

NO. 17-1011

BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF SPOKANE COUNTY, WASHINGTON

IN THE MATTER OF ADOPTING THE)
SPOKANE COUNTY SEXUAL) **RESOLUTION**
HARASSMENT POLICY)

WHEREAS, pursuant to the provisions of the RCW 36.32.120(6), the Board of County Commissioners of Spokane County, Washington ("Board" or "Board of County Commissioners") has the care of County property and the management of County funds and business; and

WHEREAS, pursuant to the provisions of Title VII of the Civil Rights Act of 1964, as well as chapter 49.60 RCW, it is unlawful for any employer to discriminate against any person in compensation or in other terms or conditions of employment because of such person's sex, which action(s) are commonly referred to as sexual harassment, whether taking the form of quid pro quo or hostile work environment; and

WHEREAS, the workforce at Spokane County is entitled to be treated with respect by co-workers, supervisors, vendors and contractors as well as the public; and

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Board of County Commissioners of Spokane County, Washington, that the Board does hereby adopt that the Sexual Harassment policy and procedures as attached hereto as Attachment "A" and incorporated herein by reference, as the appropriate policy/procedure to be followed by the Board of County Commissioners of Spokane County with regard to its employees, and other elected officials, with regard to their respective employees, concerning complaints of sexual harassment.

PASSED AND ADOPTED this 5th day of December, 2017.

BOARD OF COUNTY COMMISSIONERS
OF SPOKANE COUNTY, WASHINGTON



Al French
AL FRENCH, Chair

ATTEST:

Josh Kerns
JOSH KERNS, Vice-Chair

Ginna Vasquez
Ginna Vasquez, Clerk of the Board

Mary Kunev
MARY KUNEY, Commissioner

712- SEXUAL HARASSMENT

Purpose

The purpose of this policy is to define workplace sexual harassment, prohibit it in all forms, and set forth procedures for reporting, investigating and resolving allegations of sexual harassment.

Scope

This policy applies to all employees, volunteers and interns of Spokane County as well as non-employees (vendors, contractors, customers, etc.) on our premises or otherwise conducting business with Spokane County.

Definitions

As referenced in this policy, the following terms have the meanings indicated:

Complainant: The person who feels s/he has been the subject of harassment and files a complaint to correct the alleged behavior.

Respondent: The person who is alleged to have violated Spokane County policy.

Retaliation: Any act of reprisal, interference or adverse action, whether direct or indirect, against an individual for raising concerns, filing a complaint, participating in an investigation or otherwise exercising his or her rights protected under this policy.

Sexual Harassment: A form of discrimination involving any unwanted, unwelcome or uninvited sexual attention, in the form of verbal, non-verbal or physical behaviors (see Examples of Sexual Harassment). These behaviors constitute sexual harassment when:

- 1) enduring the offensive conduct becomes either explicitly or implicitly a term or condition of continued employment; or
- 2) submission to or rejection of the conduct is used as the basis for employment decisions; or
- 3) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or offensive.

Policy

Spokane County employees have the right to be treated fairly and with respect. This includes working in an environment free from sexual harassment. Sexual harassment is inappropriate, offensive and illegal. Spokane County is committed to providing and promoting a workplace with zero tolerance for sexual harassment. Spokane County employees are prohibited from harassing other employees, customers, volunteers, interns, etc., whether or not the incidents of harassment occur on County property and whether or not the incidents occur during working hours.

Examples of Sexual Harassment

While sexual harassment encompasses a wide variety of conduct, some examples include: offensive jokes, slurs or name calling, physical assaults or threats, intimidation, ridicule or mockery, the presence of offensive objects or pictures, intentional physical conduct that is sexual in nature (touching, patting, brushing against or grabbing another employee's body), unwelcome sexual advances, propositions or other sexual comments/remarks, preferential treatment or promises thereof in exchange for an employee submitting to sexual conduct, other unwelcome verbal or physical conduct of a sexual nature or directed toward an employee based on the

employee's gender.

The Employee's Responsibility

Spokane County employees are expected to treat each other with dignity and respect. Frequently, the respondent may not be aware the action or behavior is offensive. If possible, let the respondent know the action in question is offensive and request that it stop.

If the employee does not feel comfortable speaking with the individual, and/or the offending behavior or action continues or recurs, the employee is encouraged to discuss their complaints with the appropriate supervisor or, if the supervisor is the source of the conflict, with the pertinent department head or elected official (DH/EO), or the Human Resources Department.

Employees who see this type of behavior, hear of it, or know of its occurrence must immediately report it to a supervisor, DH/EO or the Human Resources Department.

Employees are required to cooperate fully in the investigation and processing of a harassment complaint. Represented employees may be accompanied by either a union representative or a person of comfort, if they choose. Non-represented employees may have a "person of comfort." In no case will the County provide funding for legal representation.

Where an employee has a third-party present, the role of that party is as a silent observer of the investigatory interview.

Spokane County's Responsibility

Spokane County will provide a work environment free from sexual harassment.

Spokane County will have a Sexual Harassment policy and procedures to follow when a complaint is made. The County will take complaints of sexual harassment seriously; complaints will be investigated in a timely manner and appropriate action will be taken when violations of the policy are confirmed.

Sexual harassment training will be required for all new hires; employees are required to complete subsequent refresher training classes every two (2) years. The Human Resources Department and Risk Management may mandate additional training classes as appropriate.

An employee who is found to have violated this policy will be disciplined as in any other case of serious illegal employee misconduct. Corrective action may include discipline, up to and including termination. Where the respondent is a non-employee, notice will be given of the County's policy and our zero tolerance of harassment. If the behaviors are not corrected, additional action will be taken as deemed necessary.

No employee will be disciplined or otherwise retaliated against for complaining about harassment.

An employee who files a false or malicious sexual harassment complaint may also be disciplined, up to and including termination.

Retaliation

The County will not condone retaliation by an employee against another employee who files a sexual harassment complaint or who participates in a complaint investigation. Any perceived retaliation should be reported

immediately to the Human Resources Department. A finding of retaliation may result in discipline, up to and including, termination.

Informal Resolution Process

Spokane County encourages employees to resolve issues informally if possible.

1. An employee who feels that s/he is, or has experienced unlawful sexual harassment may resolve the complaint following these informal methods:
 - a. Discuss the issue(s) with the respondent. It may be helpful to conduct this meeting in the presence of another employee.
 - b. Write a letter to the respondent explaining the concern(s) and asking for the behavior/actions to stop.
 - c. Contact any of the following: his/her supervisor, DH/EO, or the Human Resources Director (or designee), and ask their assistance in communicating their concerns to the respondent.
2. When the supervisor or DH/EO is contacted to assist the complaining party to resolve the problem, they should conduct separate discussion(s) with the complainant and respondent to determine a resolution. The discussion will include a reminder of the County's policy on retaliation. The Supervisor or DH/EO shall contact Human Resources for assistance and to provide status information.
3. Human Resources staff is available to facilitate a discussion with all parties and, when appropriate, assist in implementing a resolution. Complaints may be concluded at this point.
4. The supervisor, DH/EO or HR person should document the discussion and resolution. This information should be maintained in a secure file in Human Resources.

Formal Resolution Process

The Formal Resolution Process is used in instances where,

- (a) an employee believes the informal procedure may not resolve a complaint; or
 - (b) if an employee desires a more formalized procedure to be used in resolving her/his complaint; or
 - (c) the supervisor, DH/EO or Human Resources Director (or designee) determines the complaint should be processed more formally; or
 - (d) the Human Resources Director administratively signs as the complainant (this administrative signature will not affect any other section of the Formal Complaint Procedure).
1. To facilitate an effective investigation, a complaint should be filed as soon as possible after the alleged incident or occurrence. The Complainant will be asked to use the attached form to provide a written statement about the alleged misconduct, including as much detail as is possible. Employees are required to advise the investigator of address or telephone number changes and must be willing to sign for certified and/or registered mail.
 2. After the complaint has been put in writing, the Human Resources Director, or designee, will review the complaint and conduct a preliminary inquiry to determine if the complaint will activate an investigation under applicable personnel policies. The complainant will be notified if the investigation process is activated. If the investigation process is *not* activated, the Human Resources Director (or designee) will meet with the complainant to discuss other possible options for resolving the issue raised.

3. If a matter is referred for investigation, the Human Resources Director (or designee) shall assign an Investigator. Complaints processed under the Formal Resolution Process shall be investigated only by Spokane County Human Resources personnel. In instances where the complaint cannot be impartially investigated by Human Resources personnel, or as otherwise deemed necessary, the complaint may be referred for investigation to an alternate individual.
4. The Investigator will schedule and conduct interviews with the complainant, respondent, applicable witnesses and other individuals who may have information pertinent to the complaint. Discretion will be used in communications regarding the complaint. Both the complainant and the respondent may at any time contact the Investigator for an update on the status of the investigation.
5. The Investigator will make every effort to complete the investigation within 60 working days. If the investigation cannot be completed within 60 working days, the Investigator will contact the complainant and the respondent to advise both parties of the anticipated time frame within which the investigation will be completed.
6. Within fifteen (15) working days of the last interview, the Investigator will submit the Investigatory Report to the Human Resources Director. This report will include, among other items, a statement of the allegation(s), a statement of evidence and findings, as well as recommendation(s), if any.
7. After receiving the Investigatory Report, the Human Resources Director will complete his/her review of the Report within ten (10) working days. The Human Resources Director may either accept the Report or refer the Report back to the Investigator for further action(s) along with a suggested time frame for such action(s) to be completed. In the event, the Report is referred back to the Investigator, the Investigator shall advise the complainant and respondent of such action and the suggested time frame to complete the additional tasks.
8. Upon acceptance by the Human Resources Director, the Report shall be forwarded within five (5) working days to the appropriate DH/EO.
9. The DH/EO shall take appropriate action within fifteen (15) working days after receiving the report. The DH/EO will consult with the Human Resources Director or designee prior to taking any action. Any action taken shall be reduced to writing. Discipline, if warranted, may range from an oral reprimand to termination. In instances where suspension or termination is determined to be the appropriate action, due process procedures or civil service/collective bargaining procedures will be followed.
10. The Human Resources Director (or designee) shall meet with and review the findings of the investigation with both the complainant and respondent. A copy of the report may be provided to either party upon request. These meetings will take place as soon as practical, following acceptance of the Report by the Human Resources Director.

Appeal of the Investigation Findings

Only the findings of this investigative report may be reviewed on appeal under this policy. Either party may seek review of the findings of the investigative report. In the event of a timely appeal, any disciplinary action by the DH/EO shall be stayed pending the review. The written appeal shall be filed with the Human Resources Director within fifteen (15) working days of the receipt of the report. The written appeal shall stipulate the specific reasons for the basis of the appeal.

After receipt of the appeal, the Human Resources Director (HRD) or designee, will review the original report and the written appeal of the party. The HR Director will then either accept the report or modify its findings. This determination shall be put in writing and submitted to the parties, with a copy to the DH/EO and HR Director, within fifteen (15) working days of the appeal.

Confidentiality and Public Records Request

While a high level of discretion and confidentiality will be exercised with regard to the complaint and investigation process, absolute confidentiality cannot be promised or ensured. A copy of the complaint or the Investigator's Report will not be made available for release except as provided by law. Documentation pertaining to the informal and/or formal resolution discussions will be kept in a secure file in the Human Resources Department and shall not be released to any member of the public except upon receipt of a written public record request or court order/process.

Other Available Procedures

The procedures available under this policy shall not supersede any remedies available under any existing local, state or federal laws. While employees who believe they have experienced sexual harassment should use the County's informal and/or formal resolution procedures to resolve complaints, they may also file a sexual harassment complaint, within certain time frames, with appropriate state and federal agencies such as:

State of Washington

Washington State Human Rights
Commission
Toll Free: (800) 233-3247
TTY: (800) 300-7525
www.hum.wa.gov

Spokane District Office
1330 N. Washington Street, Suite 2460
Spokane, WA 99201
(509) 568-3196

Federal Government

U.S. EEOC
909 First Avenue, Suite 400
Seattle, WA 98104-1061
Toll Free: (800) 669-4000
TTY: (800) 669-6820
ASL Video Phone: (844) 234-5122
(for deaf/hard of hearing callers only)
www.eeoc.gov/field/seattle

Office for Civil Rights – U.S. Department of
Health and Human Services
2201 Sixth Avenue – M/S RX-11
Seattle, WA 98121-1831
(206) 615-2290
TDD: (206) 615-2296
www.hhs.gov/ocr

U.S. Department of Labor for OFCCP
90 7th Street, Suite #18-300
San Francisco, CA 94103
(415) 625-7800
TTY: (877) 889-5627 (National Office)
www.dol.gov/OFCCP