



Dallas County
BRIEFING / COURT ORDER
Commissioners Court - Jan 19 2021

- Resolution
- Solicitation/Contract
- Executive Session
- Addendum

Policy Revision - Division 2. Harassment Sec. 86-781. Division Policy.

Briefing Date: Jan 19 2021
Funding Source:
Originating Department: Human Resources
Prepared by: Jose Melendez,
Recommended by: Robert B. Wilson, Director of Human Resources

BACKGROUND INFORMATION:

In its continuing efforts to update Dallas County Code, the Human Resources/Civil Service Department submits the attached revision with underlines and strike through to Chapter 86 Division 2. Harassment Sec. 86-781 through Sec. 86-788 (attachment A).

OPERATIONAL IMPACT:

The revised policy adds a requirement for Dallas County employees to attend annual harassment prevention training. In addition, the revision outlines the Human Resources Department role in supporting Department Heads/Elected Officials and Managers in addressing employee harassment complaints. Complaint process steps are removed from the policy and will be maintained in the human resources quality management system.

LEGAL IMPACT:

The Civil Section of the District Attorney's Office has reviewed this policy.

ADMINISTRATIVE PLAN COMPLIANCE:

The County's Administrative Plan recommends that Dallas County become a model governmental entity. The proposed recommendation is consistent with this objective as presented for serving the interest of the County and its constituents, which results in accountable governing in support of developing a strong, motivated workforce.

RECOMMENDATION:

The Human Resources/Civil Service Department recommend Commissioners Court *approve the attached revised policy for immediate inclusion into the Dallas County Code.*

MOTION:

On a motion made by TBD, and seconded by TBD, the following order will be voted on by the Commissioners Court of Dallas County, State of Texas:

Be it resolved and ordered that the Dallas County Commissioners Court does hereby approve *the policy revision of Chapter 86 Division 2. Harassment and for immediate inclusion into the Dallas County Code.*

ATTACHMENTS:

[Revised Harassment Policy Sec 86-781](#)

DIVISION 2. DISCRIMINATION, HARASSMENT, AND RETALIATION POLICY

~~DIVISION 2. HARASSMENT~~

Sec. 86-781. Dallas County Policy Statement and Purpose. ~~Sec. 86-781. Division policy~~

- a. This Policy defines discrimination, harassment, and retaliation in the workplace, outlines responsibilities for reporting and preventing such conduct, and explains the procedures for investigating and resolving discrimination, harassment, and retaliation complaints.
- a.b. Dallas County prohibits all forms of unlawful discrimination, harassment, and retaliation and charges all employees with the responsibility for ensuring that the workplace is free from such conduct. This means that all employees must avoid any action, conduct, or behavior that could be viewed as unlawful discrimination, harassment, or retaliation and report any suspected discrimination, harassment, or retaliation. Any employee who violates this Policy will—may be subject to disciplinary action, up to and including termination.

~~(a) It is the policy of the county to provide all employees a work environment that is free from any form of unlawful harassment, any hostile work environment based on unlawful harassment, or any retaliatory action against an employee who reports unlawful harassment. Unlawful harassment of any kind is expressly prohibited and will not be tolerated. All employees are responsible for ensuring that the workplace is free from unlawful harassment and all employees must avoid any action, conduct or behavior which could be viewed as unlawful harassment. Unlawful harassment includes sexual harassment and harassment of employees on the basis of race, religion, color, sex, national origin, age or disability. Slurs, epithets, and jokes based on these characteristics have no place in the workplace. Harassment of any nature, when based on race, religion, color, sex, national origin, age, sexual orientation, transgender, gender identity, gender expression, or disability will not be tolerated. The unlawful harassment prohibited by this division includes harassment by management, co workers, citizens, and vendors. Employees of the county are also prohibited from harassing customers, employees of vendors, and other third parties.~~

~~(b) All employees of the county are entitled to a workplace free of unlawful harassment by management, co workers and vendors. Any employee who believes he, or any other employee of the county, has been subjected to sexual or any other form of unlawful harassment by anyone, including management, supervisors, co workers, vendors, customers, or other visitors, must report it~~

~~immediately to his immediate supervisor, elected official or department head and/or the director of the county human resources/civil service department. It is important that employees report such incidents because without such assistance, violations may go undetected. Preserving a workplace free of unlawful harassment is the responsibility of all employees.~~

~~(c) All reports of unlawful harassment will be investigated in a reasonable timeframe by management. All employees are required to cooperate with the investigation. Confidentiality will be preserved to the fullest extent possible. Employees who bring a complaint of unlawful harassment to the attention of management, and/or who cooperate with the investigation, will not suffer retaliation or adverse employment decisions as a consequence. Where management's investigation substantiates the allegation of unlawful harassment, appropriate measures will be taken.~~

~~(d) Discipline, up to and including termination, will be imposed on any employee who is found to have engaged in conduct prohibited by this division. Discipline, up to and including termination, will be imposed on any employee who witness behavior prohibited by this division and does not report it. Discipline, up to and including termination, will be imposed on any supervisor or employee who fails to report an incident of unlawful harassment when it is reported to them. Revised: 06-19-18~~

~~(e) One form of unlawful discrimination is sexual harassment. It is the county's policy that sexual harassment is prohibited in the workplace and that all employees are responsible for ensuring that the workplace is free from sexual harassment. This means that all employees must avoid any action, conduct or behavior which could be viewed as sexual harassment. Any employee who violates this subsection will be subject to disciplinary action up to and including termination.~~

~~(f) County policy defines unlawful harassment in the workplace and outlines responsibilities for reporting and preventing such conduct, as well as the procedures for investigating and resolving unlawful harassment complaints.~~

~~(Admin. Policy Manual, § C(8.10-8.15))~~

Sec. 86-782. Definitions and Examples.

~~**Definitions.** (This section reflects recent court approved policy language: Court Order# 2011-776 April 26, 2011.)~~

- a. Complainant means an employee or applicant who makes a report of discrimination, harassment, or retaliation to a supervisor, manager, or the Director of the Dallas County Human Resources/Civil Service Department/Director's designee.

- b. Supervisor or Manager means an individual vested with the authority to control the working conditions or tangible job benefits of another employee.
- c. Unlawful discrimination occurs when an employer fails or refuses to hire, discharges, or otherwise discriminates against an individual with respect to the compensation, terms, conditions, or privileges of employment because of protected characteristics, such as the individual's race, religion, color, sex, national origin, age, veteran status, pregnancy, leave status, or disability.
- d. Unlawful retaliation refers to an adverse action taken against an employee because the employee engaged in activity protected by law, such as participating in an investigation related to discrimination, taking leave protected by the Family and Medical Leave Act, or reporting in good faith a violation of law by Dallas County to an appropriate law enforcement authority.
- e. Unlawful harassment is unwelcome conduct based on a characteristic protected by law. Harassment is unlawful where (1) enduring the offensive conduct becomes a condition of continued employment or (2) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive.

Sexual harassment is a type of unlawful harassment and refers to unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- (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; or
- (3) 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.

Conduct considered harassment could include:

- Making derogatory or abusive statements, comments, slurs, noises, or gestures based on an individual's protected characteristic;
- Stereotyping, mocking, ridiculing, or mimicking an individual's culture, accent, appearance, or customs;
- Posting, circulating, or displaying written or graphic material (including cell phone pictures) that denigrates or shows hostility or aversion toward an individual or group based on a protected characteristic;

- Using sexually suggestive language or engaging in offensive touching, such as patting, pinching, or rubbing;
- Making unwelcome requests for sexual favors, sexual advances, or requests for “dates;” and
- Implying, by words or actions, that an employee must tolerate or submit to sexual advances or offensive, inappropriate, or abusive conduct.

Harassment could be directed against males or females by managers, co-workers, vendors, citizens, and other third parties. Conduct considered harassment could include:

- Making derogatory or abusive statements, comments, slurs, noises, or gestures based on an individual's protected characteristic;
- Stereotyping, mocking, ridiculing, or mimicking an individual's culture, accent, appearance, or customs;
- Posting, circulating, or displaying written or graphic material (including cell phone pictures) that denigrates or shows hostility or aversion toward an individual or group based on a protected characteristic;
- Using sexually suggestive language or sexual innuendoes and engaging in offensive touching, such as patting, pinching, or rubbing;
- Making unwelcome requests for sexual favors, sexual advances, or requests for “dates;” and
- Implying, by words or actions, that an employee must tolerate or submit to sexual advances or offensive, inappropriate, or abusive conduct.

~~The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

~~*Complainant* means an employee who reports unlawful harassment to a supervisor or manager.~~

~~*Hostile work environment* means when the conduct interferes with an individual's work performance or creates an intimidating, hostile or offensive working environment. Like quid pro quo harassment, hostile work environment harassment may involve management and supervisory personnel. In addition, however, hostile work environment harassment may also involve co-employees and nonemployees. Example: remarks, slurs, epithets, jokes or gestures based on race, religion, color, sex, national origin, age, sexual orientation, transgender, gender identity, gender expression, or disability in the presence of or directed toward an employee which result in an intimidating or threatening work environment for any employee.~~

~~Quid pro quo (this for that) means when submission to or rejection of the harassment is the basis for an employment decision affecting the individual, or is made a term or condition of the individual's employment. Quid pro quo harassment usually involves management or supervisory personnel because these individuals have the ability to grant or deny job benefits. Example: if an employee's raise or promotion depends on his granting sexual favors to a supervisor.~~

~~Retaliation/reprisal means an intimidating, vengeful action by members of management, any person with authority to affect the employee relationship, and/or employees directed against an individual for reports of unlawful harassment or for cooperating with an investigation.~~

~~Sexual harassment means, as defined by the Equal Employment Opportunity Commission, unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:~~

- ~~(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; or~~
- ~~(3) 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.~~

~~Incidents of sexual harassment can involve members of the same gender as well as members of the opposite gender. The harasser may be male or female.~~

~~Supervisor/manager means an employee vested with the authority to control working conditions or tangible job benefits of another employee.~~

~~**Cross references:** Definitions generally, § 1-2.~~

~~**Sec. 86-783. Examples of sexual harassment.**~~

~~**Sec. 86-783. Complaint Reporting, Investigation, and Resolution Procedures.**~~

- a. ~~Any employee who believes the employee or any other employee or applicant has been subjected to unlawful discrimination, harassment, or retaliation or other inappropriate conduct by a manager, supervisor, co-worker, vendor, customer, or other third party must report the alleged violation immediately to a supervisor or manager, elected official/department head, or the Director of the Dallas County Human Resources Department/Director's designee.~~
- b. ~~All complaints of discrimination, harassment, and retaliation shall be taken seriously and addressed within a reasonable timeframe. After receiving a complaint, the recipient shall notify the Dallas County Human Resources Director/Director's designee. Upon receipt, the Human Resources Director/Director's designee shall promptly investigate and address the matter.~~

This process may include interviews, a review of relevant documents, and temporary measures deemed necessary to protect employees or to preserve evidence, such as investigatory leave or reassignment.

- c. If it is determined that a Policy violation occurred, Dallas County will take appropriate actions designed to stop the inappropriate conduct and avoid its repetition. The Human Resources Director/Director's designee shall advise the complainant, the accused, and other relevant parties of any findings, [taking care to preserve confidentiality to the extent possible.](#)
- d. An employee may not retaliate against another employee for participating in the investigation.

~~Conduct which constitutes sexual harassment may include, but is not limited to, the following:~~

~~(1) Unwelcome touching of a sexual nature, such as:~~

- ~~a. Touching another person's body (for example, unwelcome neck massages, rubbing another person's hand or arm).~~
- ~~b. Touching another person's breasts, chest, buttocks or genitals.~~
- ~~c. Touching or exposing one's self.~~

~~(2) Unwelcome sexual advances, propositions or other sexual comments, such as:~~

- ~~a. Discussing in any manner or making sexually suggestive gestures, noises, remarks, jokes or comments about a person's sexuality or sexual activities.~~
- ~~b. Preferential treatment or promises 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.~~
- ~~c. Sexual remarks about physical attributes.~~
- ~~d. Alluding to another person's or one's own mode of dress in a sexually suggestive manner.~~

~~(3) Any display of sexual publications at any county workplace, such as:~~

- ~~a. Displaying sexually suggestive pictures, videos, magazines, posters, calendars, drawings and literature.~~
- ~~b. Reading or otherwise publicizing in the work environment materials that are sexually revealing, suggestive, demeaning or pornographic.~~

~~(Admin. Policy Manual, § C(8-22))~~

Sec. 86-784. Managers' and Supervisors' Responsibilities. (This section reflects recent court approved policy language: Court Order# 2011 1462—August

~~30, 2011.)~~

- a. Managers and supervisors shall take the initiative in preventing discrimination, harassment, and retaliation by:
- (1) Modeling appropriate professional behavior in accordance with this Policy;
 - (2) Actively monitoring the work environment for indications of discrimination, harassment, and retaliation;
 - (3) Ensuring that each employee is aware of this Policy and of the procedure to report suspected incidents of discrimination, harassment, and retaliation;
 - (4) Ensuring that ~~an employees~~ ~~does~~ not suffer retaliation for reporting allegations of violations of this Policy or for cooperating in an investigation into alleged Policy violations;
 - (5) Taking appropriate disciplinary action when an investigation substantiates an allegation;
 - (6) Immediately reporting all complaints to the Dallas County Human Resources Director/Director's designee; and
 - (7) Attending discrimination, harassment, and retaliation training ~~at least once per year~~ and ensuring subordinate employees attend such training at least once per year.
- b. Any manager or supervisor who fails to comply with these responsibilities may be subject to disciplinary action, up to and including termination.

- ~~(a) Managers and supervisors shall take the initiative in preventing unlawful harassment by:~~
- ~~(1) Setting good examples; demonstrating courteous and professional behavior at all times;~~
 - ~~(2) Actively monitoring the work environment for indications of unlawful harassment;~~
 - ~~(3) Ensuring that each employee is aware of the policy regarding unlawful harassment or misconduct in the workplace;~~
 - ~~(4) Informing employees of procedures to report incidents of unlawful harassment;~~
 - ~~(5) Ensuring that employees do not suffer retaliation for presenting allegations~~

~~of unlawful harassment;~~

- ~~(6) Taking all reports of unlawful harassment seriously;~~
- ~~(7) Conducting an investigation into all allegations of unlawful harassment within a reasonable timeframe;~~
- ~~(8) Taking appropriate disciplinary action when an investigation substantiates an allegation of unlawful harassment;~~
- ~~(9) Ensuring that employees do not suffer retaliation for cooperating in an investigation into an allegation of unlawful harassment;~~
- ~~(10) Immediately reporting all complaints of unlawful harassment to the human resources/civil service department; and~~
- ~~(11) Attending unlawful harassment training.~~

~~(b) Discipline, up to and including termination, will be imposed on any manager or supervisor who fails to report an incident of unlawful harassment when it is reported to them.~~

~~(Admin. Policy Manual, § C(8.23, 8.24))~~

Sec. 86-785. Employees' ~~r~~Responsibilities. ~~(This section reflects recent court approved policy language: Court Order# 2011 1462—August 30, 2011.)~~

- a. A county employee shall take the initiative in preventing unlawful discrimination, harassment, and retaliation by:
 - (1) Acting in a professional manner and in accordance with this Policy and all Dallas County policies designed to prevent lawful but inappropriate workplace conduct (such as bullying or ~~comments based~~commenting up—on an employee's ~~sexual orientation or~~ gender identity);
 - (2) Ceasing any conduct if told by a supervisor, manager, or co-worker that such conduct is offensive or otherwise inappropriate;
 - (3) Cooperating in any investigation into alleged violations of this Policy;
 - (4) Immediately reporting ~~perceived~~alleged violations of this Policy to: a supervisor or manager, an elected official or department head, or the Director of the Dallas County Human Resources Department/Director's designee.
- b. Any employee who fails to comply with these responsibilities may be subject to disciplinary action, up to and including termination.

- ~~(a) Any and all county employees shall take the initiative in preventing unlawful harassment by:
 - ~~(1) Conducting themselves in a professional manner; maintaining a professional attitude and dressing appropriately for the workplace;~~
 - ~~(2) Avoiding involvement in actions or discussions that may be sexually suggestive or offensive;~~
 - ~~(3) Ceasing any behavior or discussion if told by a supervisor, manager, or co-worker that such conduct is offensive; and~~
 - ~~(4) Cooperating with management in any investigation into alleged acts of unlawful harassment.~~~~
- ~~(b) Discipline, up to and including termination, will be imposed on any employee who is found to have engaged in conduct prohibited by this division. Discipline, up to and including termination, will be imposed on any employee who witness behavior prohibited by this division and does not report it.~~
- ~~(c) Any employee who believes that he, or any other employee of the county, has been the subject of unlawful harassment must immediately contact one of the following:
 - ~~(1) Supervisor or manager;~~
 - ~~(2) Elected official or department head; or~~
 - ~~(3) Director, human resources/civil service department.~~~~
- ~~(d) The human resources/civil service department shall serve as an additional avenue outside the complainant's own department through which employees may file a complaint and seek resolution of unlawful harassment charges.~~

~~(Admin. Policy Manual, § C(8.25-8.28))~~

~~Sec. 86-786. Complaint procedure.~~

~~Once a manager, supervisor, elected official/department head or the director of the human resources/civil service department has been notified of an allegation of unlawful harassment, an investigation should begin immediately. The following steps should be followed as appropriate:~~

- ~~(1) The harassment incident report (exhibit A) should be completed on each allegation.~~
- ~~(2) A separate harassment incident report is required for each incident of unlawful harassment.~~
- ~~(3) The original harassment incident report is to be provided to the human resources/civil service department, with a copy provided to the elected official/department head. Confidentiality will be preserved to the fullest~~

~~extent possible. Once the harassment incident report is received by the human resources/civil service department, it should be date/time stamped. The human resources director should immediately provide a copy of the harassment incident report to the elected official/department head if they did not receive a copy. The complainant should also be provided a copy of the harassment incident report for his/her records.~~

- ~~(4) Receipt of the original harassment incident report by the human resources/civil service department constitutes the beginning of the complaint investigation process. In the event of the need for "formal action" (as described in subsection (5b) of this section), completion of the investigation and resolution of the complaint should occur within a reasonable timeframe. However, any information that would have bearing on the outcome of the investigation, but cannot be immediately obtained could cause a delay in the completion of the investigation and the complainant should be notified if such delays occur.~~
- ~~(5) The complainant will be interviewed and advised of the actions that may be taken:~~
- ~~a. Informal action: An informal action requires some interaction with the alleged harasser to provide information regarding the county's policy on unlawful harassment. Follow up with the complainant would occur to ensure that the complainant has had no further problems and that the behavior has not recurred.~~
 - ~~b. Formal action: A formal action includes a complete investigation of the complaint, interviews with complainant, alleged harasser and witnesses, and a review of personnel documents and other related materials. This type of action would be as a result if sufficient evidence exists.~~
- ~~(6) Every effort will be made to preserve the confidentiality of the complainant's name to the fullest extent possible. When the investigation is deemed "formal action," which may likely result in disciplinary action, the complainant's name would be revealed to the alleged harasser in order to provide due process.~~
- ~~(7) The complainant and the alleged harasser will be advised of the findings at the conclusion of the formal action investigation.~~

~~(Admin. Policy Manual, § C(8.29))~~

~~**Sec. 86-787. Implications of charges.**~~

- ~~(a) All charges of unlawful harassment shall be taken seriously and dealt with in a prompt and effective manner. When an elected official, department head or supervisor/manager is notified by an employee of a complaint of unlawful harassment, the department shall in turn notify the human resources/civil service department/director immediately for assistance in the investigation of the allegation.~~

~~(b) Any employee who, in good faith and belief, alleges the existence of unlawful harassment which is later determined to be unfounded and/or unsubstantiated may not be the subject of any retaliation by any party.~~

~~(c) Any employee who knowingly files a false accusation of unlawful harassment for reasons which may include, but are not limited to, malice, spite or ill-will may be subject to disciplinary action that may include termination.~~

~~(Admin. Policy Manual, § C(8.30-8.32))~~

Sec. 86-788. Additional information on the investigation process. (This section reflects recent court approved policy language: Court Order# 2011-1462—August 30, 2011.)

~~(a) Investigations will be conducted, with regard to each complaint, which may include:~~

~~(1) Interviews with the complainant, accused, witnesses or other parties believed to have knowledge of the claim; and~~

~~(2) A review of personnel records and/or other relevant documents.~~

~~(b) Resolution of the investigation should be accomplished within a reasonable timeframe, in order to avoid further occurrences within the department, and to ensure employees that the county takes unlawful harassment charges seriously. Such an investigation will provide resolution and closure to the situation in order to allow normal activities to resume with minimal interruption to the workplace.~~

~~(c) During the investigation, depending upon the severity of the incident or action the alleged harasser may be temporarily reassigned to a different work area or the complainant may be reassigned, if agreeable.~~

~~(d) Information regarding the investigation shall be released on a "need to know" basis only to those parties deemed necessary, preserving confidentiality to the fullest extent possible throughout the investigation.~~

~~(e) Any information received by an elected official, department head, supervisor, manager or the human resources/civil service department director regarding unlawful harassment claims must be taken as notice and carries with it the duty to investigate.~~

~~(f) In the event of a finding of unlawful harassment upon completion of the investigation, disciplinary action up to and including termination will be taken based upon the severity of the findings. If the harasser is not a county employee, he may be subject to administrative or legal action.~~

~~(g) The human resources/civil service department director shall ensure that the elected official/department head is immediately made aware of all complaints when an investigation is elevated to formal action. The human resources/civil service department~~

~~director will work with the elected official/department head in the investigation and resolution of the charge.~~

~~(h) The human resources/civil service department director shall ensure that all relevant parties are briefed regarding the findings of the investigation.~~

~~(i) The human resources/civil service department director shall maintain a copy of the harassment incident report, any documentation, statements, and other information relevant to the complaint, investigation and resolution in a confidential file. (Admin.~~

~~Policy Manual, § C(8.33–8.41))~~

~~**Secs. 86-789–86-810. Reserved.**~~