



# BERGEN COUNTY SHERIFF'S OFFICE

## GENERAL ORDER

Section: <b>1.0 GENERAL ORDERS</b>		Index: <b>GO 08-1.69</b>	Effective Date: <b>12/01/09</b>
Subject: <b>ANTI-HARASSMENT &amp; ANTI-DISCRIMINATION POLICY</b>			Pages: <b>22</b>
<b>REVISED ON</b>	<b>SECTION</b>	References: <b>N.J.A.C. 4A:2-2.1 et seq.; Title VII of the Civil Rights Act of 1964; N.J.S.A. 10:5-1; County of Bergen Anti-Harassment and Anti-Discrimination Policy (2014); GO 10-1.84 Office of Professional Standards; NJSA 34:19-1; Conscientious Employee Protection Act (CEPA); NJSA 52:13D-25; Title 11A of the NJ Statutes ("Civil Service Act"); GO #00-1.2 BCSO Employee Rules &amp; Regulations; NJSA 10:5-12 New Jersey Law Against Discrimination (LAD); Taylor v. Metzger (1998)</b>  <b>NJSACOP: 1.4.2</b> <b>ACA: 4-ALDF-7E-01</b>	
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12/13/17	XV.B-D; County of Bergen form		
		Issuing Authority:	
		<b>Sheriff Michael Saudino</b>	

### POLICY

It is the policy of this agency that all personnel have the right to work in an environment free of all types of harassment and discrimination. This agency will not tolerate, condone, or permit harassment or discrimination of or by employees, County of Bergen employees, and other non-employees who conduct business with this agency. Harassment and discrimination are considered forms of serious employee misconduct. This agency will take direct and immediate action to prevent such behavior and to remedy all reported instances of harassment and discrimination.

The conduct forbidden within this directive does not have to produce a concrete economic injury to be a violation. This directive forbids conduct based upon someone's protected class that interferes with the person's work or creates a hostile or offensive work environment regardless of injury.

### PURPOSE

The purpose of this directive is to establish this agency's policy and procedures concerning harassment and discrimination in the workplace.

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## PROCEDURE

### I. Definitions

- A. **Discrimination** Discrimination includes the unfavorable treatment of an individual because of his/her 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, vendor and/or independent contractor is strictly prohibited.
- B. **Equal Employment Opportunity Commission (EEOC)** A Federal agency responsible for enforcing Federal laws that make it illegal to discriminate against a job applicant or an employee because of the person's race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information.
- C. **Harassment** is defined as discrimination or disparate treatment against any person because of their protected class that includes: race, creed, color, national origin, ancestry, age, sex, gender identity or expression, affectional or sexual orientation, marital status, familial status, liability for service in the Armed Forces of the United States, disability, atypical hereditary cellular or blood trait, genetic

information, nationality, pregnancy or other protected class (NJSA 10:5-1 et seq.)

1. The harassing conduct must be unwelcomed and coercive. Sexual harassment may be homosexual or heterosexual in nature. Gender based harassment need not be sexual in nature to violate the law. Under New Jersey law harassment can be in the form of either sexual advances or intimidation or hostility towards a woman solely because she is a woman.

D. **New Jersey Law Against Discrimination (LAD) (NJSA 10:5-12)**

Prohibits employers from discriminating in any job-related action, including recruitment, interviewing, hiring, promotions, discharge, compensation and the terms, conditions and privileges of employment on the basis of a person's race, creed, color, national origin, nationality, ancestry, age, sex (including pregnancy), familial status, marital status, domestic partnership, or civil union status, affectional or sexual orientation, gender identity or expression, atypical hereditary cellular or blood trait, genetic information, liability for military service, and mental or physical disability, perceived disability, and AIDS and HIV status.

- E. **Sexual Harassment** is defined as "a type of employment discrimination consisting of verbal or physical abuse of a sexual nature." It includes unwelcome sexual advances, requests for sexual favors/relations, and other verbal or physical conduct of a sexual nature including, but not limited to when:

NOTE: Despite the definition, sexual harassment does not have to be of a sexual nature. It can also include offensive remarks about a person's sex. Harassment can occur between members of the same sex or opposite sex.

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.
4. Sexual harassment generally falls into three categories:
  - a. **Quid pro quo sexual harassment** includes unwelcome sexual advances, requests for sexual favors, sexual bribery or other verbal or physical

conduct based on the gender of the affected employee when submission to such conduct is made either explicitly or implicitly a term or condition of employment, in exchange for job benefits or submission to or rejection of such conduct by an individual is used as a basis for employment decisions.

- b. **Hostile work environment sexual harassment** includes unwelcome sexual advance, sexual assault, sexual coercion, requests for sexual favors, seductive behavior and other verbal or physical conduct of a sexual nature which has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment. Gender-based harassment may give rise to a claim of a hostile environment whether or not sexual activity or language is involved, if it has the purpose or effect of abusing, devaluing or subordinating the members of one sex and it adversely affects an individual's employment opportunities.
- c. **Third party sexual harassment** is unwelcome behavior of a sexual nature or based on sex that is not directed at an individual but is a part of an individual's work environment.

F. **Title VII of the Civil Rights Act of 1964** Prohibits discrimination against individuals on the basis of their sex and/or gender, including but not limited to pregnancy, child birth, or related medical conditions, in the "terms, conditions, and privileges of employment." The law applies to all types of work situations, including hiring, firing, promotions, training, wages, and benefits. The U.S. Supreme Court has ruled that sexual harassment is a form of prohibited discrimination. Tort damages for emotional suffering, as well as punitive damages, are now available under Title VII, in addition to back pay and other equitable remedies.

G. **Workplace** Includes the "office," but also work-related events outside the office, such as Christmas or retirement parties, softball or other sports teams sponsored by the County of Bergen and/or the Bergen County Sheriff's Office, and/or off premises at any BCSO sponsored social event, etc.

## II. Authority

- A. Authority is established under:

1. Title VII of the Civil Rights Act of 1964 as amended by the Equal Opportunity Act of 1972 & the New Jersey Law Against Discrimination (NJ LAD) prohibits discrimination.
2. N.J.S.A. 10.5-1 et seq. (New Jersey Law Against Discrimination)
3. 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 and in accordance with New Jersey Civil Service Commission's policies and procedures.

### **III. Statement of Purpose**

- A. 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.
- B. 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.

### **IV. Scope**

- A. The policy applies to all employees in the Bergen County Sheriff's Office, sworn and civilian, 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 agency are expected to adhere to the spirit and intent of this policy. Workplace harassment and discrimination are not limited to regular business hours or the workplace, can include functions or work-related meetings or social events, ceremonies, missions, or other no work-related meetings.

### **V. General Anti-Discrimination Policy**

- A. 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) prohibits workplace discrimination. It is the policy of the BCSO to prohibit harassment of an 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 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 BCSO employees is also strictly prohibited.
  
- B. 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 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 of this policy.
  
- C. Instances that may violate the BCSO policy against harassment and which may result in disciplinary action include, but are not limited to the following:
  - 1. Unwelcome remarks and actions based on the protected classifications. This may include, but is not limited to, inappropriate jokes, comments or posted materials;
  - 2. Threats or suggestions that an employee's employment work status will be adversely affected based upon the protected classifications;
  - 3. Affecting or denying employment opportunities or benefits to an employee based upon the protected classifications;
  - 4. Engaging in a negative tangible employment action based upon the protected classifications; and/or
  - 5. Retaliation against an employee who has reported an alleged violation of this policy or participated in an investigation related to this policy.
  
- D. If an employee is witness to or believes to have experienced harassment, immediate notification to his/her supervisor is essential to the success of this policy and the Bergen County Sheriff's Office. If the offending person is in the employee's chain of command, the report / notification may be sent directly to the Office of Professional Standards

or the Sheriff. If the offending person is the Sheriff or is in the Office of Professional Standards, the report / notification may be sent to the New Jersey Attorney General's Office.

- E. All employees are afforded the opportunity to complete a "County of Bergen Workplace Harassment and/or Discrimination" form and submit the form to the County of Bergen's Personnel Director for review, investigation and appropriate disposition.
- F. Workplace harassment claims have become increasingly more pervasive in recent years as courts and quasi-judicial entities have begun to recognize an increasingly broad range of circumstances under which employees can have valid complaints regarding conduct in the workplace. In this environment, and in light of several recent court holdings that make it easier to establish workplace harassment and which impose stringent liability on employers where harassment is found to have occurred, the absolute goal is that of reduction of workplace harassment and, if possible, the total prevention of harassment in the workplace.
- G. Training, as well as implementing a workplace policy with an effective complaint procedure, is crucial toward achieving this goal. Thorough investigation of complaints and prompt remedial action is also important in limiting employers' liability and promoting a positive workplace environment.
- H. The most significant way to avoid liability for workplace harassment claims under federal law is to have both an effective anti-harassment policy and an effective complaint procedure, whereby prompt action is taken to investigate and remedy all formal and informal complaints of discrimination and/or harassment.
- I. Violation of this policy will subject employees to disciplinary action, up to and including, immediate discharge.

## **VI. Prohibited Conduct**

- A. It is a violation of this directive for any person to use their authority to make any sexual advance toward an individual over whom the person is authorized to make, recommend or otherwise to influence personnel actions; to grant, recommend, or refuse to take personnel action on the basis of an employee's gender or sexual orientation or in exchange for sexual favors; or to take or fail to take a personnel action as reprisal against any employee for rejecting or reporting a sexual advance. Sexual advances or requests for sexual favors can be in the form of either expressed or implied comments, writings, actions, or inactions.

- B. It is a violation of this directive to engage in any employment practice that treats a person less favorably based upon their protected class.
  
- C. It is a violation of this policy to use derogatory or demeaning slurs to refer to a person's protected class that may have the effect of harassing a person or creating a hostile work environment. Harassment or the creation of a hostile work environment can occur even if there was no intent on the part of an individual to harass or demean another.
  
- D. 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:
    - a. Racial or ethnic ancestry;
    - b. Physical characteristics associated with race (i.e. a person's color, hair facial features, height and weight);
    - c. Race-linked illness;
    - d. Culture that is linked to race or ethnicity, if it does not materially interfere with the employee's ability to perform his/her job duties (i.e. a person's name, cultural dress and grooming practices, or accent or manner of speech);
    - e. Perceived race or ethnicity regardless of how the employee identifies with himself/herself;
    - f. 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.
    - a. Color discrimination occurs when a person is discriminated against based upon his/her lightness, darkness, or other color characteristic.
  
    - b. Race and color are not synonymous. Color discrimination can occur between persons of different races and ethnicities, or between persons of the same race or ethnicity.

3. National origin discrimination, which includes unfavorable treatment because an individual (or his/her 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:
  - a. Sex/gender;
  - b. Connection with an organization or group that is generally associated with people of a certain sex; and
  - c. 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:
  - a. An individual's genetic tests and/or the genetic tests of the individual's family members;
  - b. Information about the manifestation of a disease or disorder in an individual's family member(s);
  - c. 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);
  - d. An individual's request for, or receipt of. General services, or the participation in clinical research that includes genetic services by the individual or a family member of the individual; and
  - e. 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:
  - a. 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.

- b. 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 his/her connection with a religious organization or group.
7. Disability discrimination, which includes:
    - a. Treating a qualified individual with a disability unfavorably because he/she has a disability;
    - b. Treating an individual unfavorably because she/her has a history of a disability (such as cancer that is controlled or in remission);
    - c. Treating an individual unfavorably because he/she is believed to have a physical or mental impairment that is not transitory (lasting or expected to last six (6) months or less) and minor (even if he/she does not have such an impairment); and
    - d. Treating an individual unfavorably based on his/her 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:
    - a. Attraction to people of the opposite gender;
    - b. Attraction to people of the same gender; or
    - c. Attraction to people of either gender.
- E. Examples of prohibited behaviors that constitute sexual harassment include, but are not limited to:
1. General or specific gender-based remarks and comments.
  2. Unwanted sexual advances and/or unwanted physical contact/conduct such as intentional touching, assault,

- grabbing, pinching, brushing against another's body, impeding or blocking movement.
3. 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.
  4. Suggestive or obscene letters, caricatures or representations of persons using electronically or physically altered photos, drawings, images, notes and/or invitations, and/or any other type of visual correspondence.
  5. Verbal or written sexually suggestive or obscene comments, jokes or propositions including letters, notes, e-mail, text messages, social media posts, invitations, gestures or inappropriate comments about a person's clothing.
  6. Visual conduct, such as leering or making sexual gestures or staring at another's body, gesturing, displaying sexually suggestive objects cartoons posters, magazines or pictures of scantily clad individuals.
  7. Explicit or implicit suggestions of sex by a supervisor or manager in return for a favorable employment action such as hiring, compensation, promotion, or retention.
  8. Offering employment benefits in exchange for sexual favors and/or suggesting or implying that failure to accept a request for a date or sex would result in an adverse employment consequence with respect to any employment practice such as performance evaluations or promotional opportunity.
  9. Continuing to engage in certain behaviors of a sexual nature after an objection has been raised by the target of such inappropriate behavior.
  10. Retaliation because of an individual's complaint or testimony about harassment.
- F. Examples of behaviors that may constitute prohibited workplace discrimination or harassment include, but are not limited to:
1. Discriminating against an individual with regard to terms and conditions of employment because of that individual's protected class.

2. Treating an individual differently because of their protected class or because an individual has the physical, cultural or linguistic characteristics of a protected class or group.
  3. Treating an individual differently because of marriage to or association with persons of a protected class or group; or because an individual's name or spouse's name is associated with a protected class or group.
  4. Calling another by an unwanted nickname which refers to one or more of the above characteristics, or telling ethnic, racial, etc. jokes, parables, or stories that harasses an employee or family member or create a hostile work environment.
  5. Using derogatory references regarding any of protected characteristics in any job-related communication.
  6. Engaging in threatening, intimidating, or hostile acts in the workplace based on the protected class.
  7. Displaying or distributing material in the workplace that contains language or images that are derogatory or demeaning based upon any protected class.
- G. Unwelcome sexual advances, requests for sexual favors and other verbal, physical or visual conduct of a sexual nature constitute harassment when:
1. 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;
  2. Submission to rejection of such conduct by an individual is used as the basis for an employment decision affecting the individual; and/or
  3. 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."
- H. A single incident or comment, if serious enough, can be sufficient to constitute harassment. One incident of harassing conduct can create a hostile work environment. Racial epithets are regarded as especially egregious and capable of engendering a severe impact. The severity of a remark is exacerbated if it is uttered by a supervisory employee (Taylor v. Metzger 1998).

## **VII. Employee Responsibilities**

- A. Employees subjected to any form of prohibited discrimination/harassment, including sexual harassment, are encouraged, whether directly or through a third party, to notify the alleged harasser that the behavior in question is offensive and unwelcome. However, failure to do so does not preclude filing a complaint.
- B. Employees are expected to document all incidents of harassment in order to provide the fullest basis for investigation.
- C. Any employee who believes that they had been harassed or are being harassed shall report the incident(s) as soon as possible, in writing, so that the appropriate steps are taken to protect the employee from further harassment, and so that appropriate investigative measures are initiated.
- D. Any employee with knowledge of any form of prohibited harassment, whether directed at them or against others, must immediately report it in writing as indicated below.
- E. Employees should submit the written reports through their immediate supervisor.
  - 1. If the offending person is in the employee's chain of command, the written report may be sent directly to the Office of Professional Standards or the Sheriff.
  - 2. If the offending person is in the Office of Professional Standards or the Sheriff, the written report shall be forwarded to the NJ Attorney General's Office.
- F. All employees are afforded the opportunity to complete a "County of Bergen Workplace Harassment and/or Discrimination" form and submit the form to the County of Bergen's Personnel Director for review, investigation and appropriate disposition.
- G. If the report is submitted confidentially to the Office of Professional Standards or the Sheriff, the person reporting should include as many facts and circumstances mentioned above.
- H. Employees who observe any behavior by another employee that constitutes prohibited harassment shall promptly report the incident. Employees who observe any condition, such as graffiti, cartoons, posters or calendars that are sexual in nature, sexually suggestive, discriminatory or harassing in nature shall promptly report the condition to their supervisor.

## **VIII. Supervisor Responsibilities**

- A. In order to ensure the integrity of the work environment supervisors are required to ensure adherence to and compliance with this directive. Upon becoming aware of possible prohibited discrimination/harassment, including sexual harassment, supervisors at all levels are required to:
1. Take appropriate immediate action to stop the harassing condition and/or behavior;
    - a. Depending on the circumstance, this may require an immediate reassignment or change of work schedule for the alleged offender or harasser in an effort to minimize the potential for contact and/or continued harassment / inappropriate conduct between the parties. The BCSO 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 e-mail, text message, social media, or otherwise, during the pendency of the complaint and any investigation thereof.
  2. Inform the employee of their right to file a discrimination complaint with the BCSO Office of Professional Standards;
  3. Provide the employee with the "County of Bergen Workplace Harassment and/or Discrimination" form;
    - a. If the employee elects to complete the "County of Bergen Workplace Harassment and/or Discrimination" form, the form is to be immediately forwarded / delivered to the County of Bergen's Personnel Director for review and appropriate disposition.
    - b. If the employee declines to fill out the "County of Bergen Workplace Harassment and/or Discrimination" form at the time of the incident/complaint, the supervisor must document that upon receipt of the information/complaint the form was provided to the employee/complainant. All relevant/applicable documents must then be immediately forwarded to the BCSO Office of Professional Standards for review and appropriate disposition.
  4. Never dissuade or attempt to discourage an employee from filing or pursuing a complaint.

5. Document and preserve any evidence/exemplars present;
  - a. All BCSO supervisors must make every effort to preserve the confidentiality of these incidents/complaints when preparing their written documentation regarding an alleged incident of harassment and/or discrimination. These types of allegations/complaints should be documented in a departmental memorandum and forwarded to the BCSO Office of Professional Standards, as opposed to documenting the incident in the BCSO records management system where other employees may be able to view the details of the incident/complaint.
6. Never demand that a complaint be put in writing; request it.
7. Be discreet. Forward the information to the Office of Professional Standards, but do not discuss the situation with other employees.
8. Notify the Office of Professional Standards of the incident and the action taken; and
9. Ensure no retaliation. Once a complaint has been made, be sensitive to acts of retaliation against the complaining employee. Be sure never to treat an employee differently because the employee has made a complaint or participated in an investigation.

## IX. Investigation

- A. The investigation procedures for harassment in the workplace complaints shall be in accordance with **GO 10-1.84 Office of Professional Standards**, the New Jersey Attorney General's Internal Affairs Guidelines and the County of Bergen's "Anti-Harassment & Anti-Discrimination" Policy.
- B. 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.

- C. Employees who observe actions they believe to constitute harassment, sexual harassment, discrimination, or any other workplace wrongdoing should immediately report the matter to their supervisor, or, if they prefer, or do not think the matter can be discussed with their immediate supervisor, they should contact another BCSO supervisor, the Sheriff, the BCSO Office of Professional Standards or the County of Bergen's Personnel Director.
- D. 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. Soon after the harassment and/or discrimination has been reported, the Bergen County Sheriff's Office or the County of Bergen will thoroughly investigate the matter, receive sworn statements from the complainant & the accused. In accordance with the County of Bergen's "Anti-Harassment & Anti-Discrimination" Policy, compliance and cooperation therewith shall be mandatory. All employees must fully cooperate with any investigation regarding an allegation of workplace harassment, sexual harassment, discrimination and/or any other alleged wrongdoing.
- E. Upon completion of the investigation, the complainant will be notified in accordance with all applicable BCSO and County of Bergen policies and the New Jersey Attorney General Guidelines.
- F. If the investigating authority finds that acts of workplace harassment and/or discrimination have occurred, action as described in the "Remedial Action" section 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.

**X. "Whistle Blower" Policy**

- A. In accordance with the County of Bergen's "Anti-Harassment & Anti-Discrimination" 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. Upon receipt of a complaint or a suspected violation(s) of CEPA, all complaints will be taken seriously and promptly investigated.
- B. In accordance with the County of Bergen's "Anti-Harassment & Anti-Discrimination" Policy, the County and/or the BCSO shall not take

any retaliatory action or tolerate any reprisal against an employee for any of the following:

1. 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. 34:19-1 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;
  2. 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
  3. Objecting to, or refusing to participate in any activity, policy, or practice that the employee reasonably believes is a violation of 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.
- C. In accordance with the statute and the County of Bergen's "Anti-Harassment & Anti-Discrimination" Policy, the employee must bring the violation to the attention of his/her supervisor. As previously stated in this policy, if the offender is in the employee's chain of command, the employee may notify any other supervisor, the Office of Professional Standards, the Sheriff or the County of Bergen's Personnel Director.
- D. 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 file their complaint in writing. Under the law, the employee must give the County / B.C.S.O. a reasonable opportunity to correct the activity, policy or practice.

## **XI. Retaliation**

- A. 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. Complaints of retaliation shall be reported to the Sheriff or his designee who shall ensure the complaint is investigated

in the same manner as a workplace harassment and discrimination complaint.

- B. Retaliation against any employee who alleges that they were the victim of prohibited discrimination/harassment, including sexual harassment, or against any employee who provides information in the course of the investigation into claims of prohibited discrimination/harassment, including sexual harassment, in the workplace is prohibited.
- C. Any employee bringing a complaint, providing information for an investigation, or testifying in any proceeding under this policy shall not be subjected to adverse employment consequences based on such involvement or be the subject of retaliation.

**XII. False Accusations and Information**

- A. Purposely or knowingly making a false accusation of unlawful discrimination/harassment, including sexual harassment, or knowingly providing false information in the course of an investigation of a complaint is grounds for criminal, civil, and administrative sanctions. However, complaints made in good faith, even if found to be unsubstantiated, will not be considered false accusations.

**XIII. Protection of All Parties**

- A. All complaints will be thoroughly investigated as described in this policy. However, this policy shall not be used to intentionally bring frivolous or malicious charges against any employee.
- B. The BCSO 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 e-mail, text message, social media, or otherwise, during the pendency of the complaint and any investigation thereof.

**XIV. Confidentiality**

- A. All complaints and investigations shall be handled to the extent possible, in a manner that will protect the confidentiality / privacy 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 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).

1. To the extent practical and appropriate under the circumstances, confidentiality will be maintained throughout the investigatory process. In the course of an investigation it may be necessary to discuss claims with the alleged harasser or other persons who may have relevant knowledge. It is therefore, may be necessary to disclose information to persons with a legitimate need to know about the matter. All persons interviewed will be directed not to discuss any aspect of the investigation with others in light of the important privacy interests of all concerned. Failure to comply with this confidentiality directive may result in disciplinary action.

## **XV. Training**

- A. Training regarding this directive shall be provided to all employees to ensure continued compliance.
- B. In accordance with the County of Bergen Anti-Harassment and Anti-Discrimination Policy, "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 Work Environment" harassment and the difference 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 ensure 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."

- C. In accordance with the County of Bergen Anti-Harassment and Anti-Discrimination Policy, "All other employees of the County shall also annually undergo similar training, led by a person training 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".
- D. The County of Bergen annually schedules several Anti-Harassment / Anti-Discrimination training classes for county employees to attend. All BCSO supervisors (sworn and civilian) are expected to make every effort to attend one of the County of Bergen's Anti-Harassment / Anti-Discrimination training classes. Upon completion of the last scheduled County of Bergen Anti-Harassment / Anti-Discrimination training class for the calendar year, any BCSO employee who has not attended one of the annual County of Bergen training classes shall immediately be responsible to view the Anti-Harassment / Anti-Discrimination training video which is available via BCSO Sharepoint and/or the BCSO Training Unit. If a BCSO employee has viewed the Anti-Harassment / Anti-Discrimination training video, he/she shall also be expected and required to forward documentation to the BCSO Training Unit indicating that this mandatory annual training has been accomplished. At the conclusion of the calendar year, any BCSO employee who has not attended the County of Bergen's training class and/or viewed the training video shall be subject to disciplinary action as appropriate.

## XVI. Remedial Action

- A. Remedial action for employees found in violation of this policy may be progressive in nature and include, but is not limited to, the following:
1. An apology and direction to cease the offensive behavior;
  2. Referral to counseling and/or "Fitness for Duty" evaluation;
  3. Reassignment or change of work schedule to minimize contact between the parties;
  4. Oral, written reprimand and/or any other type of appropriate discipline in accordance with **GO 00-1.2 Employee Rules and Regulations**;
  5. Demotion;
  6. Suspension (with or without pay);
  7. Termination; and/or

8. Referral to criminal justice system for possible violation; and/or
  9. Any other remedy the County of Bergen or B.C.S.O. determines to be appropriate.
- B. All remedies will be implemented in a timely manner. Where a harassment violation of this policy has been found to have occurred, a summary will be placed in the harasser's Personnel File. A record of all other relevant documentation shall be kept in a confidential file in the B.C.S.O. Office of Professional Standards.
- C. Punitive measures shall be consistent with all BCSO policies, procedures and ***GO 00-1.2 Employee Rules and Regulations***.
- D. Additional remedies can be made to:
1. Superior Court of New Jersey
  2. New Jersey Division of Civil Rights
  3. Federal District Court

