



## EL PASO COUNTY DEPARTMENT OF HUMAN RESOURCES

### Anti-Harassment

**Adopted Date: November 27, 1990**

**Revised Date: November 26, 2018**

The County of El Paso is committed to maintaining working environments that are free from harassment and discrimination. In accordance with this commitment, it is prohibited to discriminate or harass an individual based on:

- race,
- color,
- religion,
- sex,
- national origin,
- age,
- disability,
- ancestry,
- marital status,
- pregnancy,
- sexual orientation,
- gender identity/expression,
- veteran status,
- genetic information, or
- any other legally protected characteristic.

The County will not tolerate discrimination or harassment of any kind. Retaliation against any individual who has reported harassment or discrimination will also not be tolerated and will result in disciplinary action.

All employees, supervisors, department heads, elected officials, and individuals visiting or doing business with the County are subject to this policy.

#### I. Definitions

Discrimination: Making employment decisions based on race, color, religion, sex, national origin, age, disability, ancestry, marital status, pregnancy, sexual orientation, gender identity/expression, veteran status, genetic information or any other legally protected characteristic.

Harassment: Behavior that is severe or pervasive and interferes with an individual's work performance or creates an intimidating, hostile or offensive working environment and which is based on race, color, religion, sex, national origin, age, disability, ancestry, marital status, pregnancy, sexual orientation, gender identity/expression, veteran status, genetic information or any other legally protected characteristic.

1. Examples of Harassment include, but are not limited to:

- a. Unwanted physical contact;
- b. Use of inappropriate jokes, comments, innuendos, pictures, or posters; and
- c. Obscene or harassing telephone calls, e-mails, letters, notes or other forms of communication.

Sexual Harassment: Verbal or physical conduct of a sexual nature when:

1. Submission to such conduct is made implicitly or explicitly 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; or

3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creates an intimidating, hostile or offensive working environment.
4. Examples of Sexual Harassment include, but are not limited to:
  - a. Unwelcome sexual advances;
  - b. Demands/threats for sexual favors or actions;
  - c. Posting, distributing, or displaying sexual pictures or objects;
  - d. Suggestive gestures, sounds or stares;
  - e. Unwelcome physical contact;
  - f. Sending/forwarding inappropriate e-mails of a sexual or offensive nature;
  - g. Inappropriate jokes, comments or innuendos of a sexual nature;
  - h. Obscene or harassing telephone calls, e-mails, letters, notes or other forms of communication; and
  - i. Pornographic, sexually explicit, or otherwise obscene material in the workplace.

Retaliation: To harass or take employment action against an employee or applicant because they filed a charge of discrimination or harassment, complained about discrimination or harassment on the job, or participated in an employment discrimination or harassment proceeding (such as an investigation or lawsuit).

1. Examples of Retaliation include, but are not limited to:
  - a. Hiring, firing, layoffs;
  - b. Demotion;
  - c. Denying promotion;
  - d. Reducing pay;
  - e. Altering job assignments without a reasonable basis;
  - f. Denying training opportunities; and
  - g. Denying or reducing fringe benefits.

## II. Procedure

The County of El Paso is committed to enforcing this policy. Individuals who are found to have committed harassment will be subject to the full range of sanctions, up to and including termination of his/her employment. Intentionally making a false accusation of harassment is also prohibited.

Retaliation against an individual, who complains in good faith of discrimination or harassment, or for cooperating in the investigation of said complaint in good faith, under this policy is strictly prohibited. If an employee has been retaliated against, the employee is encouraged to report the retaliation immediately to Human Resources. Those found guilty of retaliation will be disciplined accordingly.

### A. Employee Responsibilities:

1. All employees are expected to conduct themselves in a manner consistent with this policy. County employees are responsible for promoting respect in the workplace, for being familiar with this policy, and for refraining from conduct that violates this policy.
2. Employees who believe that they have been subject to, or who have witnessed discrimination/harassment shall report, as soon as possible, their concerns to one of the following:
  - a. The employee's immediate supervisor;
  - b. The next level of supervision above their immediate supervisor if:
    - i. The employee believes their supervisor is party to the harassing behavior;
    - ii. The employee believes their supervisor is indifferent to obvious harassing behavior;
    - iii. The employee fears retaliation or reprisal from their supervisor for reporting harassing

behavior.

- c. The County's Chief Human Resources Officer or designee.
  - d. Nothing in this policy prohibits an employee from filing externally with the Equal Employment Opportunity Commission (EEOC) or the Civil Division of the Texas Workforce Commission (TWC). If the employee elects to report through this avenue directly, the employee is encouraged to provide notice to the Human Resources Department within 24 hours of filing said report or complaint to facilitate prompt action if necessary.
3. Employees shall cooperate with the Discrimination/Harassment Review Committee or Contracted Reviewing Third Party in the conduct of any investigation.

B. Supervisor Responsibilities:

1. All supervisors have a duty and obligation to conduct themselves in a professional manner and refrain from any behavior which may create discrimination or a hostile environment.
2. Supervisors are further obligated to report any reports of discrimination or harassment, or those which they witness themselves.
3. Any supervisor who receives a report of discrimination or harassment shall immediately notify their Department Head.
4. The supervisor shall document any information as a result of the report, and must forward all information relating to the complaint to the Chief Human Resources Officer, after ensuring their Department Head has been notified.
5. All complaints shall be handled with discretion and no person shall be penalized or subject to retaliation for filing a complaint of discrimination or harassment.
6. The Department Head remains at all times responsible for maintaining a non-hostile workplace including protecting his/her employees from harassment/discrimination by vendors, visitors and members of the public.

C. Vendors, Visitors and Members of the Public Responsibilities:

1. Visitors, vendors and members of the public shall not be permitted by a department head to discriminate against or harass County employees.
2. Visitors, vendors and members of the public who are found to have violated this policy may be prohibited from further dealing with specific employees within certain County departments depending on the circumstances.
3. At a minimum, in cases involving vendors, notification to the company will be made addressing the harassing behavior.

### III. Investigations<sup>1</sup>

- A. Once a receipt of the complaint has been submitted, the County Chief Human Resources Officer, or designee will determine if the complainant states a claim, that if found true, would be a violation under this policy.
  1. If the complainant does not state a claim that would be a violation under this policy, the Chief Human Resources Officer, or designee will notify the grievant of that determination and provide recommendations for resolution as appropriate. Such notifications shall be sent within seven (7) days of the determination made by the Chief Human Resources Officer.
  2. If the complainant does state a claim that would be a violation under this policy, the Chief

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<sup>1</sup> All reference to days within this section shall be business days. County holidays will not be considered business days.

Human Resources Officer, or designee, will notify the grievant of that determination within seven (7) days of the determination being made.

- a. Thereafter, the Chief Human Resources Officer shall launch an investigation of the complaint utilizing an external provider to investigate.
- b. Investigations shall be launched by the external provider within seven (7) days of the determination made by the Chief Human Resources Officer.
- c. Depending on the nature of the claim, alleged harasser(s) may be removed from the worksite or placed on administrative leave (ADC) pending the outcome of the investigation.

3. All determinations made by the Chief Human Resources Officer, or designee, will be reviewed in conjunction with the County Attorney's Offices prior to notices being sent.

#### B. External Contracted Investigations

1. Via the County Attorney's Office, the HR liaison shall refer the matter to the external provider.
2. Once it has been determined that no internal conflicts exist between the external provider and the parties involved in the assigned complaint, the external provider shall coordinate their investigation plan with the HR liaison prior to the commencement of the investigation.
3. Once the external provider and the HR liaison have determined the investigation plan, the HR liaison will schedule interview meetings with applicable parties.
  - a. Interviews may be audio recorded to ensure accuracy of the interview.
4. The external provider will conduct in-person interviews at its location, or another discrete location to thoroughly investigate and gather all facts pertaining to the complainant's allegations.
5. At the conclusion of the investigation, the external provider will report the investigation outcome to the HR liaison via a final investigation report.
6. Once the final report is received by the HR liaison, HR will proceed to notify the parties of the conclusion of the employment investigation.
7. All investigations shall be completed in a prompt and thorough manner.

#### C. Internal Investigations

In the event the external provider is unable to assist with an investigation, the complaint shall be investigated internally by the designated HR liaison within the County's HR Department utilizing the same process as the External Contracted Investigations found in Section III (B) of this policy.

#### D. Discipline

Any County employee who is found, after appropriate investigation, to have engaged in discriminatory or harassing behavior prohibited by this policy will be subject to appropriate disciplinary action, up to and including termination.

### IV. Training

- A. Every non-supervisory employee must attend the County's "Discrimination and Sexual Harassment Prevention Training for Employees" upon hire and every year thereafter during the course of their employment with the County. While non-supervisory employees have the option of completing the training online via the County's intranet, it is required that in-person trainings are completed at least every other training to ensure a thorough understanding.
- B. Every supervisor must attend the County's "Discrimination and Sexual Harassment Prevention Training for Supervisors" upon hire and every year thereafter during the course of their employment

with the County. Supervisors do not have the option of completing the training online and must attend an in-person training each time the training is due.

- C. Schedules for both online and in-person trainings can be found within the County's intranet page found at <http://intranet/hr/training.htm>.
- D. Training records will be kept on file in the Human Resources Department.