

**Dutchess County Resource Recovery Agency  
Sexual and Other Unlawful Harassment Policy  
Adopted 3/18/2010**

**General**

The Dutchess County Resource Recovery Agency ("RRA", the "Agency") requires its board members, officers and employees to observe high standards of professionalism in the conduct of their duties and responsibilities. Furthermore, all Agency board members, officers, employees and representatives/agents shall comply with this policy against sexual and other unlawful harassment and any applicable local, state, federal laws and regulations in the course of their respective actions on behalf of the Agency.

All Agency employees are entitled to a work atmosphere free from sexual or other harassment. Title VII of the Federal Civil Rights Act of 1964 makes it "an unlawful employment practice for an employer...to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's... sex." Such discrimination is also made unlawful by state law (Executive Law, Article 15 - Human Rights Law). One form of such discrimination is sexual harassment that undermines the integrity of the employment relationship and the dignity of individual employees and impairs the efficiency and productivity of employees in delivering Agency services. Sexual or other harassment will not be tolerated by the Agency and is therefore prohibited.

**Purpose:** The purpose of this policy is to:

- A. Establish clearly and unequivocally that the policy of the Agency prohibits sexual harassment of its employees in any form, whether from other Agency employees, members of its Board of Directors, its vendors or consultants; and
- B. Establish procedures by which allegations of sexual harassment may be filed, investigated and adjudicated; and
- C. Require the establishment of affirmative programs so that worksites will be maintained free from sexual harassment.

**Guidelines**

- 1. Unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature will constitute sexual harassment when:
  - a. Submission to the conduct is either an explicit or implicit term or condition of employment; or
  - b. Submission to or rejection of the conduct is used as a basis for an employment decision affecting the person rejecting or submitting to the conduct; or

- c. The conduct has the purpose or effect of unreasonably interfering with an affected person's work performance, or creating an intimidating, hostile or offensive work environment.
2. The Agency considers sexual harassment to be a particularly destructive form of employee misconduct. Offenders will be subject to the full weight of disciplinary sanctions, as will any Supervisor or Manager who, having been made aware of such conduct by a subordinate, knowingly allows such acts to continue.
3. While conducting investigations, no action will be taken without advising and requesting the concurrence of the employee, and confidentiality will be maintained throughout the investigatory process to the extent possible.
4. Nothing in this policy should be construed as in any way limiting an employee's right to utilize any procedures set forth by other Agency policies or guidelines, or to file a complaint with the New York State Division of Human Rights, or to take any legal action they deem advisable. However, once the employee decides to file a complaint with the New York State Division of Human Rights, the internal investigation by the Agency will cease.

## **Procedure**

A. When an employee believes he/she has been subjected to sexual harassment, the employee shall submit a complaint as soon as possible after the occurrence, but in no case more than thirty (30) calendar after the alleged incident. If an employee is working under circumstances where a Supervisor is not onsite and the employee needs to report a harassment incident, they may contact any level of supervision by telephone. If the complainant needs assistance with preparing a written complaint, the complainant may request advice on obtaining assistance from the Supervisor or if the complaint is against the Supervisor, another supervisory position. The complainant shall submit the complaint in writing using the Form provided in Appendix "A" to their Supervisor and the Executive Director or his/her designee. In the case of a complaint regarding the immediate Supervisor, the complaint should go to the next supervisory level. In the case of a complaint regarding the Executive Director, the complaint should be made to their Supervisor and the Chair of the Agency's governing Board.

B. In the case where a County of Dutchess (the "County") employee is the subject of a complaint, the County Executive and County Commissioner of Personnel shall also be notified. The County will investigate any such complaint raised by an Agency employee and if such investigation determines that harassment has occurred, the County employee will be subject to disciplinary action.

C. If an Agency Board member is the subject of a complaint, the County Executive, Chair of the County Legislature and County Commissioner of Personnel shall be notified.

D. The complaint shall consist of specific factual allegations concerning unwelcome words or actions, the manner in which the complainant indicated the words or actions were unwelcome, the impact upon the complainant's employment or working environment, and potential witnesses.

E. Upon receipt of a complaint, the Executive Director or his/her designee shall have the responsibility of Investigating Officer (the "IO"). In the case of a complaint regarding the Executive Director or an Agency Board member, the Chair of the Agency's governing Board or his/her designee shall assume the responsibility of the Investigating Officer.

F. The IO shall investigate the complaint immediately and make every effort to reach resolution as expeditiously as possible.

G. The IO shall discuss the complaint as soon as possible with the person alleged to have committed the conduct and attempt to resolve the problem to the satisfaction of both the complainant and that person. If such a resolution is achieved, the IO shall note the details of the resolution in a confidential file.

H. If the problem cannot be resolved as indicated in paragraph G, the IO, with the advice of the Agency's attorney, shall investigate the complaint completely. The IO shall make a full written record of the investigation.

I. As a result of this investigation, the IO, with the advice of the Agency's attorney, shall make a written determination within forty-five (45) calendar days of receipt of the written complaint as to whether sexual harassment has occurred. In making such a determination, the IO shall consider the totality of circumstances, including the specific conduct and its context, whether the complainant indicated the conduct was unwelcome, the credibility of the parties, and the frequency and seriousness of the conduct. Formal determinations may be disclosable under the Freedom of Information Act.

J. If the IO determines that sexual harassment has occurred as a result of actions by an Agency employee, the employee determined to have committed the conduct shall be subject to disciplinary action up to and including discharge. If the harassment results from actions of non-Agency staff, the Agency shall take steps to report such harassment to entities having authority over the responsible parties.

K. Individuals who believe they have been unjustly charged with sexual harassment will be afforded every opportunity to offer and present their own information in their defense. If the final determination of the IO concludes that

the charges of sexual harassment were false and malicious, the complainant will be subject to disciplinary actions up to and including discharge.

L. The written determination of the investigation shall be reported to the Agency's governing Board.

M. The complainant and subject of the complaint shall receive copies of the written determination of the investigation of the complaint.

Witnessing Sexual Harassment Employees in supervisory positions who witness actions of Agency employees that they believe constitute harassment, shall immediately counsel employees and report such incidents to the Executive Director or his/her designee. Any Supervisor who witnesses an incident of sexual harassment by the Executive Director shall report it to their immediate Supervisor or, in the case of a Supervisor who reports directly to the Executive Director, they shall report the incident to the Chair of the Agency's Board of Directors. The IO shall investigate the reported actions and take appropriate steps as described above regarding any illegal actions by Agency personnel.

No Retaliation Anyone who participates in this procedure may do so without fear of retaliation. Retaliation against anyone, because he or she has filed a sex discrimination or sexual harassment complaint, is illegal and grounds for disciplinary action.

Training The Executive Director or his/her designee shall schedule periodic training programs and/or distribute information for all personnel regarding what constitutes sexual harassment as well as the implementation of this policy and its procedures. Attendance at training programs shall be mandatory and receipt of materials shall be acknowledged in writing.

Just as sexual harassment is strictly prohibited, so is harassment on the basis of race, color, creed, ethnicity, disability, religion, national origin, age, marital status, citizenship, veteran status, sexual orientation or any other category protected by law. Anyone who believes that he or she is being harassed or discriminated against on the basis of any of these factors should follow the same procedure outlined above for complaints of sexual harassment.

**Appendix A**

**DUTCHESS COUNTY RESOURCE RECOVERY AGENCY**

**Harassment Complaint/Incident Report Form**

Name of person filing complaint or completing incident report on alleged harassment:

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Name of person alleged to have committed harassment:

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Description of alleged harassment: include date, time, actions and witnesses (attach additional sheet if needed):

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Signature of person filing complaint or completing incident report

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
Signature of Supervisor, Executive Director  
or person receiving complaint

\_\_\_\_\_  
(Date)