

**ESSEX COUNTY'S POLICY  
AGAINST SEX DISCRIMINATION AND SEXUAL  
HARASSMENT**

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## SECTION 1: PURPOSE

Essex County believes in the dignity of the individual and recognizes the rights of all people to equal employment opportunities in the workplace. In this regard, Essex County is committed to a policy of protecting and safeguarding the rights and opportunities of all people to seek, obtain and hold employment without subjugation to harassment or discrimination in the workplace. It is Essex County's policy to provide an employment environment free from harassment and discrimination based on sex.

### A. Scope of Policy

This Policy applies to all employees and all personnel in a contractual or other business relationship with Essex County including, for example, applicants, temporary or leased employees, independent contractors, vendors, consultants, volunteers and visitors. Depending on the extent of Essex County's exercise of control, this Policy may be applied to the conduct of non-employees with respect to unlawful harassment and/or discrimination of employees in the workplace. This Policy applies with equal force on Essex County's property as it does at Essex County-sponsored events, programs, and activities that take place off Essex County premises.

### B. Policy Objectives

By adopting and publishing this Policy, it is the intention of the Essex County Board of Supervisors to:

- (1) notify employees about the types of conduct that constitute sexual harassment and discrimination prohibited by this Policy;
- (2) inform employees about the complaint procedures established by Essex County that enable any employee who believes (s)he is the victim of harassment or discrimination to submit a complaint which will be investigated by Essex County;
- (3) clearly advise all supervisory staff, administrators, and employees that sexual harassment and discrimination is strictly prohibited and no such person possesses the authority to harass or discriminate; and
- (4) notify all employees that Essex County has appointed a Compliance Officer who is specifically designated to receive complaints and ensure compliance with this Policy.

**NOTE:** The names and office location of each Compliance Officer designated to receive and investigate complaints are listed below at the end of this Policy

## SECTION 2: DEFINITIONS

**"Prohibited Discrimination of Employees"** – Prohibited discrimination of employees can take the form of any negative treatment of an employee, by either an Essex County employee or official, or a third party engaged in activities sponsored by Essex County which:

- (1) negatively impacts a employee's employment opportunities and/or employment benefits; *and*

(2) is based upon the employee's sex. Prohibited discrimination of employees can also take the form of harassment even where there is no tangible impact upon the employee's employment opportunities and/or employment benefits. The phrase "prohibited discrimination" as used in this Policy includes all forms of prohibited sex discrimination, and "Sexual Harassment" as defined below:

**"Sexual Harassment"** – Sexual harassment is prohibited including, but not limited to inappropriate forms of behavior described by the Equal Employment Opportunity Commission as follows:

(1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;

(2) Submission to, or rejection of, such conduct by an individual is used as the basis for employment decisions affecting such individual (e.g., promotion, transfer, demotion, termination); or

(3) Such gender-based conduct has the purpose or effect of unreasonably interfering with an individual's work performance, or of creating an intimidating, hostile or offensive working environment.

Specific forms of behavior Essex County considers sexual harassment are set forth below. Every conceivable example cannot be delineated herein, and thus the descriptions below should not be interpreted in any way as being all-inclusive.

**Verbal:** Abusive verbal language including jokes, comments, teasing or threats related to an employee's sex, sexual activity and/or body parts whether or not said in that person's presence including, but not limited to: sexual innuendos; slurs; suggestive, derogatory, or insulting comments or sounds; whistling; jokes of a sexual nature; sexual propositions; threats; comments on a person's appearance that make the person feel uncomfortable because of his or her sex; continuing to ask someone for dates or to meet after work after the person has made it clear that he or she does not want to go; sexually oriented comments about an employee's anatomy that are unwelcome, unreasonably interfere with an employee's work performance, or create an intimidating, hostile or offensive work environment; and unwelcome sexual advances or demands for sexual favors.

**Nonverbal:** Abusive written language showing or displaying pornographic or sexually explicit objects or pictures; graphic commentaries; luring or obscene gestures in the workplace; staring at a person's body in a sexually suggestive manner; sexually-related gestures or motions; sending sexually graphic material through the Essex County e-mail system or other electronic communication devices (e.g. voice mail) or using the Essex County's mail or computers to view such material.

**Physical:** Unwelcome physical conduct, including but not limited to: petting, pinching, grabbing, holding, hugging, kissing, tickling, massaging, displaying private body parts, coerced sexual intercourse, assault, persistent brushing up against a person's body, unnecessary touching and flashing or other unwelcome physical conduct.

While a single incident of these types of behavior may not create a hostile learning environment, if such behavior is severe, persistent or pervasive, or if submission to such conduct

is made either explicitly or implicitly a term or condition of employment or receipt of employment benefits, such conduct constitutes prohibited sexual harassment.

## **SECTION 3: POLICY**

Essex County prohibits harassment and discrimination based sex and will not tolerate any form of unlawful discrimination or harassment. Essex County will take all steps necessary to prevent and stop the occurrence of unlawful discrimination and/or harassment in the workplace. All employees, including but not limited to, Essex County officials and supervisory personnel, are responsible for ensuring a work environment free from prohibited harassment and discrimination. All employees will be held responsible and accountable for avoiding or eliminating inappropriate conduct that may give rise to a claim of sexual harassment or sex discrimination. Employees are encouraged to report violations to one of the Compliance Officers listed in Section 10 of this Policy in accordance with the Complaint Procedure set forth in this Policy. Officials and supervisors must take immediate and appropriate corrective action when instances of prohibited harassment and/or discrimination come to their attention to assure compliance with this Policy.

Each employee is assured pursuant to Section 6 of this Policy, that retaliation against an individual who makes a complaint or report under this Policy is absolutely prohibited and constitutes, in and of itself, a violation of this Policy.

Any questions regarding the scope or application of this Policy should be directed to one of the Compliance Officers listed in Section 10 of this Policy.

## **SECTION 4: POLICY ENFORCEMENT**

### **A. Complaint Procedure for Employees**

**1. Notification Procedure** - Prompt reporting of complaints or concerns is required so that timely and constructive action can be taken before relationships become strained. Reporting of all perceived incidents of prohibited discrimination and/or harassment is essential, regardless of the offender's identity or position. An employee or other individual who feels aggrieved because of harassment or discrimination shall I contact his or her supervisor or a Compliance Officer listed in Section 10 of this Policy, or another administrator.

**2. Making a Complaint** - If the complainant prefers, s/he may report the matter directly to her/his supervisor. If the complainant feels uncomfortable reporting the harassment to her/his supervisor, s/he should immediately report the matter to any other member of management. Essex County will not tolerate violations of this policy and strongly encourages victims of sexual harassment to report such harassment as soon as it occurs.

Complainants are expected to cooperate with Essex County's investigation procedures by providing all relevant information relating to the complaint, as are other supervisory and non-supervisory employees having relevant or related knowledge or information.

### **B. Time for Reporting a Complaint**

Prompt reporting of all complaints is strongly encouraged. All employees should be aware that appropriate resolution of complaints and effective remedial action oftentimes is possible only when complaints are promptly filed. Furthermore, complaining parties should be aware that statutes of limitations may constrain the time period for instituting legal actions outside of this Policy.

### **C. Confidentiality and Privacy**

In recognition of the personal nature of discrimination and/or harassment complaints and the emotional impact of the alleged acts, Essex County shall keep complaints as confidential as is consistent with a thorough investigation, applicable collective bargaining agreements, and other laws and regulations regarding employees. For the protection of all individuals who make complaints or are accused of prohibited harassment and/or discrimination, every witness interviewed during an investigation under this Policy will be advised of the confidentiality requirement and instructed not to discuss the complaint, the investigation, or the persons involved. To the extent complaints made under this Policy implicate criminal conduct, Essex County may be required by law to contact and cooperate with the appropriate law enforcement authorities.

## **SECTION 5: INVESTIGATION**

Essex County will investigate all allegations of discrimination and harassment prohibited by this Policy as promptly as possible.

## **SECTION 6: PROHIBITION AGAINST RETALIATION AND ABUSE OF THE POLICY**

Retaliation is strictly prohibited by this Policy and by law against anyone who in good faith reports a suspected violation of this Policy, who assists in making such a complaint, or who cooperates in a harassment or discrimination investigation. Retaliation means taking any adverse action in response to a complaint being made.

Complaints of retaliation should be brought directly to a Compliance Officer, or another administrator. Such complaints will be promptly investigated. If retaliation is found, the person retaliating will be subject to corrective action up to and including termination from employment, or in the case of a non-employee, an appropriate remedy up to and including termination of the business relationship.

## **SECTION 7: APPEALS**

Any complainant or accused party who wishes to appeal the procedures which Essex County followed in investigating a written complaint filed under this Policy, may do so within ten (10) days of receipt of the appellant's notification of the investigation outcome. Untimely submissions shall not receive consideration. Such appeal must be made in writing to Essex County. The appellant shall be entitled to present evidence as to why the investigation

procedures were flawed, improper, or otherwise not in compliance with this Policy. Essex County's consideration and review of any such appeal shall be conducted confidentially in executive session. Following a review of that evidence, as well as the information obtained in the investigation process and conclusions derived there from, Essex County, or its designee, shall render a decision. Essex County's decision shall be final. The appellant shall be notified of the decision in writing.

Nothing set forth in the Appeal Process above shall be construed to in any way confer upon either the complainant(s) or the person(s) accused of violating this Policy any right to appeal Essex County's determination as to appropriate disciplinary and/or corrective action to be taken on meritorious complaints. In this regard, Essex County at all times retains sole discretion to determine the appropriate disciplinary and/or corrective action to be taken with regard to a meritorious complaint.

## **SECTION 8: RECORD KEEPING**

Essex County shall maintain a written record of all complaints of sex discrimination and/or sexual harassment for a period of at least six years. Essex County shall also document the steps taken with regard to investigations, as well as conclusions reached and remedial action taken, if any. Essex County shall also maintain these documents for, at a minimum, six years. Essex County records regarding alleged discrimination shall be maintained separate and apart from personnel records.

## **SECTION 9: QUESTIONS**

Any questions by employees of Essex County about this Policy or potential harassment or discrimination should be brought to the attention of one of Essex County's Compliance Officers or the chief elected official, Personnel Officer or County Manager. The names, addresses, and telephone numbers of Essex County's Compliance Officers are listed in Section 10 of this Policy.

## **SECTION 10: COMPLIANCE OFFICERS**

Monica S. Feeley, Personnel Officer  
P.O. Box 217, 7551 Court Street  
Elizabethtown, NY 12932  
(518) 873-3363  
[mfeeley@co.essex.ny.us](mailto:mfeeley@co.essex.ny.us)

Daniel L. Palmer, County Manager  
P.O. Box 217, 7551 Court Street  
Elizabethtown, NY 12932  
(518) 873-3333  
[danp@co.essex.ny.us](mailto:danp@co.essex.ny.us)

## **SECTION 11: EFFECTIVE DATE AND POLICY DISSEMINATION**

The effective date of this Policy shall be July 5, 2011 (Resolution #195 of 07/05/2011). The Essex County Personnel Office shall ensure that this Policy is adequately disseminated and made available to all current employees of Essex County and include a copy in the Essex County Policy Manual for all new employees. Additional copies of this Policy and Complaint Form shall be maintained in the Personnel Office.

Upon the effective date of this Policy, the provisions of this Policy shall supersede and replace all prior Essex County policies and regulations regarding employee discrimination and harassment, and related complaint procedures.