FCOE also prohibits retaliatory behavior or action against County Office employees or other persons, who complain, testify, or otherwise participate in the complaint process established pursuant to this policy.

The Superintendent of Schools designates the following position as the Title IX and Equal Employment Opportunity Coordinator for Nondiscrimination in Employment:

Administrator, Human Resources Division
Fresno County Office of Education
1111 Van Ness Avenue
Fresno, CA 93721-2000
(559) 265-3000

PROHIBITION OF EMPLOYEE HARASSMENT AND DISCRIMINATION

The Fresno County Office of Education recognizes the right of every employee to be free from harassment, discrimination, and retaliation including physical, psychological and/or sexual harassment, and discrimination, and declares its intent to act promptly, visibly, and vigorously to eliminate such activity from the workplace and/or school environment. It is the Superintendent’s policy to prohibit any form of harassment and to provide a mechanism for the reporting and resolution of complaints of harassment, discrimination, and retaliation.

DISCRIMINATION

The Superintendent prohibits unlawful discrimination and retaliation against and/or harassment of County Office employees, students, volunteers and job applicants on the basis of actual or perceived race, color, national origin, ancestry, religious creed, age, marital status, pregnancy, physical or mental disability, medical condition, veteran status, sex, gender, gender identity, gender expression or sexual orientation at any County Office site and/or activity.
The prohibition against discrimination based on the religious creed of an employee or job applicant includes any discrimination based on the person’s religious dress or grooming practices or any conflict between the person’s religious belief observance, or practice and an employment requirement. The prohibition against discrimination based on the sex of an employee or job applicant shall include any discrimination based on the person’s pregnancy, childbirth, breastfeeding, or any related medical conditions.

Furthermore, the prohibition against discrimination includes the Genetic Information Nondiscrimination Act (“GINA”) which prohibits employers from discriminating on the basis of “genetic information”.

Prohibited discrimination or harassment consists of unwelcome conduct, whether verbal, physical, or visual, based on any of the protected classes of discrimination listed above that it is so severe or pervasive that it adversely affects an individual’s employment opportunities or has the purpose or effect of unreasonably interfering with his/her work performance or creates an intimidating, hostile, or offensive work environment.

A County Office employee who engages or participates in prohibited discrimination or harassment, or who aids, abets, incites, compels, or coerces another to engage or attempt to engage in such behavior, shall be in violation of this policy and shall be subject to disciplinary action, up to and including dismissal.

Examples of discrimination include, but are not be limited to: disparate treatment based upon an individual’s actual or perceived race, color, national origin, ancestry, sex, gender identity, gender expression, sexual orientation, religious creed, age, physical or mental disability, medical condition, and/or marital status, as a basis for:

1. Failing or refusing to hire an applicant for employment;
2. Discharging or otherwise disciplining an employee;
3. Determining an employee’s compensation, including fringe benefits, or other terms, conditions, or privileges of employment; or
4. Limiting, segregating, or classifying an employee or an applicant for employment in a way that would tend to deprive him/her of an employment opportunity or otherwise adversely affect his/her status as an employee.

HARASSMENT

Harassment includes, but is not limited to, derogatory comments, offensive jokes, unwelcome physical contact, or persistently annoying conduct that interferes with an employee’s work performance or creates an unpleasant/offensive work environment. This includes, but is not limited to, such conduct relating to or directed toward persons on the actual or perceived basis of a particular race, national origin, religion, color, sex, gender, gender identity, gender expression, sexual orientation, physical or mental disability.

Examples of unlawful discrimination or harassment of an individual include, but are not limited to,

1. Slurs, epithets, threats or verbal abuse;
2. Derogatory or degrading comments, descriptions, drawings, pictures, or gestures;
3. Unwelcome jokes, stories, teasing, or taunting;
4. Any other verbal, written, visual, or physical conduct against the individual which:
SEXUAL HARASSMENT

Any County Office employee who engages or participates in sexual harassment, or who aids, abets, incites, compels, or coerces another to commit sexual harassment against a County Office employee, job applicant, student, volunteer, or third party, is in violation of this policy and is subject to disciplinary action, up to and including dismissal.

Sexual Harassment includes, but is not limited to, unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature when:

1. Submission to the conduct is made either an explicit or implicit term or condition of employment, status, or promotion;

2. Submission to, or rejection of the conduct is used as the basis for employment decisions affecting an employee;

3. The conduct has the purpose or effect of unreasonably interfering with the employee's work performance, or creating an intimidating, hostile or offensive working environment; or

4. Submission to, or rejection of the conduct is the basis for any decision affecting benefits, services, honors, programs, or other educational activities.

Examples of sexual harassment, whether committed by a supervisor, a co-worker, or a non-employee, in the work or educational setting, include, but are not limited to,

1. Making unsolicited written, verbal, or physical contact of a sexual nature;

2. Unwelcome verbal conduct such as sexual flirtations or propositions, graphic comments about an individual’s body; overly personal conversations or pressure for sexual activity; sexual jokes or stories, unwelcome sexual slurs, epithets, threats, innuendoes, derogatory comments; sexually degrading descriptions or the spreading of sexual rumors;

3. Engaging in reprisals, threats of reprisal, or implied threats of reprisal following a negative response to sexual overtures;

4. Engaging in implicit or explicit coercive sexual behavior, which is used to control, influence, or affect the career, salary, and/or work environment of another employee;

5. Offering favors or employment benefits, such as promotions, favorable performance evaluations, favorable assignments, favorable duties or shifts, recommendations or reclassifications, in exchange for sexual favors; or

6. Being made to feel uncomfortable or isolated for not participating or responding to sexual jokes, cartoons, or comments.

COMPLIANCE
The Superintendent and all employees of the Fresno County Office of Education shall avoid any act or actions, implied, or explicit, that may suggest harassment, discrimination, and retaliation. The Superintendent or designee shall take all actions necessary to ensure the prevention, investigation, and correction of harassment, discrimination, and retaliation, including, but not limited to:

1. Providing periodic training, as required by applicable laws and regulations, to all supervisors and staff regarding the County Office’s harassment and discrimination policy, how to recognize harassment and discrimination, how to respond appropriately, and the components of the County Office’s policies and procedures as follows:
   a. The Superintendent’s designee shall ensure that supervisory employees receive at least two (2) hours of classroom or other effective interactive training and education regarding harassment, discrimination, and retaliation as administratively assigned; and
   b. All newly hired or promoted supervisory employees shall receive training within six (6) months of their assumption of the supervisory position.

2. Publicizing and disseminating the County Office discrimination and harassment policy to staff;

3. Ensuring prompt, thorough, and fair investigation of complaints; and

4. Taking timely and appropriate corrective/remedial actions. This may require interim separation of the complainant and the alleged harasser and subsequent monitoring.

RETTALIATION PROHIBITED

It is the Superintendent’s policy not to discourage persons from filing harassment, discrimination, or retaliation complaints. Moreover, retaliation against any employee or other persons for exercising their right to file a harassment, discrimination, or retaliation complaint or for participating in the investigation of such complaints, is strictly prohibited. To avoid retaliation and the appearance of retaliation, employees are:

1. To refrain from taking any action which dissuades any person from exercising the right to file a discrimination or harassment complaint;
2. To keep confidential the facts of any complaints or investigation made pursuant to this policy, including the identity of any witnesses or any facts, which disclose the identity of the claimant(s) or witness(es) as directed;

It is also the policy of FCOE that an employee may not be retaliated against for refusing to comply with an order that the employee reasonably believes violates the anti-discrimination laws.
REPORTING COMPLAINTS

Any County Office employee who feels that he/she has been discriminated against or sexually harassed, or who has knowledge of any incident of harassment, discrimination, or retaliation by or against another employee, a job applicant, or a student, shall immediately report the incident to his/her supervisor, the Administrator of Human Resources, or the Superintendent. A supervisor who receives a discrimination, harassment, or retaliation compliant shall promptly notify the Administrator of Human Resources.

An employee may bypass his/her supervisor in filing a complaint where the supervisor is the subject of the complaint or if the employee chooses an alternate method of reporting.

IMPORTANT NOTE

A County Office employee may be deemed to have permitted unlawful discrimination or harassment if he/she fails to report an observed incident of harassment, discrimination, or retaliation whether or not the victim complains.

Pursuant to this policy, management, and supervisory employees who recommend or authorize actions affecting other employees will not:

a. Use their authority to harass an employee;
b. Take a personnel action, or fail to take a personnel action, as a reprisal against an employee for resisting or reporting any act of harassment, discrimination, or retaliation; or
 c. Condone any harassment, either verbal or physical, of an employee or employees toward another employee.

In addition to the complaint process available through FCOE, an employee may file a complaint with the following agencies:

Department of Fair Employment and Housing (DFEH)
1320 East Shaw Avenue, Suite 150
Fresno, California 93710-7915
Phone: (800) 884-1684
www.dfeh.ca.gov

Equal Employment Opportunity Commission (EEOC)
2300 Tulare Street, Suite 215
Fresno, California 93721
Phone: (800) 669-4000
www.eeoc.gov/field/fresno/index.cfm

The employee may pursue a civil law remedy, and may also file an appeal to the Department of Education at:

California Department of Education (CDE)
1430 N Street
Sacramento, California 95814-5901
Phone: (916) 319-0800
www.ed.gov/about/offices/list/ocr
COMPLAINT PROCESS

The following procedures shall be used when a County Office employee or job applicant has a complaint alleging that a specific action, policy, procedure, or practice discriminates, harasses, or retaliates against him/her on any basis specified in this policy:

1. Supervisor is to gather accurate, complete information to ensure an immediate and thorough investigation of the complaint. Supervisor is to document information volunteered by the complainant on the “Supervisor’s Report of Incident/Complaint” form.

2. Supervisor is to submit the written report of concern to the Program Administrator and to the Administrator of Human Resources.

3. The Program Administrator and the Administrator of Human Resources will review the information gathered by the supervisor along with the supervisor’s recommendation.

4. Appropriate and immediate action will be taken if the County harassment, discrimination, and retaliation policy has been violated.

5. The supervisor shall counsel the complainant and outline possible options for informal/formal resolution of the complaint.

6. No adverse action will be taken against an employee for filing a complaint.

7. The employee filing the complaint will be notified regarding outcome of the investigation.

INFORMAL COMPLAINT

Upon receipt of a verbal complaint and review by appropriate administration, the supervisor shall counsel employee and outline possible options for informal resolution of the complaint. The supervisor will review facts, impact of conduct, efforts to correct, and the complainant’s recommended resolution. Should informal resolution be achieved, the supervisor shall follow up with complainant to ensure that the behavior(s) initially generating the complaint have been corrected and that there is not a likelihood of recurrence. The supervisor shall report on the monitoring to the Human Resources Administrator.

FORMAL COMPLAINT

If informal resolution of the complaint is not quickly achieved, or if the complainant files a written complaint, the Administrator of Human Resources or designee shall conduct a thorough and complete investigation. An appropriate investigation may include interviewing the complainant, the alleged harasser, witnesses, and other suspected victims.

INVESTIGATION, REPORTING & DECISION

The comprehensive investigation of a formal complaint will be conducted to gather information that supports a fair and just decision. The Human Resources Administrator or designee shall determine whether interim measures, such as scheduling changes, transfers, or leaves need to be taken before the investigation is completed to ensure that further incidents do not occur. The Human Resources Administrator or designee shall ensure that such interim measures do not constitute retaliation. Upon completion of the investigation, the Administrator of Human Resources or designee shall render his/her findings and render a determination.
as to whether the alleged conduct constitutes harassment, discrimination, and/or sexual harassment. The Administrator of Human Resources shall look at the record as a whole and the totality of the circumstances, including the nature of the alleged harassment, discrimination, or retaliation, the context in which the alleged incidents occurred, and the perspective of the victim.

**REMEDIAL ACTION**

If the investigation reveals there is reasonable cause to believe that illegal harassment, discrimination, or retaliation has occurred, FCOE shall take appropriate action to ensure that the offensive conduct ceases and will not recur. Actions taken in response to substantiated allegations of harassment, discrimination, or retaliation may include: reprimand, reassignment, transfer, and/or disciplinary action up to and including dismissal. Illegal harassment, discrimination, and/or retaliation shall be deemed to be insubordination and a violation of or refusal to obey state law and the policies and regulations of the County Office. The harasser(s) and other employees, if appropriate, will be informed that appropriate action shall be taken if further acts of harassment, discrimination, or retaliation occur.

**APPEAL PROCESS**

Following the complainant's receipt of the disposition of the complaint by the Administrator of Human Resources or designee, the complainant may, if not satisfied with the disposition, appeal the matter to the Superintendent within ten (10) calendar days that disposition is dated. The complainant's appeal shall be in writing, signed by the complainant, and completed on a form prescribed by the County Office. The appeal shall state specifically the reasons why the complainant is dissatisfied with the report and recommended disposition by the Administrator of Human Resources.

The Superintendent shall review the basis for the complainant's appeal and make a decision based on the record presented. The Superintendent reserves his/her rights to determine if it is necessary to collect additional information and/or to accept or modify the final disposition and action implemented as a result of the complaint.

**CONFIDENTIALITY**

All complaints and allegations of harassment, discrimination, and/or retaliation shall be kept confidential to the extent necessary, to carry out the investigation or to take other subsequent necessary action.

All County Office employees involved in processing harassment, discrimination, and/or retaliation complaints shall endeavor in good faith to protect the privacy of all parties involved in a complaint. Discussions among County Office employees regarding harassment, discrimination, and retaliation complaints shall be prohibited unless necessary to process and/or investigate the facts surrounding the complaint. County Office employees shall not have access to files concerning harassment, discrimination, and/or retaliation complaints unless the employees are assigned to process and/or investigate the complaint. County Office files pertaining to harassment, discrimination, and/or retaliation complaints shall not be made available to the general public. All matters pertaining to the filing, investigation, and resolution of harassment, discrimination, and retaliation complaints shall be confidential insofar as appropriate. Files pertaining to harassment, discrimination, and/or retaliation complaints shall not become public records.
ENFORCEMENT

A violation of FCOE’s policy prohibiting harassment, discrimination, and/or retaliation shall constitute just cause for discipline, up to and including dismissal, and shall be deemed to be a violation of or refusal to obey state law and the policies and regulations of the County Office.

REFERENCES

Superintendent’s policy 4030 and 4031

Revised: December 5, 2005
Revised: April 14, 2010
Revised: April 4, 2011
Revised: April 11, 2012
Revised: October 22, 2013
Revised: January 20, 2016
**SUPERVISOR REPORT OF INCIDENT/COMPLAINT**
**DISCRIMINATION, HARASSMENT, OR RETALIATION RECORD OF CONCERN**

This form is to be completed by the **supervisor** receiving the complaint and must be promptly forwarded to the Program Administrator and Administrator of Human Resources upon completion. Use the form below to record the information volunteered by the person.

**DO NOT INTERVIEW ANY OTHER STAFF MEMBERS.**

<table>
<thead>
<tr>
<th>Date Reported to Supervisor:</th>
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<tbody>
<tr>
<td>Date of Incident:</td>
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<td>Time of Incident:</td>
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<td>Location of Incident:</td>
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<td>Alleged Victim(s):</td>
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<td>Alleged Harasser(s):</td>
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<td>Alleged Witness(es):</td>
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<td>Summary of Allegations:</td>
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____________________________________________________________________
DISCRIMINATION, HARASSMENT, OR RETALIATION RECORD OF CONCERN

Supervisor’s recommended action/resolution: __________________________________________

________________________________________

Supervisor Signature Date of this Report

________________________________________

Program Administrator Date Received by Program Administrator

________________________________________

Administrator of Human Resources Date Received by Human Resources Administrator

Administrator Review: __________________________________________

________________________________________

________________________________________

Schedule Follow Up(s): __________________________________________

First Follow Up: __________________________________________

Second Follow Up: __________________________________________

Help Given (if any): __________________________________________

Resolution: __________________________________________
EMPLOYEE COMPLAINT FORM
DISCRIMINATION, HARASSMENT OR RETALIATION COMPLAINT

Prior to completing form, review Administrative Regulation/Standard Operating Procedure #1316. Accurate completion of this form will assist in a thorough investigation of the complaint. A fair investigation will be conducted promptly; all information will be confidential insofar as appropriate. Appropriate and immediate action will be taken if the County harassment policy has been violated. No action will be taken against an employee for filing a complaint. The employee filing the complaint will be notified of the outcome of the investigation. This form is to be submitted to the Administrator of Human Resources or designee.

<table>
<thead>
<tr>
<th>INITIAL REPORT OF INCIDENT</th>
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<tbody>
<tr>
<td>Name:</td>
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<td>Department:</td>
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<tr>
<td>Person(s) Report Filed Against:</td>
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<tr>
<td>Summary of Incident(s):</td>
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<tr>
<th>Name(s) of Witness(es):</th>
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<td>2. ________________________</td>
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<th>FOR HR USE ONLY</th>
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<tbody>
<tr>
<td>Person to Whom the Report was Given:</td>
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<tr>
<td>________________________________</td>
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<tr>
<td>Person(s) Assigned to Investigate:</td>
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<td>________________________________</td>
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</tbody>
</table>

Signature of Person filing complaint ___________________________ Date ___________________________
EMPLOYEE APPEAL FORM
DISCRIMINATION, HARASSMENT OR RETALIATION COMPLAINT APPEAL

I, ___________________________________ wish to appeal the recommendation made in regards to discrimination, harassment and/or retaliation complaint filed on ____________ (date) with the Administrator of Human Resources or administrative designee.

<table>
<thead>
<tr>
<th>APPEAL FORM</th>
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<tbody>
<tr>
<td>Name:</td>
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<td>Department:</td>
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Signature of Person filing complaint _______________________________ Date ____________________

Deliver this form to the Human Resources Administrator