

# **County of Sullivan Discrimination and Discriminatory Harassment Policy**

Adopted 2/18/16

Revised 12/13/18

## **I. PURPOSE**

The County of Sullivan (“County”) is an equal opportunity employer committed to compliance with federal, state and local laws prohibiting employment discrimination. It is the policy of the County to maintain a work environment which is free from unlawful discrimination based on sex (with or without sexual conduct), race, creed, color, religion, national origin, age, disability, sexual orientation, military status, marital status, predisposing genetic characteristics or genetic information, domestic violence victim status and any other class protected by law. Harassment based on any of these characteristics (“discriminatory harassment”) is a form of unlawful discrimination. Discrimination and discriminatory harassment is prohibited in each and every work environment and each and every situation which directly impacts the work environment.

## **II POLICY**

The County considers unlawful discrimination and discriminatory harassment to be forms of employee misconduct and considers this type of misconduct to be a serious offense which will not be tolerated. Allegations of discrimination and/or discriminatory harassment will be investigated thoroughly and if substantiated, will be met with appropriate corrective and/or disciplinary action commensurate with the seriousness of the offense(s), and in accordance with the parameters of applicable collective bargaining agreements and/or state law.

All employment decisions at the County shall be made on the basis of merit, fitness and equality of opportunity and without unlawful discrimination on the basis of sex, race, creed, color, religion, national origin, age, disability, sexual orientation, military status, marital status, predisposing genetic characteristics or genetic information, domestic violence victim status and any other class protected by law.

Retaliation against any individual making a harassment complaint or assisting in the investigation of such a complaint is also unlawful and prohibited. Retaliation is a serious violation of this policy which may result in disciplinary action.

## **III DEFINITIONS**

### **A. Discriminatory Harassment**

In addition to sexual harassment which is covered by the County Sexual Harassment Prevention Policy, harassment on the basis of any other protected characteristic also constitutes discriminatory harassment and is prohibited.

Discriminatory harassment includes conduct that creates a hostile work environment. Hostile work environment harassment includes verbal or physical conduct that denigrates or shows hostility or

aversion toward an individual because of his/her race, creed, color, religion, gender, national origin, age, disability, or sexual orientation (and any other class or characteristic protected by law), or that of his/her relatives, friends, or associates, and that (i) has the purpose or effect of creating a hostile, intimidating or offensive work environment; (ii) has the purpose or effect of unreasonably interfering with an individual's work performance; or (iii) otherwise adversely affects an individual's employment opportunities.

Discriminatory harassment includes, but is not limited, to, epithets, slurs, negative stereotyping, or threatening, intimidating or hostile acts that relate to a protected class or characteristic. This also includes acts that purport to be "jokes" or "pranks", but that are hostile or demeaning acts regarding member(s) of a protected class and any written or graphic material that denigrates or shows hostility or aversion toward an individual or group based on a protected class or characteristic that is placed on walls, bulletin boards, or elsewhere on the employer's premise, or circulated in the workplace.

B. Other Unacceptable Conduct

This policy also prohibits conduct which may not rise to the level of discrimination or discriminatory harassment in violation of the law, but nonetheless creates a degree of hostility or intimidation that adversely affects the work environment. Conduct which is not based on a legally protected characteristic, but is nonetheless intended to annoy, personally attack, belittle or embarrass another individual is inappropriate and unacceptable in the workplace. The County encourages the use of its complaint procedure by employees or interns who believe they have been subject to inappropriate conduct by another individual, even if such conduct may not constitute discrimination or discriminatory harassment. The County endeavors to create an environment in which employees and interns may feel free to raise concerns and confident that those concerns will be addressed.

C. Discrimination

Discrimination on the basis of any class or characteristic protected by law is prohibited. Discrimination is defined as any adverse treatment of an individual in the terms, conditions or privileges of employment because of his/her race, creed, color, religion, national origin, age, disability, sexual orientation, military status, marital status, predisposing genetic characteristic or genetic information, domestic violence victim status, or any other class protected by law.

D. Retaliation

Retaliation is any adverse action taken against an individual because he/she filed a complaint of discrimination or harassment or because he/she participated in the investigation of such complaint. Adverse actions may include, but are not limited to, firing, demotion or harassment.

#### **IV SCOPE OF THE POLICY**

This policy applies to all applicants for employment with the County and all County employees (including officers, managers, supervisors and all other employees), interns, contractors, and volunteers. This policy may be applied to the conduct of those who are not

employees, volunteers, contractors or interns of the County with respect to any illegal discrimination or illegal harassment of County employees, volunteers, applicants, contractors or interns in the workplace, depending on the nature of the alleged conduct.

All employees, volunteers, contractors or interns will be expected to comply with this policy and take appropriate measures to ensure that discrimination or harassment does not occur. When discrimination or harassment is suspected, employees, volunteers, contractors and interns are encouraged to use the complaint and investigation procedures set forth in this policy.

Conduct prohibited by the policy is unacceptable in the workplace and in any work-related settings outside the normal workplace, such as during business trips, business meetings and business-related social events.

Anti-discrimination protections described in this policy apply to all of the terms and conditions of employment including, but not limited to: recruitment, testing, hiring, work assignments, salary and benefits, performance evaluations, promotions, training opportunities, transfers, discipline, discharge and working conditions.

## **V RESPONSIBILITIES**

### **A. Responsibilities of Department Heads**

All Department Heads shall be responsible for enforcing this policy within their Department in conjunction with the County Personnel Officer, and shall have particular responsibility for ensuring that the work environment under their supervision is free from discrimination, harassment and its effects.

All Department Heads who receive complaints or become aware of potential instances of discrimination or discriminatory harassment within the work environment under their supervision are responsible for immediately forwarding the complaint to the Personnel Officer. Failure of a Department Head to comply with this responsibility may result in disciplinary action.

### **B. Responsibilities of Managerial/Supervisory Personnel**

All managerial and supervisory personnel who receive discrimination or discriminatory harassment complaints or become aware of potential instances of discrimination or discriminatory harassment within the work environment under their supervision will be responsible for immediately forwarding such complaints to the Department Head or the Personnel Officer. Failure of a manager or supervisor to comply with this responsibility may result in disciplinary action.

### **C. Responsibilities of the County**

The County of Sullivan will conduct periodic training for Department Heads, managerial and supervisory personnel in each Department of the County on the issues surrounding

discrimination and discriminatory harassment, its effects and its appearances, and the role and responsibility of Department Heads and managerial/supervisory personnel in preventing incidents of discrimination and harassment.

The County shall distribute this policy to all County employees and all others covered by its parameters. Copies of this policy will be distributed to new employees as they are hired.

## **VI REPORTING PROCEDURE**

If an individual is subject to a situation which he/she believes constitutes harassment, it is recommended that the employee confront the harasser directly and advise the harasser that his/her behavior is not welcomed and will not be tolerated; note that neither this policy nor state/federal law requires that an individual tell an alleged accused to stop his/her actions. Employees should feel free to keep written records of any alleged harassment incidents, including the date, time, location, names of people involved, witnesses (if any) and who said what to whom. If an alleged incident of harassment cannot be resolved directly between the parties involved, a written or verbal complaint should be filed as prescribed below.

An individual covered by this policy who is subject to a situation which he/she believes constitutes discrimination, discriminatory harassment or retaliation should file a written or verbal complaint with the individual's Department Head, or directly with the Personnel Officer.

A manager, supervisor or Department Head who becomes aware that discrimination or discriminatory harassment may be occurring must immediately report it in accordance with Section V of this policy.

## **VII COMPLAINT INVESTIGATION**

All complaints will be handled confidentially to the extent possible, and information obtained from the complainant will not be discussed with other personnel except as necessary to investigate and resolve the complaint.

All complaints will be investigated as promptly as possible and resolved within a reasonable time after receipt of the complaint by the Personnel Officer.

The County, through an investigator and with the oversight of the Personnel Officer or his/her designee, will coordinate an investigation of the complaint. Following the investigation, the investigator shall issue a written report of findings and conclusions to the Personnel Officer.

Thereafter, an initial determination on the complaint will be issued by the Personnel Officer and the results communicated, in writing, back to the complainant.

## **VII APPEAL PROCEDURE**

- A. The Complainant may appeal the Personnel Officer's determination by providing a written appeal request to the County Attorney. This appeal request should be filed within seven (7) business days of the individual's receipt of the Personnel Officer's written determination and should state the reason(s) for objecting to those findings.
- B. The County Attorney will refer the appeal to a Review Board who will review the evidence gathered, the investigative findings, and the Personnel Officer's decision to determine if the decision reached was reasonable, based upon the facts.
- C. The Review Board shall consist of the County Attorney, County Manager or their designees and the Commissioner of the respective division.
- D. Within thirty (30) days of receipt of a written appeal request, the County Attorney shall issue a written report of findings of the Review Board to the parties.

### **VIII RESPONSE PROCEDURES**

Any person found to be engaging in discrimination, harassment, retaliation or other behavior prohibited by this policy (including the failure of a Department Head, manager or supervisor to comply with their responsibilities under Section V of this policy) will be subject to disciplinary action in accordance with the provisions of his/her collective bargaining agreement or applicable state law. Based upon the seriousness of the offense, discipline may include, but is not limited to, a written reprimand, suspension without pay, demotion, transfer, fine, termination and any other measures calculated to eliminate illegal or inappropriate behavior. In addition to implementing such disciplinary action, the County shall take such steps as may be necessary to address the impact that any unlawful discrimination has had upon the complainant.

### **IX RETALIATION WILL NOT BE TOLERATED**

Retaliation against any individual making a good faith complaint or assisting in the investigation of such a complaint is strictly prohibited and will not be tolerated. Retaliation is a serious violation of this policy which may result in disciplinary action.

### **X MISCELLANEOUS**

Reporting of a false complaint is a serious act. In the event it is found that the individual making the complaint has made knowingly false accusation, the County may take disciplinary action in accordance with the provisions of the applicable collective bargaining agreement and/or applicable state law.

This Policy does not preclude the filing of discrimination, discriminatory harassment or retaliation complaints with either the New York State Division of Human Rights or the Federal Equal Employment Opportunity Commission, or the pursuit of any other remedies permitted by law.

revised April 6, 2001  
revised February 18, 2016  
revised:

**DISCRIMINATION/HARASSMENT COMPLAINT FORM:**

**(Submit to Department Head and/or Personnel Officer)**

This form may be used to file a charge of discrimination or harassment prohibited by federal law, the New York State law, and Sullivan County's Anti-Discrimination and Harassment Policy.

Filing of this complaint form in no way deprives you of the right to file a complaint with the US Equal Employment Opportunity Commission, New York State Division of Human Rights, or the Federal/State courts.

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(PLEASE PRINT OR TYPE)

1. Name \_\_\_\_\_ Phone Number \_\_\_\_\_  
Residence \_\_\_\_\_  
Mailing Address (if different from residence)  
\_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

2. Department that you work in \_\_\_\_\_

3. (a) Have you filed this charge with a Federal, State or local government agency?  
YES/NO: \_\_\_\_\_ When \_\_\_\_\_ Where \_\_\_\_\_  
(Month/Day/Year)

(b) Have you instituted a suit or court action on this charge?  
YES/NO: \_\_\_\_\_ When \_\_\_\_\_ Where \_\_\_\_\_  
(Month/Day/Year)

(AN AFFIRMATIVE REPLY TO THIS QUESTION WILL IN NO WAY STOP SULLIVAN COUNTY'S REVIEW OF YOUR COMPLAINT)

4. Alleged Discrimination/Harassment Occurred on or about:  
Month: \_\_\_\_\_ Day: \_\_\_\_\_ Year: \_\_\_\_\_ Time: \_\_\_\_\_

Is this alleged discrimination/harassment continuing: YES \_\_\_\_\_ NO \_\_\_\_\_

Describe the alleged act of discrimination/harassment. **Use additional sheets if necessary.**

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5. Indicate the name(s) of the alleged harasser(s): \_\_\_\_\_  
\_\_\_\_\_

(OVER)

6. State the name(s) of any potential witness(es): \_\_\_\_\_  
\_\_\_\_\_

7. I swear or affirm that I have read the above related facts and that the statements are true and correct to the best of my knowledge, information and belief.

Date: \_\_\_\_\_  
(sign your name)

-INFORMATION PROVIDED WILL BE CONFIDENTIALLY MAINTAINED-