

Adopted by the Board of Supervisors: December 11, 2012

RULE 20. DISCRIMINATION PROHIBITED

Section 1. General Provisions

No employee of the County or any job applicant seeking employment with the County shall be discriminated against in any aspect of employment because of age, ancestry, color, creed, gender, gender expression, gender identity, genetic information, marital status, medical condition (cancer or genetic characteristics), national origin, physical or mental disability, political affiliation or belief, pregnancy, race, religion, sex, or sexual orientation.

Section 2. Discrimination Complaints

These procedures are intended to provide a method for resolution of complaints alleging discrimination on one or more of the basis cited in Section 1 of this Rule. Complaints that are not based on the types of prohibited discrimination cited in Section 1 shall not be processed under this Rule.

Section 3. Informal Complaint Process

The intent of the informal complaint process is to provide for early intervention and resolution of discrimination complaints in an informal manner or through a mediation process at the departmental level.

Prior to the filing of a formal complaint, an employee alleging discrimination in violation of this Rule shall report the discrimination to the Department EEO Coordinator (Coordinator). Complaints must be reported within sixty (60) days of the date the alleged discrimination occurred. A job applicant alleging discrimination under this Rule shall report the discrimination to the County Equal Employment Opportunity Office (EEO Office) within sixty (60) days of the date the alleged discrimination occurred.

The Coordinator will meet with the person making the complaint within ten (10) days of receipt of the report in order to:

- (a) Understand the nature of the complaint;
- (b) Undertake efforts to informally resolve the complaint;
- (c) Identify the Complainant's requested remedy; and
- (d) Give the Complainant a copy of Civil Service Rule 20.

The Coordinator shall notify the EEO Office of the complaint within five (5) days of the initial meeting with the Complainant.

The Coordinator will make reasonable efforts to resolve the complaint if the complaint appears to have merit. When mutually agreed to by both the Complainant and the Appointing Authority of the affected department, the Coordinator may seek the assistance of a mediator

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available through the San Joaquin County Mediation Center to help resolve the complaint. The Coordinator shall provide written notice to the Appointing Authority indicating whether the complaint was resolved or the specific actions recommended by the Coordinator and/or Complainant to resolve the complaint. Within ten (10) days of the receipt of the written notice, the Appointing Authority will make the departmental decision regarding any actions requested by the Coordinator and/or Complainant that are within the Appointing Authority's authority.

Within three (3) days of receipt of the Appointing Authority's departmental decision, the Coordinator shall provide written notice to the Complainant and Respondent of the results of the informal complaint process. The written notice to the Complainant shall also inform the Complainant of his or her right to file a formal written complaint if he or she is not satisfied with the results of the informal process. The Coordinator shall also notify the EEO Office in writing within three (3) days of the conclusion of the informal complaint process of the results and provide all documentation received during the course of the informal complaint process.

Unless otherwise agreed to by the Complainant and the Coordinator to extend the timeframe, the informal complaint process shall be concluded within thirty (30) days of the Coordinator's initial meeting with the Complainant.

In the case of a complaint from a job applicant, the EEO Office shall process the complaint in the manner set forth in Section 4.

Section 4. Formal Complaint Process

If a discrimination complaint is not resolved through the informal complaint process, or if the Complainant is not satisfied with the results of the informal complaint process, the Complainant may file a formal written complaint with the EEO Office within fifteen (15) days of notice of the results of the informal complaint process.

A formal complaint of discrimination shall be in writing and should be filed on the County's Discrimination Complaint form. The Complainant shall describe in detail the alleged discrimination and the action the Complainant requests to resolve the matter. The complaint must be signed and dated and shall contain at least the name(s) of the individual(s) involved, the approximate date(s) of the event(s) at issue, the names of any witnesses to the alleged discrimination, the Complainant's requested remedy, and a description of the action(s) constituting the alleged discrimination.

An investigation will be initiated if the complaint meets the following requirements:

- The complainant alleges discrimination prohibited under Section 1 of this Rule and provides enough detailed information to determine the events constituting the discrimination.
- The complaint is filed within fifteen (15) days of the conclusion of the informal complaint process as set forth in Section 3 of this Rule.

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Defective complaints shall be returned within five (5) days of receipt by the EEO Office with an explanation of why an investigation was not initiated under this Rule. If a complaint is returned because of lack of detail, the Complainant will be advised that he or she may submit an amended complaint within ten (10) days of receipt providing enough detail to determine the events constituting the discrimination.

Within fifteen (15) days of receipt of a complaint filed in accordance with this Rule, the EEO Office or designee will meet with the Complainant to review the complaint and shall notify the Respondent and Appointing Authority that a written complaint has been received and a formal investigation has begun. The investigation will be conducted in a confidential manner. If the circumstances of the situation call for such action, the Investigator will consult with the Appointing Authority regarding reasonable steps that should be taken to protect the Complainant from discrimination or retaliation during the course of the investigation.

Within sixty (60) days from the date of the initial meeting with the Complainant, or unless there is mutual agreement between the Complainant and the EEO Office to extend the timeframe of the investigation, the Investigator shall complete the investigation and shall provide a written summary of the investigation to the Complainant and Respondent. The summary will indicate whether the alleged violation of this Rule is substantiated or is unsubstantiated.

The EEO Office shall submit a post-investigation report to the Appointing Authority within the 60-day timeframe stated above. The report shall indicate whether the alleged violation of this Rule is substantiated or is unsubstantiated. If the complaint is substantiated, the EEO Office may include in the report advisory recommendations to the Appointing Authority that are designed to deter further violation of this Rule. The EEO Office will also recommend remedial or restorative action(s) that are in conformity with these Civil Service Rules, the County's Memoranda of Understanding, work rules, policies and practices.

Within ten (10) days of receipt of a post-investigation report substantiating a violation of this Rule, the Appointing Authority shall respond in writing to the EEO Office and indicate as follows:

1. Whether the Appointing Authority agrees or disagrees with the conclusion of the Investigator that the violation of this Rule has been substantiated. If the Appointing Authority disagrees with the conclusion that this Rule has been violated, he or she shall include an explanation of the reason(s) for disagreement.
2. In addition, as to each advisory recommendation, the Appointing Authority shall report one of the following actions:
 - a) That the recommendation has been implemented, with a summary of the implemented action.

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- b) That the recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.
- c) That the recommendation will not be implemented, with an explanation therefore, but that alternative action(s) will be taken which is designed to deter further violations of the Rule, and is in conformity with these Civil Service Rules, the County's Memoranda of Understanding, work rules, policies and practices.
- d) That the recommendation will not be implemented, with an explanation therefore.

Within five (5) days of receipt of the Appointing Authority's response, the EEO Office shall provide written notice of the Appointing Authority's decision to the Complainant and shall inform the Complainant of his or her right to file an appeal before the Civil Service Commission.

Section 5. Appeal Hearing Process

If, at the conclusion of the formal complaint process set forth in Section 4 above, the EEO Office concludes (1) that the allegation of discrimination under this Rule has not been substantiated, or (2) concludes that a violation has been substantiated; however, the Appointing Authority disagrees with that conclusion and indicates that he or she will not take any or all remedial or restorative action, a Complainant shall have the right to submit a written request for an appeal before the Civil Service Commission (Commission) within fifteen (15) days of receipt of the written notification from the EEO Office of the Appointing Authority's decision.

The written appeal request shall be filed on the Commission's Request for Appeal form and shall contain the facts and circumstances of the alleged discrimination and the remedy requested by the Complainant.

The Commission may hold a hearing on the appeal. The Complainant shall be notified of the date and time of the hearing or of the Commission's decision not to hear the appeal.

The Complainant may appear personally, produce evidence, and have counsel and a public hearing. The hearing shall be informal and the Commission shall not be bound by any of the rules of evidence governing trial procedure in State Courts; provided, however, that insofar as determined practicable by the Commission, the hearing shall be conducted in accordance with the provisions of Section 11513 of the Government Code, except that the Complainant may be examined and may examine and cause any person to be examined under Section 776 of the Evidence Code. Within thirty (30) days following the completion of the hearing, the Commission shall issue a written decision that the alleged act(s) did or did not constitute discrimination prohibited under this Rule and shall provide written notice to the Complainant, Respondent, Appointing Authority, and EEO Office of its decision.

If the decision of the Commission is that the alleged act(s) constitute discrimination under this Rule, the Commission shall issue an order requiring the person who has committed the

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discrimination to cease and desist from such action in the future. Failure to cease and desist may constitute grounds for disciplinary action under Civil Service Rule 18. The Commission may also order appropriate remedial or restorative action(s) that is in conformity with these Rules, the County's Memoranda of Understanding, work rules, policies and practices. The Appointing Authority shall have ten (10) days from the receipt of the Commission's decision to implement said appropriate remedial or restorative action(s). The Appointing Authority shall notify the EEO Office, the Complainant and Respondent within three (3) days of the implementation of the action taken as outlined in the Commission's order.

Section 6. Retaliation Prohibited

Retaliation against an employee or job applicant for reporting an allegation of discrimination under this Rule, or against an employee for their support of such an employee or job applicant, is prohibited. However, intentionally making a false report or complaint under this Rule, or intentionally giving false statements or testimony in support thereof, may constitute grounds for disciplinary action under Rule 18 of these Civil Service Rules.

Section 7. Definitions

1. **Appeal:** A request by a Complainant made in writing to the Civil Service Commission to review the administrative determination regarding a complaint of discrimination.
2. **Complainant:** An individual who believe that he or she has been victim of discrimination.
3. **Days:** Calendar days, unless otherwise specified.
4. **Respondent:** An individual against whom a claim of discrimination is made.