



Departmental Policy

Approved by: Larry Waters, County Mayor

Effective Date: December 21, 2016

Subject: Disability Discrimination Policy

RESPONSIBLE OFFICE: Human Resources Office.

AUTHORITY: The Americans with Disabilities Act of 1990, as amended. TCA 4-3-2303. Title I regulations regarding employment of 29 CFR Part 1630, Title II regulations regarding public entities of CFR Part 35. Department of Personnel policy concerning “Investigations of Allegations of Illegal Discrimination and Harassment”, dated August 12, 2005. If any portion of this policy conflicts with applicable state or federal laws or regulations, that portion shall be considered void. The remainder of this policy shall not be affected thereby and shall remain in full force and effect.

PURPOSE: Sevier County is committed to providing a safe and secure work environment in which all individuals are treated equally with respect and dignity. Sevier County strives to create an atmosphere that promotes equal opportunities and prohibits discriminatory practices. In keeping with this commitment, Sevier County will not tolerate discrimination and/or harassment based on sex, age, race, mental or physical disabilities, color, sexual orientation, national origin or religious beliefs.

APPLICATION: All persons seeking access to programs, services or facilities of Sevier County Government. All employees of the Sevier County Government and all persons seeking employment or conducting business with the Department.

POLICY: Non-discrimination – Equal Employment Opportunities: It is the policy of Sevier County to provide equal opportunities to all individuals regardless of race, color, religion, sex, national origin, age, disability, sexual orientation, status as a Vietnam-era veteran or special disabled veteran, or status in any other group protected by law. It is the policy of Sevier County to make reasonable accommodations for qualified individuals with known disabilities unless doing so would result in undue hardship. Individuals, employees or applicants listed above with questions or concerns about any type of discrimination encouraged bringing these issues to the attention of the ADA Coordinator. All individuals can raise concerns and make complaints without fear of reprisal and with assurance of protection from harassment or retaliation. Anyone found to be engaging in any type of unlawful discrimination will be subject to disciplinary action, up to and including termination of employment. Sevier County does not discriminate on the basis of race, color, religion, sex, national origin, age, disability, sexual orientation, status as a Vietnam-era veteran or special disabled veteran, or status in any group protected by law. The Department shall comply with applicable requirements of Section 503 and 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act, the Department of Personnel Policies Rules and Regulations, as well as any other applicable law pertaining to disability non-discrimination.

PROCEDURE: Sevier County hereby adopts the compliant procedure process issued by the Tennessee Department of Personnel including form PR-0411 “Intake/Referral and Investigative Memorandum process”, copy attached, which from time to time may be revised by the Department of Personnel.

HOW TO REPORT DISABILITY DISCRIMINATION INCIDENTS

Any individual, employee or applicant for employment that believe they have been subjected to conduct that violates this policy must report those incidents as soon as possible after the event occurs. Individuals, employees and applicants may file a complaint with the ADA Coordinator at the following address:

ADA Coordinator

Office of Human Resources

125 Court Avenue, Suite 102E

Sevierville, TN 37862 Telephone: (865) 774-3644 or FAX (865) 774-3753 or TTY Relay (800) 848-0298

Under no circumstances is the individual, employee or applicant alleging disability discrimination and/or harassment required to file a complaint with the alleged harasser. If any individual, employee or applicant believes they cannot file a complaint within his/her agency, that person should contact the Department of Personnel, EEO/AA Division or Employee Relations Division (615) 741-2958.

Sevier County encourages individuals, employees and/or applicants for employment to report all incidents of discrimination and/or harassment regardless of the status or job title of the perpetrator. Other persons who observe as offensive behavior committed on Sevier County property or by a Sevier County representative should report the event even if he/she is not the target of the behavior.

Individuals who wish to file a complaint are encouraged to submit the complaint in writing and to include a description of the incident(s) as well as the dates(s), time(s), place(s) and any witnesses.

RETALIATION AGAINST COMPLAINANT

Retaliation against any individual who has articulated any concern of discrimination and/or harassment is prohibited. Retaliation is a serious violation of this discrimination/ harassment policy and should be reported immediately. Any person found to have retaliated against another individual for reporting an incident will be subject to the same type of disciplinary action as perpetrators of discrimination and/ or harassment.

HOW COMPLAINTS ARE INVESTIGATED AND RESOLVED

The ADA Coordinator in the Office of Human Resources will conduct a thorough and neutral investigation of all reported complaints of disability discrimination, harassment and/or retaliation as soon as practicable. Generally, an investigation will include an interview with the complainant to determine if the conduct in issue violates this policy. If the department determines that the conduct falls within the terms of this policy, the department will interview the alleged offender and any other witnesses who have direct knowledge of the circumstances of the allegations.

The department retains the sole discretion to determine whether a violation of this policy has occurred and to determine what level, if any, of disciplinary action is warranted.

HOW CONFIDENTIALITY IS TREATED

To the extent permitted by law, Sevier County will try to maintain the confidentiality of each party involved in disability discrimination and/or harassment investigation, complaint or charge, provided it does not interfere with the department's ability to investigate the allegations or to take corrective action. However, Sevier County cannot guarantee confidentiality. Any documents that are made or received in the course of the investigation are public records under the State's Public Act, unless otherwise exempted by state law. Unless such exemption applies, state law will prevent Sevier County from maintaining confidentiality of investigative records.

CORRECTIVE ACTION FOR VIOLATION OF THIS POLICY

Upon completing the investigation of a discrimination and/or harassment complaint, a decision as to whether discrimination and/or harassment has occurred and the appropriate action to take on the complaint will be made by the ADA Coordinator or his/her designee, or if the County Mayor is the subject of the complaint, by the Chairman of the County Commission Intergovernmental Affairs Committee. Sevier County will communicate its findings and intended actions to the complainant and alleged perpetrators.

If the reporting officer or panel of officers determines that no discrimination and/or harassment has occurred, this finding will be communicated to the complainant in an appropriately sensitive manner.

OTHER PROVISIONS

When a complaint is filed, the investigator will inform the complainant, accused and witnesses of the statement of limitation on confidentiality included in the Intake/Referral process. The investigator will also inform the complainant, accused and witnesses of the strict prohibition of retaliation, as defined in this policy.

The investigator will communicate information concerning the allegations only to those to whom the investigator is authorized to report such matters.

The investigator will issue a letter to the accuser and the accused concerning the outcome of the investigation. A copy this letter will be maintained in the office of the ADA Coordinator.

All documents generated by the investigation and any subsequent disciplinary action shall be preserved and only disposed of in accordance with the appropriate State rule.

STATEMENT CONCERNING CONFIDENTIALITY

Pursuant to Tennessee Code Annotated § 10-7-502(a), "all state . . . records . . . shall at all times, during business hours, be open for personal inspection by any citizen of Tennessee, and those in charge of such records shall not refuse such right of inspection to any citizen, unless otherwise provided by state law." Accordingly, the State cannot and does not guarantee the confidentiality of this document or any notes, files, reports, or other documents, whether created by the State or received from the complainant, accused, or witnesses.

NAME OF COMPLAINANT OR PERSON REPORTING EVENT:

TELEPHONE NUMBERS OF COMPLAINANT OR PERSON REPORTING EVENT:

WORK: _____

HOME: _____

IS YOUR HOME TELEPHONE NUMBER UNLISTED? YES _____ NO _____

MOBILE: _____

NAME OF DEPARTMENT OR OFFICE INVOLVED:

NAME OF PERSON(S) WHO ALLEGEDLY DISCRIMINATED AGAINST YOU OR HARASSED YOU?

RELATIONSHIP OF ALLEGED ACCUSER TO YOU (I.E. DIRECT SUPERVISOR, CO-WORKER):

DATE OF EARLIEST OCCURRENCE OF EVENTS?

DATE OF LATEST OCCURRENCE OF EVENTS?

HOW WHERE YOU DISCRIMINATED AGAINST (E.G. DISCIPLINARY ACTION, PROMOTION, DEMOTION, HOSTILE ENVIRONMENT)?

PLEASE LIST BELOW ANY PERSONS (WITNESSES, FELLOW EMPLOYEES, SUPERVISORS, OTHERS) WHO MAY HAVE ADDITIONAL INFORMATION TO SUPPORT OR CLARIFY THIS COMPLAINT. EXPLAIN WHAT INFORMATION EACH CAN PROVIDE.

WHAT EXPLANATION DO YOU THINK THE AGENCY OR ACCUSED WILL GIVE AS TO WHY YOU WERE TREATED IN THIS MANNER?

PLEASE IDENTIFY ANY OTHER INFORMATION (INCLUDING DOCUMENTARY EVIDENCE SUCH AS DIARIES, JOURNALS, RECORDINGS, EMAILS, VOICEMAILS, CORRESPONDENCE, ETC.) THAT YOU THINK IS RELEVANT TO THIS MATTER.

WHAT DO YOU WANT TO HAPPEN AS A RESULT OF THIS COMPLAINT?

IF YOU HAVE TOLD ANYONE ELSE ABOUT THIS MATTER, PLEASE LIST THE NAME(S) AND RELATIONSHIP(S)
(CO-WORKER, FAMILY MEMBER, ETC.)

SIGNATURE OF COMPLAINANT: _____

DATE: _____

IF COMPLETED BY SUPERVISOR OR AGENT OF STATE AS A RESULT OF INTERVIEWING A COMPLAINANT,
PLEASE

PROVIDE THE FOLLOWING INFORMATION:

PRINTED NAME: _____

SIGNATURE: _____

TITLE: _____

AGENCY AND/OR DIVISION: _____

WORK TELEPHONE NUMBER: _____

DATE COMPLAINT RECEIVED: _____

DATE FORM COMPLETED: _____

REASON FOR DELAY, IF ANY, BETWEEN THE DATE THE COMPLAINT WAS RECEIVED AND THE DATE THE
FORM WAS COMPLETED:

NAME AND TITLE OF PERSON TO WHOM THE FORM WAS FORWARDED FOR ACTION:

DATE ON WHICH THE FORM WAS FORWARDED:
