

## **KITSAP COUNTY POLICY PROHIBITING DISCRIMINATION, HARASSMENT AND INAPPROPRIATE CONDUCT**

### **STATEMENT OF PHILOSOPHY**

Kitsap County strives to provide a collegial work environment in which all individuals are treated with respect and dignity. Each individual has the right to work in a professional atmosphere that promotes equal opportunities and prohibits discrimination based on race, color, national origin, religion, religious affiliation, creed, sex, sexual orientation, gender identity or expression, age, marital status, genetic information, ancestry, honorably discharged veteran or military status, the presence of a sensory, mental or physical disability, or any other status protected by law.

### **DISCRIMINATORY PRACTICES**

Kitsap County prohibits discrimination based on any protected class, as defined by law, in any aspect of employment, including:

- job advertisements and recruitment;
- testing;
- hiring and firing;
- compensation, assignment, or classification of employees;
- transfer, promotion, layoff, or recall;
- training and apprenticeship opportunities;
- fringe benefits;
- use of county facilities and equipment;
- other terms and conditions of employment.

Kitsap County's prohibition of discriminatory practices also includes:

- harassment on the basis of any protected class as defined by law;
- retaliation against an individual for filing in good faith a charge of discrimination, participating in an investigation, or opposing discriminatory employment practices;
- employment decisions based on stereotypes or assumptions about the abilities, traits, or performance of individuals based upon a legally protected status.

### **HARASSMENT IS A FORM OF DISCRIMINATION**

Harassment is unwelcome conduct that creates a hostile work environment and occurs because of person's legally protected status. Hostile work environment harassment may consist of unwelcome statements or actions that are sufficiently severe or pervasive so as to interfere with an individual's work performance or create an intimidating, hostile, or offensive work environment based on a person's protected status.

Throughout this policy, use of the word "discrimination" is intended to include harassment that occurs because of person's protected status.

## **SEXUAL HARASSMENT**

For purposes of this policy, sexual harassment is defined as unwelcome or unwanted advances, requests for sexual favors and any other verbal, visual, or physical conduct of a sexual nature when: (1) submission to or rejection of this conduct by an individual is used as a factor in decisions affecting hiring, evaluation, retention, promotion or other aspects of employment; or (2) this conduct substantially interferes with an individual's employment or creates an intimidating, hostile or offensive work environment.

Examples of sexual harassment may include, but are not limited to: unwanted sexual advances; demands for sexual favors in exchange for favorable treatment or continued employment; threats and demands to submit to sexual requests in order to obtain or retain any employment benefit; verbal conduct such as epithets, derogatory or obscene comments, slurs or sexual invitations, sexual jokes, propositions, suggestive, insulting, obscene comments or gestures or other verbal abuse of a sexual nature; graphic, verbal commentary about an individual's body, sexual prowess or sexual deficiencies; flirtations, advances, leering, whistling, touching, pinching, assault, blocking normal movements; visual conduct such as derogatory or sexual posters, photographs, cartoons, drawings or gestures or other displays in the work place of sexually suggestive objects or pictures; conduct or comments consistently targeted at only one gender, even if the content is not sexual; retaliation for having reported or threatened to report sexual harassment.

## **HARASSMENT BASED ON RACE, NATIONAL ORIGIN, COLOR, RELIGION, SEXUAL ORIENTATION, GENETIC INFORMATION, VETERAN OR MILITARY STATUS, AGE, OR OTHER PROTECTED STATUS**

For purposes of this policy, harassment targeted at a person because of their legally protected status is strictly prohibited. Examples of harassment may include, but are not limited to: slurs, innuendo, taunting, mocking, jokes, epithets, cartoons, drawings or gestures, derogatory comments and other forms of obnoxious conduct motivated by a person's protected status.

Genetic information includes information about an individual's genetic tests and genetic tests of an individual's family members, as well as information about the manifestation of a disease or disorder in an individual's family members (*e.g.*, family medical history).

## **DISCRIMINATION BASED ON DISABILITY**

- A. An individual with a disability is a person who has or had any sensory, physical or mental impairment that: (1) is medically recognized or diagnosable; (2) exists as a record or history; or (3) is perceived by the employer to exist, whether or not it actually exists. A disability exists whether it is temporary or permanent, common or uncommon, mitigated or unmitigated, limits the ability to work generally or work at a particular job, or limits any other activity.

Kitsap County prohibits discrimination against qualified employees or applicants with a disability. A qualified individual with a disability is someone who satisfies skill, experience, education, and other job-related requirements of the position held or desired, and who, with or without reasonable accommodation, can perform the essential functions of that position.

An employer is required to make a reasonable accommodation to a qualified individual with a disability unless doing so would impose an undue hardship on the operations of the County.

### **INAPPROPRIATE CONDUCT**

Inappropriate conduct is conduct that, while not rising to the level of unlawful discrimination or harassment, communicates a hostile, derogatory or negative message about persons based on protected status. Inappropriate conduct can be either verbal or nonverbal and includes slights, insults and other conduct that a reasonable person would find offensive. Inappropriate conduct based on a legally protected status is also prohibited.

### **DISSEMINATION OF POLICY**

This policy will be disseminated to all employees and will be available on the Human Resources webpage. A copy will be maintained in the County's Personnel Manual. All supervisors shall be responsible for knowing of its existence and substance and are responsible for adherence. The Human Resources Director and designated Human Resources staff will be available to answer all questions about the policy and its implementation.

### **INDIVIDUALS AND SITES COVERED UNDER THE POLICY**

This policy covers all individuals in the workplace. Kitsap County will not tolerate, condone or allow discrimination or inappropriate conduct whether engaged in by fellow employees, supervisors, managers, elected officials, volunteers, or by outside clients, vendors, contractors, or other non-employees who conduct business with Kitsap County. Kitsap County encourages reporting of all incidents of discrimination and inappropriate conduct, regardless of who the offender may be, or of the offender's relationship to Kitsap County.

Discrimination and inappropriate conduct are unacceptable in the workplace itself and in other work-related settings such as on business trips and at business-related social events.

### **NOTIFICATION OF APPROPRIATE STAFF**

Individuals who believe they have been subjected to discrimination or inappropriate conduct, or who have witnessed discriminatory conduct toward another, should report the incident to any of the following individuals:

- a supervisor in your department;
- the director of your department;
- the elected official who oversees your department or office;
- the County's Human Resources Director, whose address is 614 Division Street, MS-23 A, Port Orchard, WA 98366, telephone number (360) 337-7185;
- the Kitsap County Administrator, whose address is 614 Division Street, MS-4, Port Orchard, WA 98366, telephone number (360) 337-7146.

### **ACTION FOLLOWING NOTIFICATION**

Upon being notified of a complaint of discrimination or inappropriate conduct, the complainant will be

made aware of a range of options, including:

- the complainant may meet informally with any of the above-listed individuals in an attempt to resolve the matter informally;
- the complainant may choose to discuss the complaint with the person accused, with the option of having any of the above-listed individuals present;
- at the request of the complainant the person who received the complaint may choose to discuss the complaint with the accused; or
- the complainant may file a formal complaint.

The complainant may have a representative, such as a co-worker, union representative, or attorney, present at a meeting held to address or resolve the complaint.

### **INFORMAL COMPLAINT PROCESS**

Kitsap County encourages individuals who believe they are being discriminated against, harassed, or subjected to inappropriate conduct to firmly and promptly notify the offender that their behavior is unwelcome.

If a complaint is resolved informally to the complainant's satisfaction, the supervisor or department director (if they have been notified by the complainant) must file a confidential report with the Human Resources Director about the complaint and resolution so that the employer will be aware of any pattern of discrimination by a particular individual and will also be aware of all complaints on an employer-wide basis.

If the supervisor or department director does not successfully resolve the complaint informally to the complainant's satisfaction within a reasonable time, a written report must be made to the Human Resources Director. A supervisor is strongly encouraged to consult with the Human Resources Director before taking action.

### **FORMAL COMPLAINT PROCEDURE**

The County also recognizes that power and status disparities between an alleged harasser and a target may make informal resolution impossible. In the event that informal, direct communication between individuals are either ineffective or impossible, the following steps should be followed in reporting discrimination.

The complainant, or someone on the complainant's behalf, may file a formal written complaint with the Human Resources Director or the County Administrator.

#### **1. DESCRIPTION OF MISCONDUCT**

An accurate record of objectionable behavior or misconduct is needed to resolve a formal complaint. Verbal reports of discrimination or inappropriate conduct must be reduced to writing by either the complainant or the individual(s) designated to receive complaints and must be signed by the complainant. Individuals who believe that they have been or are currently being discriminated against or harassed, or subjected to inappropriate conduct, should maintain a record of objectionable conduct in order to prepare effectively and substantiate their allegations.

Knowingly false accusations of discrimination, harassment, or inappropriate conduct will not be tolerated, and may result in discipline up to and including termination.

## **2. TIME FRAME FOR REPORTING COMPLAINT**

Kitsap County encourages a prompt reporting of complaints so that rapid response and appropriate action may be taken. This policy not only aids the complainant, but also helps to maintain an environment free from discrimination and inappropriate conduct for all employees. A complainant's formal complaint of discrimination, harassment, or inappropriate conduct must be submitted to the Human Resources Director or County Administrator within 90 days of the alleged incident.

## **3. INVESTIGATING THE COMPLAINT**

Following filing of a formal complaint, the Human Resources Director or County Administrator will determine if the complaint states a violation of this policy and, if so, will investigate or designate an appropriate impartial person to conduct the investigation.

## **4. CONFIDENTIALITY**

To the extent practicable and appropriate under the circumstances, and to the extent permitted by law, the proceedings will be conducted to protect the confidentiality interests of both parties and afford the accused a full opportunity to respond to the allegations.

## **5. INVESTIGATION PROCESS**

The impartial investigator designated to formally investigate the allegations of discrimination, harassment, and/or inappropriate conduct will timely:

- Confirm name of the complainant and will determine the complainant's full account of the circumstances and facts of the complaint.
- Identify employee(s) accused of harassing, discriminatory, or inappropriate behavior.
- Thoroughly ascertain the facts by interviewing all pertinent parties and witnesses.
- All employees must participate in and cooperate fully in the investigation. Failure to do so may result in disciplinary action.

Interviews will be conducted impartially and fairly for all parties. When the impartial investigation is concluded, the investigator will prepare a written record and report of the process and results. The investigative report will include:

- A written conclusion about whether a violation of this policy has occurred, based upon all the facts and circumstances and context in which the alleged incidents occurred.
- Recommendations of what, if any, corrective and/or preventative measures need to be taken to remedy the situation and ensure no further violations.

## **6. RESOLVING THE COMPLAINT**

The investigator will make every reasonable effort to issue written findings and a recommendation to the Human Resources Director or, if the complaint involves the Human Resources Director, the

County Administrator within 60 days of the filing of a formal complaint. The complainant will be notified if additional time is needed to complete the investigation.

If discrimination or inappropriate conduct occurred:

- The Human Resources Director or County Administrator will consult with the director or elected official where the complaint arose for a decision concerning discipline, other corrective action, and/or training needed.

The person violating this policy will be subject to appropriate disciplinary action. If no violation of this policy has occurred, this finding will be communicated to the complainant in an appropriate manner.

If the Human Resources Director or County Administrator cannot determine whether discrimination or inappropriate conduct has occurred, this finding will be communicated to the complainant and the alleged violator of this policy, and the matter will be recorded as unresolved. Both the complainant and the alleged violator of this policy will be informed again of the procedures set forth in this policy, including the appeal process contained below. In the event that no resolution satisfactory to both parties can be reached based on the initial investigation, the matter shall be referred to the Chair of Board of County Commissioners or the County Administrator. If the initial complaint was submitted to the County Administrator, the appeal should be made directly to the Chair of the Board of County Commissioners.

## **7. SANCTIONS**

The elected official or department head, in consultation with the Human Resources Director or County Administrator, will determine appropriate sanctions to be taken against employee(s) whose actions are in violation of this policy.

Depending on the nature and severity of the violation, sanctions may include disciplinary action up to and including termination.

Employees whose actions are found to be in violation of this policy may also be referred to mandatory training. If systemic issues come to light, mandatory training may be required of entire units or departments.

The employer's ability to discipline or impose remedial action for a non-employee for violation of this policy (e.g. vendor, contractor, member of the public, public official, or client) may be limited by the degree of control, if any, that the employer has over the alleged violator of the policy. Nevertheless, any employee who, during the course of their employment, alleges discrimination or harassment on the part of an outside source may use the same reporting procedures listed under the Informal or Formal Complaint Procedure sections of this document.

## **8. APPEAL PROCESS**

If any party directly involved in an investigation is dissatisfied with the outcome or resolution, that individual has the right to appeal the decision. Within 10 days following the receipt of notice of the decision, the dissatisfied party must submit a written request for review to the County Administrator. In the instance the complaint investigation was pertaining to the County Administrator, the dissatisfied

party must submit a written request for review to the Chair of the Board of County Commissioners.

## **9. REVIEW BY THE CHAIR OF THE BOARD OF COUNTY COMMISSIONERS OR THE ADMINISTRATOR**

Upon receipt of a request for review of a decision concerning the outcome or resolution of a complaint of discrimination or harassment, the Chair of the Board of County Commissioners (Chair) or the County Administrator will review the complaint. The Chair or the County Administrator will: gather evidence and take whatever steps deemed necessary and appropriate to ensure that all facts have been fully investigated, presented and considered; provide the participants with an opportunity to present evidence and information and to comment on evidence and information presented to others; and issue written findings of facts and a decision. The Chair or the County Administrator may sustain, overturn, or modify the results of the investigation and/or resolution.

## **PROTECTION AGAINST RETALIATION**

**Retaliation means to take adverse employment action against an individual because they have exercised their rights protected by law by complaining in good faith about discrimination, harassment, and/or retaliation, or assisting or participating in an investigation of such allegations.**

**Kitsap County will not tolerate retaliation in any form against an individual who makes a complaint of discrimination, harassment or retaliation, or against any participant in the investigation. Retaliation is a serious violation of this policy and is considered misconduct subject to disciplinary action up to and including termination of employment with Kitsap County.**

## **OTHER FORMAL PROCEEDINGS**

The procedures in this policy refer to complaints submitted internally to Kitsap County. If a formal charge has been filed with the Equal Employment Opportunity Commission (EEOC) or the Washington State Human Rights Commission, or if the complainant has filed a suit in civil court, all such charges, complaints, and notices must immediately be delivered to the Human Resources Director or the County Administrator. The Human Resources Director or County Administrator, in cooperation with counsel, will investigate, if appropriate, and respond to all formal complaints submitted to outside agencies or civil court.

If a complaint, grievance, lawsuit, or other action is initiated regarding matters related to a complaint filed under this policy, the HR Director/County Administrator shall have the discretion to discontinue the investigation initiated under this policy and defer to the process of the other forum.

## **CONCLUSION**

Kitsap County has developed this policy to ensure a work environment free from discrimination, harassment, and inappropriate conduct.