

# Jefferson County

## Administrative Order



# Harassment and Retaliation

**Administrative Order:** 20-01

**Date Established:** 11/19/2020

### 1.0 PURPOSE

At Jefferson County, we believe it's essential to provide all employees with a respectful and safe working environment. As a result, we don't tolerate harassment or any mistreatment of employees in the workplace or work-related situations, including unlawful harassment on the basis of the following protected categories:

- race, color, ethnic or national origin;
- age;
- religion or religious creed;
- sex, including pregnancy, childbirth, breastfeeding, or related medical conditions;
- sexual orientation;
- gender, gender identity, gender expression, transgender status, or sexual stereotypes;
- nationality, immigration status, citizenship, or ancestry;
- marital status;
- protected military or veteran status;
- physical or mental disability, medical condition, genetic information or characteristics (or those of a family member);
- political views or activity;
- status as a victim of domestic violence, sexual assault or stalking; or
- any other basis prohibited under federal, state, or local law.

Harassment under this Administrative Order (AO) may include conduct that creates a disrespectful, intimidating, hostile, degrading, humiliating, or offensive environment for an employee. Engaging in such conduct is a violation of this AO.

If the County determines that an employee's conduct has violated this AO, we will take steps to ensure the conduct is effectively addressed, and any employee found to have engaged in harassing conduct may be subject to discipline, up to and including termination.

Because the intent of this AO is to deter conduct that is unwanted, unreasonable, and demeaning, the County may consider an employee's conduct to be in violation of this AO even if it falls short of unlawful harassment under applicable law. When determining whether conduct violates this AO, we consider whether a reasonable person could conclude that the conduct created an intimidating, hostile, degrading, or demeaning environment.

This AO applies to everyone who works for Jefferson County. Everyone—including employees, supervisors, and independent contractors—is responsible for following and upholding this AO. Additionally, we don't tolerate harassment of employees by non-employees (e.g., contingent workers, guests, applicants, vendors, or clients), nor do we tolerate harassment of non-employees by employees.

## **2.0 DEFINITIONS**

- 2.1 **Employee** – All officials and employees, whether part-time or regular, or on contract, that are compensated for services by Jefferson County.
- 2.2 **Supervisor** – Any official or employee of Jefferson County who supervises any other official(s) or employee(s) of Jefferson County.
- 2.3 **Independent Contractor** – Any individual providing service pursuant to a contract with Jefferson County.
- 2.4 **Harassment** – Harassment can range from extreme forms such as violence, threats, or physical touching to less obvious actions like ridiculing, teasing, or repeatedly bothering colleagues or subordinates or refusing to talk to them. For example, harassment may include the following types of conduct:
  - derogatory or insensitive jokes, pranks, or comments;
  - slurs or epithets;
  - unwelcome sexual advances or invitations;
  - non-verbal behavior such as staring, leering, or gestures;
  - ridiculing or demeaning comments;
  - innuendos or veiled threats;
  - intentionally excluding someone from normal workplace conversations and making them feel unwelcome;
  - displaying or sharing offensive images such as posters, videos, photos, cartoons, screensavers, emails, or drawings that are derogatory or sexual;
  - offensive comments about appearance, or other personal or physical characteristics, such as sexually charged comments or comments on someone's physical disability;
  - unnecessary or unwanted bodily contact such as groping or massaging, blocking normal movement, or physically interfering with the work of another individual; or
  - threats or demands that a person submit to sexual requests as a condition of continued employment or to avoid some other loss and offers of employment-related benefits in return for sexual favors.

This list of examples is not exhaustive, and there may be other behaviors that constitute unacceptable harassment under the AO.

“I was joking” or “I didn’t mean it that way” are not defenses to allegations of harassment, nor is being under the influence of alcohol or other substances. This AO applies to conduct at work and at work-related social events, office parties, and off-site meetings. Employees are expected to be particularly careful about what they say and do in these circumstances.

2.5 **Sexual Harassment** – Harassment specifically based on sex, can take two forms:

**Hostile Work Environment:** Conduct that has the purpose or effect of unreasonably interfering with an employee’s work performance or creating an intimidating, hostile, or offensive working environment; and

**Quid Pro Quo Harassment:** Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when submission to such conduct is made either explicitly or implicitly a term or condition of an employee’s employment, or when submission to or rejection of such conduct by an employee is used as the basis for employment decisions affecting that employee.

Sexual harassment can happen regardless of the individuals’ gender, gender identity, or gender expression and can, for example, occur between same-sex individuals as well as between opposite-sex individuals, and does not require that the harassing conduct be motivated by sexual desire.

2.6 **Bullying** – Jefferson County does not tolerate abusive conduct, bullying or other intimidating or aggressive behavior among employees or others covered by this AO, whether or not it is based on a protected category. If an employee is found to be mistreating his or her colleagues, we will take appropriate action to stop the behavior. If you would like to report behavior that you believe is bullying, you may use the same reporting procedures outlined below.

### 3.0 **REPORTING PROCEDURES**

All supervisors at Jefferson County are required to promptly (ideally, within 24 hours) report any violation or suspected violation of this AO. Any employee who believes he or she has been harassed or has witnessed or heard about a potential violation of this AO, should report the conduct so that the County can take steps to remedy any violations of the AO.

If you suspect harassment, discrimination, or retaliation (see below *Section 5.0 AO Prohibiting Retaliation*) has occurred, you are encouraged (and supervisors are required) to promptly provide a written or oral complaint to any of the following:

- Any member of the Equity & Inclusion Division
- The County Attorney’s Office; or
- The Jefferson County *Anonymous Integrity Matters* Hotline.

When possible, a complaint should include details of the incident or incidents, names of individuals involved, and names of any witnesses.

Supervisors who receive a complaint of, or learn of, information that suggests this AO may have been violated are required to promptly (ideally within 24 hours) forward that complaint to the Equity & Inclusion Division or the County Attorney’s Office, and will be subject to discipline for failing to timely report. As soon as reasonably possible, the County will investigate any allegations and take appropriate remedial action.

We will keep all complaints confidential to the extent possible while still fulfilling our obligation to investigate and end any harassing conduct.

#### **4.0 THE INVESTIGATION PROCESS**

Jefferson County has a legal obligation to promptly investigate and respond to all complaints regarding potential violations of this AO. Upon learning of conduct requiring further review, qualified investigators will complete thorough investigations in a timely and impartial manner.

All persons to whom a complaint is made or who learn of a complaint as part of a County investigation must do everything reasonably possible to keep the complaint confidential in order to preserve the integrity of the investigation while it is ongoing, to ensure fairness to all involved, and to protect the privacy of employees who have brought complaints or are accused of misconduct. All employees must participate, cooperate fully and provide truthful information in an investigation. Failure to do so may be grounds for disciplinary action up to and including termination.

Nothing in this AO is to be construed as a guarantee of absolute confidentiality or intended to curtail employee rights under the law to discuss work-related matters. Disclosure of information learned through the complaint process and the investigation will be limited to disclosures that are necessary for the organization to fulfill its legal obligations to investigate and take prompt action to end harassment.

#### **5.0 AO PROHIBITING RETALIATION**

We recognize that employees may find it difficult to raise complaints about harassment. Therefore, this AO is also meant to encourage employees to come forward with their concerns without fear of retaliation. The law protects employees from retaliation for reporting harassment or participating in an investigation, as does Jefferson County AO. We have a zero-tolerance AO when it comes to unlawful retaliation. Specifically, the Harassment AO encourages employees to come forward with their concerns and participate in the investigations process, all without fear of retaliation.

It is against County AO (and is unlawful) for any employee to retaliate against another for his or her participation in the complaint process.

Retaliation is when someone penalizes another person for any of the following:

- Reporting what he/she believes in good faith to be harassment and/or a violation of this AO;
- Expressing an intent to report what he/she believes in good faith to be harassment and/or a violation of this AO;
- Assisting another employee in an effort to report harassment and/or a violation of this AO; or
- Participating in any investigation under this AO.

Retaliating against a co-worker who made a complaint or otherwise participates in the investigation process is grounds for discipline, up to and including termination.

#### **6.0 TRAINING**

In an effort to prevent harassment and/or retaliation and solicit its reporting, the County will provide appropriate training to all employees on their initial date of hire and provide, during new employee orientation, a copy of this AO. All supervisors are required to attend our mandatory harassment training, which includes a comprehensive review of our AO and applicable law.