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Title: AN ORDINANCE relating to discrimination and harassment, including sexual harassment, and inappropriate conduct in the King County workplace; and adding a new chapter to K.C.C Title 3.

Sponsors: Jeanne Kohl-Welles, Larry Gossett, Claudia Balducci, Joe McDermott, Kathy Lambert

Indexes: Discrimination

Code sections:

Attachments: 1. Ordinance 18757.pdf, 2. 2018-0256_SR_Discrimination_Harassment.docx, 3. 2018-0256-ATT1-ProposedOrdinance.pdf, 4. 2018-0256_ATT2_AMD1.docx, 5. 2018-0256_ATT3_2016EEOC_Report.pdf, 6. 2018-0256_ATT4_2002_ExecutivePolicy.pdf, 7. 2018-0256_ATT5_Executive_Revised_Nondiscrimination.doc, 8. 2018-0256_ATT6_legislativebranchpolicies.pdf, 9. 2018-0256_ATT7_PAO_Policies.doc, 10. 2018-0256_ATT8_DistrictCourt_policies.pdf, 11. 2018-0256_ATT9_Superior_Court_Policies.pdf, 12. 2018-0256_ATT10_Timeline_comparison.docx, 13. 2018-0256_ATT11_KCC 12.18.010.docx, 14. 2018-0256_ATT12_Complaint_data_2018AAEEO.pdf, 15. 2018-0256_SR_Discrimination_Harassment.docx, 16. 2018-0256_ATT1-ProposedOrdinance.pdf, 17. 2018-0256_ATT2_2016EEOC_Report.pdf, 18. 2018-0256_ATT3_2002_ExecutivePolicy.pdf, 19. 2018-0256_ATT4_Revised_Exec_Policy.pdf, 20. 2018-0256_ATT5_legislativebranchpolicies.pdf, 21. 2018-0256_ATT6_PAO_Policies.pdf, 22. 2018-0256_ATT7_DistrictCourt_policies.pdf, 23. 2018-0256_ATT8_Superior_Court_Policies.pdf, 24. 2018-0256_ATT9_Timeline_comparison.docx, 25. 2018-0256_ATT10_KCC 12.18.010.docx, 26. 2018-0256_ATT11_Complaint_data_2018AAEEO.pdf, 27. 2018-0256 Lambert Amendment Ritzen 06-19-18.docx, 28. 2018-0256 Striker June 19 FINAL.docx, 29. 2018-0256 Striker June 19 Red-line.docx, 30. 2018-0256_REVISSED_SR_Discrimination_Harassment.docx

Date	Ver.	Action By	Action	Result
6/25/2018	2	Metropolitan King County Council	Passed	Pass
6/20/2018	1	Committee of the Whole	Recommended Do Pass Substitute	Pass
6/6/2018	1	Committee of the Whole	Deferred	
5/21/2018	1	Metropolitan King County Council	Introduced and Referred	

Clerk 06/21/2018

AN ORDINANCE relating to discrimination and harassment, including sexual harassment, and inappropriate conduct in the King County workplace; and adding a new chapter to K.C.C Title 3.

PREAMBLE:

King County has a strong commitment to equity and social justice in both our community and our workforce. King County strives to be an employer of opportunity, where all employees can thrive and fulfil their true potential. To deliver the most effective services to our residents, King County must provide a safe, supportive and inclusive workplace free of discrimination, harassment and inappropriate conduct, where all employees can do their best work for the people of King County.

Federal, state and local laws are intended to prevent workplace discrimination and harassment. However, workplace discrimination and harassment remain a persistent problem as evident from grassroots movements, such as #MeToo and Black Lives Matter, and the continuing number of discrimination and harassment charges across all protected classes filed federally with the United States Equal Employment Opportunity Commission ("the EEOC").

Many more instances of harassment and discrimination go unreported. For example, the EEOC estimates that roughly three out of four individuals who experienced harassment never reported it to a supervisor, manager or union representative.

Incidents of workplace discrimination and harassment come at a steep cost to those who suffer it as they can experience mental, emotional, physical and economic harm. Workplace discrimination and harassment also represent significant direct and indirect costs to employers. Resources are diverted from the operation of the business to legal representation, settlements, litigation, court awards and damages. The EEOC also reports that indirect costs such as decreased productivity, increased turnover and reputational harm far exceed direct costs.

The EEOC reports as well that behavior that may not meet the legal definition of discrimination and harassment can still be deeply troubling to the employee experiencing the behavior and can lead to a workplace culture that contributes to interpersonal conflict, poor performance and poor morale.

Like many employers, King County recognizes the need to increase and improve upon its efforts to prevent harassment and discrimination. Additionally, King County recognizes it is time for a change in how it addresses workplace discrimination and harassment. Thus, King County intends to reboot its policies and procedures relating to discrimination and harassment.

King County recognizes that in order to create a workplace culture in which all employees can thrive, the county must go beyond prohibiting only those behaviors that meet the legal definitions of discrimination and harassment. Instead, King County must work to prevent those behaviors that might not be "legally actionable," but that left unchecked may set the stage for unlawful discrimination and harassment.

King County will build upon its foundational work in equity and social justice and use the Report of the 2016 EEOC Select Task Force on the Study of Harassment in the Workplace as the research-based launch pad to implement significant changes to ensure that all King County employees are treated fairly and with respect, regardless of their race, color, gender age, creed, disability, marital status, national origin, religion, pregnancy, gender identity or expression, domestic violence victimization, sexual orientation, honorably discharged veteran or military status, use of a service or assistive animal by a person with a disability, or any other status protected by federal, state or local law.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Sections 2 and 4 of this ordinance should constitute a new chapter in K.C.C. Title 3.

NEW SECTION. SECTION 2. A. It is the policy of King County to promote a respectful, nondiscriminatory work environment, free of behavior that is illegal or contributes to interpersonal conflicts, poor performance or poor morale. Therefore, King County prohibits discrimination and harassment, including sexual harassment, and inappropriate conduct, toward any employee on the basis of the employee's race, color, gender, age, creed, disability, marital status, national origin, religion, pregnancy, gender identity or expression,

domestic violence victimization, sexual orientation, honorably discharged veteran or military status, use of a service or assistive animal by a person with a disability, or any other status protected by federal, state or local law. Additionally, King County prohibits retaliation of any kind against anyone who in good faith reports incidents of harassment, discrimination or inappropriate conduct.

B. The executive, assessor, director of elections, sheriff, council and prosecuting attorney, shall revise their current policies or develop new policies, procedures and training to prevent and respond to discrimination and harassment, including sexual harassment, and inappropriate conduct. The policies, procedures and training shall be developed in consultation with subject matter experts and employees and are intended to promote respectful, nondiscriminatory work environments throughout the King County government. The policies, procedures and training should reflect the recommendations included in the Report of the Co-Chairs of the EEOC Select Task Force on the Study of Harassment in the Workplace. The policies and procedures shall include:

1. Definitions of discrimination and harassment, including sexual harassment, and inappropriate conduct;
2. A clear and easy-to-understand nondiscrimination, antiharassment and inappropriate conduct policy that includes:
 - a. a description of prohibited conduct, including examples;
 - b. a statement that the reporting system will provide a prompt, thorough and impartial investigation;
 - c. a statement that the identity of an individual who submits a report, a witness who provides information regarding a report and the subject of the complaint, will be kept confidential to the extent possible;
 - d. an assurance that King County will take prompt and proportionate corrective action if it determines that harassment or discrimination has occurred;
 - e. an assurance that an individual who submits a report or a witness who provides information regarding a report will be protected from retaliation; and

f. a statement that any employee who retaliates against any individual who submits a report or provides information regarding a report will be disciplined appropriately;

3. A description of a reporting system for employees that encourages those who experience workplace discrimination and harassment, including sexual harassment, and inappropriate conduct as well as those who observe such behavior to report it. The reporting system shall provide multiple options for reporting such behavior, including county, state and federal reporting options, as well as an informal mechanism, such as the county's employee assistance program, that allows employees to make inquiries and to resolve issues informally when appropriate;

4. Guidelines for how to handle a complaint. The guidelines should cover: how to handle a complaint promptly, effectively and in way that respects the vulnerability and privacy of the individual reporting the incident, the application and limitations of confidentiality; the legal duties required as an employer; and how to determine the appropriate scope of the investigation process; and

5. A plan to require managers and supervisors to promote an inclusive and respectful workplace culture that is free of discrimination and harassment, including sexual harassment, and inappropriate conduct. The executive, assessor, director of elections, sheriff, council and prosecuting attorney, shall assist each manager and supervisor within their department with compliance with this subsection B.5. and evaluate their progress and performance either independently or as part of the agency's performance evaluation process.

C.1. The executive, assessor, director of elections, sheriff, council and prosecuting attorney shall develop options, including cost information, to deliver training and communications on the county's policies and procedures and on recognizing and preventing discrimination and harassment, including sexual harassment, and inappropriate conduct, and educating employees on the resources and procedures available if such behavior is experienced or observed. Each option may be phased in over time and shall:

a. address how the policies and procedures will be regularly communicated to all employees, as well as to all new employees. Resources for employees to understand the policy and procedures shall be easily

locatable on-line;

- b. include training to foster an equitable, respectful and inclusive workplace; and
- c. include training for those handling complaints.

2. At least one of the training options must be a plan for a regular, interactive training program that includes all of the following:

- a. in-person or interactive on-line training;

b. a plan to address the specific needs of the county's workplaces, considering risk factors of harassment and discrimination, including those identified in the Report of the Co-Chairs of the EEOC Select Task Force on the Study of Harassment in the Workplace, such as those with a disproportionate number of males among its employees and youth employed in a workplace;

c. supervisor and manager training that specifically addresses power dynamics and building a healthy workplace culture; and

d. a plan to partner with unions representing county employees in order for unions to become aware of county policies and procedures and be encouraged to foster an environment that is free from discrimination and harassment, including sexual harassment, and inappropriate conduct.

D. The policies, procedures and training developed by the executive, assessor, director of elections, sheriff, council and prosecuting attorney shall specifically address the power dynamics involving staff and elected officials and how to respond to and prevent discrimination, harassment, sexual harassment, and inappropriate conduct by their elected officials.

SECTION 3. The executive, assessor, director of elections, sheriff, council and prosecuting attorney shall transmit the policies, procedures and training options required in section 2.B and C. of this ordinance, along with a summary describing how the policies and procedures were developed to the council by September 24, 2018, in the form of a paper original and an electronic copy with the clerk of the council, who shall retain the original and provide an electronic copy to all councilmembers, the council chief of staff and the policy staff

director.

NEW SECTION. SECTION 4. The executive, assessor, director of elections, sheriff, council and prosecuting attorney shall report biennially on the number of workplace discrimination and harassment complaints, including sexual harassment, and inappropriate conduct complaints and, when possible, informal inquiries, received by each department each year. The report shall indicate the basis or bases of the complaint, which may be race, color, gender, age, creed, disability, marital status, national origin, religion, pregnancy, gender identity or expression, domestic violence victimization, sexual orientation, honorably discharged veteran or military status, use of service or assistive animal by a person with a disability, or any other status protected by federal, state or local law. The office of civil rights shall report on the number of unfair employment practice complaints filed, the basis or bases of the complaint, the number of investigations of unfair employment practices in the reporting year and the number of findings that reasonable cause exists to believe that an unfair employment practice occurred. The first report shall be transmitted to the council by December 31, 2019. All reports under this section shall be in the form of a paper original and an electronic copy filed with the clerk of the council who, who shall retain the original and provide an electronic copy to all councilmembers, the council chief of staff and the policy staff director.

SECTION 5. The King County superior court and King County district courts are requested to give consideration to sections 2, 3 and 4 of this ordinance. The superior court and the district courts are encouraged to transmit training options for funding consideration in accordance with section 3 of this ordinance.