

## **Prohibited Discrimination and Unlawful Harassment Policy, Including Sexual Harassment**

All employees have the right to work in an environment free of discrimination and any form of unlawful harassment. The Orange County Library System does not and will not condone discrimination or unlawful harassment against employees on the basis of race, color, religion, creed, sex/gender (including pregnancy, sexual orientation, and gender identity), national origin, ancestry, marital status, veteran status, citizenship, age, physical or mental disability, genetic information, or any other characteristic protected by federal, state, or local law.

It is the intent of the Orange County Library System to exclude unlawful discrimination and unlawful harassment in all forms from all of its work places and working relationships. All customers, users, or visitors have the right to an environment free of unlawful discrimination and harassment. This prohibition applies to all vendors hired by the Library or who spend time on the Library premises. Employees who fail to respect these rights may receive disciplinary action up to, and including, dismissal. Third party vendors may have their contracts terminated or other appropriate action taken against them for violations of this policy.

**Conduct.** To help ensure that no employee feels subject to discrimination or unlawful harassment, the Library prohibits any offensive physical, visual, written, or spoken conduct, including but not limited to conduct of a sexual nature, off color jokes, racial, ethnic or religious epithets, slurs or innuendos, ageist remarks, whether in person, in writing, or by way of electronic media (the "Conduct").

Offensive Conduct of a sexual nature may constitute unlawful harassment when engaged in by someone employed by the Library in a position to influence employment decisions when (1) submission to such conduct is made, either expressly or implicitly, a condition of the recipient's continued employment; or (2) submission to or rejection of such conduct by the recipient is used as the basis for employment decisions affecting the recipient. This includes any gender-based harassment against a person of the same sex as the alleged wrongdoer. Any sexual advances or personal relationships between a direct supervisor and subordinate are prohibited.

**Scope and Reporting.** The Library also prohibits repeated and unwelcome physical, visual, written, or spoken conduct by either a supervisor or any fellow employee that substantially interferes with an individual's work performance or creates what a reasonable person would consider to be an intimidating, hostile, abusive, or offensive working environment. Any such Conduct toward not only fellow employees but also customers, users, or visitors to the Library, is strictly prohibited, and will be cause for immediate investigation upon report of such offensive Conduct to the Human Resources Director or any member of the Administrative Team (which includes the Library Director, Assistant Director, Chief Financial Officer, Chief of Lifelong Learning, Chief Information Officer, Chief Operating Officer, and the Chief Branch Officers).

**Definitions.** Unlawful harassment or discrimination is not always capable of precise definition. For example, what may be unwelcome sexual harassment to one person could be nothing more than socializing, teasing, locker room banter, or flirtation to another person. Sexual harassment may include a range of subtle and not so subtle behaviors and may involve individuals of the same or different gender. Therefore, the Library must treat all complaints seriously and admonishes all employees to guard against any conduct that tends to cause discomfort or harassment to another employee, even though one might not believe it to be offensive.

The following are examples of what may be considered sexual (regardless of the sex or gender of the persons involved) or other unlawful harassment, depending on the facts and circumstances:

1. Verbal Harassment: derogatory or vulgar comments regarding sex or demands for sexual favors, sexual jokes, epithets, slurs, and innuendo, racial or religious slurs, or the like.
2. Visual Harassment: distribution or viewing of written or graphic materials containing sexually explicit or sexually or racially demeaning pictures or language (including email messages with attached files).
3. Physical Harassment: unwelcome or unsolicited sexual advances or other physical conduct of a sexual nature, such as touching, pinching, or causing one to fear that they will be touched inappropriately.

These examples apply whether during working hours, outside working hours, in person, or by other means of communications such as phone or electronic communications.

If an employee believes that s/he is being subjected to any of these forms of harassment or believes s/he is being discriminated against because other employees are receiving favored treatment in exchange, for example, for sexual favors, s/he must promptly bring this to the attention of the Human Resources Director or a member of the Administrative Team so the matter may be reviewed. Employees who believe others are being subjected to such behavior are likewise asked to report the situation to a designated person. The very nature of discrimination or harassment makes it difficult to detect unless the individual registers his/her discontent per this policy, or someone does so on that person's behalf. No one is authorized to discourage anyone from reporting what a person, in good faith, believes is or may be a problem under this policy or from participating in the Library's investigation of a situation under this policy. Consequently, in order for the Library to handle the problem, employees must report such offensive Conduct or situations to the Human Resources Director or a member of the Administrative Team. For any situations reported to a member of the Administrative Team, the matter must be promptly brought to the Human Resources Director so the matter can be investigated, except in situations involving the Human Resources Director, in which case the Administrative Team member must report directly to the Library Director.

**Management Responsibilities.** Any supervisor or manager becomes aware of possible violation of this policy whether it be inappropriate Conduct, discrimination or sexual or other unlawful harassment (whether personally observed, suspected or reported to management) must promptly advise the Human Resources Director (or the Library Director if it involves the Human Resources Manager), who will handle the matter in a timely, discreet and appropriate manner. Supervisors and managers are defined by this policy to be those persons having authority to make a significant change in a person's employment status, such as hiring, firing, failing to promote, reassignment with significantly different responsibilities, or a decision causing a significant change in benefits. While not all supervisors or individuals in a lead position will meet this definition, they must still report instances that may be in violation of this policy. All such situations and potential situations must be reported so the Library can look into the situation. Managers and supervisors who have not been designated as persons to respond to complaint should not undertake an investigation on their own. They must instead follow the required reporting process under this policy.

**Complaint Process/Investigation/No Retaliation.** Employees will be asked to reduce this information to a written statement. After a complaint has been received, the Library will promptly and discreetly investigate the allegations.

It is understood that any person electing to utilize this complaint resolution procedure will be treated courteously, and the investigation and resolution of the situation will be handled as quickly as possible. Neither the registering of a valid complaint, nor the participation in an investigation, will be used or held against the employee, nor will it have an adverse impact on the employee's employment status. Employees must also report any future occurrences of the

complained of actions, or similar actions, and advise the Human Resources Director, if they feel there is any reprisal or if they feel that they are being retaliated against for reporting any action under this policy or participating in an investigation. Reports of retaliation will be investigated and appropriate action will be taken consistent with the findings of the investigation.

The Library urges all employees who are involved in an investigation to respect the privacy of both the complaining employee and the alleged wrongdoer so as not to impair the careers or reputations of either or the integrity of the investigation. All parties must be aware of the seriousness of such complaints and the damage that can be done to everyone concerned.

Please note that Library employees making a complaint of disability discrimination under Title II of the Americans with Disabilities Act (ADA) is directed to the Library's ADA Title II Grievance Procedure.

**Actions.** Appropriate action will be taken consistent with the findings of the investigation. At the completion of the investigation the complainant will be informed of the outcome to the extent appropriate. An employee engaging in discrimination, sexual or other form of unlawful harassment, or retaliation will be subject to disciplinary action, up to and including discharge. False and malicious complaints may result in appropriate disciplinary action. No discipline will result, however, if a complaint is made in good faith, even if the Library's investigation is inconclusive or determines no discrimination or harassment actually occurred.

**Confidentiality.** The complaining employee must understand that confidentiality of the complaint involving the substance of the allegations cannot reasonably be expected due to the very nature and process of the investigation of the complaint. Nonetheless, due to the serious nature of such complaints, the Library will make an effort to restrict the dissemination of the complaint to those having a need to know.

We urge all employees to report any improper behavior as set out in this policy. Unless the Library knows of a problem, it cannot take steps to resolve it.

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