



COUNTY OF BERGEN

ANTI-HARASSMENT AND ANTI-DISCRIMINATION POLICY

Amended: March 2022

A. STATEMENT OF PURPOSE

Workplace harassment and discrimination undermines the integrity of the employment relationship. Workplace harassment is a violation of the County's personnel policies and State and Federal laws. Further, workplace harassment debilitates employee morale, interferes with work productivity, and creates a hostile and intimidating work environment. In recognition of the dignity and worth of each employee in County employment, this Policy concerning workplace harassment and discrimination is promulgated County-wide.

The goals of this Policy are to: enlighten County employees, agents and volunteers as to what conduct constitutes workplace harassment and discrimination, ensure that all employees understand that workplace harassment and discrimination will neither be condoned nor tolerated, create a procedure to promptly, thoroughly, confidentially, and respectfully handle complaints, and to ensure that retaliation against complainants and/or participants in any investigation does not occur.

B. SCOPE AND EFFECTIVE DATE

This Policy applies to all employees in County agencies, departments, authorities and instrumentalities, as well as volunteers working on behalf of the County, and prohibits such conduct by or towards all employees/volunteers. Independent contractors, vendors, and all other parties engaged in a professional business relationship with the County are expected to adhere to the spirit and intent of this Policy. Workplace harassment and discrimination is not limited to regular business hours or the workplace and can include functions or work-related meetings or social events, ceremonies, missions, or other non work-related meetings.

This Policy shall take effect on the date of adoption and shall apply to all complaints made on or after that date. This Policy shall continue in force until changed by the Bergen County Executive and approved by the Bergen County Board of County Commissioners.

C. GENERAL ANTI-DISCRIMINATION POLICY

Title VII of the 1964 Civil Rights Act as amended by the Equal Opportunity Act of 1972 and the New Jersey Law Against Discrimination (LAD) prohibit workplace discrimination. Workplace includes the "office" but also includes work-related events outside the office, such as Christmas parties, softball teams sponsored by the County, etc. Discrimination includes the unfavorable treatment of an individual because of their actual or perceived sex, race, creed, color, religion, national origin, ancestry, age, marital or political status, affectional or sexual orientation, domestic partnership status, civil union status, atypical heredity, cellular or blood trait, genetic information,

disability (including AIDS or HIV infection), gender identity or expression, liability for service in the United States armed forces, and/or any other characteristic protected by law. Discrimination of any type and by any employee, volunteer, vendor and/or independent contractor is strictly prohibited.

Any person who believes a violation of Title VII or the LAD has occurred may contact the EEOC and file a complaint at <https://www.eeoc.gov> or the New Jersey Division on Civil Rights at www.NJCivilRights.gov within 180 days of the incident.

The County makes its employment decisions regarding the hiring, promotion, transfer, demotion or termination of its employees based solely on the qualifications and performance of the employee or prospective employee.

For purposes of clarification, the following are examples of discrimination, which are absolutely prohibited:

1. Race discrimination, which includes unfavorable treatment because of an individual's:
 - racial or ethnic ancestry;
 - physical characteristics associated with race (*i.e. a person's color, hair, facial features, height and weight*);
 - race-linked illness;
 - culture that is linked to race or ethnicity, if it does not materially interfere with the employee's ability to perform their job duties (*i.e. a person's name, cultural dress and grooming practices, or accent or manner of speech.*);
 - perceived race or ethnicity regardless of how the employee identifies themselves; and
 - association with an individual of a particular race or ethnicity.
2. Color discrimination, which includes unfavorable treatment because of an individual's skin pigmentation, complexion, or skin shade or tone.
 - Color discrimination occurs when a person is discriminated against based upon their lightness, darkness, or other color characteristic.
 - Race and color are not synonymous. Color discrimination can occur between persons of different races or ethnicities, or between persons of the same race or ethnicity.
3. National origin discrimination, which includes unfavorable treatment because an individual (or their ancestors) is from a certain place or belongs to a particular national origin group.
4. Sex and/or gender-based discrimination, which includes unfavorable treatment because of an individual's:
 - Sex/gender;
 - connection with an organization or group that is generally associated with people of a certain sex; and
 - gender identity or expression, which can include:
 1. transgender individuals whose gender identity and/or expression differs from the sex they were assigned to at birth; and

2. sexual orientation discrimination because of an individual's non-conformance with sex/gender stereotypes.

5. Genetic information Discrimination, which includes unfavorable treatment because of:

- an individual's genetic tests and/or the genetic tests of the individual's family members;
- information about the manifestation of a disease or disorder in an individual's family member(s);
- an individual's family medical history (because it is often used to determine whether someone has an increased risk of getting a disease, disorder, or condition in the future.);
- an individual's request for, or receipt of, genetic services, or the participation in clinical research that includes genetic services by the individual or a family member of the individual; and
- the genetic information of a fetus carried by an individual or by a pregnant woman who is a family member of the individual.

6. Religious Discrimination, which involves unfavorable treatment because of an individual's religious beliefs, which includes:

- The law protects not only people who belong to traditional, organized religions, such as Buddhism, Christianity, Hinduism, Islam, and Judaism, but also all others who have sincerely-held religious, ethical or moral beliefs. It also protects Atheists.
- Religious discrimination can also involve treating someone differently because that person is married to (or associated with) an individual of a particular religion or because of their connection with a religious organization or group.

7. Disability Discrimination, which includes:

- treating a qualified individual with a disability unfavorably because they have a disability;
- treating an individual unfavorably because they have a history of a disability (such as cancer that is controlled or in remission);
- treating an individual unfavorably because they are believed to have a physical or mental impairment that is not transitory (lasting or expected to last six months or less) and minor (even if they do not have such an impairment); and
- treating an individual unfavorably based on their relationship with a person with a disability (even if they do not themselves have a disability).

8. Pregnancy Discrimination, which involves treating a woman unfavorably because of pregnancy, childbirth, or a medical condition related to pregnancy and/or childbirth.

9. Sexual Orientation Discrimination, which includes unfavorable treatment because of an individual's actual or perceived:

- attraction to people of the opposite gender;

- attraction to people of the same gender; or
- attraction to people of either gender.

D. GENERAL ANTI-HARASSMENT POLICY

It is the County's policy to prohibit harassment of an employee by another employee, management representative, supplier, volunteer, or business invitee on the basis of actual or perceived sex, race, creed, color, religion, national origin, ancestry, age, marital or political status, affectional or sexual orientation, domestic partnership status, civil union status, atypical heredity, cellular or blood trait, genetic information, disability (including AIDS or HIV infection), gender identity or expression, liability for service in the United States armed forces, and/or any other characteristic protected by law. Harassment of non-employees by our employees is also strictly prohibited.

Harassment includes, but is not limited to, slurs, epithets, threats, derogatory comments, unwelcome jokes told to co-workers, teasing, caricatures or representations of persons using electronically or physically altered photos, drawings, pictures, cartoons, posters, or images, and other similar verbal, written, printed or physical conduct. Harassment may also include any adverse employment action, such as being passed over for a promotion or being denied certain employment benefits and/or opportunities. "Jokes" that relate to racial, cultural, religious, sexual orientation or similar are inappropriate and may cause violation for the County's policy.

Instances that may violate the County's Policy against harassment and which may result in disciplinary action include the following:

- Unwelcome remarks and actions based on the protected classifications. This may include, but is not limited to, inappropriate jokes, comments or posted materials;
- Threats or suggestions that an employee's employment work status will be adversely affected based upon the protected classifications;
- Affecting or denying employment opportunities or benefits to an employee based upon the protected classifications;
- Engaging in a negative tangible employment action based upon the protected classifications; and/or
- Retaliation against an employee who has reported an alleged violation of this Policy or participated in an investigation related to this Policy.

If an employee is witness to or believes to have experienced harassment, immediate notification to their supervisor or the Personnel Director (if the complaint concerns their supervisor). (See the Employee Complaint Policy.) Notification to appropriate personnel of any harassment problem is essential to the success of this Policy and the County. The County cannot resolve a harassment problem unless it knows about it. Therefore, it is the responsibility of all employees to bring those kinds of problems to attention of the appropriate supervisors so that steps are taken to correct them. The procedure is fully explained in Section E: Employee Complaint Policy.

Violation of this harassment policy will subject employees to disciplinary action, up to and including, immediate discharge.

1. Anti-Sexual Harassment Policy

It is the County's policy to prohibit sexual harassment of an employee by another employee, management representative, supplier, volunteer, or business invitee. The County prohibits sexual harassment from occurring in the workplace or at any other location at which County-sponsored activities take place. Sexual harassment of non-employees by our employees is also prohibited.

Sexual harassment may include, but is not limited to, unwanted sexual advances, offering employment benefits in exchange for sexual favors, visual conduct (leering, making sexual gestures, displaying of sexually suggestive objects or pictures, cartoons or posters), verbal sexual advances, propositions or requests, verbal abuse of a sexual nature, graphic verbal commentaries about an individual's body, sexually degrading words used to describe an individual, suggestive or obscene letters, caricatures or representations of persons using electronically or physically altered photos, drawings, or images; notes or invitations, and/or, physical conduct (touching, assault, impeding or blocking movements).

Unwelcome sexual advances, requests for sexual favors and other verbal, physical or visual conduct of a sexual nature constitute harassment when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, known as "Quid Pro Quo" Sexual Harassment;
- Submission to or rejection of such conduct by an individual is used as the basis for an employment decision affecting the individual; and/or
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment, known as a "Hostile Work Environment."

If an employee is witness to or believes that the employee has experienced sexual harassment, they must immediately notify their supervisor or the Personnel Director (if the complaint concerns their supervisor. (See Section E: the Employee Complaint Policy.) Violation of this sexual harassment policy will subject employees to disciplinary action, up to and including immediate discharge.

2. "Whistle Blower" Policy

Employees have the right under the "Conscientious Employee Protection Act" (CEPA) to complain about any activity, policy or practice that the employees reasonably believe is in violation of a law, rule, or regulation promulgated pursuant to law without fear of retaliation or reprisal. This right shall be communicated to all employees in an annual letter outlining the specific employee complaint procedure and in a posted notice. A written acknowledgement that the employee received, read, and understood this letter will be included in the employee's official

personnel file. The annual notice shall be in English and Spanish but can be translated to other languages upon request. Additionally, the annual notice must contain the name of the person who is designated to receive written notification of policies or practices that might violate CEPA. All complaints will be taken seriously and promptly investigated.

The County shall not take any retaliatory action or tolerate any reprisal against an employee for any of the following:

- Disclosing or threatening to disclose to a supervisor, Personnel Director or other official or to a public body, as defined in the Conscientious Employee Protection Act (N.J.S.A. 34:191 et seq.) an activity, policy or practice that the employee reasonably believes is in violation of a law, a rule or regulation promulgated pursuant to law;
- Providing information to, or testifying before any public body conducting an investigation, hearing, an inquiry into any violation of law, or a rule or regulation promulgated pursuant to law; or
- Objecting to, or refusing to participate in any activity, policy, or practice that the employee reasonably believes is a violation of a law, rule or regulation promulgated pursuant to law; is fraudulent or criminal; or is incompatible with a clear public policy mandate concerning the public health, safety, or welfare.

In accordance with the statute, the employee must bring the violation to the attention of their supervisor or the Personnel Director (if the complaint concerns their supervisor). However, disclosure is not required where (1) the employee is reasonably certain that the violation is known to one or more officials; (2) where the employee reasonably fears physical harm; or (3) the situation is emergency in nature. Employees are encouraged to complain in writing using the Employee Complaint form. (See the Employee Complaint Policy.) Under the law, the employee must give the County a reasonable opportunity to correct the activity, policy or practice. The administration of whistle blower complaints is not subject to the limitations in the Employee Complaint Policy. If the person is uncomfortable reporting the conduct to the Personnel Director, the complaining party may report complaint of conduct to the County Administrator.

E. EMPLOYEE COMPLAINT POLICY

In every case, complaints of workplace harassment and/or discrimination will be taken seriously and fully investigated discreetly, impartially, thoroughly and promptly. Investigations will vary from case to case, depending on a variety of circumstances; but, the internal investigation will aim to protect the reputations of both the alleged harasser and complainant. Any applicable Collective Bargaining Unit shall have the right to represent any employee requesting representation, but individual employees shall also have the right to elect to represent themselves. All investigations will be supervised by the Office of the County Counsel where circumstances so dictate.

Employees who observe actions they believe to constitute harassment, sexual harassment, or any other workplace wrongdoing should immediately report the matter to their supervisor, or, if they prefer, or do not think that the matter can be discussed with their immediate supervisor, they should contact the Personnel Director and/or designee. Reporting of such incidents is

encouraged both when an employee feels that they are subject to such incidents, or observes such incidents in reference to other employees.

1. Procedure for Reporting Instances of Harassment and/or Discrimination

Employees who learn of incidents that may be a violation of the County's prohibition against discrimination or harassment are required to **immediately** report the matter. Complaints may be made to the Department of Personnel, the Office of the Inspector General, the Affirmative Action/Equal Employment Opportunity Office or any supervisory employee. The Department of Administration and Office of the County Counsel Employees should report incidents in writing using the Employee Complaint form to their immediate supervisor, or the Personnel Director, currently Ellen Busted, or their designee (if the complaint concerns their supervisor). A copy of the written complaint should also be sent to the County's Director of Personnel and/or designee.

If an employee makes a verbal complaint to a co-employee or their supervisor, that employee or supervisor shall immediately submit a written complaint to the County's Personnel Director. If the complainant has any questions about what constitutes harassment, sexual harassment, or any other workplace wrongdoing, they may ask their supervisor or one of the individuals listed above. All supervisors, as well as the Personnel Director, Office of the Inspector General, or a member of the Affirmative Action/Equal Employment Opportunity Office will as necessary, assist employees with preparing the written complaint.

Requests from complainants to "just record my concerns," "not report until I am sure I want to file a formal complaint," or "not take any action at this time" will not be honored. If at any time the Department of Administration determines that an investigation is necessary, an investigation may proceed without the support of the potential complainant. The complaint should include the following information:

- a) The name, department and position or title of the complainant (i.e. employee, volunteer, etc.);
- b) The name, department and position or title of the charged party (i.e. supervisor, co-worker, etc.);
- c) The basis of the complaint as to the nature and circumstances, in detail, of the workplace harassment and discrimination, including, but not limited to a chronology of the incidents (when and where the actions or comments occurred), the injuries or consequences suffered by the complainant, and the duration of the actions/comments being questioned. (*Note: Be sure to detail your feelings and responses during the incident and after);
- d) The names of any witnesses to such actions/comments or of anyone who may have had similar experiences with the alleged harasser; and
- e) Whether such harassment has been previously reported to a supervisor or other person, and if so, when and to whom.

2. Investigative Process

All reports of harassment, sexual harassment, or other wrongdoing will be promptly investigated by a person who is not involved in the alleged harassment or wrongdoing. The County's response to an allegation of violation of law or policy will be determined by the nature of the alleged violation and the totality of information available at the time of the alleged incident.

The investigator will conduct a thorough fact finding investigation, which includes separate meetings with the complainant, respondent, and witnesses with first hand knowledge of the situation and reviewing and analyzing relevant records as they relate to the allegations. Participants in the process may be requested to document their statements. If a person declines to provide a written statement or sign a statement taken by the investigator that documents their account of the incident(s), the investigator will conduct an investigation based upon available information.

In addition to the investigator, an attorney from the Office of the County Counsel, a member of the Department of Personnel, or an additional attorney from the investigator's office should be present during each interview and shall act primarily as a witness and take notes of the discussion.

Compliance and cooperation with the investigation will be mandatory for all County employees and supervisors. Failure to comply or cooperate in an investigation may lead to disciplinary action, up to and including, immediate discharge.

A complainant will be provided an opportunity to discuss their complaint with the investigator who will in turn determine if the complaint falls within the scope of discrimination/harassment procedures. The complainant, respondent, and witnesses will have the right to present evidence (including documents and names of witnesses) to the investigator. It will be within the investigator's discretion to determine the weight of the evidence and whether it is necessary or appropriate to talk to all persons listed.

At all times, all involved will receive a procedurally fair, prompt and thorough evaluation. The outcome will be documented in writing. Upon completion of the investigation, the complainant and the respondent will be notified of the outcome.

The County will take interim measures as necessary to prevent the Complainant from being subjected to discrimination, harassment or retaliation during the investigative process. The County will take steps to ensure that any interim measures taken do not adversely affect the Complainant.

The investigator will have sixty (60) days to complete the investigation, but additional time may be granted at the discretion of the County Counsel. The assigned investigator will provide a written report, along with all pertinent documents on the matter. The complainant and charged party may be represented by their own counsel at any stage of their proceeding.

Once the investigation has been completed, the Personnel Director and/or designee, will review the written record received from the investigator. The complaining employee will be notified of a decision at the conclusion of the investigation within a reasonable time from the date of the report an incident. If the Personnel Director and/or designee find that acts of workplace harassment and/or discrimination have occurred, action as described below in Section E(5) of this Policy shall be taken and may include the matter being referred for administrative disciplinary proceedings in accordance with the rules and regulations of Title 11A of the New Jersey Statutes ("Civil Service Act") and/or the collective bargaining agreements governing such disciplinary procedures. Disciplinary action up to and including discharge may be taken against individuals who make false or frivolous accusations, such as those made maliciously or recklessly.

3. Informal Resolution Process

The Department of Personnel and/or designee will have 30 days from receipt of a complaint to evaluate the complaint, contact the respondent and complainant and attempt to resolve the complaint if informal resolution is possible.

The informal resolution process is an abbreviated process for less complicated matters that can be quickly resolved to the satisfaction of both parties. An example of such a matter might be a disagreement between complainant and another employee that the complainant deemed objectionable and either a clarification or an apology would resolve the matter. The informal process is completely voluntary, and both parties must agree to it. A complainant has the right in every case to insist on a formal investigation and findings. The County recognizes that there may be certain complaints where the informal process will never be appropriate.

The informal resolution process should be conducted by the Department of Personnel and/or designee. Division supervisors should not participate in the informal resolution process without Department of Personnel engagement.

4. Evidentiary Standard

The investigator shall determine there is unlawful discrimination based upon a “preponderance of the evidence” standard. This standard means that it is more likely than not that the unlawful discrimination occurred.

5. Confidentiality

To the extent possible, the workplace harassment and anti-discrimination investigative proceedings will be conducted in a manner to protect the confidentiality of the complainant, the alleged harasser, all witnesses, and any other persons involved. All parties involved in the proceedings will be advised to maintain strict confidentiality, from the initial meeting to the final County decision, to safeguard the privacy and reputation of all involved. (*Persons who inappropriately disclose such confidential information may be found to have violated N.J.S.A. 52:13D-25*).

6. Retaliation

Retaliation is any job-related adverse action taken against an individual because of the filing of a good-faith workplace harassment and discrimination complaint or the participation in the investigation of a workplace harassment and discrimination complaint, and is a violation of this Policy. Threats, other forms of intimidation, and/or retaliation may be cause for disciplinary action and the basis for a separate complaint. A complaint of retaliation shall be reported to the Director of Personnel and/or designee who shall investigate the complaint in the same manner as a workplace harassment and discrimination complaint.

7. Protection of All Parties

All complaints will be adjudicated as described herein. The alleged harasser will be notified once a formal complaint is filed with the Director of Personnel. A finding of no probable cause as a result of an investigation does not necessarily establish that an accusation is false. However, this Policy shall not be used to intentionally bring frivolous or malicious charges against any employee.

The County shall take all reasonable precautions to ensure that the complaining employee and the individual against whom the complaint is made shall have no contact, either in person, telephonically, in writing, via email, or otherwise, during the pendency of the complaint and any investigation thereof.

8. Remedial Action

Remedial action for employees found in violation of this policy may be progressive in nature and include, but is not limited to, the following:

- An apology and direction to cease the offensive behavior;
- Referral to counseling;
- Oral or written reprimand;
- Reassignment or change of work schedule to minimize contact between the parties;
- Demotion;
- Suspension (with or without pay);
- Termination; and/or
- Referral to criminal justice system for possible violation; or any other remedy the County of Bergen determines to be appropriate.

All remedies will be implemented in a timely manner and a summary of the complaint and the action taken will be furnished to the parties. Where harassment has been found to have occurred, a summary will be placed in the harasser's personnel file. The County shall keep a record of all proceedings in a separate, confidential file.

9. Documentation

It will be the responsibility of the Director of Personnel and/or his designee to receive and collect data regarding complaints filed under this Policy.

10. Applicability of this Policy to Certain Non-Employees of the County

Non-employees of the County, including, but not limited to, those interacting with County employees as vendors of goods and services, independent contractors, substitute or temporary workers or fill-ins, shall also be subject to each and every term of this policy should it be alleged by a complainant that they committed an act or conducted themselves in such a way as to commit an offense of workplace harassment and discrimination.

11. Training

All employees, including management and supervisory employees of the County, as well as all elected officials of the County shall annually undergo training, in one or more sessions, with a person trained to lead or implement such training, said training to include a detailed discussion of the following:

1. The procedures for the filing of a workplace harassment and/or discrimination charge as outlined in this Policy;
2. The specifics of "Quid Pro Quo" harassment and "Hostile Environment" harassment and the differences between the two types;
3. What constitutes "unwelcome" conduct;
4. The manner of investigation which assures completed and prompt investigations;

5. Management's obligations regarding harassment of which it is aware, or alternatively, "should be aware";
6. Procedures to be installed to insure the confidential nature of information gathered during an investigation;
7. The manner in which the interests of both the charged party and the complainant can be balanced; and
8. Record keeping requirements.

All other employees of the County shall also annually undergo similar training, led by a person trained to lead such sessions, to raise their awareness and understanding of the consequences of their behavior and to reduce confusion about which actions or conduct are acceptable and which are not.

12. Distribution

The distribution of the Policy shall consist of:

1. Posting this Policy in at least two (2) or more prominent locations within the County's buildings, and in each department, etc.;
2. Distribution to all County employees and volunteers;
3. Distribution to all persons hired as County employees or volunteers subsequent to the effective date of this Policy;
4. Issuing an annual memorandum to all County employees concerning the Policy of this County against workplace harassment and discrimination; and
5. Discussing this Policy during any new employee orientation meetings, seminars, or training sessions held subsequent to the effective date of this Policy. The Director of Personnel shall ensure that a copy of this Policy is circulated to all of the above-listed employees and volunteers, and that all employees/volunteers are aware of any designated Anti-Discrimination/Affirmative Action Officer.

Amended: March 2022