



County of Orange
California

Michael B. Giancola
County Executive Officer

December 10, 2013

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

Subject: *"The Culture of Harassment: Change on the Horizon"*
County's Follow-Up Response to Open Items

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 Orange County Human Resource Services Department, County Counsel, County Executive Office and the Board of Supervisors. If you have any questions, please contact Margaret Cady (714-834-3646).

Sincerely,

Michael B. Giancola
County Executive Officer

Enclosure

cc: FY 2012-13 Orange County Grand Jury Foreman
Mark Denny, Chief Operating Officer
Steve Danley, Chief Human Resource Officer
Nicholas Chrisos, County Counsel
Margaret Cady, County Executive Office/Budget

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Recommendations R1, R2, R3, and R5

2012-13 Grand Jury Report entitled “The Culture of Harassment: Change on the Horizon”

Introductory Comments

On May 8, 2013, the Grand Jury released a report entitled, “The Culture of Harassment: Change on the Horizon” that discussed a recent incident of alleged sexual harassment at the County of Orange (“the County”). This report included various Findings and Recommendations and sought responses from the County Human Resource Services Department (HRS), the County Executive Office (CEO), the County Counsel, and the County Board of Supervisors.

The County’s combined response to the report was finalized on July 23, 2013. The County’s response to the report indicated that additional time was required to respond to Recommendations R1, R2, R3, and R5. The original Grand Jury recommendations, the County’s follow-up response to those recommendations, and the County’s original response are presented below.

Grand Jury Recommendation R1:

Recommendation 1: The County Human Resource Services Department shall prepare and publish policies, procedures, and guidelines related to all employee complaints and how they are investigated. Special attention, or separate policies, should be published for complaints related to discrimination and harassment to ensure they meet the Employer Responsibilities outlined in state and federal statute. If necessary, the County Human Resource Services Department should utilize the services of outside companies specializing in human resource matters. The Human Resource Services Department should develop, approve, and publish the policies and procedures within six months. The Board of Supervisors should support this effort with adequate funding.

County Follow-Up Response to Grand Jury Recommendation R1:

The recommendation has been implemented.

With regard to complaints related to discrimination and harassment, on August 22, 2013, the County Executive Officer authorized the re-establishment of the Compliance Oversight Committee (COC). The COC is comprised of key County officials including the County Counsel, the Chief Human Resources Officer and the Director of Internal Audit. The committee meets regularly and provides oversight on the investigation and adjudication of



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discrimination, harassment, and retaliation complaints in violation of the County of Orange Equal Employment Opportunity (EEO) and Anti-Harassment Policy and Procedure. The new procedures outline the process to be followed in the investigation of all EEO complaints, from the initial review to appropriate remedial action. Additionally, the procedures detail the manner in which anonymous complaints and those involving Executive Management employees are to be investigated. These changes were made as a result of the recommendations issued by the ad hoc subcommittee comprised of Chairman Nelson and Supervisor Spitzer and were formally approved by the Board of Supervisors on September 17, 2013. All Human Resource Services (HRS) personnel have received training on the new procedures and the procedures have been implemented. Prior to the re-establishment of the COC, the EEO Office reviewed the existing EEO policy and procedures and subsequently submitted a revised policy to the Board of Supervisors for approval. The refined and enhanced policy is in compliance with the Employer Responsibilities outlined in the federal and state statutes and was approved by the Board of Supervisors on June 18, 2013. The EEO Office will continue to monitor the new policies and procedures and make any necessary adjustments when appropriate. For complaints outside the scope of EEO, the County has established reporting procedures such as:

- The Fraud Hotline which allows employees to report questionable behavior, waste and abuse involving County vendors, employees, and processes.
- Personnel and Salary Resolution (PSR) Article 1, Sec. 1.H. the policy on workplace violence details the procedures for reporting threats of violence, threatening behavior or acts of violence.

Employees have access to such policies online and/or through training. The County's goal is that all such policies will be available online in the near future.

Original Response to R1:

The recommendation requires further analysis.

The County currently has guidelines for conducting investigations of employee discrimination and harassment complaints. The newly hired EEO Manager at HRS is evaluating the guidelines currently in place and will be making recommendations for improving those processes and determining whether a new policy is needed. In addition, a limited-term, *ad hoc* subcommittee, comprised of



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Supervisors Nelson and Spitzer, is reviewing, and will be recommending to the full Board, a number of policy considerations for investigating EEO and harassment complaints against County executives.

Last year, the County began using outside legal investigators to investigate discrimination and harassment complaints involving Executive Management employees. Though costly, the utilization of private attorneys has proven to be a valuable tool for determining whether a claim is substantiated or unsubstantiated, what level of discipline is appropriate in cases where allegations of misconduct are substantiated, and for setting a legal foundation if litigation is pursued by an involved employee.

Grand Jury Recommendation R2:

Recommendation 2: All County employees and elected County officials shall undergo training on discrimination and harassment. At a minimum, all employees classified as supervisors and above should receive in-person training every two years, as well as have access to on-line training. The Board of Supervisors, and any other elected County officials, should participate in the in-person training at a minimum of once every two years. The Board of Supervisors should support this effort with adequate funding.

County Follow-Up Response to Grand Jury Recommendation R2:

The recommendation has been implemented.

The County hired a sole contractor to provide EEO training to all managers, supervisors, HRS staff, and elected officials prior to December 31, 2013 in order to comply with the AB 1825 training deadline. The sole source contract with the Law Firm of Liebert Cassidy Whitmore (LCW) stipulated that beginning on August 23, 2013, they would conduct a sufficient number of workshops to provide in-person EEO training to the approximate 3500 managers, supervisors and elected officials within the County. The County has conducted twenty-three 3-hour workshops, which include two hours of the required AB 1825 harassment training and one hour of ADA and Reasonable Accommodation training. One of those workshops was held on September 25, 2013, specifically to train the Chief Executive Officer, all department/agency heads, and the Board of Supervisors along with their respective staff.



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We are pleased to inform the Grand Jury that, to date, approximately 3,300 managers and supervisors, including all department/agency heads and members of the Board of Supervisors, have been trained. Prior to the next training cycle in 2015, and as required by AB 1825, training will be made available on a bi-annual basis for new supervisors.

In response to online training, the County Procurement Office and Human Resource Services Department received authorization from the Board of Supervisors to proceed with contract negotiations with Navex Global, Inc. to provide EEO online training services to non-supervisory personnel. The County’s Procurement Office and County Counsel are currently engaged in ongoing contract negotiations with Navex Global, Inc.

Original Response to R2:

The recommendation has not yet been implemented, but will be implemented in the future.

The Human Resource Services department released a Request for Proposal (RFP) for a contractor(s) to provide in-person EEO and anti-harassment training to its managers/supervisors and on-line training for all line staff. There was not a responsible bid for in-person training, so HRS plans to hire a sole source contractor for the 2013 training, and also to re-issue a RFP for future in-person training for managers/supervisors. In the near future, the Board will be evaluating the merits of using either in-person or on-line training for line staff.

Grand Jury Recommendation R3:

Recommendation 3: The County Human Resource Services Department should develop specific training schedules for all of its personnel to ensure consistency in addressing County employee issues. The training should be ongoing and include both internal and external sources. Additional and specific training should be given to those in charge of investigating complaints.

County Follow-Up Response to Grand Jury Recommendation R3:

The recommendation has been implemented.

As noted in our original response to R3, if the recommendation refers to EEO and discrimination training for HRS staff, then HRS has ensured that training occurs every two years as mandated. As described in the Follow-Up Response to R2, currently all managers



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and supervisors, including those in HRS, have been trained on their obligation to recognize and prevent discrimination, harassment and retaliation, and how to address such situations. In addition to the mandated EEO training, all HRS staff have been trained in the administrative procedures for the handling of EEO complaints.

Also, as noted in our previous response, if the recommendation is related to any and all training, then as part of recentralization, HRS has formed a Learning & Development division. This division is responsible for providing specific input on addressing Countywide training needs through the County’s training consortium. In addition to Countywide training, the Learning & Development division began to provide internal training in October of 2013 to all HRS staff in the foundational areas of Human Resources including: the Employee Relations Resolution Manual, EEO Compliance Oversight, and the HRS Business Plan. Future training will include classes on Merit Principles, Classification, County Administrative Processes and Employee Relations Laws. This division will determine any further in-house training needs, as well as recommend the appropriate outside resources when applicable. All training will be tracked through the online Training Partner system.

Original Response to R3:

The recommendation requires further analysis.

This recommendation, like the corresponding finding, is vague. If the recommendation refers to EEO and discrimination training for HR staff, then HRS ensures that this training occurs every two years as mandated. If the recommendation is related to any and all training, then HRS is currently strengthening its training efforts. As a part of recentralization, HRS has formed a Training & Organizational Development division. When fully operational, this division will determine the desired level and scope for tracking the training provided to all County employees.



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Grand Jury Recommendation R5:

Recommendation 5: The Human Resource Services Department, with input from County Counsel shall draft policies, procedures, and guidelines for all agencies and departments on handling the reporting of potential criminal conduct by County employees.

County Follow-Up Response to Grand Jury Recommendation R5:

The recommendation has been implemented.

With input from County Counsel, Human Resources Services has developed a policy entitled Reporting of Criminal Conduct for use by all County agencies and departments on the reporting of potential criminal conduct by County employees. The policy outlines the responsibilities of County employees to report criminal activity and the avenues available to County employees to report potential/actual criminal conduct.

Original Response to R5:

The recommendation has not yet been implemented, but may be implemented in the future.

With the assistance of County Counsel, the Human Resource Services department is currently in the process of developing a new policy for consideration and adoption by the Board of Supervisors. There are a number of issues that will be considered in the development of such a policy, including:

- The level of potential criminal conduct (e.g., felony, misdemeanor) where reporting shall be required;
- The types of criminal conduct to be reported (e.g., major crimes committed in connection with County employment);
- What law enforcement agency should be contacted;
- The process for reporting potential criminal activity;
- The privacy rights of the alleged victims.