

## **SECTION 10: NONDISCRIMINATION/ANTI-HARASSMENT POLICY AND COMPLAINT PROCEDURE**

### **General Information**

Harper County is committed to a 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 employment opportunities and prohibits unlawful discriminatory practices, including harassment. Therefore, Harper County expects that all relationships among employees and visitors of the County will be business-like and free of bias, prejudice and harassment.

This policy was developed to maintain an environment free from unlawful harassment, discrimination and retaliation, for both visitors and staff. Harper County will make every reasonable effort to ensure that all concerned are familiar with this policy and are aware that any complaint in violation of the policy will be investigated and resolved appropriately.

Any employee who has questions or concerns about this policy should contact Human Resources.

This policy should not, and may not, be used as a basis for excluding or separating individuals of a particular gender, or any other protected characteristic, from participating in business or work-related social activities or discussions, in order to avoid allegations of harassment. This policy is intended to further the laws that prohibit disparate treatment on the basis of sex or any other protected characteristic, not form the basis of an exception to them.

### **Equal Employment Opportunity**

It is the policy of Harper County to ensure equal employment opportunity without discrimination or harassment on the basis of race, color, religion, sex, sexual orientation, gender identity or expression, age, disability, marital status, citizenship, national origin, genetic information, or any other characteristic protected by law. Any such discrimination or harassment is prohibited.

### **Scope**

This policy applies to all employees of Harper County at all locations. All workers, at every level, will be subject to discipline, up to and including discharge, for any violation of this policy. Conduct prohibited by this policy is unacceptable in the workplace and in any work-related setting outside the workplace, such as during business trips, meetings and business-related social events, during or outside of work hours.

## **Definitions**

### **Sexual Harassment**

Sexual harassment constitutes discrimination and is illegal under federal, state, and local laws. For the purposes of this policy, “sexual harassment” is defined, as in the Equal Employment Opportunity Commission Guidelines, as unwelcome sexual advances, request for sexual favors and other verbal or physical conduct of a sexual nature when, for example: a) submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment, b) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or c) such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile or offensive work environment.

Sexual harassment can be physical or psychological in nature; may include a range of subtle and not so subtle behaviors; and may involve individuals of the same or different gender. Sexual harassment includes all unwelcome conduct of a sexual nature, whether it be physical, verbal or visual.

### **Harassment**

Harassment on the basis of any other protected characteristic is also strictly prohibited. Under this policy, harassment is verbal, written or physical conduct that denigrates or shows hostility or aversion toward an individual because of his or her race, color, religion, sex, sexual orientation, gender identity or expression, national origin, age, disability, marital status, citizenship, genetic information, or any other characteristic protected by law, or that of his or her relatives, friends or associates, and that: a) has the purpose or effect of creating an intimidating, hostile or offensive work environment, b) has the purpose or effect of unreasonably interfering with an individual’s work performance, or c) otherwise adversely affects an individual’s employment opportunities.

Harassing conduct includes epithets, slurs or negative stereotyping; threatening, intimidating or hostile acts; denigrating jokes; and written or graphic material that denigrates or shows hostility or aversion toward an individual or group that is placed on walls or elsewhere on the employer’s premises or circulated in the workplace, on company time or using company equipment by e-mail, phone (including voice messages), text messages, social networking sites or other means.

## **Reporting an Incident of Harassment, Discrimination or Retaliation**

### **Employees**

If an employee feels that he or she is being subjected to discrimination or harassment, he or she is encouraged to immediately inform the offender that the conduct is unwelcome and request that it be discontinued. Often this action alone will resolve the problem, however, individuals who are uncomfortable or unable to address the offender directly are encouraged to follow the

complaint procedure below.

Individuals who believe that they have been the victim of such conduct should discuss their concerns with their immediate supervisor or Human Resources. It is helpful to provide a written record of the date, time and nature of the incident(s), the names of any witnesses, and any other relevant information.

It is important to report all concerns as soon as possible, so that rapid and constructive action can be taken. Early reporting and intervention have been proven to be the most effective method of resolving actual or perceived incidents of harassment.

Under no circumstances is an individual compelled to report the sexual or other unlawful harassment to a supervisor who is accused of the offense.

#### Department Heads

Any reported allegations of harassment, discrimination or retaliation will be investigated promptly and fairly, whether or not there has been a written or formal complaint.

Department Heads must:

- Take all complaints or concerns of alleged or possible discrimination or harassment seriously no matter how minor or who is involved.
- Report all incidents to Human Resources immediately so a prompt investigation can occur.
- Take any appropriate action to prevent retaliation or prohibited conduct from recurring during or after any investigations or complaints.

Department Heads who knowingly allow or tolerate harassment or discrimination, including failure to immediately report such misconduct to Human Resources, are in violation of this policy and subject to discipline.

#### Human Resources

Human Resources is responsible for investigating any reported allegations of harassment, discrimination or retaliation. The investigation may include individual interviews with the parties involved and, where necessary, with individuals who may have observed the alleged conduct or may have other relevant knowledge.

If necessary, a third party may be contacted to complete the investigation. In some instances, the County Attorney may be consulted and law enforcement contacted.

A written report summarizing the results of the investigation will be presented to the Board of County Commissioners, including recommendations for corrective action, if necessary.

The complainant and respondent will be notified of the corrective actions to be taken, if any.

Written documentation of the investigation will be maintained in a secure file in the Human Resources Department.

### **Discipline**

Misconduct constituting harassment, discrimination or retaliation will be dealt with appropriately. If an investigation results in a finding that this policy has been violated, the mandatory minimum discipline is a written reprimand. Other responsive action may include, training, referral to counseling or disciplinary action such as a warning, reprimand, withholding of a promotion or pay increase, reassignment, temporary suspension without pay, or termination, as the County believes appropriate under the circumstances. Persons who violate this policy may also be subject to civil damages or criminal penalties.

### **Confidentiality**

All complaints and investigations are treated confidentially to the extent possible and information is disclosed strictly on a need-to-know basis. Adequate steps will be taken to ensure the complainant is protected from retaliation during and after the investigation. All information pertaining to a complaint of investigation is maintained in secure files within the Human Resources Department.

### **Retaliation**

Harper County encourages reporting of all perceived incidents of discrimination or harassment. It is our policy to promptly and thoroughly investigate such reports. Retaliation against any individual who reports discrimination or harassment, or participates in an investigation of such reports is a serious violation of this policy and will be subject to disciplinary action. Acts of retaliation should be reported immediately and will be promptly investigated and addressed.

***False and malicious complaints of harassment, discrimination or retaliation (as opposed to complaints that, even if erroneous, are made in good faith) will be the subject of appropriate disciplinary action, up to and including termination.***

The procedures available under this policy do not preempt or supersede any legal procedures or remedies otherwise available to a victim of sexual harassment under local, state or federal law.

Approved by the Harper County Commissioners, effective 10/8/2018