



POLICY TITLE: **Anti-Harassment and Complaint Procedure
(includes Dating/Consensual Relationship Provision)**

POLICY NO.: **PR-13**

I. PURPOSE

The purpose of this Policy is to establish formal guidelines to ensure that County employees, potential employees, and volunteers of Washington County may work in an environment free from Harassment, intimidation, humiliation, insult, or subjection to offensive physical or verbal abuse or actions of a harassing nature.

II. GENERAL POLICY

The Board of County Commissioners strives to create and maintain a work environment in which people are treated with dignity, decency, and respect. The environment of the County should be characterized by mutual trust and the absence of intimidation, oppression, and exploitation. Employees should be able to work and learn in a safe, yet stimulating, atmosphere. The accomplishment of this goal is essential to the County’s mission. For that reason, the Board of County Commissioners will not tolerate unlawful Harassment of any kind. Through enforcement of this Policy, and by education of Employees, the County will seek to prevent, correct, and discipline behavior that violates this Policy.

III. SCOPE

This Policy applies to all Employees as defined herein.

IV. DEFINITIONS AND PROHIBITED CONDUCT

The Board of County Commissioners, in compliance with all applicable federal, State, and local Harassment laws and regulations, enforces this Policy in accordance with the following definitions and guidelines:

A. Definition of “Employee” or “Employees”

For purposes of this Policy, “Employee” or “Employees” means elected and appointed officials, department heads, division directors, all full- and part-time employees, board and commission members, and unpaid volunteers.

B. The Board of County Commissioners prohibits Harassment of any kind, including Sexual Harassment as defined herein, and will take appropriate and immediate action in response to complaints or knowledge of violations of this Policy.

C. Harassment

1. Harassment is a form of unlawful employment discrimination that potentially violates Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967 (ADEA), and the Americans with Disabilities Act of 1990 (ADA).
2. For purposes of this Policy, “Harassment” is defined as any verbal or physical conduct designed to threaten, intimidate, or coerce an Employee, co-worker, or any person working for or on behalf of the County. Verbal taunting (including racial and ethnic slurs) that, in the Employee’s opinion, impairs his or her ability to perform his or her job is included in this definition of Harassment. Harassment may be based on race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability, or genetic information.
3. Harassment becomes unlawful where (i) enduring the offensive conduct becomes a condition of continued employment or (ii) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive.
4. Petty slights, annoyances, and isolated incidents (unless extremely serious) will not rise to the level of illegality. To be unlawful, the conduct must create a work environment that would be intimidating, hostile, or offensive to reasonable people.
5. Harassment may be inflicted by the victim’s supervisor, a supervisor in another area, an agent of the County, a co-worker, or a non-employee. The victim does not have to be the person who is the object of the Harassment, but can be anyone affected by the offensive conduct. Unlawful Harassment may occur without economic injury to, or discharge of, the victim.
6. The following examples of Harassment are intended to be guidelines and are not exclusive when determining whether there has been a violation of this Policy:
 - a. Verbal Harassment includes comments that are offensive or unwelcome regarding a person’s nationality, origin, race, color, religion, gender, sexual orientation, age, body, disability, or appearance, including epithets, slurs, and negative stereotyping.
 - b. Nonverbal Harassment includes distribution, display, or discussion of any written or graphic material that ridicules, denigrates, insults, belittles, or shows hostility, aversion, or

disrespect toward an individual or group because of national origin, race, color, religion, age, gender, sexual orientation, pregnancy, appearance, disability, sexual identity, and marital or other protected status.

D. Sexual Harassment

1. Sexual Harassment is a form of unlawful employment discrimination and is prohibited under this Policy.
2. According to the Equal Employment Opportunity Commission (EEOC), Sexual Harassment is defined as “unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature...when...submission to or rejection of such conduct is used as the basis for employment decisions...or such conduct has the purpose or effect of...creating an intimidating, hostile, or offensive working environment.” For purposes of this Policy, the definition of Sexual Harassment is as defined by the EEOC.
3. Two Types of Sexual Harassment
 - a. Quid Pro Quo Sexual Harassment

Quid Pro Quo Sexual Harassment occurs where submission to Sexual Harassment is used as the basis for employment decisions. Employee benefits such as raises, promotions, and better working hours are directly linked to compliance with sexual advances. Therefore, only someone in a supervisory capacity (with the authority to grant such benefits) can engage in Quid Pro Quo Sexual Harassment.
 - b. Hostile Work Environment Sexual Harassment

Hostile Work Environment Sexual Harassment occurs where the Sexual Harassment creates an offensive and unpleasant working environment. A Hostile Work Environment can be created by anyone in the work environment, whether it be supervisors, other Employees, or customers. Hostile Work Environment Sexual Harassment consists of verbiage of a sexual nature, unwelcome sexual materials, or even unwelcome physical contact as a regular part of the work environment. Texts, emails, cartoons, or posters of a sexual nature; vulgar or lewd comments or jokes; or unwanted touching or fondling all fall into this category.
4. Sexual Harassment occurs when unsolicited and unwelcome sexual advances, requests for favors, or other verbal or physical conduct of a

sexual nature is explicitly or implicitly made a term or condition of employment; is used as a basis for an employment decision; or unreasonably interferes with an Employee's work performance or creates an intimidating, hostile, or otherwise offensive environment.

5. Sexual Harassment may take different forms. The following examples of Sexual Harassment are intended to be guidelines and are not exclusive when determining whether there has been a violation of this Policy:
 - a. Verbal Sexual Harassment includes innuendoes, suggestive comments, jokes of a sexual nature, sexual propositions, lewd remarks and threats; requests for any type of sexual favor (this includes repeated, unwelcome requests for dates); and verbal abuse or "kidding" that is oriented toward a prohibitive form of Harassment, including that which is sexual in nature and unwelcome.
 - b. Nonverbal Sexual Harassment includes the distribution, display, or discussion of any written or graphic material, including calendars, posters, and cartoons that are sexually suggestive or show hostility toward an individual or group because of sex; suggestive or insulting sounds; leering; staring; whistling; obscene gestures; content in letters and notes, facsimiles, email, photos, text messages, tweets, and internet postings; or other form of communication that is sexual in nature and offensive.
 - c. Physical Sexual Harassment includes unwelcome, unwanted physical contact such as touching, tickling, pinching, patting, brushing up against, hugging, cornering, kissing, fondling, and forced sexual intercourse or assault.
6. Courteous, mutually respectful, pleasant, non-coercive interactions between Employees, including men and women, that are appropriate in the workplace and acceptable to and welcomed by both parties, are not considered to be Harassment, including Sexual Harassment.

E. Retaliation

1. No hardship, loss, benefit, or penalty may be imposed on an Employee in response to filing or responding to a bona fide complaint of Harassment or Sexual Harassment, appearing as a witness in the investigation of a complaint, or serving as an investigator of a complaint.

2. Retaliation or attempted retaliation in response to lodging a complaint or invoking the complaint process is a violation of this Policy. Any person who is found to have violated this aspect of the Policy will be subject to discipline up to and including termination of employment.

F. Dating and Consensual Romantic or Sexual Relationships

The Board of County Commissioners strongly discourages romantic or sexual relationships between a manager or other supervisory Employee and his or her staff (i.e., an Employee who reports directly or indirectly to that person) because such relationships tend to create compromising conflicts of interest or the appearance of such conflicts. In addition, such relationships may give rise to the perception by others that there is favoritism or bias in employment decisions affecting the staff Employee. Moreover, given the uneven balance of power within such relationships, consent by the staff member is suspect and may be viewed by others or, at a later date, by the staff member as having been given as the result of coercion or intimidation. The atmosphere created by such appearances of bias, favoritism, intimidation, coercion, or exploitation undermines the spirit of trust and mutual respect that is essential to a healthy work environment. If there is such a relationship, the parties need to be aware that one or both may be moved to a different department or that other actions may be taken in accordance with County policy.

1. If an Employee enters into a consensual relationship that is romantic or sexual in nature with a member of his or her staff who reports directly or indirectly to him or her, or if one of the parties is in a supervisory capacity in the same department in which the other party works, the parties must immediately notify the Director of Health and Human Services . Because of potential issues regarding Quid Pro Quo Sexual Harassment, this reporting is mandatory. This reporting requirement does not apply to Employees who do not work in the same department or to parties who do not supervise or otherwise manage responsibilities over each other.
2. Upon receipt of notification of such a relationship, the Director of Health and Human Services will review the facts and circumstances (i.e., reporting relationship between the parties, effect on co-workers, job titles of the parties, etc.) and determine whether one or both parties need to be moved to other jobs or departments. If the Director of Health and Human Services determines that one party must be moved, and there are jobs in other departments available for both, the parties may decide which one of them will apply for a new position. If the parties cannot or fail to reach a decision in a given time period, or if the applying party is not chosen for the position to which he or she applied, the parties will contact the Director of

Health and Human Services who will recommend to the County Administrator which party should be moved to another job or department. The Director of Health and Human Services' decision will be based on which Employee's move will be least disruptive to County operations as a whole. If the Director of Health and Human Services determines that one or both parties must be moved, but no other jobs are available for either party, the parties will be given the option of terminating their relationship or resigning.

G. Complaint Procedure

1. The Board of County Commissioners will courteously treat any person who invokes the complaint procedure under this Policy. The County will handle all complaints swiftly and confidentially, to the greatest extent permitted by applicable law, in light of the need to take appropriate corrective action. Lodging a complaint will in no way be used against an Employee or have an adverse impact on the Employee's employment status. Because of the damaging nature of Harassment, including Sexual Harassment, to victims and the entire workforce, aggrieved Employees are strongly urged to use this procedure. However, filing groundless or malicious complaints is an abuse of this Policy and will be treated as a violation thereof.
2. The Board of County Commissioners has established the following procedure for lodging a complaint of Harassment, including Sexual Harassment, or retaliation. The County will treat all aspects of the complaint procedure in accordance with the confidentiality provisions of this Policy.
 - a. An individual may initiate the complaint procedure under this Policy by filing a complaint in writing with the County Attorney. No formal action will be taken against any person under this Policy unless the County Attorney has received a written and signed Harassment/Discrimination Investigation Consent Form containing sufficient details to determine whether this Policy may have been violated. The complainant [the person filing the complaint] may obtain a copy of the Harassment/Discrimination Investigation Consent Form from the County Attorney's Office, the Department of Human Resources, or online as part of this Policy made available by the Department of Human Resources at www.washco-md.net. If a supervisor or manager becomes aware that Harassment or Sexual Harassment is occurring, either from personal observation or as a result of an Employee's report, the supervisor or manager must immediately report the conduct to the County Attorney.

- b. Upon receiving a complaint or being advised by a supervisor or manager that violation of this Policy may be occurring, the County Attorney will notify the County Administrator and the Director of Health and Human Services and review the Complaint with the County Administrator and the Director of Health and Human Services.
- c. Within five (5) business days of receiving a complaint, the Director of Health and Human Services will notify the respondent or respondents [the person or persons charged in the complaint] of a complaint filing and initiate the investigation to determine whether there is a reasonable basis for believing that an alleged violation of this Policy occurred.
- d. During the investigation, the Director of Health and Human Services, with the assistance of the County Attorney or other legal counsel or other appropriate management employees, will interview the complainant, the respondent or respondents, and any witnesses to determine whether the alleged conduct occurred.
- e. Within fifteen (15) business days of the matter being referred to the Director of Health and Human Services by the County Attorney, the Director of Health and Human Services, together with other persons conducting the investigation, will conclude the investigation and submit a written report of the investigative findings to the County Administrator and the County Attorney.
- f. If the investigation determines that Harassment, Sexual Harassment, or retaliation occurred in violation of this Policy, the Director of Health and Human Services, with the advice of the County Administrator and the County Attorney, will recommend appropriate disciplinary action. The appropriate disciplinary action will depend on the following factors: (i) the severity, frequency, and pervasiveness of the conduct; (ii) prior complaints made by the complainant; (iii) prior complaints made against the respondent or respondents; and (iv) the quality of the evidence (e.g., first-hand knowledge, credible corroboration).
- g. If the investigation is inconclusive or if the investigation determines that there has been no violation of this Policy, but potentially problematic conduct may have occurred, the

Director of Health and Human Services, with the advice of the County Administrator and the County Attorney, may recommend appropriate preventive action.

- h. Within five (5) business days after the investigation is concluded and a recommendation is determined, the Director of Health and Human Services will meet with the complainant and the respondent or respondents separately, notify them of the findings of the investigation, and inform them of the action being recommended.
- i. The complainant and the respondent or respondents may submit statements to the Director of Health and Human Services challenging the factual basis of the findings. Any such statement must be submitted no later than five (5) business days after the meeting with the Director of Health and Human Services in which the findings of the investigation are discussed.
- j. If the recommendation is any disciplinary action other than termination, then within ten business (10) days from the date that the Director of Health and Human Services meets with the complainant and respondent or respondents, the Director of Health and Human Services will review the investigative report and any statements submitted by the complainant and respondent or respondents; discuss results of the investigation with the County Administrator, the County Attorney, and other management staff as may be appropriate; and decide what action, if any, will be taken. The Director of Health and Human Services will report the decision to the respondent or respondents and the appropriate management staff assigned to the department or departments in which the respondent or respondents work. The decision will be in writing and will include findings of fact and a statement for or against disciplinary action. If disciplinary action is to be taken, the respondent or respondents will be informed of the nature of the discipline and how it will be executed.
- k. If the recommendation is termination, then the Director of Health and Human Services will make the recommendation at the next regularly scheduled meeting of the Board of County Commissioners. Within five (5) business days following the Board of County Commissioners' decision regarding the recommendation of termination, the Director of Health and Human Services will report the Board's decision to the respondent or respondents and the appropriate management staff assigned to the department or departments

in which the respondent or respondents work. The decision will be in writing and will include findings of fact and a statement for or against disciplinary action. If disciplinary action is to be taken, the respondent or respondents will be informed of the nature of the discipline and how it will be executed.

H. Confidentiality

1. The Employee Assistance Program (EAP) provides confidential counseling services to County Employees. An employee who wishes to discuss an incident confidentially or to seek information and advice of a personal nature is encouraged to contact the EAP. The EAP's role in such cases will be limited to personal counseling and treatment for the person who is then an EAP client. Contacting the EAP will not qualify as notification to the County of a potential Harassment, including Sexual Harassment, issue.¹
2. During the complaint process, the confidentiality of the information received, the privacy of the individuals involved, and the wishes of the complainant will be protected to the greatest extent permitted by applicable law. The expressed wishes of the complainant for confidentiality will be considered in the context of the County's legal obligation to act on the charge and the right of the respondent or respondents to obtain information. In most cases, however, confidentiality will be strictly maintained by the County and those involved in the investigation. In addition, any notes or documents written by or received by the person or persons conducting the investigation will be kept confidential to the greatest extent permitted by applicable law.

I. Alternative Legal Remedies

Nothing in this Policy may prevent the complainant and the respondent or respondents from pursuing formal legal remedies or resolution through local, State, or federal agencies or the courts.

¹ See Policy No. EB-14 Employee Assistance Program (EAP) for information on offered services.



HARASSMENT/DISCRIMINATION INVESTIGATION
COMPLAINT AND CONSENT FORM

Washington County maintains a policy that all of its employees should be free from any form of harassment and discrimination. As part of that policy, the County is committed to investigating claims of harassment and discrimination and taking appropriate disciplinary or other actions when the facts show that harassment or discrimination has occurred. So that Washington County may conduct an investigation of your concerns, please complete and submit this form to the County Attorney.

Complainant's Name: _____ Date: _____

I wish to file a complaint regarding the following event(s): _____

Provide any and all information pertinent to what has occurred, including the names of witnesses, events, dates, times, places, and what was said and done. Attach additional sheets if necessary.

I, _____, hereby consent to Washington County's conduct of a complete and thorough investigation of the above complaint. I further authorize Washington County representatives to disclose to others, as necessary, on a need-to-know basis, and as required by law, certain of the information that I have provided or that I may provide in the future. I understand that disclosure of certain information that I have provided on this form or in the future may be necessary to ensure that a complete investigation can be conducted. I acknowledge that I have read and understand the contents of this consent statement.

Complainant's Signature

Date

If you do not wish for the County to disclose certain information that you have provided, please specify that information in detail below. The County will attempt to honor your request to an extent that is consistent with the County's obligation to identify and correct instances of harassment and discrimination.

By signing this form, I acknowledge that the information I have provided is true and accurate to the best of my knowledge and recollection. I agree to fully and honestly cooperate with the investigation that the County will conduct as a result of this complaint.

Complainant's Signature

Date