OBJECTIVE

To address Misuse-Abuse of the County's Policy of Equity Process.

GUIDELINE

The County encourages the Reporting of County Policy of Equity (CPOE or the Policy) complaints concerning potential violations of the CPOE.

The CPOE expressly states that County employees are “strongly encouraged” to Report potential violations of the CPOE. This Guideline is not meant to impact that requirement in any way and exempts from coverage those complaints filed by supervisors with an “affirmative duty” to report.

This Guideline is established to address the “rare instance” where a County employee has engaged in conduct that frustrates the CPOE process in such a manner as to constitute a misuse and abuse of the CPOE process as such conduct consumes limited resources to the detriment of other County employees and causes delay due to the filing of repetitive, duplicative or compound/voluminous complaints with the County Intake Specialist Unit.

PROCEDURE

Complaint: For the purpose of this Guideline, a complaint means a CPOE complaint, filed in accordance with County Code Section 5.09 with the County Intake Specialist Unit (CISU).

Misuse-Abuse of Process: a County employee who engages in conduct that satisfies one or more of the following criteria (e.g. 1-4 below) may fall within the scope of this Guideline and may therefore be assigned Misuse-Abuse Complainant Status (“MAC Status”):

1. A pattern of misuse-abuse of the CPOE process may include:

   A. Evidence of multiple CPOE complaint filings; and

   B. Allegations in such filings that are similar or identical, lack specificity, involve matters already set forth in prior complaints, involve matters that have already been investigated and resolved or involve matters that should have been set forth in a single complaint instead of multiple complaints;
or

C. Use of the County’s CPOE process in a manner to frustrate its purpose.

2. A County employee who in the immediately preceding 5-year period has filed individually or has had filed on their behalf, 5 or more CPOE complaints that have been investigated and resolved adversely to them as the complainant (i.e., resulted in unsubstantiated dispositions.)

3. A County employee who after an unsubstantiated disposition has been reached on a CPOE complaint they filed or that was filed on their behalf submits a new CPOE complaint, containing substantially similar or identical allegations to those in the previously unsubstantiated CPOE complaint;

4. A County employee who after an unsubstantiated disposition has been reached on a complaint they filed, or had filed on their behalf, continues to rebut or challenge the disposition by submitting the same CPOE complaint or engaging in other tactics (such as numerous phone calls or letters) that appear frivolous or intended to harass, cause unnecessary delay or frustrate the operations of the CPOE Process.

MISUSE-ABUSE COMPLAINANT STATUS DETERMINATION

Any County employee whose conduct satisfies one or more of the above criteria (e.g. 1-4 above) may be assigned MAC status to which this Guideline will apply.

The determination of MAC status shall be made by the Executive Director of the CEOP (EDCEOP), who will consult as necessary, with the involved department, the County’s Department of Human Resources ("DHR") and County Counsel.

Written notice of MAC designation shall be provided by the EDCEOP to the involved County employee, DHR and the involved County employee’s department.

The written notice will also inform the involved County employee about the impact their MAC status will have on their pending complaints, the process available to them for filing further CPOE complaints and their ability to seek removal or modification of their MAC designation, at the discretion of the EDCEOP. The County employee will also be reminded that the MAC status does not limit or affect their ability to file complaints with the DFEH, EEOC, the court or other entity.

PROCESS TO FILE CPOE COMPLAINT FOR COUNTY EMPLOYEE WITH MAC STATUS

Once MAC status has been assigned to a County employee, the following occurs:

A. **Pending Complaints:** All pending non-designated complaints from a complainant that satisfy these criteria may be consolidated for deactivation under this section with a note in each file indicating why it was deactivated.
B. **Filing a CPOE complaint:** Once a County employee has been assigned MAC status the following process must be followed before the employee may file a CPOE complaint:

1. **Mandatory Mediation:** The MAC must participate in a mandatory mediation (to be facilitated by County DHR or other mediator, participants to include the EDCEOP, representatives from the involved Department, the MAC, County Counsel and other necessary persons) before any subsequent CPOE complaint filed by them or on their behalf, will be accepted by the CISU;

2. **Mandatory CPOE Training:** The MAC must participate in a mandatory CPOE Training course and documentation of that training must be provided by the MAC or their department to the EDCEOP; and

3. **MAC Declaration:** After participating in the mandatory mediation and CPOE training each subsequent CPOE complaint filed by the MAC must be accompanied by a "MAC CPOE Complaint Declaration," signed under penalty of perjury, declaring that the CPOE complaint the employee is filing or that is being filed on their behalf meets the following criteria:
   
   a. **Contains alleged “New Facts”:** New facts are facts not previously complained of;

   b. **Is Not an Abuse of Process:** The CPOE complaint is not being filed to harass, delay or for another impermissible purpose but instead contains alleged facts that are jurisdictional to the CPOE based on a reasonable good faith belief standard; and

   c. **No More Than A Reasonable Amount of County Work Time Allowed:** The County employee acknowledges that they have not spent an unreasonable amount of County work time to fill out the CPOE complaint.

   d. **Review by EDCEOP:** CPOE complaints filed by a MAC Declarant will be reviewed by the EDCEOP to ensure that the criteria set forth above (3. a, b and c) have been satisfied.

   *If in the EDCEOP’s discretion the above criteria have been satisfied*, the CPOE complaint will be processed in accordance with County Code Section 5.09 consistent with the CPOE process.

   *If in the EDCEOP’s discretion the above criteria have not been satisfied*, the MAC will be provided written notice (with a copy to DHR and the complainant’s department) that his or her complaint has not met the threshold for review pursuant to these guidelines and will not be investigated further until those requirements are met.
Note: Where it appears necessary for the efficient functioning of the CPOE Process, a MAC may be informed in writing that all communications must be made in writing, to a designated CISU/CEOP staff.

PROCESS TO REMOVE OR MODIFY MAC STATUS

A MAC designation may be removed or modified upon written application by the MAC to the EDCEOP. Removal of MAC status lies within the discretion of the EDCEOP.
| COUNTY INTAKE SPECIALIST UNIT'S  
| MISUSE-ABUSE OF  
| COUNTY POLICY OF  
| EQUITY PROCESS GUIDELINE  
| EFFECTIVE:  | 05/31/2013  
| POLICY:  | CEOP_100_001  
| POLICY TITLE:  | COUNTY INTAKE SPECIALIST UNIT'S  
| MISUSE-ABUSE OF COUNTY POLICY OF  
| EQUITY PROCESS GUIDELINE  

**Misuse-Abuse Complainant ("MAC") Declaration**

I, __________________, declare under penalty of perjury under the laws of the state of California that the following is true and accurate.

That the County Policy of Equity (CPOE) complaint attached hereto satisfies the following:

a. alleges “new facts” defined as facts not previously complained of; and

b. is not similar or identical to prior CPOE complaints filed by me or on my behalf; and

c. is specific; and

d. is not filed to misuse or abuse the CPOE process established by the County of Los Angeles to address workplace complaints of discrimination, harassment, retaliation and inappropriate conduct based on a protected class.

________________________
Print Name

________________________
Signature

________________________
Date
REFERENCES

California Code of Civil Section 391.7

EEOC Guidelines Section 1614.107(a)(9) et seq.