

DELAWARE COUNTY

Subject: DISCRIMINATION PROHIBITED	Effective: January 19, 2012	Supersedes: 2006 Handbook (pages 6-9) and 5/15/2000 Sexual Harassment Policy	This Sheet 1	T.Sheets 5
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1.0 Purpose

To insure that the Delaware County Offices/Departments enjoy a working environment free from harassment and discrimination.

2.0 Scope

All County Appointing Authorities, Offices, Departments, and Employees. This policy also includes all suppliers, subcontractors, visitors, and volunteers entering or conducting business on County property or on the County's behalf.

3.0 Distribution

To all County Appointing Authorities, Offices, Departments, and Employees

4.0 Policy

DISCRIMINATION PROHIBITED

I. EQUAL EMPLOYMENT OPPORTUNITY

- A. Delaware County is an equal opportunity employer and does not discriminate on the basis of race, color, religion, sex, age, national origin, disability, military status, genetic testing, or other unlawful bias. All personnel decisions and practices including, but not limited to, hiring, suspensions, terminations, layoffs, demotions, promotions, transfers, and evaluations, shall be made without regard to the above listed categories. The County intends for all of its policies to comply with federal and state equal employment opportunity principles and other related laws.
- B. The County will not tolerate any conduct that intimidates, harasses, or otherwise discriminates against any employee, or applicant for employment, on the grounds listed above. Employees or applicants who believe they have been subject to unlawful discrimination or harassment by an employee, supervisor, or other individual

affiliated with Delaware County shall immediately report the conduct, in writing, to the department or office Director, Appointing Authority or Human Resources.

II. AMERICANS WITH DISABILITIES

- A. Delaware County prohibits discrimination in hiring, promotions, transfers, or any other benefits or privileges of employment, of any qualified individual with a permanent disability. To be considered a qualified individual, the employee must satisfy the requisite skills, experience, education and other job-related requirements of the position he or she holds or desires and must be able to perform the essential functions of the position, with or without a reasonable accommodation.

Delaware County will provide reasonable accommodation to a qualified applicant or employee with a disability unless the accommodation would pose an undue hardship on or direct threat to County facilities or operations. Decisions as to whether an accommodation is necessary and/or reasonable shall be made on a case-by-case basis. An employee who wishes to request an accommodation shall submit a written request for accommodation to their Director, Appointing Authority or Human Resources. The employer and employee will meet and discuss whether an accommodation is appropriate and, if applicable, the type of accommodation to be given.

- B. Complaints: Any employee who believes that his or her rights have been violated under this policy shall submit a written complaint as set forth in the Unlawful Discrimination and Harassment Policy.

III. UNLAWFUL DISCRIMINATION AND HARASSMENT

- A. The County is committed to providing a workplace environment that is safe and free from unlawful discrimination and harassment. Unlawful discrimination or harassment is behavior directed toward an employee because of the employee's membership in any one of the following protected categories: race, color, religion, sex, national origin, age, ancestry, disability, genetic information, or military status. Unlawful discrimination and harassment is inappropriate and illegal and will not be tolerated. In the commitment to eliminating this inappropriate behavior, Delaware County has established this policy. All forms of unlawful discrimination and harassment are governed by this policy and must be reported and addressed in accordance with this policy.

- B. Definitions: Unlawful discrimination occurs when individuals are treated less favorably in their employment because of their race, color, religion, sex, national origin, age, ancestry, disability, genetic information, or military status. An employer may not discriminate against an individual with respect to the terms and conditions of employment, such as promotions, raises, and other job opportunities, based upon that individual's membership in one of the above-listed protected classifications.

Unlawful harassment is a form of employment discrimination. Harassment is unwelcome conduct that is based on race, color, religion, sex, national origin, age, ancestry, disability, genetic information, and/or military status. Harassment becomes unlawful when (1) enduring the offensive conduct becomes a condition of continued employment, or (2) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive.

Sexual harassment is one type of unlawful harassment. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when: (1) submission to the conduct is made either explicitly or implicitly a term or condition of an individual's employment; (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or, (3) 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. Harassment that is based on one of the other protected categories listed above is similarly unlawful and must be reported.

- C. Examples: Unlawful discrimination occurs when an employee is denied a benefit, such as a pay raise or a promotion, based upon his or her membership in a protected classification. Unlawful harassment occurs when harassing comments and actions are directed at an employee based upon that employee's membership in a protected classification and when those comments and actions are so severe and pervasive as to alter the terms and conditions of the employee's employment. An example of sexual harassment occurs when behavior of a sexual nature is directed toward an employee who finds the behavior unwelcome and offensive. An example of unlawful racial or other prohibited harassment occurs when comments of a racial or other unlawful nature fail to respect rights of others, are demeaning or lower morale.

Unlawful harassment does not generally encompass conduct of a socially acceptable nature; however, some conduct that is appropriate in a social setting may be inappropriate in the work place. Acquiescence in the behavior does not negate the existence of unlawful harassment. Inappropriate conduct that an employee perceives as being "welcome" by another employee may, nevertheless, form the basis of a legitimate complaint.

- D. Retaliation: Anti-discrimination laws also prohibit retaliatory conduct against individuals who file a discrimination charge; who testify, or participate in any way in an investigation, proceeding, or lawsuit under these laws; or who oppose employment practices that they reasonably believe discriminate against protected individuals, in violation of these laws. The law also prevents retaliatory conduct against individuals who are close personal friends or family members with an individual who engaged in protected conduct. Delaware County and its supervisors and employees shall not in any way retaliate against an individual for filing a complaint, reporting harassment, participating in an investigation, or engaging in any other protected activity. Any

employee who believes that he or she has been subjected to retaliatory conduct as a result of actions taken under this policy, or as a result of a relationship with an individual who took action under this policy, shall report such conduct to the Director, Appointing Authority or Human Resources immediately. Any person found to have retaliated against an individual for engaging in activity protected by this policy will be subject to discipline, up to and including termination. Disciplinary action for filing a false complaint is not a retaliatory act.

Any individual exhibiting retaliatory or harassing behavior towards an employee who exercised a right under this policy, or who is a close personal friend or family member of someone who exercised a right under this policy, will be subject to discipline, up to and including termination, as will any employee who has knowledge of unlawful conduct and allows that conduct to go unaddressed.

- E. False Complaints: Delaware County encourages legitimate complaints made in good faith in accordance with this policy. False complaints made in bad faith will not be tolerated. Unsubstantiated complaints made in accordance with this policy shall not be considered a “false complaint” subject to disciplinary action, unless the complaint is determined to have been made in bad faith. False complaints are considered to be a violation of this policy and an employee who makes a false complaint may be subject to discipline, up to and including termination.
- F. Coverage: Unlawful discrimination or harassment that affects an individual’s employment may extend beyond the confines of the workplace. Conduct that occurs off duty and off premises may also be subject to this policy.
- G. Workplace Romances: To avoid concerns of sexual harassment and other inappropriate behavior, employees are required to inform their Director, Appointing Authority or Human Resources if they currently are, or if they become, romantically involved with a co-worker. Such relationships are not necessarily prohibited, but must be appropriately addressed. Should Delaware County determine that a conflict exists between an employee’s employment with the County and a personal relationship with a co-worker, the County will attempt to work with the employees to resolve the conflict. Should operational needs prevent resolution, the relationship must cease or one or both of the parties must separate from employment. Supervisors are expressly prohibited from engaging in romantic or sexual relationships with any employee they directly, or indirectly, supervise.
- H. Corrective Action: If it is determined unlawful discrimination, harassment, or retaliation has taken place, appropriate corrective action will be taken, up to and including termination. The corrective action will be designed to stop the unlawful conduct and prevent its reoccurrence. If appropriate, law enforcement agencies or other licensing bodies will be notified.
- I. Complaint Procedure: Employees who believe they have been subject to unlawful discrimination or harassment by a fellow employee, supervisor, or other individual

otherwise affiliated with Delaware County shall immediately report the conduct, in writing, to their Director, Appointing Authority or Human Resources. Similarly, employees who feel they have witnessed discrimination or harassment, or who have questions or concerns regarding discrimination or harassment, shall immediately contact their Director, Appointing Authority or Human Resources. Late reporting of complaints will not, in and of itself, preclude Delaware County from taking remedial action. However, so that a thorough and accurate investigation may be conducted, employees are encouraged to report complaints in an expedient manner following the harassing or offensive incident.

Although employees are encouraged to confront the alleged harasser at their discretion, they are also required to submit a written report of any incidents through their Director, Appointing Authority or Human Resources. When the County is notified of the alleged harassment, it will investigate the complaint within a reasonable time period after receipt of notification. The investigation may include private interviews of the employee allegedly harassed, the employee committing the alleged harassment and any and all witnesses. Information will be kept confidential, to the extent practicable and permitted by law, although confidentiality is not guaranteed. All employees are required to cooperate in any investigation of a harassment complaint. Failure to cooperate may result in disciplinary action, up to and including termination. Determinations of harassment shall be made on a case-by-case basis. If the investigation reveals the complaint is valid, prompt attention and disciplinary action designed to stop the harassment and prevent its recurrence will be taken.

An employee may obtain a Harassment Complaint form from his/her supervisor, Human Resources Department, or online at <http://www.co.delaware.oh.us/hr/forms/HarassComplaintForm.pdf> .