



ATLANTIC COUNTY GOVERNMENT
1333 Atlantic Avenue
Atlantic City, New Jersey 08401
609 345 6700

Procedure P.S.4.02

**EQUAL OPPORTUNITY COVERING DISCRIMINATION, HARASSMENT,
INCLUDING SEXUAL HARASSMENT & ACCOMMODATION**

TABLE OF CONTENTS

1. Discrimination
2. Harassment, Including Sexual Harassment
 - A. Harassment
 - B. Sexual Harassment
3. Addressing Discrimination and Harassment
4. Supervisory Responsibilities
5. Prohibition on Retaliation
6. False Accusations and Information
7. Requesting an Accommodation for a Disability
8. Requesting a Religious Accommodation
9. Right of Appeal
10. Other Remedies
11. Training
 - Form A - Discrimination Complaint Processing Form
 - Form B - Job Accommodation Request/Proposal Form

POLICY STATEMENT

It is the policy of Atlantic County to provide equal opportunity in employment to all employees and applicants for employment. It is also the policy of Atlantic County to provide equal opportunity in accessing county services. This policy applies to conduct which occurs in the workplace and also extends to conduct which occurs at any location that can be reasonably regarded as an extension of the workplace, such as any field location, any off-site business related social or educational function, or any facility where County business is being conducted and discussed.

CONTACT INFORMATION

Atlantic County has an EEO Officer under the Department of Law and an ADA Coordinator under the Department of Human Services. If any employee, applicant for employment or member of the public believes he or she has been treated in a way that violates County Policy, they should contact the EEO Officer; or for disability issues, the ADA Coordinator; or a member of management. Information on how to contact the EEO Officer or ADA Coordinator can be found on the County website, the County intranet, in the Employee Newsletter, in the County Manual, or through contacting a supervisor or the Division of Human Resources.

1. DISCRIMINATION

Atlantic County is committed to providing every County employee with a workplace free from unlawful discrimination. Atlantic County is equally committed to providing services free from unlawful discrimination.

PROHIBITED BEHAVIOR

No employee shall, in the workplace or the course of his or her work duties, discriminate against a person because of race, religion, color, sex, age, marital status, familial status, pregnancy, national origin, ancestry, affectional or sexual orientation, disability, military status, or any other characteristics protected by applicable federal or state law. Sexual harassment is a form of unlawful gender discrimination and will also not be tolerated. Refer to section II B. Some examples of prohibited behavior include, but are not limited to:

1. Treating an individual differently because of his or her race, religion, color, sex, age, marital status, familial status, pregnancy, national origin, ancestry, affectional or sexual orientation, disability, military status, or any other characteristics protected by applicable federal or state law or because an individual has the physical, cultural or linguistic characteristics of a racial or national origin group.
2. Treating an individual differently because of marriage to or association with persons of a racial, religious or national origin group: or due to membership in or association with an organization identified with the interests of a racial, religious or national origin group; or because an individual's name or spouse's name is associated with a racial, religious or national origin group.

2. HARASSMENT, INCLUDING SEXUAL HARASSMENT

It is against County policy for an employee to harass another employee or a member of the public because of that person's race, religion, color, sex, age, marital status, familial status, pregnancy, national origin, ancestry, affectional or sexual orientation, disability, military status, or any other characteristics protected by applicable federal or state law. Employees are expected to maintain a productive work environment that is free from such harassing or disruptive activity. Atlantic County will not tolerate verbal or physical conduct by any employee that harasses, disrupts, or interferes with another's work performance or that creates an intimidating, offensive, or hostile environment based on race, religion, color, sex, age, marital status, familial status, pregnancy, national origin, ancestry, affectional or sexual orientation, disability, military status, or any other characteristics protected by applicable federal or state law. Each supervisor and manager has a responsibility to keep the workplace free of any such form of harassment, including sexual harassment.

A. HARASSMENT

PROHIBITED BEHAVIOR

Offensive conduct directed at individuals because of their race, religion, color, sex, age, marital status, familial status, pregnancy, national origin, ancestry, affectional or sexual orientation, disability, military status, or any other characteristics protected by applicable federal or state law is prohibited. Prohibited harassment includes physical or verbal conduct based on one of these factors which, either in purpose or effect, creates an intimidating, hostile or offensive working environment that unreasonably interferes with an individual's work performance, or otherwise adversely affects an individual's employment opportunities. Some examples of prohibited behavior include, but are not limited to:

1. Demeaning comments or jokes about a protected characteristic;
2. Slurs;
3. Name calling or use of offensive nicknames related to a protected characteristic;
4. Offensive symbols or other written or graphic material in the workplace related to a protected characteristic;
5. Taunting or making fun of a protected characteristic.

B. SEXUAL HARASSMENT

RECOGNIZING SEXUAL HARASSMENT

While some forms of sexual harassment are blatant and easily recognizable, other forms can be subtle and more difficult to assess. Some behavior which may be acceptable in a social setting would not be acceptable in the workplace. In general, conduct of a sexual nature which is unwelcome by and distressing to a coworker constitutes sexual harassment. Such discrimination is not limited to persons of any one sex, age group or job classification.

DEFINITION

Unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- a) Submission to or rejection of such conduct is made either explicitly or implicitly a term or condition of an individual's employment, or
- b) submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individual, or
- 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.

PROHIBITED BEHAVIOR

No supervisor or manager is to threaten or insinuate, either explicitly or implicitly, that an employee's refusal or willingness to submit to sexual advances will affect the employee's terms or conditions of employment. No employee is to threaten or insinuate, either explicitly or

implicitly, that a member of the public's refusal or willingness to submit to sexual advances will affect their ability to receive services. Other sexually harassing or offensive conduct in the workplace, whether committed by supervisors, managers, non supervisory employees or non employees is also prohibited. Some examples of prohibited behavior include, but are not limited to:

1. Unwanted physical contact or sexual conduct of any kind, including sexual flirtations, touching, advances or propositions;
2. Verbal harassment of a sexual nature, such as lewd comments, sexual jokes or references, and offensive personal references;
3. Demeaning, insulting, intimidating, or sexually suggestive comments or gestures;
4. The display in the workplace of demeaning, insulting, intimidating, or sexually suggestive objects, pictures, or photographs;
5. Demeaning, insulting, intimidating, or sexually suggestive written, recorded, or electronically transmitted messages or images (such as videos, audio recordings, TV or radio programs, e-mail, or Internet materials).
6. Continuing to engage in behaviors of a sexual nature after an objection has been raised by the target of the behavior or those otherwise adversely affected by it.

3. ADDRESSING DISCRIMINATION AND HARASSMENT

A. EMPLOYEES

Any employee who believes that a supervisor's, manager's, other employee's, or non employee's actions or words constitute discrimination or unwelcome harassment as prohibited by this policy has a responsibility to report the situation as soon as possible. The report should be made to one of the following:

1. the EEO Officer, or
2. the Division Director, or
3. the Department Head, or
4. a supervisor in the employee's department, or
5. the Division Director of Human Resources. Or
6. the ADA Coordinator (for disability)

B. MEMBERS OF THE PUBLIC

A member of the public who believes that a County employee's actions or words constitute discrimination or harassment should report the incident to the County EEO Officer. Employees should direct members of the public to do so if they are aware of the complaint.

C. RESPONSE

All allegations of harassment and discrimination will be taken seriously and upon receipt of any such complaint, Atlantic County will undertake a prompt investigation, ensuring confidentiality to the maximum extent possible. A written report form, which may be used, is included as Appendix A to this policy. All reports will be reviewed in conjunction with the Atlantic County EEO Officer for appropriate disposition. The complainant and accused will be informed in writing of the outcome of any review or investigation.

Should the investigation result in a finding of misconduct, Atlantic County will take appropriate remedial and/or disciplinary action. Remedial action may include, but is not limited to, counseling, training, intervention, mediation and/or the initiation of disciplinary action up to and including termination. Any employee found to have engaged in harassment or discrimination as prohibited by this policy will be subject to severe disciplinary action, up to and including termination.

Any manager or supervisor who becomes aware of any possible harassment and/or discrimination, whether or not a formal complaint is made, should immediately advise the Department Head and Atlantic County EEO Officer.

Employees are required to cooperate in any investigation. Failure to cooperate in an investigation may result in disciplinary action, up to and including termination.

4. SUPERVISORY RESPONSIBILITIES

Supervisors are expected to make every effort to maintain a work environment that is free from any form of prohibited discrimination or harassment through diligent monitoring. Situations that involve prohibited behavior (see above listed examples for guidance) which come to a supervisor's attention should be dealt with promptly whether or not a specific complaint is made. Supervisors are to take all allegations of prohibited discrimination and/or harassment seriously and must immediately advise the Department Head and EEO Officer of the report or complaint.

5. PROHIBITION AGAINST RETALIATION

Retaliation against an employee or a member of the public who alleges that she or he was the victim of discriminatory or harassing behavior prohibited by law or this policy, or against any employee or member of the public who provides information in the course of an investigation pursuant to this policy is prohibited.

6. FALSE ACCUSATIONS AND INFORMATION

If any employee knowingly makes a false accusation of prohibited discriminatory or harassing behavior or knowingly provides false information in the course of an investigation under this policy, he or she will be subject to disciplinary action up to and including termination. Reports made in good faith, however, even if found to be unsubstantiated, shall not be considered a false accusation.

7. REQUESTING AN ACCOMMODATION FOR A DISABILITY UNDER THE AMERICANS WITH DISABILITIES ACT (ADA) OR LAW AGAINST DISCRIMINATION (LAD)

As part of the County policy of equal opportunity, employees and members of the public are encouraged to request a reasonable accommodation for needs related to a disability.

P.S.4.02 EQUAL OPPORTUNITY COVERING DISCRIMINATION, HARASSMENT, INCLUDING SEXUAL HARASSMENT & ACCOMMODATION (Page 2)

Questions concerning the applicability of the ADA or LAD to a modification request should be addressed to the ADA Coordinator or EEO Officer.

Not all requests by employees for changes in normal procedures qualify under the ADA or LAD. These requests should be handled informally by supervisors and/or managers.

A. EMPLOYEES

Employees who meet the definition of disabled Under Title I of the Americans with Disabilities Act (ADA) and/or the Law Against Discrimination (NJLAD), and who need an accommodation to perform the essential functions of their job may request an accommodation by informing one of the following of the nature of the disability and accommodation needed:

1. the ADA Coordinator, or
2. the EEO Officer, or
3. the Division Director of Human Resources or
4. a supervisor in the employee's department, or
5. the Division Director, or
6. the Department Head

The employee shall complete Section I of the Job Accommodation Request Form, Form B of this policy, and return it to the initial contact who will forward a copy to the ADA Coordinator. The ADA Coordinator shall work with the Law Department, the Division of Human Resources and supervisory personnel from the employee's department in responding to a request for accommodation.

It is the employee's responsibility to identify if an accommodation is required. The County may require medical documentation of the disability as provided under the law. Once the necessary information has been obtained and coverage determined, the employee and appropriate representatives of the County will engage in meaningful dialogue directed towards providing a reasonable accommodation.

A written description of the accommodation(s) agreed upon by the County shall be given to the employee by the Department. It and any other medical information shall be kept in a confidential medical file in the Division of Human Resources. A denial of accommodation shall be likewise documented.

Each reasonable accommodation is unique. It addresses individual limitations and abilities in light of the actual demands of the job in question. An employee will be expected to cooperate with the county's efforts to provide them an accommodation. Reasonable accommodation does not involve lowering performance standards. It does involve making modifications to the way the functions of the employee's job are normally done in order to provide an equally effective opportunity to meet the performance standards of the job. Modifications can take many forms. A few examples are: Restructuring a job to remove non essential functions if they are a barrier to continued employment; part-time or other modified work schedules; job coaching or other modified forms of supervision; acquisition or modification of equipment to increase an

employee's physical capacities; provision of readers or interpreters; revision of the format in which examinations, training materials and other County documents are distributed. If there is no effective way to accommodate an employee in the job they are presently assigned, the county will attempt to place the employee in a vacant position they are otherwise qualified to perform.

B. MEMBERS OF THE PUBLIC

It is the policy of Atlantic County Government to provide equal access for people with disabilities to all of its activities, services, policies and programs. Under Title II of the ADA (Americans with Disabilities Act) and under the NJ LAD (Law Against Discrimination), clients who need a reasonable accommodation to utilize county programs/ services should make their needs known to the Program Director, Supervisor or the County's ADA Coordinator. If needed and requested, the ADA Coordinator will consult with the County Department/Supervisor and member of the public in gaining greater access to the requested County program, service and/or activity. The member of the public shall collaborate in determining the type of reasonable accommodation that can be made and shall allow sufficient time for the request to be met.

The County's ADA Coordinator will monitor physical access to County facilities and be responsible for maintaining an accessibility record of surveys or modifications completed on County properties. Should a member of the public experience difficulty related to physical access, the ADA Coordinator will be consulted. The ADA Coordinator will communicate with the Supervisor responsible for the facility or site, and any other necessary county department. If an accommodation request is made, the Department(s) involved in the accommodation will notify the ADA Coordinator when physical modifications are completed. The member of the public will be notified, in a timely manner, of the outcome of the accommodation request.

C. Procedure For Hearings/Meetings Open to the Public

To ensure full inclusion of citizens with disabilities, public hearings/meetings that are mandated or sponsored by the County of Atlantic shall comply with the following:

- All public hearings or meetings shall be in a fully accessible site. (Accessibility also includes a site located on a NJ Transit bus route.)
- The Notice of Public Hearing or Meeting shall contain the following inclusionary statement, "To request a reasonable accommodation of a disability, contact (place name, e-mail and phone of person organizing meeting/event including TTY number; if no TTY then note NJ Relay) at least 2 weeks prior to the event so arrangements can be made".
- To accommodate individuals who are visually impaired, notice of the public hearings should be sent to local radio stations as public service announcements.
- In preparing written materials for the hearing or meeting, it may be necessary to provide the material in an alternate format for the visually impaired, including large print (at least 14 point), Braille, read onto tape or copies to a computer disk.
- Should there be any questions, contact the ADA Coordinator.

D. Grievance Process for members of the public

P.S.4.02 EQUAL OPPORTUNITY COVERING DISCRIMINATION, HARASSMENT, INCLUDING SEXUAL HARASSMENT & ACCOMMODATION (Page 2)

Should a member of the public experience difficulty obtaining an accommodation to a County service, program, or public meeting, he or she can report the problem to the ADA Coordinator. The member of the public may report a grievance verbally, in writing or by utilizing Report Form A.

8. REQUESTING A RELIGIOUS ACCOMMODATION

Employees who need an accommodation for a religious practice should inform their supervisor, Division Director, Department Head, or the EEO Officer. Members of the public who need an accommodation for a religious practice should inform the program director. The County and the employee or client shall cooperate in determining if a reasonable accommodation can be made.

9. RIGHT OF APPEAL

A party may appeal the outcome of an investigation by putting in writing the basis of the appeal and sending it to the Deputy County Administrator within 10 working days of learning of the outcome.

10. OTHER REMEDIES

Utilization of the procedures in this policy does not preclude an employee from pursuing other remedies available under the law. Outside agencies which deal with discrimination issues include:

New Jersey Division on Civil Rights
Atlantic City Satellite Office
26 S. Pennsylvania Avenue
Atlantic City, NJ 08401
609-441-3100
www.state.nj.us/lps/dcr/index.html

U.S. Equal Employment Opportunity Commission
Philadelphia District Office
The Bourse Building, suite 400
21 S. Fifth Street Philadelphia, PA 19106-2515
215-451-5800
www.eeoc.gov

11. TRAINING

The Division of Human Resources shall be responsible for providing ongoing education and training for employees and supervisors on prohibited discrimination and harassment in the workplace and the appropriate steps to take to address these issues. Training on this policy shall be part of a new employee's orientation.

ATLANTIC COUNTY GOVERNMENT

DISCRIMINATION COMPLAINT PROCESSING FORM

Any person employed with or applying for employment with Atlantic County Government or making use of the services of Atlantic County Government shall not be discriminated against on the basis of race, creed, color, national origin, ancestry, age, sex, marital status, religion, or disability. Any such person who believes he/she has been discriminated against on the basis of being a member of any of the listed classes of people may file a discrimination complaint.

Please complete this form and return it to the appropriate official.

- 1. Disability - ADA Coordinator
 - 2. Sexual Harassment - EEO Officer
 - 3. All Others - EEO Officer
-

- | | | |
|---------------------------------|----------|---|
| 1. Name: | Address: | 2. Date: |
| 3. Job Title: | | 4. Department |
| 5. Name of Immediate Supervisor | | 6. Telephone (Office):
Telephone (Home): |

If assistance in communicating is required, list designated alternative contact person - name, address, phone.

1. On what basis are you claiming discrimination?

- | | | |
|--------------------------------|--|-------------------------------------|
| <input type="checkbox"/> race | <input type="checkbox"/> national origin | <input type="checkbox"/> religion |
| <input type="checkbox"/> creed | <input type="checkbox"/> ancestry | <input type="checkbox"/> disability |
| <input type="checkbox"/> color | <input type="checkbox"/> age | <input type="checkbox"/> reprisal |
| <input type="checkbox"/> sex | <input type="checkbox"/> marital status | <input type="checkbox"/> other |

2. What happened? (objectively state details)

3. Who was involved? (include witnesses)

4. Where did it take place?

5. When did it take place? (date and time)

6. Why do you think this situation constitutes discrimination?

7. What is the remedy you are seeking?

8. Please list the names of anyone you feel should be interviewed in the process of the investigation who could provide useful information.

9. Have you filed a discrimination complaint with the New Jersey Division on Civil Rights? Yes No

United States Equal Employment Opportunity Commission? Yes No

10. Have you filed a grievance through the Union? Yes No

Question number eleven (11) applies only to applicants for employment.

11. Have you filed a complaint with the New Jersey Department of Personnel? Yes No

Only if this is a complaint of sexual harassment should you answer question number 12.

12. Have you received a copy of Atlantic County Government's Policy and Procedure on Sexual Harassment ?
 Yes No

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Complainant Signature

Date

9/12/05

Form B

**ATLANTIC COUNTY GOVERNMENT JOB ACCOMMODATION
REQUEST/PROPOSAL FORM**

I. REQUEST

This portion to be completed jointly by Employee and Supervisor/Appropriate Representative(s) of Atlantic County: (DO NOT list medical diagnosis on this form.)

Employee Name:	Date:	Dept./Office:
Job Title:	Work Phone:	Home Phone:

1. Circle those activities substantially affected by the condition(s):

Walking Standing Sitting Speaking Breathing Manual Tasks
Seeing Reading Hearing Learning Lifting
Other _____

2. List the specific (essential) job duties affected by the condition(s):

3. Type of Accommodation Requested:

____ Structural Modifications/Devices ____ Non-Structural/Duty Modifications

Other: _____

4. Length of Accommodation: ____ Permanent ____ Temporary

How long needed? ____ **Days** ____ **Weeks** ____ **Months**

5. Employee's suggested accommodations:

Signatures:

Employee _____ Date: _____

Supervisor/County Rep. _____ Date: _____

ATLANTIC COUNTY GOVERNMENT JOB ACCOMMODATION
REQUEST/PROPOSAL FORM

II. PROPOSAL for Accommodation

This section to be completed by Supervisor/Appropriate County representatives after dialogue/input and discussion with employee.

1. Dates of meetings/discussions with employee: _____

2. Was medical verification requested? _____ Yes _____ No
Date received: _____

3. Is a job accommodation proposed? _____ Yes _____ No

4. If no, explain. If yes, describe the specifics of the **County's final** accommodation proposal:

Signatures:

Department: _____ Date: _____

ADA Coordinator: _____ Date: _____

Employee: _____ **Date:** _____

cc: **Employee**
Division of Human Resource's Medical File
ADA Coordinator