

TO: ALL COUNTY PERSONNEL

**FROM: ROBERT WEISMAN
COUNTY ADMINISTRATOR**

PREPARED BY: EMPLOYEE RELATIONS AND PERSONNEL DEPARTMENT

**SUBJECT: DISCRIMINATION, HARASSMENT AND RETALIATION IN THE
WORKPLACE**

PPM #: CW-P-029

<u>ISSUE DATE</u>	<u>EFFECTIVE DATE</u>
August 11, 1997	August 11, 1997

PURPOSE:

To create and maintain a work environment in which people are treated with dignity, decency and respect. To assure County compliance with Federal, State and local laws prohibiting discrimination on the basis of race, color, religion, national origin, gender, age, marital status, veteran status and disability.

AUTHORITY:

1. Title VII of the Civil Rights Act of 1964, as amended
2. Equal Pay Act of 1963
3. Age Discrimination in Employment Act of 1967
4. The Rehabilitation Act of 1973
5. Americans with Disabilities Act of 1990
6. Vietnam Veterans Readjustment Assistance Act of 1974
7. Florida Civil Rights Act of 1992
8. Palm Beach County Ordinance 95-31

POLICY:

The Board of County Commissioners will not tolerate unlawful discrimination, harassment of any kind, or retaliation. It is the policy of the Board of County Commissioners to insure that Palm Beach

County is in compliance with all applicable anti-discrimination statutes. As an Equal Opportunity/Affirmative Action Employer, Palm Beach County Board of County Commissioners is committed to exercising fair employment practices in all terms and conditions of employment for all employees and applicants for employment regardless of race, color, religion, gender, national origin, age, disability, veteran status, or marital status.

It is also the policy of the Board of County Commissioners not to discriminate or tolerate discrimination or harassment against any individual on the basis of sexual orientation.

Through the procedures which follow and by educational programming, the Board of County Commissioners will seek to prevent, correct and discipline behavior that violates this policy.

Prohibited Conduct:

A. Discrimination/Harassment

It is a violation of this policy to discriminate in the provision of employment opportunities, benefits or privileges, to create discriminatory work conditions, or to use discriminatory evaluation standards in employment settings if the basis of that discriminatory treatment is, in whole or in part, the person's race, age, color, religion, national origin, disability, gender, marital status, sexual orientation or veteran status. The Board of County Commissioners expressly prohibits all employment related activity which is in violation of any Federal, State or local statute which outlaws discrimination in employment. To accomplish this objective, Palm Beach County Administration and Management staff will:

1. Insure that all employees work in an environment free of harassment on the basis of race, color, religion, gender, national origin, age, disability, veteran status, marital status or sexual orientation;
2. Recruit, hire, train, and promote persons in all job titles, without regard to race color, religion, gender, national origin, age, disability, veteran status, marital status or sexual orientation;
3. Ensure that all personnel actions such as compensation, benefits, transfers, layoffs, County sponsored and/or approved training, education, tuition reimbursement, social and recreation programs are administered without regard to race, color, religion, gender, national origin, age, disability, veteran status, marital status or sexual orientation;
4. Employ and advance disabled and Vietnam Era Veterans and qualified individuals with disabilities who, with or without reasonable accommodation, can perform the essential functions of a position;

5. Make employment decisions so as to further the principle of equal employment opportunity and which are within the spirit of the Federal, State and local statutes prohibiting discrimination.

B. Sexual Harassment

The Board of County Commissioners will not tolerate any behavior, including verbal or physical conduct, which constitutes sexual harassment. All employees are accountable for compliance with this policy. Violations may lead to disciplinary action which, in sufficiently severe cases, may lead to termination.

Unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature will constitute sexual harassment when:

1. Submission to such conduct is either explicitly or implicitly a term or condition of an individual's employment,
Or
2. Submission to or rejection of such conduct is used as the basis or employment decisions affecting that individual,
Or
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance, or of creating an intimidating, hostile or offensive environment for working.

Sexual harassment is any unwelcome verbal and/or physical conduct of a sexual nature including, but not limited to, the following types of behavior:

1. Sexually degrading words or gestures used to describe an individual;
2. Comments about an individual's body, clothing or lifestyle which have sexual implications; repeated offensive sexual flirtations, leering or ogling, sexual advances and propositions, verbal abuse of a sexual nature;
3. Conduct of a sexual nature that interferes with an individual's work performance or creates an intimidating, hostile or offensive environment;
4. Display of sexually demeaning objects, pictures, or cartoons in areas accessible to employees or members of the public;
5. Implied or direct threats or insinuations that an individual's refusal to submit to sexual advances will adversely affect the individual's employment status, evaluation, wages, advancement, assigned duties or career development;

6. Solicitation of sexual activity by promise of rewards to the individual's performance, evaluation, wages, advance, assigned duties or career development;
7. Unnecessary touching, patting, pinching, or brushing another's body or clothing;
8. Stalking, telephone or computer harassment, or sexual assaults.

Sexual harassment may occur among co-workers or when a person who is in a position to control, influence, or affect another individual's job or career standing uses this power to either coerce the subordinate into sexual relations or punish a refusal to participate in sexual activity.

Consenting relationship may constitute sexual harassment under this policy when a professional power differential exists between employees and a romantic or sexual relationship develops. There is a potential for abuse of power, even in relationships of apparent mutual consent. The Board of County Commissioners strongly discourages sexual relationships between a supervisor and a subordinate.

All supervisory personnel are responsible for compliance and must take immediate, appropriate and effective action to stop sexually harassing behavior.

C. Retaliation

No hardship, no loss of benefit, and no penalty may be imposed on any employee as punishment for:

1. Filing or responding to a bona fide complaint of discrimination or harassment;
- Or**
2. Appearing as a witness in the investigation of a complaint.

Retaliation or attempted retaliation of this kind is a violation of the policy and will be subject to severe disciplinary action up to and including termination.

Any established incidents of discrimination, retaliation or sexual harassment by any employee will result in immediate and severe disciplinary action, including possible termination. It shall be the responsibility of every employee, and particularly every management and supervisory employee, to bring to the County's attention any evidence of discrimination, retaliation or sexual harassment so that the matter can be investigated and appropriate action taken.

PROCEDURES:

A. Responsibilities

Supervisors have the responsibility to act promptly to eliminate any discrimination that exists in the area within their supervision. If supervisors know that discrimination, sexual harassment or retaliation might be occurring, they must take immediate and effective action to address the problem. Such action should include, but is not limited to, speaking directly to the injured person, developing a record of the discriminatory activity, consultation with the Diversity and Development Section of the Employee Relations and Personnel Department, and corrective or disciplinary action.

B. Filing a Charge

All employees of Palm Beach County must share the responsibility of understanding and preventing discrimination. However, no satisfactory investigation or resolution of complaints can occur without the initiative and continuous cooperation of the injured person. Employees who believe they have been discriminated or retaliated against or have been sexually harassed may file a complaint with the Diversity and Development Section of Employee Relations and Personnel Department. Such complaints must be filed within 180 days of the alleged discriminatory act. The Diversity and Development Section will investigate each complaint which states prima facie evidence of discrimination, retaliation or sexual harassment, and will determine appropriate action to be taken based upon the results of the investigation. The address of that section:

Employee Relations and Personnel Department
ATTN: Manager, Diversity and Development
50 South Military Trail, Suite 210
West Palm Beach, Florida 33415

Employees believing they have been discriminated again retain the right to file a charge of discrimination with the Equal Employment Opportunity Commission (EEOC). Such charges may be filed by contacting:

Palm Beach County Office of Equal Opportunity
215 North Olive Avenue, Suite 130
West Palm Beach, Florida 33401
561/355-4883

Or

Equal Employment Opportunity Commission
Miami District Office
1 Biscayne Tower
2 South Biscayne Boulevard
Miami, Florida 33131-1805
305/536-4491

Charges of discrimination must be filed within 180 days of the alleged discriminatory act regardless of any action taken or being taken by the County.

ROBERT WEISMAN
COUNTY ADMINISTRATOR

Supersession History:

1. CW-P-016, dated 7/1/88,
2. CW-P-029, dated 7/1/88

