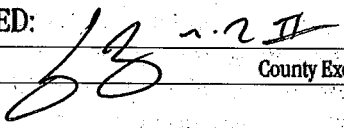


Onondaga County Directive	ADMINISTRATIVE DIRECTIVE MANUAL	
	SUBJECT: Harassment, Discrimination and Anti-Retaliation	
	SUPERCEDES: 2 - 2007	PAGE: 1
	SIGNED:  County Executive	DATE: 12/31/2018

I. Policy Statement

The County of Onondaga strives to provide a place of work that is free from harassment and discrimination. In accordance with applicable law, including the Civil Rights Acts of 1964 and 1991, the Americans with Disabilities Act (ADA), the Age Discrimination in Employment Act (ADEA), and the New York Human Rights Law, it is unlawful for an employer to subject an employee to acts of harassment or discrimination based on an employee's age, race, creed, color, national origin, religion, sexual orientation, military status, sex, disability, predisposing genetic characteristics, marital status or any other basis protected by Federal, State or Local Law. All persons responsible for such conduct, which applies to all employees of Onondaga County, including supervisors and managers, will be subject to disciplinary action. The following examples, definitions, are intended to be guidelines and are not exclusive when determining whether there has been a violation of this policy.

Violation of this policy is not limited to the physical workplace itself. It can occur while employees are traveling for business or at employer sponsored events or parties. Calls, texts, emails, and social media usage by employees can constitute unlawful workplace harassment, even if they occur away from the workplace premises, on personal devices or during non-work hours.

II. General Harassment

General Harassment is intimidating, hostile, or offensive verbal or physical conduct directed at a person. Generally, to be actionable, the complained of conduct must be either of a deliberate, repeated, ongoing nature or a single incident that is so offensive as to be perceived by the complainant to be, in and of itself, intimidating and hostile. For example, prohibited behavior includes but is not limited to workplace sabotage that undermines services and productivity and bullying which can be a pattern of unreasonable acts that harm, threaten, undermine, degrade or humiliate an employee, possibly in front of other employees, clients or customers. Additionally, the conduct must be objectively hostile and intimidating, that if, a reasonable person viewing or knowing of the conduct, would find it to be so.

III. Discrimination

Discrimination is defined as inappropriate action taken against an individual based upon a person's age, race, creed, color, national origin, religion, sexual orientation, military status, sex, disability, predisposing genetic characteristics, marital status or any other basis protected by Federal, State or Local Law. Such conduct violates this policy whenever it affects the compensation, terms or privileges of employment, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile or offensive working environment.

IV. Sexual Harassment

See Onondaga County Directive on *Prevention of Sexual Harassment*.

V. Internal Complaint Procedure

1. **Notice:** In order to take appropriate corrective action the County must be aware of harassment, discrimination or related retaliation. All employees should report incidents of harassment or discrimination in order to support this policy. Employees who feel that they have been subjected to harassment and/or discrimination must make a complaint known, preferably in writing, to their supervisor as soon as reasonably possible. If the employee cannot file a complaint with their supervisor (for example the supervisor is the harasser) they may file their complaint with another manager, their Department Head or

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the Director of Employee Relations. It is important to note that timely reporting is crucial for an effective investigation of the complaint.

Management will conduct an analysis of the complaint to determine whether there is a reasonable basis for believing that the alleged violation of this policy occurred. If necessary, the complainant and the respondent will be separated during the course of the investigation. Within a reasonable time frame of receiving the complaint, management officials will conduct a full investigation, which will include a thorough interview with the complaining employee, the alleged harasser, and any witnesses, as appropriate. Upon conclusion of the investigation, the investigating official will report back to the complaining employee. If an extension of the investigation or time to resolve the complaint is required, the employee will be updated on the status of the complaint and the proposed timeframe for completion.

2. Appeal: The employee, within 30 calendar days of their formal determination, will be entitled to an appeal if it is determined that one the following criteria are met:

- **The determination is not supported by the available evidence**
- **The investigator made an error in their application of the policy**
- **New and/or key evidence was not factored into determination**
 - i.e. accidental omission; witness previously temporarily unavailable now available, etc
- **The investigatory process was mismanaged**
 - i.e. refused to interview key witnesses; refused to consider relevant documentation; failed to make a determination within reasonable period of time, etc

All Appeals must be submitted to the Division of Employee Relations for review. Each request for Appeal must explain, in writing, which of the criteria has been met. The Division of Employee Relations must, within 15 business days, make a written determination on whether a valid request for Appeal has been made.

On Appeal, the Division of Employee Relations must either conduct a limited investigation based on the stated basis of appeal or re-submit back down to the Department level investigator on a limited basis. A meeting will be scheduled between the employee and the Director of Employee Relations, or his or her designee. Employees may bring a representative with them to this meeting.

VI. Non-Retaliation

The County of Onondaga prohibits retaliation against a person who reports harassment/discrimination, either through the internal complaint procedure, or to a state or federal agency, or who assists someone with reporting such violation, or participates in the investigation or resolution of such a matter. Retaliation includes threats, intimidation, reprisals, and/or adverse actions related to employment. For more information see Directive on *Prevention of Sexual Harassment*.

VII. Confidentiality

The County of Onondaga will maintain the confidentiality of the complaint to the greatest extent possible in the thorough and complete investigation of the complaint. Effort will be made to safeguard the privacy and rights of all persons involved. The County will notify all persons involved in the investigation that it is confidential and that unauthorized disclosures of information concerning the investigation could result in disciplinary action.

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VIII. State and Federal Complaint Procedures

Onondaga County's Internal discrimination complaint procedure does not interfere with the right of county employees to file complaints with the New York State Division of Human Rights (NYDHR) at (888) 382-3644 or www.dhr.ny.gov/complaint, or with the Equal Employment Opportunity Commission (EEOC) at 1-800-669-4000 or visit their website at www.eeoc.gov or via email at infor@eeoc.gov.

ONONDAGA COUNTY EMPLOYEE HARASSMENT, DISCRIMINATION, AND ANTI-RETALIATION

COMPLAINT FORM

Name: _____

Phone Number: _____ E-mail: _____

Title: _____

Department: _____ Supervisor / Title: _____

If you believe that you have been subjected to harassment, you are encouraged to complete this form and submit it to your Supervisor, Department Head or his/her designee and Onondaga County Division of Employee Relations, 13th floor Civic Center. You will not be retaliated against for filing a complaint.

If you are more comfortable reporting verbally or in another manner, your supervisor or an Employee Relations Officer should complete this form, provide you with a copy and follow its harassment policy accordingly.

DETAILS OF COMPLAINT

I have been subjected to: Discrimination Harassment Retaliation based upon: **(check those that apply)**

- Sex
- Gender Identify
- Sexual orientation
- National origin
- Criminal History
- Military status
- Race
- Age
- Religion
- Marital status
- Disability
- Other _____

Date(s) of the alleged discrimination; harassment, retaliation: _____

Is the discrimination, harassment, retaliation continuing? Yes No

Your complaint of Harassment is made about:

Name / Title: _____

Relationship to you: Supervisor Subordinate Co-Worker Other

In detail, please describe what happened and how it is affecting you / your work. **(Attach additional sheets if needed)**

Why do you believe the alleged incident(s) meet the definition of harassment/discrimination/retaliation under the Policy?

Did anyone else witness the alleged incidents or experience similar incidents by the same individual? If yes, briefly state what information each witness will be able to provide. Please list their name and contact information.

(Please note that the County may consult with additional witnesses should it be determined that these individuals possess relevant information)

Are there any documents, emails, records, or other evidence related to your complaint? Describe or attach if possible.

Have you previously reported or otherwise complained about this incident to anyone in your department or in the division of employee relations. If yes, when, to whom and what was the result?

What is the remedy you are seeking?

If you have retained legal counsel and would like us to work with them, please provide their contact information.

I certify that the above statements are true to the best of my knowledge.

Date: _____ Employee signature: _____

1. You must file your complaint with your supervisor, department head, another manager, or the Division of Employee Relations as promptly as possible after the occurrence. Any unreasonable delay in reporting may make it more difficult for the County to investigate the allegations
2. After you have filed your complaint an investigation will be completed as soon as possible.
3. If you have not received a response within 30 calendar days of your complaint, you may notify the Division of Employee Relations. If an extension of the investigation or time to resolve the complaint is required you will be updated on the status of your complaint.
4. The employee, within 30 calendar days of their formal determination, will be entitled to an appeal if it is determined that one the criteria listed within the County policy are found.

This internal complaint does not interfere with the right of employees to file complaints with the New York State Division of Human Rights, the Equal Employment Opportunity Commission, or any other agency.

The County will maintain the confidentiality of the complaint to the greatest extent possible in the thorough and complete investigation of the complaint. Effort will be made to safeguard the privacy and rights of all persons involved.

Onondaga County policy and federal and state laws prohibit retaliation against any person because they have filed a harassment or discrimination complaint or served as a witness in the investigation. If you believe you have experienced retaliation, notify the appropriate investigating officer as soon as possible.

For more information, read the County Internal Complaint Policy for Discrimination, Harassment and Anti-Retaliation available from your department head, the County Division of Employee Relations, or on the County Intranet.