

Administrative Order



Administrative Order No.: 7-37

Title: Unlawful Harassment

Ordered: 4/11/2000

Effective: 4/21/2000

AUTHORITY:

Section 4.02 of the Miami-Dade County Home Rule Amendment and Charter; Sections 2-42 and 11A-34 through 37 of the Code of Miami-Dade County; and Administrative Order 7-6.

POLICY:

The policy of Miami-Dade County is to ensure that all employees are able to enjoy a work environment free from all forms of discrimination, including harassment, on the basis of race, sex, color, national origin, religion, retaliation, age, disability, ancestry, marital status, pregnancy, sexual orientation, or the exercise of their constitutional or statutory rights. Administrative Order 7-28 was adopted in 1987 specifically to protect County employees from sexual harassment. Administrative Order 7-28 and Administrative Order 7-6, Personnel Policy on Equal Employment Opportunity, have since been interpreted to extend similar protection to employees who believe they have been harassed for unlawful reasons other than sex. This Administrative Order is intended to make clear that all County employees who believe they have been unlawfully harassed ***must notify the County's Office of Fair Employment Practices or their Departmental Affirmative Action Officer and may file a complaint for prompt and proper investigation.**** Employees who are found guilty of unlawfully harassing other employees shall be subject to appropriate sanctions, depending on the circumstances. These may range from counseling up to and including termination.

Miami-Dade County will not tolerate adverse treatment of employees because they report harassment or provide information related to such complaints. The County, in exercising reasonable care to prevent and promptly correct harassment or retaliation for reporting harassment, will protect victims from further unlawful harassment and retaliation.

DEFINITION:

Unlawful harassment consists of unsolicited, offensive or retaliatory behavior based on race, sex, color, national origin, religion, age, disability, ancestry, marital status, pregnancy, sexual orientation, or an employee's exercise of their constitutional or

statutory rights. It does not refer to occasional comments of a socially acceptable nature **to a reasonable person**; it refers to behavior that is not welcome, that is personally offensive, that lowers morale, and that, therefore, interferes with the work environment.

Offensive comments about an employee's race, sex, color, national origin, religion, age, disability, ancestry, marital status, pregnancy, sexual orientation, or the exercise of their constitutional or statutory rights constitutes unlawful harassment when (1) submission to such conduct is made either explicitly or implicitly a term of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individual, (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. Harassment may also take the form of adverse employment actions, such as termination, demotion, or other adverse employment decisions which effect an employee's working conditions, if such actions are taken on the basis of an employee's race, sex, color, national origin, religion, age, disability, ancestry, marital status, pregnancy, sexual orientation, or an employee's exercise of their constitutional or statutory rights. Employment actions that are based on an employee's performance or other legitimate reasons are not harassment.

IMPLEMENTATION:

In order to effectively implement the above policy, all County employees must refrain from:

1. Threatening or insinuating, either explicitly or implicitly, that an employee's race, sex, color, national origin, religion, age, disability, ancestry, marital status, pregnancy, sexual orientation, or the exercise of their constitutional or statutory rights will adversely affect their employment, performance evaluations, wages, promotion, assigned duties, shifts, or any other condition of employment or career development.
2. Creating a harassing environment by making offensive racial, ethnic or **sexual** comments, jokes or slurs, or such other conduct that has the purpose or effect of unreasonably interfering with an individual's work performance or creating an unlawfully intimidating, hostile or offensive working environment.
3. Taking retaliatory action of any kind against any other employee because of that person's seeking redress for, complaining of, or witnessing of, unlawful discrimination or harassment under this policy or through other legitimate channels.
4. Exhibiting any other conduct that falls within the above-stated definition of unlawful harassment.

It shall be the responsibility of each County supervisor to maintain his or her work place free of unlawful harassment. This duty includes discussing this policy with all employees and assuring them that they need not endure insulting, degrading, or exploitive treatment on the basis of race, sex, color, national origin, religion, age, disability, ancestry, marital status, pregnancy, sexual orientation, or the exercise of their constitutional or statutory rights, and informing employees of their right to file complaints about such conduct.

COMPLAINT PROCEDURE:

Employees who believe they have been the subject of harassment prohibited by this Administrative Order, ***must notify the County's Office of Fair Employment Practices or their Departmental Affirmative Action Officer and, if they choose, may file a formal complaint with the County's Office of Fair Employment Practices.*** Employees may, if they desire, also report such incidents of unlawful harassment to their supervisor but are under no obligation to do so. ***Employees are encouraged to report harassment before it becomes severe or pervasive. This will facilitate early mediation and effective resolution of potential unlawful harassment complaints.***

All complaints of harassment, subsequent investigations and corrective actions shall be handled on a confidential basis to the extent possible under the law. Protective measures will be instituted to protect the complainant. Miami-Dade County has established procedures for resolving, filing and processing complaints of unlawful harassment.

If the investigation confirms the existence of unlawful harassment, the Fair Employment Practices Office will pursue prompt corrective action, including remedial relief for the victim, and appropriate disciplinary action against the offender.

COMPLIANCE:

It shall be the responsibility of the Office of Fair Employment Practices to provide compliance information ***to all employees concerning*** the County's harassment policy, the gravity of such conduct, and the procedures to be employed in conducting harassment investigations, as follows:

1. The Office of Fair Employment Practices shall provide necessary unlawful harassment training to managers and supervisors.
2. ***Department Directors shall be responsible for ensuring that employees are apprised of this Administrative Order and mandatory training is conducted.***
3. ***The Office of Fair Employment Practices and the Employee Relations Department will monitor departmental training.***
4. The unlawful harassment policy and procedures will be incorporated in countywide training offered by the Employee Relations Department.

This Administrative Order is hereby submitted to the Board of County Commissioners of Miami-Dade County, Florida.

*Miami-Dade County Procedures Manual, Procedure Number 414, Filing Discrimination/ Unlawful Harassment Complaint.

M. R. Stierheim
County Manager