

Anne Arundel County Employee Relations Manual

Number: K-01

Subject: Non-Discrimination and Non-Harassment in Employment

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The purpose of this section is to provide employees, supervisors, and managers with guidance and direction relating to equal employment opportunities and the County's policy against discrimination and harassment based on gender, race, color, national origin, religion, age, disability, sexual orientation, gender identity or expression, marital or family status, genetic information, veteran's status, or any other characteristic protected under applicable County, State of Maryland and Federal laws. This policy and procedure applies to all classified, exempt, temporary, seasonal and contractual employees, elected officials, and to all volunteers of Anne Arundel County Government. Please note that additional requirements and information may be provided for in an applicable Departmental policy, rule or regulation.

Anne Arundel County Government is committed to a workplace free of discrimination and harassment. All employees have the right to work in an environment that promotes equal opportunities and prohibits discriminatory practices, and the County will not tolerate discrimination or harassment in the workplace. Any and all appropriate action will be taken to address substantiated violations of this policy, including appropriate disciplinary action up to and including termination from employment.

This policy also prohibits retaliation against any employee raising a complaint, cooperating with an investigation, or providing information concerning an alleged violation of this policy.

I. Non-Discrimination Policy

Anne Arundel County's practice is to recruit, hire, train, and promote qualified people without regard to gender, race, color, national origin, religion, age, disability, sexual orientation, gender identity or expression, marital or family status, genetic information, veteran's status, or any other characteristic protected by law. All personnel decisions and actions such as selection, pay, benefits, promotions, transfers, leaves, discipline, job classifications, and job assignments will be based on merit, qualifications, and abilities and are administered to provide equitable and fair treatment of all employees. Discrimination is expressly prohibited by § 6-1-102 of the Anne Arundel County Code. It is always the County's policy to comply fully with all local, state and federal Equal Opportunity laws.

The County will make reasonable accommodations for qualified individuals with known disabilities and/or to employees with religious or sincerely-held beliefs unless doing so would result in an undue hardship or create a serious safety threat. This policy governs

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all aspects of employment, including but not limited to, selection, job assignment, compensation, discipline, termination, and access to benefits and training.

Employees with questions or concerns about any type of discrimination in the workplace are encouraged to bring these issues to the attention of management, the Office of Personnel and/or Equal Employment Opportunity (EEO) Director. Employees can raise concerns and make reports without fear of reprisal. Anyone found to be engaging in any type of discrimination in violation of this policy will be subject to remedial action which may include disciplinary action, up to and including termination of employment.

II. **Non-Harassment Policy**

It is the policy of Anne Arundel County to maintain a working environment free from harassment on the basis of an individual's gender, race, color, national origin, religion, age, disability, sexual orientation, gender identity or expression, marital or family status, genetic information, veteran's status, or any other characteristic protected by law.

Harassing conduct will not be tolerated, and all reported or suspected occurrences of harassment will be promptly and thoroughly investigated. Any individual found to have engaged in harassment in violation of this policy will be subject to remedial action which may include discipline, up to and including termination of employment.

III. **Definitions**

Harassment: Unlawful harassment is best described as conduct that is targeted at a lawfully protected category, such as race, gender, age, disability, religion, national origin, or any other characteristic protected by law, that has the purpose or effect of:

- (1) unreasonably interfering with an individual's work performance, or
- (2) creating an intimidating, hostile or offensive work environment.

Examples of behavior that may be deemed as harassing in nature include, but are not limited to:

- Threats or verbal or physical abuse;
- Derogatory or offensive name-calling, jokes, teasing, or reference to negative stereotypes;
- E-mails, texts, or other communications with derogatory or demeaning jokes, epithets, slurs or comments;
- Offensive calendars, posters, photographs, pictures, drawings or cartoons that are sexually explicit or reflect negatively on individuals because of their protected class;
- Unwelcome touching or near-touching, including patting, brushing up against, hugging, cornering, leaning in or similar conduct; sexual innuendos or jokes; inquiries of a personal or sexual nature.

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Sexual harassment is defined specifically as any *unwelcome* sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, because of an individual's sex, when:

- submission to such conduct is an explicit or implicit condition of employment;
- submission to or rejection of such conduct is used as the basis for employment decisions; or
- such conduct has the purpose or effect of unreasonably interfering with an individual's work performance, or creating an intimidating, hostile or offensive work environment.

Sexual harassment can include harassment by members of the same gender.

Discrimination: To take any action with regard to an employee or applicant for employment that would in any way deprive or tend to deprive an individual of employment opportunities or otherwise adversely affect his or her status as an employee or applicant, because of such individual's gender, race, color, national origin, religion, age, disability, sexual orientation, gender identity or expression, marital or family status, genetic information, veteran's status, or any other characteristic protected by law.

IV. **Procedure**

Workplace discrimination or harassment, whether committed by employees, managers, elected officials, co-workers or non-employees, is prohibited by law and this policy. It is therefore imperative that all employees work in a responsible and professional manner that contributes to an environment free from any form of discrimination or harassment.

A. Complaint Investigation Procedure

1. An employee who believes that he or she has been subject to harassment or discrimination should immediately bring the behavior to the attention of a supervisor, the Office of Personnel and/or the EEO Director.
2. If the person to whom the employee would normally bring such concern (such as an immediate supervisor or other individual in the employee's chain of command) is the source of harassing conduct or discrimination, or if the employee is uncomfortable discussing the matter with a supervisor, the employee should contact either the Office of Personnel and/or the EEO Director.
- ✓ ***Refer to the Forms and Practices Guide at the end of this Section for the Incident Report form.***
3. All complaints of harassment or discrimination, whether formal, informal, in writing or verbal, will be investigated, following completion of the Incident Report by the complainant. The County will make a decision as

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to who will investigate the alleged incident of harassment or discrimination. The investigation may be conducted by the Office of Personnel, the EEO Director, and/or the applicable Departmental designee. Prior to initiation of any investigation by an applicable Departmental designee, the matter should be discussed with the Office of Personnel and/or the EEO Director. The individual conducting the investigation will contact the complainant to acknowledge receipt of the complaint. The individual conducting the investigation shall also provide a copy of his/her factual findings and recommendations to the Office of Personnel and EEO Director.

✓ ***Refer to the Forms and Practices Guide at the end of this Section for the Sample Letter from Department Head.***

4. The County will discuss with the complainant the progress of the investigation and may request feedback regarding the complainant's preferred resolution.
5. In conducting the investigation, the County will respect the privacy of all concerned and will maintain confidentiality to the fullest extent possible.
6. Whenever possible, investigations into harassment or discrimination shall be conducted within two weeks. If an investigation can be completed earlier the investigation shall be completed at an earlier time. Due to the complexities of some of the complaints received, however, the County may need additional time to complete the investigation. In that case, the County will notify both the complainant and the respondent on the progress of the investigation.
7. All interviews, including with the complainant, respondent or other witnesses, should be documented in writing. This may be done using the Witness Acknowledgment Form. The County will also collect and preserve all physical evidence that may support or disprove the allegations made.

✓ ***Refer to the Forms and Practices Guide at the end of this Section for the Witness Acknowledgement Form.***

8. The County will arrange a time and place to meet with the complaining employee to obtain details and factual information concerning the allegations. The individual conducting the interview will listen to what the employee has to say, take notes, and ask questions so that the facts are clear. In most instances the meeting with the employee should take place prior to questioning other individuals involved in the complaint.
9. The County will interview other individuals, including the alleged offender, who it believes would be relevant and helpful to the

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investigation and who it believes may have knowledge of the allegations of harassment or other discrimination.

10. All employees should be treated fairly and objectively. Until a resolution is found, disciplinary action or special treatment is unwarranted, except in the most severe circumstances, although temporary actions to stabilize a workplace may be appropriate; for example, the transfer of one or more individuals.
11. The County will make a determination and issue a report as to whether the allegations of harassment or discrimination were substantiated. If the allegations are proved, the County will issue remedial action and disciplinary action as appropriate, up to and including termination of employment.
 - ✓ *Refer to the Forms and Practices Guide at the end of this Section for an example of an Investigation Report.*
12. If an individual is found to have engaged in the behavior alleged, he or she should be so informed and should be informed of any appeal rights available related to any remedial action or disciplinary action taken.
 - ✓ *Refer to the Forms and Practices Guide at the end of this Section for an example of the Memorandum to Respondent Memorializing the Response to Harassment or Discrimination.*
13. The Office of Personnel, EEO Director, or Departmental designee will advise the complainant and respondent of the results of the investigation. The complainant will not be informed, however, of any discipline issued to the respondent or others.
 - ✓ *Refer to the Forms and Practices Guide at the end of this Section for an example of the Memorandum to Complainant Memorializing the Response to Harassment or Discrimination.*

B. The County's Responsibilities

Anne Arundel County will ensure that the actions of its employees and officials are free from discrimination and harassment, and will take appropriate corrective actions in instances in which it learns of discrimination or harassment. In support of the County's obligations under the law, all Anne Arundel County management and supervisory employees are required to take the following actions:

1. Affirmatively assure employees that unlawful harassment, discrimination and retaliation are expressly prohibited, that management will conduct a prompt and thorough investigation of suspected discriminatory or harassing conduct in a timely and confidential manner, and that Anne

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Arundel County will take appropriate remedial action which may include disciplinary action.

2. Inform the Office of Personnel and/or EEO Director of all reported or suspected occurrences of harassment or discrimination.
3. Avoid harassment or discrimination, including the appearance of such harassment or discrimination, by refraining from actions, language, and jokes and by disposing of materials, such as posters or magazines, which may offend others in the workplace.
4. Refrain from retaliating against individuals who report incidents of harassment or discrimination, or who participate in an investigation of alleged harassment or discrimination. Management will also take appropriate remedial action which may include disciplinary action against individuals who engage in retaliation.
5. Immediately report observed behavior of a harassing or discriminatory nature so that appropriate steps can be taken to ensure that the inappropriate conduct is addressed in a timely manner.
6. Ensure that employees receive a copy of Anne Arundel County's Non-Discrimination and Non-Harassment Policy and that the employee signs the Acknowledgement of Receipt of the Policy.

✓ *Refer to the Forms and Practices Guide at the end of this Section for the Acknowledgement of Receipt form.*

C. Employees' Responsibilities

1. Any employee who feels discriminated against, harassed or who knows of or suspects the occurrence of discrimination or harassment should inform a supervisor, or, if the complaint is against the supervisor, the employee should inform the Office of Personnel and/or the EEO Director of the facts regarding such harassment or discrimination so that management may promptly and thoroughly conduct an investigation. While any complaint will be investigated, employees are encouraged to report or file such claims within six months of the alleged harassment or discrimination.
2. All employees are expected to cooperate with the investigation process and refrain from unduly influencing or obstructing an investigation.
3. Employees shall avoid engaging in any conduct that may be considered as discrimination and harassment, including the appearance of harassment, by refraining from actions, language, and jokes and by disposing of materials, such as posters or magazines, which may offend others in the workplace.

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4. Employees shall not retaliate against individuals who report incidents of harassment or discrimination, or who participate in an investigation of alleged harassment or discrimination. Employees must report any incidents of retaliation to a supervisor, or, if the complaint is against the supervisor, the employee should inform the Office of Personnel and/or the EEO Director.

D. Discipline

If the investigation of a complaint reveals that an employee, supervisor, manager, or other Anne Arundel County representative has engaged in discriminatory or harassing conduct in violation of this policy, the County will take appropriate remedial action which may include disciplinary action in accordance with County law, policy, and any applicable collective bargaining agreement. The exact nature of discipline will remain confidential, although complainants will be informed that remedial action was taken to stop the offending behavior.

✓ ***Forms and Practices Guide:***

- ◆ Acknowledgement of Receipt of Anne Arundel County's Non-Discrimination and Non-Harassment Policy
- ◆ Incident Report
- ◆ Witness Acknowledgement Form
- ◆ Investigation Report
- ◆ Sample Letter from Department Head Acknowledging Receipt of Complaint
- ◆ Memorandum to Complainant Memorializing the Response to Harassment or Discrimination
- ◆ Memorandum to Respondent Memorializing the Response to Harassment or Discrimination