



# MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

<b>Subject</b> Equal Employment Opportunity	<b>Number</b> ER 19-21
<b>Originating Department</b> Office of Human Resources	<b>Effective Date</b>

Montgomery County Regulation on  
EQUAL EMPLOYMENT OPPORTUNITY

Issued by: County Executive

COMCOR No. 33.07.01

Authority: Montgomery County Code (2014) Section 33-7(b)

Supersedes: Executive Regulation 16-13, in part

Council Review: Method (1) under Code Section 2A-15

Register Vol. 38 No. 12

Comment Deadline: December 31, 2021

Effective Date: \_\_\_\_\_

Sunset Date: None

**Summary:** The Montgomery County Code authorizes the County Executive to promulgate personnel regulations to clarify that specific forms of discrimination are not allowed.

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Executive Office Building  
101 Monroe Street, Third Floor  
Rockville, Maryland 20850

**Background:** The Montgomery County Code authorizes the County Executive to promulgate personnel regulations.



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## COMCOR 33.07.01 PERSONNEL REGULATIONS

### 33.07.01.05. Equal Employment Opportunity

#### 5-1. Definitions

- (a) EEO complaint: A verbal or written report or charge of employment discrimination or harassment.
- (b) EEO Officer: An employee whose primary function, as delegated by the CAO, is the development of the County's equal employment opportunity policy and the administration and oversight of related programs.
- (c) Employment discrimination:
  - (1) A policy, practice, or procedure that:
    - (A) limits or adversely affects employment, promotion, transfer opportunities, or other working conditions;
    - (B) on the basis of race, color, religion, national origin, ancestry, sex, marital status, age, disability, sexual orientation, or genetic status.
  - (2) This includes sexual harassment, which may include:
    - (A) an unwelcome sexual advance;
    - (B) a request for physical conduct of a sexual nature; or
    - (C) written, verbal, or physical conduct of a sexual nature or conduct based on one's gender, including gender stereotyping or animus, when:
      - (i) submission to the conduct is explicitly or implicitly a term or condition of an individual's employment;



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(ii) submission to or rejection of the conduct by an individual is a basis for employment decisions affecting the individual; or

(iii) the conduct unreasonably interferes with an individual's work performance or creates an intimidating, hostile, or offensive working environment.

(d) Harassment:

(1) Inappropriate written, verbal, or physical conduct, including the dissemination or display of written or graphic material,

(2) based on one's race, color, religion, national origin, ancestry, sex, sexual orientation, marital status, age, disability, or genetic status, that:

(A) unreasonably interferes with one's work performance; or

(B) creates an intimidating, hostile, or offensive working environment. [This includes sexual harassment, which may include:

(1) an unwelcome sexual advance;

(2) a request for physical conduct of a sexual nature; or

(3) written, verbal, or physical conduct of a sexual nature or conduct based on one's gender, including gender stereotyping or animus, when:

(A) submission to the conduct is explicitly or implicitly a term or condition of an individual's employment;

(B) submission to or rejection of the conduct by an individual is a basis for employment decisions affecting the individual; or

(C) the conduct unreasonably interferes with an individual's work performance or creates an intimidating, hostile, or offensive working environment.]



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- (e) Retaliation: A form of sanction or adverse treatment against a person because that person:
- (1) asserted or assisted another person to assert a discrimination complaint in either a formal or informal manner with the County or with a State or Federal enforcement agency; or
  - (2) testified, assisted, or participated in an investigation or proceeding related to a discrimination complaint.

\* \* \*

#### 5-4. EEO complaints.

- (a) An individual who believes that he or she has been subjected to employment discrimination or harassment in violation of this policy, or any person acting on behalf of such an individual, may file a complaint with one or more of the following:
- (1) the individual's supervisor or department director, if the individual is a County employee;
  - (2) the County's EEO Officer;
  - (3) the Office of Human Rights; or
  - (4) a State or Federal enforcement agency.
- (b) [(1)] An individual who believes this policy has been violated may not file a grievance under Section 34 of these Regulations or an appeal under Section 35, unless the alleged violation is related to a disciplinary action, termination, or involuntary resignation.
- [(2)] If an individual files an EEO complaint and a grievance over the same action, such as an involuntary transfer or failure to be promoted, but the grievance does not allege discrimination or harassment in violation of this Section, the OHR Director must ensure that:
- (A) the complaint is processed first; and



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(B) the grievance is held and processed only after the complaint is investigated and decided by the EEO Officer or County Attorney's Office.]

- (c) The County encourages employees to seek administrative remedies provided through the County EEO Officer.
- (d) An individual should file a complaint as soon as possible after the event that gives rise to the complaint. An individual who files a complaint with the County EEO Officer must file the complaint within a year of the most recent act that is alleged to have violated the County's policy stated in Section 5-2 of these Regulations.
- (e) The County EEO Officer must establish and administer a complaint-processing procedure, conduct investigations, and issue findings.
- (f) The complaint processes of the Office of Human Rights and of State and Federal enforcement agencies are independent of the County EEO Officer's complaint process. Complaints filed with the County EEO Officer are not automatically filed with the County Office of Human Rights or State or Federal enforcement agencies. An employee who wishes to file a complaint with the Office of Human Rights or a State or Federal enforcement agency must file a separate complaint with one of these agencies, in addition to any complaint filed with the County's EEO Officer.
- (g) Time limits for filing a complaint with the Office of Human Rights or with a State or Federal enforcement agency are not extended or suspended while the EEO Officer investigates a complaint under subsection (e).
- (h) [Records of EEO investigations are confidential. The County EEO Officer must treat a complaint investigation with discretion to protect the privacy of those involved, as required by law.]

Records of EEO investigations are confidential and available on a need-to-know basis to:

- (1) the Chief Administrative Officer or designee;
- (2) the County Attorney and staff; and



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(3) a person who is authorized by the Maryland Public Information Act to inspect the record.

- (i) The County EEO Officer [may] must forward a complaint filed by an individual against the Chief Administrative Officer, Chief Administrative Officer staff, or against County Council Members [OHR Director or OHR staff] to the County Attorney’s Office for investigation.
- (j) The County EEO Officer’s decision on an EEO complaint is final and an employee may not file an appeal of the decision with the MSPB. An investigation or decision by the EEO Officer does not affect an employee’s right to file a complaint on the same matter with the Office of Human Rights or a State or Federal enforcement agency.

\* \* \*

\_\_\_\_\_  
Marc Elrich, County Executive

\_\_\_\_\_  
Date

Approved as to form and legality:

Office of the County Attorney

11/22/2021  
Date