



POLICY AND PROCEDURE

SUBJECT: Prejudicial Acts Policy and Procedure

DATE: November 20, 2013

NUMBER: 100-38

Purpose: This policy is designed to assist in identifying prohibited conduct motivated by prejudicial and biased behavior towards an individual or group because of race, color, religion, citizenship, national origin, gender, age (40 and over), the actual or perceived disability, ethnic background, sexual/gender identity or genetic information.

Policy: It is the policy of Fulton County Government to safeguard the rights of all employees as set forth by Federal and State Laws and Fulton County Personnel Regulations and Policies and Procedures, irrespective of an employee's race, color, religion, citizenship, national origin, gender, age (40 and over), disability, ethnic background, sexual/gender identity or genetics. This policy prohibits acts that may unreasonably interfere with an employee's work performance or create a hostile work environment. Any acts or threats of violence, property damage, harassment, intimidation, or other acts designed to infringe upon employees' rights as prescribed by federal and state anti-discrimination laws and Fulton County Personnel Regulations, are regarded as serious by Fulton County and will not be tolerated. Fulton County Government will take rapid and decisive action to identify the perpetrators of prejudicial acts and biased behavior and to prevent further acts. However, it is not Fulton County Government's intent under this Prejudicial Acts Policy and Procedure to interfere with speech protected by the First Amendment.

Definitions:

Prejudice – a negative or hostile attitude toward a person or group formed without just or sufficient knowledge and based on negative stereotypes.

Prejudicial Act – any action designed to frighten, harm, injure, intimidate or harass an individual, in whole or in part because of a biased motivation against the actual or perceived race, color, religion, citizenship, national origin, gender, age (40 and over), disability, ethnic background, sexual/gender identity or genetic information of the individual(s).

Prejudicial Motive – hatred, hostility or negative attitudes toward, or prejudice against any group or individual on account of race, color, religion, citizenship, national origin, gender, age (40 and over), disability, ethnic background, sexual/gender identity or genetic information, which is a contributing factor, in whole or in part, in the commission of an act of bias. A prejudicial motive can be inferred from the presence of one or more biases.

Examples of Prejudicial Acts:

The following actions may be considered prejudicial acts:

- Prejudicial and bias related comments, insults, derogatory language, ethnic jokes, teasing, written statements and gestures, etc.
- Drawings, markings, symbols or graffiti left at the scene of an incident, **including, but not limited to** burning crosses, nooses, white hoods, Nazi swastikas, or literature or pictures depicting the human anatomy.

Factors in Determining Prejudicial Acts:

The following factors may be used in determining whether or not an action should be classified as a prejudicial act. These factors are not all inclusive and each case must be examined on its own facts and circumstances. Reasonable judgment also should be applied in making the determination as to whether an action should be classified as a prejudicial act.

- The race, color, religion, citizenship, national origin, gender, age, disability, ethnic background, sexual/gender identity or genetic background of the individual allegedly committing the prejudicial act differs from that of the individual(s) to whom the act is directed.
- The prejudicial act coincided with a holiday or date of particular significance to the targeted individual or group.
- The individual(s) works at a location where previous bias crimes have been committed against members of the targeted group. The victim may or may not be a member of the targeted group.
- The individual(s) is a member of an advocacy group that supports and/or promotes the targeted group and its activities although the individual is not a member of the targeted group.
- The individual(s) was perceived by the offender as violating or breaking away from traditional conventions or working in nontraditional employment.

Supervisor's Responsibilities:

Upon receiving a complaint, the supervisor will confer with the Charging Party and immediately inform management (i.e., Department Head or Deputy Director) of the alleged prejudicial act. In the initial conference, the supervisor shall:

- assure the Charging Party that acts motivated by prejudicial and biased behavior are strictly prohibited by Fulton County Government;

- allow the Charging Party employee a period in which to express his or her feelings and immediate concerns;
- remind the Charging Party of his or her absolute right to by-pass personnel in his or her chain of command and to immediately contact the Office of Equal Employment Opportunity and Disability Affairs (OEEODA) to report the alleged prejudicial act;
- notify the OEEODA immediately that an alleged prejudicial act has been reported.

Procedures for Investigating Complaints of Prejudicial Acts:

The OEEODA will have responsibility for investigating complaints of violations of the Prejudicial Acts Policy and Procedure. Such complaints will have priority and will be handled in a timely manner.

Anyone who believes that he or she has been subjected to a prejudicial act should file a written signed complaint with the OEEODA. This complaint should include: a description of the behavior complained of; the date(s) of the behavior; the identity of the person committing the alleged prejudicial act(s); a brief description of the circumstances and facts surrounding the events of the prejudicial act(s); and the name and contact information for any person(s) who may have knowledge of facts or circumstances surrounding the complaint.

After receiving the complaint, the OEEODA will review the complaint and discuss the allegations with the Charging Party. Thereafter, the OEEODA will investigate the facts contained in the complaint, including reviewing all documentary information, interviewing the alleged perpetrator and all other persons who may have knowledge of the complaint, and consulting with the Office of the Fulton County Attorney, if necessary. The investigation will be confidential and all documents received in connection therewith will be considered confidential and privileged to the extent allowed by law. The OEEODA will make a recommendation to the County Manager and the Department Head when it has been determined that a Charging Party has been subjected to a prejudicial act. The OEEODA will make recommendations as appropriate for corrective action. The OEEODA will also notify the Charging Party, alleged violator(s), and Appointing Authority of the results of the investigation.

All complaints should be filed as soon as possible, but not later than 30 business days after the occurrence of the alleged prejudicial act or incident. Nothing in this policy shall be construed to require a complainant to file a written complaint with the OEEODA prior to or in lieu of seeking redress with other agencies or the courts.

Upon the receipt of written notice from an Appointing Authority or his/her designee of an alleged violation of this policy, the OEEODA shall have the discretion to initiate a compliance review of such conduct.

Disciplinary Action:

All disciplinary actions for violations of this policy shall be governed by the guidelines set forth in the Fulton County Personnel Regulations, 1800-2, Article 13 (D). Appeals of disciplinary actions by any employee may be made to the Fulton County Grievance Review Committee, while permanent classified employees may also make such an appeal to the Fulton County Personnel Board. Officials appointed by the Board of Commissioners of Fulton County may seek redress for any disciplinary action before the Board.

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 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 OEEODA immediately.

Departmental Sponsor: Office of the County Manager

Policy Review Date: November, 2016

References: Minutes of the Board of Commissioners, July 10, 1996
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