



MARICOPA COUNTY INTERNAL POLICY

Policy Title: PROHIBITION AGAINST DISCRIMINATION, HARASSMENT, AND RETALIATION	Policy Number: HR2406
	Current Adoption Date: 11-18-2020 Current Implementation Date: 11-18-2020
Approved by: BOARD OF SUPERVISORS	Board Agenda Number: C-31-15-037-6-01
	Original Adoption Date: 07-1998

I. PURPOSE

Maricopa County is an equal opportunity employer. The purpose of this Policy is to outline Maricopa County's prohibition against Discrimination, Harassment, and Retaliation and to outline a complaint and investigation procedure for employees who believe they have witnessed or been subjected to Harassment, Discrimination, or Retaliation. Maricopa County also seeks to address unprofessional and discourteous conduct, which, if allowed to continue, could potentially rise to the level of, or lead to, a violation of law or this Policy.

II. AUTHORITY

This Policy is authorized by the Board of Supervisors pursuant to A.R.S. § 11-251.

III. APPLICATION

This Policy applies to all employees and volunteers of Maricopa County appointed departments as well as the Flood Control District of Maricopa County, the Maricopa County Library District, and the Maricopa County Stadium District (Special Districts). The Board of Supervisors is authorized to jointly adopt policies applying to the Special Districts under the Intergovernmental Agreement, C-06-18-393-6-00, approved on April 11, 2018.

This policy also applies to employees of County elected offices unless the elected official has implemented a similar policy specific to his or her office.

IV. DEFINITIONS

- A. Appointing Authority:** An elected official, the single administrative or executive head of a Department/Special District, or the designated representative authorized to act in this capacity.
- B. Department Human Resources:** The employee's assigned internal human resources office. If there is no departmental human resources office, then it refers to the department's assigned HR Liaison.
- C. Discrimination:** Different treatment in the terms, conditions, and privileges of employment because of an individual's Protected Characteristic.
- D. Employee Relations:** The Employee Relations division of the County Human Resources Department.
- E. Harassment:** Unwelcome sexual advances, requests for sexual favors and other conduct of a sexual nature, or treatment of an individual based on a Protected Characteristic that is not welcome, is offensive, interferes with work effectiveness, or that creates an intimidating, hostile, or offensive work environment. Not all conduct that is unpleasant or upsetting constitutes harassment.
- F. Protected Activity:** Employees' good faith expressed opposition to an employer's practice that they have a reasonable belief to be Discrimination (e.g., complaining of alleged Discrimination or Harassment against oneself or another, filing a charge of Discrimination, or exercising legal rights such as requesting

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a reasonable accommodation based on religion or disability, requesting leave under the Family and Medical Leave Act, or filing a workers' compensation claim).

G. Protected Characteristic: All characteristics covered by applicable federal or state laws including, but not limited to, race, gender, religion, color, national origin, age, disability, sexual orientation, gender identity, including transgender status, pregnancy, veteran status, and genetic information.

H. Retaliation: Adverse treatment or action because the employee engaged in a Protected Activity.

V. POLICY

A. Maricopa County provides equal employment opportunities to all employees and applicants for employment regardless of any Protected Characteristic or Protected Activity, and strictly prohibits Discrimination, Harassment, and Retaliation, or any conduct that could rise to the level of Discrimination, Harassment or Retaliation. This Policy applies to all terms and conditions of employment, including recruiting, hiring, placement, promotion, performance management, discipline, termination, reductions in force, furloughs, transfers, leaves of absence, compensation, benefits, and training

B. Each employee, supervisor, manager, and Appointing Authority is responsible for actively promoting the establishment and maintenance of a professional workplace, free from Discrimination, Harassment, and Retaliation. Retaliation of any kind, including toward any complainant, witness, or other employee, applicant, or other individual complying with this Policy or involved in an investigation undertaken pursuant to this Policy, is strictly prohibited.

C. Supervisors and managers shall ensure that all employees are aware of this Policy and the consequences of violating it. Failure by a supervisor or manager to immediately report observed or known Discrimination, Harassment, or Retaliation is grounds for disciplinary action, up to and including termination.

D. Determining whether specific conduct constitutes a violation of this Policy depends upon the facts and the context in which the conduct occurs as well as the severity or frequency of the conduct. Certain behaviors that do not fit the definition of Discrimination, Harassment, or Retaliation under this Policy may be nonetheless unprofessional and inappropriate in the workplace and may be prohibited by other County or departmental policies that govern professionalism in the workplace. Complaints not based on a Protected Characteristic should be handled through HR2405 *Employee Workplace Concerns*.

E. The following are examples of conduct that could rise to the level of, or lead to Discrimination or Harassment:

1. Making employment decisions such as hiring, promoting, disciplining, or terminating based on an individual's Protected Characteristic.
2. Offensive or derogatory comments directed toward a person on account of a Protected Characteristic.
3. Physical conduct such as deliberately impeding or blocking the movement of another, violating an individual's "personal space", or unwelcome touching, patting, pinching, or brushing parts of the body.
4. Visual (nonverbal) or graphic harassment such as derogatory or suggestive photographs, calendars, graffiti, posters, cartoons, drawings, sexually suggestive objects, obscene gestures, or leering, or drawing attention to suggestive or pornographic materials.
5. Jokes or comments based on a Protected Characteristic, including jokes about:
 - Race or national origin

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- Gender, sexual orientation, or gender identity
 - Age (40 or older)
 - Religion or religious practices or wardrobe
 - An individual's body, including jokes about a woman's body during pregnancy
 - An individual with a disability
 - Jokes of a sexual nature
6. Using stereotypes or assumptions about people based on Protected Characteristics.
 7. Using technology such as Facebook, Twitter, texting, email, voicemail, and instant message to generate, send or display material that is considered obscene, profane, intimidating, threatening, defamatory, or which identifies or refers to a Protected Characteristic in derogatory or stereotypical terms. This includes material that is intended only as a joke or for amusement purposes.
- F. Immediate and appropriate corrective action must be taken when it has been determined that violations of this Policy have occurred. Depending upon the severity and pervasiveness of the behavior, the Appointing Authority will determine the appropriate level of discipline. Unprofessional and discourteous behavior that does not rise to the level of unlawful Discrimination, Harassment, or Retaliation may still result in discipline, up to and including termination.

VI. COMPLAINT AND INVESTIGATION PROCEDURES

An employee is **not required** to directly confront the individual believed to be engaging in discriminatory, harassing, or retaliatory behavior. However, employees may certainly choose to advise the person exhibiting the unwanted behavior that the behavior is inappropriate, unprofessional, or making them uncomfortable, and that they wish the behavior to stop.

Employees who feel they have been subjected to Discrimination, Harassment, or Retaliation, or who have witnessed what they believe to be Discrimination, Harassment, or Retaliation toward another, should promptly take the following action(s):

A. COMPLAINT PROCEDURE

1. **Written Complaints:** Employees are encouraged, but not required, to formalize their complaints in writing using the *Discrimination/Harassment/Retaliation Complaint Form* so that an investigation can begin promptly. Employees should also provide any supporting information whenever possible (e.g., e-mails, pictures, voicemail messages). The form should be submitted to one of the following: the Appointing Authority, the County's Human Resources Director, Employee Relations, Department Human Resources, or any combination of these individuals and entities.
2. **Verbal Complaints:** If an employee's complaint is made orally to one of the designated individuals or entities listed above, or to an immediate supervisor or manager, the person receiving the complaint should immediately document the allegations. The *Discrimination/Harassment/Retaliation Complaint Form* can be used to make a record of the employee's allegations. It is recommended, but not necessary, that the employee making the complaint be asked to review and sign the form upon its completion to confirm the accuracy of the information.

NOTE: Even if individuals complaining about alleged Discrimination, Harassment, or Retaliation state that they "just want some advice" or "don't want any action taken," those receiving the complaint should

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advise them that they are obligated to record the information and inform the necessary individuals (e.g., the Appointing Authority and Employee Relations) so that appropriate action can be taken.

3. Supervisors and managers must ensure that their workplace is free of Discrimination, Harassment, and Retaliation. They must take each complaint seriously and immediately report any observed or learned violations of this Policy to the Appointing Authority, the County’s Human Resources Director, Employee Relations, or Department Human Resources. Copies of any complaint forms and supporting information must be provided to Employee Relations. Failure to follow this Policy may lead to discipline, up to and including termination.

B. INVESTIGATION PROCEDURE

1. Upon receipt of a complaint, a prompt and thorough investigation to the extent appropriate will be conducted. Depending on the nature of the complaint, the investigation may be conducted by Employee Relations, designated individuals within the department of the complainant, or through a joint effort between the complainant’s department and Employee Relations. Every effort will be made to address the complaint at the lowest possible level depending upon the nature of the complaint.
2. Employees who have filed a complaint should not be relocated, reassigned, or transferred under any circumstances, even if the complainant requests the transfer, without first consulting Employee Relations or legal counsel. In some cases, the Appointing Authority may choose to temporarily transfer or remove an employee who is alleged to have engaged in discriminatory, harassing, or retaliatory behavior from the workplace during the period of time necessary to complete the investigation.
3. Every employee has an obligation to provide information or other assistance that may be needed in order to ensure that a prompt, complete, and fair investigation is conducted. Failure of an employee to cooperate in an investigation may lead to discipline, up to and including termination. After the investigation, a verbal or written report will be provided by the investigator(s) to the appropriate Appointing Authority who will decide the appropriate action. The Appointing Authority may consult with the investigator(s) and legal counsel prior to finalizing any decision.

C. CONFIDENTIALITY

Complaints under this Policy will be handled with confidentiality, to the greatest extent permitted by law. While the investigation is underway, a limited number of individuals will be given information regarding the complaint which may include the Appointing Authority, the County’s Human Resources Director, Employee Relations, Department Human Resources, legal counsel, departmental staff members involved in the investigation process, or management involved in any disciplinary decision following the investigation.

Employees who are interviewed as part of an investigation must keep the discussions confidential while the investigation is pending and may be subject to disciplinary action, up to and including termination, for revealing information.

Investigation and disciplinary records will be maintained by the County and may be subject to disclosure under applicable Arizona and federal law.

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Revision History

Version	Revision Date	Description of Revision
1	07-1998	Initial version.
2	01-2002	Removed language regarding disciplinary action for complaints made in good faith.
3	05-20-2015	Update definitions and language consistent with Merit System Resolution update and laws. <i>(C-31-15-037-6-00)</i>
4	08-21-2019	Updated format consistent with policy format and removed reference to a policy that no longer exists. <i>(C-31-15-037-6-01)</i>
5	11-18-2020	Added “gender identity, including transgender status” to Protected Characteristic consistent with the US Supreme Court’s ruling on June 15, 2020. <i>(C-31-15-037-6-01)</i>