

2011-0032 Attachment A

1/13/2011

METROPOLITAN KING COUNTY COUNCIL
Legislative Branch

Policies and Procedures Against Unlawful Harassment and Discrimination

I. Policy Statement

The Metropolitan King County Council promotes a respectful, non-discriminatory work environment, free of behavior which is illegal and/or which contributes to interpersonal conflicts, poor performance, or poor morale. Therefore, the Metropolitan King County Council prohibits:

- sexual harassment;
- discrimination or harassment of, or inappropriate conduct toward, any employee on the basis of his or her race, color, sex, marital status, sexual orientation, religion, ancestry, national origin, and/or the presence of any sensory, mental, or physical disability; and
- retaliation.

This policy applies to members of the council, councilmembers' personal and district support and constituent services staff, and all employees of the legislative branch. Violations of this policy may lead to censure or discipline, up to and including discharge.

This policy is supplemental to other procedures available under federal, state, and county laws, including but not limited to the Whistleblower Ordinance (K.C.C. ch. 3.42), the Ethics Code (K.C.C. ch. 3.04), and the Fair Employment Practices Code (K.C.C. ch. 12.18). Employees are encouraged to report pursuant to this policy, but shall continue to have the right to utilize other formal complaint procedures established by law.

II. Definitions

A. “Discrimination” has the meaning set forth in KCC chapter 12.18, which prohibits any action or failure to act, the effect of which is to adversely affect or differentiate persons on the basis of race, color, age, sex, marital status, sexual orientation, religion, ancestry, national origin, or the presence of any sensory, mental or physical handicap, unless based upon a bona fide occupational qualification.

B. Harassment can take many forms and can include slurs, comments, jokes, innuendoes, unwelcome compliments, cartoons, pranks, and/or other verbal or physical conduct relating to an individual, on the cases of race, color, age, sex, marital status, sexual orientation, religion, ancestry, national origin or the presence of any disability. It is illegal when such harassment:

- (1) has the purpose or effect of creating an intimidating, hostile or offensive working environment;

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- (2) has the purpose or affect of unreasonably interfering with an individual's work performance; or
- (3) otherwise unreasonably affects an individual's employment opportunities.

C. "Sexual harassment" is a type of harassment and a form of unlawful discrimination. It includes unwelcome sexual advances, requests for sexual favors, displays of sexually oriented materials, and other verbal or physical conduct of a sexual nature. It is illegal when:

- (1) submission to such conduct, either explicitly or implicitly, is made a term or condition of an individual's employment; or
- (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- (3) such conduct has the purpose or effect of unreasonably interfering with an employee's work performance or creates an intimidating, hostile, or offensive environment.

D. "Inappropriate conduct" is conduct that, while not amounting to unlawful harassment, has a sexual or racial component, or is otherwise based on status as set forth in II(a), and may reasonably have the effect of lowering morale and/or productivity. Inappropriate conduct does not include occasional compliments of a socially acceptable nature, nor conduct or actions that arise out of a personal or social relationship.

E. "Retaliation" means an adverse employment action against an individual because he/she has complained in good faith of discrimination, harassment, inappropriate conduct, and/or sexual harassment, inappropriate conduct of a sexual nature, or retaliation, or assisted or participated in an investigation of such allegations.

III. Issues and Complaint Resolution Procedure

A. Employees who experience, witness, or learn of what may be discrimination, harassment, inappropriate conduct, sexual harassment, and/or retaliation are strongly encouraged to come forward. The employee should tell the alleged harasser to stop the behavior, and/or report the behavior to any of the following individuals:

- 1. the employee's own supervisor;
- 2. any other supervisor;
- 3. the chief of staff or his or her designee; or
- 4. the council's legal counsel.

B. Supervisors who witness or learn of possible discrimination, harassment, sexual harassment, inappropriate conduct, and/or retaliation, or who receive a complaint or concern from an employee regarding such allegations, must report their observations or any complaints or concerns to the chief of staff or his or her designee. If the complaint or concern involves the chief of staff or his or her designee, the supervisor shall report to the

Council's legal counsel. Supervisors who fail to comply with this responsibility may be subject to censure or discipline, up to and including discharge.

C. The individual to whom any report of possible discrimination, harassment, sexual harassment, inappropriate conduct, and/or retaliation is made shall promptly inform the chief of staff or his or her designee of the report. The chief of staff or his or her designee shall respond promptly and appropriately, as follows:

1. Determine whether the complaint or concern (a) can be addressed without formal investigation or referral to the Employment and Administration Committee, or (b) requires formal investigation and referral to the Employment and Administration Committee. If (a), the chief of staff or his or her designee shall document (i) the complaint or concern; (ii) the determination that no formal investigation or referral to the Employment and Administration Committee was necessary; and (3); any steps taken in response. If (b), where further investigation and referral to the Employment and Administration Committee is necessary, the chief of staff or his or her designee shall proceed as follows:

2. Develop a response plan. The plan may include a proposed investigation outline, proposals to mediate the dispute, and, in cases of a more serious nature, should address whether the complainant and the accused should be separated pending completion of the investigation.

3. Advise the chair of the Employment and Administration Committee of the complaint or concern and the recommended response plan. If the complaint or concerns involve a personal or district support and constituent services staff member of a councilmember, the councilmember employing the staff member shall also be advised. If the complaint or concern involves the Chair of the Employment and Administration Committee, the chief of staff or his or her designee shall advise the Vice-Chair of the Committee.

4. Conduct a prompt and thorough investigation to determine whether a violation of this policy has occurred based on all facts and circumstances, the nature of the allegation, and context in which the alleged incidents occurred. Based on this determination, make a preliminary recommendation on what, if any, action should be taken.

5. Brief the Employment and Administration Committee on the results of the investigation and recommended disposition of the complaint or concern, and any corrective and/or preventive measures such as discipline, training and monitoring.

6. Implement the recommendations of the Employment and Administration Committee, including discipline, if any, and any corrective and/or preventive measures. If any discipline is appealed to the full council, it should not be imposed until the appeal is decided.

7. Inform the employee who raised the complaint or concern, the accused employee, and the supervisor who received the report of a complaint or concern, of the

results of the investigation, whether or not there was a finding of discrimination, harassment, sexual harassment, inappropriate conduct, and/or retaliation.

8. For a reasonable period of time, monitor for retaliation against any person involved in the filing or investigation of a complaint or concern.

9. Maintain all records related to the report.

D. If the complaint or concern involves allegations against the chief of staff or his or her designee, the individual to whom the report is made or his or her designee shall respond as set forth in **Part III C (1-9)**.

E. Upon notification of a complaint or concern and submission of a response plan by the chief of staff or his or her designee, the chair of the Employment and Administration Committee shall:

1. Approve or modify the response plan recommended by the chief of staff or his or her designee, and where appropriate, as to all employees except councilmembers' and councilmembers' personal and district support and constituent services staff, direct the chief of staff or his or her designee to implement steps in the approved response plan to separate the accused from the complainant;

2. Promptly schedule a briefing by the chief of staff or his or her designee for the Employment and Administration Committee;

3. If the complaint or concern involves a member of the Employment and Administration Committee, direct that, unless invited by the chair to address the Committee, that the involved member not attend or participate in that portion of the meeting of the Employment and Administration Committee at which the complaint or concern will be discussed or a recommendation voted upon.

F. The Employment and Administration Committee, upon being briefed by the chief of staff or his or her designee per **Part III C (5)** and after due consideration, shall:

1. Vote upon the recommended disposition of the complaint or concern and on any proposed modification thereto;

2. As to all employees except councilmembers and councilmembers' personal and district support and constituent services staff, direct the chief of staff to implement the decision of the Committee.

3. As to councilmembers, the Committee shall decide whether to recommend exoneration or censure. If the committee recommends censure, the Chair of the Metropolitan King County Council, or the Vice-Chair if the complaint or concern involves the Chair, shall introduce a motion for censure. In accordance with the council rules the chair shall refer the motion to the

employment and administration committee. In accordance with KCC 1.24.055 Rule 6, to report the motion out of the employment and administration committee will require a recommendation report signed by a majority of the committee.

4. As to councilmembers' personal and district support and constituent services staff, the Committee shall vote on a recommended disposition and report its recommendation to the councilmember.

G. Information regarding complaints or concerns will be kept confidential to the extent possible, but confidentiality cannot be guaranteed.

H. A complainant who is dissatisfied with the way his or her complaint is being handled may take his or her concerns to another of the individuals designated in **Part III**.

IV. Responsibilities

A. The chief of staff shall ensure that all employees receive a copy of this policy and are appropriately instructed and/or trained on its contents.

B. The chief of staff shall provide oversight, tracking, monitoring, and guidance to the Employment and Administration Committee to ensure adequate enforcement of the policy.

C. Employees with supervisory responsibilities shall model appropriate behavior and strive to cultivate and maintain a work environment that is free from discrimination, harassment, sexual harassment, inappropriate conduct, and/or retaliation.

D. Any member of the Metropolitan King County Council shall have the same responsibilities under this policy as other supervisors.

E. In carrying out their responsibilities under this policy, staff, members of the Employment and Administration Committee, and the chief of staff are encouraged to consult with the Council's legal counsel.

V. At-will employment

Nothing in this policy is intended to alter the at-will employment status of legislative branch employees or give rise to a requirement of termination for just cause.