



POLICY AND PROCEDURE

SUBJECT: Handling of Complaints Filed With the U.S. Equal Employment Opportunity Commission

DATE: November 20, 2013

NUMBER: 100-25

Statement of Policy: It shall be the policy of Fulton County that employment opportunities and conditions of employment within Fulton County Government shall be free from discrimination based on race, color, age (40 and over), religion, national origin, gender, sexual/gender identity, disability or genetic information.

Background: Any employee or applicant for employment, who feels that he/she has been subjected to discrimination on the basis of race, color, age, religion, national origin, gender, disability or genetic information, has the right to file such charges with the United States Equal Employment Opportunity Commission (EEOC).

Any employee who files a charge with the EEOC is also entitled to simultaneously **pursue** any administrative remedy available to the employee through the Personnel Regulations of Fulton County or any other applicable departmental policy and procedure, including an appeal to the Personnel Board of Fulton County or an internal complaint to the County Manager's Office of Equal Employment Opportunity and Disability Affairs (hereinafter the "OEEODA"). Employees who have filed charges with the EEOC and/or any other administrative body, shall ***not*** be subject to retaliation for having filed such charge or appeal.

In processing such charges, the EEOC follows its established procedures which place time constraints and response obligations on respondent organizations. The purpose of this procedure is to provide for efficient, uniform handling of EEOC charges in a manner which promotes the best interest of Fulton County and all of its employees.

Responsibilities: The Fulton County Board of Commissioners and the County Manager are committed to maintaining a workplace free of unlawful discrimination. The authority to ensure compliance with this mandate has been vested with OEEODA. It is the absolute duty and obligation of every Department Head and employee to comply with Fulton County Policies and Procedures to ensure the existence of a non-discriminatory workplace environment. Failure of any employee or contractor doing business with Fulton County Government to comply with these policies and procedures shall be grounds for disciplinary action by the County Manager.

Procedures:

- A. All communications from EEOC that are received by any Department Head or County employee shall be forwarded immediately to the Director of the Office of

Equal Employment Opportunity and Disability Affairs (hereinafter "Director of OEEODA").

The following types of charges will be considered exceptions to this policy and will be reviewed by the Director of OEEODA in conjunction with, the County Attorney and the County Manager to determine the best course of action: (1) charges filed by employees of the County Manager's Office; (2) cases in which there is pending litigation involving the same set of facts underlying the EEOC charge; (3) charges filed by one Department Head against another Department Head; and (4) other charges as determined by the Director of OEEODA.

- B. The Director of OEEODA shall, within five (5) business days of the receipt of a charge, send a copy of the charge to the Appointing Authority against which the charge has been filed. The Director of OEEODA also shall simultaneously notify the County Manager and the County Attorney regarding receipt of all EEOC charges.
- C. The Director of OEEODA will initiate an independent investigation into allegations of EEOC charges, if appropriate. As a part of the initial investigation, the Director of OEEODA may request that the Department Head provide a written response to the charge and any other relevant questions, to include supporting documentation setting forth all known details concerning the Charging Party's allegation(s). The written response from the Department Head shall be provided to the OEEODA within five (5) business days of the receipt of the request, or on the date specified in the request for information.
- D. If requested to do so by the Director of OEEODA, the Personnel Department, the department against which the charge has been filed, and/or any other County department or division, shall collect and report any personnel or related information necessary to facilitate OEEODA's investigation or attempt to resolve the complaint.
- E. Upon completion of any investigation initiated by OEEODA, the Director of OEEODA shall prepare an Investigative Report detailing the factual findings related to the EEOC charges. The Investigative Report shall be forwarded to the Office of the Fulton County Attorney for review. The County Attorney's Office will either recommend settlement of the EEOC charge to the County Manager or develop a Statement of Position on behalf of the County.
- F. If the Director of OEEODA determines that it is not appropriate for the OEEODA to conduct an investigation, he/she will immediately forward a copy of the EEOC charge to the County Attorney and request that the County either retain an outside investigator to conduct an independent investigation or prepare a Statement of Position on behalf of the County.
- G. In the event that the EEOC makes a cause finding, the Director of OEEODA shall advise the County Manager, the Office of the County Attorney, and the affected

department head of the same by memorandum. Additionally, the case file will be transferred to the County Attorney for further handling.

- H. In the event that a settlement or resolution of a charge is recommended by the Director of OEEODA or by the County Attorney, a copy of the recommendation shall be forwarded to the County Manager.
- I. When a settlement or resolution of a charge is agreed to by the County Manager and County Attorney, the County Attorney is authorized to formally advise all parties of the actions necessary to conclude the EEOC action and to recommend settlement payments, if any, to the Board of Commissioners.
- J. No written settlement agreement shall be entered into without the approval of the County Attorney, and if payment is required, the settlement agreement must be approved by the Board of Commissioners. All such agreements will contain appropriate release and waiver provisions.
- K. The Director of OEEODA or his/her designee and representatives of the County Attorney's Office, shall attend all EEOC mediations, fact-finding conferences, conciliation conferences or other such meetings, and shall participate in all discussions with the EEOC in this same capacity.
- L. The Director of OEEODA generally will delegate the handling of certain aspects of an EEOC case to an Equal Employment Officer or other designee.

Strict Prohibition Against Retaliation:

Fulton County Government strictly prohibits retaliation against: 1) any employee or citizen who opposes any act or practice they perceive to violate this policy; and 2) any employee who has made a charge, testified, cooperated, assisted or participated (in any manner) in any EEO-related investigation, proceeding or hearing. Retaliation is a separate violation, distinct from the initial, underlying discrimination allegation. Individuals engaging in retaliation shall be subject to discipline without regard as to whether there has been a finding of cause in the initial complaint. Any employee who feels they have been subjected to retaliation should contact the EEOC or the OEEODA immediately.

Departmental Sponsor: Office of the County Manager

Policy Review Date: November 2016

References: Minutes of the Board of Commissioners, November 19, 1980
Minutes of the Board of Commissioners, July 7, 1982
Minutes of the Board of Commissioners, February 1, 1989
Minutes of the Board of Commissioners, November 3, 1993

Policy and Procedure, continued

#100-25

Minutes of the Board of Commissioners November 6, 2002
Minutes of the Board of Commissioners, June 16, 2004
Minutes of the Board of Commissioners, November 20, 2013

Departments Affected: All Departments and Offices of Appointed or Elected Officials