

RESOLUTION NUMBER 472

RESOLUTION AMENDING THE DORCHESTER COUNTY PERSONNEL RULES AND REGULATIONS

*\*to be Recorded for Signature Page\**

2009 SEP 23 PM 3: 35

CIRCUIT COURT DORCHESTER COUNTY

WHEREAS, the Dorchester County Personnel Rules and Regulations were adopted on June 18, 1996 pursuant to Article 25, Section 3 of the Annotated Code of Maryland; and

WHEREAS, Section I. L of said Personnel Rules and Regulations provides that these Rules and Regulations may be amended by resolution of the County Council following the introduction of an amendment and the posting of said amendment in each department for ten (10) days before taking action so as to provide an opportunity for an employee comment. Posting took place and comments were taken under consideration.

FILED

NOW, THEREFORE, BE IT RESOLVED THAT Section V. Employee Conduct, D is hereby amended to read:

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D. Harassment and Discrimination in the Work Place

CIRCUIT COURT DORCHESTER COUNTY

Dorchester County Government maintains a policy prohibiting harassment, sexual harassment and employment discrimination. The Dorchester County Council strives to maintain a healthy work environment in which all individuals are treated with respect and dignity and to provide procedures for reporting, investigating and resolving complaints of harassment and discrimination. Federal and state law provides for the protection of classes of persons based on race, color, sex, sexual orientation, religion, age, disability and national origin.

All employees have the right to work in an environment free of all forms of harassment. Dorchester County will not tolerate, condone or allow harassment by employees or other non-employees who conduct business with County Government. County employees must not subject other employees, contractors, consultants, citizens, customers, volunteers, clients or applicants to harassment, including sexual harassment. Dorchester County considers harassment and discrimination of others a form of serious employee misconduct. Therefore, the County shall take direct and immediate action to prevent such behavior, and to remedy all reported instances of harassment and discrimination. A violation can lead to discipline, up to and including termination, with repeated violations, even if "minor" resulting in greater levels of discipline as appropriate. An extreme occurrence, such as sexual assault may warrant immediate termination. Violation of this policy may result in the imposition of discipline up to and including termination. This policy will be reviewed annually.

Any report of harassment will be dealt with in a professional manner, with the utmost sensitivity, and will be investigated immediately and thoroughly.

A. Policy

1. Employee Rights

- (a) County employees have the right to a workplace free of harassment, including sexual harassment. Sexual harassment is discrimination based on sex and is an unlawful employment practice.
- (b) County employees do not have to tolerate unwelcome or unwanted sexual behavior, including advances, from any other County employee, whether supervisory or non-supervisory.
- (c) County employees do not have to be subjected to threats or suggestions that their job, advancement, salary, work assignment, etc. depends on whether or not they submit to sexual demands or tolerate harassment.

- (d) County employees have the right and responsibility to inform any person whenever that person's actions are offensive and unwelcome to the extent they could be considered harassment, including sexual harassment.

2. Prohibited Activity

- (a) No employee shall either explicitly or implicitly ridicule, mock, deride or belittle any person (s) by any means, including verbally, e-mails, notes, memos, gestures, etc.;
- (b) Employees shall not make offensive or derogatory comments to any person (s) either directly or indirectly, based on race, color, sex, religion, age, disability, sexual orientation or national origin. Such harassment is a prohibited form of discrimination under State and Federal employment law and/or is also considered misconduct subject to disciplinary action by Dorchester County.
- (c) Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when: (1) submission to such conduct is made either explicitly or implicitly a term or condition of employment; or (2) submission to or rejection of such conduct by an employee is used as the basis for employment decisions affecting the employee; or (3) used as a basis for employment decisions affecting the employee; or (4) such conduct that has the purpose or effect of unreasonably interfering with an employee's work performance or creating an intimidating, hostile or offensive working environment. Therefore, this behavior is prohibited.
- (d) Courts have also held employers legally liable for: Sexual harassment by co-workers where the employer knew of or should have known of the conduct but failed to take immediate corrective action to prevent further conduct; sexual harassment by non-employees on the employer's premises, unless the employer proves it took immediate and corrective action; or retaliation against any person for making a sexual harassment allegation. Therefore, this behavior is prohibited.
- (e) The harassment and sexual harassment of County employees by contractors, sub-contractors, consultants, etc. or their employees, as well as persons who conduct business with the County, or persons who receive services from the County, will not be tolerated and may result in the termination or suspension of contracts, denial from future participation in County bids, denial of services and/or criminal charges filed against the harassing party (ies).
- (f) Employees are prohibited from making knowingly false complaints/accusations against another employee or non-employee doing business with the County.
- (g) The County recognizes that false accusations of harassment have a serious effect on morale in the workplace. If after investigating a harassment complaint, the County learns that an employee has made a complaint in bad faith or knowingly provided false information regarding a complaint, disciplinary action may be taken against the individual who provided such false information, up to and including termination.

B. Management/Supervisor Responsibilities

1. Each Department Head/Manager/Supervisor shall be responsible for preventing acts of harassment and discrimination. This includes:

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- (a) Ensuring that employees are provided a work environment free of harassment and discrimination;
- (b) Monitoring work environment on a daily basis for signs that harassment or discrimination may be occurring;
- (c) Counseling all employees on the type of behavior prohibited and the County procedures for reporting and resolving complaints of harassment and discrimination;
- (d) Stopping any observed acts that may be considered harassment or discrimination and taking appropriate steps to intervene, whether or not the involved employees are within his/her line of supervision and reporting immediately to the County Manager and/or Human Resources; and
- (e) Taking immediate action to report to the County Manager and/or Human Resources in order to prevent retaliation towards the complaining party and to eliminate the hostile work environment where there has been a complaint of harassment or discrimination, which may include use of threats and other means of retaliation.
- (f) Failure to carry out these responsibilities will be considered in any evaluation or promotional decision and may be grounds for discipline.

2. Each Department Head/Manager/Supervisor has the responsibility to assist any employee of County Government, who comes to them with a complaint of harassment or discrimination, in documenting and filing a complaint with the County Manager and/or Human Resources.

#### C. Employee Responsibilities

1. Each employee of Dorchester County Government is responsible for assisting in the prevention of harassment through the following behaviors:
  - (a) Refrain from participation in, or encouragement of, actions (including words, e-mails, other types of written communications) that could be perceived as harassment or discrimination;
  - (b) Reporting acts of harassment to a supervisor; and
  - (c) Encouraging any employee who confides that he or she is being harassed or discriminated against to report these acts to the County Manager and/or Human Resources.
2. Failure of any employee to carry out the above responsibilities will be considered in any evaluation or promotional decision and may be grounds for discipline.

#### D. Complaint Procedures

1. Any employee encountering harassment is encouraged to inform the person that his or her actions are unwelcome and offensive. The employee is encouraged to document all incidents of harassment in order to provide for the fullest basis for an investigation.
2. Any employee that believes that he or she is being harassed shall report the incident as soon as possible to their Department Head, County Manager and/or Human Resources, so that steps may be taken to protect the employee from further harassment and so that appropriate investigative and disciplinary measures may be initiated. The complaining party's confidentiality will be maintained throughout the investigatory process to the extent practical and appropriate under the circumstances. Employees shall use the complaint form (policy attachment).

3. The County Manager shall be responsible for initiating the investigation of any complaint alleging harassment or discrimination, with the assistance of the Human Resources Director. The investigation shall be initiated within 3 working days. The investigation shall include a determination as to whether other employees are being harassed by the person, and whether other employees participated in or encouraged the harassment. The County Manager shall inform the parties involved of the outcome of the investigation, which may include discipline up to and including termination. The file of harassment and/or discrimination investigated shall be maintained as a confidential record in a secure location, typically Human Resources.
4. The County Manager and/or Human Resources Director shall meet with the employee and document the incident(s) of which they are complaining, the person(s) performing or participating in the harassment, any witnesses to the incident(s) and the date(s) on which it occurred. Specific details will be obtained dealing with who, what, where, how often, who else, time, place, history, events and reports. A chronology of events will be confirmed with the complainant.
5. Employees are required to fully cooperate in any internal investigations that may be conducted. This includes, but is not limited to, answering all questions honestly and fully. Employees interviewed at any time during an investigation shall keep any and all information that is shared during the investigation strictly confidential and shall not, under any circumstances, discuss the information or the investigation with anyone other than authorized individuals. Failure to cooperate with an investigation, or failure to abide by the rule of confidentiality, may be grounds for disciplinary action.
6. If a preliminary investigation indicates that probable cause exists, steps may be taken by the County Manager to remove the complainant and/or the alleged harasser from the work situation. If the findings from the investigation disclose harassment, including sexual harassment, the appropriate corrective action and discipline shall be taken.
7. Promptly upon completion of the investigation, the County Manager, or designee, shall notify the alleged victim, alleged perpetrator and appropriate officials of the results of the investigation and the recommendation for resolution.
8. There shall be no retaliation against any employee that files a harassment or discrimination complaint, or for assisting, testifying or participating in the investigation of such a complaint.
9. The County Manager shall notify the appropriate law enforcement agency if the complaint contains evidence of criminal activity, such as battery, rape or attempted rape. The County Manager shall make this notification as soon as possible.
10. Employees accused of and disciplined for harassment may file a grievance in appeal of the discipline in accordance the County's procedures.
11. Nothing in this policy abrogates a person's rights or remedies, including due process rights to the extent applicable, as provided by state or federal law or the United States Constitution.

#### E. Retaliation

1. There shall be no retaliation against any employee that files a harassment or discrimination complaint.
2. There shall be no retaliation against any employee that assists, testifies or participates in the investigation of a harassment or discrimination complaint.
3. Retaliation is a form of misconduct. Any evidence of retaliation shall be considered a separate violation of this policy and shall be handled by the same

complaint procedures established for harassment and discrimination complaints. Retaliation includes, but is not limited to, such acts as refusing to recommend an employee for a benefit for which he or she qualifies, spreading rumors about the employee, encouraging hostility from co-workers, or escalating the harassment.

4. Any employee (s) found to be participating or encouraging retaliation shall be subject to discipline, up to and including termination.

5. Monitoring to ensure that retaliation does not occur is the responsibility of management, such as supervisors, Department Heads, the Human Resources Director and County Manager.

F. Education and Training

1. This policy must be provided to all employees. Employees will sign an acknowledgement of receipt which will be placed in their personnel file.

2. The County will provide educational training and/or materials to employees and management to inform about harassment, including sexual harassment, how to prevent it and how to identify and file complaints.

Having been duly posted in all County Departments, this resolution to amend Section V. D. of the Dorchester County Personnel Rules and Regulations is hereby passed and adopted this 22nd day of September, 2009 to be effective the 22nd day of

September, 2009.

ATTEST:

Jane Baynard  
Jane Baynard, County Manager

Dorchester County Council

Jay L. Newcomb  
Jay L. Newcomb, President

William V. Nichols  
William V. Nichols, Vice President

Effie M. Elzey  
Effie M. Elzey

\* absent Rick Price  
Rick Price

Ricky Travers  
Ricky Travers

\*By written proxy.

**DORCHESTER COUNTY HARASSMENT COMPLAINT FORM**

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Date: \_\_\_\_\_

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

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

Phone: \_\_\_\_\_

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

**IMPORTANT:** Please answer as completely as possible the following. Use as many additional pages of paper as necessary to provide information.

1. Describe in detail any/all behavior that you believe is in violation of the County's anti-harassment policy. Include all dates and locations of the behavior.
2. Identify the person or persons who have engaged in the behavior?
3. How long has the unwelcome behavior been going on?
4. Identify all known witnesses to any or all of the behavior (including but not limited to someone that overheard or observed something).
5. Identify all known persons who may have information concerning the behavior.
6. Have you informed the person or persons that the behavior is or was unwelcome? If so, please describe the reaction and/or response.
7. Have you informed your supervisor and/or Department Head of the behavior? If the behavior involved your supervisor and/or Department Head did you inform someone else, and if so, who? If so, please describe their response.
8. If there is evidence documenting the behavior (including but not limited to letters, e-mails, drawings, photographs, etc.) please describe the evidence and identify the person or persons who have possession of it.

I certify to the best of my knowledge, information and belief that the information provided in this complaint is true and accurate.

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Employee signature

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Please print name