

# ECTOR COUNTY, TEXAS



## ANTI-DISCRIMINATION AND HARASSMENT POLICY

ADOPTED BY  
ECTOR COUNTY  
COMMISSIONERS COURT  
July 12, 2022

# **ECTOR COUNTY ANTI-DISCRIMINATION AND HARASSMENT POLICY**

## **Objective**

Ector County (the County) strives to create and maintain a work environment in which people are treated with dignity, decency and respect. The environment of the County should be characterized by mutual trust and the absence of intimidation, oppression and exploitation. The County will not tolerate unlawful discrimination or harassment of any kind. Through enforcement of this Policy and by education of employees, Ector County will seek to prevent, correct and discipline behavior that violates this Policy.

All employees, regardless of their positions, are covered by and are expected to comply with this Policy and to take appropriate measures to ensure that prohibited conduct does not occur. Appropriate disciplinary action will be taken against any employee who violates this Policy. Based on the seriousness of the offense, disciplinary action may include verbal or written reprimand, suspension, or termination of employment.

Managers and supervisors who knowingly allow or tolerate discrimination, harassment or retaliation, including the failure to immediately report such misconduct to Human Resources (HR), are in violation of this Policy, subject to discipline, and may be subject to personal liability.

## **Prohibited Conduct Under This Policy**

Ector County, in compliance with all applicable federal, state and local anti-discrimination and harassment laws and regulations, enforces this Policy in accordance with the following definitions and guidelines:

### **I. DISCRIMINATION**

It is a violation of Ector County's Policy to discriminate in the provision of employment opportunities, benefits or privileges; to create discriminatory work conditions; or to use discriminatory evaluative standards in employment if the basis of that discriminatory treatment is, in whole or in part, the person's race, color, national origin, age, religion, disability status, sex, sexual orientation, genetic information, marital status or any other status protected under Federal or Texas law. Prohibited discrimination based on sex includes pregnancy discrimination, care-giver discrimination and gender stereotyping. This Policy applies to all terms and conditions of employment, including, but not limited to, application, testing, recruitment, hiring and placement, discipline, assignments, evaluations, benefits, promotion, transfer, compensation, leaves of absence, training, termination, layoff, reorganization of the departments and recall.

Discrimination of this kind may also be strictly prohibited by a variety of federal, state and local laws, including Title VII of the Civil Rights Act of 1964, the Age Discrimination Act of 1967 and the Americans with Disabilities Act of 1990. This Policy is intended to comply with the prohibitions stated in these anti-discrimination laws.

Discrimination in violation of this Policy will be subject to disciplinary measures up to and including termination.

## **II. HARASSMENT**

Ector County prohibits harassment of any kind, including sexual harassment, and will take appropriate and immediate action in response to complaints or knowledge of violations of this Policy. For purposes of this Policy, harassment is any verbal or physical conduct designed to threaten, intimidate or coerce an employee, co-worker, or any person working for or on behalf of the County.

Harassment is defined by the Equal Employment Opportunity Commission (EEOC) as "unwelcome conduct that is based on race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information. Harassment becomes unlawful where 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."

The following examples of harassment are intended to be guidelines and are not exclusive when determining whether there has been a violation of this Policy:

- Verbal harassment includes comments that are offensive or unwelcome regarding a person's national origin, race, color, religion, age, sex, sexual orientation, pregnancy, appearance, disability, marital status or other status protected under Federal and Texas law, including epithets, slurs and negative stereotyping.
- Nonverbal harassment includes distribution, display or discussion of any written or graphic material that ridicules, denigrates, insults, belittles or shows hostility, aversion or disrespect toward an individual or group because of national origin, race, color, religion, age, gender, sexual orientation, pregnancy, appearance, disability, marital status or other status protected under Federal or Texas law.

### **Sexual harassment**

Sexual harassment is a form of unlawful employment discrimination under Title VII of the Civil Rights Act of 1964 and is prohibited under Ector County's Anti-Discrimination and Harassment Policy. According to the Equal Employment Opportunity Commission (EEOC), sexual harassment is defined as "unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature ... when ... submission to or rejection of such conduct is used as the basis for employment decisions ... or such conduct has the purpose or effect of ... creating an intimidating, hostile or offensive working environment."

Sexual harassment occurs when unsolicited and unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature is/are made, if:

- A. Submission to the advance, request, or conduct is made a term or condition of an individual's employment, either explicitly or implicitly;
- B. Submission to or rejection of the advance, request, or conduct by an individual is used as the basis for a decision affecting the individual's employment;

- C. The advance, request, or conduct has the purpose or effect of unreasonably interfering with an individual's work performance; or
- D. The advance, request, or conduct has the purpose or effect of creating an intimidating, hostile, or offensive working environment.

Sexual harassment may take different forms. The following examples of sexual harassment are intended to be guidelines and are not exclusive when determining whether there has been a violation of this Policy:

- Verbal sexual harassment includes innuendoes, suggestive comments, jokes of a sexual nature, sexual propositions, lewd remarks and threats; requests for any type of sexual favor (this includes repeated, unwelcome requests for dates); and verbal abuse or "kidding" that is oriented toward a prohibitive form of harassment, including that which is sexual in nature and unwelcome.
- Nonverbal sexual harassment includes the distribution, display or discussion of any written or graphic material, including calendars, posters and cartoons that are sexually suggestive or show hostility toward an individual or group because of sex; suggestive or insulting sounds; leering; staring; whistling; obscene gestures; content in letters, notes, facsimiles, e-mails, photos, text messages, tweets and Internet postings; or other forms of communication that are sexual in nature and offensive.
- Physical sexual harassment includes unwelcome, unwanted physical contact, including touching, tickling, pinching, patting, brushing up against, hugging, cornering, kissing, fondling, and forced sexual intercourse or assault.

Courteous, mutually respectful, pleasant, non-coercive interactions between employees that are appropriate in the workplace and acceptable to and welcomed by both parties are not considered to be harassment, including sexual harassment.

### ***Consensual Romantic or Sexual Relationships***

Ector County strongly discourages romantic or sexual relationships between a manager or other supervisory employee and an employee who reports directly or indirectly to that person, because such relationships tend to create compromising conflicts of interest or the appearance of such conflicts. In addition, such a relationship may give rise to the perception by others that there is favoritism or bias in employment decisions affecting the staff employee. Moreover, given the uneven balance of power within such relationships, consent by the staff member is suspect and may be viewed by others, or at a later date by the staff member, as having been given as the result of coercion or intimidation. The atmosphere created by such appearances of bias, favoritism, intimidation, coercion or exploitation undermines the spirit of trust and mutual respect that is essential to a healthy work environment. If there is such a relationship, the parties need to be aware that one or both may be moved to a different department or other actions may be taken.

If any employee of Ector County enters into a consensual relationship that is romantic or sexual in nature with an employee who reports ***directly or indirectly to that employee, or if one of the parties is in a supervisory capacity in the same department in which the other party works, the parties must notify the HR Director who will consult with***

**the County Attorney to identify any potential conflicts of interest.** Because of potential issues regarding quid pro quo harassment, the County has made reporting **mandatory**. This requirement does not apply to employees who do not work in the same department or to parties where neither one supervises or otherwise manages responsibilities over the other.

Once the relationship is made known to Ector County, the County Attorney will review the situation with Human Resources in light of all the facts (reporting relationship between the parties, effect on co-workers, job titles of the parties, etc.) and will determine whether one or both parties need to be transferred to another job or department due to any actual or potential conflicts of interest. If it is determined that one party must be moved, and there are jobs in other departments available for both, the parties may decide who will be the one to apply for a new position. If the parties cannot amicably come to a decision, or the party is not chosen for the position to which he or she applied, the HR Director and Ector County Commissioners Court will decide which party will be transferred. That decision will be based on which move will be least disruptive to the organization as a whole. If no other jobs are available for either party, the parties will be given the option of terminating their relationship or resigning.

### **Retaliation**

No hardship, loss, benefit or penalty may be imposed on an employee in response to:

- Filing or responding to a bona fide complaint of discrimination or harassment.
- Appearing as a witness in the investigation of a complaint.
- Serving as an investigator of a complaint.

Lodging a bona fide complaint will in no way be used against the employee or have an adverse impact on the individual's employment status. However, filing groundless or malicious complaints is an abuse of this Policy and will be treated as a violation.

Any person who is found to have violated this aspect of the Policy will be subject to discipline up to and including termination of employment.

## **III. CONFIDENTIALITY**

All complaints and investigations are treated confidentially to the extent possible, and information is disclosed strictly on a need-to-know basis. The identity of the complainant is usually revealed to the parties involved during the investigation, and the HR Director will take adequate steps to ensure that the complainant is protected from retaliation during and after the investigation. Employees involved in the investigation may be requested to maintain the confidentiality of the investigation while the investigation is ongoing; however, no employee will be prohibited from openly opposing acts of discrimination or harassment. All information pertaining to a complaint or investigation under this Policy will be maintained in secure files within the Human Resources Department.

## IV. COMPLAINT PROCEDURE

Ector County has established the following procedure for lodging a complaint of harassment, discrimination or retaliation. The County will treat all aspects of the procedure confidentially to the extent reasonably possible.

1. Complaints should be submitted as soon as possible after an incident has occurred, preferably in writing. The HR Director may assist the complainant in completing a written statement or, in the event an employee refuses to provide information in writing, the HR Director will dictate the verbal complaint.
2. Upon receiving a complaint or being advised by a supervisor or manager that violation of this Policy may be occurring, the HR Director will notify Commissioners Court and review the complaint with the County Attorney.
3. The HR Director or an outside investigator will initiate an investigation to determine whether there is a reasonable basis for believing that the alleged violation of this Policy occurred.
4. If necessary, the complainant and the respondent will be separated during the course of the investigation, either through internal transfer or paid administrative leave.
5. During the investigation, the HR Director, together with legal counsel or other management employees, will interview the complainant, the respondent and any witnesses to determine whether the alleged conduct occurred.
6. Upon conclusion of an investigation, the HR Director or other person conducting the investigation will submit a written report of his or her findings to the Commissioners Court. If it is determined that a violation of this Policy has occurred, the HR Director will recommend appropriate disciplinary action. The appropriate action will depend on the following factors:
  - a) the severity, frequency and pervasiveness of the conduct;
  - b) prior complaints made by the complainant;
  - c) prior complaints made against the respondent; and
  - d) the quality of the evidence (e.g., firsthand knowledge, credible corroboration).

If the investigation is inconclusive or if it is determined that there has been no violation of Policy, but potentially problematic conduct may have occurred, the HR Director may recommend appropriate preventive action.

7. Commissioners Court will review the investigative report and any statements submitted by the complainant or respondent, discuss results of the investigation with the HR Director and other management staff as appropriate, and decide what action, if any, will be taken.
8. Once a final decision is made by Commissioners Court, the HR Director will meet with the complainant and the respondent separately and notify them of the findings of the investigation. If disciplinary action is to be taken, the respondent will be informed of the nature of the discipline and how it will be executed.

## **V. ALTERNATIVE LEGAL REMEDIES**

Nothing in this Policy may prevent the complainant or the respondent from pursuing formal legal remedies or resolution through local, state or federal agencies or the courts.