

Tompkins County's Workplace, Discrimination and Sexual Harassment Policy

Purpose: It is the policy of the Tompkins County Legislature and Management of Tompkins County to maintain a work environment free of unlawful discrimination and harassment for all of its employees and customers. Discrimination is defined as unequal treatment because of race, color, creed, ethnicity, sex, religion, national origin, age, marital status, disability, Vietnam Era status, Disabled Veteran, gender identity and expression, sexual orientation, arrest/conviction record, genetic predisposition and carrier status, and domestic violence victim. Sexual Harassment is a form of unlawful sex discrimination that, if proven, violates: Tompkins County Chapter 92, Anti-Discrimination Local Law (Human Rights Law) 6-1991; Tompkins County Affirmative Action Policy; Section 703 (Part 1604) of Title VII of the Civil Rights Act of 1964; and Article 15, New York Executive Law (Human Rights Law) §296. Workplace Harassment (Bullying) can also create a hostile work environment and will not be tolerated.

Definition of Workplace - For the purpose of this policy, the workplace includes the office, work sites, field office, and event/social functions both on and off the premises of the County, business meetings, business-related travel, or at any work location while representing the County.

Sexual Harassment: Federal and State case law has determined that unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

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

Prohibited Behavior - Unprofessional, inappropriate, or offensive conduct, whether committed by a supervisor, coworker, vendor, supplier, visitor, client, or any other non-employee, is prohibited, even if the conduct is welcome by the recipient(s). Prohibited conduct includes, but is not limited to:

- Insulting, lewd, or sexually oriented comments, jokes, innuendoes, or stories. This includes verbal harassment as well as written, text, voice mail, and e-mail messages;
- Demeaning, insulting, sexual flirtations, advances, propositions, or sexually suggestive comments used to describe an individual or the individual's appearance or body;
- Physical contact, including touching, groping, grabbing, hugging, massaging, fondling, or intentionally rubbing up against a person's body;
- A supervisor threatening or implying that a subordinate's acceptance or refusal of the supervisor's sexual advances will affect the subordinate's terms or conditions of employment (e.g., promotion, demotion, pay increase, termination).

Courts have also held employers legally liable for:

1. Sexual harassment by co-workers where the employer knew of or should have known of the conduct, but failed to take immediate corrective action to prevent further conduct;
2. Sexual harassment by non-employees on the employer's premises, unless the employer proves it took immediate and corrective action; or
3. Retaliation against any person making a sexual harassment allegation.

The County is cognizant of its exposure to legal liability for quid pro quo and hostile environment sexual harassment and seeks to protect/limit such exposure to liability by using preventive measures such as, but not limited to:

1. Expressing strong disapproval of inappropriate conduct, which may be construed as sexual harassment.
2. Establishing a Legislative Policy Prohibiting Sexual Harassment that is posted and well publicized.
3. Showing employees how to file complaints with assurances of confidentiality, impartiality and quick and thorough resolution.
4. Making counseling available for both the alleged harasser and the victim.

Tompkins County department heads, managers, supervisors, and employees must all refrain from such conduct or behavior. Allegations of discrimination or sexual harassment will be investigated immediately and thoroughly. The facts when compared to the legal standard for evaluating sexual harassment claims will determine the response to each allegation. Substantiated claims of discrimination or sexual harassment will be met with appropriate corrective/disciplinary action, up to and including discharge. All information gathered in the deposition of each allegation will be handled as confidentially as possible.

Sexual Harassment is a form of unlawful sex discrimination and will not be tolerated in any County Department any more than harassment based upon gender, sexual orientation, ethnicity, race, color, national origin, religion, disability, or any other EEO-protected categories. Any questions concerning this policy or any complaints of sexual harassment should be immediately directed to the Tompkins County Affirmative Action Officer at 607-274-5526, if informal, or the Tompkins County Human Rights Commission, at 607-277-4080, if formal.

Internal Grievance/Complaint Procedure for Handling Harassment and Other Forms of Discrimination

Any employee or applicant who believes that he/she has been harassed or unlawfully discriminated against by the County of Tompkins, by any County Department or by any County employee, should notify the Affirmative Action Officer at (607)-274-5526 of the alleged harassment or discrimination. The Affirmative Action Officer will attempt to resolve informally the concern of unlawful harassment or other form of discrimination. The focus of this complaint

procedure is on the resolution of informal concerns/complaints of harassment and other forms of discrimination brought to the Affirmative Action Officer by County employees.

Any employee or applicant may also, if he/she prefers, contact the Tompkins County Human Rights Commission, the State Division of Human Rights or the Equal Employment Opportunity Commission to make a formal complaint of unlawful harassment and other forms of discrimination. All complaints of alleged unlawful harassment and other forms of discrimination filed with these agencies will be investigated and acted upon promptly and confidentially.

All informal concerns brought to the Affirmative Action Officer and all formal complaints brought to the Tompkins County Human Rights Commission shall be resolved in an expeditious manner to assure that legal options for filing complaints with other enforcement agencies are not foreclosed.

Time Frames: Informal concerns/complaints of harassment and other forms of discrimination will normally be reviewed and resolved within fifteen (15) working days from the point at which the employee notifies the Affirmative Action Officer, unless otherwise stated.

Confidentiality: All informal concerns/complaints of harassment and other forms of discrimination will be resolved confidentially by the Affirmative Action Officer. All persons contacted by the Affirmative Action Officer in his/her efforts to resolve the matter shall hold discussions and documents, if any, in a confidential manner. A breach of this confidentiality requirement by the County's agents (e.g., Affirmative Action Officer, Department Heads, Managers, and Supervisors) may be interpreted as retaliation, resulting in disciplinary action up to and including discharge from employment.

Notification to Employees: All County employees will be informed of the availability of these internal grievance/complaint procedures and their right to bring their concerns of harassment and other forms of discrimination to the Affirmative Action Officer.

County employees may also exercise their legal options to file complaints with the Tompkins County Human Rights Commission, the U.S. Equal Employment Opportunity Commission, the U.S. Department of Labor - Office of Federal Contract Compliance Programs, the Federal Highway Administration, the New York State Department of Transportation, the Wage and Hour Division of the U.S. Department of Labor and any other state, federal or local enforcement agencies.

Record Keeping: All records of informal complaints/grievances and dispositions thereof shall be maintained and reviewed on a regular basis by the Affirmative Action Officer to

detect any patterns in the nature of the grievances. Records so retained shall be confidential except where disclosure is required by law.

The County's Affirmative Action Program shall retain a record of the matters alleged, the investigation conducted, the results thereof and the length of time required to resolve the informal complaint/grievance. Where informal allegations have resulted in complaints to enforcement agencies, the plan shall provide information on the number of such complaints, investigating agency, whether such matter is currently pending or the outcome thereof. All records relevant to employee grievances filed under these procedures shall be maintained by the agency for examination by the Tompkins County Human Rights Commission.

These policies are available for all Tompkins County Departments in the Administrative Policies Manual, on posters throughout County Buildings, at the Personnel Office and on the Tompkins County Web Site (www.tompkins-co.org). [Note: Applicable Polices Scheduled for Impact Review in 2013.]