

## CHAPTER 3.16

### EQUAL EMPLOYMENT OPPORTUNITY POLICY

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#### **3.16.010 Equal Employment Opportunity Policy.**

- A. It is the policy of Pierce County that no person shall be subjected to employment discrimination because of race, creed, religion, color, national origin, sex, sexual orientation, citizenship or immigration status, marital status, families with children, age, disability, veteran's status, the presence of any sensory, mental, or physical disability, or the use of a trained guide dog or service animal by a disabled person. No individual shall be subjected to retaliation because they have exercised a right protected under the law such as complaining about discrimination or harassment or assisting with or participating in the resolution or investigation of such a complaint in the workplace. Any form of retaliation against a person who participates in a complaint or investigation is specifically prohibited, will not be tolerated, and will be subject to severe disciplinary action up to and including termination of employment. Pierce County reaffirms its policy of equal employment opportunity regardless of race, creed, religion, color, nation origin, citizenship or immigration status, sex, sexual orientation, marital status, families with children, age, physical, mental or sensory disability or veteran's status. Pierce County is committed to maintaining an environment free from discrimination, harassment and intimidation based on any status protected herein.

This policy applies to all levels and departments of County government including elected and appointed officials. Pierce County Appointing Authorities shall reasonably accommodate the needs of qualified applicants and employees in compliance with the provisions of the Americans with Disabilities Act of 1991, Chapter 49.60 RCW, and other applicable laws. The Human Resources Director shall ensure that disabled persons have reasonable access to all employment processes and shall provide for interpreters (sign language), readers, or alternate testing methods,

in order to remove barriers to the employment of qualified disabled persons who otherwise meet the requirements of the classification sought.

- B. Employees and officials will be held individually accountable for complying with the provisions of this Chapter. Violations will not be tolerated and are subject to disciplinary action up to and including termination of employment.
- C. All elected and appointed officials must comply with this EEO Policy and are subject to appropriate disciplinary or corrective action for non-compliance. All elected and appointed officials must participate in and fully cooperate with any investigation of EEO complaints or charges of discrimination or retaliation.

**3.16.020 Program Administration.**

Administration and implementation of these policies is the responsibility of the Pierce County Executive or designee. The legislative branch, judicial branch, executive branch, and the office of the Prosecuting Attorney shall cooperate in the administration of these policies to the fullest extent possible.

**3.16.030 Prohibition of Discrimination and Harassment.**

Pierce County's policy is to maintain a work environment that is free from discrimination, harassment and intimidation based on a status protected by the Equal Opportunity Policy. No employee shall be subjected to discrimination or harassment based on their sex, sexual orientation, marital status, race, age, disability, national origin, religion, or other status protected by law.

- A. Harassment Defined. Harassment is a deliberate or repeated unwelcomed behavior that is objectively offensive to a reasonable person embracing offensive sexual, racial, gender-based, national origin, religious, age-based or other class associated stereotypes and perceptions of social behaviors.

Harassment can be verbal, non-verbal or physical. It is not necessary that individuals intend their conduct to be harassing or act with a malicious or mean-spirited motive.

Such impermissible conduct could include, but is not limited to, sexual, racial or ethnic jokes, mocking an accent or manner of speech, denigrating an individual because of membership in or affiliation with a protected class, displaying cartoons or literature embracing racially, sexually, or ethnically offensive clichés, or outright threat that a job or a job benefit would be denied because of membership in or affiliation with a protected class.

- B. Prohibition of Sexual harassment/Inappropriate Behavior of a Sexual Nature. It is the policy of Pierce County that no employee, co-worker, supervisor, manager, citizen, vendor, client, customer, or other person frequenting County facilities shall sexually harass or engage in inappropriate behavior of a sexual nature toward any County employee. Sexual harassment is unlawful where the conduct:

1. is unwelcome; and
2. is because of sex or gender; and
3. unreasonably interferes with an employee's work performance; or
4. creates an intimidating, hostile or offensive working environment.

**“Sexual Harassment” is deliberate or repeated behavior of a sexual nature or based on gender, which is unwelcome and which unreasonably interferes with an employee's work performance. It can be verbal, nonverbal, or physical, and may include behaviors or combinations of behaviors such as unwanted sexual comments or advances, suggestive looks or leers, pats, squeezes, repeatedly brushing against another's body, jokes of a sexual nature, sexual epithets, nude or suggestive pictures, calendars, or materials displayed in the workplace, or threats or suggestions that a job or job benefit is dependent upon submission to or tolerance of such behavior.**

**“Inappropriate Behavior of a Sexual Nature” is behavior that, while not amounting to sexual harassment, has a sexual component and, in the judgment of the County, is unacceptable and has the potential to lower morale and productivity. Occasional compliments of a socially acceptable nature and conduct or actions that arise out of a personal or social relationship and do not have a discriminatory effect on employment may not be viewed as inappropriate behavior of a sexual nature.**

**Employees are cautioned that any type of sexual or gender-based behavior in the work place may be interpreted negatively. Sexual behaviors include flirting, courting, unwelcome sexual advances, offensive comments, jokes, obscene or lewd suggestions, inappropriate touching, or sexual joking or innuendo. Employees are expected to refrain from all behaviors which, although not ill-intentioned, may be interpreted as sexual in nature.**

**C. Notice of Discrimination/Harassment. If employees believe that they are being subjected to or have witnessed discriminatory treatment or harassment they should unequivocally advise those individuals engaged in the offensive behavior that their behavior is regarded as being offensive and to stop. Additionally, persons who feel they have been a victim of or witnessed discrimination or harassment in any manner must follow the Employee Responsibilities set forth in PCC 3.16.70.**

**D. Remedial Action: Differential treatment or harassment of fellow employees, members of the public or other employees of Pierce County will not be tolerated where such discrimination or harassment is because of the individual's protected status. All employees are required to comply with the provisions of the Equal Employment Opportunity Policy as set forth in this Chapter. Discrimination and harassment are serious matters and employees engaging in conduct determined by the County to be in violation of this Policy may be subject to discipline up to and including termination.**

**3.16.040 Acquired Immunodeficiency Syndrome (AIDS) Policy.**

The right to equal employment opportunity for all persons, including those with physical, mental, or sensory disabilities, shall be preserved. Acquired Immunodeficiency Syndrome or other AIDS virus-related conditions are considered to be disabilities protected by law. No employee or applicant for employment shall be treated in a discriminatory manner because of the fear of AIDS or an AIDS virus-related condition. County employees shall provide courteous and fair treatment to clients, applicants for employment and other employees without regard to the perception of or the presence of AIDS or an AIDS virus-related condition. Information and knowledge about the presence of AIDS and/or an AIDS virus-related condition or the perception of such shall be treated in a strictly confidential manner and disseminated only to those with a bona fide need to know.

**3.16.050 Employment of Persons with Disabilities Policy.**

No qualified disabled person shall, on the basis of disability, be excluded from participation, denied the benefits of, or otherwise subjected to unlawful discrimination under any program or activity administered by the County. The County shall reasonably accommodate the employment of qualified disabled persons and promote equal opportunity for the disabled. Employment policies concerning, but not limited to, hiring, classification, compensation, promotion, demotion, transfer, layoff, discipline and termination shall be administered equally for disabled and non-disabled employees.

- A. **Reasonable Accommodation.** Pierce County will reasonably accommodate the known physical, sensory, and mental disabilities of any employee or otherwise qualified applicant for employment. Reasonable accommodation may include making County facilities accessible to disabled persons, job restructuring, job transfer, modified work schedules, equipment or devices, provision of readers or interpreters, or reassignment to a vacant position for which the person is qualified.

An accommodation is not considered reasonable if it would impose undue hardship on the County. Judgments concerning the reasonableness of providing an accommodation shall be made by the County on a case by case basis. It is the County's responsibility to determine if a proposed accommodation is effective and reasonable.

- B. **Transfer/Rehire as Reasonable Accommodation.** Employees who become unable to perform the essential functions of their position with or without reasonable accommodation shall not be considered qualified for the position and shall be transferred to a vacant non-promotional position which they are able to perform with or without reasonable accommodation, provided such a position is available and the employee is otherwise qualified. Such transfers will be made without regard to the branch of government in which the employee was formerly employed. The initial competitive hiring shall be deemed to satisfy such Career Service requirements. Transfers into Civil Service positions in the Sheriff's Department may only be made in accordance with provisions of Chapter 41.14 RCW.

**A new probationary period must be satisfactorily served. If a probationary employee was never qualified to satisfactorily perform the essential functions of their current position, with or without reasonable accommodation, they are not eligible to transfer to a vacant position.**

**If there is no vacant position for which the disabled employee is qualified at the time they become unable to perform the essential functions of the current position, the employee shall be separated from their current position and placed on a re-employment register for upcoming vacant positions for which the employee is otherwise qualified and expresses interest. The employee must cooperate in the rehire process. The employee shall remain on this list for a period of one year or until an offer of employment for a vacant position is made, whichever occurs first. Once an employee is offered an alternative position, the County's obligation to provide this form of reasonable accommodation ends, whether or not the employee accepts the new position.**

**3.16.060 Employment of Military Veterans Policy.**

**Pierce County will provide employment opportunities for qualified disabled and military veterans in accordance with applicable state and federal statutes.**

**3.16.070 Employee Responsibilities.**

**Employees who believe they have received or witnessed treatment in violation of this Chapter must immediately notify their supervisor, manager, department director, Pierce County EEO/ADA Officer, or the Pierce County Human Resources Director of the alleged action. It is the employee's option to decide the individual to whom the action will be reported. While written reports are encouraged, it is not required that complaints be made in writing. All complaints of improper treatment must be made as soon as possible, but in any case not more than 180 calendar days from the date of the incident in order to be investigated under this Chapter. However, the County may take appropriate remedial action even when complaints are not brought within this time period.**

**As an employee, you must take action to report if you believe you have been subject to discrimination or harassment. Your report is the best and often the only notice to the County that corrective action may be necessary.**

**3.16.080 Investigation and Resolution of Complaints.**

**Any person who is notified of alleged treatment in violation of this Chapter shall immediately contact the County's EEO/ADA Officer or the Human Resources Director. An investigation by the EEO/ADA Officer or other person designated by the Human Resources Director shall be promptly conducted. The County will seek to protect all persons who participate in the investigation from retaliation, false accusations, or future improper treatment and, where indicated, will take reasonably prompt and effective remedial measures.**

- A. Duty to Participate. All employees, including the complainant, co-workers, potential witnesses, and others must participate in, and cooperate fully in the investigation of complaints. Failure to do so may result in disciplinary action.**
- B. Complaints of violation of this Chapter shall not be subject to the appeal or grievance procedures of Chapters 3.40 or 3.48 PCC and the Administrative Guidelines.**
- C. If a complaint, grievance, lawsuit or other action is initiated regarding matters related to a complaint filed under this Chapter, the Human Resources Director shall have the discretion to discontinue the EEO investigation initiated under this Chapter and defer to the processes of the other forum.**

**3.16.090 Retaliation Prohibited.**

**Retaliation is an adverse employment action, taken against an individual because they have exercised a right protected under the law such as complaining about discrimination or harassment or assisting with or participating in the resolution or investigation of such a complaint in the workplace. Any form of retaliation against a person who participates in a complaint or investigation is specifically prohibited, will not be tolerated, and may be subject to disciplinary action up to and including termination of employment.**

**3.16.100 Employment Monitoring.**

**In order to monitor Pierce County employment practices and trends and to comply with federal reporting requirements, the Human Resources Department shall compile statistical information comparing the County's workforce to the available workforce in the community by race, sex, national origin and job category.**

**3.16.110 Policy Dissemination.**

**This policy shall be distributed to all current and future Pierce County employees and shall be provided to members of the public on request and without charge.**

**3.16.120 Affirmative Action Plan Superseded.**

**This Chapter supersedes all previous EEO-Affirmative Action Policies.**