

Effective: October 1, 2005  
Amended: April 13, 2007



## **Anti-Discrimination and Harassment Policy**

### Background

Under federal and state civil rights laws, employers are prohibited from making any employment decision on the basis of an individual's membership in a protected class. Harassment is a form of illegal employment discrimination under state and federal civil rights laws, if it is based on any of the "protected classes" mentioned below.

### Scope

This Policy supersedes all previously issued policies relative to the subject matter herein.

All officers and employees are subject to this policy and shall comply with this policy.

### Policy Statement

The County of Hawaii is an Equal Opportunity Provider and Employer. The County of Hawaii (the "County") is firmly committed to a policy of non-discrimination. The County affirms the right of all employees to work in an environment free of harassment, intimidation, and bias.

The County prohibits all forms of discrimination and/or harassment of any employee or applicant for employment by any manager, supervisor, co-employee, customer, vendor, supplier, or agent on the basis of sex, pregnancy, race, ancestry, national origin, religion, color, disability, age, marital status, military service, veteran's status, sexual orientation, lactation, arrest and court record\*, citizenship, or any other classification protected by state or federal law.

---

\* Pursuant to state law, Hawai'i County may consider an individual's criminal history for employment purposes before making a conditional job offer under certain circumstances.

The County also prohibits all forms of discrimination and/or harassment of any customer or member of the public based on an individual's race, sex, pregnancy, color, religion, ancestry, national origin, disability, age, marital status, military service, veteran's status, sexual orientation, lactation, arrest and court record,\* citizenship or any other classification protected by state or federal law.

Retaliation against any person who files a complaint under this policy, or who participates in an investigation under this policy, is prohibited.

Employees who violate this Anti-discrimination and Harassment Policy will face immediate and appropriate disciplinary action, up to and including termination. Any disciplinary action shall be taken pursuant to the collective bargaining agreement applicable to the offending employee.

The Department of Human Resources is responsible for promulgating and implementing procedures to enforce this policy.

#### Other Information

- Discrimination and Harassment

Discrimination is an act which either denies or confers privileges on the basis of a person's membership in a "protected class." Decisions regarding employment, including recruitment, hiring, placement, training, promotion, compensation, benefits, transfers, layoffs, discipline, termination, etc. must be based on valid, non-discriminatory business reasons.

It is illegal to base employment actions, or the terms and conditions of employment, on an individual's sex, pregnancy, race, ancestry, national origin, religion, color, disability, age, marital status, assignment of income for child support obligations, military service, veteran's status, sexual orientation, lactation, arrest and court record,\* citizenship, or any other class protected by state or federal civil rights law.

Harassment is a course of unwanted conduct, based on a protected class, which is annoying, humiliating, or harmful to an individual. Harassment serves no legitimate purpose. Harassment is usually behavior that is repeated over time; however, some acts may be so severe in nature that they only need to occur once or twice to rise to the level of harassment.

- Sexual Harassment

Employees or vendors, suppliers, agents etc. of the County who direct unwelcome sexual advances, requests for sexual favors, and/or other sexually based physical or verbal conduct towards any other employee are engaging in sexual harassment and are acting in violation of this policy. Sexual harassment may also include, but is not limited to:

- unnecessary or unwanted physical contact such as patting, pinching, grabbing, rubbing and/or intentionally brushing up against another person's body;
- verbal conduct, whether in oral, written or electronic form, such as unwanted sexual advances, propositions, sexually based verbal abuse, graphic sexual descriptions of a person's body, sexually degrading language, communicating dirty jokes;
- non-verbal conduct such as display of sexually suggestive objects, pictures or photographs in the workplace, prolonged staring at a person's body or body parts, wolf whistles, sexual gestures.

Inappropriate sexual conduct becomes illegal sexual harassment when

- it is unwelcome and interferes with a person's work environment or creates an intimidating or hostile work environment;
- the employee's submission to or rejection of a manager's sexual advance is the basis for personnel decisions (termination, demotion, promotion, etc.)
- submission to the sexual advance is a condition for keeping a job, whether expressed directly or implied.

Sexual harassment may occur between persons of the opposite sex or the same sex.

Conduct is considered unwelcome when a reasonable person, who experiences the conduct, believes it to be offensive. Conduct is also considered unwelcome when the recipient tells the offender, either directly or indirectly, that such conduct is unwelcome.

The intended recipient or an unintended bystander who witnesses the conduct may file a complaint of harassment.

- Other Forms of Harassment

In addition to sexual harassment, this policy also prohibits harassment of any employee, customer, vendor, supplier or member of the public on the basis of pregnancy, race, ancestry, national origin, color, disability, age, marital status, military service, veteran status, sexual orientation, lactation, arrest and court record,\* citizenship or any other classification protected under state or federal law.

The County prohibits comments or conduct, which denigrate, mock or otherwise insult an individual based on any of the protected classes. This includes jokes, slurs or other offensive commentary.

In addition, this policy prohibits conduct which directly or indirectly alters the terms and conditions of employment or provision of County services based upon an individual's participation in conduct related to a protected category. Examples of this include, but are not limited to, a supervisor pressuring a gay employee to attend a religious service or socialize with members of the opposite sex, an employee refusing to speak to a co-worker with a different (or no) religious affiliation, or employees making fun of a customer with a developmental disability.

### Complaint and Investigation Procedures

Any employee who feels that she or he has been the recipient of conduct that is prohibited by this policy, or has witnessed any other person subjected to conduct that violates this policy, should report the matter immediately to their supervisor, or department head who shall then initiate an appropriate investigation.

All complaints which allege illegal harassment are serious and shall be investigated immediately. Depending upon the circumstances of the complaint, the investigation will be conducted by the department head, the department head's designate, or the County's Equal Opportunity Officer. If, through investigation, the complaint is found to have merit, appropriate disciplinary action, which may include termination, will be taken against the offender. The disciplinary action/termination will be taken pursuant to the collective bargaining unit, if any, applicable to the offender.

- Informal Complaints

Employees may file informal complaints with their supervisors. Supervisors who receive informal complaints are required to interview the employee to ascertain the details of the complaint, document the interview, and document whatever steps are taken to correct the situation.

- Formal Complaints

Employees may file formal complaints in writing through their department's Internal Complaint Procedure.

Any customer, vendor, supplier, or member of the public who feels that he or she has been subjected to conduct that violates this policy may file a complaint with the head of the department in which the alleged discriminatory action originated. The complaint shall be filed using the department's Internal Complaint Procedure.

Complaints may be filed with the Equal Opportunity Officer either in writing, setting out the details of the complaint, or by telephone. The Equal Opportunity Officer will follow up with the Complainant and determine the appropriate venue for investigation of the complaint.

Complaints alleging violation of State and/or federal law may be filed with the Hawaii Civil Rights Commission (HCRC) and/or the Equal Employment Opportunity Commission (EEOC) within 180 days after the discriminatory practice occurred. For more information, contact the HCRC or EEOC directly.

Complaints which allege illegal discrimination in programs or services provided by the County may also be filed with the particular federal or state agency giving financial aid to the particular County department or agency (e.g., United States Department of Agriculture, United States Department of Housing and Urban Development, the State Department of Transportation, etc.). Contact the applicable federal department for details.

- Confidentiality

The County is required, by law, to take action when it receives a complaint about illegal harassment or discrimination in the workplace. Dissemination of information related to a complaint or investigation shall be on a need-to-know basis.

## Education and Training

All County offices and employees shall receive a copy of this Policy and acknowledge receipt of this Policy. This Policy shall be posted in areas common to employees, and on the County's website.

To ensure that all employees understand their rights and obligations and managers and supervisors understand their duties and responsibilities with respect to this Policy, the County shall provide continuing training related to discrimination and harassment.

## Employee Assistance Program

Employees who experience the negative impact of alleged discrimination and/or harassment should consider contacting the County's Employee Assistance Program for assistance. Contact the Department of Human Resources for more information.

## Assistance

The County's Equal Opportunity Officer is responsible for administration of this policy and may be contacted to discuss this policy in more detail, or to answer questions related to this policy.

Equal Opportunity Officer  
Department of Human Resources  
101 Pauahi Street, Suite 2  
Hilo, Hawai`i 96720-4224  
Phone 961-8361; Fax 961-8617; TTD 961-8619

Approved:

---

Harry Kim, Mayor  
County of Hawai`i