

Discrimination and Harassment

Index Code: 706

Effective Date: 02/01/06 (Revised 7/10/17)

I. Purpose

The purpose of this directive is to establish a work environment that is free from all forms of discrimination, harassment, and retaliation, or any conduct considered bullying, coercive, disruptive or harassing, and to establish procedures for addressing such conduct should it occur within the Queen Anne’s County Office of the Sheriff.

II. Policy

It is the policy of the Queen Anne’s County Office of the Sheriff to prohibit any form of discrimination, harassment, and retaliation, including sex discrimination, and to thoroughly investigate any such allegations/complaints.

The Office of the Sheriff, by and through its officials, agents, employees, and all other persons in active concert or participation with the Office of the Sheriff in the performance of employment or personnel functions shall not engage in any act or practice that discriminates against any employee or applicant on the basis of sex in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, *et seq.* (“Title VII”). The Office of the Sheriff is also committed to complying with the Americans with Disabilities Act (ADA) and with the regulations and guidance issued by the Equal Employment Commission (EEOC). The Office of the Sheriff complies with Queen Anne’s County Human Resources Americans with Disabilities Policy 300-413 while understanding the specialized requirements of law enforcement.

The Office of the Sheriff, by and through its officials, agents, employees, and all other persons in active concert or participation with the Office of the Sheriff in the performance of employment or personnel functions, shall not retaliate against or in any way adversely affect the terms or conditions of employment of any person because that person has opposed a practice made unlawful by Title VII filed a charge with the U.S. Equal Employment Opportunity Commission (EEOC), or testified, assisted or participated in any manner in an

investigation, proceeding, or hearing under Title VII.

III. Definitions

A. Discrimination

Discrimination refers to an established practice that confers privileges on a certain class or that denies privileges to a certain class because of race, age, sex, nationality, religion, or disability. Federal law, including the ADA and Title VII of the Civil Rights Act, prohibits employment discrimination based on any one of those characteristics.

B. Sex Discrimination

Sex Discrimination includes discrimination based on gender and pregnancy.

C. Harassment

Harassment is words, conduct, or action that, being directed at a specific person annoys, alarms, or causes substantial emotional distress in that person

D. Sexual Harassment

Sexual Harassment is a type of employment discrimination consisting of verbal or physical abuse sexual in nature.

IV. Title VII of the Civil Rights Act of 1964

A. Under Title VII, “It shall be an unlawful employment practice for an employer (1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual’s race, color, religion, sex, or national origin; or (2) to limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment or otherwise adversely affect his status as an employee, because of such individual’s race, color, religion, or national origin.” (Volume 42 United States Code, Section 2000e-2)

B. Two forms of workplace sexual harassment have been held to constitute discrimination because of one's sex, hence to offend this statute:

1. Quid Pro Quo Sexual Harassment, in which the satisfaction of a sexual demand is used as the basis of an employment decision. An example of a Quid Pro Quo Sexual Harassment is an employer firing or demoting an employee who refused to go out on a date with the employer.

2. Hostile Environment Sexual Harassment in which a work environment is created where an employee is subject to unwelcome verbal or physical sexual behavior that is either severe or pervasive. An example of a Hostile Environment Sexual Harassment would be a group of coworkers repeatedly e-mailing pornographic pictures to a colleague who found the pictures offensive.

A hostile work environment amounts to unlawful sex discrimination even in the absence of a tangible job benefit (U.S. Supreme Court in Meritor Savings Bank v. Vinson).

A hostile work environment is not limited to sexual advances; it can include hostile or offensive behavior based on the person's sex (gender).

The extent of liability may be determined by what preventive and remedial measures the employer takes.

C. A hallmark of sexual harassment claims is that the advances are "unwelcome," which means that the person did not invite or solicit the advances. Sexual harassment is an infringement of an employee's right to work in an environment free from unwanted sexual attention and sexual pressure of any kind.

D. Sexual demands in the workplace, especially between a supervisor and a subordinate, may threaten a person's economic livelihood; create an atmosphere that is not conducive to maximum productivity; and creates morale problems.

E. Sexual harassment need not involve a male supervisor and a female subordinate.

F. Sexual harassment can be a single offense, or a series of offenses. An important element in recognizing sexual harassment is in understanding the perspective of the victim toward the harasser and toward the conduct applied.

G. The complainant need not be the person directly harassed, but could be anyone affected by the offensive conduct that occurs in the workplace.

H. The following is a partial list of the types of activities that could be considered sexual harassment depending on the facts and circumstances:

1. Unwanted or offensive physical touching.

2. Jokes consisting of derogatory, vulgar, and/or uncomplimentary language of a sexual nature.

3. Unwanted, unwelcome and unsolicited propositions or advances.

4. Offensive language spoken relating to a person's sex or of a sexual nature.

5. Holding up to ridicule, or otherwise abusing a member of one sex to others.

6. The placement of sexually explicit material in work areas, desks, etc.

7. Notes and other messages made relating to a person's sex or of a sexual nature either signed or anonymously placed on bulletin boards, in lockers, etc.

8. The required wearing of particular types of clothing, or the inference that wearing particular types of apparel will enhance one's career.

9. Attempted or actual transfer, demotion, dismissal, etc. after refusing or resisting sexual advances.

10. Requesting or ordering employees, based on gender or employees of only one gender, to perform tasks that are not part of their job specifications.

11. Demeaning comments spoken or actions made on account of sex or of a sexual nature.

12. Nonverbal suggestive or insulting noises, leers, whistles, or gestures.

V. Training

A. Initial Training for Non-Supervisory Personnel

1. All employees will receive training regarding policies and procedures adopted or amended regarding equal employment opportunity law, including Title VII's prohibitions against sex discrimination and retaliation, and how to provide an environment free from such discrimination and retaliation.

2. All training as outlined herein will be conducted live or by video. Said training shall be administered within sixty (60) days of hire, and be coordinated through the Sheriff's designated Training Coordinator.

3. All employees receiving said training will sign an acknowledgment of attendance at the training, which will be maintained by the Sheriff's Training Coordinator.

B. Initial Training for Supervisors and Managers

1. In addition to the required training for non-supervisory personnel as described above, all supervisors, managers, and administrators working in or for the Office of the Sheriff shall receive training in receiving and responding to complaints of discrimination or otherwise providing oversight for the enforcement of policies and procedures adopted or amended.

2. All training as outlined herein will be conducted live or by video. Said training shall be administered within sixty (60) days of being hired, promoted, or elected, and will be coordinated by the Sheriff's designated Training Coordinator.

3. All employees receiving said training will sign an acknowledgment or attendance at the training, which will be maintained by the Sheriff's Training Coordinator.

VI. Provisions for Reporting and Investigating Discrimination or Harassment

1. Employees, potential employees, and any person holding a position of employment in

the Office of the Sheriff, may make a complaint of discrimination or retaliation to any supervisor employed by the Office of the Sheriff or to the Office of the Sheriff Department of Human Resources.

2. Employees, potential employees, and any person holding a position of employment in the Office of the Sheriff who wishes to submit a complaint of sex discrimination or retaliation to the Queen Anne's County Department of Human Resources may contact the Director of Human Resources, or the Assistant Director of Human Resources at 410-758-4406.

3. If the Office of the Sheriff receives a complaint of sex discrimination or retaliation, it will refer the complaint to the Queen Anne's County's Department of Human Resources within two business days of receipt of the complaint.

4. If a supervisor in the Office of the Sheriff observes any sex discrimination or retaliation, they shall promptly report it through a written complaint to the Queen Anne's County Department of Human Resources within two (2) business days of observing the prohibited conduct.

5. If a complaint of sex discrimination or retaliation is filed with the Office of the Sheriff or the Queen Anne's County Department of Human Resources against any employee, the Queen Anne's County Department of Human Resources will:

a. Notify the Sheriff that a complaint has been received within two (2) business days of a receipt of a complaint, and the notification will include, at a minimum:

- 1) The nature of the complaint
- 2) The date of the complaint
- 3) The name of the complainant
- 4) The name of the accused

b. Provide the complaint no later than two (2) business days from its receipt to the outside independent legal counsel retained by the County for their recommendation on whether an investigation is warranted by the Internal Affairs Division of the Maryland State Police or other outside law enforcement agency.

c. Ensure that the recommendations of the outside independent legal counsel are provided to the Queen Anne's County's Department of Human Resources in a timely manner, but no later than thirty-five (35) days from the date the complaint is received so that the Sheriff can respond to the complaining party in writing.

d. If the legal counsel concludes that there exists sufficient indication that sex discrimination and/or retaliation may have occurred and that it may lead to disciplinary action, demotion, or dismissal, the Queen Anne's County Department of Human Resources shall refer the names of the complainant and accused, and the nature of the complaint, to the Commander of the Internal Affairs Division of the Maryland State Police or other outside law enforcement agency for investigation. The Internal Affairs Commander can be contacted at (410) 653-4350.

e. The investigating agency will, if possible, provide, in writing, to the Sheriff within one hundred and eighty days (180) of receipt of the complaint:

- 1) A summary of the allegations that were investigated
- 2) Findings of fact and conclusions
- 3) If permitted by the investigating agency, a recommendation for disposition of the complaint against any individual found to have violated the Sheriff's policies and procedures that prohibit sex discrimination or retaliation

f. Within two (2) days of receiving the above named materials from the investigating agency the Sheriff will provide a copy to the Queen Anne's County Department of Human Resources.

7. Pending the outcome of any investigation for discrimination or retaliation, reasonable efforts will be made by the Office of the Sheriff to promptly separate the complainant and the accused, including efforts to ensure that the complainant and accused do not share workspace, unless exigent circumstances require otherwise, and that the accused is removed from the complainant's direct chain of command.

8. No later than five (5) business days from the date the materials and/or recommendations are received from the Queen

Anne's County Department of Human Resources, or from the investigating agency, the Office of the Sheriff will inform the complainant, in writing:

a. Whether the complaint was investigated.

b. The results of an investigation of a complaint of sex discrimination or retaliation.

c. Whether disciplinary action was taken against the accused.

9. If the Office of the Sheriff deviates from any disciplinary recommendations provided by the outside independent legal counsel retained by the County, or the investigating agency, the Sheriff must attach to the investigation materials a written explanation for the difference.

10. For a substantiated complaint alleging harassment, the Office of the Sheriff will permanently separate the complainant and the accused harasser, even if an employee with supervisory authority is the individual against whom the complaint is substantiated, unless exigent circumstances require that the two individuals are temporarily placed together.

11. If the complaint is made against a law enforcement officer, the investigation will be conducted according to applicable laws, including Maryland's Law Enforcement Officers' Bill of Rights, Maryland Code Annotated, Public Safety §§ 3-101 to 3-113, and based on sound investigative techniques.

VII. Supervisor's Responsibilities

In addition to the above stated procedures for reporting and investigating allegations of discrimination, harassment, and/or retaliation, all supervisors, regardless of assignment, are responsible for the following:

A. Monitor the work environment of subordinates for signs that discrimination, harassment, or retaliation may be occurring.

B. Stop observed acts that may be considered discrimination, harassment, and/or retaliation, and take appropriate steps to intervene, regardless of whether the involved members are within their line of supervision or command.

C. Report incidents of suspected discrimination, harassment, or retaliation as outlined herein.

D. Immediately limit the work contact between the complainant and the accused.

VIII. Additional Provisions

A. No action or alteration in the terms and/or conditions of employment will occur for the complainant for the filing of a complaint, regardless of whether substantiated or unsubstantiated, unless it is determined that the complaint was false and filed for improper purposes.

B. No person accused in a complaint of an act of discrimination, harassment, and/or retaliation will participate in the processing of a complaint arising out of such accusations.

C. All information supplied in connection with a complaint and investigation of discrimination, harassment, and/or retaliation will be held in confidence, and available only to those officials who are responsible for investigating or adjudicating the complaint.

D. All information obtained during an initial inquiry and/or investigation of a complaint of discrimination, harassment, and/or retaliation will be held in strict confidence as applicable to the provisions set forth in this directive.

IX. Administration of Discipline

Any employee of the Queen Anne's County Office of the Sheriff found to have willfully or intentionally engaged in discrimination, harassment, and/or retaliation of another employee will be held liable for his/her conduct, and will be subject to stringent disciplinary action(s) including possible separation of employment. The Sheriff, or his/her designee, will administer the appropriate disciplinary action.

X. CALEA Reference: 26.1.3.

XI: Proponent Unit: Sheriff

XII. Cancellation: This directive cancels Index Code 706 dated 9/7/16

Sheriff Gary Hofmann