

COUNTY OF UNION

POLICY AGAINST WORKPLACE DISCRIMINATION & HARASSMENT



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COUNTY MANAGER

2020

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Board of Chosen Freeholders

**UNION COUNTY
POLICY AGAINST WORKPLACE
DISCRIMINATION AND HARASSMENT**

The County of Union is committed to providing a work environment that is free of discrimination. The County will not tolerate discrimination or harassment of or by County employees towards anyone.

Applicability

This policy applies to all persons employed by the County of Union, including, but not limited to the Sheriff's Office, the Prosecutor's Office, the Office of the County Clerk, and the Surrogate's Office, as well as volunteers working on behalf of the County, and prohibits such conduct by or towards all such employees/volunteers. Independent contractors, vendors and all other parties, engaged in a professional business relationship with the County of Union also are expected to abide by this Policy. In addition, no County employee shall be required to withstand behavior from the public that violates this Policy.

Purpose

This Policy is designed to ensure all employees of the County of Union a work environment free of any type of discrimination based upon a protected group status, including freedom from sexual harassment and other forms of workplace harassment. The purpose of this Policy is to inform employees that all forms of discrimination and harassment are prohibited, to educate employees about discrimination and harassment and to provide employees with a procedure to bring complaints to management's attention.

Provisions

1. All County employees are expected to avoid any behavior or conduct of a discriminatory and/or harassing nature, including workplace bullying. The County prohibits any form of discrimination and harassment related to an employee's protected group status, including race, creed, color, national origin, ancestry, religion, age, marital status, civil union status, domestic partnership status, affectional or sexual orientation, familial status, genetic information, gender/sex (including pregnancy), gender identity or expression, disability (including perceived disability, physical, mental, and/or intellectual disabilities), atypical hereditary cellular or blood trait, veteran's status or because of the liability for service in the Armed Forces of the United States, citizenship status, or any other group status protected by law.

Workplace bullying includes, but is not limited to, intimidation and repeated malicious or offensive conduct directed against another employee or group of employees, or performed by any employee or group of employees.

Harassment includes, but is not limited to, slurs, jokes, or other verbal, graphic, physical, expressed or implied conduct relating to an individual's protected group status or on any other basis.

Any form of harassment, including but not limited to harassment due to or related to an employee's protected group status violates this Policy and will result in appropriate disciplinary action up to and including termination of employment. Other forms of perceived harassment, which are not due or related to an employee's protected group status, also may constitute workplace harassment as defined in this Policy.

2. Sexual Harassment: The County prohibits sexual harassment of its employees in any form. Such conduct shall result in appropriate disciplinary action up to and including dismissal from employment.

A. Sexual harassment consists of unwelcome sexual advances, requests for sexual favors, sexually motivated physical conduct or other verbal or physical conduct, gestures or communication, expressed or implied, of a sexual nature when:

- (1) Submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining or retaining employment; or
- (2) Submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's employment, or
- (3) That conduct or communication has the purpose or effect of substantially or unreasonably interfering with an individual's employment, or creating an intimidating hostile or offensive employment environment.

B. Prohibited Conduct:

Similarly, no supervisory employee shall promise or suggest either directly or indirectly, that an employee's submission to sexual advances will result in any improvement in any term or condition of employment for the employee. No supervisory employee shall threaten or insinuate either directly or indirectly, that an employee's refusal to submit to sexual advances will adversely affect the employee's continued employment, evaluation, compensation, assignment, advancement, or any other condition of employment.

Other sexually harassing conduct in the work place, whether committed by supervisory or non-supervisory personnel is also prohibited. This includes, but shall not be limited to:

- (1) Sexual flirtations, advances, propositions, subtle pressure for sexual activity, flirtatious whistling, discussing sexual activities;
- (2) Verbal abuse of a sexual nature including sexually oriented "kidding" or "teasing," "practical jokes," jokes and comments about gender-specific traits, and foul or obscene language or gestures;
- (3) The display of sexually graphic pictures or objects, pictures of an offensive nature in the work place; sexually suggestive written or electronic material such as letters, notes, facsimiles, text messages, e-mails; e-mail attachments, and other electronic communications;
- (4) Any unwelcome touching, including, for example, patting, pinching, hugging, cornering and repeated brushing against another employee's body, or inappropriately touching one's own body in front of others.

Sexual harassment also occurs when one person harasses another solely because of the victim's gender or gender identity. This type of sexual harassment may involve unwelcome sexual demands or overtures, but it may also take the form of other harassing conduct not necessarily sexual in nature. For example, this would include gender stereotyping such as comments about the lesser abilities, capacities, or the "proper role" of females. It also includes subjecting a person to non-sexual harassment solely because of their gender or gender identity. Sexual harassment is prohibited regardless of the gender of the harasser and regardless of whether the harassment is opposite sex or same-sex harassment.

3. Complaint Procedure:

Any County employee who feels they have been subject to discriminatory treatment or harassment with regard to any aspect of employment, is encouraged to notify the perpetrator/harasser that the behavior in question is offensive and unwelcome. The failure to inform the perpetrator/harasser that the behavior is unwelcome does not prevent the victim from filing a complaint pursuant to this Policy.

Any employee who feels they have been subject to discriminatory treatment or harassment with regard to any aspect of employment, should report the complaint directly to the Affirmative Action Officer. Alternatively, an employee may report a complaint of discriminatory treatment or harassment directly to the Director of the Division of Personnel Management and Labor Relations or to County Counsel.

Throughout this Policy, the Affirmative Action Officer, Director of the Division of Personnel Management and County Counsel shall be referenced as the "Designated Complaint Recipients" and whichever of them receives a complaint will be referenced as the "Complaint Recipient." Throughout this Policy, an employee who reports a complaint will be referenced as the "Complainant". The names and contact information for the Designated Complaint Recipients are listed on the Designated Complaint Recipients page attached to this Policy.

Upon receiving a complaint, the Complaint Recipient will ask the Complainant to complete a Discrimination/Harassment Complaint Form, and to explain the facts, identify the alleged discriminating/harassing party/parties, and to identify any witnesses and other evidence. Employees are not required to complete the Complaint Form to initiate a complaint under this Policy. Any employee uncomfortable reporting a complaint to one of the Designated Complaint Recipients should report the complaint to their supervisor or any supervisor with whom they feel comfortable. When any Supervisor learns of or receives a complaint of alleged discrimination and/or harassment, they shall promptly assist the Complainant in reporting the Complaint to one of the Designated Complaint Recipients. Alternatively, the supervisor shall promptly report the matter to one of the Designated Complaint Recipients.

The County strongly encourages employees who witness conduct that they believe violates the County's Policy Against Workplace Discrimination and Harassment to report the violation pursuant to this complaint procedure.

The County encourages the prompt reporting of complaints so that a prompt response and appropriate action may be taken. Any complaint should be reported within sixty (60) days to be considered current. Nevertheless, due to the sensitive nature of these situations, all complaints will be investigated, regardless of when they are filed.

4. Retaliation Prohibited:

The County encourages employees, who believe they are the victim of discrimination and/or harassment, to bring their complaints to management by ensuring that no reprisals or retaliation will result from the good faith reporting of discrimination and harassment. Retaliation includes but is not limited to verbal remarks, irregular assignments or exclusionary conduct. The filing of a complaint, in good faith, shall not, under any circumstances provide cause for discipline.

Additionally, it is a violation of this Policy for any personnel to retaliate against another person because they filed a complaint or otherwise participated in the complaint procedure.

If the County determines that retaliation has occurred, the perpetrator shall face appropriate disciplinary action. Disciplinary action may include a written warning, suspension, individual or group counseling or training, demotion, and/or termination of employment. Any disciplinary action shall be consistent with applicable collective bargaining agreements, Civil Service regulations and applicable due process safeguards.

5. Investigation Procedure:

The County shall conduct a prompt, thorough and impartial investigation into the discrimination or harassment complaint to determine the merits of the allegations, provided the Complainant provides at least a minimal amount of information with which the County can initiate an investigation (who did it, when, and what did they do). The Complaint Recipient shall designate an objective investigator to determine the validity of any complaint. The objective investigator may include one of the Designated Complaint Recipients or any third party deemed appropriate. The investigation shall be completed in a reasonable time to resolve the issue and minimize the effects of such investigation on the parties involved.

All County employees are expected to cooperate with investigations by providing truthful information and relevant documentation in response to questions and information requests. County employees who fail to cooperate, provide intentionally deceptive information or otherwise impede an investigation, will be subject to disciplinary action.

The investigation, at a minimum, will include an interview with the Complainant and the accused, and also will include interviews with any witnesses identified and review of documents or other evidentiary materials received or uncovered during the investigation. The investigator may put interim measures in place, if necessary, before the investigation is complete. The investigator shall produce a report documenting the County's investigation. The report is a confidential internal document. The County will not release the report to the Complainant or the accused. The County, however, in its discretion, may opt to release the report if, for example, the matter proceeds to litigation or an administrative agency or under other circumstances the County deems appropriate, or if required by law or regulation.

At the conclusion of the investigation, the Complainant and the accused will be notified in writing of the outcome of the investigation, but not of the details of the investigation. Upon completion of the investigation, the Affirmative Action Officer shall maintain the entire file in a secure location.

6. Disciplinary Action:

If the County determines that the complaint has merit, the perpetrator shall face appropriate disciplinary action based upon the severity of the behaviors constituting the discrimination/harassment, the effect of the discriminatory/harassing behavior on the victim, the effect of the discriminatory/harassing behavior on the County's operations and on other County employees, the supervisory relationship, if any, between the perpetrator and the victim and any prior history of past charges against the perpetrator. Disciplinary action may include a written warning, suspension, individual or group counseling or training, demotion, and/or termination of employment. Any disciplinary action shall be consistent with applicable collective bargaining agreements, Civil Service regulations and applicable due process safeguards.

In the event that the County determines the complaint to be intentionally dishonest, appropriate disciplinary action may be taken against the employee who caused the false complaint to be filed. Complaints that are brought in good faith, even if unsubstantiated, do not constitute an intentionally dishonest accusation.

7. Confidentiality:

The County has a compelling interest in protecting the integrity of its investigations. In every investigation, the County has a strong desire to protect the Complainant and all other witnesses from harassment, intimidation and retaliation, to keep evidence from being destroyed, to ensure that testimony is not fabricated and to prevent "cover-ups." The County may decide, in some circumstances, that in order to achieve these objectives, the County must maintain the investigation and its role in it in strict confidence. If the County reasonably imposes such a requirement and any employee(s) does not maintain such confidentiality, the employee(s) may be subject to disciplinary action up to and including immediate termination.

8. Responsibilities of Supervisory Personnel:

Supervisors are to monitor the work environment to ensure that all subordinates and other persons comply with this Policy. When a supervisor learns of a potential violation of this Policy, the supervisor shall assist the potential Complainant in reporting the alleged incident(s) of discrimination or harassment to one of the Designated Complaint Recipients. Alternatively, or if the potential Complainant is unwilling to report the complaint, then the supervisor shall report the matter to one of the Designated Complaint Recipients.

Any supervisor who receives a harassment complaint from any employee must bring it to the attention of one Designated Complaint Recipients.

Supervisors shall closely monitor the work environment for any forms of retaliation once an allegation has been made. This will include but not be limited to verbal remarks, irregular assignments, exclusionary conduct, or any other activity that may constitute retaliation following a complaint, or participation in a complaint investigation, under this Policy.

Any supervisor who witnesses or receives a report of retaliation from an employee must bring it to the attention of one of the Designated Complaint Recipients. Supervisors who do not fulfill their responsibilities under this Policy will be subject to disciplinary action up to and including termination of employment.

9. Consensual Relationships:

The County strongly discourages romantic or sexual relationships between a management or other supervisory employee and his or her subordinate (including any employee who reports directly or indirectly to that person) because such a relationship may give rise to the perception by others that there is favoritism or bias in employment decisions affecting the subordinate employee. Moreover, given the uneven balance of power within such relationship, consent by the subordinate is suspect and may be viewed by others or, at a later date, by the subordinate, as the result of coercion or intimidation.

If a County employee enters into a consensual relationship which is romantic or sexual in nature with a subordinate (including any employee who reports directly or indirectly to that person), both employees shall notify the Director of the Division of Personnel Management and Labor Relations. Upon notice, the Director of the Division of Personnel Management and Labor Relations will review the situation in light of all the facts (reporting relationship between the parties, effect on co-workers, job responsibilities, etc.) and determine whether to change the reporting relationship or take other appropriate action.

10. Legal Effect:

This Policy is to be construed as a unilateral expression of the policy of Union County concerning discrimination and harassment in the workplace. It is not intended to create any contractual rights or duties and any such intention or effect is disclaimed. This Policy may be amended, supplemented, modified and/or revised at any time.

Any employee with questions regarding the County's Policy Against Workplace Discrimination and Harassment should contact any of the Designated Complaint Recipients.

Resolution: 2020-861

Adopted: December 3, 2020

CONTACT INFORMATION
FOR UNION COUNTY'S POLICY AGAINST
WORKPLACE DISCRIMINATION AND HARASSMENT

Affirmative Action Officer:

Stella Malpere
Affirmative Action Officer
Office of County Counsel
Administration Building
Elizabethtown Plaza
Elizabeth, New Jersey 07207
Telephone: (908) 527-4230

Director of Personnel Management and Labor Relations

Claudia Martins
Director of Personnel
Administration Building
Elizabethtown Plaza
Elizabeth, New Jersey 07207
Telephone: (908) 527-4289

County Counsel:

Bruce H. Bergen, Esq.
County Counsel
Administration Building
Elizabethtown Plaza
Elizabeth, New Jersey 07207
Telephone: (908) 527-4250

YEAR: _____



COUNTY OF UNION
DISCRIMINATION/HARASSMENT COMPLAINT FORM

Name: _____
Job Title: _____ Direct Supervisor: _____
Department/Division: _____ Work Location: _____
Telephone Number(s): _____
Email Address(s): _____

1. Type of Complaint you are alleging (check all that apply):

Discrimination Harassment Sexual Harassment Retaliation

2. Protected Status/Basis for your Complaint (check all that apply):

<input type="checkbox"/> Age	<input type="checkbox"/> Veteran's/Military Status
<input type="checkbox"/> Race/Color	<input type="checkbox"/> National Origin/Nationality/Ancestry
<input type="checkbox"/> Sex/Gender	<input type="checkbox"/> Sexual Orientation
<input type="checkbox"/> Disability	<input type="checkbox"/> Gender Identity
<input type="checkbox"/> Pregnancy/Childbirth	<input type="checkbox"/> Genetic Information

3. Describe the alleged incident(s). Please specify location(s), date(s) and time(s) of each occurrence. Give as much detail as possible. Attach additional sheets, if necessary.

Description of Incident: _____

Location of Incident: _____

Date and Time of Incident: _____

4. Who do you believe was responsible for the alleged incident(s)? For each alleged perpetrator list the name, job title and department/division.

Perpetrator's Name: _____

Perpetrator's Job Title: _____

Perpetrator's Department/Division: _____

5. Were there any witnesses to the alleged incident? ___ Yes ___ No
If yes, for each employee witness, list the name, job title and department/division and briefly state what they witnessed. Attach additional sheets, if necessary.

Witness's Name: _____

Witness's Job Title: _____

Witness's Department/Division: _____

What was witnessed: _____

6. Did you ever report this incident to anyone else? ___ Yes ___ No
If yes, for each person to whom you reported, list the name, job title and department/division and date of report.

Name: _____

Job Title: _____

Department/Division: _____

Date Report: _____

7. Do you have any documents which support your complaint? ___ Yes ___ No
If yes, for each document submitted, list the name of the document, what the document supports and attach a copy. Attach additional sheets, if necessary.

Name of Document: _____

What does the document support: _____

8. Are you concerned someone may retaliate against you for filing this complaint? ___ Yes ___ No
If yes, identify the person and state why you believe the person may retaliate against you.

Name: _____

Reason: _____

9. What are you seeking as a resolution to your complaint? _____

To investigate your complaint, it will be necessary to interview you, the accused, and any witnesses with knowledge of the allegations or defenses. The County will strive to maintain the confidentiality of the investigation to the extent possible.

ACKNOWLEDGEMENT

I am willing to cooperate fully and honestly in the investigation of my complaint and to provide whatever information Union County deems relevant. I hereby certify this statement is true and factual.

Complainant Signature

Date

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