

County of Hawai'i
Department of Human Resources

Procedures

Division: Equal Opportunity	Effective Date:
	October 1, 2005; Amended April 13, 2007
Subject: Anti-Discrimination and Harassment	
References:	
Purpose: To provide procedures for receipt, investigation, resolution and appeal of complaints filed under the Anti-Discrimination and Harassment Policy.	

POLICY

The "Anti-Discrimination and Harassment Policy" effective October 1, 2005, and amended April 13, 2007, is incorporated herein by reference.

BACKGROUND

Discrimination and harassment based on:

- 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 record¹
- citizenship
- or any other classification protected by state or federal law

are unlawful behaviors. Discrimination and harassment based on any of the above protected classes violate the County of Hawai'i's Anti-Discrimination and Harassment Policy, effective October 1, 2005, as amended, and federal and state laws.

APPLICABILITY

The Anti-Discrimination and Harassment Policy applies to all employees. The Policy also applies to County vendors and suppliers or their agents, as well as to any individual on County premises or interacting with County employees.

RESPONSIBILITIES

- I. Departments/Agencies shall:
 - A. Promote a safe and healthy workplace in which all employees can work to their full potential, free from all forms of illegal discrimination and harassment;
 - B. Review their Internal Complaint Procedures to ensure that complaints which allege illegal discrimination and harassment under this Policy will be received, investigated and resolved in an expedient manner; i.e., the internal complaint procedure shall allow for the filing of complaints alleging violation of the Anti-Discrimination and Harassment Policy;
 - C. Review their Internal Complaint Forms to ensure that they will capture all the information relevant to the complaint as described under Procedures, Section II.D.;

¹ Pursuant to law, Hawaii County may consider an individual's criminal history for employment purposes before making a conditional job offer under certain circumstances.

- D. Ensure that all employees attend mandatory Anti-Discrimination and Harassment Training as required by Department of Human Resources;
- E. Fully investigate any complaint alleging illegal discrimination or harassment.

II. Supervisors/Managers shall:

- A. Set an example by not engaging in conduct which constitutes illegal discrimination and/or harassment and by acting in accordance with the Anti-Discrimination and Harassment Policy at all times;
- B. Review the policy and procedures with their employees to ensure that their employees have read and understood the policy and procedures and document same as appropriate;
- C. Ensure that all employees act in accordance with this policy;
- D. Take immediate and appropriate action to stop employees from engaging in any conduct prohibited by the Anti-Discrimination and Harassment Policy;
- E. Immediately report any complaint of illegal discrimination and/or harassment to their Department Head.

Supervisors who do not fulfill their responsibilities as described above may be subject to discipline up to and including termination. Any disciplinary action taken will be pursuant to the terms of any applicable collective bargaining agreement.

III. Employees shall:

- A. Not engage in discriminatory or harassing conduct that is prohibited by the Anti-Discrimination and Harassment Policy;
- B. Cooperate with all efforts to enforce, maintain and uphold the Anti-Discrimination and Harassment Policy;

- C. Report any acts of illegal harassment to their supervisor. If the supervisor is engaging in illegal harassment, the employee shall report this to another appropriate authority
- D. Immediately inform their supervisor or relevant investigator of any acts of retaliation resulting from their participation in the complaint process.

IV. Equal Opportunity Officer (EOO) shall:

- A. Provide information and guidance to departments, supervisors, employees and other persons regarding various aspects of the Anti-Discrimination and Harassment Policy and Procedures;
- B. Upon receipt of a discrimination and/or harassment complaint, analyze the complaint allegations to determine if they contain a violation of the Anti-Discrimination and Harassment Policy. If the subject matter of the complaint does not violate the Anti-Discrimination and Harassment Policy, the EOO shall advise the Complainant of this in writing. The EOO may, in this type of situation, suggest a venue such as Alternate Dispute Resolution, if applicable;
- C. After following the step outlined in B above, and depending upon the circumstances and nature of the complaint allegations, refer the complaint to the appropriate Department Head for investigation or conduct an investigation;
- D. Report the findings of investigations conducted by EOO to the Director of Human Resources who will initiate appropriate action;
- E. Ensure that all complaints are investigated in an appropriate and timely manner;
- F. Maintain central confidential files of all documented harassment complaints;
- G. Keep complaint statistics and report annually.

V. Department of Human Resources shall:

- A. Implement the Anti-Discrimination and Harassment Policy;
- B. Establish procedures and guidelines to assist Departments;
- C. Coordinate the development and ensure availability of mandatory Anti-discrimination and Harassment Training to County employees on a regular basis.

PROCEDURES

I. NOTIFICATION

- A. Departments/Agencies shall distribute copies of the Anti-Discrimination and Harassment Policy and Procedures, and DHR Form EO - 002, "Acknowledgment of Receipt of the Anti-Discrimination and Harassment Policy and Procedures" to all their employees. Employees shall sign DHR Form EO - 002 and return it to their departmental designate. This measure shall also be followed with respect to all new employees.
- B. Departments/Agencies shall file the form in the employee's Personnel File for future reference.
- C. Departments/Agencies shall post copies of the Anti-Discrimination and Harassment Policy on all bulletin boards.
- D. Departments/Agencies shall provide a copy of the Anti-Discrimination and Harassment Policy to agents and/or independent contractors and inform agents/independent contractors of their intent to enforce the policy.

II. FILING COMPLAINTS ²

- A. Employees and other persons who believe that they have been subjected to illegal discrimination and/or harassment by another employee or non-employee shall file a complaint according to the respondent's department's (that is, the department in which the discrimination and/or harassment allegedly occurred) internal complaint procedure. (See also Section E below on page 7.)
- B. Employees who believe they have been subjected to illegal discrimination and/or harassment by an employee or manager of another department shall file a complaint with the relevant Department Head in writing. The complaint shall be filed under that department's internal complaint procedure. (See also, Section E below on page 7.)
- C. Employees who believe they have been subjected to illegal discrimination and/or harassment by a Department Head, or Deputy Department Head, the Mayor or Managing Director shall file their complaint with the Equal Opportunity Officer. The complaint shall be filed on DHR Form EO -001. A copy of DHR Form EO -001 is available at:

Department of Human Resources
101 Pauahi Street, Suite 2
Hilo, HI, 96720-4224
Phone: 961-8361
TDD: 961-8619
- D. When filing complaints of illegal discrimination and/or harassment, the Complainant shall include the following information:
 - 1. The name, job title, and department of the person filing the complaint;

² Complainants should be aware that federal and state agencies (e.g., Equal Employment Opportunity Commission and Hawaii Civil Rights Commission) stipulate strict time periods for the filing of complaints with their agencies. The time period starts with the last occurrence of the alleged illegal harassment/discrimination. See Section V, Items 1 and 2, page 9.

2. The name, job title and department of the person(s) alleged to have engaged in discrimination and/or harassment;
 3. The date(s), time(s), and location(s) of the allegedly discriminatory/harassing incident(s);
 4. What happened – details of the offensive comments or conduct;
 5. Names, job titles, departments of any witnesses;
 6. Information regarding any complaints of harassment which were reported previously;
 7. Requested resolution: what would resolve the complaint for the Complainant?
- E. If the employee believes that the alleged discrimination and/or harassment is in **violation of the Collective Bargaining Agreement**, the employee shall file a grievance in accordance with the applicable bargaining unit's grievance procedure. This grievance shall be lieu of the complaint procedure contained herein, provided a complainant may still file a complaint with the Equal Opportunity Commission or the Hawaii Civil Rights Commission.

III. RECEIVING COMPLAINTS - DEPARTMENTS

- A. Departments receiving complaints of illegal discrimination and/or harassment shall notify the Equal Opportunity Officer of the complaint.
- B. The Respondent, or person who is alleged to have engaged in the harassing or discriminatory conduct, shall be notified of the complaint allegations and of the investigation in writing, following the appropriate provisions of the applicable collective agreement.
- C. The investigation and findings shall be documented.

- D. The department shall conclude its investigation and respond to the complaint within the time period allotted by its internal complaint procedure. If the department is unable to complete the investigation in the period stipulated by the internal complaint procedure, the department shall advise the Complainant of the investigation's progress in writing. The Equal Opportunity Officer shall receive a copy of the correspondence.
- E. The department shall advise the complainant of the outcome of the Complaint investigation in writing. The Equal Opportunity Officer shall receive a copy of this correspondence.
- F. When complaints alleging illegal harassment are filed with the Equal Opportunity Officer, the Equal Opportunity Officer shall notify the Department Head of the complaint and refer the complaint to the department for investigation, except for extenuating circumstances. The EOO may exercise discretion to not refer the complaint to the department for investigation, but chose to conduct the investigation her/himself. In such an event, the department head shall be informed of the complaint and the investigation.

IV. COMPLAINT INVESTIGATION

- A. Complaints which allege illegal discrimination or harassment shall be thoroughly and expeditiously investigated.
- B. To the extent possible, the investigation shall be conducted in a confidential and discreet manner.
- C. If the Complaint is substantiated, the department shall undertake to resolve the complaint in a manner that is satisfactory to the Complainant and the department. Any disciplinary action to be taken shall be done pursuant to the applicable collective bargaining agreement applicable to the offending employee.
- D. Regardless of the investigation's outcome, management shall monitor the workplace closely to ensure that there are no acts of retaliation. If retaliation does occur, an

investigation must be conducted and appropriate action taken.

V. FURTHER APPEAL

- A. In the event that the Complainant is dissatisfied with the results of the County's decision regarding the complaint, the Complainant may file a complaint with:
1. The Hawaii Civil Rights Commission if the Complainant believes the occurrence of the discriminatory act is in violation of State laws. Complainants are reminded that the complaint to the Hawai'i Civil Rights Commission must be filed **within 180 days of the alleged discriminatory act.**
 2. The Federal Equal Employment Opportunity Commission if the Complainant believes the occurrence of the discriminatory act is in violation of federal laws. Complainants are reminded that the complaint to the federal Equal Employment Opportunity Commission must be filed **within 180 days of the alleged discriminatory act or 300 days if the charge is also covered by a state or local anti-discrimination law.**³

³ Whether or not the complainant files a Complaint with the County's internal complaint procedure, the 180 and 300 day limitations are counted from the date of the alleged discriminatory action, not from the date the Complainant receives a response from the County.