

SERIES NUMBER 713

TITLE: Employee Complaint and Grievance Policy Notice of Nondiscrimination

Ford County is a place where freedom of expression and civility are encouraged. In valuing diversity, Ford County recognizes the individual differences based on unique ethnic, cultural, gender and political backgrounds, and the differences represented by staff in age, education and physical ability. In a diverse environment, it becomes the responsibility of each employee to respect these individual differences and to refrain from imposing personal viewpoints on other staff or patrons.

All personnel policies of the Ford County shall be applied without regard to a person's race, color, age, sex, religion, marital status, national origin, disability, veteran's status, sexual orientation or other factors which cannot be lawfully considered, to the extent specified by applicable federal and state laws.

Ford County does not discriminate on the basis of sex, race, color, national origin, disability, age, religion, marital status, veteran's status, sexual orientation, or other factors that cannot be lawfully considered in its programs and activities as required by all applicable laws and regulations. Inquiries concerning the Ford County compliance with its non-discrimination policies may be referred to the Human Resource Director, 100 Gunsmoke Dodge City, Kansas 67801, (620) 801-4284.

Intent and Purpose

It is the intent and purpose of Ford County to provide all employees with a fair and efficient process to present and resolve complaints and grievances arising out of the employment relationship except as otherwise provided herein. All employees of Ford County will have this Compliance/Grievance Policy and related procedures available to them in order to present and resolve employment complaints and grievances.

It shall be considered a serious violation of Ford County policy for any individual to knowingly file a false or malicious complaint or grievance under these procedures. If Ford County officials become aware that such a false or malicious complaint or grievance has been filed, the matter will be investigated under the Grievance Resolution Procedures provided below. If false or malicious complaint or grievance allegations are substantiated, appropriate disciplinary action, up to and including termination, may be taken.

During the duration of the formal review process, any attempts to informally or voluntarily resolve the complaint or grievance by any party will not delay the commencement (upon receiving notice of the harassment, discrimination or retaliation) of the Ford County's obligation and procedure for a full investigation.

Definitions for Complaint and Grievance Procedures

The Complaint and Grievance Operating Procedure represents two separate processes established for the purpose of resolving work related complaints and work related grievances.

A **complaint** is defined as a negative issue or problem impacting the employee's workplace or his/her working conditions. The purpose of the complaint process described herein shall be to provide the opportunity for employees to have work-related problems and complaints heard and considered in a non-adversarial manner.

A **grievance** is defined as an allegation by an employee that he/she has been adversely affected by a violation of Ford County policy; misunderstanding, miscommunication or misinterpretation of Ford County policy; and/or inconsistent application of Ford County policy. The grievance process described in this policy will provide Ford County employees the opportunity to resolve alleged violations of Ford County policy, misunderstanding, miscommunication or misinterpretation of Ford County policy, and/or inconsistent application of Ford County policy.

The employee filing a complaint shall be considered the "**complainant**".

The employee filing a grievance shall be considered the "**grievant**".

The employee (s) about whom a complaint is made or whose action(s) gave rise to a grievance shall be referred to as the "**respondent**".

Exclusions to Complaint and Grievance Procedure

The following issues can be addressed through other policies, procedures or agreements and are not subject to this Complaint and Grievance Procedure.

Claims of discrimination, harassment or retaliation (see Ford County policy Series 703)

Prompt Reporting of a Complaint or Grievance

Complaints and grievances are best resolved if addressed early. It may be

difficult to substantiate the allegations made if brought forward after significant time has passed. In order to ensure that allegations are reported, reviewed and concluded in a timely fashion so that a complaint or grievance can be appropriately resolved, specific time lines have been set forth in this Complaint and Grievance Procedure and will be implemented as soon possible upon written notification of a complaint or grievance.

Written complaints and grievances filed under this procedure shall be made within thirty (30) calendar days of the time the alleged action giving rise to the complaint or grievance took place unless good cause is shown for the delay.

Due dates under this procedure shall be calculated based upon calendar days. If the due date specified falls on a weekend or holiday, the next business day will be the due date for the action. While the intent of this procedure is to provide for the prompt reporting and review of a complaint or grievance, these deadlines are not intended to penalize. As such, either party may request (in writing) a reasonable extension of time for any of the deadlines set forth in this procedure, including the time for making an initial complaint.

Prior to filing a written complaint or grievance, Ford County encourages employees to seek advice or assistance from their supervisors as workplace concerns arise in order to identify and resolve complaints and grievances at the earliest stage possible.

An employee who believes that actions of another person have given rise to a complaint or grievance should also feel free to inform the respondent of his/her concern, either through verbal or written communication.

If the employee does not choose to address this issue directly with his/her supervisor or the respondent or if discussions do not produce a result acceptable to the employee, then the employee may file a written complaint or grievance with the Human Resources Office.

Filing a Written Complaint or Grievance

A complaint filed with the Human Resources Office must be completed on a written, signed, and dated statement form (available in the Human Resources Office and the Ford County website) that includes specific information sufficient for the matter to be reviewed.

A grievance filed with the Human Resources Office must be a written, signed, and dated statement form that includes specific information sufficient for the matter to be reviewed.

Two or more employees similarly affected by the alleged work-related complaint or grievance may file a joint complaint or grievance.

Once a complaint or grievance has been filed, the complainant or grievant may not add new considerations to the complaint or grievance. Only those allegations contained in the original complaint or grievance will be considered. Any new allegations by the complainant or grievant must be filed as a separate action. A complaint or grievance can be withdrawn in writing by the complainant or grievant at any stage of the review process.

Once a complaint or grievance has been filed and appropriately reviewed as provided for in this procedure, an employee may not present the same complaint or grievance again in an attempt to gain a more favorable decision.

The filing of a complaint or grievance shall not affect the rights of an employee to seek any external remedy which may be available. However, the filing of a complaint or grievance does not postpone any deadlines for pursuing such remedies.

Complaint Resolution Procedures

The Complaint Resolution Procedure provides employees the right to have a complaint heard and considered in a non-adversarial manner. It does not bind Ford County to a particular outcome or course of action, or in any way limit Ford County's discretion to determine an appropriate outcome or course of action.

An employee may file a complaint by submitting a written, signed and dated notice of the complaint in accordance with the provisions specified above entitled "Filing a Written Complaint or Grievance".

Upon receipt of the complaint in the Human Resources Office, the Director of Human Resources will review the complaint and, if appropriate, will work with the administrator/supervisor of the complainant, or other appropriate party, to investigate the facts and initiate a discussion/resolution with the complainant and respondent. Complaint review may include discussions with the supervisor(s) or other Ford County administrators, interviews with other parties/witnesses who may have knowledge of the circumstances surrounding the complaint, and/or use of an external or internal third party to help mediate between the complainant and adverse party.

During the review of a complaint, the reviewing parties shall serve in a neutral role in the process and shall not act in an advocate role for the complainant or the respondent. The role of the reviewing parties will be to thoroughly review the issues as stated in the written complaint and to determine findings based on this

review. Legal counsel may be consulted by the reviewing parties as appropriate.

Upon receiving notice of a complaint or grievance Ford County will provide for a prompt and equitable investigation and resolution of discrimination complaints, including the following:

A) An adequate, reliable, and impartial investigation of complaints/grievances that provides both the complainant and the alleged perpetrator the opportunity to present witnesses and provide evidence.

B) The Ford County investigation will include evaluation of all relevant information and documentation relating to complaints.

C) Immediately upon being placed on notice of any allegation of harassment, discrimination, or retaliation as specified in this policy, Ford County will respond with the following steps:

- 1) Take action to prevent any recurrence of the harassment, discrimination or retaliation.
- 2) If appropriate, provide a remedy to correct any discriminatory effects on others.
- 3) Conduct a timely, full investigation of the complaint or grievance of harassment, discrimination or retaliation as outlined in this policy.

Human Resources will make every effort to complete its review and determination on a complaint within thirty (30) days unless it is determined by the Director of Human Resources that additional time is needed based on the facts presented in the complaint.

When the review is complete, the resolution will be communicated in writing to all parties involved. The decision of the Director of Human Resources shall be final and the outcome of a complaint review is not grievable. The complaint review process ends at this point.

Grievance Resolution Procedure

The Grievance Resolution Procedure allows employees an opportunity to resolve alleged violations of Ford County policy; misunderstanding, miscommunication or misinterpretation of Ford County policy; and/or inconsistent application of Ford County policy. This Grievance Resolution Procedure shall not apply to complaints of any nature that do not directly relate to a policy issue as defined herein.

An employee may file a grievance by submitting a written, signed and dated notice of the grievance in accordance with the provisions specified and entitled "Filing a Written Complaint or Grievance".

Upon receipt of a written grievance, the Director of Human Resources, or a designee, shall review the allegations provided in the grievance and may consult with the County Attorney to discuss the allegations.

The Director of Human Resources or designee shall appoint a reviewing officer to review the grievance. The appointed officer may be the Ford County Administrator/official or an independent third party retained by Ford County to conduct the assigned review. Where appropriate, two parties may be appointed to conduct such review. The reviewing officer(s) shall not be a party named in the grievance.

The reviewing officer shall initiate a review of the grievance and shall arrange for an interview of the grievant to be held within fifteen (15) days of the filing of the grievance. The reviewing party shall also meet with the respondent and any other administrators or parties appropriate to resolution of the grievance. The meetings shall be non-adversarial, and each party is expected to extend serious consideration to the views of the other parties.

If through this review, the reviewing officer determines that the grievance is warranted, the officer shall recommend in writing appropriate steps to correct the grievance. If the reviewing officer finds that the grievance is unfounded or unwarranted, the officer shall so state this determination in writing. The written and dated report of the reviewing officer shall be submitted to the Director of Human Resources or designee. The reviewing officer shall make every effort to complete this review and submit the written report within thirty (30) days of the filing of the grievance.

During this review process, the officer shall serve as a neutral reviewer in the process and shall not act in an advocate role for the grievant or the respondent. The role of the officer will be to thoroughly review the issues as stated in the written grievance and to determine findings based on this review. The County Counselor may be consulted by the officer as appropriate.

Within fifteen (15) days of the date on the report submitted by the reviewing officer, the Director of Human Resources shall provide the grievant, the respondent, and the appropriate supervisor(s) a notice of determination of the outcome of the review and of the recommendations of the officer. This notice of determination shall also include a reminder that retaliation taken because of the filing of or participation in a grievance review is prohibited and that any such retaliation should be reported immediately.

Should the grievant not be satisfied with the conclusions and/or recommendations of the review then, within fifteen (15) days of the date of the notice of determination, he/she may file a request for review with the Ford County Board of County Commissioners.

Upon receipt of the request for review, the Ford County Administrator shall appoint an officer of Ford County or other appropriate independent party to review the original reviewing officer's report and determine what, if any, appropriate action is required as a result of the findings of the review. The reviewer may review the grievance, interview the grievant and the respondent, if necessary, and complete such other interviews as may be necessary to make a determination. The reviewer shall complete the review within thirty (30) days. If additional time is needed to complete this review, the reviewing officer shall notify the grievant and the respondent that the review will be delayed, and indicate the reasons for the delay. At the conclusion of the review, the reviewer shall provide a written report to the Administrator with his/her findings. The Administrator shall consider this report and shall, within fifteen (15) days of receipt of the reviewer's report, inform the grievant and respondent in writing of his/her findings and conclusions.

Should the grievant not be satisfied with the conclusions of the Administrator, he/she shall be permitted to petition the Board of County Commissioners to consider the matter. Such written petition must be submitted to the Chairman of the Board of County Commissioners within fifteen (15) days of the date on the Administrator's notice of findings and conclusions. Upon receipt of the petition, the Board of County Commissioners shall have the sole right to choose one of the following options:

- 1) The Board of County Commissioners can decline to consider the matter and let the decision of the Administrator stand.
- 2) The Board of County Commissioners can review the record of the prior proceedings regarding the grievance and issue a decision based on its review of the record.
- 3) The Board of County Commissioners can hear and determine the appeal.

Once a petition is submitted to the Board of County Commissioners to consider a grievance, the decision and action of the Board of County Commissioners shall be final.

If the grievance was filed against the Administrator, someone who reports directly to the Administrator or a Board member, the request for review shall be submitted to the County Counselor. Upon receipt of the request for review, the County Counselor shall appoint an independent, external reviewer to conduct a review. At the conclusion of this review, the County Counselor shall provide the

Board of County Commissioners a report and an accompanying recommendation from the reviewer for the Board's consideration. Following completion of the review of this report, the Board of County Commissioners shall take any necessary and appropriate action. The action of the Board of County Commissioners will be final.

Confidentiality

Confidentiality is required of all participants in the complaint and grievance resolution process. All information revealed and all discussions held shall be as confidential as reasonably possible within legal requirements and organizational responsibilities, and within limits allowing for the review to occur.

Ford County encourages an environment in which individuals can discuss concerns and make the proper authorities aware of certain conduct, including illegal discrimination, harassment or retaliation. In such matters, however, confidentiality of the information received and the privacy of the individuals involved cannot be guaranteed because of legal obligations to report such matters. Confidentiality will be protected as much as legally possible, and the expressed wishes of the complainant or grievant regarding confidentiality will be considered in the context of Ford County's obligation to act upon the complaint or grievance and the right(s) of the respondent to be informed concerning the complaint or grievance.

Retaliation

No employee shall retaliate or discriminate against another employee because of the latter employee's filing of or participating in a complaint or grievance. Retaliation includes taking any action which may have any impact on the terms or conditions of employment including, but not limited to, increasing discipline or assignments, demotion, changes in pay or hours, material changes in job duties or functioning, if such conduct is taken because of the individual's filing of or participation in a complaint or grievance, whether or not such complaint or grievance is determined to be valid. Retaliation due to filing or participating in a complaint or grievance under this procedure is strictly prohibited, whether while the complaint or grievance is pending or any time thereafter. Active retaliation shall lead to discipline/sanctions up to and including termination. Any person believing that retaliation has taken or is taking place should immediately report the matter as provided herein.

DATE OF ADOPTION: REVIEW DATE(S): August 15, 2016