



**MONTGOMERY  
COUNTY NY**

Made of Something Stronger

***COUNTY OF MONTGOMERY***

**POLICY & COMPLAINT PROCEDURE REGARDING  
DISCRIMINATION AND HARASSMENT**

**I. PURPOSE:**

It is the policy of the County of Montgomery to provide and maintain a work environment which is free from unlawful discrimination based on sex (with or without sexual conduct, and including gender identity and transgender status), race, color, creed, religion, national origin, age, disability, sexual orientation, military status, marital status, familial status, domestic violence victim status, predisposing genetic characteristic or genetic information, and any other class protected by law. Harassment based on these characteristics (collectively referred to as "discriminatory harassment" or "harassment") is a form of unlawful discrimination and is a form of misconduct that undermines the integrity of the employment relationship and will not be tolerated. Accordingly, such conduct is prohibited in each and every work environment and each and every situation, which directly impacts the work environment.

**II. SCOPE OF APPLICATION:**

This policy applies to all applicants and employees of the County of Montgomery and prohibits harassment, discrimination and retaliation whether engaged in by fellow employees, by a supervisor or manager or by someone not directly connected to the County (e.g., an outside vendor, consultant or citizen).

Conduct prohibited by these policies is unacceptable in the workplace and in any work-related setting outside the workplace, such as during business trips, business meetings, and business-related social events.

**III. RESPONSIBILITY:**

The interpretation and administration of this policy shall be the responsibility of the County Executive in conjunction with the Personnel Officer. This includes development of procedures for handling and investigating complaints of discrimination, sexual harassment and other forms of harassment, and retaliation, and enforcement of appropriate sanctions for such conduct. The Personnel Officer will disseminate information and training, in a manner that is

consistent with and in furtherance of this policy. Any and all questions regarding this policy should be directed to the Personnel Officer.

#### IV. POLICY:

The County expressly prohibits any form of employee harassment based on race, color, creed, religion, sex (including gender identity and transgender status), national origin, age, disability, sexual orientation, military status, marital status, familial status, domestic violence victim status, predisposing genetic characteristic or genetic information, or an individual's status in any other class protected by applicable federal, state, or local law. Improper interference with the ability of our employees to perform their expected job duties will not be tolerated.

All County employees will be expected to comply with this policy and with all applicable laws and regulations prohibiting discrimination, retaliation, sexual harassment and other forms of harassment and must take appropriate measures to ensure that such conduct does not occur. Appropriate disciplinary action will be taken against any employee who violates this policy in accordance with the law and any applicable collective bargaining agreement. Based on the seriousness of the offense, disciplinary action may include, but is not limited to, verbal or written reprimand, suspension or termination.

#### V. DEFINITIONS:

##### A. Sexual Harassment is defined as:

Unwelcome sexual advances, request for sexual favors, and other verbal or physical conduct of a sexual nature when:

1. Submission to such conduct is made explicitly or implicitly a term or condition of an individual's employment (e.g.; promotion, training, assignments, etc...);
2. Submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individual; or
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Examples of specific behaviors that may be considered sexual harassment include, but are not limited to:

- ❖ Spoken or written words related to an employee's sex
- ❖ Any sexual advance that is unwelcome
- ❖ Sexually oriented comments

- ❖ Showing or displaying pornographic or sexually explicit objects or pictures in the workplace
- ❖ Offensive touching, patting or pinching
- ❖ Requests for sexual acts or favors
- ❖ Abusing the dignity of an employee through insulting or degrading sexual remarks or conduct
- ❖ Threats, demands or suggestions that an employee's work status is contingent upon her/his toleration of or acquiescence to sexual advances
- ❖ Subtle pressure for sexual activities
- ❖ Leering at a person

Sexual harassment is gender neutral and may involve members of the same or different gender.

B. Other unlawful harassment:

Harassment on the basis of any other protected characteristic is also unlawful and prohibited. Under this policy, prohibited harassment is verbal or physical conduct that is offensive to or shows hostility or aversion toward an individual because of a protected characteristic and that: (i) has the purpose or effect of creating an intimidating, hostile or offensive work environment; (ii) has the purpose or effect of unreasonably interfering with an individual's work performance; or (iii) otherwise adversely affects an individual's employment opportunities.

Harassing conduct includes, but is not limited to: epithets, slurs or negative stereotyping; threatening, intimidating or hostile acts; denigrating jokes and display or circulation in the workplace (including through e-mail) of written or graphic material that denigrates or shows hostility or aversion toward an individual or group, based on an individual's protected class.

VI. PROCEDURE:

A. REPORTING HARASSMENT

1. If and individual is subjected to a situation which he/she believes constitutes discriminatory harassment in violation of this Policy, the County recommends that the employee confront the harasser directly and advise the harasser that his/her behavior is not welcomed and will not be tolerated; note that neither this policy nor state/federal law requires that an individual tell an alleged harasser to stop his/her actions. Employees should feel free to keep written records of any alleged harassment incidents, including the date, time, location, names of people involved, witnesses (if any), and who said or did what to whom.

2. If an alleged incident of discriminatory harassment cannot be resolved directly between the parties involved, a written or verbal complaint should be filed by the affected employee with the employee's Department Head, or directly with the County's Personnel Officer.

B. COMPLAINT INVESTIGATION

1. All harassment complaints will be investigated as promptly as possible and resolved within a reasonable time after the receipt of the complaint. The Personnel Officer, or his/her designee, will coordinate an investigation of the complaint.
2. Thereafter, an Initial Determination on the complaint will be issued, and either the Personnel Officer or the County Executive may communicate the determination back to the complainant.
3. All information gathered during an investigation of a harassment complaint will be handled in a confidential manner, to the extent possible.

C. RETALIATION

1. Retaliation against any individual making a good faith complaint of harassment or assisting in the investigation of a complaint is strictly forbidden. Retaliation, like discrimination and harassment, is against the law and is a serious violation of this policy. Employees who retaliate against other employees who complain about harassment and/or participate in an investigation of harassment will be subject to disciplinary action.

D. RESPONSE PROCEDURE

1. In the event a complaint is determined to be founded, the County will take disciplinary action in accordance with the provisions of applicable collective bargaining agreements and/or state law.
2. If disciplinary charges are filed against an employee on the grounds that the County has determined the employee is guilty of conduct prohibited by this policy, the accused employee may exercise his/her rights through the disciplinary procedure provided for in his/her collective bargaining agreement and/or state law.
3. Reporting of a false complaint is a serious act. In the event it is found that the individual bringing the complaint has made knowingly false accusations, the County will take action in accordance with the provisions of the applicable collective bargaining agreement and/or state law.

E. MISCELLANEOUS:

1. This Policy does not preclude the filing of complaints with either the New York State Division of Human Rights or the Federal Equal

Employment Opportunity Commission, or the pursuing of any other remedies as permitted by law.

VII. RESPONSIBILITIES OF COUNTY PERSONNEL

A. RESPONSIBILITIES OF DEPARTMENT HEADS

1. All Department Heads in the County of Montgomery shall be responsible for enforcing this Policy and shall have particular responsibility for ensuring that the work environment under their supervision is free from discriminatory harassment and its effects.
2. All Department Heads who receive complaints or become aware of potential instances of discriminatory harassment within the work environment under their supervision are responsible for immediately forwarding the complaint to the Personnel Officer. Failure of a Department Head to comply with this responsibility may result in disciplinary action.

B. RESPONSIBILITIES OF MANGERIAL/SUPERVISORY STAFF

1. All managerial and supervisory personnel who receive discriminatory harassment complaints or become aware of potential instances of discriminatory harassment within the work environment under their supervision will be responsible for immediately forwarding such complaints to the Department Head or Personnel Officer. Failure of a manager or supervisor to comply with this responsibility may result in disciplinary action.

C. RESPONSIBILITIES OF THE COUNTY

1. The County of Montgomery will conduct periodic training for managerial and supervisory personnel on the issues surrounding discriminatory harassment, its effects and its appearances, and the role and responsibility of managerial/supervisory personnel in preventing incidents of harassment complaints.
2. The County of Montgomery shall distribute this Policy to all County employees and all others covered by its parameters. Copies of this Policy will be distributed to new employees as they are hired.
3. Copies of this Policy shall be conspicuously posted. This Policy shall also be fully incorporated into the County Employee Handbook.

Attachments: Form (suggested for use) Harassment Complaint Form



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**COUNTY OF MONTGOMERY**  
**HARASSMENT COMPLAINT FORM**

Instructions

If you have a complaint, please fill in this form and hand deliver to your department head or the Personnel Officer.

**To protect your rights, it is important that you file your complaint as soon as possible after the alleged discriminatory act took place.**

A. General Information:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Telephone #: (Work) \_\_\_\_\_

(Home) \_\_\_\_\_

Department Employed In. \_\_\_\_\_

Department Head: \_\_\_\_\_

**NATURE OF THE HARASSMENT**

B. Alleged Harassment Incident:

1. Please describe the incident (If necessary, attach additional sheets to this form):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Specifically:

- a. Names(s) of the party responsible for the alleged incident:

\_\_\_\_\_

b. Date & Time:

\_\_\_\_\_

Place:

\_\_\_\_\_

c. First Incident: Yes \_\_\_\_\_ No \_\_\_\_\_

If not first incident, please list date, time and place of previous incident(s):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

d. Describe your reaction(s) the alleged incident(s):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

e. List any witness(es) to the alleged incident(s):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

I, \_\_\_\_\_, affirm that I have read the above complaint and that it is

true to the best of my knowledge, information and belief.

---

Signature

Date