RESOLUTION NO 145 - 2001

A Resolution Adopting the Kitsap County Policy Prohibiting Discrimination and Harassment

Whereas, Kitsap County strives to provide a collegial work environment in which all individuals are treated with respect and dignity. Each individual has the right to work in a professional atmosphere that promotes equal opportunities and prohibits discrimination based on race, color, national origin, religion, sex, sexual orientation, age or disability;

WHEREAS, existing Kitsap County policies prohibit discrimination in any aspect of employment based on race, color, national origin, religion, sex, sexual orientation, age, or disability;

WHEREAS, by Resolution No. 477-1992, the Board of County Commissioners reaffirmed its policy condemning sexual harassment in the workplace, and established procedures for reporting and investigating complaints of harassment; and

WHEREAS, the Board desires to revise the County's procedures for reporting and investigating sexual harassment complaints, and ensure that express procedures are in place for reporting and investigating complaints of discrimination based on race, color, national origin, religion, sex, sexual orientation, age or disability.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS:

1. Resolution No. 477-1992 is hereby repealed.

2. The Kitsap County Policy Prohibiting Discrimination and Harassment attached hereto is hereby adopted this 13th day of August, 2001.

KITSAP COUNTY BOARD OF COMMISSIONERS

/s/Chris Endresen
Chris Endresen, Chair

/s/Tim Botkin
Tim Botkin, Commissioner

ATTEST:

/s/Pat Lawson for
Holly Anderson
Clerk of the Board

/s/Jan Angel
Jan Angel, Commissioner
Appendix I

KITSAP COUNTY POLICY PROHIBITING DISCRIMINATION AND HARASSMENT

STATEMENT OF PHILOSOPHY

Kitsap County strives to provide a collegial work environment in which all individuals are treated with respect and dignity. Each individual has the right to work in a professional atmosphere that promotes equal opportunities and prohibits discrimination based on race, color, national origin, religion, sex, sexual orientation, age or disability.

DISCRIMINATORY PRACTICES

Kitsap County prohibits discrimination based on race, color, national origin, religion, sex, sexual orientation, age, or disability in any aspect of employment, including:

- job advertisements and recruitment;
- testing;
- hiring and firing;
- compensation, assignment, or classification of employees;
- transfer, promotion, layoff, or recall;
- training and apprenticeship opportunities;
- fringe benefits;
- use of county facilities and equipment;
- other terms and conditions of employment.

Kitsap County’s prohibition of discriminatory practices also includes:

- harassment on the basis of race, color, national origin, religion, sex, sexual orientation, age or disability;
- retaliation against an individual for filing a charge of discrimination, participating in an investigation, or opposing discriminatory practices;
- employment decisions based on stereotypes or assumptions about the abilities, traits, or performance of individuals of a certain race, color, national origin, age, religion, sex, sexual orientation, or with disabilities.

HARASSMENT IS A FORM OF DISCRIMINATION

Harassment that creates a hostile work environment and occurs because of person’s race, color, national origin, religion, sex, sexual orientation, age, or disability is a form of discrimination. Hostile work environment harassment consists of unwelcome statements or actions that are sufficiently severe or pervasive so as to interfere with an individual’s work performance or create an intimidating, hostile, or offensive work environment based on race, color, national origin, religion, sex, sexual orientation, age, or disability.
Throughout this policy, use of the word “discrimination” is intended to include harassment that occurs because of person’s race, color, national origin, religion, sex, sexual orientation, age, or disability.

SEXUAL HARASSMENT

For purposes of this policy, sexual harassment is defined as unwelcome or unwanted advances, requests for sexual favors and any other verbal, visual, or physical conduct of a sexual nature when: (1) submission to or rejection of this conduct by an individual is used as a factor in decisions affecting hiring, evaluation, retention, promotion or other aspects of employment; or (2) this conduct substantially interferes with an individual's employment or creates an intimidating, hostile or offensive work environment.

Examples of sexual harassment may include, but are not limited to: unwanted sexual advances; demands for sexual favors in exchange for favorable treatment or continued employment; threats and demands to submit to sexual requests in order to obtain or retain any employment benefit; verbal conduct such as epithets, derogatory or obscene comments, slurs or sexual invitations, sexual jokes, propositions, suggestive, insulting, obscene comments or gestures or other verbal abuse of a sexual nature; graphic, verbal commentary about an individual's body, sexual prowess or sexual deficiencies; flirtations, advances, leering, whistling, touching, pinching, assault, blocking normal movements; visual conduct such as derogatory or sexual posters, photographs, cartoons, drawings or gestures or other displays in the work place of sexually suggestive objects or pictures; conduct or comments consistently targeted at only one gender, even if the content is not sexual; retaliation for having reported or threatened to report sexual harassment.

HARASSMENT BASED ON RACE, NATIONAL ORIGIN, COLOR, RELIGION, SEXUAL ORIENTATION, OR AGE

For purposes of this policy, harassment targeted at a person because of his or her race, ethnicity, color, religion, sexual orientation, age or disability is strictly prohibited. Examples of harassment may include, but are not limited to: slurs, innuendo, taunting, mocking, jokes, epithets, cartoons, drawings or gestures, derogatory comments and other forms of obnoxious conduct motivated by a person’s race, color, national origin, religion, sexual orientation or age.

DISCRIMINATION BASED ON DISABILITY

An individual with a disability is a person who has or had any sensory, physical or mental abnormality, or has a record of such an abnormality, or is regarded as having or having had such an abnormality, and the abnormality has or had a substantially limiting effect upon the employee’s ability to perform his or her job.

Kitsap County prohibits discrimination against qualified employees or applicants with a disability. A qualified individual with a disability is someone who satisfies skill, experience, education, and other job-related requirements of the position held or desired, and who, with or without reasonable accommodation, can perform the essential functions of that position.
An employer is required to make a reasonable accommodation to a qualified individual with a disability unless doing so would impose an undue hardship on the operations of the County.

DISSEMINATION OF POLICY

This policy will be disseminated to all employees, and its existence will be displayed prominently in each department and/or division in the County. A copy will be maintained in the County’s Personnel Manual. All supervisors shall be responsible for knowing of its existence and substance, and are responsible for its implementation. The Director of Personnel and Human Services and the Personnel Manager will be available to answer all questions about the policy and its implementation.

INDIVIDUALS AND SITES COVERED UNDER THE POLICY

This policy covers all individuals in the workplace. Kitsap County will not tolerate, condone or allow discrimination whether engaged in by fellow employees, supervisors, managers, elected officials, volunteers, or by outside clients, vendors, contractors, or other non-employees who conduct business with Kitsap County. Kitsap County encourages reporting of all incidents of discrimination, regardless of who the offender may be, or of the offender's relationship to Kitsap County.

Discrimination is unacceptable in the workplace itself and in other work-related settings such as on business trips and at business-related social events.

REPORTING A COMPLAINT

While Kitsap County encourages individuals who believe they are being harassed to firmly and promptly notify the offender that his or her behavior is unwelcome, the County also recognizes that power and status disparities between an alleged harasser and a target may make such a confrontation impossible. In the event that such informal, direct communication between individuals is either ineffective or impossible, the following steps should be followed in reporting discrimination.

Knowingly false accusations of discrimination will not be tolerated, and may result in discipline up to and including termination.

NOTIFICATION OF APPROPRIATE STAFF

Individuals who believe they have been subjected to discrimination, or who have knowledge of or witnessed discriminatory conduct toward another, shall report the discrimination to the following individuals:

- the Director of Personnel & Human Services, whose address is 614 Division Street, MS-23, Port Orchard, WA 98366, telephone number (360) 337-7185;
ACTION FOLLOWING NOTIFICATION

Upon being notified of a complaint of discrimination, the complainant will be made aware of a range of options, including:

- the complainant may meet informally with any of the above-listed individuals in an attempt to resolve the matter informally;
- the complainant may choose to discuss the complaint with the person accused, with the option of having any of the above-listed individuals present;
- at the request of the complainant the person who received the complaint may choose to discuss the complaint with the accused; or
- the complainant may file a formal complaint.

The complainant may have a representative, such as a co-worker, union representative or attorney, present at a meeting held to address or resolve the complaint.

If a complaint is resolved informally to the complainant's satisfaction, the Director of Personnel and Human Services, Personnel Manager, or County Administrator shall file or cause to be filed in the Department of Personnel and Human Services a confidential report about the complaint and its resolution so that the employer will be aware of any pattern of discrimination by a particular individual and will also be aware of all complaints on an employer-wide basis.

FORMAL COMPLAINT PROCEDURE

If a complainant chooses to forego the informal complaint process outlined above, the complainant, or someone on the complainant’s behalf, may file a formal written complaint with the Director of the Department of Personnel and Human Services. A description of the formal complaint procedure process follows:

1. DESCRIPTION OF MISCONDUCT

An accurate record of objectionable behavior or misconduct is needed to resolve a formal complaint. Verbal reports of discrimination must be reduced to writing by either the complainant or the individual(s) designated to receive complaints, and must be signed by the complainant. Individuals who believe that they have been or are currently being
discriminated against or harassed, should maintain a record of objectionable conduct in order to prepare effectively and substantiate their allegations.

2. TIMEFRAME FOR REPORTING COMPLAINT

Kitsap County encourages a prompt reporting of complaints so that rapid response and appropriate action may be taken. This policy not only aids the complainant, but also helps to maintain an environment free from discrimination for all employees. A complainant’s formal complaint of discrimination or harassment must be submitted to the Director of Personnel and Human Services within 90 days of the alleged incident of harassment.

3. INVESTIGATING THE COMPLAINT

Following filing of a formal complaint, a formal investigation will begin promptly. The Director of Personnel and Human Services will select an impartial investigator.

4. CONFIDENTIALITY

To the extent practical and appropriate under the circumstances, and to the extent permitted by law, the proceedings will be conducted to protect the confidentiality interests of both parties and afford the accused a full opportunity to respond to the allegations.

5. INVESTIGATION PROCESS

In conducting the investigation, the investigator will try to take the wishes of the complainant under consideration, but will thoroughly investigate the matter, keeping the complainant informed as to the status of the investigation. Steps to be taken in the investigation include: Confirm name and position of the complainant. Identify the alleged harasser. Thoroughly ascertain all facts that explain what happened. Questions should be asked in a non-judgmental manner. Determine frequency/type of alleged discrimination and, if possible, the dates and locations where alleged discrimination occurred. Find out if there were witnesses who observed the alleged discrimination. Ask the individual how he/she responded to the alleged discrimination. Develop a thorough understanding of the professional relationship, degree of control and amount of interaction between the alleged harasser and complainant. Does the person control compensation, terms of employment or promotions? Do these individuals work in close proximity to one another and/or on the same projects? Determine whether the alleged harasser has carried out any threats or promises directed at the complainant. Does the complainant know of or suspect that there are other individuals who have been harassed by the alleged harasser? Has the complainant informed other employees of the situation? What response, if any, did complainant receive from these individuals? Ask complainant what action he/she would like the employer to take as a consequence of the discrimination. When first interviewing the alleged harasser, remind him/her of the employer's policy against retaliation for making a complaint of discrimination.
6. RESOLVING THE COMPLAINT

The investigator will use his or her best efforts to issue written findings and a recommendation to the Director of Personnel and Human Services within 60 days of the filing of a formal complaint. The complainant will be notified if additional time is needed to complete the investigation. If discrimination occurred, the harasser will be subject to appropriate disciplinary action, as listed below. The Director will consult with the department head or elected official where the complaint arose for a decision concerning discipline. The complainant will be informed of the disciplinary action taken. If the Director determines that no discrimination has occurred, this finding will be communicated to the complainant in an appropriately sensitive manner. If the Director cannot determine whether or not discrimination has occurred, this finding will be communicated to the complainant and the alleged harasser, and the matter will be recorded as unresolved. Both the complainant and the alleged harasser will be informed again of the procedures set forth in this policy, including the appeal process contained below. In the event that no resolution satisfactory to both parties can be reached based on the initial investigation, the matter shall be referred to the Board of County Commissioners. See “Appeal Process” below.

7. SANCTIONS

The elected official or department head, in consultation with the Director of Personnel and Human Services, will determine appropriate sanctions. In addressing incidents of discrimination, the employer's response at a minimum will include reprimanding the offender and preparing a written record. Additional action may include referral to counseling, withholding of a promotion, demotion or reassignment, temporary suspension without pay, financial penalties or termination. This policy is designed to protect all employees from discrimination in any way associated with the workplace or work environment, no matter who the harasser is. Although the employer's ability to discipline a non-employee harasser (e.g. vendor, contractor, member of the public, public official, or client) may be limited by the degree of control, if any, that the employer has over the alleged harasser, any employee who has been subjected to discrimination should file a complaint and be assured that action will be taken. Such action may include ceasing business with the vendor, contractor, citizen or client, reporting a vendor or contractor to his or her employer, reporting a public official to an appropriate agency or any other appropriate action to protect employees.

8. APPEAL PROCESS

If any party directly involved in an investigation is dissatisfied with the outcome or resolution, that individual has the right to appeal the decision. Within 10 days following the receipt of notice of the decision, the dissatisfied party must submit a written request for review to the Board of County Commissioners.

9. REVIEW BY THE BOARD OF COUNTY COMMISSIONERS

Upon receipt of a request for review of a decision concerning the outcome or resolution of a complaint of discrimination or harassment, the Board of County Commissioners will review the complaint. The Board will: gather evidence and take whatever steps deemed necessary...
and appropriate to ensure that all facts have been fully investigated, presented and considered; provide the participants with an opportunity to present evidence and information and to comment on evidence and information presented to others; and issue written findings of facts and a decision. The Board of County Commissioners may sustain, overturn, or modify the results of the investigation and/or resolution.

PROTECTION AGAINST RETALIATION

The employer will not retaliate in any way against an individual who makes a complaint of discrimination or against any participant in the investigation, nor permit any employee to do so. Retaliation is a serious violation of this policy and should be reported immediately. Any person found to have retaliated against another individual for reporting discrimination will be subject to the same disciplinary action provided for offenders, up to and including termination.

FORMAL LEGAL PROCEEDINGS

The procedures above apply to internal complaints of discrimination. Different procedures apply after a formal charge is filed with the Equal Employment Opportunity Commission or Washington State Human Rights Commission, or after a civil lawsuit is filed. If you receive such a charge or complaint, you are directed to deliver it to the Director of Personnel and Human Services immediately. All responses to such a formal charge or complaint will be made through the Department of Personnel and Human Services.

CONCLUSION

Kitsap County has developed this policy to ensure that all its employees can work in an environment free from discrimination and harassment. The County will make every effort to ensure that all personnel are familiar with the policy and know that any complaint received will be thoroughly investigated and appropriately resolved.