

COUNTY OF MONMOUTH

**NEW EMPLOYEE
ORIENTATION**

**PROHIBITING WORKPLACE
DISCRIMINATION AND
HARASSMENT
POLICY GUIDE**



COUNTY OF MONMOUTH

Prohibiting Workplace Discrimination and Harassment Policy

PURPOSE

The County of Monmouth is committed to providing a work environment free from any form of discrimination and harassment, and it is every employee and County Representative's responsibility to ensure that the workplace is free from discrimination and harassment. Discrimination based upon an applicant's or employee's race, creed (religion), color, national origin, age, ancestry, nationality, sex, marital or domestic partnership or civil union status, gender identity or expression, affectional or sexual orientation, atypical hereditary cellular or blood trait, genetic information, liability for service in the Armed Forces of the United States, veteran status, disability or any other classification protected by law is strictly prohibited. Harassment in any form – sexual, bullying or otherwise – will not be tolerated. Because of the County of Monmouth's strong disapproval of offensive or inappropriate behavior at work, all employees must avoid any action or conduct which could be viewed as discrimination or harassment, or potentially subject themselves to disciplinary action.

Discrimination and harassment undermines the integrity of the employment relationship, compromises equal employment opportunities, weakens morale and interferes with work productivity.

SCOPE

- A. The County of Monmouth will not tolerate discrimination or harassment by or toward anyone in the workplace, including supervisors, co-workers and non-employees.
- B. This Policy encompasses all County buildings or worksites; all County-sponsored events that occur on or off-premises; off-County premises' incidents that have a County impact or affect employees of the County regardless of whether employees are on or off-premises; off-premises and/or online speech or conduct, such as social networking sites, which causes a substantial disruption to County operations and/or mission or affects members of the County community.

POLICY

This Policy applies to any conduct or employment practice or procedure that treats an applicant or employee less favorably because of that person's race, creed (religion), color, national origin, age, ancestry, nationality, sex, marital or domestic partnership or civil union status, gender identity or expression, affectional or sexual orientation, atypical hereditary cellular or blood trait, genetic information, liability for service in the Armed Forces of the United States, veteran status, disability or any other classification protected by law (hereinafter referred to as "protected classification").

This Policy applies to the use of any derogatory or demeaning language or slur to refer to, amongst other things, a person's race, gender, age, religion, disability, affectional or sexual orientation, ethnic background or any other prohibited classification which has the effect of harassing an employee or non-employee, or creating a hostile work environment. Harassment or the creation of a hostile work environment can occur even if there is no intent on the part of an individual to harass or demean another. Therefore, harassment based on any protected classification is a violation of this policy.

This policy also applies to conduct on the County's voice mail and E-mail systems. No voice mail or E-mail messages are to be created, sent or received if they contain intimidating, hostile or offensive material concerning race, color, religion, sex, age, national origin, disability, or any other protected classification. In addition, having an E-mail address may lead to receipt of unsolicited E-mail containing offensive content. If you receive any offending E-mails, you likewise are expected to delete them immediately and not forward such E-mails to anyone else. Users accessing the Internet do so at their own risk.

The County of Monmouth is not responsible for material viewed or downloaded by users from the Internet. The Internet is a worldwide network of computers that contains millions of pages of information. Users are cautioned that many of these pages include offensive, sexually explicit and inappropriate material. In general, it is difficult to avoid at least some contact with this material while using the Internet. Material that is fraudulent, harassing, embarrassing, sexually explicit, profane, obscene, intimidating, defamatory, or otherwise unlawful, inappropriate, offensive (including offensive material concerning sex, race, color, national origin, religion, age, disability, and other characteristics protected by law) may not be downloaded from the Internet or displayed or stored in the County of Monmouth's computers. In the event you encounter inappropriate or sexually explicit material while browsing on the Internet, immediately disconnect from the site. Employees encountering or receiving this kind of material are to immediately report the incident as directed in the procedures below.

Definition of Workplace Discrimination and Harassment:

Discrimination is treating someone inappropriately due to his/her membership in a legally protected classification.

Examples of Prohibited Workplace Discrimination include, but are not limited to:

- Treating an individual differently with regard to terms and conditions of employment because of the individual's membership in a protected classification.
- Denial of training opportunities, transfers or promotions because of a protected attribute.
- Calling another by an unwanted nickname which refers to one or more of the above protected classifications or telling ethnic jokes.
- Exclusion or isolation by co-workers as a result of membership in a protected classification.

Harassment is unwelcome or offensive conduct which causes an individual to feel threatened, humiliated, bullied or harassed or which unreasonably interferes with the individual's work performance, undermines his/her job security, or creates a threatening, intimidating, hostile or offensive work environment. There can be two types of harassment within the workplace – Sexual Harassment and Bullying. While Sexual Harassment is specifically prohibited by anti-harassment laws, Federal, State and Local jurisdictions may or may not have laws regarding workplace bullying.

Sexual Harassment: Sexual harassment can come from anyone — a supervisor, manager, co-worker, customer, visitor, vendor, or supplier. It is not limited to male to female interactions. Sexual harassment can include conduct such as a woman harassing a man, a woman harassing a woman or a man harassing a man.

Sexual harassment does not require that a person be the direct recipient of the offensive behavior. Rather, if an employee is surrounded by instances of others being sexually harassed, that employee's own working conditions may be so impaired as to constitute sexual harassment to the offended third party.

Sexual Harassment falls into two categories, Quid Pro Quo and Hostile Work Environment.

- A. **Quid Pro Quo Sexual Harassment** occurs when (a) submission to sexual conduct is made either explicitly or implicitly a term or condition of an individual's employment; or (b) submission to or rejection of sexual conduct by an individual is used as a basis for an employment decision affecting such individual.

This form of harassment includes unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct based on the gender of the affected employee.

It is a violation of this policy for any person to use his or her authority to make any sexual advance toward an individual, or to grant, recommend or refuse to take any personnel action in exchange for or the refusal of sexual favors, or to take or fail to take a personnel action as reprisal against any employee for rejecting or reporting a sexual advance.

- B. **Hostile Work Environment Sexual Harassment** occurs when unwelcome sexual conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment.

Examples of Sexual Harassment include, but are not limited to:

- Unwelcome physical contact such as touching, grabbing, pinching or brushing against another's body.
- Verbal or written sexually suggestive or obscene comments, jokes, propositions, letters, notes, E-mails, voice mails, invitations, gestures or inappropriate comments about a person's clothing or asking personal questions about someone's social or sex life or telling lies / spreading rumors about a person's sex life.
- Visual contact such as suggestively leering or staring at another person's body, gesturing, displaying sexually suggestive objects, cartoons, posters, magazines or pictures of scantily clad individuals.

- Bringing in, displaying or distributing material that contains language or images that are derogatory or demeaning.

Bullying: Bullying, is unwelcome repeated, persistent and aggressive behavior directed towards a co-worker, or a group of co-workers, that causes fear, distress or harm to another person's body, emotions, self-esteem or reputation. Whether it is intended or not, bullying is an occupational health and safety hazard. Bullying can fall into two categories, Overt and Covert.

Examples of Bullying include, but are not limited to:

- Aggressive, abusive or offensive language, including threatening or shouting (Overt)
- Constant unreasonable and unconstructive criticism (Overt)
- Teasing or regularly making someone the brunt of practical jokes (Overt)
- Deliberate exclusion, isolation or alienation of an employee from normal work interaction (Covert)
- Unreasonably ignoring the employee (Covert)
- Intimidating a person through inappropriate personal comments, belittling opinions or unjustified criticism (Covert)

EMPLOYEE RESPONSIBILITIES

Employees are encouraged to inform the alleged harasser that the behavior in question is offensive and unwelcome and is to stop immediately. Any employee who believes that he or she has been discriminated against and/or harassed, or who witnesses discriminating or harassing conduct, is to promptly report the incident(s) to the employee's:

- Manager or Supervisor; or
- Department or Division Head; or
- Administrative Department Director; or
- Another management representative with whom the employee feels comfortable; or
- Human Resources Director; or
- Office of Professional Standards Director

All employees are expected to fully cooperate with any investigation undertaken pursuant to this policy. Failure to cooperate in an investigation may result in disciplinary action, up to and including employment termination.

“But I Didn't Intend That!”

The intent of the accused harasser is **NOT** a defense. Harassment is not defined by the intent of the accused harasser, but by the effect of the behavior on the recipient(s) or others. In harassment situations, the alleged offensive conduct is evaluated based on the recipient's response rather than the perpetrator's intentions.

If a reasonable person would find the conduct offensive, the fact that the perpetrator would not does not absolve that individual of responsibility. An employer or employee can be held liable for harassment even if the person engaging in the behavior meant no harm.

Equally important is the concept of third party harassment. Third party harassment occurs when two individuals engage in consensual talk or conduct that affects a third party who does not welcome the behavior. Even though the harassment was not directed at the unintended individual, the conduct may contribute to an environment of harassment at work because that individual may be offended by the conduct. Again, it is not the intent of the two individuals, but rather the situation must be viewed from the overhearing third party individual.

“Is It Really Prohibited Behavior?”

The best course of action is to avoid all harassing conduct in the workplace. You should heighten your sensitivities that your conduct might be regarded as offensive to a co-worker and therefore you are to govern your behavior accordingly. If you are not absolutely sure that your behavior is harassment, ask yourself these questions:

- Would I make this comment or gesture in mixed company?
- Would others possibly listening to my comment or seeing my gesture find it objectionable?
- Would I make this comment or gesture to a family member?
- Is my verbal or physical behavior of a sexual, bias, ethnic, racial or similar nature?
- Is my conduct offensive to the person(s) who witnesses it?
- Does a co-worker have to tolerate my conduct in order to keep his or her job?
- Could my comment or gesture be misinterpreted by the other party to be harassment?
- Does my conduct make the employee's job environment unpleasant?
- Am I hesitating before saying it?

If the answer to any of the above or similar questions is "Yes", immediately put a stop to the conduct. Remember, even if the behavior is not prohibited it still may be inappropriate workplace conduct.

“How Can I Tell If Conduct is Unwelcome?”

Only unwelcome conduct can be sexual harassment. Consensual dating, joking, and touching, for example, are not harassment if they are welcomed by the persons involved. Remember, a person always has the right to say “No”, and, that response must be respected and honored.

Conduct is unwelcome if the recipient did not initiate it and regards it as offensive. Some sexual advances (i.e., "come here Babe and give me some of that") are so crude and blatant that the advance itself shows the unwelcomeness. In a more typical case, however, the welcomeness of the conduct will depend on the recipient's reaction to it. In some situations, a person may use a double entendre (a phrase which can be taken in one of two ways) to disguise their harassment. The use of double entendres, where two meanings can be taken from one phrase, are not to be used.

Outright Rejection: The clearest way to tell the conduct is unwelcome is when an employee tells a potential harasser that the conduct is unwelcome and that it makes the employee uncomfortable. It is very difficult for a harasser to explain away offensive conduct by saying, "She said No, but I know that she really meant Yes." The second best approach is for the offended employee to consistently refuse to participate in the unwelcome conduct. An individual who shakes his or her head "No" and walks away when confronted with the unwelcome behavior has made his or her response clear.

Ambiguous Rejection: Matters are more complicated when an offended employee fails to communicate clearly that he/she does not like the conduct. For reasons of politeness, fear or indecision, a person may not make his/her true feelings known. A woman or man asked out for a romantic dinner by his/her boss may say, "Not tonight, I have a previous commitment", when what he or she really means is, "No way, not ever". The invitation is not inherently offensive, and the response leaves open to question whether the conduct was truly unwelcome. At a certain point in time, repeated inquiries concerning dating becomes harassment based on the number of times the request is made of the other individual. Therefore, sending "mixed" signals will not benefit either person(s).

For these reasons, anyone finding conduct offensive should make his/her displeasure known clearly, respectfully and promptly. Remember that some offenders may be unaware of how their actions are being perceived. Others may be insensitive to the reactions of fellow workers. Simply tell the harasser that the behavior is not acceptable and is unwelcome. Even if a person may not find the conduct personally offensive, remember that some co-workers might.

Remember that workplace discrimination or harassment is an organizational problem and the County wants to know about it immediately so that prompt and appropriate action can be taken to ensure that no further incident(s) occur.

MANAGEMENT RESPONSIBILITIES

County Management is to make every effort to maintain a work environment that is free from any form of discrimination or harassment. Managers and supervisors are expected to take all allegations of discrimination or harassment seriously.

Every manager or supervisor, upon receiving claims or upon observing conduct or workplace discrimination or harassment, is obligated to take immediate action to have the behavior cease. The manager or supervisor is to stop what he or she is doing at that moment and take the time to meet privately with the employee to advise him or her that the Human Resources Department, Office of Professional Standards is being notified.

The manager or supervisor is responsible to submit a full report of such claims or observations no later than on the day the complaint is received or the behavior is observed. At no time should managers or supervisors reveal any information about the matter to any person who is not authorized to receive it. It is important to advise the Office of Professional Standards immediately so that their representative may meet with the complainant. This is especially important if the complainant is not comfortable with the department manager or supervisor.

It is extremely important to ascertain if immediate protective measures are necessary in order to prevent continued violations of this policy. That is why it is necessary to notify the Human Resources Department, Office of Professional Standards immediately to review the matter.

COMPLAINT PROCEDURE & INVESTIGATION

The Human Resources Department, Office of Professional Standards is responsible for managing the overall investigation process regarding claims or reports of workplace discrimination or harassment.

Confidentiality: All investigations of discrimination and/or harassment claims will be conducted in a way that respects, to the extent possible, the privacy and confidentiality of all the persons involved. The investigation will be conducted in a prompt, thorough and impartial manner. The investigation normally includes interviews with the employee who believes that he or she has been discriminated against or harassed, the accused, and persons with information about the alleged prohibited behavior. All employees are expected to fully cooperate with any investigations undertaken. Where workplace discrimination and/or harassment is found to have occurred, prompt and appropriate remedial action to stop the discrimination and/or harassment and deter its reoccurrence will be implemented.

Prohibition Against Retaliation: Retaliation against any employee who alleges, in good faith, that she/he has been, in any manner, discriminated against and/or harassed, or who provides information in the course of an investigation into a claim of workplace discrimination and/or harassment, is strictly prohibited by this policy. Anyone violating this requirement shall be subject to appropriate disciplinary action, up to and including employment termination.

False Accusations and Information: Any employee who knowingly or in reckless disregard of the truth makes a false accusation of discrimination and/or harassment or provides false or misleading information in the course of an investigation, will be disciplined, up to and including employment termination.

Disciplinary Action: Any employee who is found to have violated this policy will be subject to appropriate disciplinary action, which may include: counseling, training, reprimand, suspension, reassignment or employment termination. In addition, the matter may be referred to another appropriate authority for review for possible violation of State and Federal statutes.