

# WESTMORELAND COUNTY

## POLICY AND PROCEDURES

### Subject: SEXUAL HARASSMENT AND OTHER WORKPLACE HARASSMENT AND RETALIATION

Policy Number: V.8

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#### I. POLICY

Title VII of the Civil Rights Act of 1964 and the Pennsylvania Human Relations Act prohibit employment discrimination on the basis of race, color, sex, age, disability, religion, national origin or genetic information. The County of Westmoreland is committed to providing a work environment that is free of discrimination, including freedom from sexual harassment. Sexual harassment of employees in any form is strictly prohibited. Sexual harassment is unlawful and exposes the County of Westmoreland and individual employees and officers to significant legal liability. Employees must at all times treat other employees respectfully and with dignity. Harassment or discrimination on the basis of race, color, sexual orientation, gender identity, age, disability, religion, national origin or genetic information is also prohibited. The County of Westmoreland will vigorously enforce this policy at all levels.

“Sexual harassment” consists of unwelcome sexual advances, requests for sexual favors or other verbal or physical acts of a sexual or sex-based nature where (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment; (2) an employment decision is based on an individual’s acceptance or rejection of such conduct; or (3) such conduct interferes with an individual’s work performance or creates an intimidating, hostile, or offensive work environment.

It is also unlawful to retaliate in any way against someone who has articulated any concern about sexual harassment or discrimination on the basis of race, color, sex, sexual orientation, gender identity, age, disability, religion, national origin or genetic information, whether that concern relates to harassment of or discrimination against the individual raising the concern or against another individual. Examples of conduct that would be considered sexual harassment or related retaliation are set forth in the Statement of Prohibited Conduct which follows. These examples are provided to illustrate the kind of conduct proscribed by this policy and is not exhaustive.

## II. STATEMENT OF PROHIBITED CONDUCT

The following illustrates some of the acts which violate this sexual harassment policy:

### A. Physical assaults of a sexual nature, such as:

- 1) Rape, sexual battery, molestation or attempts to commit these assaults; and
- 2) Intentional physical conduct which is sexual in nature, such as touching, pinching, patting, grabbing, brushing against another employee's body or poking another employee's body.

### B. Unwanted sexual advances, propositions or other sexual comments such as:

- 1) Sexually oriented gestures, noises, remarks, jokes, or comments about a person's sexuality or sexual experience directed at or made in the presence of any employee who indicates or has indicated in any way that such conduct in his or her presence is unwelcome;
- 2) Preferential treatment or promise of preferential treatment to an employee for submitting to sexual conduct, including soliciting or attempting to solicit any employee to engage in sexual activity for compensation or reward;
- 3) Subjecting, or threats of subjecting, an employee to unwelcome sexual attention or conduct or intentionally making the performance of the employee's job more difficult because of that employee's sex.

### C. Sexual or discriminatory displays or publications in the work place, such as:

- 1) Displaying pictures, posters, calendars, graffiti, objects, promotional materials, reading materials, or other materials that are sexually suggestive, sexually demeaning, or pornographic.

A picture will be presumed to be sexually suggestive if it depicts a person of either sex who is not fully clothed or in clothes that are not suited to or ordinarily accepted for the accomplishment of routine work at the County of Westmoreland and who has posed for the obvious purpose of displaying or drawing attention to private portions of his or her body.

- 2) Displaying signs or other materials purporting to segregate an employee by sex in any area of the workplace, other than restrooms and similar semi-private lockers/changing rooms.

D. Retaliation for sexual harassment complaints, such as:

- 1) Disciplining, changing work assignments of, providing inaccurate work information to, or refusing to cooperate or discuss work related matters with any employee because that employee has complained about or resisted harassment, discrimination or retaliation, and
- 2) Intentionally pressuring, falsely denying, lying about or otherwise covering up or attempting to cover up prohibited conduct.

E. Other acts:

- 1) The above is not meant to be construed as an all-inclusive list of prohibited acts under this policy.
- 2) Sexual harassment is unlawful and hurts employees. Any of the prohibited conduct described in this policy is sexual harassment of any one at whom it is directed or who is otherwise subjected to it. Each incident of harassment contributes to a general atmosphere in which all persons who share the victim's sex suffer the consequences. Sexually oriented acts or sex based conduct have no legitimate business purpose; accordingly, any employee who engages in such conduct should be and will be made to bear full responsibility for such unlawful conduct.
- 3) Acts which occur outside the workplace between employees of Westmoreland County that violate this policy during non-working hours can also, in certain circumstances, create a hostile working environment and must be brought to management's attention.
- 4.) Acts engaged in by the public, including but not limited to clients/customers and/or contractors/vendors, which are prohibited by this policy should be reported to management and a complaint will be treated in accordance with this policy.

### III. PENALTIES FOR MISCONDUCT

Any employee who commits an act of sexual harassment or an act of harassment or discrimination on the basis of race, color, sexual orientation, gender identity, age, disability, religion, national origin or genetic information or retaliates against a complainant will be subject to appropriate discipline, up to

and including dismissal, depending upon the nature and severity of the misconduct.

#### **IV. PROCEDURES FOR MAKING, INVESTIGATING AND RESOLVING SEXUAL AND OTHER FORMS OF HARASSMENT AND RETALIATION COMPLAINTS**

##### **A. Complaints**

Complaints of acts of sexual harassment and retaliation that are in violation of the sexual harassment policy will be accepted in writing or orally, and anonymous complaints will be taken seriously and investigated. A complaint need not be limited to someone who was the target of harassment, discrimination or retaliation. Anyone who has observed sexual harassment, discrimination or retaliation should report it to his or her supervisor, or, any supervisory personnel in the employee's line of command, or the Human Resource Director. If circumstances exist which make the report of harassment, discrimination or retaliation concern a supervisor or Human Resource Director, the complainant may make a report to the County Solicitor. Any supervisor or manager who become aware of possible sexual or to other unlawful harassment or retaliation must promptly advise the Human Resource Director or Associate Director.

A complaint of sexual harassment, discrimination or retaliation will be treated in a confidential manner to the extent feasible. Only those persons who have an immediate need to know, including the person to whom a report was made, the alleged target of harassment or retaliation, the alleged harasser or retaliator, and/or any witness, will or may learn the identity of the complainant during the investigation process. All employees are assured that they will be protected from any and all reprisal or retaliation for filing such a complaint or for cooperating in any investigation. All parties contacted in the course of an investigation will be advised that all parties involved in the charge are entitled to respect, and that any retaliation or reprisal against an individual who is an alleged target of harassment or retaliation who has made a complaint or who has provided evidence in connection with a complaint is a separate actionable offense and subject to discipline under this policy. Anyone taking a retaliatory action against an individual who has either made a complaint, or has assisted in the investigation of a harassment complaint, will be subject to discipline up to and including termination.

##### **B. Cooperation**

An effective sexual harassment policy requires the support of personnel in positions of authority. Agents or employees of the County of Westmoreland who engage in sexual harassment or retaliation or who fail to cooperate with County sponsored investigations of sexual harassment

tor retaliation may be sanctioned by suspension or dismissal. Officials who refuse to implement remedial measures, obstruct the remedial efforts of the other Westmoreland County employees, and/or retaliate against sexual harassment complainants or witnesses may be disciplined by the County or other appropriate supervisory authority.

C. Other forms of harassment

The above complaint procedure also applies to harassment, discrimination or retaliation on the basis of race, color, sexual orientation, gender identity, age, religion, disability, national origin or genetic information.

V. **PROFESSIONAL WORKPLACE**

Westmoreland County is committed to providing a professional work atmosphere for all employees. Accordingly, conduct in the workplace that may not technically be considered "sexual harassment," discrimination or retaliation is prohibited by the County of Westmoreland. In the interest of maintaining that professional workplace, Westmoreland County expects you to refrain from any conduct that would not be appropriate in a professional office. Unprofessional conduct includes, but is not limited to: sexual innuendo, sexual banter; off-color jokes or jokes including racial, ethnic or derogatory slurs; talking about personal sexual matters in the workplace, whether about yourself or someone else; and/or exchanging cartoons, email or telephone messages that are unprofessional and unrelated to work.

**Any employee who has any questions about this policy should contact the Director of Human Resources for clarification.**