

## RESOLUTION 20-2017

### **A Resolution of Intent to Amend the Madison County Personnel Policy and Procedures Handbook, Updated January 16, 2013**

WHEREAS, the Madison County Personnel Policy and Procedures Handbook provides for the County to furnish employees with guidelines set forth in policies and procedures, and,

NOW THEREFORE BE IT RESOLVED that it is the intention of the Madison County Board of Commissioners to amend the Madison County Personnel Policy and Procedures Handbook, updated January 16, 2013, to revise the Pre-employment Inquires, Pre-Employment Physical, Nepotism, Equal Pay, Reasonable Accommodation, Chronic Disease, Religion, and Harassment/Retaliation.

#### **1. Pre-employment Inquires**

Madison County will exercise its right to verify and validate information given during the recruitment process in order to ascertain suitability for employment. This will be done through reference checks with individuals from the candidate's previous employment, as authorized by the applicant with respect to external applicants, and with the immediate and previous supervisor(s) of internal applicants.

All external applicants interviewed for a position at Madison County will be asked to provide written authorization for the County to obtain reference information from current and former employers.

Managers are responsible for obtaining references on potential employees. Human Resources may assist the hiring manager in obtaining employment references.

Whenever possible, a minimum of two to three verbal references from current and/or former employers should be obtained for any candidate to whom a manager would consider making a job offer. If the candidate has listed less than two reference sources he/she should be asked to provide names of individuals with whom he/she has been involved in a volunteer capacity, with community groups, etc. References may include immediate superiors, peers and subordinates. References from those to whom a candidate reported, are preferred.

All candidates interviewed will be reminded during the interview process that references will be checked. If the chosen candidate's reference is a current employer, the candidate will be contacted prior to the reference being called so that he/she may inform the reference(s).

Reference information collected from outside sources will be maintained in the employee's personnel file for the entire period of the individual's employment, along with other information from the selection process.

References given to outside companies on current/former employees must be documented and maintained by the hiring manager. Records of references for terminated employees should be forwarded to Human Resources where they will be maintained in the employee's personnel file. All reference information, given or received, is considered to be confidential, and is protected under the *Freedom of Information Guidelines*, as this document relates to employment.

## **Internal Candidates**

On commencing employment or on applying for an internal position with Madison County, the employee will be advised that if they are being considered for an internal competition, internal references, their personnel file, including documented performance appraisals, documented disciplinary action, and attendance records shall be made available to the hiring manager, and will be included in part of the hiring decision for the new position.

Information on an internal candidate's previous performance shall normally be required following completion of an internal job competition procedure. The hiring manager may access the employee's personnel file of the new staff member to review previous performance appraisals on file and other information as listed above. Human Resources will also offer any assistance they can in this regard.

Normally, the hiring manager will obtain internal references. At the request of the hiring manager, Human Resources may conduct internal reference checks. These checks will be directly related to the competency requirements of the position into which the candidate will be hired and the results of the check will be incorporated into the interview and evaluation process.

Managers and other County employees may respond to Human Resources' requests for internal references in respect of the criteria developed by the selection panel and only to the extent that their comments are supported by documented information in the personnel file. Unsupportable commentary may not be considered or used in the selection process.

### **2. Pre-employment Physical Examinations**

A general physical examination and series of work related physical abilities testing will be included in the pre-employment physical examination as required by the job description. Persons determined to be unable to perform the essential functions of the job, including current employees, due to a qualified disability will remain under consideration for employment, pending a determination that the person can perform the essential functions of the job with reasonable accommodations.

Prior to making the decision to rescind the job offer based on the pre-employment physical exam, Human Resources must be contacted.

If a decision is made to rescind the job offer based on the pre-employment physical exam, the candidate must be notified within ten days of the final decision.

### **3. Equal Pay**

Madison County does not pay any employee less than an employee of the opposite sex for work involving substantially equivalent skill, effort, and responsibility and which is performed under similar working conditions unless the disparity is based upon a factor other than sex in compliance with Section 39-3-104 MCA.

4. **Reasonable Accommodation Delete Item**– Included in Resolution 14-2017-April 25, 2017
5. **Chronic Diseases Delete Item** – Reasonable Accommodation Resolution 14-2017 April 25, 2017
6. **Religion Delete Item** - Included in Resolution 14-2017-April 25, 2017

## **7. Nepotism**

Nepotism is defined in state statute as a bestowal of political patronage by reason of relationship rather than or merit. In general, it prohibits the hiring and appointment of individuals within certain family relationships. The County prohibits nepotism. If an employment situation relating to marital status poses a conflict with the nepotism policy, the involved employees must notify the County Commission so that reasonable steps can be instituted to ensure statutory compliance.

The statutory prohibition does not apply to a sheriff appointing a cook and/or attendant, employment election judges, or the renewal of an employment contract for a relative initially hired before a related member assumed duties of the office.

## **8. Preventing Harassment and Discrimination**

The County's policy is to provide employees with a work environment free of discrimination and harassment. Harassment of employees and any persons doing business with County government because of a person's race, color, national origin, age, physical or mental disability, marital status, religion, creed, or political beliefs is illegal and prohibited. The County also prohibits retaliation against any employee because he or she has made a report of alleged harassment or discrimination, or against any employee who has testified, assisted, or participated in any manner in an investigation of a report. Discrimination is a violation of civil rights law and is a prohibited practice subject to disciplinary and civil action.

### **A. Employee's Responsibilities**

The County will not tolerate sexual harassment or discrimination of any kind. All employees are encouraged to immediately report any such misconduct or violation to their supervisors or the first level of management not involved in the harassment or discrimination, County Human Resources, or the County Commission. Employees who are responsible for harassment or discrimination may be subject to disciplinary action, up to and including termination. Sexual harassment or other illegal discrimination can result in immediate termination if an investigation substantiates it. The severity and extent of the harassment will ultimately guide the decision on how discipline will be determined.

### **B. Management's Responsibilities**

All supervisors and managers are responsible for following this policy. Members of management who witness discrimination shall immediately take steps to stop the behavior, document the actions, and report the behavior to County Human Resources or the County Commission. Management shall review any report or complaint of harassment or discrimination and take appropriate action.

### **C. What Constitutes Harassment**

Sexual harassment may include a range of subtle or not-so-subtle behaviors and may involve individuals of the same or different gender. Depending on the circumstances, these behaviors may include, but are not limited to: unwanted sexual advances or requests for sexual favors; sexual jokes and innuendo; verbal abuse of a sexual nature; commentary about an individual's body, sexual prowess, or sexual deficiencies; leering, whistling, or touching; insulting or obscene comments or gestures; display in the workplace of sexually suggestive objects or pictures; and other physical, verbal, or visual conduct of a sexual nature when, for example:

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 the 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.

Sexual harassment constitutes discrimination and is illegal under federal, state, and local laws.

**Other protected categories** can also be harassed. The County strictly prohibits harassment on the basis of any other protected characteristic. Under this policy, harassment is verbal or physical conduct that denigrates or shows hostility or aversion toward an individual because of his or her race, color, religion, sex, national origin, age, disability, marital status, citizenship, or any other characteristic protected by law or that of his or her relatives, friends, or associates, and which:

1. has the purpose or effect of creating an intimidating, hostile, or offensive work environment;
2. has the purpose or effect of unreasonably interfering with an individual's work performance; or
3. otherwise adversely affects an individual's employment opportunities.

Harassing conduct includes, but is not limited to: epithets, slurs, or negative stereotyping; threatening, intimidating, or hostile acts; denigrating jokes; and/or written or graphic material that denigrates or shows hostility or aversion toward an individual or group and which is placed on walls or elsewhere on the employer's premises or is circulated in the workplace.

#### **D. Reporting Procedure**

##### **1. Employee's Responsibility**

An employee who believes he/she has been the victim of harassment or discrimination should report the incident or action as soon as possible after the alleged incident occurs. Early reporting is important, because management's ability to investigate and act on reports diminishes with time. Employees may bring reports to the attention of any of the following:

- the harasser, and the employee can request that the action stop immediately; and/or
- the immediate supervisor or the first level of management not involved, County Human Resources or the County Commission.
- The employee shall cooperate with the supervisor, manager, or other designated management representative in investigating and verifying the report.

##### **2. Management's Responsibility**

Any supervisor or manager who witnesses or receives a report of harassment or discrimination shall promptly inform County Human Resources, the department

head, or the County Commission. Upon receipt of a complaint alleging harassment or discrimination, the department head or the Commission shall take steps to prevent the alleged conduct from continuing, pending completion of an investigation.

The department head shall initiate an investigation or recommend another appropriate management representative to investigate the complaint. The County has the right to designate a representative of its choosing to perform any investigation. The factual report and final decision will remain confidential and be disseminated to only those persons having a need to know. The parties will be informed of the general results of the investigation. If the results establish that a policy violation occurred, appropriate action may be taken including, but not limited to, disciplinary measures, which may include termination.

**E. Retaliation**

Neither the County nor any employee shall retaliate against any employee for filing a complaint or for participating in any way in a complaint investigation procedure under this policy. Any employee who suspects he/she is being retaliated against because he/she made a complaint or participated in an investigation should immediately report the actions, following the guidelines above. The report shall be investigated and dealt with appropriately. Please reference Montana Human Rights Act, Title 49, MCA for additional information.

APPROVED BY THE BOARD OF COMMISSIONERS THIS 11<sup>th</sup> DAY OF July, 2017.

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JAMES P. HART, CHAIRMAN

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RONALD E. NYE

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DAN ALLHANDS

Attest \_\_\_\_\_  
Kathleen Mumme  
Clerk and Recorder