



HUMAN RESOURCES DEPARTMENT

FORT BEND COUNTY, TEXAS

Kent M. Edwards, PHR
Director of Human Resources

To: Judge Robert Hebert
Commissioner Vincent Morales
Commissioner Grady Prestage
Commissioner Andy Meyers
Commissioner James Patterson

From: Kathy Novosad, PHR
Sr. Human Resources Generalist

Date: September 19, 2018

Subject: Revisions to Employee Information Manual: Policies of Section 200

Human Resources is submitting revisions to Section 200 of the Employee Information Manual for your consideration. The policies of Section 200 address Employee Rights, and are critical in helping the County ensure that we understand, support and defend the basic employment rights of our employees. In 2016, the Equal Employment Opportunity Commission released "*Select Task Force on the Study of Harassment in the Workplace, Report of Co-Chairs Chai R. Feldblum and Victoria A. Lipnic*." The study concludes, among other key findings, that workplace harassment remains a persistent problem that too often goes unreported, and that leadership and accountability within an organization are critical to combating harassment in the workplace. The study further suggests that harassment policies and training may be more effective when they focus on promoting respect and civility in the workplace, rather than a zero-tolerance policy on harassment based on classes protected under Title VII of the Civil Rights Act.

With this guidance in mind, Human Resources submits the attached revised policies. The policies promote an emphasis on Respect in the Workplace, provide multiple avenues for reporting harassment, promote bystander action and reporting, define supervisor responsibility, and allow for actions appropriate for the circumstance, (vs a zero tolerance approach which the EEOC feels may lead to underreporting of harassment). The revised policies will then serve as the backdrop for County-wide employee training we will roll out in the near future and continue on an on-going basis.

The following policies have been revised:

- **201: Americans with Disabilities Act**, was revised to refer to new complaint and retaliation policies
- **202: Respectful Workplace: Discrimination, Harassment, and Sexual Harassment Prevention** is a new policy that combines much of the content formerly found in **202: Discrimination and Retaliation**, **203: Sexual Harassment**, and **205: Workplace Harassment and Violence Protection**
- **203: Dispute Resolution** is a revised version of the former **601: Dispute Resolution**



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- **204: Non-Retaliation and Whistleblower Protection** now includes content on retaliation as well as information on the Whistleblower Protection Act.
- **205: Workplace Harassment and Violence Protection** has been eliminated as the content is now in Policies 202 and 601
- **601: Violence Prevention**, is a new policy concerning prohibited violent conduct, as well as the duty of employees to prevent and report violence in the workplace. This policy is in the Employee Conduct section of the Employee Information Manual (Section 600)

We realize the revisions cause a lot of movement within the policies of the manual, and have made notations where appropriate to memorialize where the content has been moved and/or revised. Attached are tracked and untracked versions (where possible) of the policies for your review. Please contact Kathy Novosad (281-341-8624), or Kent Edwards (281-342-8631) if you have any questions.

201 - AMERICANS WITH DISABILITIES ACT

Section 201.01 The Americans with Disabilities Act

In accordance with the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act (ADA), as amended, Fort Bend County does not discriminate on the basis of disability in its employment practices or in its admission to or access to County services and programs. The ADA defines disability as a physical or mental impairment which substantially limits one or more major life activities.

Qualified applicants and employees with disabilities are protected from discrimination in hiring, promotion, discharge, pay, job training, fringe benefits, classification, referral, and other aspects of employment based on disability. The law also requires that Fort Bend County provide qualified applicants and employees with disabilities with reasonable accommodation provided it does not impose an undue hardship on Fort Bend County. The ADA defines a qualified applicant or employee as one who can perform the essential functions of the job with or without a reasonable accommodation.

Section 201.02 Reasonable Accommodation

Qualified applicants or employees who require a reasonable accommodation in order to achieve or maintain employment with Fort Bend County should make their needs known to a Department Head, Elected Official, or the Director of Human Resources. Verification of the need for a reasonable accommodation may be required. Fort Bend County will make every effort to provide the requested accommodation, or other suitable accommodation, provided it does not pose an undue hardship on the County.

To maintain employment, employees must be able to perform the essential functions of the job, with or without a reasonable accommodation. Employees are cautioned to request a necessary accommodation before the disability has an adverse effect on their job performance. Supervisors are cautioned to make no assumptions regarding an applicant's or employee's disability, but should instead focus on an employee's performance and capabilities.

Section 201.03 Contagious and Infectious Disease

Certain contagious or infectious diseases, including but not limited to hepatitis, tuberculosis, human immunodeficiency virus (HIV) and acquired immune deficiency syndrome (AIDS), may be considered disabilities. Fort Bend County does not discriminate against qualified applicants and employees who may have a contagious or infectious disease.

Fort Bend County will take reasonable steps to ensure the health and safety of all employees with regard to exposure to contagious or infectious disease by following the latest guidance available from the local public health authority.

Section 201.04 Confidentiality of Medical Information

Federal and state regulations require that all medical information be maintained separately from employee personnel files. Unauthorized disclosure of an employee's medical condition or medical history is prohibited.

Any medical information that may be obtained by Fort Bend County for

FORT BEND COUNTY EMPLOYEE INFORMATION MANUAL

purposes of pre-employment screening, administering benefits, authorizing leave, or providing reasonable accommodation will remain confidential except where otherwise permitted or required by law.

Section 201.05 ADA Complaints

Complaints of unauthorized disclosure of information or discrimination or harassment based on disability should be reported as soon as possible. Please see Section 203 of this manual for detailed information on the complaint procedure.

The Human Resources Department or other appropriate County official shall conduct a thorough investigation into any complaints. If the complaint is substantiated Fort Bend County will take prompt corrective action to end the discrimination or harassment based on disability, rectify the situation, and discipline the perpetrator as appropriate.

Fort Bend County will not tolerate retaliation of any kind toward employees who in good faith bring forth complaints of wrongdoing. Please see Section 204 of this manual for information on retaliation and whistleblower protections.

Section 201.06 Accessibility Concerns

Concerns and requests regarding access to any part of County facilities should be addressed to the Fort Bend County Director of Facilities Management and Planning.

Policy Approved and Adopted By
Fort Bend County Commissioners Court
January 25, 2000
Revised: February 10, 2004
Revised: February 1, 2011
Revised: September 25, 2018

202 – RESPECTFUL WORKPLACE: DISCRIMINATION, HARASSMENT AND SEXUAL HARASSMENT PREVENTION

Section 202.01 Respectful Workplace

Fort Bend County is committed to ensuring a respectful work environment that is free from discrimination, harassment, and retaliation. County employees at all levels of the organization are responsible to help create such an environment by treating others with dignity and decency, and by acting professionally and in a manner that is free from disrespect, intimidation, oppression or exploitation.

County employees in supervisory and management positions will not knowingly allow or tolerate discrimination, harassment, or retaliation. Such behavior will be dealt with by appropriate counseling, training, and or discipline of the employee, or by reporting the behavior to a higher level of management or to the Human Resources Department for investigation and action.

The County will provide periodic training to all employees, including supervisors and managers. Human Resources is always available to support employees in understanding, creating, and ensuring a respectful workplace.

Section 202.02 Discrimination Prohibited

Fort Bend County does not discriminate in access to or delivery of services and programs, including access to employment and the benefits thereof, on the basis of race, color, national origin, religion, sex, disability, age, or genetic information, or any other classification protected by state, federal, and local laws. It is a violation of County policy to deny employment, pay, promotion, or other benefits of employment, or to apply discriminatory evaluative standards in employment processes, based on any protected category.

Discrimination based on protected categories is strictly prohibited by a variety of federal and state regulations, including Title VII of the Civil Rights Act, the Age Discrimination in Employment Act, the Pregnancy Discrimination Act, and the Americans with Disabilities Act as amended. This policy is intended to comply with the prohibitions stated in these anti-discrimination laws.

Discrimination in violation of this policy will be subject to appropriate disciplinary action, up to and including termination of employment.

Section 202.03 Harassment Prevention

All County employees are responsible for preventing harassment in the workplace by acting respectfully and expecting the same from others. Employees may address questions about harassment with a supervisor or the Human Resources Department.

If inappropriate behavior occurs, employees are encouraged to address the conduct by telling the offender the conduct is inappropriate and unwelcome, if they feel comfortable and safe while doing so, and to report the behavior in accordance with the recommended procedures found in Policy 203, Dispute Resolution.

Fort Bend County prohibits harassment of any kind, including sexual harassment, and will take prompt and appropriate action in response to complaints or knowledge of violations of this policy. For purposes of

this policy, harassment is any verbal or physical conduct which threatens, demeans, intimidates or coerces an employee, co-worker, or any person working for or on behalf of Fort Bend County.

The following examples of harassment are intended to be guidelines and are not all inclusive nor exclusive when determining whether there has been a violation of this policy:

- Verbal harassment includes offensive or unwelcome comments such as slurs, epithets, and negative stereotyping regarding a person based on any protected status.
- Nonverbal harassment includes distribution or display of any written or graphic material that ridicules, denigrates, insults, belittles, or shows hostility, aversion, or disrespect toward an individual when based on any protected status.

Harassment that is not based on protected status but is nonetheless unprofessional and disrespectful is a violation of this policy and will not be tolerated. Harassment that occurs outside the workplace, including online, may still be a violation of this policy if it impacts workplace relationships.

Section 202.04
Sexual Harassment
Prohibited

Sexual harassment is a form of unlawful employment discrimination under Title VII of the Civil Rights Act of 1964 and is prohibited by this policy. The Equal Employment Opportunity Commission states that it is unlawful to harass a person because of the person's sex. Harassment can include unwelcome sexual advances, requests for sexual favors, and other physical, verbal or visual conduct based on sex when:

- 1) Submitting to the conduct or being subjected to the conduct is a term or condition of employment, including hiring, promotion, pay, fringe benefits, job training, classification, referral, and other aspects of employment; or
- 2) The conduct is severe and pervasive enough that it tends to create a hostile, offensive or intimidating workplace or unreasonably interferes with an individual's performance on the job.

Sexual harassment may take different forms. The following examples of sexual harassment are intended to be guidelines and are not all inclusive nor exclusive:

- Physical sexual harassment includes unwelcome contact including: touching, tickling, pinching, patting, brushing up against, hugging, cornering, kissing, fondling, or assault.
- Verbal sexual harassment includes innuendoes, suggestive comments, unwelcome or inappropriate compliments, jokes of a sexual nature, sexual propositions, lewd remarks, requests for any type of sexual favor (including repeated, unwelcome requests for dates) and teasing or "kidding" that is sexual in nature and unwelcome.
- Visual sexual harassment includes the distribution or display of

FORT BEND COUNTY EMPLOYEE INFORMATION MANUAL

any written or graphic material, including calendars, posters and cartoons that are sexually suggestive or show hostility toward an individual or group because of sex; suggestive or insulting sounds, leering, staring, whistling, obscene gestures, or written content in letters, emails, notes, text messages, etc. that is sexual in nature.

Targets of sexual harassment may be either male or female, and the target and perpetrator can be of the same sex or opposite sex. Victims of sexual harassment may not be the intended target of sexual conduct, but may be bystanders offended by the conduct. Victims and harassers may also be individuals not employed by the County, such as a client or vendor doing business with the County.

Conduct of a sexual nature that is severe or pervasive may be deemed unlawful harassment. However, even if it does not reach the level of unlawfulness, such conduct is still disrespectful and unprofessional, and will not be tolerated. Harassment that occurs outside the workplace, including online, will still be a violation of this policy if it impacts workplace relationships.

Section 202.05 Consensual Romantic Relationships

Consensual romantic relationships between supervisors and subordinates are discouraged because they can create compromising conflicts of interest or give rise to the appearance of favoritism or bias in employment decisions. In addition, given the imbalance of power in a supervisor/subordinate relationship, consent by the subordinate may be coerced, or claimed to be coerced at a later date. If a consensual relationship does exist it may be necessary to reassign one or both parties if possible. Any County employee who is in a consensual relationship with a coworker is cautioned to maintain professionalism in the workplace and not let the relationship interfere with a respectful work environment.

Section 202.06 Complaint Procedure

It is the responsibility of all Fort Bend County employees to promptly report discriminatory or harassing conduct. This responsibility applies whether the employee is the target of the conduct or witnesses the conduct, even if reporting the conduct is contrary to the wishes of any other employee. Please see Section 203, Dispute Resolution, for detailed information on reporting discrimination and harassment.

Section 202.07 Retaliation Prohibited

Fort Bend County will not tolerate retaliation in any form against employees who in good faith bring forth complaints of discrimination or harassment, nor against any person who participates as a witness in a complaint investigation. Please see Section 204, Non-Retaliation and Whistleblower Protection, for further information.

Policy Approved and Adopted By:
Fort Bend County Commissioners Court
January 25, 2000
Revised: September 30, 2003
Revised: February 1, 2011
Revised: September 25, 2018

Effective September 25, 2018, this policy includes content formerly found in Policy 203: Sexual Harassment, and Policy 205: Workplace Harassment and Violence Protection. Previous content regarding retaliation has been moved to Section 204, Non-Retaliation and Whistleblower Protection.

203 – DISPUTE RESOLUTION

Section 203.01 Dispute Resolution Philosophy

Despite a commitment to maintain a respectful and professional workplace, Fort Bend County recognizes that in the course of employment relationships, there may be disagreements or conflicts between co-workers or between employees and management. Disputes between employees shall not disrupt a positive work environment nor hinder productivity. However, this policy establishes a method for employees to resolve work place disputes and discuss management actions and decisions.

The dispute resolution process discussed below in Sections 201.03 and 201.04 should be used to address work-related disputes that may include but are not limited to:

1. Conduct which disrupts a harmonious work environment such as gossip, exclusion, coercion, reprisal, or intimidation.
2. Improper or unfair administration of employee benefits or conditions of employment such as scheduling, vacation, promotions, retirement, holidays, or performance review.
3. Unfair or inappropriate application of a disciplinary action.

Section 201.05 shall be used to guide employees who have a complaint of discrimination or harassment based on a protected status, including sexual harassment.

This policy in no way limits any employee's rights under state or federal law with regard to employment actions, nor does it alter the employment-at-will status of all employees.

Section 203.02 Offices of Elected Officials

An elected official may implement procedures for handling disputes and complaints within his or her office other than those specified below. Human Resources is available to consult with and assist both elected officials and the employees of their offices, if requested.

Section 203.03 Dispute Resolution Between Co-Workers

In general, disputes should be settled as expeditiously as possible and involve only those persons directly involved or impacted by the dispute. Employees are advised to proceed as detailed below; however, we recognize that in some situations it may be necessary to skip a step in the process if the employee does not feel they can discuss the situation with someone in their chain of command or organization.

Dispute Resolution Process:

1. An attempt should be made to resolve a dispute with a co-worker by discussing the situation directly with the other involved party
2. If no resolution is reached in step one, complaints should be brought to the attention of an employee's immediate supervisor. If the dispute involves the supervisor, the employee may bring the complaint to the next level of management. The notified supervisor or manager should attempt to investigate and resolve the dispute or bring it to the attention of the appropriate person with the ability to resolve the dispute.
3. If an employee is not satisfied with the resolution offered by the

supervisor, they may then bring their complaint to the next level of management.

4. If the dispute cannot be resolved within the employee's department or chain of command, the employee may bring the complaint to the Human Resources department. Human Resources will attempt to facilitate a resolution to the issue by working with the involved parties.

There is no defined time period for any step in the dispute resolution process. However, all steps should be taken in a timely manner, usually within one week, if there are no extenuating circumstances.

**Section 203.04
Dispute Resolution
Between Employees
and Supervisors or
Mangers**

Each County department or office has the discretion to define their own operating policies and procedures and disciplinary actions within the constraints of Fort Bend County policy and applicable laws. These policies should be clearly communicated to employees, and employees are responsible to ensure they are in compliance with policies and procedures.

If an employee feels that he or she has been unfairly treated in matters of discipline, work assignment, performance appraisal, termination, or other condition of employment, they are encouraged to discuss their concerns directly with their supervisor or manager. If an employee still has concerns after discussing the situation with the supervisor, they may discuss their concern with the chain of command in their organization or with Human Resources if the dispute is not resolved internally.

In general, Human Resources is the last level of appeal for an employee's complaint. However, an employee may report their complaint to the office of the County Judge or any County Commissioner who may recommend further action.

**Section 203.05
Complaints of
Discrimination or
Harassment**

If workplace discriminatory or harassing conduct does occur, it is the responsibility of all Fort Bend County employees to promptly report the conduct. This responsibility applies whether the employee is the target of the conduct or witnesses the conduct, even if reporting the conduct is contrary to the wishes of any other employee. Complaints of discrimination or harassment, including sexual harassment, should be reported in one or more of the following manners:

1. Preferably, a complaint should first be brought to the complainant's supervisor, unless the complainant is not comfortable discussing the information with his or her supervisor
2. Alternatively, the complaint can be made to another supervisor or manager within the chain of command, up to and including the department head or elected official of the department in which the complainant works
3. Complaints can always be brought to Human Resources by contacting the Senior Human Resources Generalist for Employee Relations by phone, email, or office visit; or by calling the HR information line at 281-341-8617 or emailing

HumanResources@fortbendcountytexas.gov

4. A complaint may be brought to the office of the County Judge or any County Commissioner.

Complaints may be written or verbal. Anonymous complaints will be accepted provided they contain sufficient information to form a basis for action. Any complaint made to the persons indicated above will be handled promptly by either investigating the complaint, resolving the complaint, or referring the complaint on to a person who is better able to address the situation. If for some reason a complaint is not handled promptly, the complainant should follow up with the person who received the complaint, or take the complaint to another level of management or Human Resources.

**Section 203.06
Harassment and
Discrimination
Complaint Resolution
Procedure**

Complaints will be handled in the most expeditious and appropriate manner. Some complaints can be handled at the supervisor level, or within the department or office chain of command. Most complaints of discrimination or harassment will be referred to Human Resources for investigation and assistance with addressing the offending behavior. If a complaint is brought to Human Resources and an investigation is warranted, the following general process will be followed:

1. Human Resources will typically conduct the investigation by interviewing involved parties, and examining documents and other evidence. The County Attorney's Office will be consulted as necessary.
2. The parties to the complaint may be separated to protect both parties and the integrity of the investigation.
3. Confidentiality will be maintained as much as possible, but absolute confidentiality cannot be promised. For example, information will only be shared on a need to know basis, but it is possible for individuals to draw conclusions on identity of complainants or witnesses based on context.
4. To the greatest extent possible, retaliation against complainants and witnesses will not be tolerated. See Section 204 of this manual, Retaliation Prohibition and Whistleblower Act, for more information.
5. Upon conclusion of the investigation, Human Resources will discuss the outcome and a possible course of action with appropriate officials. If discrimination, harassment, or retaliation did occur, or is likely to have occurred, appropriate, proportional, corrective action will be taken, up to and including termination of employment and legal action if needed.
6. Whenever possible, steps will be taken to remediate the harm, if any, that was suffered by the victim of harassment or discrimination.

If a complainant is not satisfied with the resolution or handling of their complaint at any level or if the behavior leading to the complaint continues, the complaint may be brought to the next level. If a complainant is not satisfied with the actions of Human Resources, he or she may bring the complaint to the attention of the County Judge or any County Commissioner to determine if further action is recommended. Notwithstanding any outside legal remedy an

FORT BEND COUNTY EMPLOYEE INFORMATION MANUAL

individual may be entitled to, the last level of review within the County is Commissioners Court

Policy Approved and Adopted By:
Fort Bend County Commissioners Court
August 26, 1997
Revised: September 30, 2003
Revised: January 26, 2010
Revised: February 8, 2011
September 25, 2018

Effective September 25, 2018, this policy includes content formerly contained in Section 601: Dispute Resolution. The former content of Section 203: Sexual Harassment, has been incorporated into Section 202: Respectful Workplace: Discrimination, Harassment, and Sexual Harassment Prevention.

204 – NON-RETALIATION AND WHISTLEBLOWER PROTECTION

Section 204.01 Retaliation Prohibition

Fort Bend County will not tolerate retaliation of any kind and in any manner. This protection extends to individuals who in good faith bring forth complaints about unlawful activities, workplace discrimination, harassment, or violence, and to individuals who serve as witnesses in investigations into such conduct.

Adverse employment actions include demotion, suspension, failure to promote, termination, unfair pay decisions, or other punitive actions that could have the effect of deterring a reasonable person from participating in the complaint process. Employees who feel they have suffered retaliation should bring their concerns to Human Resources so that appropriate action can be taken to protect the employee.

Supervisors and other officials in the County shall be respectful of the right of employees to bring forth complaints without fear of retaliation. Any supervisor who is found to have retaliated against an employee will be in violation of this policy and subject to appropriate discipline.

Section 204.02 Whistleblower Act

The Texas Whistleblower Act, Section 554.002 of the Texas Government Code, prohibits a state or local government entity from suspending or terminating the employment of, or taking other adverse personnel action against a public employee, who in good faith, reports a violation of the law by the employing governmental entity or another public employee to an appropriate law enforcement authority.

Fort Bend County employees are urged to report any violation of the law to the appropriate law enforcement agency.

Policy Approved/Revised and Adopted By:
Fort Bend County Commissioners Court
January 25, 2000
Revised: September 30, 2003
Revised: February 1, 2011
Revised: September 25, 2018

Effective September 25, 2018, this policy includes content on retaliation formerly found in Section 202: Discrimination and Retaliation.

205 - SUPERCEDED (See Sections 202 and 601)

Policy Approved and Adopted By:
Fort Bend County Commissioners Court
January 25, 2000
Revised: September 30, 2003
Revised: February 1, 2011
Revised: September 25, 2018

Effective September 25, 2018, the content formerly found in Section 205: Workplace Harassment and Violence Protection was incorporated into Section 202: Respectful Workplace: Discrimination, Harassment and Sexual Harassment Prevention, and into Section 601: Violence Prevention.

601 - VIOLENCE PREVENTION

Section 601.01 Violent Conduct Prohibited

Fort Bend County will not tolerate violent behavior by or between employees in the workplace. Violent behavior is that which causes physical harm to person or property. Violence also includes but is not limited to threats to cause physical harm, property damage, or to use a weapon; intimidating mannerisms, angry outbursts, challenges to fight, attempted assault, stalking, striking, pushing, grabbing, or aggressively pushing, toppling, or throwing objects.

Such conduct, even if it occurs outside of work, may also be a violation of this policy if it involves a County employee or tends to suggest an employee may pose a risk of violence in the workplace.

Any employee found in violation of this policy will be subject to appropriate disciplinary action, up to and including immediate termination of employment even on the first offense.

Section 601.02 Reporting and Preventing Violence

Employees shall immediately report all incidents of workplace violence to a supervisor or appropriate authority, including incidents involving a co-worker, supervisor, manager, customer, or visitor. Supervisors shall immediately respond to any act or complaint of workplace violence by investigating the situation and taking appropriate action, or reporting the incident to an appropriate authority or Human Resources.

Fort Bend County employees are encouraged to be educated about and alert to the signs of potential risks of violence. The County offers periodic Active Shooter and Workplace Violence training, and other relevant trainings may be available from time to time. Employees shall report any suspicious or concerning behavior to a supervisor or other appropriate authority immediately, including calling 911 in an emergency situation. *"If you see something, say something!"*

Reports of actual, threatened, or suspected violence made in good faith will in no way be held against an employee. Fort Bend County will not tolerate retaliation of any kind toward individuals who in good faith make a report of workplace violence. Please see Section 204 for the County's policy on Non-Retaliation.

Policy Approved and Adopted By:
Fort Bend County Commissioners Court
January 25, 2000
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Revised: February 1, 2011
September 25, 2018

Effective September 25, 2018, this policy includes content formerly found in Section 205: Workplace Harassment and Violence Protection. The former content of Section 601: Dispute Resolution, has been moved to Section 203: Dispute Resolution.