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MARSHALL COUNTY RECORDER

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# **EQUAL EMPLOYMENT OPPORTUNITY PLAN**

## **I. POLICY STATEMENT**

Marshall County does not discriminate on the basis of race, color, gender, national origin, religion, age, or disability in employment or the provision of services.

All position notices, postings, advertisements, and recruiting literature shall contain the phrase "An Equal Opportunity Employer."

Any employee with questions or concerns about any type of discrimination in the workplace shall bring these issues to the attention of his/her elected official/department head. Employees may raise concerns and make reports without fear of reprisal. Anyone found to be engaging in any type of unlawful discrimination will be subject to disciplinary action, up to and including termination of employment.

## **II. DISSEMINATION AND COMMUNICATION**

This Policy Statement will be made available to employees, applicants, and outside agencies through employee handbooks, statements on recruitment documents, postings in conspicuous locations, and the County website.

Elected officials, department heads, and managers will be advised of the Policy through meetings and/or training, with emphasis on individual responsibilities for implementation of the Policy.

## **III. RESPONSIBILITIES**

### **A. IMPLEMENTATION**

The County Commissioners and Human Resources Administrator shall implement this Equal Employment Opportunity (EEO) Plan.

### **B. ELECTED OFFICIALS, DEPARTMENT HEADS, AND MANAGERS**

Elected officials, department heads, and managers are responsible for ensuring that recruitment for vacancies is handled in a manner to attract a qualified, diverse applicant pool and that hiring decisions are based on job-related factors.

Elected officials, department heads, and managers are responsible for making reasonable efforts to ensure that all employees are provided a work environment that gives every employee the opportunity to succeed. Employees shall be treated in a non-discriminatory manner, consistent with applicable laws, rules, regulations and policies.

## **C. ADMINISTRATION OF EQUAL EMPLOYMENT OPPORTUNITY ACTIVITIES**

Elected officials, department heads, and managers are responsible to undertake activities necessary to implement equal employment opportunity activities consistent with the Plan. Overall Equal Employment Opportunity responsibilities shall be coordinated with the County's Human Resources Administrator.

Activities in this area may include:

- (1) Implementing the EEO Plan through internal communication.
- (2) Reviewing personnel policies, selection processes, and record keeping procedures that affect equal employment opportunity. Employment data, practices, and policies will be analyzed to determine if these afford equal employment opportunity. Appropriate steps to remedy any identified barriers will be taken in accordance with applicable laws, rules, and regulations.
- (3) Analyzing employment practices, including reassignments and promotions, and programs offered to employees, including training and other professional development activities to ensure that such activities occur in a non-discriminatory manner.
- (4) Reporting data related to the composition of the workforce by race, gender, and disability status.
- (5) Coordinating reasonable accommodation activities.
- (6) Investigating allegations of illegal discrimination and sexual harassment complaints.

## **IV. EMPLOYMENT PRACTICES**

### **A. RECRUITMENT AND HIRING**

#### **Filling Vacant Positions**

When a full-time position becomes vacant in an office or department the elected official or department head of such office or department may fill such positions.

In the event that funds are not appropriated the elected official or department head shall obtain funds for the position from the County Council prior to filling the position.



## **Hiring Process**

Basic qualifications of formal education, background, and experience shall be determined before recruiting begins and shall be based upon job requirements as well as dictates of applicable federal, state, and local laws.

Vacant and new positions, insofar as practicable, shall be afforded current employees, subject to ability and job qualifications to be reasonably determined by management. Insofar as practicable, open and new jobs shall be posted on County work days until said positions are filled, during which time any employee may make written application.

Information regarding vacancies or new positions shall be publicly posted on bulletin boards located in the County government buildings for a minimum of five business days. The County encourages internal promotion and transfer whenever possible.

At the discretion of hiring officials, based upon the urgency and specialization of the job requirements, newspaper, trade journal, and website advertising may be used in recruiting employees. Advertisements shall describe the position, basic qualifications, and state that the County is "An Equal Opportunity Employer."

## **B. SEXUAL HARASSMENT**

Everyone who works for Marshall County is entitled to a workplace free from sexual harassment and intimidation. The County is committed to providing a work environment that is free of any type of discrimination or unlawful harassment. The County prohibits any form of sexual harassment and will take corrective action against offenders, including discipline or termination.

This policy applies to all Marshall County employees.

### **Definition of Sexual Harassment**

Any request for sexual favors and/or any other unwanted verbal or physical conduct of a sexual nature between employees in the workplace or job-related contacts with citizens or persons outside County employment, constitutes sexual harassment and is prohibited, such as:

1. Unwelcome sexual advances.
2. Physical or verbal conduct of a sexual nature or joking that is sex-oriented and considered unacceptable by another individual. Examples of conduct of a sexual nature include: flirtations, advances or propositions, verbal abuse of a sexual nature, leering, touching, pinching, assault, or coerced sexual acts; or suggestive, insulting, obscene comments or gestures, written, photo, cartoon, or electronic displays in the workplace of sexually

suggestive objects or pictures. This includes commenting about an individual's body or appearance where such comments go beyond mere courtesy, telling "dirty jokes" that are clearly unwanted and considered offensive by others, or any other tasteless sexually-oriented comments or actions that offend others. This behavior is unacceptable in the workplace itself, and in other work-related settings such as business trips and business-related social events.

3. Submission which is expressed or implied as a condition of employment, promotion, or preferential treatment.
4. Printed or electronic display or transmission of sexually explicit images, messages or cartoons is not allowed. Other violations include, but are not limited to, ethnic slurs, racial comments, jokes, or anything that may be construed as harassment or showing disrespect for others.
5. Conduct with implication that has the purpose or the effect of interfering with work performance or creating an intimidating, hostile, or offensive work environment is considered sexual harassment.

This behavior is unacceptable in the workplace itself and in other work-related settings such as business trips and business-related social events.

### **Reporting a Complaint**

While the County encourages individuals who believe they are being harassed to firmly and promptly notify the offender that his/her behavior is unwelcome, the County also recognizes that power and status disparities between an alleged harasser and a target may make such a confrontation impossible.

In the event that such informal, direct communication between individuals is either ineffective or impossible, the following steps should be followed in reporting a sexual harassment complaint.

In order to take a corrective action, the County must be aware of sexual harassment or related retaliation. Therefore, anyone who believes that he/she has experienced or witnessed sexual harassment or related retaliation should promptly report such behavior.

Any employee who experiences sexual harassment should contact his/her elected official/department head immediately. If unresolved, or in the event the harassment is alleged against the elected official/department head, the employee is advised to obtain a sexual harassment complaint form from the Human Resources Administrator. The employee is directed to submit the completed form to the elected official/department head, or in the event the alleged harassment is against the elected official/department head, then the completed form is to be submitted to



County Attorney. The best time to register a complaint is immediately after the act occurs.

Any supervisor who has witnessed or becomes aware of the alleged occurrence of sexual harassment or retaliation, or receives a complaint of sexual harassment involving a person within that supervisor's purview is required to take prompt corrective action and to report the incident to the County Attorney. Failure of a supervisor to immediately take corrective action or to report the incident shall constitute misconduct subject to disciplinary action.

### **Description of Misconduct**

An accurate record of objectionable behavior or misconduct is needed to resolve a formal complaint of sexual harassment.

Verbal reports of sexual harassment must be recorded in written form either by the complainant or the individual(s) designated to receive complaints, and be signed by the complainant. Individuals who believe they have been or currently are being harassed should maintain a record of objectionable conduct to effectively prepare and corroborate their allegations.

While the County encourages individuals to keep written notes in order to accurately record offensive conduct or behavior, it must be recognized that, in the event that a lawsuit develops from the reported incident, the confidentiality of the complainant's written notes may not be recognized under Indiana law, and the notes may have to be disclosed.

County elected officials/department heads and the Human Resources Administrator have copies of the County sexual harassment complaint form. Employees are directed to obtain, complete, and submit this form to initiate a formal complaint.

### **Time Frame for Reporting Complaints**

The County encourages a prompt reporting of complaints so that rapid response and appropriate action may be taken. However, due to the sensitivity of these problems and because of the emotional toll such misconduct may have on an individual, no limited time frame will be instituted for reporting sexual harassment complaints. Late reporting of complaints will not in and of itself preclude the County from taking remedial action.

### **Protection Against Retaliation**

The County will not in any way retaliate against the individual who makes a report of sexual harassment nor permit any supervisor or employee to do so. Retaliation is a serious violation of this sexual harassment policy and should be reported immediately. Any person found to have retaliated against another individual for

the good faith reporting of sexual harassment will be subject to the same disciplinary action provided for sexual harassment offenders.

### **Investigating the Complaint**

Any allegation of sexual harassment that is reported will be promptly investigated in as discreet a manner as possible to protect the privacy of persons involved. The County will use its best efforts to maintain confidentiality throughout the investigatory process to the extent practical and appropriate under the circumstances; however, confidentiality is not guaranteed. The alleged harasser will be notified of the nature of the complaint made against him/her.

Upon completing the investigation of a sexual harassment complaint, the County will communicate its findings to the complainant and the alleged harasser. If the Commissioners and the alleged harasser's elected official/department head determine that harassment occurred, they will determine appropriate disciplinary action. The complainant will be informed of the disciplinary action to be taken.

In determining whether alleged conduct constitutes sexual harassment, the County will look at the investigative file as a whole and the totality of the circumstances, such as the nature of the conduct and the context in which the alleged incidents occurred. The determination of whether disciplinary action is to be taken will be made from the facts, on a case-by-case basis.

### **Identification of Investigators**

Complaints will be investigated by the County Attorney or investigators retained by the County. In addition, other individuals may be included in reviewing the investigation and outcome at the discretion of the County Attorney.

### **False Accusations**

Marshall County also recognizes that careful consideration must be given to questions regarding whether a particular action or incident is purely personal or social without any discriminatory employment effect. False accusations of sexual harassment can have devastating effects on the lives and reputations of innocent women and men. Therefore, the County may discipline, up to and including termination of employment, those employees who after an investigation are found to have falsely accused others of sexual harassment, knowingly or in a malicious manner.

### **Sanctions**

Individuals found to have engaged in misconduct constituting sexual harassment, creating a hostile work environment, or related retaliation will be severely disciplined, up to and including termination of employment. Additional action may



include: referral to counseling, withholding of a promotion, reassignment, demotion, temporary suspension without pay, or termination.

Although the County's ability to discipline a non-county employee harasser is limited, any County employee who has been subjected to sexual harassment by a non-county employee at the workplace and work-related setting should file a complaint so that action may be taken.

#### **Maintaining a Written Record of the Complaint**

The County will maintain a complete written record of each complaint and how it was investigated and resolved. Written records shall be maintained in the County Attorney's office, and if disciplinary action was taken, a record shall be maintained in the offender's personnel file.

#### **Prevention**

Prevention is the best policy for the elimination of sexual harassment. Employees shall remain cognizant of sexual harassment to avoid contributing conditions that would encourage such activity. Sexual harassment and hostile work environment violations will result in disciplinary action, up to and including termination of employment.

### **C. AMERICANS WITH DISABILITIES ACT (ADA)**

It is the policy of Marshall County that qualified individuals with disabilities not be excluded from participation in or benefit from the services, programs, or activities of the County. It is the policy of the County not to discriminate against a qualified individual with a disability in: job application procedures; the hiring, advancement, or discharge of employees; employee compensation; job training; and other terms, conditions, and privileges of employment. It is the intent of this County to comply with all applicable requirements of the Americans with Disabilities Act (ADA).

If a person is not able to perform the essential functions of a job, even with reasonable accommodation, then the person is not qualified for the position.

The County will reasonably accommodate persons with a disability. Such reasonable accommodation may include: making facilities readily accessible to individuals with a disability, restructuring jobs, modifying work schedules, modifying equipment, or other similar accommodations.

Accommodations may not create an undue hardship for the County or other employees.

An individual who cannot be reasonably accommodated for a job, without undue hardship, will not be selected for that position.

All employees are required to comply with safety standards. Applicants who pose a direct threat to the health or safety of other individuals in the workplace, which threat cannot be eliminated by reasonable accommodation, will not be hired.

Employees who pose a direct threat to the health or safety of the other individuals in the workplace will be placed on appropriate leave.

Disabled individuals cannot pose a direct threat to the safety of themselves or others. Generally, a "direct threat" means a significant risk to the health or safety of others that cannot be eliminated by reasonable accommodation.

Benefits provided to disabled individuals who are qualified to perform the work are not different from the benefits provided to other employees.

Members of the public, including individuals with disabilities and groups representing individuals with disabilities, are encouraged to submit suggestions to the County ADA Coordinator (Human Resources Administrator) on how the County of Marshall might better meet the needs of individuals with disabilities pursuant to this policy.

Any individual who believes he/she has received treatment inconsistent with the policies set forth above or any other requirement of the "Americans with Disabilities Act" (ADA), can file a complaint within ninety (90) days of the date of the alleged discriminatory act or practice with the County ADA Coordinator (Human Resources Administrator), Marshall County Building, Plymouth, Indiana, 46563.

#### **D. PROBLEM RESOLUTION**

Employees and supervisors will benefit from a process that allows for the free discussion of matters of mutual concern and effectively addresses complaints on specific issues.

These procedures provide for open discussion and speedy resolution of issues of serious concern to any employee who thinks that Marshall County's policies have been violated, or who believes that he/she has been treated unfairly. A complaint is an employee's expressed dissatisfaction with what that employee believes, rightly or wrongly, to be unfair treatment or a mistake in the administration of a rule, plan, or County policy. This section does not apply to disciplinary actions taken by elected officials or department heads having the authority to take disciplinary actions.

When a complaint arises, it should be heard and resolved at the lowest organizational level. The employee has three alternatives available:

##### **STEP 1: Elected Official/Supervisor (Oral complaint)**

If an employee has a complaint, it should be first discussed with the elected official/supervisor. The employee should schedule a time to discuss the situation with



the supervisor. Every effort should be expended to resolve the issue satisfactorily at this meeting.

#### **STEP 2: Elected Official/Supervisor (Written complaint)**

If the complaint cannot be solved satisfactorily by the employee and supervisor through discussion, or if the decision is not satisfactory, the employee may reduce the complaint to writing. The employee may take or send the written complaint to the elected official/supervisor. Elected officials/supervisors are encouraged to give a written response to the complaint within five (5) days.

#### **STEP 3: County Commissioners**

In the event that a complaint involves an elected official, a written letter detailing the alleged employment violation can be directed to the County Commissioners for investigation. The Commissioners will take appropriate actions as deemed necessary.

### **V. REPORTING OF EEO EFFORTS**

#### **A. SELECTION PROCESS**

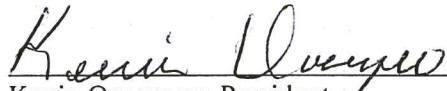
Hiring authorities shall ensure equal employment opportunity consistent with County rules and regulations. A hiring authority shall maintain accurate documentation for all steps of the selection process, including an evaluation of the selected candidate compared to the selection criteria used.

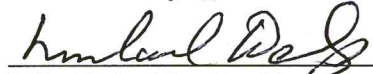
#### **B. EMPLOYEE RELATIONS AND DEVELOPMENT**

Elected officials, department heads, and managers are responsible to provide other information necessary for the administration of EEO with the department. Each department will continue to review on an annual basis:

- (1) Participation by employees in training and other professional development activities to ensure that participation occurs in a non-discriminatory manner; and
- (2) Performance evaluations and disciplinary actions, to ensure such actions are taken in a non-discriminatory manner.

The Marshall County Board of Commissioners hereby ratify and approve Ordinance 2016-9: An Ordinance Restating and Amending the County of Marshall, Indiana Personnel Policies Handbook to and including the following Recruitment and Hiring, Sexual Harassment, Americans with Disabilities Act (ADA) and Problem Resolution and formally approve the Equal Employment Opportunity Plan this 4<sup>th</sup> day of March, 2019.

  
Kevin Overmyer, President

  
Mike Delp, Vice President

  
Stan Klotz, Member

ATTEST:   
Julie A. Fox, Auditor

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