



County of Orange

California

Michael B. Giancola
County Executive Officer

September 26, 2013

Honorable Thomas J. Borris
Presiding Judge of the Superior Court of California, Orange County
700 Civic Center Drive West
Santa Ana, CA 92701

Subject: Response to Grand Jury Report, "The Goal of Equal Employment Opportunity: NO VICTIMS."

Dear Judge Borris:

Per your request, and in accordance with Penal Code 933, please find the County of Orange response to the subject report as approved by the Board of Supervisors. The respondents are the OC Board of Supervisors, the Director of Human Resource Services, the County Executive Office, and the Director of Internal Audit.

Please note the County understood that they were not to respond to Finding #F6 or Recommendation #R2, and that the Grand Jury's actual intent was for a response from cities only. There was conflicting information related to these items within the report. If the Grand Jury's intent was for the County to respond, we respectfully request a sixty day extension of time to respond and request clarification from the Grand Jury as to what their expectation for County action or response would be.

If you have any questions, please contact Margaret Cady of the County Executive Office at (714) 834-3646.

Sincerely,

Michael B. Giancola
County Executive Officer

Enclosure

cc: ✓ Orange County Grand Jury Foreman
Mark Denny, Chief Operating Officer
Steve Danley, Director, Human Resource Services
Peter Hughes, Director, Internal Audit
Margaret Cady, County Executive Office/Budget

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Responses to Findings and Recommendations

2012-13 Grand Jury Report entitled "*The Goal of Equal Employment Opportunity: NO VICTIMS*"

Introductory Comments

On June 27, 2013, the Grand Jury released a report entitled: "*The Goal of Equal Employment Opportunity: NO VICTIMS.*" This report directed responses to Findings and Recommendations from various City and County agencies. This report directed responses to Findings and Recommendations from the Orange County Board of Supervisors, the Director of Human Resource Services, the County Executive Office, the Director of Internal Audit, and 34 Orange County cities. Each individual Orange County city will respond separately. The responses to findings and recommendations herein represent a combined response from the Orange County Board of Supervisors, the Director of Human Resource Services, the County Executive Office, and the Director of Internal Audit.

County Combined Response to Grand Jury Findings

F2. In an effort to improve Human Resource efficiencies and increase focus on EEO, the County has centralized its Human Resource functions in the new HRSD.

Response: *Agrees with the finding.*

On June 26, 2012, the Board of Supervisors approved the commencement of planning efforts to recentralize countywide human resources (HR) services and directed the Office of Performance Audit Director to assist the HR Director in developing a reorganization and centralization proposal. In November 2012, the Board subsequently approved the reorganization plan with implementation beginning in December 2012 and continuing in phases over an 18-month period.

The primary goals of the recentralization are to: Ensure compliance, standardization, and uniform application of federal, state, and local regulations, policies and procedures to reduce the County's risk exposure. As one part of this effort, in February 2013, the County hired a new Equal Employment Opportunity (EEO) Access Manager to oversee all EEO functions and has allocated funding for an additional position (Staff Specialist) to support the EEO Office. It is anticipated that the EEO Staff Specialist will be in place by September 2013. It is the responsibility of the EEO Access Office to ensure compliance, standardization and uniform application of all federal and state EEO laws, as well as, uniform application of the County's EEO and Anti-Harassment Policy. The EEO Manager



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along with the Compliance Oversight Committee will review all EEO complaints and monitor the investigations of those complaints. Additionally, the EEO Access Office will provide guidance on Americans with Disabilities Act (ADA) matters; and, to the extent possible participate in interactive process meetings and monitor the return to work of employee's currently on leave of absence. Furthermore, the recentralization of countywide HRS functions allows for consistency with EEO Policy to reduce the risk of noncompliance and liability.

- F3. The County has implemented a Compliance Oversight Committee (COC) to review all EEO complaints in the County.

Response: *Agrees with the finding.*

In mid-2012, County Counsel, the Human Resources Director, and the Internal Audit Director (supported by the Board of Supervisors and the County Executive Officer) established the Compliance Oversight Committee (COC) to address an increase in the number of EEO complaints occurring from a high profile case. At the behest of the Board, the COC operates based upon formal administrative procedures defining the COC's role in the investigation and adjudication of discrimination, harassment, and retaliation complaints alleging a violation of County EEO and Anti-Harassment Policy and Procedures.

In August 2013, the establishment of the COC was reaffirmed under the authority of the CEO and the formal administrative procedures referenced above. Additionally, the Ad-Hoc Litigation Subcommittee, composed of Chairman Nelson and Supervisor Spitzer, proposed additional procedures to add to and enhance the formal review process to ensure that proactive steps are taken within the County to investigate and report on claims and litigation. The enhanced procedures are now being formally documented and will be communicated to department heads within the next 30 to 60 days to ensure Countywide compliance with the procedures, and to ensure that all County employees enjoy a work environment free of unlawful harassment, discrimination, and retaliation, and that allegations are promptly and thoroughly investigated and addressed.



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- F4. Complaint ratios between OC cities and the County of Orange are similar; but differences in how previous complaints were handled in the County led to major problems.

Response: *Disagrees partially with the finding.*

The EEO Access Office has been responsible for the investigation of all EEO related complaints since 1975 when the Affirmative Action Office was approved by the Board of Supervisors. Since then, the office has investigated a number of complaints with few complications. In the overwhelming majority of cases the County has processed complaints appropriately, treated complainants with respect and dignity, and followed established documented procedures and policies relating to complaints of discrimination and harassment. This includes taking appropriate remedial action against those who violate EEO policy. Supervisory personnel were trained to identify and report instances of harassment and discrimination, and matters were investigated quickly and thoroughly.

In one instance, inconsistencies in how existing policy was interpreted and carried out came to light during a recent, high-profile case. Once notified, the Board took swift action to correct the deficiencies that led to this situation, including:

- Instituting a Board Subcommittee on EEO and Discrimination Investigations
- Increasing staff in the EEO Access Office
- Directing the review and subsequent approval of revisions to the EEO Discrimination and Anti-Harassment Policy
- Support for reestablishing the Compliance Oversight Committee (COC)
- Establishing countywide procedures for the investigation and adjudication of complaints
- Providing training of all supervisory personnel regarding the prevention of discrimination, harassment, and retaliation
- Contracting with an online vendor to provide county-wide EEO training to all non-supervisory employees
- Establishing an EEO Hotline to allow for anonymous complaints



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- F5. The County and several cities do not offer, or provide limited, training in harassment, discrimination, and retaliation, particularly for line staff. At this time, although line staff training is not required, all staff benefit from EEO training.

Response: *Agrees with the finding.*

The Board of Supervisors, recognizing that all staff would benefit from EEO training, directed that the County provide EEO training for the County's non-management/supervisory staff (approximately 13,500 employees). The County is currently negotiating for services and it is anticipated that online training will commence during the last quarter of 2013.

County Combined Response to Grand Jury Recommendations

- R1. All OC cities and County government shall include funding for training of management and supervision as required by law and ensure training for all employees every two to three years. (F2,3,4,5)

Response: *The recommendation has been implemented.*

Since the early 1990s, the Board of Supervisors has allocated funding to provide all County executive, management, and supervisory employees with EEO and Anti-Harassment Training every two years. On August 23, 2013, Human Resource Services began the training of approximately 3,500 supervisory employees at a cost of approximately \$34,000.

As previously noted, this year the Board of Supervisors authorized additional funding to provide non-supervisory staff with EEO and Anti-Harassment training. The total cost of the online training will be approximately \$168,905 over the next four years.

- R3. OC cities and the County of Orange government shall continue efforts to utilize best practices with respect to Harassment, Discrimination, and Retaliation. (F1,3)

Response: *The recommendation has been implemented.*



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In 2012, the Board updated and published its EEO Policy Statement requiring continued compliance with County of Orange Board of Supervisors Resolution 09-104, which commits the County of Orange to Equal Employment Opportunity Programs in accordance with state and federal legal requirements. The County of Orange EEO Policy was designed to insure full realization of non-discrimination and equal employment opportunity by selecting, training, and promoting employees based on their ability and job performance and provides for equal opportunities in all aspects of employment without regard to sex, race, color, ethnicity, national origin, ancestry, religion, pregnancy, age, sexual orientation, physical or mental disability, medical condition, marital status, veterans status, citizenship, or any other protected group status.

All employees are required to acknowledge their understanding and acceptance of the EEO policy and are held accountable to uphold the tenets of the resolution. The resolution makes it clear that the Board and County will not tolerate any form of unlawful discrimination, harassment or retaliation. Commitment is made to continue to update policy based upon best practices when appropriate and as necessary.

- R4. The OC Board of Supervisors shall continue to provide funding and resources sufficient to complete HRSD's centralization program. (F2)

Response: *The recommendation has been implemented.*

As previously noted, in June 2012, the Board of Supervisors directed the commencement of planning efforts to recentralize the countywide human resource services function (HR). Since then, they continue to actively monitor the progress of recentralization to ensure that the desired compliance, standardization of practices, effective service delivery and oversight and control of HR functions are achieved. Adequacy of funding is reviewed during the annual budget and strategic financial plan process.