

ORDINANCE NO. 17-6

AMENDING OZAUKEE COUNTY CODE OF ORDINANCES - AFFIRMATIVE ACTION POLICY AND HARASSMENT POLICY

An Ordinance amending Section 4.04 and 4.041 of the Ozaukee County Code of Ordinances pertaining to Affirmative Action Policy and Harassment Policy.

The County Board of Supervisors of the County of Ozaukee does ordain that Section 4.04 and 4.041 of the Ozaukee County Code of Ordinances be amended as follows:

4.04 AFFIRMATIVE ACTION POLICY

(1) General Policy. The County Board, as the duly elected legislative authority, and the County Board Chairperson, as the duly elected executive authority, of the County of Ozaukee, Wisconsin, do hereby reaffirm, endorse, support and are committed to the concept of equal opportunity employment as defined and/or implied under ~~Title VII of the Civil Rights Act of 1964, the Equal Employment Opportunity Act of 1972, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990 and all other~~ applicable State and Federal Statutes relating to non-discrimination in employment.

(a) It is the express policy of Ozaukee County to promote equal employment opportunity among all who are employed by Ozaukee County, or who seek employment with Ozaukee County, and to implement this policy through affirmative action.

(b) Ozaukee County will ensure that all persons are afforded equal access to and treatment in services, programs and facilities operated by Ozaukee County.

(c) Ozaukee County will ensure equal employment opportunity in all of its policies, including, but not limited to, recruiting, hiring, transfer, promotion, demotion, termination, disciplinary actions, training, compensation, benefits, and layoffs ~~and recall~~ practices.

(d) Ozaukee County does not and will not regard such factors as race, color, religion, creed, marital status, ancestry, sexual orientation, arrest record or conviction record, national origin, sex, pregnancy, genetic information disabilityies, -or age (40 and over), citizenship status, veteran status, military service, use or non-use of lawful products off the County's premises during non-working hours; or any other reason prohibited by state or federal law (except where sex, age, physical or mental requirements or arrest and conviction records are bona fide occupational qualifications) as having any bearing on whether or not an individual is accepted for employment or as having any influence as to how an individual might progress within the County organization thereafter.

(e) Ozaukee County is committed to providing a harassment free work environment for all employees, elected officials and third parties ~~men, women, minorities, elderly and disabled individuals~~.

(f) Ozaukee County shall make reasonable accommodation to the known physical or mental limitations of an ~~otherwise qualified~~ applicant or employee, provided that the individual is otherwise qualified to safely perform the essential duties and assignments connected with the job and provided unless it can be demonstrated that the

accommodation would not impose an undue hardship on the operation of one of its the County's programs or functions.

(g) Ozaukee County will endeavor to purchase goods and services only from individuals, agencies and companies which do not discriminate.

(h) Ozaukee County will publicize its equal opportunity program and policy statement through posting in the Administration Center and Justice Center, [the employee handbook](#) and the policy will continue to be noted in recruitment advertising.

(2) Organization and Direction. The responsibility and authority for the development and implementation of the County Affirmative Action is hereby assigned to a person who shall be known as the Affirmative Action Officer and shall have full access to all County departmental policies and procedures, rules and regulations, including personnel files, documents, background investigation reports and such other information as may be necessary to achieve full and faithful compliance with applicable Equal Employment Opportunity Laws and Regulations and for the development and implementation of a written Affirmative Action Program. ~~The Human Resources Director is hereby designated as the Affirmative Action Officer.~~

(3) Compliance Officer. ~~The County's designated Compliance Officer ("CO") with respect to this Affirmative Action Policy and the County's Affirmative Action Plan shall be the Human Resources Director, Room A101, Ozaukee County Administration Center, Port Washington, WI 53074, phone #: (262) 284-8321 or (262) 238-8321. Conclusion and Goal. This policy does not require the hiring or promotion of unqualified persons, nor does it require that qualified employees be terminated to create jobs for the un-qualified. It is an effort to ensure that the Ozaukee County personnel system is free from discrimination on the basis of race, color, national origin, creed, marital status, ancestry, sexual orientation, arrest record or conviction record, religion, disabilities or sex.~~

(4) Grievance Complaint Procedure.

(a) Employees/Applicants/Clients, Potential Clients, or other Individuals.

1. An employee, ~~or~~ applicant, client, potential client, or other individual who alleges discrimination in employment on the basis of race, color, religion, sex, national origin, age, marital or veteran status, disabilities or any other legally protected status, may file a grievance complaint with the CO. If a complaint is against the CO, it should be filed with the County Administrator. Human Resources Director, Room A101, Ozaukee County Administration Center, Port Washington, WI 53074, Phone #(262) 284-8321 or (262) 238-8321, TDD (262) 284-8200 or (262) 238-8200. The Human Resources Director also serves as the Americans with Disabilities Act (ADA) and Affirmative Action Compliance Officer and Civil Rights Compliance and Equal Employment Opportunity coordinator.

2. The following internal procedure is provided for the prompt resolution of grievances/complaints. ~~Applicants may initiate grievances at step b. of this procedure.~~

a. Individuals may file a verbal or written grievance/complaint, including the circumstances surrounding the nature of the dispute, along with the names of the parties involved, and remedies sought. Individuals initiating a complaint ~~shall~~

~~first~~ may arrange an informal discussion with the appropriate Department Head responsible for programs, operations and services at issue. The parties shall meet and attempt to reach a mutually agreeable resolution. The verbal complaint must be filed with the Department Head within 30 days after complainant became or should have become aware of the circumstances leading to the complaint. Complainants may initiate complaints at Step b. of this procedure.

b. If the matter is not resolved through informal discussion, the complaint ~~may~~ shall be filed in writing with the CO. The written complaint should describe the circumstances surrounding the nature of the dispute, along with the names of the parties involved, a list of potential witnesses, and remedies sought. The written complaint ~~must~~ should be filed ~~with the appropriate department head, with a copy to the Human Resources Director, within 30 days~~ within 60 days after the complainant became aware or should have become aware of the circumstances leading to the complaint.

~~c. — Upon receipt of the complaint, the department head shall meet with the parties and attempt to mediate and resolve the dispute. An opportunity will be provided to submit additional information regarding the complaint. If the mediation attempt is unsuccessful, the department head shall issue a written response within 7 days after the meeting between the parties.~~

~~cd. If the complaint is not resolved in step a. or b., the complainant may request in writing a meeting with the Human Resources Director. The Human Resources Director CO shall conduct an expeditious and thorough investigation and hearing within 10- 15 business days after receipt of the written request complaint. Simultaneously, the CO shall inform the individual alleged to have engaged in the discriminatory conduct (the “Respondent”) that a complaint has been received. The Respondent shall be informed of the nature of the allegations and shall be given the opportunity to submit a written response to the complaint within five (5) business days. The Human Resources Director shall attempt to reach a mutually satisfactory resolution. The CO shall keep parties apprised of the status of the investigation, including notification to the accused. The CO shall consider the necessity of any protective action for the complainant/victim during the pendency of the investigation. As part of the investigation, the CO shall conduct interviews and review any appropriate documentation related to the complaint. At the conclusion of the investigation, The Human Resources Director CO shall issue a written response within 7 days after the investigation and hearing. prepare and deliver a written report to the County Administrator that summarizes the evidence gathered during the investigation and provides recommendations as to whether the complainant has been subjected to unlawful discrimination. The COs’ recommendations must be based upon the totality of the circumstances. In determining if discrimination or retaliation occurred, a preponderance of evidence standard will be used. The CO may consult with the Board’s legal counsel before finalizing the report to the County Administrator.~~

1. Absent extenuating circumstances, within five (5) business days of receiving the report of the CO, the County Administrator must issue a final decision regarding whether the charges have been substantiated. A

copy of the County Administrator's final decision will be delivered to both the Complainant and the Respondent.

2.If the County Administrator determines the Complainant was subjected to unlawful discrimination, s/he must identify what corrective action will be taken to stop, remedy, and prevent the recurrence of the discrimination. The corrective action should be reasonable, timely, effective, and tailored to the specific situation.

3.The decision of the County Administrator shall be final.

ed. If the response of the ~~Human Resources Director~~CO or County Administrator is not satisfactory to the complainant, the complainant may file a complaint with any of the following agencies:

1. Equal Rights Division, Department of Industry, Labor and Human Relations, 201 E. Washington Ave., PO Box 8928, Madison, WI 53078. ~~(Must be filed within 300 days).~~
2. Equal Employment Opportunity Commission, 310 W. Wisconsin Avenue, Milwaukee, WI 53203. ~~(Must be filed within 180 days).~~
3. Office of Civil Rights, U.S. Department of Health and Human Services, 233 N. Michigan Ave., Suite 240, Chicago, IL 60601.

3. No ~~grievant~~complainant, ~~staff member~~employee, witness or other party will be intimidated, harassed or subjected to any other form of adverse action because of the filing of a ~~grievance~~ complaint of discrimination. All parties are encouraged to fully cooperate in the investigation without fear of adverse action or retaliation.

~~(b) — Clients, Potential Clients, or other Individuals (Service Delivery).~~

~~1. — Clients, potential clients, or any other individuals of agencies or any Ozaukee County department providing programs and services funded through or by the Division of Community Services, or any other funding source, may file a grievance, if the client, potential client or any other individual feels they have been discriminated against on the basis of race, color, religion, sex, national origin, age, marital or veteran status, disabilities, or any other legally protected status, with the Compliance Officer Human Resources Director, Room A101, Ozaukee County Administration Center, Port Washington, WI 53074, phone #(262) 284-8321 or (262) 238-8321, TDD (262) 284-8200 or (262) 238-8200. The Human Resources Director also serves as the Americans with Disabilities Act (ADA) and Affirmative Action Compliance Officer, and Civil Rights Compliance and Equal Employment Opportunity Coordinator.~~

~~2. — The following procedure is provided for the prompt resolution of grievances:~~

~~a. — The grievance should be submitted to the department head of the department allegedly discriminating against an individual. The grievance should be in writing (see b. below). The department head shall investigate the grievance and respond in writing within 30 days to the individual who submitted the grievance. Grievances/complaints should be filed within 180 days of an alleged~~

incident.

~~b. — Individuals are required to complete a Service Delivery Grievance form. Grievance forms are available at the reception desk of any agency/department or may be obtained from the Compliance Officer/Human Resources Director, Room A101, Ozaukee County Administration Center. Assistance in completing the form is available by contacting the Human Resources Director at phone #(262) 284-8321 or (262) 238-8321, TDD (262) 284-8200 or (262) 238-8200. Additional assistance may be obtained by contacting the department head of the department allegedly discriminating against an individual.~~

~~c. — If the individual is not satisfied with the response of the department head, he or she may request that the grievance be investigated by the Human Resources Director. The Human Resources Director shall conduct an investigation of the grievance and prepare a written report which will include recommendations to resolve the grievance. This report will be written or presented in a format which is understandable to the grievant. The report shall be provided within 30 days of the date of receipt of the grievance.~~

~~1. — Within 30 days of the receipt of the Human Resources Director's response, the complainant may appeal to the oversight committee or board of the agency/department upon request.~~

~~2. — The oversight committee or board shall meet within 30 days of the request and discuss the grievance. The committee or board shall respond within 30 days.~~

~~d. — If the complainant is not satisfied with the internal resolution of the complaint, the complainant may appeal to the agencies listed below:~~

~~1. — Department of Health and Social Services, Affirmative Action/Civil Rights Compliance Office, PO Box 7850, Madison, WI 53707.~~

~~2. — Office of Civil Rights, U.S. Department of Health and Human Services, 233 N. Michigan Ave., Suite 240, Chicago, IL 60601 (must be filed within 180 days of alleged discrimination).~~

~~3. — Equal Rights Division, Department of Industry, Labor and Human Relations, 201 E. Washington Avenue, PO Box 8928, Madison, WI 53078.~~

~~4. — Coordination and Review Section, Civil Rights Division, U.S. Department of Justice, 950 Pennsylvania Ave., Washington D.C. 20530.~~

(eb) SUMMARY:

1. Individuals are encouraged to use the internal complaint procedure and to submit a complaint as soon as possible, preferably within 30 days of the alleged incident.

2. The complaint procedure will be made available to all individuals and shall be posted in the reception area of each department. An audiotape recording will be provided for the visually impaired or the complaint procedure will be read to individuals upon request.

3. No complainant will be intimidated, harassed or subjected to any other form of adverse action because of filing a complaint of discrimination. All parties

are encouraged to fully cooperate in the investigation without fear of adverse action or retaliation.

~~4.—The right of all individuals to a prompt and equitable resolution of a complaint shall not be impaired by the individual's pursuit of remedies, which may include the filing of the complaint with a Federal or State agency. Utilization of this complaint procedure is not a prerequisite to the pursuit of other remedies.~~

5 4. The Human Resources Director shall maintain the files and records relating to any complaint filed under this ~~grievance~~ [complaint](#) procedure.

4.041 Harassment Policy

(1) Policy Statement.

(a) The most productive and satisfying work environment is one in which work is accomplished in a spirit of mutual trust and respect. Harassment is a form of discrimination which is offensive, impairs morale, undermines the integrity of employment relationships and causes serious harm to the productivity, efficiency and stability of our organization.

(b) All employees have a right to work in an environment free from discrimination and harassing conduct, including sexual harassment. Harassment on the basis of an employee's as race, color, religion, creed, marital status, ancestry, sexual orientation, arrest record or conviction record, national origin, sex, [pregnancy, genetic information](#) disability ~~ies, or~~ age (40 and over), [citizenship status, veteran status, military service, use or non-use of lawful products off the County's premises during non-working hours; or any other reason prohibited by state or federal law](#) is expressly prohibited under this policy. Harassment on any of these bases is also illegal under federal and/or state law.

(2) Definitions.

(a) In general, harassment ~~means~~ [consists of](#) persistent and unwelcome conduct or actions ~~on any of the~~ [based on a person's protected status as](#) ~~bases under~~ outlined above, ~~which affects tangible job benefits, interferes unreasonably with an individual's work performance, or creates an intimidating, hostile, or offensive working environment.~~ Sexual harassment is one type of harassment and includes unwelcome sexual advances, unwelcome physical contact of a sexual nature or unwelcome verbal or physical contact of a sexual nature.

(b) Unwelcome verbal or physical conduct of a sexual nature includes, but is not limited to:

1. The repeated making of unsolicited, inappropriate gestures or comments.
2. The display of offensive sexually graphic materials not necessary for our work.

(c) Harassment on any basis (race, sex, age, disability, etc.) exists whenever:

1. Submission to harassing conduct is made, either explicitly or implicitly, a term or condition of an individual's employment.
2. Submission to or rejection of such conduct is used as the basis for an employment decision affecting an individual.
3. The conduct interferes with an employee's work or creates an intimidating, hostile or offensive work environment.

(3) Recognizing Harassment.

(a) Harassment may be subtle, manipulative and is not always evident. It does not refer to occasional compliments of a socially acceptable nature. It refers to behavior that is not welcome and is personally offensive. All forms of gender harassment are covered. Men can be sexually harassed, men can harass men, women can harass other women. Offenders can be department heads, supervisors, co-workers and non-employees such as clients or vendors.

(b) Examples:

1. Verbal: jokes, insults and innuendoes (based on race, sex, age disability, etc.) de-grading sexual remarks, whistling, cat calls, comments on a person's body or sex life, or pressures for sexual favors.

2. Non-verbal: gestures, staring, touching, hugging, patting, blocking a person's movement, standing too close, brushing against a person's body, or display of sexually suggestive or degrading pictures, racist or other derogatory cartoons or drawings.

(4) Grievance Complaint Procedure.

~~(a) Any employee who believes he or she is being harassed, or any employee who becomes aware of harassment, should promptly notify his or her supervisor or the Human Resources Department. If the employee believes that the supervisor is the harasser, the Human Resources Department should be notified. If an employee is uncomfortable discussing harassment with his or her supervisor, the employee should contact the Human Resources Director. Information on your right to file a state or federal harassment complaint is also available from the Human Resources Department.~~

~~(b) Upon notification of a harassment complaint, a confidential and impartial investigation will be promptly commenced and will include direct interviews with involved parties and where necessary with employees who may be witnesses or have knowledge of matters relating to the complaint. The parties of the complaint will be notified of the findings and their options.~~

(a) Any employee who believes he or she has been the victim of harassment or has observed harassment, including, but not limited to sexual harassment, should immediately inform his or her supervisor, department head or the Human Resources Director. These parties will provide confidential assistance to individuals in an attempt to resolve issues of sexual harassment or other types of harassment. In all cases, efforts should be made to resolve and correct sexual harassment or other types of harassment issues prior to the filing of a complaint. If an employee wishes to file a complaint, he or she may do so through the Human Resources Department.

(b) Investigation of harassment complaints will begin with a signed, written statement by the complainant, and will include interviewing the parties involved in the complaint and any witnesses.

(c) Complaints will be investigated in a timely and confidential manner. In no event will information concerning a complaint be released to or discussed with anyone who is not involved with the investigation. The purpose of this provision is to protect the confidentiality of the complainant, to encourage the reporting of incidents of sexual harassment or other types of harassment, and to protect the reputation of an employee

wrongfully accused of sexual harassment.

(d) If an investigation reveals that a harassment complaint is valid, supervisors and the department head will take immediate action to stop the harassment, to prevent its recurrence and to discipline an employee they find guilty.

(5) Non-Retaliation.

(a) ~~This policy also~~ The County expressly prohibits retaliation of any kind against any employee bringing a complaint, reporting harassment, or assisting in the investigation of a complaint. Complaints of retaliation shall be reported and processed in the same manner as complaints of harassment. Such employees may not be adversely affected in any manner related to their employment. Such retaliation is also illegal under federal and state laws.

(6) Disciplinary Action.

(a) Ozaukee County views harassment and retaliation to be among the most serious breaches of work place behavior. Consequently, appropriate disciplinary or corrective action, ~~ranging from a warning to~~ up to and including termination, can be expected.

This Ordinance shall take effect upon enactment and publication.

Dated at Port Washington, Wisconsin, this 4th day of October 2017.

SUMMARY: Adoption of revisions to Chapter 4 of the county's Code of Ordinances that include an Affirmative Action Policy and Harassment Policy to update definitions, streamline complain procedures, update contact information, and reinforce non-retaliation language.

VOTE REQUIRED: Majority

FINANCE COMMITTEE

RESULT:	APPROVED [UNANIMOUS]
MOVER:	R. Nelson, Vice-Chairperson
SECONDER:	D. Gall, Supervisor District 16
AYES:	D. Becker, R. Nelson, J. Strom, D. Gall
EXCUSED:	G. Wirth

Lee Schlenvogt

CHAIRPERSON - COUNTY BOARD