

Nondiscrimination, Anti-Harassment & Inappropriate Conduct Policy & Reporting Procedures

Policy Number: 2021-0012
 Issue Date: 07-02-2021
 Replaces: 2018-0001

POLICY

King County is committed to maintaining a respectful, productive, inclusive, and equitable workplace. Therefore, all elected officials and employees are expected to act with fairness, civility, integrity and to treat all coworkers equitably. Discrimination, harassment, retaliation, and inappropriate conduct based on a protected status undermines the integrity of the employment relationship and is prohibited. All complaints of conduct inconsistent with these expectations, regardless of whether the conduct rises to the level of unlawful discrimination, harassment, or retaliation, will be addressed. King County will determine the appropriate response to all complaints, which may include a formal investigation. Substantiated complaints will result in prompt, corrective action, up to and including termination of any employee violating this policy.

King County prohibits discrimination or harassment that is related to an individual's race, color, sex, age, creed, disability, marital status, national origin, religion, pregnancy, gender, gender identity or expression, genetic information, sexual orientation, veteran or military status, use of a service animal, domestic violence victimization, and any other status protected by federal, state, or local law. Additionally, King County prohibits retaliation of any kind against employees who engage in related protected activity, such as good faith reporting of harassment, discrimination, inappropriate conduct, or retaliation, or assisting in the investigation of such complaints.

DEFINITIONS

"Disability" means a sensory, mental, or physical impairment that: (1) is medically recognized or diagnosable; (2) exists as a record or history; or (3) is perceived by the employer to exist, whether or not it actually exists. A disability exists whether it is temporary or permanent, common, or uncommon, mitigated, or unmitigated, limits the ability to work generally or work at a particular job, or limits any other activity.

"Discrete Adverse Employment Action", in the case of discrimination, means any action that substantially affects the terms, conditions, or privileges of employment. It includes, but is not limited to, discipline, discharge, layoff, and a failure to hire or promote.

- In the case of retaliation, it is an action that would discourage a reasonable employee from making a complaint or participating in a discrimination, harassment or retaliation investigation or proceeding.

"Discrimination" means when an employer takes a discrete adverse employment action against an employee and the employee's protected status was a substantial factor in the employer's decision.

- *"Disability Discrimination"* occurs when the employer knows that an employee is unable to perform an essential function of the job due to a disability and fails to provide a reasonable accommodation that would enable the employee to perform the essential function.

"Harassment" means unwelcome conduct that can take many forms, including but not limited to, innuendoes, unwelcome compliments, suggestive or insulting noises, facial expressions, vulgar language, nicknames, slurs, derogatory comments, cartoons, jokes, pranks, written materials, offensive gestures or touching, and deliberately misgendering someone. It is illegal when:

- Enduring the conduct becomes a condition of continued employment; or
- The conduct is severe or pervasive enough to create an environment that a reasonable person would consider intimidating, hostile, or abusive.

“Inappropriate Conduct” means conduct that, while not rising to the level of unlawful discrimination, harassment, sexual harassment, or retaliation, communicates a hostile, derogatory, unwelcome, or negative message about persons based on a protected status. Inappropriate conduct can be either verbal or nonverbal and includes slights, insults, and other conduct that a reasonable person would find offensive.

“Protected Status” means an employee’s sex, age, creed, disability, marital status, national origin, race, color, religion, pregnancy, gender, gender identity or expression, genetic information, sexual orientation, veteran or military status, use of a service animal, domestic violence victimization, engaging in protected activity and any other status protected by federal, state, or local law.

“Retaliation” means when a supervisor or manager takes a discrete adverse employment action against an employee because the employee engaged in protected activity, such as good faith reporting of harassment, discrimination, inappropriate conduct, or retaliation, or assisting in the investigation of such complaints. It also occurs when a co-worker engages in retaliatory harassment, if the conduct is sufficiently severe or pervasive.

“Sexual Harassment” occurs when unsolicited and unwelcome sexual advances, requests for sexual favors, displays of sexually oriented material, or other verbal or physical conduct of a sexual nature:

- Is explicitly or implicitly made a term or condition of employment;
- Is used as a basis for an employment decision; or
- Unreasonably interferes with an employee’s work performance, or creates an intimidating, hostile or otherwise offensive environment.

Both the victim and the harasser can be the same gender or gender identity.

REPORTING PROCEDURES

Reporting Discrimination, Harassment, Retaliation, or Inappropriate Conduct

If an employee believes that they have been the subject of inappropriate, discriminatory, or harassing conduct based on a protected status, or they have been subjected to retaliation for reporting such conduct, they should report the conduct either verbally or in writing to one of the County’s Human Resources (HR) Managers, the Workforce Equity Manager, or the Equal Employment Opportunity (EEO) Officer for Metro Transit. A report can be made to anyone on the list below; it does not have to be the employee’s department HR Manager.

[List of the current HR Managers, Workforce Equity Manager, and EEO Officer for Metro Transit](#)

Allegations of conduct which violate this policy made against the King County Executive, Assessor or the Director of Elections should be reported to the Department of Human Resources Director.

If an employee feels that their complaint is not being adequately addressed by the managers listed above, please contact the Department of Human Resources Director.

If an employee is concerned that they or another King County employee has been subjected to treatment in violation of this policy and the employee wants to have a confidential discussion about their concerns, please contact the Employee Assistance Program at 206-263-8733, or Making Life

Easier at 1-888-874-7290. These resources offer comprehensive programs and services that help King County employees, and their families, to be healthy and safe.

Confidentiality and Public Disclosure

All information will be maintained on a confidential basis to the greatest extent possible. However, such information may be subject to disclosure under Washington's Public Records Act, RCW 42.56, and RCW 41.56, or for relevant litigation. Additionally, information may need to be disclosed to employees to carry out the purpose and intent of this policy.

Pursuant to RCW 42.56.250(6), investigative records that involve discrimination, harassment, or related retaliation claims are exempt from public disclosure while an investigation is active and ongoing. Once the investigation has been concluded and the complainant has been notified of the outcome, the records may be disclosed, provided that the names of the following are redacted, unless the following consent to the disclosure of their name:

- the complainant;
- other accusers; and
- witnesses.

RESPONSIBILITIES

Responsibilities of All King County Executive Branch Employees and Elected Officials

All employees and elected officials in executive branch departments, offices, and divisions, including the Assessor's Office, Elections, and the Sheriff's Office, shall be responsible for:

- Acting professionally and refraining from discriminatory, harassing, retaliatory or inappropriate conduct;
- Becoming familiar with the provisions of this policy, complying with all requirements of this policy, and cooperating with any inquiry under this policy; and
- Promptly reporting, as outlined above, any incident of discriminatory, harassing, retaliatory or inappropriate conduct based on a protected status that they experience or observe. The County cannot correct discriminatory, harassing, retaliatory or inappropriate conduct if the conduct is not known.

Where an inquiry establishes that an employee engaged in discriminatory, harassing, retaliatory or inappropriate conduct based on a protected status, the employee will be subject to appropriate corrective action, up to and including termination.

Responsibilities of the Human Resources Managers, the Workforce Equity Manager, and the Equal Employment Opportunity Officer for Metro Transit

The HR Managers in executive branch departments, offices, and divisions, the Workforce Equity Manager and the EEO Officer for Metro Transit shall be responsible for:

- Receiving allegations of discriminatory, harassing, retaliatory or inappropriate conduct based on a protected status;
- Advising supervisors and managers on appropriate actions to address alleged or substantiated conduct that violates this policy (e.g., investigation, counseling, education, corrective action);
- As appropriate, promptly conducting or overseeing fair and impartial investigations into allegations of discriminatory, harassing, retaliatory or inappropriate conduct based on a protected status;

- Advising supervisors and managers on interim actions, as needed, to ensure retaliation or other misconduct does not occur pending the outcome of an investigation;
- Communicating with the complaining party about the status of the investigation, what the complainant should do if they feel that they are being retaliated against for making a complaint under this policy, the resolution of the investigation, and what actions will be taken, if applicable;
- Advising the relevant division and/or department director about allegations of discriminatory, harassing, retaliatory or inappropriate conduct based on a protected status and the resolution of those allegations under this policy;
- Providing the Department of Human Resources Director, the Department Director, and the Division/Office Director with quarterly reports on complaints filed under this policy and the outcome of investigations; and
- Documenting the allegations received and the steps taken to address them.

Responsibilities of Supervisors and Managers

All supervisors and managers in executive branch departments, offices, and divisions, including the Assessor's Office, Elections, and the Sheriff's Office, shall be responsible for:

- Receiving allegations of discrimination, harassment, retaliation or inappropriate conduct based on a protected status and handling complaints promptly and appropriately;
- Acting promptly and appropriately to prevent discrimination, harassment, retaliation, or inappropriate conduct in the workplace. This includes using sound judgment in determining the appropriate corrective actions. In some situations, the appropriate corrective action may be immediate supervisory actions, such as counseling the offending employee. If unsure the supervisor should consult with their HR Manager.
- Consulting with their HR Manager if there are concerns or questions about whether a particular situation rises to the level of a policy violation;
- Reporting to their HR Manager, the Workforce Equity Manager, or the EEO Officer for Metro Transit any alleged incident of discrimination, harassment, retaliation or inappropriate conduct based on a protected status, that they witness or is otherwise brought to their attention;
- In consultation with the HR Manager, Workforce Equity Manager or EEO Officer for Metro Transit, providing interim actions, as needed, to ensure that retaliation or other misconduct does not occur pending the outcome of an investigation;
- In consultation with the HR Manager, Workforce Equity Manager or EEO Officer for Metro Transit, taking prompt and appropriate corrective and disciplinary action, up to and including termination, against employees who have engaged in discriminatory, harassing, retaliatory or inappropriate conduct based on a protected status or who have not carried out their responsibilities under this policy; and
- Actively monitoring the workplace to ensure compliance with this policy. A supervisor or manager who knew or should have known about harassment, discrimination, retaliation, or other inappropriate behavior in the workgroup and failed to report it to their department's HR Manager, may be subject to corrective action, up to and including termination.

Responsibilities of Division and Department Directors

All directors in executive branch divisions and departments, including the Assessor's Office, Elections, and the Sheriff's Office, shall be responsible for:

- Acting promptly and appropriately to prevent and address discrimination, harassment, retaliation or inappropriate conduct in the workplace;
- In consultation with the HR Manager, Workforce Equity Manager or EEO Officer for Metro Transit, ensuring that interim action is provided, as needed, to ensure that retaliation or other misconduct does not occur pending the outcome of an investigation; and
- In consultation with the HR Manager, Workforce Equity Manager or EEO Officer for Metro Transit, taking prompt and appropriate corrective and disciplinary action, up to and including termination, against employees who have engaged in discriminatory, harassing, retaliatory or inappropriate conduct based on a protected status or who have not carried out their responsibilities under this policy.

Consequences of Non-Compliance

Any employee, manager, supervisor, HR Manager, Workforce Equity Manager, EEO Officer, or Division or Department Director found to have failed to properly carry out the responsibilities outlined above, shall be subject to appropriate corrective action, up to and including termination.

ADDITIONAL RESOURCES & AVENUES FOR REPORTING AVAILABLE TO EMPLOYEES

King County Civil Rights Program, Office of Equity, Racial and Social Justice, <https://kingcounty.gov/elected/executive/equity-social-justice/civil-rights.aspx>

The enforcement unit of the Civil Rights Program investigates and resolves complaints of discrimination, provides education, and offers technical assistance. They work as impartial factfinders and do not represent any party.

Washington State Human Rights Commission, <https://www.hum.wa.gov/>

U.S. Equal Employment Opportunity Commission, <https://www.eeoc.gov/>