



# KERN COUNTY PROBATION DEPARTMENT

## Policies And Procedures

TITLE: <b>Discrimination and Harassment</b>		Article: 1405	
APPROVED: <b>TR Merickel, Chief Probation Officer</b>			
EFFECTIVE: September 2015	REVIEWED: August 2018	REVISED: September 2015	UPDATED: August 2018

### **POLICY**

All employees are entitled to work in an environment free of discrimination and harassment and all prospective employees are entitled to be evaluated in an environment free of discrimination and harassment.

- A. Every employee and prospective employee of the Probation Department is entitled to be treated equally and evaluated on the basis of his/her individual skills, knowledge and abilities.
- B. Every employee and prospective employee of the Probation Department is entitled to not be discriminated against because of race, national origin, sex, age, physical ability, medical condition, marital status, ancestry, religious affiliation, union affiliation, political affiliation, or sexual orientation.
- C. Every employee and prospective employee of the Probation Department is entitled to not be harassed because of race, national origin, sex, age, physical ability, medical condition, marital status, ancestry, religious affiliation, union affiliation, political affiliation, or sexual orientation.
- D. Every employee and prospective employee who believes that he/she has been discriminated against or harassed is encouraged to report the behavior to their immediate supervisor; however, if the harasser is the immediate supervisor the incident should be reported to the next superior in their chain of command or any other ranking individual within the department. A witness or a victim of discrimination or harassment may bypass the departmental reporting procedures without any fear of reprisal, and instead report the incident directly to:
  1. The Kern County Human Resource (H.R.) Department, Affirmative Action Division
  2. The California Department of Fair Housing and Employment
  3. The United States Equal Employment Opportunity Commission
- E. Any employee acting in any type of supervisory capacity shall notify the Chief Probation Officer upon becoming aware of any instance of discrimination or harassment. Such employee will:
  1. Listen to the Complaint
  2. Treat the complaint seriously

3. Refrain from minimizing the complaint or from discouraging the employee from reporting the incident
4. Record and document the complaint
5. Submit a complete report of the complaint in memo form to the Chief Probation Officer via the chain of command. (If the harasser is the immediate superior of the party receiving the complaint, the report shall be forwarded to the next superior in the receiving party's chain of command.)

## **I. DISCRIMINATION AND HARASSMENT DEFINED**

- A. **Discrimination** is the failure to treat all persons equally, 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 an employee to terms, conditions or privileges of employment not imposed on others, because of the employee's race, national origin, sex, age, physical ability, medical condition, marital status, ancestry, religious affiliation, union affiliation, political affiliation, sexual orientation, or when the employer has failed to make reasonable accommodations for religious observations, or the handicapped.
- B. **Harassment** is a form of discrimination. The characteristic feature of harassment is that it is largely defined by the recipient of the harassment, not by the sender. If an employee takes offense to a remark or activity from another employee because it concerns the prohibited areas, then the employee has a right to expect such activity to stop. Harassment includes, but is not limited to:
1. Verbal harassment such as epithets, derogatory comments or slurs made to an employee because of the employee's race, national origin, sex, age, physical ability, medical condition, marital status, ancestry, religious affiliation, union affiliation, political affiliation, or sexual orientation;
  2. Physical harassment such as offensive touching, assault, impeding or blocking movement, or physical interference with normal work or movement when directed at an employee because of the employee's race, national origin, sex, age, physical ability, medical condition, marital status, ancestry, religious affiliation, union affiliation, political affiliation, or sexual orientation;
  3. Visual harassment such as photographs, posters, cartoons, drawings and physical objects which are derogatory of an employee's race, national origin, sex, age, physical ability, medical condition, marital status, ancestry, religious affiliation, union affiliation, political affiliation, or sexual orientation;
  4. Unwanted sexual advances which interfere with an individual's work performance or create a hostile, intimidating or offensive work environment. Unwanted sexual advances which condition an employment benefit upon an exchange of sexual favors.

## **II. DISCRIMINATION AND HARASSMENT PROHIBITED.**

Authority: Discrimination and harassment, as defined herein, are prohibited by these policies and guidelines, by the California Fair Employment and Housing act (Government Code 12900 et seq.) by the Kern County Board of Supervisors Resolution 73.233, as amended 1985, and by Kern County Civil Service Commission Rules 310.00, 412.00, 1800.

- A. These policies and guidelines do not supersede or impair Civil Service Rules. Pursuant to Rule 1700 of the Civil Service Rules, acts of discrimination or harassment by an employee subject to Civil Service Rules may constitute, but are not limited to, "immoral conduct" [Rule 1705.4], "discourteous treatment of the public or other employees" [Rule 1705.15] "conduct unbecoming an employee in the public service" [Rule 1705.03] and "willful violations of any of the public provisions of the Civil Service Law".
- B. Violations of these discrimination and harassment policies shall result in disciplinary action.
- C. These policies and guidelines do not supersede or impair the right of any employee subject to Civil Service Rules to appeal any disciplinary action taken against him or her to the Kern County Civil Service Commission.
- D. These policies and procedures do not supersede any internal grievance procedure adopted by the Kern County Board of Supervisors pursuant to agreements with recognized employee organizations.

### **III. THE RIGHT TO COMPLAIN ABOUT DISCRIMINATION AND HARASSMENT**

- A. Every employee shall have the right to complain about acts of discrimination or harassment committed against him or her as outlined in section D of this policy.
- B. Every employee, including the complaining employee's co-employees, supervisors, Department Head and every other officer of the County of Kern is prohibited from retaliating against both a complaining employee, and any other employee who testifies, assists, or participates in any manner in the investigation, order for disciplinary action, or the disciplinary 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 employees similarly situated, the denial of any employment benefit.

### **IV. RIGHT TO APPEAL BASED ON DISCRIMINATION**

Any applicant seeking appointment to or any employee seeking promotion in the classified service, or any employee who alleges he/she has been discriminated against on the basis of political or religious affiliation or because of race, national origin, sex, age, physical ability, medical condition, marital status, ancestry, religious affiliation, union affiliation, political affiliation, or sexual orientation may appeal the action in writing to the Director of Personnel. Such written appeal should contain specific allegations together with

documented evidence supporting the appellant's charge(s), Civil Service Commission Rule 1810.00.

**V. Informal Review**

Every effort shall be made to resolve alleged discrimination complaints on an informal basis. Pre-complaint counseling shall be used with the objective of achieving an informal resolution to the alleged discrimination complaint. Civil Service Commission Rule 1820.00.

**VI. Appeal Procedure**

In the event the alleged discrimination complaint is not resolved, the aggrieved person may within twenty (20) days from completion of the informal review file a formal complaint with the Secretary of the Civil Service Commission pursuant to Civil Service Commission Rule 1830.01.