

NASSAU COUNTY
EQUAL EMPLOYMENT OPPORTUNITY



AND SEXUAL HARASSMENT PREVENTION
POLICY

STANDARDS AND PROCEDURES
TO BE UTILIZED BY
NASSAU COUNTY AND ITS AGENCIES

Bruce A. Blakeman
County Executive

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| POLICY/PROCEDURE TITLE: County-Wide Policy Human Resources - 03 | DATE ISSUED: October 2018 |
| DEPARTMENT ISSUING: Office of Human Resources Office of Equal Employment Opportunity (EEO) 516-571-6176 | AUTHORIZED and SIGNED BY: Mary Elisabeth Ostermann Director, EEO |

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| POLICY | <p>All employees have a legal right to a workplace free from illegal discrimination and harassment. The County of Nassau is committed to maintaining a workplace free from workplace discrimination and sexual harassment and requires all employees to work in a manner that prevents discrimination and sexual harassment in the workplace.</p> <p>The County will promptly investigate allegations of discrimination or harassment against employees, interns, volunteers or applicants for employment on the basis of age, race, creed, color, national origin, sex (gender identity, transgender person, gender dysphoria), sexual orientation, military status, marital status, familial status, predisposing genetic condition, domestic violence victim, disability, criminal conviction record or any other basis protected by law.</p> <p>The County also prohibits sexual harassment in the workplace which is a form of workplace discrimination. Sexual harassment may subject the County to liability for harm to targets of sexual harassment and harassers may also be individually subject to liability. Employees at every level who engage in sexual harassment, including managers and supervisors who engage in sexual harassment or allow such behavior to continue, will be penalized for such misconduct and will be subject to remedial and/or disciplinary actions (e.g., counseling, suspension, termination).</p> <p>Sexual harassment may be in the form of a “hostile workplace environment” consisting of words, signs, jokes, pranks, intimidation or physical violence which are sexual in nature, or which are directed at an individual because of that individual’s sex. Sexual harassment also consists of unwelcome verbal or physical advances, sexually explicit derogatory statements, or sexually discriminatory remarks made by someone in the workplace which are offensive or objectionable to the recipient or third parties which cause discomfort or humiliation, or which interfere with the recipient’s or others’ job performance. Sexual harassment can also occur when a person in authority, such as a manager or supervisor, tries to trade job benefits for sexual favors, which is known as “quid pro quo” harassment.</p> |
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The County will promptly investigate allegations of sexual harassment against employees, applicants for employment, interns whether paid or unpaid, contractors, subcontractors, vendors, consultants and persons conducting business or providing services in the workplace including non-employees commonly referred to as independent contractors, “gig” workers and temporary workers, persons providing equipment repair, delivery services or any other services provided pursuant to a contract with the County.

No person covered by this Policy shall be subject to adverse action because the employee reports an incident of sexual or other illegal harassment, provides information, or otherwise assists in any investigation of a sexual harassment or discrimination complaint. The County will not tolerate such retaliation against anyone who, in good faith, reports or provides information about suspected sexual or other illegal harassment. Any employee of the County who retaliates against anyone involved in a sexual harassment or discrimination investigation will be subjected to disciplinary action, up to and including termination.

In addition, to the prohibitions on discrimination and sexual harassment, it is unlawful to retaliate against an employee for filing a complaint under this policy or participating in the investigation of a complaint. No person covered by this Policy shall be subject to adverse action because the employee reports an incident of sexual or other harassment, provides information, or otherwise assists in any investigation of sexual harassment complaint or complaint based on any other protected classification. Nassau County will not tolerate such retaliation against anyone who, in good faith, reports or provides information about suspected sexual harassment. Any employee of Nassau County who retaliates against anyone involved in a sexual harassment or discrimination investigation will be subjected to disciplinary action up to and including termination. All employees who believe they have been subject to such retaliation should inform their department EEO Representative or the Office of Equal Employment Opportunity. Allegations of retaliation will be investigated in the same manner as reports of discrimination or harassment.

Employees are to report discrimination, sexual harassment and retaliation to the department Equal Employment Opportunity Representative or the Equal Employment Opportunity office. Employees may also seek redress in other available forums as explained in the section on Legal Protections. Managers and supervisors are required to report any complaint that they receive, or

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| | <p>any harassment that they observe or become aware of to the Equal Employment Opportunity office.</p> <p>The County will not discriminate against employees or applicants for employment with disabilities in regard to any employment practice or terms, conditions, and privileges of employment. The County, in accordance with law, will make reasonable accommodations to otherwise qualified applicants and employees with disabilities to enable them to perform the essential functions of their job and to enjoy equal benefits and privileges of employment, unless providing such accommodation would impose an undue hardship on the operations of the County.</p> |
| PURPOSE | <p>The purpose of this policy is to set forth the equal employment opportunity responsibilities of Nassau County and its employees and to provide a procedure for reporting and investigating allegations of discrimination, sexual harassment or retaliation as defined herein.</p> <p>In addition, this policy contains the procedures for employees and applicants to request a reasonable accommodation for a disability.</p> |
| SCOPE | <p>This policy applies to all Nassau County employees and its protections may also cover those who apply for employment with Nassau County. Employees * include non-supervisory staff, supervisors, managers, and department heads. Employees include all employees regardless of title, salary, grade, bargaining unit, employment status (permanent, temporary, seasonal, provisional, full time and/or part time) or jurisdictional classification (exempt, non-competitive, competitive or labor class). This policy also applies to volunteers, interns, contractors, subcontractors, consultants and other persons providing services in County workplaces.</p> <p>*Nassau Community College employees must follow the Nassau Community College Affirmative Action and Equal Employment Opportunity policy.</p> |
| TABLE OF CONTENTS | <p>Laws and Regulations.....4</p> <p>Definitions.....5</p> <p>I . Equal Employment Responsibilities of Nassau</p> <p> County and Employees.....9</p> <p> Duties.....9</p> <p> Prohibited Conduct.....10</p> <p>II. Sexual Harassment..... 11</p> <p> Examples of sexual harassment.....11</p> <p> Who can be a target of sexual harassment.....11</p> <p> Where can sexual harassment occur.....12</p> |

| | |
|------------------------------------|---|
| | <p>Sexual harassment retaliation.....12</p> <p>III. Complaint and Investigation Procedures.....12</p> <p> Reporting.....12</p> <p> Initial Complaint.....13</p> <p> Investigation of Complaints.....14</p> <p> Privacy and Confidentiality.....16</p> <p> Withdrawing a Complaint.....16</p> <p> Legal Protections and External Remedies.....17</p> <p>IV. Reasonable Accommodation Procedure.....19</p> <p> Who May Request a Reasonable Accommodation.....19</p> <p> Confidentiality of Medical Information.....19</p> <p> Reasonable Accommodation Procedure.....19</p> <p> Department Response.....20</p> <p>V. Availability and Distribution Training.....21</p> <p>VI. Training.....21</p> <p>Appendix A: EEO Complaint Form.....22</p> <p>Appendix B: Sexual Harassment Complaint Form.....25</p> <p>Appendix C: Reasonable Accommodation Request Form...28</p> <p>Appendix D: Executive Order 2-2003.....32</p> |
| <p>LAWS AND REGULATIONS</p> | <p>Title VII of the Civil Service Act of 1964, (42 U.S.C. §2000e, et seq.). Prohibits discrimination and harassment based on race, sex, color, religion or national origin.</p> <p>Age discrimination in Employment Act of 1967, (29 U.S.C. §621, et seq.). Prohibits discrimination and harassment against applicants and employees age 40 and over.</p> <p>The Equal Pay Act of 1963, (29 U.S.C. §206). Requires equal salary and fringe benefits between men and women in the same establishment for equal work on jobs requiring equal skill, effort and responsibility performed under similar working conditions.</p> <p>The Americans with Disabilities Act, (42 U.S.C §1202, et seq.). The ADA and ADA Amendments Act of 2008 make it unlawful to discriminate or harass a qualified individual with a disability. The ADA also requires that employers make reasonable accommodations</p> |

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| | <p>to the known physical or mental limitations of an otherwise qualified individual with a disability unless providing such an accommodation results in an undue hardship on the employer. A qualified employee or applicant with a disability is an individual who, with or without reasonable accommodation, can perform the essential functions of the job in question. The ADA Amendments Act revises the definition of “disability” to more broadly encompass impairments that substantially limit a major life activity. The Act also states that mitigating measures, including therapies and supplies (other than eyeglasses and contacts), and medications have no bearing in determining whether a disability qualifies under the law.</p> <p>Genetic Information Nondiscrimination Act, (42 U.S.C. §2000ff, et seq.). GINA makes it illegal to discriminate against applicants or employees because of genetic information. GINA also prohibits the use of genetic information in making employment decisions, restricts employers from requesting genetic information, and limits the disclosure of genetic information.</p> <p>New York State Human Rights Law, (N.Y. Exec Law §290, et seq.). Prohibits a refusal to hire or discrimination in compensation, terms, conditions or privileges of employment based on age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, familial status, marital status, domestic, violence victim status, retaliation.</p> <p>Nassau County Administrative Code, Chapter XXI, Title C.2, Amended by Local Law 7-2004. Prohibits an employer from refusing to hire or discriminating against any individual in compensation or in terms, conditions or privileges of employment, because of the actual or perceived gender, race, color, creed, national origin, disability, age, religion, source of income or sexual orientation of any such individual.</p> <p>Nassau County Executive Order No. 2-2003. Establishes the Office of Equal Employment Opportunity within the Nassau County Department of Human Resources and provides for the development and implementation of EEO policies, procedures and programs for Nassau County.</p> |
| DEFINITIONS | <p>COUNTY – The County of Nassau including all departments, bureaus and offices normally associated with the business of government. The County does not include public benefit corporations, towns, cities, public libraries, bridge authorities, water and/or fire districts including but not limited to Nassau County Off Track Betting Corporation, Nassau County Healthcare Corporation, Nassau University Medical Center, and/or Nassau County Society for the Prevention of Cruelty to Animals.</p> |

COMPLAINANT – The individual who seeks redress by filing a complaint under this policy.

DEPARTMENT HEAD – The terms “Department Head”, “Appointing Authority” and “Agency Head” refer to the government official who is charged with making significant decisions regarding employees including hiring/firing and discipline. For the purposes of this policy, a Department Head may be an elected or appointed head of the government unit or the official designated by the appointed or elected official to make sure decisions. A Department Head may be a Commissioner, Executive Director or Director. The terms Department Head, Appointing Authority, and Agency Head are interchangeable throughout this policy.

DISABILITY – The term “disability” means, with respect to an individual (a) a physical or mental impairment that substantially limits one or more major life activities of such individual; (b) a record of such an impairment; or (c) being regarded as having such an impairment.

EEO DIRECTOR – Director of Equal Employment Opportunity. The EEO Director reports to the Director of Human Resources and consults with the Director of Human Resources, as needed, on the overall policy, plan and program administration. The Director of Human Resources reports to the County’s Chief Administrative Officer

EEO REPRESENTATIVES – Individuals appointed by Department Heads in consultation with the Director of Equal Employment Opportunity and Human Resources based on the needs of the department and the employee’s level of supervisory authority. EEO Representatives receive specialized training to be responsible for receiving and investigating complaints of conduct in violation of the County EEO Policy and receiving and facilitating requests for reasonable accommodations for disabilities.

The names of EEO Departmental Representatives are posted at Agency and Department Human Resources offices throughout the County and on the County’s Intranet. EEO Representatives may also be contacted through the Office of Equal Employment Opportunity at 516-571-6176.

ESSENTIAL JOB FUNCTIONS – Job functions which are fundamental to the position for which an accommodation has been requested. A job function is essential if not performing that function would fundamentally change the job or occupation for which the

position exists. Factors relevant to determining essential job functions include, but are not limited to: The Department’s judgement; civil service job descriptions; the amount of time the function is actually performed by other employees in the position; number of other employees available to whom the function could be reallocated by job restructuring; consequences to the operation of the County if the function is not performed by the particular disabled individual; the terms of the collective bargaining agreements.

GENETIC INFORMATION – Genetic information includes information about an individual’s genetic tests and the genetic tests of an individual’s family members, as well as information about the manifestation of a disease or disorder in an individual’s family members (i.e., family medical history). Genetic information also includes an individual’s request for, or receipt of, genetic services, or the participation in clinical research that includes genetic services by the individual, and the genetic information of an embryo legally held by the individual or family member using an assisted reproductive technology.

MAJOR LIFE ACTIVITY – Major life activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. A major life activity also includes the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions. The following rules of construction will be used in determining if an individual is substantially limited in a major life activity: (i) an impairment does not need to prevent or severely or significantly restrict a major life activity to be considered “substantially limiting”; (ii) the term “substantially limits” is to be construed broadly in favor of expansive coverage to the maximum extent permitted by the terms of the ADA; (iii) the determination of whether an impairment substantially limits a major life activity requires an individualized assessment; (iv) with one exception (“ordinary eyeglasses or contact lenses”), the determination of whether an impairment substantially limits a major life activity will be made without regard to the ameliorative effects of mitigating measures, such as medications or hearing aids; (v) an impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active; and (vi) the determination of disability should not require extensive analysis.

REQUISITE JOB QUALIFICATION – A disabled individual must be otherwise qualified for the job by education, skill, experience, ability, etc., to the same extent that such education, skill experience, ability, etc., are required as bona fide job qualifications for non-disabled applicants or employees. The disabled individuals must be able, with or without accommodation, to attain “reasonable performance”. Reasonable performance is not perfect performance or performance unaffected by the disability, but reasonable job performance, reasonably meeting the County’s needs to achieve its business goals. The Department’s judgement as to what is minimum acceptable performance will be given substantial weight, so long as standards for performance are applied equally to all employees in the same position within the Department.

PROTECTED ACTIVITY – Includes opposing any prohibited conduct, filing a charge or complaint alleging prohibited conduct, or, participating in any investigation of such allegations. May also include seeking reasonable accommodation for a disability or religious observance. Protected activities do not have to be ultimately substantiated, but must have a good faith basis.

REASONABLE ACCOMMODATION FOR DISABILITY – The term “reasonable accommodation” means actions taken which permit an employee or prospective employee with a disability to perform in a reasonable manner the activities involved in the job or occupation sought or held and include, but are not limited to, provision of an accessible worksite, acquisition or modification of equipment, support services for persons with impaired hearing or vision and modified work schedules provided, that such actions do not impose an undue hardship on the operations of the County. If more than one alternative is identified as an effective accommodation, the Department may choose the accommodation that best meets its needs.

REASONABLE ACCOMMODATIONS FOR RELIGIOUS OBSERVANCE – The County will permit reasonable accommodations that allow an individual to respect his/her religious observances, traditions or beliefs, unless to do so would cause undue hardship to the operation of the County.

RESPONDENT – The individual or individuals named by the Complainant as being responsible for the alleged discriminatory, harassing or retaliatory behavior.

RETALIATION – Adverse action or actions taken against an employee or applicant for employment who asserts his or her equal employment opportunity rights by: 1) opposing discrimination in the

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| | <p>workplace; 2) complaining about prohibited conduct; or 3) participating in the complaint, investigation or reasonable accommodation process which would have the effect of dissuading a reasonable employee from making or supporting a charge of harassment or of any other unlawful discriminatory practices.</p> <p>SEXUAL HARASSMENT – Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when: 1) submission to the 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. Sexual Harassment may involve individuals of the same or different genders.</p> <p>UNDUE HARDSHIP – Accommodations that would be excessively costly, extensive, substantial, disruptive or that would fundamentally alter the nature of the Department’s or County’s business. Accommodations that pose an “undue hardship” on the Departments and or County will not be required. Any relevant factor may be considered in determining whether an accommodation would result in undue hardship, including, but not limited to: The nature and net cost of the accommodation; the financial resources of the Department making the accommodation; the size of the Department and number of employees; the overall financial resources of the County; the type and location of facilities of the covered entity; the effect of the accommodation on other employees; the impact of the accommodation on the operation of the Department that is making the accommodation; and the terms of a collective bargaining agreement.</p> |
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I. EQUAL EMPLOYMENT RESPONSIBILITIES OF NASSAU COUNTY AND EMPLOYEES

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| <p>DUTIES</p> | <p>All employees must take appropriate measures to ensure that discrimination, sexual harassment and retaliation do not occur in the workplace. Managers and supervisors are required to report any complaint of illegal discrimination or sexual harassment they receive, or any harassment they observe or become aware of to the Equal Employment Opportunity office. Any employee who experiences or observes discrimination, sexual harassment or retaliation should report it promptly to their EEO Representative or the County Equal Employment Opportunity Office. Appropriate disciplinary action, up to and including dismissal, will be taken against employees who engage in activities in violation of this policy, applicable state and</p> |
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| | <p>federal laws, or the non-discrimination provision of the collective bargaining agreements. All employees have a duty to fully cooperate in EEO investigations. Any employee who condones or engages in sexual harassment or any other conduct that violates this policy will be subject to disciplinary action up to and including termination.</p> <p>Department Heads have a duty to provide a workplace free from discrimination, sexual harassment and retaliation. In addition to setting the tone of the work environment and assessing and monitoring the workplace for illegal discrimination, harassment and retaliation, the duty of Department Heads includes disseminating this policy to staff.</p> <p>The County will take appropriate action to provide reasonable accommodations to qualified employees and applicants with disabilities, unless providing such accommodations creates an undue hardship on the operation of the County.</p> <p>The County will provide accommodations for religious observance, but may deny a request when any accommodation will create an undue hardship on the operation of the County.</p> |
| <p>PROHIBITED CONDUCT</p> | <p>Discrimination based on age, race, creed, color, national origin, sexual orientation, military status, sex (gender identity, transgender person, gender dysphoria), disability, predisposing genetic characteristics, familial status, marital status, domestic violence victim or criminal conviction in the course of hiring and employment with Nassau County.</p> <p>Sexual harassment, including but not limited to a “hostile workplace environment” consisting of words, signs, jokes, pranks, intimidation or physical violence of a sexual nature, or directed at an individual because of that individual’s sex; unwelcome verbal or physical advances, sexually explicit derogatory statements, or sexually discriminatory remarks made by someone in the workplace which are offensive or objectionable to the recipient or third parties which cause discomfort or humiliation, or which interfere with the recipient’s or others’ job performance; and, when a person in authority, such as a manager or supervisor, tries to trade job benefits for sexual favors, which is known as “quid pro quo” harassment.</p> <p>It is a violation of this policy to retaliate against or harass any person who engages in the protected conduct of asserting his or her rights regarding employment discrimination by: 1) opposing discrimination in the workplace; 2) complaining about prohibited conduct; or 3) participating in the complaint, investigation or reasonable accommodation process.</p> |

II. SEXUAL HARASSMENT

Examples of Sexual Harassment

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| PHYSICAL ACTS OF A SEXUAL NATURE | Touching, pinching, patting, kissing, huffing, grabbing, brushing against an employee’s body or poking another employee’s body. Rape, sexual battery, molestation or attempts to commit these assaults. |
| UNWANTED SEXUAL ADVANCES OR PROPOSITIONS | Requesting sexual favors accompanied by implied or overt threats concerning the target’s job performance evaluation, or promotion or other job benefits or detriments. Subtle or obvious pressure for unwelcome sexual activities. |
| SEXUALLY ORIENTED GESTURES | Noises, remarks or jokes or comments about a person’s sexuality or sexual experience which create a hostile work environment. |
| SEX STEREOTYPING | Occurs when conduct or personality traits are considered inappropriate simply because they may not conform to other people’s ideas or perceptions about how individuals of a particular sex should act or look. |
| SEXUAL OR DISCRIMINATORY DISPLAYS OR PUBLICATIONS | Displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials or other materials that are sexually demeaning or pornographic anywhere in the workplace. Includes such sexual displays on workplace computers or cell phones and sharing such displays while in the workplace. |
| HOSTILE ACTIONS AGAINST INDIVIDUALS BECAUSE OF SEX, SEXUAL ORIENTATION, GENDER IDENTITY AND THE STATUS OF BEING TRANSGENDER | Interfering with, destroying or damaging a person’s workstation, tools or equipment, or otherwise interfering with the individual’s ability to perform the job. Sabotaging an individual’s work. Bullying, yelling, name calling. |
| WHO CAN BE A TARGET OF SEXUAL HARASSMENT | Sexual harassment can occur between any individuals, regardless of their sex or gender. New York law protects employees, paid or unpaid interns, and non-employees, including independent contractors, and those employed by companies contracting to provide services in the workplace. Harassers can be a superior, a subordinate, a coworker or anyone in the workplace including an independent contractor, contract worker vendor, client, customer or visitor. |

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| WHERE CAN SEXUAL HARASSMENT OCCUR | Unlawful sexual harassment is not limited to the physical workplace itself. It can occur while employees are traveling for business or at employer sponsored events or parties. Calls, texts, emails, and social media usage by employees can constitute unlawful workplace harassment, even if they occur away from the workplace premises, on personal devices or during non-work hours. |
| SEXUAL HARASSMENT RETALIATION | <p>Unlawful retaliation can be any action that could discourage a worker from coming forward to make or support a sexual harassment claim. Adverse action need not be job-related to occur in the workplace to constitute unlawful retaliation (e.g., threats of physical violence outside of work hours).</p> <p>Such retaliation is unlawful under federal, state and local law. The New York State Human Rights Law protects any individual who has engaged in “protected activity”. Protected activity occurs when a person has:</p> <p>Made a complaint of sexual harassment, either internally or with any anti-discrimination agency; testified or assisted in a proceeding involving sexual harassment under the Human Rights Law or other anti-discrimination law; opposed sexual harassment by making a verbal or informal complaint to management, or by simply informing a supervisor or manager of harassment; reported that another employee has been sexually harassed; or encouraged a fellow employee to report harassment.</p> <p>Even if the alleged harassment does not turn out to rise to the level of violation of law, the individual is protected from retaliation if the person had a good faith belief that the practices were unlawful. However, the retaliation provision is not intended to protect persons making intentionally false charges of harassment.</p> |

**III. COMPLAINT AND INVESTIGATION PROCEDURE
DISCRIMINATION, HARASSMENT/SEXUAL HARASSMENT AND
RETALIATION**

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| REPORTING | Any employee or job applicant with Nassau County who believes he or she has been subjected to illegal discrimination in violation of this policy or who witnesses others being subjected to improper conduct in violation of this policy is urged to report the alleged act(s) as soon as possible. Even a single incident of harassing conduct can be addressed under the policy. Employees may report alleged act(s) to their EEO Representative or the Director of Equal Employment Opportunity. Employees will not be retaliated against for consulting with an EEO Representative regarding actual or suspected |
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| | <p>discrimination and/or harassment or for filing a complaint or cooperating in an investigation.</p> <p>Upon receipt of a complaint alleging that a Department Head has engaged, or is engaging, in unlawful discriminatory conduct, retaliation or harassment, the EEO Director shall notify the Chief Administrative Officer and/or the Chief Deputy County Executive. If the allegation of harassment or discrimination is made by or about a Deputy County Executive, the EEO Director shall notify the Chief Administrative Officer and/or the Chief Deputy County Executive. If an allegation of harassment or discrimination is made by or about the Chief Administrative Officer, the EEO Director shall notify the Chief Deputy County Executive and if an allegation of harassment is made about the Chief Deputy County Executive, the EEO Director shall notify the County Executive. If an allegation of harassment or discrimination is made by or about an employee of the Office of Equal Employment Opportunity, the allegation will be investigated by an official to be designated by the County Executive or his/her her designee.</p> |
| <p>INITIAL COMPLAINT</p> | <p>A complaint of discrimination or harassment may be made verbally or in writing and may be brought by any person having knowledge of the discrimination, harassment or retaliation. Employees are encouraged, but not required, to use the annexed EEO Complaint form or Sexual Harassment Complaint form. An employee, who files a written report not on the prescribed form, may be asked to complete the official County form. If necessary, assistance will be provided in completing the form. Employees who are reporting discrimination or sexual harassment on behalf of other employees should use the EEO complaint forms and note that it is on another employee's behalf.</p> <p>Employees, paid or unpaid interns or non-employees who believe they have been a target of sexual harassment or other discrimination may also seek assistance in other available forums, as explained in the section on Legal Protections.</p> <p>All supervisors and managers who receive a complaint or information about suspected discrimination or sexual harassment, observe what may be harassing behavior or for any reasons suspect that discrimination or sexual harassment is occurring, are required to report such suspected sexual harassment to the Equal Employment Opportunity office. In addition to being subject to discipline if they engage in discriminatory behavior or sexually harassing conduct themselves, supervisors and managers will be subject to discipline for failing to report suspected discriminatory behavior or sexual harassment or otherwise knowingly allowing such behavior to</p> |

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| | <p>continue. Supervisors and managers will also be subject to discipline for engaging in any retaliation.</p> <p>EEO Representatives who receive a complaint of discrimination or sexual harassment must document information relevant to the complaint, including the date and time of the initial meeting with the complaining party, the dates of any incidents, substance of the complaint and the names of individuals who were involved or witnessed the incidents. EEO Representatives who receive a complaint must report it to the EEO Director as soon as possible but no later than one week after receipt of the complaint.</p> |
| <p>INVESTIGATION OF COMPLAINTS</p> | <p>All complaints or information about discrimination or sexual harassment will be investigated, whether that information was reported in verbal or written form. Investigations will be conducted in a timely manner and will be confidential to the extent possible.</p> <p>EEO Department Representatives will conduct the investigation of any complaint, information or knowledge of suspected discrimination or sexual harassment in a prompt and thorough manner. Investigations will be commenced immediately and be completed as soon as possible. The investigation will be kept confidential to the extent possible. All persons involved, including complainants, witnesses and alleged harassers will be accorded due process, as outlined below, to protect their rights to a fair and impartial investigation.</p> <p>Any employee may be required to cooperate as needed in an investigation of suspected sexual harassment. The County will not tolerate retaliation against employees who file complaints, support another’s complaint or participate in an investigation regarding a violation of this policy.</p> <p>While the process may vary from case to case, investigations should be done in accordance with the following steps:</p> <ul style="list-style-type: none"> ○ Upon receipt of complaint, the EEO Representative and Director of EEO will conduct an immediate review of the allegations, and take any interim actions (e.g., instructing the respondent to refrain from communications with the complainant) as appropriate. If the complaint is verbal, encourage the individual to complete the “Complaint Form” in writing. If he or she refuses, prepare a Complaint Form based on the verbal reporting. ○ If documents, emails or phone records are relevant to the |

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| | <p>investigation, take steps to obtain and preserve them.</p> <ul style="list-style-type: none">○ Request and review all relevant documents, including all electronic communications.○ Interview all parties involved, including any relevant witnesses.○ Create a written documentation of the investigation (such as a letter, memo or email) which contains the following: A list of all documents reviewed, along with a detailed summary of relevant documents; a list of names of those interviewed, along with a detailed summary of their statements; a timeline of events; a summary of prior relevant incidents, reported or unreported; and, the basis for the decision and final resolution of the complaint, together with any corrective action(s).○ Keep the written documentation and associated documents in a secure and confidential location.○ Promptly notify the individual who reported and the individual(s) about whom the complaint was made of the final determination and implement any corrective actions identified in the written document.○ Inform the individual who reported of the right to file a complaint or charge externally as outlined in the next section Legal Protections.○ The EEO Representative shall make a confidential written report of the investigation and preliminary determination for review by the EEO Director. The EEO Director shall make a determination and forward a copy of the report to the Department Head, Director of Human Resources and Deputy County Executive to whom the Department Head reports. The EEO Director and the Department Head shall review the report and meet with the Director of Human Resources to determine appropriate corrective action. The Department Head shall take such corrective action and report such action to the Director of Human Resources, the EEO Director and the Chief Administrative Officer and the Chief Deputy County Executive. |
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| | <p>Corrective action may include disciplinary measures, up to and including termination, necessary to address the impact that any conduct in violation of County policy has had on the complainant and others in the workplace. All corrective measures shall be taken in accordance with any applicable provisions of law and collective bargaining agreements. Documentation of any corrective action taken to resolve an EEO complaint shall be placed in a file maintained in the Office of Equal Employment Opportunity and the Respondent’s personnel file in accordance with any applicable law and/or collective bargaining agreement. If a sexual harassment complaint results in the undertaking of disciplinary actions, such as formal reprimand, suspension, probation, demotion, fine or termination, the Director of Equal Employment Opportunity shall forward the following information to the County Attorney, the Presiding Officer of the Legislature and the Minority Leader of the Legislature within thirty (30) business days of the undertaken action; the Department where the violation occurred, the nature of the allegations, the disciplinary measures taken, and the corrective action(s) taken to prevent future violations of the sexual harassment.</p> |
| <p>PRIVACY AND CONFIDENTIALITY</p> | <p>Employees may meet privately with the EEO Representative during working hours. Reasonable leave requests to meet with an EEO Representative shall not be denied; however, the employee shall obtain prior approval from his/her supervisor before leaving a work assignment. The employee need not disclose the details or the purpose of the meeting. Managers and supervisors shall allow employees to meet regarding EEO matters at the earliest practicable time consistent with the operational needs of their units.</p> <p>The EEO Representative shall arrange to meet with the person complaining of discrimination, harassment or sexual harassment in a Nassau County office or facility that will promote confidentiality. Reasonable efforts will be made to maintain the confidentiality of the information provided in connection with a complaint and to protect the privacy of the individuals involved. It should be noted, however, that subsequent developments in an investigation, or litigation, may require disclosure.</p> |
| <p>WITHDRAWING A COMPLAINT</p> | <p>A complaint of discrimination or harassment may be requested to be withdrawn at any time by the person who filed the complaint. Any request for withdrawal must be written and signed by the complainant.</p> <p>In the event a complaint is withdrawn, the EEO Director shall determine in consultation with the Director of Human Resources whether it is necessary to continue the investigation and whether evidence has been found that requires the County to take further action. The EEO Director shall document such assessment and shall</p> |

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| | <p>notify all parties to the complaint, the Department Head, the Director of Human Resources and the Chief Administrative Officer and the Chief Deputy County Executive.</p> |
| <p>PLACES TO FILE A SEXUAL HARASSMENT OR OTHER DISCRIMINATION COMPLAINT</p> | <p>LEGAL PROTECTIONS AND EXTERNAL REMEDIES</p> <p>Sexual harassment is not only prohibited by Nassau County but is also prohibited by state, federal and local law.</p> <p>Aside from the internal process at the County, employees may also choose to pursue legal remedies with the following governmental entities. While a private attorney is not required to file a complaint with a governmental agency, you may seek the legal advice of any attorney.</p> <p>Any person who believes that s/he has experienced sexual harassment or discrimination has a right to file a formal complaint with federal, state or local administrative agencies. A person does not give up this right when s/he files a complaint with the Nassau County Office of Equal Employment Opportunity.</p> <p><u>State Human Rights Law (HRL):</u></p> <p>The Human Rights Law (HRL), codified as N.Y. Executive Law, art. 15, § 290, <i>et. seq.</i> applies to all employers in New York State with regard to sexual harassment, and protects employees, paid or unpaid interns and non-employees, regardless of immigration status. A complaint alleging a violation may be filed either with the Division of Human Rights (DHR) or in New York State Supreme Court.</p> <p>Complaints with DHR may be filed any time within one year of the harassment. If an individual did not file at DHR, they can sue directly in state court under the HRL, within three years of the alleged sexual harassment. An individual may not file with DHR if they have already filed a HRL complaint in state court.</p> <p>Complaining internally to the County does not extend your time to file with DHR or in court. The one year or three years is counted from the date of the most recent incident of harassment.</p> <p>You do not need an attorney to file a complaint with DHR, and there is no cost to file with DHR.</p> <p>DHR will investigate your complaint and determine whether there is probable cause to believe that sexual harassment has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If sexual harassment is found after a hearing, DHR has the power to award relief, which varies but may include requiring your employer to take action to stop the harassment, or redress the damage caused, including paying monetary damages, attorney’s fees and civil fines.</p> |

DHR's main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, New York 10458. You may call (718)741-8400 or visit: www.dhr.ny.gov.

Contact DHR at (888)392-3644 or visit dhr.ny.gov/complaint for more information about filing a complaint. The website has a complaint form that can be downloaded, filled out, notarized and mailed to DHR. The website also contains contact information for DHR's regional offices across New York State.

Civil Rights Act of 1964:

The United States Equal Employment Opportunity Commission (EEOC) enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act (codified as 42 U.S.C. § 2000e *et seq.*). An individual can file a complaint with the EEOC anytime within 300 days from the harassment. There is no cost to file a complaint with the EEOC. The EEOC will investigate the complaint and determine whether there is reasonable cause to believe that discrimination has occurred, at which point the EEOC will issue a Right to Sue letter permitting the individual to file a complaint in federal court.

The EEOC does not hold hearings or award relief, but may take other action including pursuing cases in federal court on behalf of complaining parties. Federal courts may award remedies if discrimination is found to have occurred. In general, private employers must have a least 15 employees to come within the jurisdiction of the EEOC.

An employee alleging discrimination at work can file a "Charge of Discrimination." The EEOC has district, area, and field offices where complaints can be filed. Contact the EEOC by calling 1-800-669-4000 (TTY: 1-800-669-6820), visiting their website at www.eeoc.gov or via email at info@eeoc.gov.

If an individual filed an administrative complaint with DHR, DHR will file the complaint with the EEOC to preserve the right to proceed in federal court.

Contact the Local Police Department:

If the harassment involves unwanted physical touching, coerced physical confinement or coerced sex acts, the conduct may constitute a crime. Contact the local police department.

IV. REASONABLE ACCOMMODATION PROCEDURE

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| <p>WHO MAY REQUEST A REASONABLE ACCOMMODATION</p> | <p>Employees or applicants for employment with disabilities may request reasonable accommodation, regardless of title, salary, grade, bargaining unit, employment status (permanent, contingent, temporary, provisional, full time and/or part time) or jurisdictional classification (exempt, non-competitive, competitive or labor class).</p> |
| <p>CONFIDENTIALITY OF MEDICAL INFORMATION</p> | <p>Departments will keep medical information in files in a secure location separate from personnel files and will designate a specific person or persons to have access to the medical file. Supervisors and managers may nevertheless be informed of an employee’s restrictions on work or duties as well as other necessary accommodations. In addition, first aid and safety/security personnel may be informed, when appropriate, regarding an employee’s need for accommodation if such accommodation will impact emergency evacuation procedures, or require specific procedures in case of certain emergency situations.</p> |
| <p>REASONABLE ACCOMMODATION REQUEST PROCEDURE</p> | <p>An employee or applicant seeking an accommodation may make a verbal or written request to the EEO Representative or, in the alternative, the EEO Representative will reduce the request to writing. A Request for Reasonable Accommodation form is annexed as Appendix C to the EEO policy. If assistance is needed to complete the form, the EEO Representative will provide assistance. The County reserves the right to require substantiation of a disability including but not limited to documentation from a treating healthcare professional and/or a medical examination by a medical provider designated by the County for the purpose of determining whether and what accommodation is appropriate.</p> <p>After receiving an accommodation request, the EEO Representative shall indicate on the Request for Reasonable Accommodation form the date the request was received and shall notify the Department Head and the EEO Director of the request within two (2) business days of receipt of the request.</p> <p>Department Heads, in conjunction with the EEO Representative, shall review requests for reasonable accommodation. The reasonable accommodation process should be flexible and interactive, involving both the employer and the employee or applicant requesting reasonable accommodation. The Department Head may seek technical assistance from a medical professional, state or local rehabilitation agency or disability constituent organization and may also seek the assistance of the County Office of Human Resources, Office of Labor Relations, and/or the</p> |

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| | <p>Department’s fiscal officer in determining how to accommodate a particular individual in a specific situation.</p> <p>The Department Head and EEO Representative shall promptly review the Request for Accommodation and shall:</p> <ul style="list-style-type: none"> ○ Determine whether the individual has a disability; ○ Examine the essential functions of the job as defined by the Nassau County Civil Service Commission and the Department Head; ○ Review documentation in support of the request, if applicable; ○ Consult with the individual with a disability to determine his/her specific physical or mental abilities and limitations as they relate to the activities involved in the position; ○ If any technical or other assistance has been requested, review any information received; ○ Review the individual’s suggested reasonable accommodation(s); if there are several effective accommodations that would provide an equal employment opportunity, consider the preference of the individual with a disability and select the accommodation that best serves the needs of the individual and the Department without undue hardship to the County. |
| <p>DEPARTMENT RESPONSE</p> | <p>The Department shall make its determination and respond within ten (10) business days of receipt of the accommodation request or, where appropriate, within ten (10) business days of receipt of requested medical verification or additional information necessary to the interactive process as described in the Reasonable Accommodation Procedure. If the request for an accommodation is approved, the Department shall provide the accommodation without undue delay.</p> <p>The EEO Representative is responsible for completing and forwarding the Department’s response to the EEO Director within ten (10) business days of the Department’s final determination. The form must include a description of the accommodation proposed.</p> |
| <p>REMEDIES</p> | <p>An employee or applicant for employment who believes (s)he has been discriminated against on the basis of disability may file an internal discrimination complaint pursuant to the Complaint and Investigation Procedure outlined in Part II of the EEO policy. An individual who has been denied a reasonable accommodation may also pursue a formal complaint with the federal, state or local administrative agencies listed on page 10.</p> |

V. AVAILABILITY AND DISTRIBUTION

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| <p>AVAILABILITY AND DISTRIBUTION</p> | <ul style="list-style-type: none"> • Department Heads shall make this policy available to employees at the Human Resources units of agencies and departments throughout the County. The names of the EEO Departmental Representatives shall also be posted at the Human Resources units of Agencies and Departments throughout the County. This policy is posted on the Nassau County Government Web Site and on the Nassau County Intranet. • New employees shall receive a copy of this policy and contact information for EEO Representatives. New employees are required to read the policy and sign a receipt acknowledging that they are aware of the standards of behavior expected. • Complaint forms and the form for requests for reasonable accommodation may be obtained by contacting the Office of Equal Employment Opportunity at 516-571-6176, EEO Departmental Representatives the Nassau County Government Web Site, and/or the Nassau County Intranet. |
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VI. TRAINING

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| <p>TRAINING</p> | <p>The County will conduct training and educational sessions in accordance with the requirements of this policy.</p> |
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APPENDIX “A”: EEO COMPLAINT FORM

APPENDIX ‘B’’: SEXUAL HARASSMENT COMPLAINT FORM

APPENDIX “C’’: REQUEST FOR REASONABLE ACCOMMODATION FOR DISABILITY FORM

APPENDIX “D’’: EXECUTIVE ORDER 2-2003

2. On what basis do you believe your Equal Employment Opportunity rights are at issue?
(Please check all that apply.)

Age ____, Race ____, Creed ____, Color ____, National Origin ____, Sexual Orientation ____,
Military Status ____, Sex (gender identity, transgender person, gender dysphoria) ____,
Disability ____, Genetic Information ____, Predisposing Genetic Characteristics, ____,
Marital Status ____, Domestic Violence Victim ____, Retaliation ____.

3. Please give the date of the incident(s); and, if ongoing, please identify the time period:

4. If there are witnesses to the incident(s) who may be able to help in the investigation,
please list their names, job titles and phone numbers (if possible).

5. What action do you think the County should take to resolve this complaint?

6. Have you filed a grievance with your union regarding this matter? Yes No
(Filing this complaint does not preclude you from filing elsewhere)

If you have filed a grievance with your union please answer the following:

- a. Date grievance was filed? _____
b. Name of representative organization. _____



Appendix B Nassau County Sexual Harassment Complaint Form

INSTRUCTIONS: Please print and use ink. Retain a copy for your records.

New York State Labor Law requires all employers to adopt a sexual harassment prevention policy that includes a complaint form to report alleged incidents of sexual harassment.

If you believe that you have been subjected to sexual harassment, you are encouraged to complete this form and submit it to your Department EEO Representative. You will not be retaliated against for filing a complaint.

If you are more comfortable reporting verbally, your EEO Representative should complete this form, provide you a copy and follow the sexual harassment prevention policy by investigating the claims as outlined at the end of the form.

COMPLAINANT INFORMATION:

Name: _____

Work Address: _____

Position Title: _____ Department: _____

Supervisor: _____

Work Phone: (____) _____

Selected Method of Contact: Email Phone In person

Are you a current Nassau County Employee? __Yes __No

SUPERVISORY INFORMATION:

Immediate Supervisor's Name: _____

Title: _____

Work Phone: (____) _____

Work Address: _____

WHO IS THE COMPLAINT ABOUT:

1. Name: _____ Title: _____

Work Address: _____

Work Phone: (____) _____

Relationship to you: Supervisor Subordinate Co-Worker Other _____

2. Please describe what happened and how it is affecting you and your work. Please use additional sheets of paper if necessary and attach any relevant documents or evidence.

3. Date(s) sexual harassment occurred: _____

Is the sexual harassment continuing? yes no

4. Please list the name and contact information of any witnesses or individuals who may have information related to your complaint.

This last question is optional, but may help the investigation.

5. Have you previously complained or provided information (verbal or written) about related incidents? If yes, when and to whom did you complain or provide information?

I have been provided a copy of the Nassau County Equal Employment Opportunity and Sexual Harassment Prevention policy and have been given an opportunity to meet with my EEO Representative. I understand that the County will determine whether my complaint is appropriate for review pursuant to the Nassau County Equal Employment Opportunity policy. I understand that the investigation of this complaint will be conducted in accordance with the procedures set forth in the Nassau County Equal Employment Opportunity policy. I also understand that I may withdraw my complaint, but that the County may continue to investigate my complaint if the County determines that an investigation is appropriate. I acknowledge that making a willfully false complaint may subject me to discipline up to and including termination.

Signature: _____ Date: _____



Appendix C

Request for Reasonable Accommodation

INSTRUCTIONS

This form is to be used by Departments in analyzing employee/applicant requests for reasonable accommodation for disabilities. Part One is to be completed by the employee and given to his/her Department EEO Representative. Part Two is to be completed and signed by the EEO Representative and Department Head. The EEO Representative must then forward the original forms to the Office of Equal Employment Opportunity.

PART ONE

INSTRUCTIONS: Please print and use ink. Employees requesting reasonable accommodation for disability are to complete this form and file it with their Department EEO Representative. Retain copies for your records. If you require assistance completing this form, please contact your EEO Representative and assistance will be provided to you.

Name: _____

Address: _____

Position Title: _____ Department: _____

Supervisor's Name: _____

Phone: Business () _____ Home () _____

1. Please describe the job duties expected of you for which you are requesting accommodation.

2. Please describe why you are requesting an accommodation. (Attach medical documentation in support of your request.)

3. Please describe any suggested reasonable accommodation.

Employee/Applicant's Signature: _____ Date: _____

THIS FORM CONTAINS CONFIDENTIAL INFORMATION AND MUST BE KEPT SEPARATE FROM PERSONNEL RECORDS.

PART TWO

INSTRUCTIONS: This section is to be completed and signed by the EEO Representative and Department Head and forwarded to the Office of Equal Employment Opportunity.

1. If the employee/applicant's need for an accommodation is not obvious, please request that the employee provide documentation in support of the request for accommodation.

2. What are the activities involved in the employee/applicant's position? Documentation, including but not limited to class specifications, performance standards, list of daily tasks, etc. must be attached to this form.

3. If the requested accommodation is granted, will it fundamentally alter the position or impact any other employee's job duties or position? Explain.

4. What specific duties require accommodation? Are these duties essential to the employee/applicant's position?

5. Are alternative accommodations possible? Explain.

6. What accommodation do you recommend? If none, explain.

7. What is the estimated cost of the accommodation?

8. Is an accommodation approved or denied? Explain.

Department Head: _____ Date: _____

EEO Representative: _____ Date: _____

THIS FORM CONTAINS CONFIDENTIAL INFORMATION AND MUST BE KEPT SEPARATE FROM PERSONNEL RECORDS.



Appendix D
Executive Order No. 2-2003

**EXECUTIVE ORDER BY THE COUNTY EXECUTIVE PURSUANT TO SECTION 203
OF THE COUNTY GOVERNMENT LAW OF NASSAU COUNTY**

WHEREAS, Nassau County is committed to a policy of equal employment and prohibits discrimination in employment on the basis of age, gender, alienage or citizenship status, race, color, creed, ethnicity, national origin, marital status, sexual preference or disability; and

WHEREAS, Nassau County actively seeks to create diversity and equality in the workplace; and

WHEREAS, County employees have the right to enjoy a workplace characterized by civility and mutual respect, free of discrimination or sexual harassment; and

WHEREAS, in order to protect the rights of employees to be free of discrimination and sexual harassment in the workplace, and to promote mutual respect, the County must take measures to inform and educate its workforce and to establish effective mechanisms that will investigate and address instances of such discrimination and harassment and to ensure that no employee is retaliated against for complaining against such discrimination or harassment; and

WHEREAS, I find it necessary and desirable to provide as follows for the protection from discrimination and sexual harassment of employees of the County pursuant to the authority vested in me by section 203 of the Charter, now, therefore, be it

ORDERED, that an Equal Employment Opportunity (“EEO”) Office be established within the Nassau County Department of Human Resources, to be headed by a Director who shall report to the Director of Human Resources and who shall be responsible for the design, implementation and administration of EEO activities throughout the County, including, but not limited to, the dissemination of information, the education of employees, the training of persons to investigate complaints of discrimination and harassment and the investigation and resolution of such complaints; and be it further

ORDERED, that each head of a department in Nassau County shall, in consultation with the EEO Director and the Director of Human Resources, appoint an EEO Representative, who shall be charged with EEO responsibilities, including the investigation of complaints; and be it further

ORDERED, that each Deputy County Executive shall appoint an EEO Representative who shall be charged with EEO responsibilities, including the investigation of complaints; and be it further

ORDERED, that each Deputy County Executive shall appoint an EEO Representative who shall be charged with EEO responsibilities with respect to the departments supervised by such Deputy County Executive; and be it further

ORDERED, that the EEO Director shall develop policies, procedures and programs that will further the goals set forth in this Executive Order and will ensure that the County fully complies with all applicable laws regarding discrimination and sexual harassment, including, but not limited to, policies setting forth requirements for the education and dissemination of information to employees, the training of supervisors, the training of EEO Representatives, and procedures for initiating, investigating, and resolving complaints of discrimination or sexual harassment.

**Thomas R. Suozzi
County Executive**

Dated February 2003