

CHAPTER FIFTEEN

WORKPLACE ENVIRONMENT POLICY

I. PURPOSE

The purpose of this directive is to establish a Workplace Environment Policy for the Monroe County Sheriff's Office.

II. POLICY STATEMENT

Legal and moral precepts make sexual harassment, harassment based on race, color, religion, sex, national origin, ancestry, age, veteran status, marital status, familial status, sexual orientation/preference, political beliefs, disabilities/handicap, or any other characteristics protected by local, state, or federal law, or discrimination of any kind in the workplace completely improper. This agency disapproves of any such harassment or discrimination, and, by means of this Order, states that sexual harassment, harassment, and discrimination as herein defined are strictly forbidden. This agency therefore, shall take direct and immediate action to prevent such behavior, and to remedy all reported instances of harassment, sexual or otherwise, and discrimination.

Instances of alleged sexual harassment, harassment, or discrimination not found to be in violation of applicable laws may still be in violation of this General Order and subject to disciplinary actions.

Employees shall have the right to work in an environment free from any type of sexual harassment, harassment, or discrimination. Sexual harassment, harassment, or discrimination of employees in any form shall result in disciplinary action up to and including dismissal. The Sheriff or his designee must be apprised of all facts concerning alleged sexual harassment, harassment, and discrimination in the work environment.

The publication of procedures herein is not intended to, and does not, create in employees a property right to their job with the Monroe County Sheriff's Office.

An employee found to have violated this Policy shall be subject to disciplinary proceedings pursuant to General Operations Manual, Chapter 13 – Discipline Procedures and Code of Conduct.

It is recognized that Collective Bargaining Agreements exist and may supersede policy on discipline and grievance procedures.

Harassment or discrimination that does not fall within the protections of this policy is subject to a review and corrective action by the employee's supervisor.

(Revised 03/10/04)

III. PROCEDURE

- A. Discrimination in the Workplace** – Discrimination is defined as the denial of equal employment opportunity. It is a violation of this policy to fail or refuse to hire or to discharge an individual or otherwise discriminate against any individual with regard to compensation, terms, conditions, or privileges of employment because of such person's race, color, religion, sex, national origin, ancestry, age, veteran status, marital status, familial status, sexual orientation/preference, political beliefs, disability/handicap, or any other characteristics protected by local, state, or federal law.

B. Sexual Harassment in the Workplace

1. Sexual Harassment in the workplace is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when any of the following occurs:
 - a. Submission to such conduct is made either explicitly or implicitly a condition or employment;
 - b. Submission to, or rejection of, such conduct by an individual is used as a basis for employment decisions affecting the individual;
 - c. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.
2. Examples – the following are examples of behaviors that can create a hostile environment if they are unwanted or uninvited:
 - a. Lewd or sexually suggestive comments
 - b. Jokes or teasing about sex, sexuality, gender
 - c. Comments about body parts or sex life
 - d. Sexually degrading words used to describe an individual
 - e. Suggestive pictures, posters, calendars, or cartoons
 - f. Leering, stares, or gestures
 - g. Repeated request for dates or other unwanted, unsolicited propositions
 - h. Holding up to ridicule
 - i. Leaving sexually explicit notes, books, magazines, etc., in places where employees may find them
 - j. Sending sexually explicit emails, greeting cards, or letters
 - k. Requiring the wearing of revealing clothing
 - l. Excessive attention in the form of love letters, telephone calls, or gifts
 - m. Touching, including such things as brushes, pats, hugs, shoulder rubs, pinches, and all other forms of unwanted physical contact.
 - n. Requesting or ordering employees of one gender exclusively to perform tasks viewed as "women's work" or "men's work"
 - o. The deliberate singling out of employees of one gender
 - p. Conduct such as listed above that offends a person other than the person to whom the sexual conduct is directed.
3. Occasional compliments of a socially acceptable nature do not create a hostile work environment. Conduct that may create a hostile work environment is behavior that is unwelcome, that is offensive to a reasonable person, that debilitates moral, and that interferes with work effectiveness.

C. Harassment in the Workplace

1. Harassment in the Workplace is defined as conduct, verbal or otherwise, that has the purpose or effect of unreasonably interfering with an individual's work performance or that creates an intimidating, hostile, or offensive working environment.
 2. Harassment based on any of the following: race, color, religion, sex, national origin, ancestry, age, veteran status, marital status, familial status, sexual orientation/ preference, political beliefs, disability/handicap, or any other characteristics protected by local, state, or federal law is subject to an investigation pursuant to this policy.

3. The following are examples of harassment that can create a hostile environment:
 - a. Jokes, comments, teasing based on any of the above characteristics
 - b. Derogatory pictures, posters, calendars, or cartoons based on any of the above characteristics
 - c. Conduct such as that listed above that offends a person other than the person to whom the conduct is directed.

D. Retaliation

1. Retaliation may include, but is not limited to, such acts as refusing to recommend an employee for a benefit for which he/she qualifies, spreading rumors about the employee, encouraging hostility from co-workers, and escalating harassment.
2. There shall be no retaliation against any employee for filing a complaint under this Policy, or assisting, testifying, or participating in the investigation of such complaint. Any subsequent conduct by agency employees toward any affected party, which is negative and retaliatory, shall be reported for investigation and disciplinary action up to and including dismissal.

E. Responsibilities

1. Employees

- a. Each and every employee has an affirmative duty to protect the agency from liability by conducting themselves in an appropriate manner and acting responsibly to maintain a pleasant working environment, free of discrimination and harassment and allowing each employee to perform to his or her maximum potential. Each employee is responsible for assisting in the prevention of harassment and discrimination through the following acts:
 - 1) Refraining from participation in, or encouragement of, actions that could be perceived as harassment or discrimination;
 - 2) Reporting acts of harassment or discrimination in accord with this policy;
 - 3) Encouraging any employee who confides that they are being harassed or discriminated against, to report these acts in accord with this policy;
 - 4) Refraining from gossiping about or discussing such complaints with other employees, outside of the reporting and investigative processes; and
 - 5) Cooperating with and assisting with all investigations of violations of this policy.
- b. Failure to take action in accordance with this Policy to stop known harassment or discrimination shall be subject to disciplinary action up to and including dismissal.

2. Complainant Responsibilities

- a. In addition to the above responsibilities that apply to all employees, complainants are encouraged to tell the offender that his or her actions are unwelcome.

3. Supervisor Responsibilities

- a. In addition to the above responsibilities that apply to all employees, supervisors have the responsibility to act promptly and affirmatively when they observe behavior that violates this policy, and/or when they receive complaints of harassment or discrimination.

- b. Each MCSO supervisor is responsible for ensuring that his or her workplace is free or harassment and discrimination. These responsibilities include:
 - 1) Monitoring the work environment on a daily basis for signs that harassment or discrimination may be occurring;
 - 2) Reviewing this policy with all employees;
 - 3) Assuring employees they need not endure insulting, degrading, or exploitative treatment of any nature;
 - 4) Informing employees of their right to file a complaint for violations of this policy;
 - 5) Assuring employees that investigations of violations of this policy will be handled in accordance with applicable confidentiality provisions;
 - 6) When deemed necessary, taking action to limit the work contact between two employees where there has been a complaint of harassment or discrimination, pending the investigation;
 - 7) Notifying the Human Resources Director and his or her own supervisor of all complaints received and actions taken relating to the complaint; and
 - 8) Ensuring that there are no retaliatory actions taken against the complainant, or any witness for assisting, testifying, or participating in the investigation of such a complaint by any individual, including the alleged perpetrator.

F. Work Environment Officer (WEO)

1. This section creates the position of Work Environment Officer (WEO).
2. The Work Environment Officer (WEO) shall be appointed by the Sheriff and during the normal daily duties will report in the usual chain of command. However, in cases of sexual harassment, harassment, or discrimination investigations, the WEO shall operate outside that chain of command and report directly to the Sheriff or his designee. The number of persons fulfilling the duties of the WEO may vary.
3. The WEO shall have experience in conducting investigations and shall have training through the Equal Employment Opportunities Commission. The WEO shall be sensitive to the persons and issues involved in complaints of violations of this policy.
4. The WEO shall conduct all investigations of sexual harassment, harassment, or discrimination in accordance with this policy. In appropriate cases the WEO shall mediate a resolution to the complaint.
5. The WEO shall refer all investigations to Internal Affairs immediately upon learning that the complaint includes any violation of criminal law. Internal Affairs shall take over the investigation of such matter in accord with General Operations Manual, Chapter 20 – Internal Affairs.

G. Reporting Procedures

1. Any employee who experiences any job-related harassment or believes he or she has been discriminated against, is encouraged to promptly make the objection known to the offender.
2. Any employee who believes that harassment or discrimination has occurred in or relating to the workplace shall report the incident(s) to the Director of Human Resources, a supervisor, a Director, or the Sheriff.
3. The report may be verbal or written.

4. Anonymous complaints may be made and all such complaints shall be investigated to the degree necessary to determine their validity.
5. Any employee receiving the complaint shall document the incident(s) complained of, the complainant, the person(s) harassing or discriminating, and the dates on which it occurred and shall immediately (within 24 hours) report it to the Director of Human Resources.
6. If a second incident of sexual harassment, harassment, or discrimination occurs between the same complainant and the same offender, the complainant shall report the subsequent violation in accord with these Reporting Procedures.

H. Investigative Guidelines

1. The Director of Human Resources or designee shall receive all complaints of sexual harassment, harassment, or discrimination. The Director shall consult with the Sheriff or his designee in identifying the WEO to be assigned the investigation. The Director of Human Resources or designee shall provide a copy of the complaint to the assigned WEO. The Director of Human Resources or designee shall maintain the original complaint.
2. The WEO shall promptly, impartially, and discreetly conduct an inquiry of the complainant and shall identify the remedy sought by the complainant, and determine if mediation or an investigation is appropriate.
3. The criteria for conducting mediation is:
 - a. There is no previous complaint against the alleged offender of a violation of this Policy or its predecessor Policies;
 - b. The alleged violation of this Policy does not constitute a violation of criminal law;
 - c. The complainant submits a written request for mediation. The complainant requesting mediation is specifically informed of the possibility that their complaint may be re-opened due to a subsequently alleged violation by the same offender and the complainant agrees in writing to cooperate with all such investigative efforts.
 - d. The accused agrees in writing to mediate the complaint with the understanding that another complaint of violations of this Policy shall result in the re-opening of the mediated resolution.
4. The investigation shall include at a minimum an initial face-to-face interview with the complainant. Within 24 hours of that interview the alleged offender shall be notified of the complaint. The complainant shall be notified that the offender has been informed of the complaint. The offender shall be interviewed. Any witnesses deemed relevant by the WEO shall be interviewed and any documentation provided shall be reviewed.
5. All complaints of violations of this Policy shall be resolved as quickly as possible. If after 14 calendar days from the initial complaint there is no resolution, the WEO shall report to the Sheriff, or his designee, in writing, the progress being made and the expected resolution date. A follow-up report shall be sent every 7 days thereafter until there is a resolution.
6. In determining if this Policy has been violated, the WEO shall review the totality of the circumstances on a case-by-case basis. In determining if this Policy has been violated, MCSO explicitly reserves the right to hold its employees, appointees, volunteers, vendors, and agents to a higher standard than may be imposed in a court of law.

7. If the complainant or the alleged offender believes that the investigation is not being conducted properly, he or she may file a grievance in accordance with General Operations Manual, Chapter 14 – Grievance Procedures. The grievance shall be resolved before the investigative report is finalized.
 8. The WEO shall provide a written **investigative** report to the Sheriff or his designee, **and** the WEO shall make a recommendation to the Sheriff or his designee indicating one of the following:
 - a. No Violation of Policy;
 - b. **Sustained; Violation of Policy;**
 - 1) **Forward to Internal Affairs (if a criminal violation)**
 - 2) **Forward to appropriate Commander or Director for discipline recommendation (if administrative violation)**
 9. In all cases the WEO shall conduct a follow-up interview with the complainant within 45 calendar days to determine if the resolution has resolved the complaint. If the follow-up interview indicates that the resolution was not alleviated the behavior, the investigation shall then be re-opened for further investigation and possible further disciplinary action.
 10. If a second incident of sexual harassment, harassment, or discrimination occurs identifying the same offender, even though the complainant is not identical, the WEO shall immediately notify the Sheriff or his designee of the allegation.
 11. All pending investigations of alleged violations of this Policy shall be kept confidential. After the investigation is completed including a review by the Sheriff or his designee, it is subject to public disclosure under Chapter 119 Florida Statutes.
 12. The WEO shall file all closed investigations with the Director of Human Resources who shall maintain the records in a secure location. The Director of Human Resources shall provide the Sheriff or his designee with an annual summary of complaints of violations of this Policy.
 13. Complainants or offenders of this Policy may file a grievance /appeal in accordance with MCSO procedures when they disagree with the resolution of a claim filed under this Policy.
- (Revised 03/10/04)
- I. **False Accusation** – Where the results of an investigation reveal that a complaint of a violation of this Policy is false, the employee having made the complaint may be subject to disciplinary action, up to and including dismissal.