

EEO UPDATE MONTGOMERY COUNTY POLICE AND FIRE EXECUTIVE TRAINING

MONTGOMERY COUNTY

**EQUAL EMPLOYMENT OPPORTUNITY COMPLIANCE/DIVERSITY
MANAGEMENT DIVISION**

MARCH 22, 2018

MONTGOMERY COUNTY PERSONNEL REGULATIONS SECTION 5

- Montgomery County Government strives to achieve and maintain equal opportunity inclusiveness, equitable treatment, and access to employment, education, and services for all individuals.
- Consistent with Montgomery County Personnel Regulations, Section 5 and the Workplace Harassment Policy, Montgomery County will operate a zero tolerance policy for any form of discrimination and sexual harassment in the workplace.
- Montgomery County ensures that all incidents will be taken seriously and investigated. Any person found to have engaged in discriminatory or harassing behavior will face disciplinary action up to and including dismissal from employment. All complaints of this nature will be handled with respect and in confidence. No one will be retaliated against for making a discrimination complaint.

TRENDS

- EMPLOYEES ARE FILING MORE COMPLAINTS (LABOR, EEO, HYBRID, CRIMINAL)
 - UNDERSTAND THE FACTORS, WHY? MAKE SURE YOU DON'T GET FATIGUED FROM COMPLAINTS-TAKE THEM ALL SERIOUSLY
 - EMPLOYEES ARE FILING MULTIPLE COMPLAINTS AND AGAINST MULTIPLE PARTIES
 - EMPLOYEES ARE FILING COMPLAINTS IN MULTIPLE VENUES
 - EEO, UNION, MSPB, EXTERNAL AGENCIES
 - EMPLOYEES ARE GOING OUTSIDE THE CHAIN OF COMMAND, OUTSIDE OF AGENCY (THEY ARE PIERCING 'THE CODE' AND PUBLIC SAFETY CULTURAL NORMS)
 - EMPLOYEES ARE WORKING THROUGH UNIONS-WHO ARE MORE AGGRESSIVELY ACTING ON BEHALF OF EMPLOYEES
 - EMPLOYEES ARE GOING OUTSIDE OF UNION REPRESENTATION-GETTING THEIR OWN ATTORNEY
- How does this affect you in the investigation, contact with employee
- GREATER NUMBER OF EMPLOYEES PRESENTING WITH MENTAL HEALTH ISSUES (ADA, FMLA IMPLICATIONS)
 - GREATER SECURITY CONCERNS REGARDING EMPLOYEES IN THE WORKPLACE-WORKPLACE VIOLENCE IS A REAL ISSUE

TRENDS

- GREATER INCREASE IN
 - AGE, (DEMOGRAPHICS OF OUR WORKFORCE)
 - RACE (FROM VARIOUS RACES)
 - SEX BASED COMPLAINTS RELATED TO DOMESTIC VIOLENCE
- HAS NOT BEEN A SIGNIFICANT INCREASE IN SEXUAL HARASSMENT COMPLAINTS POST #ME TOO
- INCREASE IN DISABILITY COMPLAINTS (DISCRIMINATION, FAILURE TO ACCOMMODATE)
- INCREASE IN NATIONAL ORIGIN COMPLAINTS (COMMENTS, STEREOTYPES, DACA, DREAMERS, IMMIGRATION)

WHAT'S TRENDING

LACTATION ISSUES

GENERATIONAL ISSUES

INCREASE IN RELIGIOUS ACCOMODATIONS-FORMALIZING, INTERACTIVE PROCESS

LGBTQ

HOW DO WE DEFINE IT

WHAT DO WE DO TO BE INCLUSIVE

REDEFINING SEXUAL ORIENTATION, GENDER IDENTITY

WHAT IS OUR ROLE

POTENTIAL AREAS OF VIOLATION (GOSSIP, TEASING, BULLYING, HARASSMENT)

WHAT IS IMPACTING EEO

- ISSUES

- POLITICS (ASSOCIATION WITH POLITICAL PARTY-RACE BASED ASSUMPTIONS)
- POLITICAL POLICIES (IMMIGRATION, LAWS TO REDUCE RIGHTS {ADA}, LGBT,
- BLACK LIVES MATTER,
- CONFEDERATE FLAG ISSUES,
- #ME TOO AND SEXUAL HARASSMENT/ASSAULT
- AGING WORKFORCE
- INCREASE IN EMPLOYEES WITH DISABILITIES
- CHANGE OF ADMINISTRATION AND COUNTY CLIMATE
- SOCIAL MEDIA

POST- ME TOO BLACK LIVES MATTERS FAIRFAX

- MORE INCIDENTS ARE RECORDED ON CELL PHONES
- MORE EVIDENCE WITH TEXT MESSAGES, SOCIAL MEDIA
- **YOU MUST LOOK AT HOW YOU ARE CREATING A CULTURE**
- **PUBLIC DOES NOT UNDERSTAND OR ACCEPT FIREHOUSE TALK, COP HUMOR OR WHY HUMOR IS USED TO DEAL WITH STRESS**
- SOCIAL INTERACTION IN WORKPLACE MUST BE RE-DEFINED. HOW DOES THAT FIT IN WITH PUBLIC SAFETY CULTURE?
- HUGGING, LUNCHESES, BUSINESS TRIPS-ARE WE BEING MORE STRATEGIC ABOUT ROOMS, DINING, SOCIAL GATHERINGS?
- EMPLOYEES MORE EMPOWERED, WILLING TO COMPLAIN, PROMOTED A HARASSMENT FREE WORKPLACE-THIS IS A VERY GOOD THING!
- BACKLASH-CHILLING AFFECT ON WORKPLACE INTERACTIONS, SEGREGATION TO AVOID, RE-DEFINING NORMAL BUSINESS INTERACTION
- GREATER FOCUS ON YOUR ROLE AS IT RELATES TO YOUR WORKPLACE
- GREATER SCRUTINY ON WORKPLACE
- GREATER REAL AND PERCEIVED RESPONSIBILITY ON SUPERVISORS AND MANAGERS
- HARSHER DISCIPLINARY ACTION AGAINST RESPONDENTS IN **CAUSE CASES**.(MOVE TO TERMINATE, PUT ON LEAVE, SUSPENSION)

RELEVANT LAW FEDERAL, STATE AND LOCAL (COUNTY)

- RACE,
- COLOR,
- RELIGION,
- NATIONAL ORIGIN,
- SEX (SEXUAL HARASSMENT) AND
- RETALIATION
- AGE DISCRIMINATION IN EMPLOYMENT ACT
- AMERICANS WITH DISABILITY ACT, AS AMENDED
- PREGNANCY DISCRIMINATION ACTION (FETAL PROTECTION POLICIES AS ISSUE)
- MARYLAND ANNOTATED CODE 20-602 FEDERAL PROTECTION PLUS MARITAL STATUS, SEXUAL ORIENTATION, GENDER IDENTITY, GENETIC INFORMATION, AGE
- MONTGOMERY COUNTY CHAPTER 27 FEDERAL AND STATE PROTECTION PLUS FAMILY RESPONSIBILITY, AGE

TYPES OF COMPLAINTS

- QUID PRO QUO AND HOSTILE WORK ENVIRONMENT
 - VERBAL FORMS OF HARASSMENT, (TYING NEWS OR POLITICS TO EEO ISSUES IN CONVERSATION);
 - VISUAL,
 - PHYSICAL
 - SOCIAL MEDIA, TEXTUAL HARASSMENT
- INCREASE OF ISSUES RELATED TO HIPPA AND (VOLUNTARY/INVOLUNTARY) SHARING OF MEDICAL INFORMATION
- ADVERSE IMPACT VERSUS DIFFERENTIAL
 - HIRING
 - PROMOTION
 - TRAINING
 - WORKPLACE INTERACTIONS\
 - OTHER TERMS AND CONDITIONS OF EMPLOYMENT

HARASSMENT

- Harassing conduct is defined as "any unwelcome verbal or physical conduct based on any characteristic protected by law (age, race, sex, religion, color, sexual orientation, etc.) when: (1) the behavior can reasonably be considered to adversely affect the work environment; or (2) an employment decision affecting the employee is based upon the employee's acceptance or rejection of such conduct."

NEW AREAS

- **TEXTUAL HARASSMENT**
- **INTERNET, FACEBOOK, TWEETING**
- **OFF DUTY CONDUCT-ON DUTY VIOLATIONS**
- **“WORK CULTURE” ISSUES**
- **USE OF AGENCY EMAIL SYSTEM**
- **USE OF AGENCY PHONES TO TEXT**
- **USE OF PHONE BOTH ON AND OFF DUTY**
- **SOCIAL MEDIA**
 - **DIFFERENT FORUMS**
 - **WHAT YOU SAY OR DO**
 - **PICTURES**
 - **SOCIAL MEDIA OFF DUTY; NEXUS TO WORK**

YOUR ROLE

- **Recognizing a Complaint**
 - **Through casual conversation with the employee or others (co-workers, other supervisors), such as lunch room conversations.**
 - **“Just between you and me” and “off the record” conversations.**
 - **Office gossip and rumors.**
 - **“Informal” notes, emails, or other correspondence.**
 - **Internal reports, incident reports, IAD, or formal complaints.**
 - **Any other written documentation implying or stating allegations of discrimination.**
- **Notification**
- **You are picked because of your title/rank**

HOW WILL YOU RECEIVE THE COMPLAINT

- Formal EEO Complaint form
- Email
- Text message
- Informal conversation
- As a side note to another issues
- Imbedded in a labor or operational incident report
- Some else reports the matter
- Gossip or rumors (I heard he/she had issues)

YOUR ROLE.....

- Take the complaint seriously
- The County will conduct an investigation with confidentiality
- Remain neutral and unbiased
- PROVIDE NOTIFICATION TO COUNTY EEO, CHAIN OF COMMAND, IAD-MULTIPLE NOTIFICATION REQUIREMENTS
- Consider and discuss issues of transfer, administrative leave, separating parties, operational issues, and NEXT STEPS
- Take appropriate action in those instances where the MCPR or law was violated
- REMEDY AND ACTION MUST BE APPROPRIATE
- The County will monitor the workplace for harassing behavior and take appropriate action to ensure the behavior ceases.
- The County will proactively educate and communicate discrimination and sexual harassment/harassment policies to all employees, contractors, interns and volunteers.
- Ensure that they safe from retaliation.

HOW SHOULD WE TREAT THAT EMPLOYEE COMPLAINING.....

- How should an agency treat an employee accused of discrimination, workplace harassment or sexual harassment? Do not ignore, isolate, or “punish them” for filing a complaint.
- An employee accused of discrimination, workplace harassment or sexual harassment should be treated with professionalism and respect, as you would any employee.
- Just because an employee has been accused, does NOT mean the employee is guilty.
- The accused employee has a chance to defend him/herself and present information and witnesses.
- An agency must conduct a neutral investigation. Conclusions should not be reached until the investigation is complete.

SUPERVISOR/MANAGEMENT'S ROLE

- INVESTIGATE OR REFERRAL TO IAD OR THE POLICE DEPARTMENT (CRIMINAL CONDUCT)
- Move from out of trenches into supervisor/management role-YOU are no longer one of them.
- **CULTURE of organization**
- Require training for supervisors and workforce
- Monitor workplace behaviors
- Be accessible; “open door policy”
- Regular communication (staff meetings)
- Enforce respect in the workplace and avoid borderline behaviors
- Reiterate and reinforce EEO policies
- Include and consider “diversity and EEO” in all aspects of your business practices
- Avoid illegal practices in the “furtherance of diversity”