



# **SULLIVAN COUNTY EMPLOYEE HANDBOOK**

JOSHUA A. POTOSEK, MBA  
COUNTY MANAGER

JOHN R. LIDDLE  
DEPUTY COUNTY MANAGER

TEL. 845-807-0450  
FAX 845-807-0460



COUNTY OF SULLIVAN  
COUNTY MANAGER'S OFFICE  
SULLIVAN COUNTY GOVERNMENT CENTER  
100 NORTH STREET  
PO BOX 5012  
MONTICELLO, NY 12701

Welcome aboard!

Congratulations on accepting your position in Sullivan County Government! There are few things in life that are more meaningful and fulfilling than answering the call to serve your community. The Sullivan County Government staff is committed to your success and to providing the best possible service and support to the public – our neighbors, family, and friends.

Public trust is essential to our success as an organization. Taxpayers must have confidence that we are making the best possible use of their hard earned money. As such, our core values demand that we treat each other and those we serve with *dignity, courtesy, and respect* at all times. They also demand that our work on behalf of the public is conducted with *rigor, transparency, and accountability*; we must follow the law, be honest in our dealings with each other and the public, and understand the rules that guide our work. It isn't always easy, but the pride you will be able to take in an honest day's work of public service is well worth the sacrifices made.

While our work is serious, we also want it to be part of a better life for you and your family. We are committed to a fair workplace, free of discrimination and harassment. We want your work and family life to be balanced, and we want you to have every opportunity to succeed. If the County Government team ever fails to provide you with this opportunity, we encourage you to make use of your union representation and the Human Resources Division to make it right. We are committed to working with them to ensure you have a voice and a path to success.

This year, in County Government, we are focused on achieving five goals, *improving our infrastructure, enabling development, maintaining public safety, enhancing health and wellness, and delivering greater efficiency and effectiveness*. We are happy to have you join us on this journey. Thank you for choosing to serve your community.

Again, congratulations and good luck!

A handwritten signature in black ink, appearing to read "J. Potossek".

JOSHUA A. POTOSEK  
County Manager

A handwritten signature in black ink, appearing to read "J. Liddle".

JOHN R. LIDDLE  
Deputy County Manager

## ***ABOUT YOUR HANDBOOK***

### *Purpose*

This handbook is furnished to provide an introduction to County employment and County Government. It will summarize briefly what you may expect from employment with Sullivan County and explain some of the things your employing department will expect of you. It will answer some of the common questions often asked by both new and established employees, and hopefully, will direct you to the offices or sources that are most likely to provide answers for any questions that may arise during the course of your employment.

The laws, rules, regulations, collective bargaining agreement, etc. that apply to your employment are numerous and detailed and are subject to change as new contracts are negotiated, new laws are enacted, etc. This handbook is meant only to summarize and supplement requirements in effect at the time it is published. Anything contained herein that is in conflict or outdated by any law, rule regulation, or collective bargaining agreement will be void and the applicable legal source will take precedence.

### ***Sullivan County Government***

Sullivan County is governed by a County Manager as the administrative head of the County government, appointed by a legislative body composed of nine (9) legislators elected from single member legislative districts, each member elected for a term of four (4) years and having one vote.

The County Manager shall be the full time Chief Executive and Administrative Head of the County of Sullivan. The County Manager shall supervise all county departments, offices, agencies, and administrative units, except as otherwise provided by New York State Law or the Sullivan County Charter.

The County Legislature meets regularly on a monthly basis in the Legislative Hearing Room in the County Government Center.

A Committee of the Legislature oversees policy for each County Department, implemented through the County Manager.

The Sullivan County Charter's intent is to provide for the orderly government and management of the County of Sullivan. The Charter allocated duties and responsibilities to promote greater efficiency and responsibility in county government.

I. **THE WAY WE WORK**

- A. **AFFIRMATIVE ACTION/EQUAL EMPLOYMENT OPPORTUNITY**
- B. **ATTENDANCE/HOURS OF WORK**
- C. **CELL PHONE**
- D. **CIVIL SERVICE AND THE MERIT SYSTEM**
- E. **CODE OF ETHICS**
- F. **CORPORATE COMPLIANCE/FALSE CLAIMS/WHISTLEBLOWER**
- G. **DISCRIMINATION/DISCRIMINATORY HARASSMENT**
- H. **DRUG FREE WORKPLACE**
- I. **EMPLOYEE DISCIPLINE**
- J. **HIPAA**
- K. **LABOR RELATIONS**
- L. **MANAGEMENT RIGHTS**
- M. **NEPOTISM**
- N. **PERFORMANCE EVALUATION**
- O. **PERSONNEL FILES**
- P. **POLITICAL ACTIVITY**
- Q. **PUBLIC EMPLOYMENT/FREEDOM OF SPEECH**
- R. **REINSTATEMENT**
- S. **RESIGNATION**
- T. **SEXUAL HARASSMENT**
- U. **SOCIAL MEDIA**
- V. **TOBACCO FREE WORKPLACE**
- W. **USE OF COUNTY MACHINERY/EQUIPMENT**
- X. **WORKPLACE VIOLENCE**

II. **BENEFITS**

- A. **CANCER SCREENING**
- B. **CREDIT UNION**
- C. **DEFERRED COMPENSATION**
- D. **EMPLOYEE ASSISTANCE PROGRAM**
- E. **FAMILY MEDICAL LEAVE**
- F. **HEALTH INSURANCE**
- G. **LEAVE OF ABSENCE**
- H. **NEW YORK STATE RETIREMENT PLAN**
- I. **SHORT TERM DISABILITY**
- J. **UNEMPLOYMENT INSURANCE**
- K. **WORKER'S COMPENSATION**

**COMPENSATION**

- A. **YOUR PAYCHECK**
- B. **OVERTIME AND THE FLSA**
- C. **TRAVEL EXPENSE AND MEAL ALLOWANCE**

## *AFFIRMATIVE ACTION / EQUAL EMPLOYMENT*

The County of Sullivan is committed to ensuring equal employment opportunity as an integral element of an effective merit system and its personnel policies by maintaining a “zero” tolerance policy with respect to unlawful discrimination. Therefore, it is the policy of the County of Sullivan to fully comply with all Equal Employment Opportunity Affirmative Action laws, rules, regulations and definitive court decision: to provide equal opportunity in all its business opportunities and equal employment for all qualified persons; to prohibit sexual, racial and national origin harassment and other unlawful discrimination in employment and to promote the full realization of equal employment through a positive continuing program for the County as a whole and for each constituent department of the County.

The requirements of equal employment opportunity and affirmative action in state and local governments have been mandated, defined, regulated or directed by numerous statutes, regulations, guidelines and executive orders. Relevant and representative authorities are:

- United States Constitution—5<sup>th</sup>, 13<sup>th</sup>, 14<sup>th</sup>, section 1, 15<sup>th</sup> and 19<sup>th</sup> amendments
- Civil Rights Acts of 1866, 1870, 1871
- Civil Rights Act of 1964, Title VII, as amended by the EEO Act of 1972
- Executive Order 11246 and 11375
- The Equal Pay Act of 1963
- Age Discrimination in Employment Act of 1967
- Pregnancy Discrimination Act
- Rehabilitation Act of 1973
- Vietnam Era Readjustment Assistance Act of 1974
- American with Disabilities Act 1990
- Civil Rights Act of 1991
- New York Human Rights Law
- Provisions of Section 296 of NYS Executive Law

### COVERAGE AND APPLICABILITY

The County of Sullivan Affirmative Action Plan, covers all departments, agencies and boards of County government, except Sullivan County Community College, for which Board of Trustees, have adopted a separate written Affirmative Action Plan. Nothing in this plan relates to programs administered by Sullivan County Community College.

The County of Sullivan Affirmative Action Plan does not apply to the duties of Personnel Officer to the extent that the duties involve administering the Civil Service Law with respect to municipal jurisdictions other than the County of Sullivan.

The Affirmative Action Plan shall not apply to the selection of any elected official or to the Clerk of the County Legislature, County Attorney and Assistant County Attorneys or to any position exempted under regulations applicable to preparation of the County’s EEO-4 report.

This Policy of Equal Employment Opportunity:

- Applies to all persons without regard to race, creed, color, citizenship, national origin, age, sex, disability, religion, non-disabled or disabled veterans status, marital status, (pregnancy, arrest record or political affiliation or belief);
- Applies equally to all job classifications (Competitive, Non-Competitive, Labor and Exempt) and titles in the County and to all types of appointments under County jurisdiction, whether full time or part- time;
- Governs all County employment policies, practices and actions including but not necessarily limited to: recruitment, employment, rate of pay or other compensation, advancement, upgrading, promotion, demotion, termination, leave, training, employee benefits of whatever nature;
- Applies equally to all County organizational departments;

Each independent contractor who performs services for the County, or supplies goods and services to the County, shall be required to comply with all applicable laws and regulations prohibiting discrimination, and to state in writing, their commitment to the County's policy of equal employment opportunity. In the event of a finding of discrimination by any agency of government against such contractor, such finding shall be grounds for termination of any contract and ineligibility for any future contract with the County unless such contractor shall obtain a certificate of compliance with the decision, ruling or order. No Minority and Women-Owned Business Enterprise (MWBE), employee or applicant for employment will be discriminated against because of race, color, religion, national origin, sex, age, disability, sexual preference or veteran status. The County of Sullivan will take affirmative steps to ensure the MWBE's have full participation in our procurement process.

#### IMPLEMENTATION AND ADMINISTRATION OF THE AAP

General responsibility for the enforcement of the Affirmative Action Plan lies with the Chair of the Sullivan County Legislature. The County Manager, County Attorney and Commissioner of Human Resources have significant responsibility within their areas of competence and authority to carry out the objectives of the plan. The Personnel Officer who has been designated the Equal Employment Opportunity officer is responsible to administer the plan and shall have at least the following duties:

1. Review, update and annually post copies of the County's EEO Policy Statement and insure that all new employees receive a copy of the Policy statement and are aware of their rights under the Affirmative Action Plan.
2. Have knowledge of departmental operating procedures to resolve problems that could lead to complaints of discrimination.
3. Evaluate the progress of the plan and report same to the Chair of the County Legislature with copies to the County Manager, County Attorney and Commissioner of Human Resources.

4. Establish annually an update and revision of goal of the plan and suggest modifications of the plan where necessary.
5. Communicate with and educate the Public with respect to the administration of the Plan and the implementation of the County's Policy, establish and maintain contact with minority, affected persons, affirmative action groups and other interested persons, and seek support, comments and proposals for a more effective Affirmative Action Plan.
6. Serve as a liaison between County government and federal and state agencies regulating the County.
7. Review and monitor recruitment, hiring, promotion, demotion, discipline, training, transfers, compensation, termination, employee benefits, labor contract provisions, job classification and specifications, job structuring and recommend action to be taken with respect to each to insure compliance with the Plan.
8. Conduct programs to train, educate and inform department heads and other officials of their obligations and responsibilities under the Plan.
9. Investigate, conciliate, and adjust complaints of discrimination and recommend an appropriate disposition to the Chair of the Legislature or his/her designee, i.e. County Manager.

The Equal Employment Opportunity Officer shall report to the Commissioner of Human Resources with respect to all matters involving the general administration of the plan. The Equal Employment Opportunity Officer shall report to the Legislative Chair for all matters relating to evaluation of the implementation and enforcement of the plan, all complaints of discrimination and all recommendations for modification to the Plan.

Each County Commissioner and Department Head is responsible for devoting his or her best effort to ensure that the Affirmative Action Plan and its objectives are successfully implemented within their division/department. All managers, supervisors and employees must make consistent and diligent efforts to implement the County's policy in normal day-to-day program employment decisions. The County expects each Contractor, supplier, union, public agency or other cooperative agent to support this policy by complying with all applicable state and federal equal employment opportunity laws and regulations.

#### DISSEMINATION OF POLICY

#### INTERNAL

Commissioners and Department Heads will receive a copy of the Policy on an annual basis. Upon receipt, each Commissioner/Department Head shall sign a letter of compliance and statement of understanding of the Plan and return same to the Personnel Office.

All employees will receive copy of policy upon update and all new employees will receive upon hire. Acknowledgement and statement of understanding shall be signed and returned to the Personnel Office upon receipt.

All Unions and Associations will receive a copy of the policy on an annual basis. The County will request their full cooperation in the existence of an effective policy.

The County will discuss the policy in both employee orientation and management programs. Every Commissioner, Department Head and every employee who has authority to hire, discipline, promote, discharge, evaluate performance, or resolve grievances shall participate in orientation and training sessions with respect to the obligation of each such person to comply with the Affirmative Action Plan.

Periodic courses, conferences, and other meetings will be held to discuss equal opportunity, the Affirmative Action Plan and the required modification and update of the AAP.

The Equal Employment Opportunity officer shall monitor compliance with the plan by issuing reports to the Chair of the County Legislature. Copies of such reports are to be furnished to the County Attorney, County Manager and Commissioner of Human Resources.

#### EXTERNAL

Each department shall include on all stationery the statement, "Sullivan County is an Equal Opportunity/Affirmative Action Employer". In addition, all personnel advertisements, notices and announcements in which applicants for County positions are recruited, the following shall be included, "M/F/V/H", representing minority/female/veteran/handicapped.

The EEO/AA statement shall be used on application forms, exam and recruitment announcements, advertising and other printed materials as appropriate. In all announcements for tests for positions encompassing the County and other municipal corporations, the Personnel Officer shall include the EEO statement with appropriate reference that it applies to the County of Sullivan only.

All publications, brochures and other reports issued by the County of Sullivan shall include the EEO statement. The County will use the internet and local media to dispense information on job opportunities in Sullivan County, including local newspapers, who print our recruitment releases and local radio stations who periodically announce civil service jobs over the air. In addition, the County will make appropriate contacts with community counselors, placement personnel and schools of secondary education. The County will make every effort for continuous expansion of their mailing list so that it includes local minority and women's organizations, schools and colleges, post offices, employment centers, libraries, churches and other community based organizations.

The County will provide general career information and referrals to those who walk in seeking employment, maintain effective and continuing liaison between the County and outside groups such as community based organizations and agencies who demonstrate a relationship to the economically disadvantaged, women and minorities. The County will submit classified

advertisements to newspapers for positions which are difficult to recruit for, and to give notice of upcoming civil service examinations.

Personal and written contact will be made with all interested groups whose membership represents minority, affected class or affirmative action groups, organizations, churches, clinics, Association for the Blind, and Access-VR to inform them of the existing plan and programs, to seek comment, support and proposals for the modification of the AAP to better accomplish the results intended.

The County of Sullivan will attempt to educate the public in every way possible to ensure that its Equal Employment Opportunity Policy is fully understood. The Equal Employment Opportunity/Affirmative Action Policy will be made available upon request for review by the Public in the Personnel Office.

## ***ATTENDANCE AND HOURS OF WORK***

**Statement of Policy:** Attendance at work is a requirement of your employment. Any unauthorized absence from work is a violation of the requirement to be in attendance at work. Employees who are not able to regularly be in attendance at work may be required to participate in counseling. If work attendance violations persist the employee may be subjected to disciplinary action including termination of employment.

The customary workweek and work hours are generally defined in the collective bargaining agreement or personnel policies covering your employment. Deviations from the customary workweek may occur for positions involving unique scheduling or duties. A department head can consider a temporary request for an alternate work schedule if there are appropriate and compelling reasons. *Your department head or their designee will advise you of the specific work hours that apply to your employment.*

**Leave With Pay:** Each collective bargaining agreement and the *Personnel Policies for Non-Union Employees* contain provisions for paid leave including vacation leave, sick leave, personal leave, holiday leave, military leave, bereavement leave and jury leave. All employees have the right to accrue paid leave time. The use of leave time requires approval of the department head. Failure to follow procedures to obtain approval for the use of leave time may result in the loss of pay for absence from work.

## ***CELL PHONE AND PAGER USE POLICY***

The use of personal cell phones and pagers during work hours are a distraction to all employees and reduce productivity. This policy is meant to ensure a more productive work environment.

*All Cell Phone and Pager Usage:*

Personal cell phones and pagers are not to be used during regular working hours, except in the case of an emergency. They are to be used only on breaks, lunch, before and after work. As a result,

all cell phones and pagers are to be turned off at the start of work and incoming emergency phone calls, should be made to the County's land line telephone system. Return personal calls via personal cell phones shall be made during break, lunch, before or after work.

#### *Cell Phone Usage While Driving:*

The County of Sullivan strictly prohibits the use of cell phones either in a County vehicle or private vehicle when traveling (driving) for County purposes. In an emergency, a cell phone could be used if the driver pulls over to a safe location on the side of the road.

#### Discipline:

Violation of this policy will subject an employee to disciplinary actions pursuant to current collective bargaining agreements and or Civil Service Law Section 75.

### ***CIVIL SERVICE AND THE MERIT SYSTEM***

Article V, §6 of the Constitution of New York State requires that "appointments and promotions in the Civil Service of the State and all the civil divisions thereof ...shall be made according to merit and fitness to be ascertained, as far as practicable, by examination which, as far as practicable, shall be competitive." The practicability of testing and the practicability of competitive testing are distinguished by allocating positions to different jurisdictional classes including:

- **Labor class positions** for which there are no established qualifications or testing requirements
- **Noncompetitive class positions** for which there are established qualification requirements that are assessed without competitive testing
- **Exempt class positions** which are excluded from the merit selection requirements of the constitution, but for which the appointing authority may establish specific requirements
- **Competitive class positions** which require competitive testing as set forth in the constitution

The laws and rules controlling the administration of the merit system are set forth in *New York State Civil Service Law* and the *Rules for the Classified Civil Service of Sullivan County*. The *Appendices* to the rules contain a listing of all positions that are removed from the competitive class. The rules are prescribed, amended and enforced by the Personnel Officer.

One essential basis for the administration of the civil service merit system is the classification of positions. The Personnel Officer is responsible for maintaining the position classification plan. The basis for the classification of positions is the duties and responsibilities performed in the position. Positions are not classified based upon a particular candidate's skills, salary rate, examination history, or tenure in the position. The duties, functions and responsibilities of a

position may change. To maintain current classifications and to assure that employees do not work out of title, a procedure is available to review the classification of positions. An employee, a supervisor, a department head, or the Personnel Officer may initiate this procedure. If you believe that you are working out of title and wish to request a classification review of your position, you should contact:

Sullivan County Office of Personnel and Civil Service Administration  
County Government Center  
P.O. Box 5012  
Monticello, NY 12701  
(845)807-0485

**Types of Appointments:** The following types of appointments can be made to positions in the civil service:

- **Permanent appointments** are made to positions in any jurisdictional class where there is a permanent vacancy. A permanent appointment may require that you meet specified education or experience requirements. Permanent appointments to competitive class positions require certification of the Personnel Officer. The individual is eligible for appointment based upon their having fulfilled competitive testing requirements, where required.
- **Provisional appointments** are made when there is no appropriate eligible list available for filling a vacant competitive class position. Persons receiving a provisional appointment are required to complete testing requirements once an examination is scheduled.
- **Temporary appointments** are made for specific reasons and for limited periods of time. Successive temporary appointments are not permitted. Temporary appointments to competitive class positions must be made from an eligible list if the appointment is for a duration of more than three months.
- **Seasonal appointments** are made to positions which are of a seasonal nature.
- **Contingent permanent appointments** are made to competitive class positions when the appointment is made from an eligible list to a position that is encumbered by another person. A position can be encumbered when a permanent employee is on an approved leave of absence or is serving a probationary period in another position. Contingent permanent appointment status is similar to permanent appointment status except that the right of incumbency to the position remains with the prior appointee.

**Probationary Periods:** All permanent appointments, including initial appointments and promotions, require the completion of a probationary period. The probationary period is prescribed in the *Rules for the Classified Civil Service of Sullivan County*. The probationary period shall be no less than eight (8) weeks or more than twenty-six (26) weeks. (A department head may provide written notice that the probationary period is completed at any time after eight weeks and before twenty-six weeks). When there is written documentation of unacceptable performance, the probationary period can be extended to a maximum of fifty-two weeks. An

employee must be given written notice of the extension of the probation period. This written notice must be provided before the completion of the standard twenty-six week probationary period.

### **Civil Service Examinations**

Civil Service Examinations are used as part of the basis upon which some employees are selected for the County Government. Most of the examinations used in Sullivan County are prepared and rated by the New York State Department of Civil Service. Scoring sometimes takes from four to six months after an examination has been administered.

All candidates for an examination must complete an application form for each examination which they would like to take. Applications submitted after the last filing date may not be processed.

Applicants are notified by mail if they do not qualify to take an examination. Sufficient time is allowed for those who have been disqualified to appeal for admittance to the examination. Persons who are qualified receive an admission letter notifying them of the time and place where an examination will be held. Admission letters are sent out approximately ten days before a scheduled examination.

After examinations are scored, those who participate, and not subsequently disqualified, are advised of their score and of their relative standing on the eligible list.

Examinations are usually scheduled on Saturdays. Special arrangements for testing can be made for acceptable reasons if you contact the Office of Personnel and Civil Service Administration.

**Open Competitive Exams:** Anyone who meets the minimum qualifications may participate in an open competitive examination. Once a list has been established as a result of an open competitive examination given to fill a County position, individuals who are County residents may be given preference in appointment over non-residents participating in the examination.

**Promotional Exams:** Promotional examinations are given to fill positions, which are above the entry level. Entry-level positions are positions which require minimal prior experience or education.

Sometimes, participation in promotion examinations is restricted to employees in the department where a vacancy occurs and to department employees who hold a lower title in a line of promotion. However, some promotion exams are given on an interdepartmental basis, i.e. promotion from a position in one office to a higher position in another office. Our Civil Service Rules require a minimum of six months of permanent service in a lower title in order to be eligible to compete in promotional exams. Persons who pass a promotion examination may have seniority points added to their scores. Seniority points are based upon years of

service. Announcements for promotional examinations contain specific information concerning eligibility for exam participation seniority points, etc. A promotional list is certified before any names are certified from an open competitive list.

**Veterans Credits for Appointment:** Military veterans who have served in time of war and who were New York State residents at the time they entered the armed forces may receive additional credit toward permanent appointments. This credit consists of an additional five (5) points added to the actual test score for a non-disabled veteran to an open competitive exam, and ten (10) points to be added for a disabled veteran (at least ten (10) percent disability recognized by the U.S. Veterans<sup>1</sup>s Administration). Half of these points can be applied toward the score on a promotion exam.

A veteran must attain a passing score of 70 on the examination BEFORE Veteran's credits can be applied toward appointment. A candidate may choose to use his or her credits on any given appointment. However, veteran's credits can be used only once for any Civil Service appointment anywhere in the State of New York.

**Eligible Lists:** Eligible Lists contain the names of those applicants who have received passing scores on Civil Service Examinations. Eligible Lists remain in effect for four years from the date they are established unless:

- The list is exhausted in less than four years.
- The Personnel Officer extends the list. (may be extended up to a maximum of 4 years.)

Eligible Lists are public information. Any person may examine an eligible list upon request at the Personnel Office.

**Canvass of Eligible List:** After an Eligible List is established for any title, a department which has openings under that title must request a list of certified eligible candidates from the Personnel Department.

Canvas letters are then sent to eligible candidates to see if they are interested in an interview for the position. An appointment must be made from one of the top three (3) names on the list who are willing and able to accept appointment when offered. Persons failing to respond to a canvass letter will be removed from the eligible list. Temporary declination of appointment may be made only for the reasons listed on the standard canvass letter.

If your name appears on an eligible list and your address has changed either after taking the examination or after the list was actually established, you must notify the Personnel Department of your change of address. If your name is removed from an Eligible List for any reason, you can request reinstatement to the list by communicating with the Personnel Department.

## *CODE OF ETHICS*

**Statement of Policy:** Legislators, other county elected officials, the County Manager, Commissioners, officers, employees, and consultants of the county may not engage in transactions or professional activities in which they have a direct or indirect financial or other interest, or which is in substantial conflict with the proper discharge of their duties.

**Compliance Requirements:** Persons who participate in legislative discussion or who give official opinion on any legislative matter must publicly disclose the nature and extent of any direct or indirect financial or other private interest that the individual may have in such legislation. Members of the legislature, officers, employees, and consultants are prohibited from disclosure of confidential information acquired in the course of their official duties or to use such information to advance their financial or other private interests.

**Standards of Conduct:** Under the Code of Ethics, legislators, officials, employees, and consultants for the county are prohibited from engaging in the following activities:

- Accepting other employment which would impair the independence of judgment in the exercise of their official duties
- Accepting employment or engaging in business or professional activity which requires the disclosure of confidential information gained by reason of an official position or authority
- Using or attempting to use an official position to secure unwarranted privileges or exemption for themselves or others
- Engaging in any transaction as a representative of the county or a County Agency with any business entity involving a direct or indirect financial interest that might reasonably tend to conflict with the proper discharge of their official duties
- Engaging in conduct which would give reasonable basis for the impression that they can be improperly influenced or that others can unduly enjoy their favor in the performance of official duties, or that they would be affected by kinship, rank, position, or influence of another party or person
- Investing or holding any investment directly or indirectly in any financial, business, commercial or other private transaction, which creates a conflict with their official duties
- After termination of service or employment with any board or agency of the county appearing before any board or agency in any case proceeding or application in which they personally participated during the period of their service or employment or which was under their active consideration

**Resolution of Complaints:** The County Board of Ethics has the powers and duties prescribed by Article eighteen of the General Municipal Law, and render advisory opinions to the officers and employees of the County on a confidential basis with respect to Article Eighteen of the General Municipal Law and the Code of Ethics. The Board of Ethics may make recommendations with respect to the drafting and adoption of amendments to the Code of Ethics.

## *CORPORATE COMPLIANCE/FALSE CLAIMS ACT*

### **STATEMENT OF POLICY:**

Sullivan County is committed to providing quality health care in compliance with all applicable laws, rules and regulations and other directives of federal, state and local governments and agencies.

Compliance programs under the guidance of the Office of the New York State Medicaid Inspector General and the Federal Deficit Reduction Act of 2005 are designed to promote a higher level of ethical and lawful conduct throughout the entire County government to combat health care fraud and abuse.

Sullivan County is committed to prevent and detect any fraud, waste and abuse related to Federal and State health care programs (Medicaid, Medicare and other governmental payer programs).

The County prohibits the knowing submission of a false claim for payment in relation to a Federal or State funded health care program. Such submission violates the Federal False Claims Act, the New York State False Claims Act as well as other federal and state laws and may result in significant civil and/or criminal penalties.

Sullivan County will protect any whistleblower. Sullivan County will ensure that employees and persons dealing with the County in relating to the provision of health care services do not violate any applicable law relating to the provision of such services; will develop a law-abiding atmosphere, and will discourage wrongdoing, self-dealing, detect and control misconduct.

### **SCOPE:**

This policy applies to all County employees, contractors, medical staff, volunteers and vendors.

### **PROCEDURE:**

#### **1. WRITTEN POLICIES, PROCEDURES AND STANDARDS OF CONDUCT:**

Appropriate County divisions and departments will develop and distribute written standards of conduct as well as updated clinical, financial and administrative policies on the provision of service that which all employees are expected to comply with. The standard of conduct is for the employee to follow all department specific policies and procedures while performing their job duties.

Divisions and Departments will develop policies and procedures addressing the non-employment or retention of excluded individuals or entities and the enforcement of appropriate disciplinary action against employees or contractors who have violated corporate

compliance policies and procedures, applicable statues, regulations, federal, state or private payor healthcare requirements.

The County encourages any employee who is aware of or reasonably suspects the preparation or submission of a false claim or report or any other potential fraud, waste or abuse related to a Federally or State funded health care program to report such information to his or her supervisor or to the County's Personnel Officer. Any employee who reports such information will have the right and opportunity to do so anonymously and will be protected against retaliation for making the report. The County commits itself to swiftly and thoroughly investigate any reasonably credible report of fraud, waste or abuse or any reasonable suspicion thereof through the County compliance program. The County retains the right to take appropriate action against an employee or vendor who has participated in a violation of any applicable law or this Policy.

## **2. COMPLIANCE OFFICER AND COMPLIANCE COMMITTEE:**

Sullivan County's Corporate Compliance Officer is designated by the County Manager.

Departments will designate a corporate compliance officer to ensure compliance with department specific policies. Compliance issues detected will be brought to the attention of the department compliance officer.

Each department has a department head that is responsible for the day to day operations. Departments are under the overall supervision of the County Manager.

## **3. TRAINING AND EDUCATION:**

All employees will be oriented on the first day of employment by the County Personnel Department to the County Policies and Procedures.

During the orientation process new employees will be oriented to the department specific policies and procedures. On an annual basis the departments will train employees on department policies and procedures.

Each department will adopt a process whereby employees will certify that they have received, read and will abide by department specific policies and procedures at orientation, annually and as revised and/or amended.

## **4. EFFECTIVE LINES OF COMMUNICATION:**

Each Department's Compliance Officer will adhere to an open door policy and encourage employees to discuss any issues in regards to abuse and fraud. Employees are assured of non-retaliation and confidentiality.

## **5. ENFORCEMENT THROUGH DISCIPLINE:**

Failure to adhere to compliance standards and department policies will result in disciplinary action up to and including termination.

## **6. CONDUCTING INTERNAL MONITORING AND AUDITING TO PREVENT FRAUDULENT ACTIVITIES:**

Each department will develop internal monitoring and auditing systems to reduce fraud and abuse, enhance operational functions, improve the quality of health care services and decrease the cost. This is done through early detection and reporting in order to minimize loss to the government from false claims and thereby reducing Department and County exposure to civil damages and penalties, criminal sanctions and administrative remedies.

The department and/or County will thoroughly and thoughtfully investigate in a timely and appropriate manner compliance issues that are brought to their attention. Prompt response and corrective action for the detected problem as appropriate are expected.

Reports may be anonymous and confidentiality will be maintained.

To report a suspected issue of fraud or abuse the employee may report verbally, by phone or in person to the Department Compliance Officer or to the Personnel Officer.

After completion of the investigation the Department Compliance Officer will report findings to the Commissioner of Human Resources, County Manager, the Corporate Compliance Office and/or applicable law enforcement officer. Following investigation of complaints disciplinary action will be in accordance with appropriate collective bargaining agreements and/or Civil Service Law Section 75. Disciplinary action may include but is not limited to:

- Record of conference –counseling memo
- Written warning
- Letter of reprimand
- Suspension of pay - not to exceed 60 days
- Termination

## **FEDERAL AND STATE STATUTES RELATING TO FILING FALSE CLAIMS**

The following are federal and state statutes applicable to the submission of false claims relating to any Federal or State funded health care programs:

### **A. FEDERAL LAWS**

1. Federal False Claims Act (31 USC §§3729-3733)

### **B. NEW YORK STATE LAWS - CIVIL AND ADMINISTRATIVE LAWS**

1. New York False Claims Act (State Finance Law §§187-194)
2. Social Services Law, §145-b-False Statements
3. Social Services Law, §145-c-Sanctions

### **C. NEW YORK STATE LAWS - CRIMINAL**

1. Social Services Law, §145-Penalties
2. Social Services Law, §366-b-Penalties for Fraudulent Practices.

3. Social Services Law, §145-c-Sanctions
4. Penal Law Article 175- False Written Statements
5. Penal Law Article 176- Insurance Fraud
6. Penal Law Article 177- Health Care Fraud

**D. WHISTLEBLOWER PROTECTION**

1. Federal False Claims Act (31 U.S.C. §3730(h))
2. New York State False Claim Act (State Finance Law §191)
3. New York State Labor Law, §740
4. New York State Labor Law, §741
5. Sullivan County Whistle Blower Policy.

**DESCRIPTION OF APPLICABLE LAWS**

**Federal False Claims Act (31USC §§3729-3733)**

The False claims Act ("FCA") provides, in pertinent parts, as follows:

Liability for certain acts:

- 1) In general – subject to paragraph (2), any person who:
  - (A) Knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval;
  - (B) Knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim;
  - (C) Conspires to commit a violation of subparagraph (A), (B), (D), (E), (F) or (G);
  - (D) Has possession, custody, or control of property or money used, or to be used, by the Government and knowingly delivers, or causes to be delivered, less than all of that money or property;
  - (E) Is authorized to make or deliver a document certifying receipt of property used, or to be used, by the Government and, intending to defraud the Government, makes or delivers the receipt without completely knowing that the information on the receipt is true;
  - (F) Knowingly buys, or receives as a pledge of an obligation or debt, public property from an officer or employee of the Government, or a member of the Armed Forces, who lawfully may not sell or pledge property; or
  - (G) Knowingly makes, uses, or causes to be made or used, a false record or statement material to an obligation to pay or transmit money or property to the Government, or knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to the Government, is liable to the United States government for a civil penalty of not less than \$5,000 and not more than \$10,000, as adjusted by the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461) note: Public Law 104-410, plus 3 times the amount of damages which the Government sustains because of the act of that person.
  
- 2) Reduced damages— if the court finds that:
  - (A) the person committing the violation of this subsection furnished officials of the United States responsible for investigating false claims violations with all

information known to such person about the violation within 30 days after the date on which the defendant first obtained the information;

- (B) such person fully cooperated with any Government investigation of such violation; and
- (C) at the time such person furnished the United States with the information about the violation, no criminal prosecution, civil action, or administrative action had commenced under this title with respect to such violation and the person did not have actual knowledge of the existence of an investigation into such violation, the court may assess not less than 2 times the amount of damages which the Government sustains because of the act of that person.

3) Costs of civil actions - a person violating this subsection shall also be liable to the United States Government for the costs of a civil action brought to recover any such penalty or damages.

**Definitions** – for purposes of this section:

1. The terms "knowing" and "knowingly"- Means that a person, with respect to information:
  - (i) has actual knowledge of the information;
  - (ii) acts in deliberate ignorance of the truth or falsity of the information; or
  - (iii) acts in reckless disregard of the truth or falsity of the information; and

Require no proof of specific intent to defraud.

2. The term "**claim**" means any request or demand, whether under a contract or otherwise, for money or property and whether or not the United States has title to the money or property, that:

- (i) is presented to an officer, employee, or agent of the United States; or
  - (ii) is made to a contractor, grantee, or other recipient, if the money or property is to be spent or sued on the Government's behalf or to advance a Government program or interest, and if the United States Government:
    - a. provides or has provided any portion of the money or property requested or demanded; or
    - b. will reimburse such contractor, grantee, or other recipient for any portion of the money or property which is requested or demanded; and
    - c. does not include requests or demands for money or property that the Government has paid to an individual as compensation for Federal employment or as an income subsidy with no restrictions on that individual's use of the money or property;
3. The term "**obligation**" means an established duty, whether or not fixed, arising from an express or implied contractual, grantor-grantee, or licensor-licensee relationship, from a fee-based or similar relationship, from statute or regulation, or from the retention of any overpayment; and
  4. The term "**material**" means having a natural tendency to influence, or be capable of influencing, the payment or receipt of money or property.

Exemption from disclosure - any information furnished pursuant to subsection (a) 2 shall be exempt from disclosure under section 552 of title 5.

Exclusion - this section does not apply to claims, records, or statements made under the Internal Revenue Code of 1986.

While the False Claims Act imposes liability only when the claimant acts "knowingly," it does not require that the person submitting the claim have actual knowledge that the claim is false. A person, who acts in reckless disregard or in deliberate ignorance of the truth or falsity of the information, also can be found liable under the Act. 31 U.S.C. 3729(b).

In sum, the False Claims Act imposes liability on any person who submits a claim to the federal government, or submits a claim to entities administering government funds that he or she knows (or should know) is false. An example may be a physician who submits a bill to Medicare for medical services she knows she has not provided. The False Claims Act also imposes liability on an individual who may knowingly submit a false record in order to obtain payment from the government.

An example of this may include a government contractor who submits records that he knows (or should know) are false and that indicate compliance with certain contractual or regulatory requirements. The third area of liability includes those instances in which someone may obtain money from the federal government to which he may not be entitled, and then uses false statements or records in order to retain the money. An example of this so-called "reverse false claim" may include a hospital which obtains interim payments from Medicare or Medicaid through the year, and then knowingly files a false cost report at the end of the year in order to avoid making a refund to the Medicare or Medicaid program.

In addition to its substantive provisions, the FCA provides that private parties may bring an action on behalf of the United States. 31 U.S.C. 3730 (b). These private parties, known as "qui tam relators," may share in a percentage of the proceeds from an FCA action or settlement.

Section 3730(d)(91) of the FCA provides, with some exceptions, that a qui tam relator, when the Government has intervened in the lawsuit, shall receive at least 15 percent but not more than 25 percent of the proceeds of the FCA action depending upon the extent to which the relator substantially contributed to the prosecution of the action. When the Government does not intervene, section 3730(d)(92) provides that the relator shall receive an amount that the court decides is reasonable and shall be not less than 25 percent and not more than 30 percent.

#### **Administrative Remedies for False Claims (31 U.S.C. Chapter 38. §§3801-3812)**

This statute allows for administrative recoveries by federal agencies. If a person submits a claim that the person knows is false or contains false information, or omits material

information, the agency receiving the claim may impose a penalty of up to \$5,000 for each claim. The agency may also recover twice the amount of the claim.

Unlike the False Claims Act, a violation of this law occurs when a false claim is submitted rather than when it is paid. Also, unlike the False claims Act, the determination of whether a claim is false, and the imposition of fines and penalties is made by the administrative agency, not by prosecution in the federal court system.

## **NEW YORK STATE LAWS**

New York State False Claim Laws fall under the jurisdiction of both New York's civil and administrative laws as well as its criminal laws. Some apply to recipient false claims and some apply to provider false claims. The majority of these statutes are specific to health care or Medicaid. Yet some of the "common law" crimes apply to areas of interaction with the government and so are applicable to health care frauds and will be listed in this section.

### **A. CIVIL AND ADMINISTRATIVE LAWS**

#### **1) New York False Claims Act (State Finance Law §§187-194)**

The New York False Claims Act is similar to the Federal False Claims Act. It imposes penalties and fines upon individuals and entities who knowingly file false or fraudulent claims for payment from any state or local government, including health care programs such as Medicaid. It also has a provision regarding reverse false claims similar to the federal FCA such that a person or entity will be liable in those instances in which the person obtains money from a state or local government to which they may not be entitled, and then uses false statements or records in order to retain the money.

The penalty for filing a false claim is six to twelve thousand dollars per claim plus three times the amount of the damages which the state or local government sustains because of the act of that person. In addition, a person who violates this act is liable for costs, including attorneys' fees, of a civil action brought to recover any such penalty.

The Act allows private individuals to file lawsuits in state court, just as if they were state or local government parties, subject to various possible limitations imposed by NYS Attorney General or a local government. If the suit eventually concludes with payments back to the government, the person who started the case can recover twenty- five to thirty percent of the proceeds if the government did not participate in the suit, or fifteen to twenty five percent if the government did participate in the suit.

#### **2) Social Services Law, Section 145-b-False Statements**

It is a violation to knowingly obtain or attempt to obtain payment for items or services furnished under any Social Services program, including Medicaid, by use of a false statement, deliberate concealment or other fraudulent scheme or device. The state or the local Social Services district may recover three times the amount incorrectly paid. In addition, the Department of Health may impose a civil penalty of up to ten thousand dollars per violation. If repeat violations occur within five years; a penalty of up to thirty thousand

dollars per violation may be imposed if the repeat violations involve more serious violations of Medicaid rules, billing for services not rendered, or providing excessive services.

### **3) Social Services Law, Section 145-c- Sanctions**

If any person applies for or receives public assistance, including Medicaid, by intentionally making a false or misleading statement, or intending to do so, the needs of the individual or that of his family shall not be taken into account for the purpose of determining his or her needs or that of his family for six months if a first offense, for twelve months if a second offence (or if benefits wrongfully received are at least one thousand dollars but not more than three thousand nine hundred dollars), for eighteen months if a third offense (or if benefits wrongfully received are in excess of three thousand nine hundred dollars), and five years for any subsequent occasion of any such offense.

## **B. CRIMINAL LAWS**

### **1) Social Services Law, Section 145—Penalties**

Any person, who submits false statements or deliberately conceals material information in order to receive public assistance, including Medicaid, is guilty of a misdemeanor.

### **2) Social Services Law, Section 366-b- Penalties for Fraudulent Practices**

- a. Any person who obtains or attempts to obtain, for himself or others, medical assistance by means of a false statement, concealment of material facts, impersonation or other fraudulent means is guilty of a class A misdemeanor.
- b. Any person who, with intent to defraud, presents for payment a false or fraudulent claim for furnishing services, knowingly submits false information to obtain greater Medicaid compensation, or knowingly submits false information in order to obtain authorization to provide items or services is guilty of a class A misdemeanor.

### **3) Penal Law Article 155 –Larceny**

The crime of larceny applies to a person who, with intent to deprive another of his property, obtains, takes or withholds the property by means of trick embezzlement, false pretense, false promise, including a scheme to defraud, or other similar behavior. This statute has been applied to Medicaid fraud cases.

- a. Fourth degree grand larceny involves property valued over \$1,000. It is a class E felony.
- b. Third degree grand larceny involves property valued over \$3,000. It is a class D felony.
- c. Second degree grand larceny involves property valued over \$50,000. It is a class C felony.
- d. First degree grand larceny involves property valued over \$1 million. It is a class B felony.

### **4) Penal Law Article 175- False Written Statements**

Four crimes in this Article relate to filing false information or claims and have been applied in Medicaid fraud prosecutions:

- a. §175.05 -Falsifying business records involves entering false information, omitting material information or altering an enterprise's business records with the intent to defraud. It is a class A misdemeanor.
- b. §175.10 -Falsifying business records in the first degree includes the elements of the §175.05 offense and includes the intent to commit another crime or conceal its commission. It is a class E felony.
- c. §175.30 – Offering a false instrument for filing in the second degree involves presenting a written instrument, including a claim for payment, to a public office knowing that it contains false information. It is a class A misdemeanor.
- d. §175.35 - Offering a false instrument for filing in the first degree includes the elements of the second degree offense and must include an intent to defraud the state or political subdivision. It is a class E felony.

**5) Penal Law Article 176-Insurance Fraud**

- a. This law applies to claims for insurance payments, including Medicaid or other health insurance, and contains six crimes:
- b. Insurance Fraud in the 5th degree involves intentionally filing a health insurance claim knowing that it is false. It is a class A misdemeanor.
- c. Insurance fraud in the 4th degree is filing a false insurance claim for over \$1,000. It is class E felony.
- d. Insurance fraud in the 3rd degree is filing a false insurance claim for over \$3,000. It is a class D felony.
- e. Insurance fraud in the 2nd degree is filing a false insurance claim for over \$50,000. It is a class C felony.
- f. Insurance fraud in the 1st degree is filing a false insurance claim for over \$1 million. It is a class B felony.
- g. Aggravated insurance fraud is committing insurance fraud more than once. It is a class D felony.

**6) Penal Law Article 177 – Health Care Fraud**

This statute, enacted in 2006, applies to health care fraud crimes. It was designed to address the specific conduct by health care providers who defraud the system including any publicly or privately funded health insurance or managed care plan or contract, under which any health care item or service is provided. Medicaid is considered to be a single health plan under this statute. This law primarily applies to claims by providers for insurance payment, including Medicaid payment, and it includes six crimes.

- a. Health care fraud in the 5th degree- a person is guilty of this crime when, with intent to defraud a health plan, he or she knowingly and willfully provides materially false information or omits material information for the purpose of requesting payment from a health plan. This is a class A misdemeanor.
- b. Health care fraud in the 4th degree – a person is guilty of this crime upon filing such false claims on more than one occasion and annually receives more than three thousand dollars. This is a class E felony.
- c. Health care fraud in the 3rd degree – a person is guilty of this crime upon filing such

false claims on more than one occasion and annually receives more than ten thousand dollars. This is a class D felony.

- d. Health care fraud in the 2nd degree -a person is guilty of this crime upon filing such false claims on more than one occasion and annually receives more than fifty thousand dollars. This is a class C felony.
- e. Health care fraud in the 4th degree -a person is guilty of this crime upon filing such false claims on more than one occasion and annually receives over one million dollars. This is a class B felony.

## *WHISTLEBLOWER PROTECTION*

### **1) Federal False Claims Act (31U.S.C. §3730(h))**

The Federal False Claims Act provides protection to qui tam relators (individuals who commence a False Claims action) who are discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of their employment as a result of their furtherance of an action under the FCA. 31 U.S.C. 3730 (h).

Remedies include reinstatement with comparable seniority as the qui tam relator would have had but for the discrimination, two times the amount of any back pay, interest on any back pay and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees.

### **2) New York State False Claim Act (State Finance Law §191)**

The New York State False Claim Act also provides protection to qui tam relators (individuals who commence a False Claims action) who are discharged demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of their employment as a result of their furtherance of an action under the Act. Remedies include reinstatement with comparable seniority as the qui tam relator would have had but for the discrimination, two times the amount of any back pay, interest on any back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees.

### **3) New York State Labor Law, Section 740**

An employer may not take any retaliatory action against an employee if the employee discloses information about the employer's policies, practices or activities to a regulatory, law enforcement or other similar agency or public official. Protected disclosures are those that assert that the employer is in violation of a law that creates a substantial and specific danger to the public health and safety or which constitutes health care frauds under Penal Law § 177 (knowingly filing with intent to defraud, a claim for payment that intentionally has false information or omissions). The employee's disclosure is

protected only if the employee first brought up the matter with a supervisor and gave the employer a reasonable opportunity to correct the alleged violation. If an employer takes a retaliatory action against the employee, the employee may sue in state court for reinstatement to the same, or an equivalent position, any lost back wages and benefits and attorney's fees. If the employer is a health provider and the court finds that the employer's retaliatory action was in bad faith, it may impose a civil penalty of \$10,000 on the employer.

#### **4) New York State Labor Law, Section 741**

A health care employer may not take any retaliatory action against an employee if the employee discloses certain information about the employer's policies, practices or activities to a regulatory, law enforcement or other similar agency or public official. Protected disclosures are those that assert that, in good faith, the employee believes constitute improper quality of patient care. The employee's disclosure is protected only if the employee first brought up the matter with a supervisor and gave the employer a reasonable opportunity to correct the alleged violation, unless the danger is imminent to the public or patient and the employee believes in good faith that reporting to a supervisor would not result in corrective action. If an employer takes a retaliatory action against the employee, the employee may sue in state court for reinstatement to the same, or an equivalent position, any lost back wages and benefits and attorney's fees. If the employer is a health provider and the court finds that the employer's retaliatory action was in bad faith, it may impose a civil penalty of \$10,000 on the employer.

## ***WHISTLE BLOWER POLICY***

### **Statement of Policy:**

The Sullivan County Legislature (hereinafter "Legislature") believes that County employees and persons doing business with the County of Sullivan may be in a position to know whether there are instances of unlawful or fraudulent conduct occurring within County government.

The Legislature believes that some County employees and persons doing business with the County may have been reluctant to report instances of unlawful or fraudulent conduct due to a fear of retaliation.

All County employees and persons doing business with the County should be advised that the County is committed to pursuing and investigating allegations of unlawful or fraudulent conduct occurring within County government.

The Legislature believes that all County employees and persons doing business with the County should be advised that there are a number of federal and state statutes which protect the rights of so-called whistleblowers and that the County, in accordance with those statutes and with its own policy, does not permit retaliation against persons who in good faith, report unlawful or fraudulent conduct within County government to appropriate officials.

**SCOPE:**

This policy applies to all County employees, contractors, medical staff, volunteers and vendors, in accordance with Resolution 447-09.

**PROCEDURE:**

**I. WRITTEN POLICIES, PROCEDURES AND STANDARDS OF CONDUCT:**

The County Manager is hereby directed to advise all existing County employees, all new County employees and all persons contracting to do business with the County, by such means as the County Manager shall deem appropriate and effective, of the following:

- A. The Legislature encourages all County employees and persons doing business with  
The County to report, to appropriate officials, any unlawful or fraudulent conduct  
Occurring within County government.
- B. Federal and state laws protect persons from retaliation when in, good faith, they report unlawful or fraudulent to appropriate officials, against retaliation.
- C. The County is likewise committed to such an anti-retaliation policy.

**II. EFFECTIVE LINES OF COMMUNICATION:**

Any County employee or person doing business with the County who, in good faith, believes that particular conduct is unlawful or fraudulent is encouraged to report such fact, in writing, to any one of the following officials/bodies with a copy to the County's Corporate Compliance Officer:

- A. his or her Division Commissioner, or
- B. the County Auditor, or
- C. the Board of Ethics, or
- D. the County Manager, or
- E. the Clerk of the County Legislature

Any such written report should be signed and dated in order to:

1. Enable the official to whom the report is made to log the fact that the employee or person doing business with the County made the report and, as a result, to help insure that there is no retaliation against that individual for having made such a good faith report, and
2. Enable the appropriate County official to contact the source of the report for additional information which may be of assistance in investigating any incident reported.
3. The identity of any person submitting such a good faith report to one of the designated County officials will be kept confidential to the extent permitted by law.

**III. BI-ANNUAL REPORT:**

Commencing July 1, 2010, and every six months thereafter, the Division Commissioners, the Commissioner of Human Resources, the Auditor and the County Manager shall, unless such information is otherwise required to be kept confidential for law enforcement purposes, advise the County Legislature, without disclosing the identity of reporting individuals, of the number and nature of all reports made pursuant to this Resolution and what has been done with respect to each such report.

**IV. NO RETALIATION:**

The **Corporate Compliance Officer** and the County Manager shall take reasonable steps see to it that there shall be no retaliation against any County employee or person doing business with the County on account of any good faith written report, filed in accordance with the procedure set forth above, disclosing unlawful or fraudulent conduct occurring within County government.

***DISCRIMINATION AND DISCRIMINATORY HARASSMENT POLICY***

Adopted 2/18/16 -Revised 12/13/18

***I. PURPOSE***

The County of Sullivan (“County”) is an equal opportunity employer committed to compliance with federal, state and local laws prohibiting employment discrimination. It is the policy of the County to maintain a work environment which is free from unlawful discrimination based on sex (with or without sexual conduct), race, creed, color, religion, national origin, age, disability, sexual orientation, military status, marital status, predisposing genetic characteristics or genetic information, domestic violence victim status and any other class protected by law. Harassment based on any of these characteristics (“discriminatory harassment”) is a form of unlawful discrimination. Discrimination and discriminatory harassment is prohibited in each and every work environment and each and every situation which directly impacts the work environment.

***II. POLICY***

The County considers unlawful discrimination and discriminatory harassment to be forms of employee misconduct and considers this type of misconduct to be a serious offense which will not be tolerated. Allegations of discrimination and/or discriminatory harassment will be investigated thoroughly and if substantiated, will be met with appropriate corrective and/or disciplinary action commensurate with the seriousness of the offense(s), and in accordance with the parameters of applicable collective bargaining agreements and/or state law.

All employment decisions at the County shall be made on the basis of merit, fitness and equality of opportunity and without unlawful discrimination on the basis of sex, race, creed, color, religion, national origin, age, disability, sexual orientation, military status, marital status, predisposing genetic characteristics or genetic information, domestic violence victim status and any other class protected by law.

Retaliation against any individual making a harassment complaint or assisting in the investigation of such a complaint is also unlawful and prohibited. Retaliation is a serious violation of this policy which may result in disciplinary action.

### *III DEFINITIONS*

#### *A. Discriminatory Harassment*

In addition to sexual harassment which is covered by the County Sexual Harassment Prevention Policy, harassment on the basis of any other protected characteristic also constitutes discriminatory harassment and is prohibited.

Discriminatory harassment includes conduct that creates a hostile work environment. Hostile work environment harassment includes verbal or physical conduct that denigrates or shows hostility or aversion toward an individual because of his/her race, creed, color, religion, gender, national origin, age, disability, or sexual orientation (and any other class or characteristic protected by law), or that of his/her relatives, friends, or associates, and that (i) has the purpose or effect of creating a hostile, intimidating or offensive work environment; (ii) has the purpose or effect of unreasonably interfering with an individual's work performance; or (iii) otherwise adversely affects an individual's employment opportunities.

Discriminatory harassment includes, but is not limited, to, epithets, slurs, negative stereotyping, or threatening, intimidating or hostile acts that relate to a protected class or characteristic. This also includes acts that purport to be "jokes" or "pranks", but that are hostile or demeaning acts regarding member(s) of a protected class and any written or graphic material that denigrates or shows hostility or aversion toward an individual or group based on a protected class or characteristic that is placed on walls, bulletin boards, or elsewhere on the employer's premise, or circulated in the workplace.

#### *B. Other Unacceptable Conduct*

This policy also prohibits conduct which may not rise to the level of discrimination or discriminatory harassment in violation of the law, but nonetheless creates a degree of hostility or intimidation that adversely affects the work environment. Conduct which is not based on a legally protected characteristic, but is nonetheless intended to annoy, personally attack, belittle or embarrass another individual is inappropriate and unacceptable in the workplace. The County encourages the use of its complaint procedure by employees or interns who believe they have been subject to inappropriate conduct by another individual, even if such conduct may not constitute discrimination or discriminatory harassment. The County endeavors to create an environment in which employees and interns may feel free to raise concerns and confident that those concerns will be addressed.

#### *C. Discrimination*

Discrimination on the basis of any class or characteristic protected by law is prohibited. Discrimination is defined as any adverse treatment of an individual in the terms, conditions or privileges of employment because of his/her race, creed, color, religion, national origin, age, disability, sexual orientation, military status, marital status, predisposing genetic characteristic or genetic information, domestic violence victim status, or any other class protected by law.

#### D. Retaliation

Retaliation is any adverse action taken against an individual because he/she filed a complaint of discrimination or harassment or because he/she participated in the investigation of such complaint. Adverse actions may include, but are not limited to, firing, demotion or harassment.

### IV *SCOPE OF THE POLICY*

This policy applies to all applicants for employment with the County and all County employees (including officers, managers, supervisors and all other employees), interns, contractors, and volunteers. This policy may be applied to the conduct of those who are not employees, volunteers, contractors or interns of the County with respect to any illegal discrimination or illegal harassment of County employees, volunteers, applicants, contractors or interns in the workplace, depending on the nature of the alleged conduct.

All employees, volunteers, contractors or interns will be expected to comply with this policy and take appropriate measures to ensure that discrimination or harassment does not occur. When discrimination or harassment is suspected, employees, volunteers, contractors and interns are encouraged to use the complaint and investigation procedures set forth in this policy.

Conduct prohibited by the policy is unacceptable in the workplace and in any work-related settings outside the normal workplace, such as during business trips, business meetings and business-related social events.

Anti-discrimination protections described in this policy apply to all of the terms and conditions of employment including, but not limited to: recruitment, testing, hiring, work assignments, salary and benefits, performance evaluations, promotions, training opportunities, transfers, discipline, discharge and working conditions.

### V *RESPONSIBILITIES*

#### A. Responsibilities of Department Heads

All Department Heads shall be responsible for enforcing this policy within their Department in conjunction with the Commissioner of Human Resources, and shall have

particular responsibility for ensuring that the work environment under their supervision is free from discrimination, harassment and its effects.

All Department Heads who receive complaints or become aware of potential instances of discrimination or discriminatory harassment within the work environment under their supervision are responsible for immediately forwarding the complaint to the Commissioner of Human Resources. Failure of a Department Head to comply with this responsibility may result in disciplinary action.

B. Responsibilities of Managerial/Supervisory Personnel

All managerial and supervisory personnel who receive discrimination or discriminatory harassment complaints or become aware of potential instances of discrimination or discriminatory harassment within the work environment under their supervision will be responsible for immediately forwarding such complaints to the Department Head or the Commissioner of Human Resources. Failure of a manager or supervisor to comply with this responsibility may result in disciplinary action.

C. Responsibilities of the County

The County of Sullivan will conduct periodic training for Department Heads, managerial and supervisory personnel in each Department of the County on the issues surrounding discrimination and discriminatory harassment, its effects and its appearances, and the role and responsibility of Department Heads and managerial/supervisory personnel in preventing incidents of discrimination and harassment.

The County shall distribute this policy to all County employees and all others covered by its parameters. Copies of this policy will be distributed to new employees as they are hired.

VI *REPORTING PROCEDURE*

If an individual is subject to a situation which he/she believes constitutes harassment, it is recommended that the employee confront the harasser directly and advise the harasser that his/her behavior is not welcomed and will not be tolerated; note that neither this policy nor state/federal law requires that an individual tell an alleged accused to stop his/her actions. Employees should feel free to keep written records of any alleged harassment incidents, including the date, time, location, names of people involved, witnesses (if any) and who said what to whom. If an alleged incident of harassment cannot be resolved directly between the parties involved, a written or verbal complaint should be filed as prescribed below.

An individual covered by this policy who is subject to a situation which he/she believes constitutes discrimination, discriminatory harassment or retaliation should file a written or verbal complaint with the individual's Department Head, or directly with the Commissioner of Human Resources.

A manager, supervisor or Department Head who becomes aware that discrimination or discriminatory harassment may be occurring must immediately report it in accordance with Section V of this policy.

#### *VII COMPLAINT INVESTIGATION*

All complaints will be handled confidentially to the extent possible, and information obtained from the complainant will not be discussed with other personnel except as necessary to investigate and resolve the complaint.

All complaints will be investigated as promptly as possible and resolved within a reasonable time after receipt of the complaint by the Commissioner of Human Resources.

The County, through an investigator and with the oversight of the Commissioner of Human Resources or his/her designee, will coordinate an investigation of the complaint. Following the investigation, the investigator shall issue a written report of findings and conclusions to the Commissioner of Human Resources.

Thereafter, an initial determination on the complaint will be issued by the Commissioner of Human Resources and the results communicated, in writing, back to the complainant.

#### *VII APPEAL PROCEDURE*

- A. The Complainant may appeal the Commissioner of Human Resources determination by providing a written appeal request to the County Attorney. This appeal request should be filed within seven (7) business days of the individual's receipt of the Commissioner of Human Resources written determination and should state the reason(s) for objecting to those findings.
- B. The County Attorney will refer the appeal to a Review Board who will review the evidence gathered, the investigative findings, and the Commissioner of Human Resources decision to determine if the decision reached was reasonable, based upon the facts.
- C. The Review Board shall consist of the County Attorney, County Manager or their designees and the Commissioner of the respective division.
- D. Within thirty (30) days of receipt of a written appeal request, the County Attorney shall issue a written report of findings of the Review Board to the parties.

#### *VIII RESPONSE PROCEDURES*

Any person found to be engaging in discrimination, harassment, retaliation or other behavior prohibited by this policy (including the failure of a Department Head, manager or supervisor to comply with their responsibilities under Section V of this policy) will be

subject to disciplinary action in accordance with the provisions of his/her collective bargaining agreement or applicable state law. Based upon the seriousness of the offense, discipline may include, but is not limited to, a written reprimand, suspension without pay, demotion, transfer, fine, termination and any other measures calculated to eliminate illegal or inappropriate behavior. In addition to implementing such disciplinary action, the County shall take such steps as may be necessary to address the impact that any unlawful discrimination has had upon the complainant.

*IX RETALIATION WILL NOT BE TOLERATED*

Retaliation against any individual making a good faith complaint or assisting in the investigation of such a complaint is strictly prohibited and will not be tolerated. Retaliation is a serious violation of this policy which may result in disciplinary action.

*X MISCELLANEOUS*

Reporting of a false complaint is a serious act. In the event it is found that the individual making the complaint has made knowingly false accusation, the County may take disciplinary action in accordance with the provisions of the applicable collective bargaining agreement and/or applicable state law.

This Policy does not preclude the filing of discrimination, discriminatory harassment or retaliation complaints with either the New York State Division of Human Rights or the Federal Equal Employment Opportunity Commission, or the pursuit of any other remedies permitted by law.

-INFORMATION PROVIDED WILL BE CONFIDENTIALLY MAINTAINED-  
**DISCRIMINATION/HARASSMENT COMPLAINT FORM:**

**COUNTY OF SULLIVAN HARASSMENT COMPLAINT FORM**  
**(Submit to Commissioner of Human Resources or County Manager)**

This form may be used to file a complaint of harassment which is a form of discrimination prohibited by federal law, the New York State Human Rights Law, and County of Sullivan Policy.

Filing this complaint form with the County of Sullivan in no way deprives you of the right to file a complaint with the US Equal Employment Opportunity Commission, New York State Division of Human Rights, and/or the Federal/State courts.

(PLEASE PRINT OR TYPE)

Name:		Phone Number:	
Residence:			
Mailing Address (if different from residence):			
City	State	Zip	
Department:			
Have you filed this charge with a Federal, State or local government agency? YES/NO:		When?	
		Where?	
AN AFFIRMATIVE REPLY TO THIS QUESTION WILL IN NO WAY STOP A REVIEW OF YOUR COMPLAINT			
Alleged Discrimination Occurred on or about:	Month, Day, Year	Time:	
Is this alleged discrimination continuing: YES/NO:			
Are you personally the subject of the alleged harassment? YES/NO:			
If not, please state the name of the person(s) who are the subject of the alleged harassment:			
Describe the alleged act of harassment. <b>Use additional sheets if necessary.</b>			
Indicate the name(s) of the alleged harasser(s):			
State the name(s) of any potential witness(es):			
I swear or affirm that I have read the above related facts and that the statements are true and correct to the best of my knowledge, information and belief.			
Date:			
Signature:			

## *DRUG FREE WORK PLACE/ DRUG SCREENING, DRUG TESTING*

On August 14, 1989, Sullivan County established a policy and notice in accordance with the Drug-Free Workplace Act of 1988.

The County affirmatively states that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the workplace. Employees who violate this prohibition shall be subject to discipline in accordance with relevant provisions of the Civil Service Law, the Collective Bargaining Agreement covering the person's employment or such other personnel policies as may relate to the individual's employment.

The County shall establish and maintain on an ongoing basis a drug-free awareness program which shall inform employees about;

- The dangers of drug abuse in the workplace, and
- The County's Policy of maintaining a drug-free workplace, and
- The availability of drug counseling /rehabilitation, the Employee Assistance Program, and
- The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

The County shall require that every employee that is engaged in the performance of a grant be provided with a copy of the drug-free workplace statement contained in section (a) above.

The County shall require that every employee that is engaged in the performance of a grant shall be notified that as a condition of employment under the grant that the employee will;

- Comply with the Drug-Free Workplace Statement contained in section (a) above, and
- Notify the County in writing of his/her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction.

The County shall notify the federal grant agency funding the grant, within ten calendar days after receiving a notice from an employee pursuant to section (d)(2) above or within ten calendar days of receiving actual notice of an employee's conviction. The County will provide the notice to every grant official or designee of the federal agency on whose grant activity the convicted employee was working. The notice shall include identification numbers of the affected grants.

The County shall, within thirty calendar days of receiving notice from an employee pursuant to section (d)(2) above, with respect to the employee who was convicted of a criminal drug crime take one of the following actions:

- Take the appropriate civil service action against the employee which may conclude with the termination of the employee, if warranted, or
- Require the employee to participate in an approved drug abuse assistance program or drug rehabilitation program from which the employee is satisfactorily discharged.

The County shall make a good faith effort to maintain a drug-free workplace and shall use its best efforts to ensure compliance with this Policy. The definitions contained in 7 CFR§30170605 shall apply to this Policy.

## **EMPLOYEE DISCIPLINE**

Section 75 of the Civil Service Law provides rights for certain permanent employees with regard to removal and other disciplinary action. Section 75 must also be observed when reprimanding or disciplining a permanent appointee who has not completed the minimum period of probation.

The discipline of employees is one area of civil service which has been open to collective bargaining units. Therefore, in addition to the confines of Civil Service Law, the applicable collective bargaining agreement must be reviewed.

The following employees have rights under Section 75 of the Civil Service Law.

1. A person holding a position by permanent appointment in the competitive class of the classified civil service; or
2. A person holding a position by permanent appointment or employment in the classified service who is an honorably discharged member of the Armed Forces of the United States having served therein as such member in time of war as defined in Section 85 of Civil Service Law, or who is an exempt volunteer firefighter as defined in the General Municipal Law, except when a person described in this paragraph holds the position of private secretary, cashier or deputy of any official or department; or
3. A person holding a position in the non-competitive class, other than a position designated in the rules of the municipal civil service commission as confidential or requiring the performance of functions influencing policy, who since his/her last entry into service has completed at least five years of continuous service in the non-competitive class.

If an employee is dissatisfied with the results of a Section 75 proceeding, he/she may appeal under Section 76 of the Civil Service Law.

## ***HIPAA COMPLIANCE POLICY***

Sullivan County is considered a “hybrid entity” under the Health Insurance Portability Accountability Act of 1996 (or HIPAA) – i.e., an entity whose business activities include both covered and non-covered functions. Therefore, certain County divisions, department, offices and agencies will regularly deal with individuals’ personal health information and others may not. Whether or not you regularly have deal with such information, the County’s HIPAA Privacy Policy applies to you.

It is our policy that each employee shall comply with the HIPAA privacy rule and security rule, and each employee shall protect the confidentiality of protected health information (as discussed below).

## **DEFINITIONS**

“Business Associate” means a person or entity who creates, receives, maintains or transmits protected health information for a function or activity of a Covered Entity which involves the use or disclosure of individually identifiable health information. Examples of functions include claims processing or administration, data analysis, processing or administration, quality assurance, billing and benefit management. Services include legal, accounting and consulting.

“Covered Component” means each of those County departments designated as “health care components” of the County (see Section IV, below).

“Protected Health Information” or “PHI” means individually identifiable health information collected from an individual; any information, including demographic information, collected from an individual that is created or received by Sullivan County, its workforce or business associates. PHI can relate to past, present or future physical, or mental health or condition of an individual. In addition, PHI can relate to past, present or future payment for the provision of healthcare to an individual which identifies the individual or with respect to which there is reasonable basis to believe that information can be used to identify the individual. Examples of PHI include (but are not limited to):

- Name, address (including street address, city, county, zip code, and equivalent geocodes), names of employer, names of relatives, elements of dates (birth, death, admission and discharge), telephone numbers, fax numbers, electronic mail addresses, social security number, medical record number, member or account number, certificate/ license number, voice/fingerprints, photos, occupation or any other unique identifying number of characteristic or code.

“Workforce” is defined as employees, elected officials, volunteers, trainees, and other persons whose conduct, in the performance of work for Sullivan County, is under the direct control of Sullivan County, whether or not they are paid by the covered entity.

## **PRIVACY AND SECURITY OFFICERS**

Sullivan County's HIPAA Privacy Officer is designated by the Sullivan County Manager. The Privacy Officer is located in the Office of the County Manager. Sullivan County's Chief Information Officer is identified as the Security Officer by the Sullivan County Manager.

## **HEALTH CARE COMPONENTS OF THE COUNTY**

Each of the following division, department, agency or office of the County are hereby designated “health care components” under HIPAA Regulations:

- Department of Family Services
- Community Services
- Public Health Services (LTHHC, CHHA, Early Intervention, Preschool Supported Health Services)
- Adult Care Center and Adult Day Care
- Office for the Aging (Case Management)

- Risk Management & Insurance (self-insured plans)
- Jail (Medical Unit).

## **NOTICE OF PRIVACY PRACTICES**

Sullivan County shall include in any health care-related contract with a third party a statement regarding HIPAA Privacy obligations.

Each Covered Component shall prominently post a copy of the current Notice of Privacy Practices in a location accessible to individuals applying for or receiving services.

Each Covered Component shall post the current version of its Notice of Privacy Practices on the website where services are described.

Any individual applying for or receiving health care services from Sullivan County shall be provided with the Covered Component's Notice of Privacy Practices at the first encounter, when possible.

Acknowledgement of receipt of Notice of Privacy Practices shall be obtained and retained in accordance with the Covered Component's departmental procedures.

The Notice of Privacy Practices shall contain all information required under federal regulations regarding the Notice of Privacy Practices.

## **EDUCATION/TRAINING**

Sullivan County provides training regarding its security and privacy policies to all members of the workforce in the County's Covered Components and County departments designated as Business Associates of such Covered Components.

The training shall be provided to all members of the workforce within a reasonable period of time after the person joins the workforce.

The training shall be provided to each member of the workforce whose functions are affected by a material change in the policies or procedures required by the Privacy or Security Rule, within a reasonable period of time after the material change becomes effective.

Participation in training shall be documented and include the date of training, trainer's name, participants and the topics covered.

Workforce members shall sign a statement of their understanding that outlines their role and responsibilities related to protecting the privacy of County individuals and participants.

## **COMPLAINT PROCESS**

A complaint of HIPAA privacy violation shall be forwarded to the Sullivan County HIPAA Privacy Officer, or in the absence of such officer, to the County Manager.

It is the policy of Sullivan County that all complaints relating to the protection of health information be investigated and resolved in a timely fashion.

All complaints will be addressed to the Privacy Officer who will be duly authorized to investigate complaints and implement resolutions if the complaint stems from a valid area of non-compliance with the HIPAA Privacy and Security Rule. Any recommendations for employee discipline will be made to the appropriate department head and the County Commissioner of Human Resources, please see Section XI.

### **NON-RETAILIATION**

Neither Sullivan County as an entity nor any member of the County's workforce shall intimidate, threaten, coerce, discriminate against, or take any other form of retaliatory action against any individual for:

- Exercising any right established under Sullivan County's HIPAA Privacy Policies and Procedures.
- Participating in any process established by Sullivan County's HIPAA Privacy Policy including the filing of a complaint with Sullivan County or with the federal Department of Health and Human Services Office for Civil Rights.
- Testifying, assisting, or participating in an investigation, compliance review, proceeding, or hearing relating to the policies and procedures.

Any workforce member who engages in retaliation shall be subject to the sanctions under this Policy.

### **MARKETING/FUNDRAISING**

Sullivan County does not use patient demographic information for marketing, direct mail purposes or fund raising. If anyone wishes to be excluded from any mailing or fund raising requests they should contact the applicable division commissioner or department, agency or office head.

### **PROCESS TO REPORT SUSPECTED BREACH**

If an individual suspects a breach of this policy they may report by the following methods:

- The individual shall call the Privacy Officer at (845) 807-0450. The message will be forwarded to the Privacy Officer.
- The individual shall complete a Corporate Compliance form located on the county's website.
- The individual shall report the suspected breach to their Privacy Designee or Department Head. The Privacy Designee or Department Head shall then contact the Privacy Officer.

A monetary fine could be imposed by the government on the individual that breaches patient confidentiality.

## **DISCIPLINARY ACTION**

Failure to adhere to the policy may result in counseling or disciplinary action up to and including termination.

Section 75 of the Civil Service Law sets forth requirements for disciplining certain permanent employees as well as a permanent appointee who has not completed the minimum period of probation.

The discipline of employees is one area of civil service which has been open to collective bargaining units. Therefore, in addition to the confines of Civil Service Law, the applicable collective bargaining agreement must be reviewed.

The following employees have rights under Section 75 of New York Civil Service Law.

1. A person holding a position by permanent appointment in the competitive class of the classified civil service; or
2. A person holding a position by permanent appointment or employment in the classified service who is an honorably discharged member of the Armed Forces of the United States having served therein as such member in time of war as defined in Section 85 of Civil Service Law, or who is an exempt volunteer firefighter as defined in the General Municipal Law, except when a person described in this paragraph holds the position of private secretary, cashier or deputy of any official or department; or
3. A person holding a position in the non-competitive class, other than a position designated in the rules of the municipal civil service commission as confidential or requiring the performance of functions influencing policy, who since his/her last entry into service has completed at least five years of continuous service in the non-competitive class.

If an employee is dissatisfied with the results of a Section 75 proceeding, he/she may appeal under Section 76 of New York Civil Service Law.

## ***LABOR RELATIONS***

**Statement of Policy:** Except for persons employed in designated managerial or confidential positions, employees are free to join or refrain from joining any recognized or certified employee organization. Department managers, administrators and supervisors may not engage in improper or prohibited labor practices, including:

- Interfering with, restraining or coercing public employees in the exercise of their rights guaranteed under the Taylor Law, or for the purpose of depriving them of such rights
- Dominating or interfering with the formation or administration of any employee organization
- Discriminating against any employee for the purpose of encouraging or discouraging membership in, or participation in the activities of, any employee organization
- Refusing to negotiate in good faith with the duly recognized or certified representative of its public employees
- Refusing to continue all the terms of an expired agreement until a new agreement is negotiated, unless the employee organization which is a party to such agreement has, during such

negotiations or prior to such resolution of such negotiations, engaged in conduct violative of subdivision one of section two hundred ten of the Civil Service Law

It is an improper practice for an employee organization or its agents deliberately to:

- Interfere with, restrain, or coerce public employees in the exercise of their rights granted in the Taylor Law, or to cause, or attempt to cause, a public employer to do so
- To refuse to negotiate collectively in good faith with a public employer provided it is the duly recognized or certified representative of employees of such employer
- To breach its duty of fair representation to public employees under the Taylor Law

The terms and conditions of county employment are established in collective bargaining agreements negotiated with recognized or certified employee organizations. At the time of initial employment orientation employees are provided with a summary of the basic terms and conditions of employment. Labor agreements are available for review from any of the following sources:

- Labor relations representatives or shop stewards
- The department head in the department where you are employed
- The Personnel Department

**Resolution of Grievances:** Each collective bargaining agreement contains provisions for the review and remedy of complaints alleging improper or unfair application of the employment terms or conditions set forth in the agreement. Most grievance procedures begin with the filing of a written complaint with the department head. There are additional steps of review if a matter is not resolved satisfactorily at the department level.

**Dues and Agency Shop Fees:** Each of the collective bargaining agreements contain provisions for the payment of either dues or an agency shop fee for persons represented by the collective bargaining agent. Persons who elect to become members of the certified or recognized collective bargaining organization pay dues; agency shop fees are required for persons who choose not to become members of the certified or recognized collective bargaining organization. The payroll office will begin deductions of dues upon receipt of notice of membership in the collective bargaining organization. Agency shop fee deductions will begin in accordance with the time periods specified in the collective bargaining agreements. Questions about dues or agency shop fees should be directed to your shop steward.

## ***MANAGEMENT RIGHTS***

The rights and responsibilities of the Employer include, but are not necessarily limited to, the following:

- a. To determine the standards of services to be offered by the County of Sullivan not inconsistent with applicable laws;
- b. To direct employees in their respective positions;

- c. To hire, promote, transfer, assign and retain employees, and to suspend, demote, discharge or to take disciplinary action against employees;
- d. To relieve employees from duties because of lack of work, or other legitimate reasons;
- e. To determine the methods, means and personnel by which such operations are to be conducted;
- f. To take whatever action may be necessary to carry out the missions of any department, office or agency concerned in a situation of emergency;
- g. To create and allocate on the salary schedule any position, provided where a collective bargaining agreement is in place for said position the appropriate bargaining unit shall be given appropriate written notice of the County's proposed allocation of such position.

## *NEPOTISM*

Nepotism is defined for these purposes as the making by an employee of any official employment decision concerning a member of the employee's immediate family. Immediate family is defined as spouse, children, stepchildren, parents, siblings, in-laws, nieces or nephews. Nepotism is prohibited.

1. No individual shall be a part of any official employment decision concerning a member of his or her immediate family. An employment decision includes, but is not limited to, the screening of applicants or resumes, telephone interviews, personal interviews, reference checks, hiring, promotion, demotion, discipline, transfer, layoff, conditions of work, compensation and selection for training. This prohibition shall in no way effect the ability of a County Legislator from voting on the budget or collective bargaining agreements.
2. No employee may be the immediate supervisor of an immediate family member. In such case, the immediate family member will be supervised by a parallel or next level supervisor.
3. Any questions about this policy should be referred to the Commissioner of Human Resources for resolution.

## *PERFORMANCE EVALUATION*

The County has an established *Performance Evaluation Program* which is intended to:

- Encourage discussion and communication between managers and employees regarding issues of job performance
- Produce documentation of performance issues in the interest of promoting skill development and to correct unacceptable traits or behaviors

- Identify goals, objectives, and time tables in situations in which these factors are appropriate
- Make consistent and bias-free assessments of employee performance

Performance appraisals are expected to be conducted in a positive manner and in an affirming atmosphere. Each employee should be evaluated at least twice during a probationary period and at least one time per year after the probationary period.

All aspects of the performance appraisal process, including discussion during the interview and the performance appraisal document, are considered as confidential. Disclosure of performance appraisals are considered an unwarranted invasion of personal privacy and are therefore excluded from disclosure under the Freedom of Information Law, provided, however, that performance appraisals are available for discovery or introduction as evidence in a disciplinary proceeding. Completed performance appraisal documents are available for review within the County Government only by the administrative superiors of an employee. An employee is permitted to make his or her appraisal public. If an employee makes an incomplete appraisal public, the County Manager may authorize disclosure of the entire appraisal.

Managers and employees are encouraged to use the appraisal process as an opportunity to discuss career and personal goals, skill development, individual strengths and weaknesses, and to establish a plan for meeting performance goals. The evaluated person has the right to examine each of their written appraisals and to add his or her comments. Each employee may discuss with the appraisal interviewer(s) any difficulties that are experienced in the job environment. It is the employee's responsibility to present information in the performance interview process in a constructive manner. Employees receive a copy of the completed performance evaluation document.

The *Performance Evaluation Program* does not prevent the County Manager, division head, department head, or supervisory employees from conducting an evaluation of the work of any unit of government under his or her supervision, or any additional evaluation of an employee, when such evaluation is believed to be necessary outside of the established performance evaluation program.

## *PERSONNEL FILES*

Each department maintains an individual personnel file for each of its employees. In it are copies of basic information such as applications for employment, documents recording salary or classification changes, reports of tardiness, misconduct or other incidents, performance evaluations, etc.

Employees are permitted access to their personnel files and may request a copy of documents from their files. However, employees may not remove an item from their personnel file, or remove their personnel file from the review office.

## *POLITICAL ACTIVITY*

**Statement of Policy:** County employees are prohibited from using their official authority or influence for the purpose of interfering with or affecting the result of an election or nomination for office. They must not directly or indirectly coerce, attempt to coerce, command, or advise a state or local officer or employee to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for political purposes. Although as citizens you have the right to express an opinion and take part in political campaigns, you may not engage in these activities in connection with your employment responsibilities. It is not permissible for county employees to use county property, vehicles, or furnishings for the display of campaign stickers, posters, pins, or similar materials.

Persons employed in positions which are financed in whole or in part by loans made by the United States or a Federal Agency are subject to the provisions of the Hatch Act. The Hatch Act prohibits an employee from being a candidate for a public or political party or for an elective office in a partisan primary, general, or special election. Inquiries about the application of the Hatch Act to specific employment situations can be directed to the County Attorney's Office.

## *PUBLIC EMPLOYMENT AND FREEDOM OF SPEECH*

The United States Supreme Court has recognized the right of governments to regulate the speech of their employees under certain circumstances. The county has a more legitimate interest as an employer in regulating the speech of its employees than its interest in regulating the speech of its general citizenry.

The issue of an employee's right to freedom of speech involves the balancing of the interests of the employee, as a citizen, in commenting on matters of public concern with the interests of the county in promoting the efficiency of the public service that it performs through its employees. These competing interests are subject to a two-step analysis under guidelines established by our State Appellate Division. First, it must be established that the speech was on a matter of public concern, and then it must be further determined whether the employee's speech outweighed the county's interest in removing employees whose conduct hinders the effective and efficient fulfillment of the county's responsibilities to the public.

The first amendment protects the right of public employees as citizens to speak on matters of public concern; the first amendment does not protect statements made at work by an individual when the speech claimed to be protected relates only to matters of personal concern. It does not permit a public employee, in direct contravention of orders from his or her superiors, to speak in his or her capacity as an employee. Employees are prohibited from speaking in an official capacity unless they have prior approval from the County Manager or his designee. Generally, the approval should come from your department head, with the consent of the County Manager or his designee.

Materials used for distribution to the public in connection with the performance of your official duties must be submitted to your department head for approval. The county retains the right to regulate the content of materials used as an official statement of policy or procedure.

## *REINSTATEMENT*

A permanent employee who has resigned from his position may be reinstated without examination within one year from the date of such resignation in the position from which he resigned, if the position is vacant, or in any position to which he was eligible for transfer or reassignment. In computing the one year period within which a person may be reinstated after the resignation, the day the resignation takes effect, any time spent in active service in the military or naval forces of the United States or of the State of New York, and any time served in another position in the civil service of the same municipality shall not be considered. In an exceptional case, the Personnel Officer may, for good cause shown and where the interests of the government would be served, waive the provisions of this rule to permit the reinstatement of a person to his former position more than one year after resignation; provided however, that such a waiver to permit reinstatement more than three years after resignation shall be subject to approval of the State Civil Service Commission. For the purposes of this rule, where an employee on leave of absence resigns, such resignation shall be deemed effective as of the commencement of such leave.

### **Refusal or failure to accept reinstatement from Preferred List:**

RELINQUISHMENT OF ELIGIBILITY FOR REINSTATEMENT. The failure or refusal of a person on a preferred list, after reasonable notice, to accept reinstatement there from to his former position, or any similar position in the same salary grade for which such list is certified, shall be deemed to be a relinquishment of his eligibility for reinstatement, and his name shall thereupon be stricken from such preferred list. The name of such person may be restored to such preferred list and certified to fill such appropriate vacancies as may thereafter occur only upon the request of such person and his submission of reasons satisfactory to the Personnel Officer for his previous failure or refusal to accept reinstatement.

EFFECT OF REFUSAL TO ACCEPT REINSTATEMENT TO LOWER GRADE POSITION. A person on a preferred list shall not be deemed to relinquish his eligibility for reinstatement there from by reason of his failure or refusal to accept reinstatement to a position in a lower salary grade than the position from which he was suspended or demoted. The name of such person may be withheld from further certification for reinstatement to a position in the same or lower salary grade than the position to which he failed or refused to accept reinstatement.

RESTORATION TO ELIGIBILITY FOR REINSTATEMENT NOT TO AFFECT PREVIOUS APPOINTMENTS. The restoration of the name of a person to a preferred list, or his restoration to eligibility for certification there from to positions in a lower salary grade than his former

position, shall not invalidate or in any manner adversely affect any appointment, promotion, reinstatement or demotion previously made to any position to which such person would otherwise have been eligible for reinstatement from such preferred list.

## *RESIGNATION*

**Resignation in Writing:** Except as otherwise provided herein, every resignation shall be in writing.

**Effective Date:** If no effective date is specified in a resignation, it shall take effect upon delivery to or filing in the office of the appointing authority. If an effective date is specified in a resignation, it shall take effect on such specified date. However, if a resignation is submitted while the employee is on leave of absence without pay, such resignation, for the purpose of determining eligibility for reinstatement, shall be deemed to be effective as of the date of the commencement of such absence. Notwithstanding the provisions of this section, when charges of incompetence or misconduct have been or are about to be filed against an employee, the appointing authority may elect to disregard a resignation filed by such employee and to prosecute such charges and, in the event that such employee is found guilty of such charges and dismissed from the service, his termination shall be recorded as a dismissal rather than as a resignation.

Resignations shall take effect on the last day on which an employee reports to work. Resignation dates shall not be extended through the addition of leave time accruals, including compensatory time. Leave time accruals credited to Employees at the time of resignation shall be paid in lump sum as provided in collective bargaining agreements or personnel policies then in effect.

**Withdrawal or Amendment:** A resignation may not be withdrawn, cancelled or amended after it is delivered to the appointing authority, without the consent of the appointing authority and the County Manager.

**Voluntary demotion of Permanent Competitive Employees:** An employee, who voluntarily elects to relinquish his permanent competitive class status to a position and accept a demotion, must deliver a statement of relinquishment by the appointing authority. Upon receipt of the statement of relinquishment by the appointing authority, the employee may be reinstated to any vacant lower salary level position for which he is eligible for such reinstatement provided in the Rules for the Classified Civil Service of Sullivan County. Such statement of relinquishment shall not take effect until the employee is reinstated to the lower level position.

## *SEXUAL HARASSMENT PREVENTION POLICY*

Policy Updated by Resolution 511-18 [Dec 13, 2018](#)

### **I. POLICY STATEMENT**

The County of Sullivan is committed to maintaining a workplace free from sexual harassment. Sexual harassment, which includes harassment on the basis of sex, self-identified or perceived sex or gender, sexual orientation, gender identity, gender expression or transgender status, is a form of workplace discrimination. Sexual harassment is considered a serious form of employee misconduct. All employees, interns, volunteers, and non-employees are required to work in a manner that prevents sexual harassment in the workplace. Any employee, intern, volunteer, or non-employee in the workplace who engages in sexual harassment or retaliation will be subject to remedial and/or disciplinary action, up to and including termination. This Policy is one component of the County of Sullivan's commitment to a discrimination-free work environment.<sup>1</sup>

Sexual harassment is against the law. All persons have a legal right to a workplace free from sexual harassment. This right can be enforced by filing a complaint internally with the County of Sullivan, and/or with a government agency or in court under federal, state or local antidiscrimination laws.

Sexual harassment is offensive, is a violation of our policies, is unlawful, and may subject the County of Sullivan to liability for harm to targets of sexual harassment. Harassers may also be individually subject to liability. Those covered by this Policy who engage in sexual harassment, and managers and supervisors who engage in sexual harassment or who knowingly allow such behavior to continue, will be subject to remedial action or discipline in accordance with law or an applicable Collective Bargaining Agreement.

This Policy also prohibits retaliation against individuals who report or complain of sexual harassment or participate in the investigation of a sexual harassment complaint, as further described herein.

Complaints of sexual harassment must be submitted to the Commissioner of Human Resources. In the event that the Commissioner of HR is the subject of the complaint, complaints must be made to the County Manager. The County of Sullivan will conduct a prompt, thorough and confidential investigation that ensures due process for all parties, whenever the County of Sullivan or its supervisory or managerial personnel receives a complaint about sexual harassment or retaliation, or otherwise knows of possible sexual harassment occurring. The County of Sullivan will keep the investigation confidential to the extent possible. Effective corrective action will be taken whenever sexual harassment or retaliation is found to have occurred. All persons covered by this Policy, including managers and supervisors, are required to cooperate with any internal investigation of sexual harassment.

All employees, interns, volunteers, and non-employees are to report any harassment or behaviors that violate this Policy. The County of Sullivan will provide a complaint form for the reporting of harassment and to file complaints. Managers and supervisors are **required** to report **any** complaint that they receive, or any harassment that they observe or become aware of in the workplace. Such reporting must be in written form to the Commissioner of Human Resources.

---

<sup>1</sup> Note that other forms of discrimination, as well as harassment based on protected classes or characteristics other than those covered under this policy are covered separately under the County of Sullivan's Discrimination and Discriminatory Harassment Policy.

Confronting the harasser is not required but is encouraged if the complainant feels it is possible and safe to do so. Anyone covered by this Policy has the right to file a good faith complaint without first communicating with the offender.

### **SCOPE**

- A. Who is covered by this Policy?** This Policy applies to all employees, applicants for employment, interns, whether paid or unpaid, volunteers, non-employees and persons conducting business with the County of Sullivan<sup>2</sup>.
- B. Who can be a target of sexual harassment?** Sexual harassment can occur between any individuals, regardless of their sex or gender. New York Law protects employees, paid or unpaid interns, and non-employees who provide services in the workplace. This Policy also protects volunteers of the County of Sullivan.
- C. Who can be a sexual harasser:** A harasser can be a superior, a subordinate, a coworker or anyone in the workplace including an independent contractor, contract worker, vendor, client, customer or visitor, or anyone with whom the person interacts while conducting their job duties.
- D. Where can sexual harassment occur?** Unlawful sexual harassment is not limited to the physical workplace itself. It can occur while employees, interns and/or volunteers are traveling for business or at employer sponsored events or parties. Calls, texts, emails, and social media usage can constitute or contribute to unlawful workplace harassment, even if occurring away from the workplace premises or not during work hours.

## **II. DEFINITIONS OF PROHIBITED CONDUCT**

### **A. What is sexual harassment?**

Sexual harassment is a form of sex discrimination and is unlawful under federal, state, and (where applicable) local law. Sexual harassment includes harassment on the basis of sex, self-identified or perceived sex or gender, sexual orientation, gender identity, gender expression or transgender status.

Sexual harassment includes unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual's sex when:

- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment, even if the complaining individual is not the intended target of the sexual harassment;
- Such conduct is made either explicitly or implicitly a term or condition of employment; *or*
- Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual's employment.

---

<sup>2</sup> Non-employees, as defined by law, includes contractors, vendors and consultants or those who are employees of the contractor, vendor or consultant.

A sexually harassing hostile work environment consists of words, signs, jokes, pranks, intimidation or physical violence which are of a sexual nature, or which are directed at an individual because of that individual's sex, self-identified or perceived sex or gender, sexual orientation, gender identity, gender expression or transgender status. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory statements or sexually discriminatory remarks made by someone which are offensive or objectionable to the recipient, which cause the recipient discomfort or humiliation, and/or which interfere with the recipient's job performance.

Sexual harassment also occurs when a person in authority tries to offer job benefits for sexual favors. This can include hiring, promotion, continued employment or any other terms, conditions or privileges of employment. This is also called "quid pro quo" harassment.

Anyone subject to and/or covered by this Policy who feels harassed should complain so that any violation of this policy can be corrected promptly. Any harassing conduct, even a single incident, can be addressed under this policy.

## **B. Examples of sexual harassment**

Sexual harassment under the law and prohibited by this Policy may include, but is not limited to, the following prohibited conduct:

- Physical assaults of a sexual nature, such as:
  - ✓ Touching, pinching, patting, grabbing, brushing against another person's body or poking another person's body; rape, sexual battery, molestation or attempts to commit these assaults (which should be reported to local authorities as promptly as is possible).
- Unwanted sexual advances or propositions, such as:
  - ✓ Requests for sexual favors accompanied by implied or overt threats concerning the target's job performance evaluation, a promotion or other employment benefits or detriments; subtle or obvious pressure for unwelcome sexual activities.
- Sexually oriented gestures, noises, remarks, jokes or comments about a person's sexuality or sexual experience, which create a hostile work environment.
- Sex stereotyping, which occurs when conduct or personality traits are considered inappropriate or treated negatively simply because they may not conform to other people's ideas or perceptions about how individuals of a particular sex should look or act.
- Sexual or discriminatory displays or publications anywhere in the workplace, such as:
  - ✓ Displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials or other materials that are sexually demeaning or pornographic. This includes such sexual displays on workplace computers or cell phones and sharing such displays while in the workplace or in a work-related gathering or setting.

- Hostile actions taken against an individual because of that individual’s sex, self-identified or perceived sex or gender, sexual orientation, gender identity, gender expression or transgender status, such as:
  - Interfering with, destroying or damaging a person’s workstation, tools or equipment, or otherwise interfering with the individual’s ability to perform the job;
  - Sabotaging an individual’s work;
  - Bullying, yelling, name-calling.

### **C. Retaliation**

In addition to sexual harassment, retaliation for opposing or complaining of sexual harassment or participating in investigations of sexual harassment is prohibited by law and prohibited under this Policy. No person covered by this Policy shall be subjected to such unlawful retaliation. Unlawful retaliation can be any adverse employment action, including being discharged, disciplined, discriminated against, or any action that would keep or discourage anyone covered by this Policy from coming forward to make or support a sexual harassment claim. Adverse action need not be job-related or occur in the workplace to constitute unlawful retaliation.

The New York State Human Rights Law and this Policy protect any individual who has engaged in “protected activity.” Protected activity occurs when a person has:

- Made a complaint of sexual harassment, either internally or with any anti-discrimination agency;
- Cooperated in an investigation;
- Testified or assisted in a proceeding involving sexual harassment under this Policy, the State Human Rights Law or other anti-discrimination law;
- Opposed sexual harassment by making a verbal or informal complaint to the County of Sullivan (including a supervisor or manager) or by simply informing a supervisor or manager of harassment;
- Reported that another employee, intern, volunteer or non-employee covered by this Policy has been sexually harassed; or
- Encouraged a fellow employee, intern, volunteer and/or non-employee covered by this Policy to report harassment.

Employees, interns, volunteers, and non-employees who believe they have been subjected to retaliation should report this conduct in accordance with the same reporting procedures as are outlined below. These complaints of retaliation will be investigated in accordance with the same procedures utilized to investigate a complaint of sexual harassment. Individuals also may file complaints of retaliation with the federal or state enforcement agencies (EEOC or New York State Division of Human Rights.) Any individual found to have engaged in retaliation as defined in this Policy may be subject to disciplinary action up to and including termination, and/or other corrective or remedial action as necessary.

## **III. REPORTING PROCEDURES AND RESPONSIBILITIES**

## A. Reporting Procedures

**Preventing sexual harassment is everyone's responsibility.** The County of Sullivan cannot prevent or remedy sexual harassment unless it knows about it. Any employee, intern, volunteer or non-employee who has been subjected to behavior that may constitute sexual harassment is strongly encouraged to report such behavior to the Compliance Officer set forth below. Anyone who witnesses or becomes aware of potential or perceived instances of sexual harassment should also report such behavior to the Officer noted herein.

- Compliance Officer: Commissioner of Human Resources
- In the event that the Compliance Officer is the subject of the complaint, complaints are to be made to the County Manager.

Although encouraged, note that neither this Policy nor state or federal law requires that an individual tell an alleged harasser to stop his/her actions. Failure to do so does not preclude the individual from filing a complaint of sexual harassment. Individuals should feel free to keep written records of any actions which may constitute sexual harassment, including time, date, location, names of others involved, witnesses (if any), and who said or did what to whom.

Reports of sexual harassment may be made verbally or in writing. If made verbally, the Complaint must be reduced to writing by the individual who it was reported to. The written report must be given to the Compliance Officer. A form for submission of a written complaint is attached to this Policy, and all employees, interns, volunteers, and non-employees conducting business in the workplace are encouraged to use this complaint form. Individuals who are reporting sexual harassment on behalf of other employees, interns, volunteers or non-employees should use the complaint form and note that it is on another person's behalf.

Employees, interns, volunteers or non-employees who believe they have been a target of sexual harassment may also seek assistance in other available forums, as explained below in the section on Legal Protections.

## B. Supervisory Responsibilities

All managerial and supervisory personnel of the County of Sullivan shall be responsible for enforcing this Policy and shall have particular responsibility for ensuring that the work environment under their supervision is free from sexual harassment and retaliation. In addition to being subject to discipline or other remedial action if they engaged in sexually harassing conduct themselves, **all supervisors and managers who receive a complaint or information about suspected sexual harassment, observe what may be sexually harassing behavior or for any reason suspect that sexual harassment is occurring, are required to report same in writing, to the Compliance Officer.** Supervisors and managers will be subject to discipline (or other remedial and appropriate action) for failing to report

suspected sexual harassment or otherwise knowingly allowing sexual harassment to continue.

Supervisors and managers will also be subject to discipline or other appropriate remedial action for engaging in retaliation.

### **C. County of Sullivan's Responsibilities**

The County of Sullivan will be responsible for ensuring that this Policy is provided to employees, interns, and volunteers, and that training on this Sexual Harassment Prevention Policy is conducted annually.

## **IV. INVESTIGATION AND RESPONSE PROCEDURES**

*All* complaints or information about suspected sexual harassment will be investigated, whether that information was reported in verbal or written form. Investigations will be conducted in a timely manner and will be confidential to the extent possible.

An investigation of any complaint, information or knowledge of suspected sexual harassment will be prompt and thorough, commencing immediately and completed as soon as possible. The investigation will be confidential to the extent possible. All persons involved, including complainants, witnesses and alleged harassers will be accorded appropriate due process to protect their rights to a fair and impartial investigation. Any employee, volunteer, intern or non-employee may be required to cooperate as needed in an investigation of suspected sexual harassment. As further set forth herein, The County of Sullivan will not tolerate retaliation against those who file complaints, support another's complaint, or participate in the investigation of a complaint.

All investigations will be conducted by the Compliance Officer or their designee. The nature of an investigation may vary on a case by case basis dependent upon the circumstances and extent of the allegations. Generally, investigations should be conducted by the Compliance Officer or their designee in accordance with the following steps:

- Upon receipt of complaint, the Compliance Officer or their designee will conduct an immediate review of the allegations, and take interim actions, as appropriate. If the complaint is oral, encourage the individual to complete the "Complaint Form" in writing. If he or she refuses, prepare a Complaint Form or other write up of the complaint based on the oral reporting.
- If documents, emails or phone records are relevant to the allegations, take steps to obtain and preserve them.
- Request and review all relevant documents, including all electronic communications.
- Interview all parties involved, including any relevant witnesses;
- Create (at a minimum) written documentation of the investigation (such as a letter, memo or email), which contains the following:

- ✓ A list of all documents reviewed, along with a detailed summary of relevant documents;
  - ✓ A list of names of those interviewed, along with a detailed summary of their statements;
  - ✓ A timeline of events;
  - ✓ A summary of prior relevant incidents, reported or unreported; and
  - ✓ Recommendation(s) for the final resolution of the complaint, together with any recommendations for corrective or remedial actions to be taken.
- Keep the written documentation and associated documents in the employer's records.

Once the investigation is completed, the Commissioner of Human Resources or their designee will make a Final Determination as to whether the Policy has been violated.

The Commissioner of Human Resources or their designee shall promptly notify the complainant of the Final Determination, and also inform the complainant of their right to file a complaint or charge externally as outlined below.<sup>3</sup>

If a complaint of sexual harassment or retaliation is determined to be founded, The County of Sullivan will take disciplinary and/or corrective action. The Commissioner of Human Resources will be responsible for overseeing the implementing of any corrective or remedial actions deemed necessary.

## **V. REIMBURSEMENT**

Any employee who has been subject to a judgment of personal liability for intentional wrongdoing in connection with a claim for sexual harassment shall reimburse the County of Sullivan for any monies it paid to a complainant for what was found to be the employee's proportionate share of said judgment. These reimbursements must be made within ninety (90) days from payment by the County of Sullivan to the Complainant. A failure to reimburse will result in the sum being withheld directly from the employee's compensation or through enforcement of a money judgment.

## **VI. FURTHER CONFIDENTIALITY AND DISCLOSURE**

In recognition of the personal nature of discrimination complaints and the emotional impact of alleged discrimination, the County of Sullivan shall keep complaints as confidential as is consistent with a thorough investigation, applicable collective bargaining agreements, and other laws and regulations regarding employees and the workplace setting. For the protection of all individuals who make complaints or are accused of prohibited discrimination, every witness interviewed during an investigation under this Policy will be advised of the confidentiality requirement and instructed not to discuss the complaint, the investigation, or the persons involved. To the extent complaints made under this Policy implicate criminal conduct, the County of Sullivan may be required by law to contact and cooperate with the appropriate law enforcement authorities.

---

<sup>3</sup> Where a complaint was filed regarding sexual harassment against an individual other than the person making the written complaint, the person against whom the harassment was directed will be treated as the complainant for purposes of this Policy.

The terms of any settlement or other resolution are subject to disclosure UNLESS the Complainant seeks confidentiality. This request for confidentiality may be revoked within a certain time period in accordance with State law.

## **VII. FALSE REPORTS**

Reporting of a false complaint is a serious act. In the event it is found that an individual bringing the complaint has knowingly made false allegations, the County of Sullivan may take appropriate remedial action and/or disciplinary action in accordance with the provisions of applicable collective bargaining agreement and/or state law

## **VIII. LEGAL PROTECTIONS AND EXTERNAL REMEDIES**

Sexual harassment is not only prohibited by the County of Sullivan but is also prohibited by state, federal, and, where applicable, local law.

Aside from the internal process at the County of Sullivan, individuals may also choose to pursue legal remedies with the following governmental entities **at any time**.

### **A. New York State Division of Human Rights (DHR)**

The Human Rights Law (HRL), codified as N.Y. Executive Law, Art. 15, § 290 et seq., applies to employers in New York State with regard to sexual harassment, and protects employees, interns and non-employees. A complaint alleging violation of the Human Rights Law may be filed either with Division of Human Rights or in New York State Supreme Court. Complaints with DHR may be filed any time **within one year** of the harassment. If an individual did not file at DHR, they can sue directly in state court under the HRL, **within three years** of the alleged discrimination. An individual may not file with DHR if they have already filed a HRL complaint in state court.

Complaining internally to the County of Sullivan does not extend the time for filing a complaint with DHR or in court. The one year or three years is counted from date of the most recent incident of harassment.

An individual does not need an attorney to file a complaint with DHR, and there is no cost to file with DHR.

DHR will investigate the complaint and determine whether there is probable cause to believe that discrimination has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If discrimination is found after a hearing, DHR has the power to award relief, which varies but may include requiring the employer to act to stop the harassment, or redress the damage caused, including paying monetary damages, attorney's fees and civil fines.

Contact DHR at (888) 392-3644 or visit [dhr.ny.gov/complaint](http://dhr.ny.gov/complaint) for more information about filing a complaint. The website has a complaint form that can be downloaded, filled out, notarized and mailed to DHR. The website also contains contact information for DHR's regional offices across New York State.

### **B. United States Equal Employment Opportunity Commission (EEOC)**

The EEOC enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act (codified as 42 U.S.C. § 2000e et seq.). An individual can file a complaint with the EEOC anytime within **300 days** from the harassment. There is no cost to file a complaint with the EEOC. The EEOC will investigate the complaint, and determine whether there is reasonable cause to believe that discrimination has occurred, at which point the EEOC will issue a Right to Sue letter permitting the individual to file a complaint in federal court.

The EEOC does not hold hearings or award relief, but may take other action including pursuing cases in federal court on behalf of complaining parties. Federal courts may award remedies if discrimination is found to have occurred.

If an individual believes that he/she has been discriminated against at work, he/she can file a "Charge of Discrimination." The EEOC has district, area, and field offices where complaints can be filed. Contact the EEOC by calling 1-800-669-4000 (1-800-669-6820 (TTY)), visiting their website at [www.eeoc.gov](http://www.eeoc.gov) or via email at [info@eeoc.gov](mailto:info@eeoc.gov)

If an individual filed an administrative complaint with DHR, DHR will file the complaint with the EEOC to preserve the right to proceed in federal court.

### **C. Local Protections**

Many localities enforce laws protecting individuals from sexual harassment and discrimination. An individual should contact the county, city or town in which they live to find out if such a law exists.

### **D. Contact the Local Police Department**

If the harassment involves physical touching, coerced physical confinement or coerced sex acts, the conduct may constitute a crime. Contact the local police department.

**COUNTY OF SULLIVAN HARASSMENT COMPLAINT FORM**  
**(Submit to Commissioner of Human Resources or County Manager)**

This form may be used to file a complaint of harassment which is a form of discrimination prohibited by federal law, the New York State Human Rights Law, and County of Sullivan Policy.

Filing this complaint form with the County of Sullivan in no way deprives you of the right to file a complaint with the US Equal Employment Opportunity Commission, NYS Division of Human Rights, and/or the Federal/State courts.

(PLEASE PRINT OR TYPE)

Name:		Phone Number:	
Residence:			
Mailing Address (if different from residence):			
City	State	Zip	
Department:			
Have you filed this charge with a Federal, State or local government agency? YES/NO:		When?	
		Where?	
AN AFFIRMATIVE REPLY TO THIS QUESTION WILL IN NO WAY STOP A REVIEW OF YOUR COMPLAINT			
Alleged Discrimination Occurred on or about:	Month, Day, Year	Time:	
Is this alleged discrimination continuing: YES/NO:			
Are you personally the subject of the alleged harassment? YES/NO:			
If not, please state the name of the person(s) who are the subject of the alleged harassment:			
Describe the alleged act of harassment. <b>Use additional sheets if necessary.</b>			
Indicate the name(s) of the alleged harasser(s):			
State the name(s) of any potential witness(es):			
I swear or affirm that I have read the above related facts and that the statements are true and correct to the best of my knowledge, information and belief.			
Date:			
Signature:			

-INFORMATION PROVIDED WILL BE CONFIDENTIALLY MAINTAINED-

## *SOCIAL MEDIA POLICY*

**PURPOSE:** To (1) define the expectation of users of social media, including, but not limited to, elected officials, commissioners, department heads, directors, administrators and employees (hereinafter referred to collectively as “employees”) and (2) ensure the appropriate use of social media used in connection with the business of the County of Sullivan (hereinafter referred to as “County”). The use of County Social Media Sites (as defined below) is limited to business communications and informational purposes in accordance with authorized County goals and objectives. Personal use is strictly prohibited. County Social Media Sites are not intended to create or serve as public forums.

Social media technologies can help County departments inform residents and make government more open and transparent. To provide a unified and professional social media presence, the County Manager, in their discretion, may control access to official County Social Media Sites.

The County Manager, Director of Communications and Chief Information Officer will develop appropriate uses for official County Social Media Sites, select appropriate social media outlets, and help departments define a strategy of engagement for using social media.

### **I. DEFINITIONS**

**Social Media:** various forms of information-sharing technology used to create internet-based content that produces communication and/or conversations.

Forms of social media include, but are not limited to, social networking, blogs, video sharing, picture-sharing, wall-postings, e-mail, instant messaging, podcasts, wikis, message boards, online forums, RSS and other syndicated web feeds.

Examples of social media outlets include, but are not limited to, Google and Yahoo Groups (reference, social networking), Wikipedia (reference), Facebook (social networking), YouTube (social networking and video sharing), Twitter (social networking and micro blogging), Instagram (photos and videos), Snapchat (time-limited posts), Pinterest (themed sharing), LinkedIn (business networking) and other news media comment sharing/bloggging.

**County Social Media Sites:** the official social media sites authorized by the County, approved by the County Manager, and managed on a day-to-day basis by the Director of Communications and/or approved Department Heads.

**Personal Social Media:** any form of social media created and maintained by an employee for their personal use.

**Department Head:** any Elected Official, Commissioner, Director, Administrator, or other head of a County department, office, or agency.

**F.O.I.L.:** the Freedom of Information Law, Article 6 of the New York State Public Officers Law, which governs rights of access to government records.

**Record** (as defined in Article 6 of the Public Officers Law, Section 86): any information kept, held, filed, produced or reproduced by, with or for an agency or the state legislature, in any physical form whatsoever including, but not limited to, reports, statements, examinations, memoranda, opinions, folders, files, books, manuals, pamphlets, forms, papers, designs, drawings, maps, photos, letters, microfilms, computer tapes or discs, rules, regulations or codes.

## **II. POLICIES AND PROCEDURES**

### **1. County Social Media Site Creation/Approval**

Process: Department Heads interested in creating a Department-specific County Social Media Site for County business purposes must submit a Business Case Justification to the County Manager for approval. At a minimum, the “Business Case Justification” should:

- Name the Social Media outlet to be utilized (e.g., Facebook, etc.);
- State the goals for setting up a County Social Media Site;
- Identify the intended audience;
- Summarize the type of information expected to be shared/displayed;
- Discuss the anticipated benefit from establishing the site;
- Identify who will create content for the site and interface with the Director of Communications; and
- Explain why the information cannot be included on an existing County Social Media Site and why a separate Department site is necessary

Business Case Justifications that are approved by the County Manager will be forwarded to the Director of Communications as well as the department of Information Technology Services (hereinafter, “ITS”), to maintain the approval paperwork for audit purposes.

### **2. Account Management**

Account management includes the creation, maintenance, preservation, disabling and destruction of County Social Media Site accounts.

The Director of Communications will be responsible for the creation of County Social Media Sites and, in coordination with ITS, for the preservation of data on those sites.

Department Heads must send all requested content to the County Manager, or their designee, for approval before any content is published on a County Social Media Site. For Department-specific County Social Media Sites, authorized Department Heads may publish content on their site without prior approval of the County Manager, so long as such content complies with this Policy.

ITS will be responsible for maintaining a list of all County Social Media Site domain names in use and their associated account user ID and active password.

### **3. Acceptable Use**

County Social Media Sites are intended to be used solely for authorized County purposes, including informing the public of County issues, projects, events, deadlines, emergencies, and other news. County Social Media Sites are not intended to create or serve as public forums, and public commenting shall be disabled to the extent permitted by the underlying social media outlet. Personal use of County Social Media Sites is strictly prohibited.

#### Posting Guidelines

Information posted shall be relevant, timely and appropriate to the goals of County government. Postings must contain information that is freely available to the public and not be confidential as defined by any County policy or state, federal or local law.

Employees are prohibited from posting information about pending or anticipated litigation, personnel information, sensitive or confidential information, medical information that may violate the Health Insurance Portability and Accountability Act (HIPAA) or New York State privacy laws, or any other nonpublic information, political endorsements, or any other endorsements not authorized by the County Legislature.

Vulgar, profane, obscene and/or pornographic content is expressly prohibited on County Social Media Sites. The County Manager, or their designee, shall have sole discretion on the removal of postings.

#### **4. Public Use of County Social Media Sites**

Comments are not allowed or permitted to be displayed on any official County Social Media Site, so long as the underlying outlet gives the County control over commenting features. As such, communications made to a County government entity through a County Social Media Site shall not be considered formal public comment and shall not constitute official legal notice to the County or as requests for records under F.O.I.L. Private messages or hidden posts on County Social Media Sites may be treated by the County as public information subject to disclosure to third parties. Any messages or posts containing threats, or other statements indicating criminal activity, will be forwarded to the County Sheriff.

#### **5. Disclaimer**

The following disclaimer shall be posted on each County Social Media Site: “This is an authorized social media site for the County of Sullivan, New York. Its purpose is to promote County business and inform the public of County-related events, notices, emergencies and other news. It is not intended to create or serve as a public forum. Comments, messages and other communications made through this site, while recorded, may not be read. This site and any posting, comment or message thereon shall not serve as official notice upon the County. Please visit our website for the best way to contact us.”

#### **6. Content**

County departments, through the County Manager and Director of Communications, shall undertake best efforts to keep content posted on County Social Media Sites accurate and up-to-date. Any corrections to posted content shall be provided expeditiously to the County Manager and Director of Communications.

Wherever possible, links on County Social Media Sites should direct users back to the County’s website for additional information, forms, documents, or online services necessary to conduct business with the County.

#### **7. Legal Issues**

The County is responsible for complying with applicable laws, regulations and policies. This includes adhering to established laws and policies regarding copyright, records retention, Freedom of Information Law, First Amendment, privacy, HIPAA, information technology, federal, state and other constitutional rules.

Nothing in this Policy is intended to conflict with any federal, state, or local law or regulation that guarantees the free speech rights of public employees.

#### **8. Preservation**

ITS is responsible for archiving and collecting the County's Social Media Site data and content. County Social Media Site content is not considered confidential and may be subject to production as required by law. ITS shall produce County Social Media Site content in compliance with any request made by the County Attorney, County Manager, and/or Court Order.

#### **9. Personal Social Media Accounts**

Social media content associated with the County shall be consistent with the County's responsibilities to the public and its professional standards. This is especially so if a County employee uses their official title or posts material describing work as a County employee.

The County does not endorse Personal Social Media accounts or their content, and information contained on Personal Social Media sites does not represent the County or any official position of the County.

Employees should be aware that a social media post may be permanently available and open to being republished in other media. In addition, postings related to County business may, in certain circumstances, be required to be produced in accordance with a F.O.I.L. request or litigation.

#### **10. Violations**

Any employee that makes a post, comment, message, or other communication that is in violation of the law, this Policy, or any other County policy, on either a County or Personal Social Media Site, may be subjected to discipline.

### **III. POLICY EFFECTIVE DATE**

This Policy shall take effect as of the date of its adoption by the County Legislature.

The County reserves the right to change, modify or amend all or part of this Policy at any time.

### ***TOBACCO FREE WORKPLACE***

Allowing anyone to smoke on County property creates the risk of transmitting "second hand smoke" to others. Accordingly, the Sullivan County Legislature hereby enacted a local law to promote a healthier environment.

Smoking of any kind on any property owned or administered by the County of Sullivan is prohibited. This policy shall apply to all county facilities and property including but not limited to vacant property and property administered by the County of Sullivan, such as Lake Superior State Park, subject to the following limited exceptions.

1. The only exceptions to the foregoing policy shall be:

- a. Residents of the Sullivan County Adult Care Center facility may smoke in areas specifically designated for that purpose by the Adult Care Center's administration. This exception shall not apply to staff, guests or other non-residents at the facility.
- b. Persons may smoke in their own vehicles either parked or driving on County property. No one may smoke in a County vehicle at any time.

## *USE OF COUNTY MACHINERY AND PROPERTY*

County machinery and property are resources to be used exclusively for the performance of official duties in connection with bonafide business purposes. Employees are not permitted to use county resources for personal use. County resources include:

- Vehicles
- Copying or duplication equipment
- Postage equipment
- Computers, software, typewriters, calculating machines, or other office equipment
- Stationery, office supplies and books
- Telephone and communication equipment, software or connections
- Medicines, cleaning supplies
- All other property, machinery and equipment owned by the County of Sullivan

**Personal Telephone Calls:** Most employees will find it necessary to make or receive personal phone calls during prescribed work periods. Making or receiving personal phone calls is permissible providing that you exercise reasonable judgment to ensure that personal use of phones is minimal. Employees are not permitted to make personal toll calls chargeable to the county. If an emergency situation occurs in which a toll call is necessary, employees must either use a public telephone, calling card, or seek operator assistance to make a collect call. Under no circumstances is it permissible to make personal, long distance telephone calls chargeable to the County.

**County Vehicles:** Employees who are assigned to use a county vehicle are responsible for the safe and proper operation of the vehicle. The employee is also responsible to insure the reasonable care and maintenance of the vehicle; any vehicle problems or deficiencies should be noted and reported to a supervisor so that corrective action can be taken. Should an accident occur while you are operating a county vehicle, your first obligation is in the treatment of injuries to either yourself or others. In addition, to any required legal report to authorities, you must also report the incident to your immediate supervisor as soon as possible.

*Use of a County vehicle for personal business is forbidden.*

## ***WORKPLACE VIOLENCE PREVENTION***

### **I. PURPOSE**

Sullivan County is committed to providing its employees a safe environment free of disruptive, aggressive or violent behavior. Whenever possible, measures will be taken to prevent and minimize the hazard of workplace violence to its public employees. Since Sullivan County employees are subject to a diverse range of duties, general guidelines will be provided herein, but specific potential threats/acts unique to their department will be address by the individual department heads. Each individual and department is responsible in varying degrees, for ensuring their own and others well-being in the workplace. The scope of this policy extends to the public, vendors, contractors, consultants and former employees.

### **II. POLICY**

The County of Sullivan has a zero tolerance policy for threats and acts of violence. Workplace Violence is any physical assault or acts of aggressive behavior occurring where a public employee performs any work-related duty in the course of his or her employment. Workplace Violence includes, but is not limited to:

1. An attempt or threat, whether or not verbal or physical, to inflict physical injury upon an employee;
2. Any intentional display of force which would give an employee reason to fear or expect bodily harm;
3. Intentional and wrongful physical contact with a person without his or her consent that entails some injury;
4. Stalking an employee with the intent of causing fear of material harm to the physical safety and health of such employee when such stalking has arisen through and in the course of employment.

In an effort to improve customer service and security, the County will be requiring employees to wear official, County issued photo identification (ID). County employees must display their photo ID badges during business hours while on County property and/or conducting County business. Having these badges prominently displayed will allow customers and law enforcement professionals to quickly identify individuals as County employees.

This requirement applies to all County employees including full-time, part-time, temporary and per diem while on County property, and /or while conducting County business in the community. Because the policy and procedures described herein are intended to provide for the safety and security of County employees, all employees are expected to fully comply with the provisions of this policy.

Anyone found in violation of this policy will be met with appropriate corrective and/or disciplinary action commensurate with the seriousness of the offense(s), and in accordance with the parameters of applicable collective bargaining agreements, state law and/or criminal prosecution.

### III. DEFINITIONS

- A. Authorized Employee Representative:** An employee authorized by the employees or their designated representative of an employee organization recognized or certified to represent the employees pursuant to Article 14 of the Civil Service Law.
- B. County Manager:** The County Manager for the County of Sullivan or his or her duly authorized representative.
- C. Employer:** The County of Sullivan.
- D. Employee:** A public employee working for the County of Sullivan.
- E. Identification Badges or ID:** Official County issued employee photo identification badges.
- F. Workplace:** Any location away from an employee's domicile, permanent or temporary, where an employee performs any work related duty in the course of his or her employment by the County of Sullivan.
- G. Supervisor:** Any person within the County of Sullivan who has the authority to direct and control the work performance of an employee, one who has the authority to take corrective action regarding the violation of a law, rule or regulation to which an employee submits written notice.
- H. Retaliatory Action:** the discharge, suspension, demotion, penalization, or discrimination against any employee, or other adverse employment action taken against an employee in the terms and conditions of employment.

### IV. PERSONS COVERED BY POLICY

This policy applies to all county officers, managers, supervisors, employees and all contractors, volunteers or other non-employees of the County. This policy may be applied to the conduct of those who are not officers or managers, supervisors, other employees, contractors or volunteers of the County with respect to violence in the workplace toward County officers, managers, supervisors, other employees, volunteers, applicants, contractor or other non-employees in the workplace, depending on the nature of the alleged conduct.

All officers, managers, supervisors, other employees, volunteers, contractors or other non-employees will be expected to comply with this policy and take appropriate measures to ensure violence in the workplace does not occur. When violence in the workplace does occur, employees and non-employees are encouraged to use the compliant and investigative procedures set forth in this policy.

### V. RESPONSIBILITIES OF DEPARTMENT HEADS/MANAGERS/SUPERVISORS

All department heads, managerial and supervisory personnel of the County of Sullivan shall be responsible for enforcing this policy and shall have particular responsibility for ensuring that the work environment is free from violence. This responsibility includes discussing this policy with subordinates and other employees or non-employees and assuring them that they are not to endure violence such as: physical harm, shoving, pushing,

harassing, intimidating, coercing, brandishing weapons, and threatening or talking of engaging in those activities.

Department heads, managers and supervisory personnel must take immediate and, if authorized, appropriate corrective action when allegations of violence in the workplace comes to their attention to assure compliance with this policy. If a manager or supervisor is not authorized to take corrective action, the matter should be referred to an individual having that authority.

All department heads, managerial and supervisory personnel who receive a complaint of violence in the workplace will be responsible for immediately forwarding such complaints to the County Manager and the Commissioner of Human Resources.

The County of Sullivan will conduct periodic training for department heads, managerial and supervisory personnel in each department of the County regarding the issues surrounding workplace violence, its effects and its appearances, and the role and responsibility of department heads and managerial/supervisory personnel in preventing incidents of workplace violence.

Failure of a department head, manager or supervisor to comply with the aforementioned responsibilities may result in disciplinary action.

## VI. Identification Badges Requirements

- All county employees are required to display identification provided by the County.
- All employees will display photo ID at all times while at a County facility. Requests for exemption to this requirement shall be made to the County Manager. The Requirement may be waived at the department head's discretion when wearing the ID presents a safety issue (e.g. Sheriff's Deputy or DPW field worker). However, the employee must carry the ID at all times during working hours or when acting in an official capacity.
- Employees should wear their ID when hosting or appearing at County functions or community events, especially if it is important to draw attention to the County's participation or attendance. Employees may use judgment in deciding whether or wear their ID while conducting official business that is not on County property, if anonymity is a consideration.
- ID will be provided by the County and will include the County Seal, a photo of the employee/person, the employee/person's name, and the department/division in which the employee/person works.
- Badges shall be worn using a clip-on type or a breakaway lanyard (unless there is a safety concern in the event that wearing something that hangs loosely might get caught in machinery).
- Employees shall surrender ID to their supervisor upon termination of employment, or when requested.
- Lost or misplaced ID is to be immediately reported to the employee's supervisor. Replacement ID will be issued as necessary and a record of the lost ID noted.

## **VII. EXAMPLES OF VIOLENCE IN THE WORKPLACE**

**A.** Some examples of workplace violence may include, but are not limited to, the following:

- Threatening to harm an employee or customer/client;
- Damaging or threatening to do damage to county property or property of others;
- Possessing a dangerous weapon or incendiary device on property without prior authorization (Excludes law enforcement/peace officers and others employees who carry weapons in the performance of their duties);
- Engaging in stalking behavior;
- Enraged spouse/boyfriend/girlfriend/acquaintance
- Disruptive behavior intended to disturb, interfere with or prevent normal work activities (such as yelling, using profanity, verbally abusing others, or waving arms and fists);
- Engaging in physical contact for the purpose to cause harm (slapping, stabbing, punching, striking, punching or any unwanted physical contact);
- Menacing behavior (throwing objects, pounding on a desk or door);
- Out of control behavior (causing physical harm to self, suicide, emotionally disturbed);
- Arson;
- Sexual assault and rape;
- Homicide, suicide or hostage situations;
- Terrorism, bomb threats or contaminated mail/packages;
- Catastrophes, such as natural disasters

### **B. Other types of Violence in the Workplace:**

There are many variations of violence in the workplace. Other types of violence may be in the form of terrorism, hostage situations, bomb threats, catastrophes, natural disasters and contaminated mail. In most of these examples, there are no core rules or ultimate defense to protect our employees or the public. Our only response will be reactive; stabilize the situation, evaluate and remediate. If you find mail that looks suspicious, (no return address, excessive packaging or tape, cellophane enclosure or leaking liquid or powdery substance) do not move or relocate the parcel. Contact your supervisor or department head immediately and call 911.

## **VIII. METHODS OF PREVENTING WORKPLACE VIOLENCE**

Wherever possible, the County will provide the following list of measures in an attempt to limit the potential hazards of workplace violence:

- Making high-risk areas more visible to more people;
- Installing good external lighting;
- Use of safes or other methods to minimize cash on hand;
- Posting signs stating that limited cash is on hand;
- Providing training on workplace violence at orientation and annually thereafter;

- Establishing and implementing reporting systems for incidents of aggressive behavior as stated in this policy;
- Limit the amount of access to highly secured areas from the public;
- Lock doors to the department at closing to prevent any intruders after regular business hours when there is little or no other staff working;
- Emergency drills, building evacuation plans;
- Use of electronic security measures and security guards
- Require a travel itinerary
- Establish a contingency plan (i.e.: field worker does not return as scheduled)

## **IX. GUIDELINES FOR COUNTY EMPLOYEES WHEN DEALING WITH WORKPLACE VIOLENCE**

- Be familiar with your departments safety rules (e.g.: make sure your unit knows your whereabouts, frequent contact with unit while performing field work, carry radio or cell phone to call for help and note emergency exits);
- Report any threat or incident that makes you uncomfortable to your supervisor;
- Post emergency numbers by telephones;
- Make sure your emergency contact information is up-to-date with your department;
- Don't be a hero, escape to a safe location and call for help;
- Listen attentively and try to break down the problem into smaller problems;
- Never try to resist an armed person;
- Project calmness, move slowly, quietly and make slow movements;
- Employ delaying tactics that give the person time to calm down (offer a glass of water);
- Arrange yourself so that your exit is not blocked;
- Try to keep six feet of distance from person, do not crowd their space;
- Avoid physical contact; do not respond to a physical attack-walk away
- Wear photo identification at all times;
- Park on the street, if possible, when making house visits

## **X REPORTING VIOLENCE IN THE WORKPLACE**

All employees are responsible for notifying their supervisor, department head, or Commissioner of Human Resources of any threats that are witnessed, received, or have been told that another person has witnessed or received. Even without an actual threat, employees should also report any behavior they have witnessed which they regard as threatening or violent, when that behavior is job related or might be carried out on a county site, or is connected to county employment. Employees are responsible for making this report regardless of the relationship between the aggressor and the individual to whom the threat or threatening behavior was directed.

A Workplace Violence Report should be used when there is cause for concern by any employee where an immediate response is not needed. If you experience an immediate

threat or act of violence your first response should be to protect yourself and distance yourself from the situation then report the incident, as quickly as possible. If you are concerned about any situation that has or may occur, and are uncertain if a written report is necessary, you are encouraged to voice your concerns with your immediate supervisor. Documentation of any threat or act of violence must be acknowledged by the recipient (supervisor, department head or the Commissioner of Human Resources), reviewed and a determination of what course of action will be taken, if warranted. All such reports will be retained by management.

**Retaliation against anyone acting in good faith who has made a complaint of workplace violence, who has reported witnessing workplace violence, or who has been involved in reporting, investigating, or responding to workplace violence is a violation of this policy. Those found responsible for retaliatory action will be subject to discipline up to and including termination.**

## **XI. RESPONSE TO A VIOLENT THREAT OR ACT**

When a report of violence in the workplace is submitted to management, the threat or incident will be evaluated to determine the level of risk posed to all persons involved. After reviewing the situation, notification should be given to any of the potential victim(s), security personnel and/or police. The determination of adding additional security measures should be taken, and if warranted, other measures such as, relocating the intended victims work area, changing their phone number or advising the individual's rights to obtain a restraining order may be instituted. A copy of any restraining order(s) (temporary or permanent) obtained by a County employee must be filed with management and security personnel.

In the case of an incident that has already occurred, the aggressor is a County employee, and the safety of all persons involved has been ensured, management will document the incident in writing supplying a copy of the report to the Commissioner of Human Resources and the County Manager. A determination will be made regarding the repercussions of such actions, and if necessary, disciplinary action pursuant to Civil Service Law will be pursued.

Communication must be maintained to all parties involved to alleviate anxiety and reduce misinformation. The rapid response in communication with employees can intercept rumors, calm fears and reassure employees. In the event of a major incident, the County Manager will act as spokesperson for the County. Any early dismissals or announcements not to report to a specific workplace will be communicated by local radio stations.

After an incident of violence has occurred, employee(s) experiencing psychological effects will be afforded initial counseling by the County or through the Employee Assistance Program (1-800-252-4555). Realizing the demoralizing, victimization and other detrimental effects of an incident, management should encourage staff to discuss and identify any lingering reservation or problems within the workplace. Inability to maintain a sufficient level of competence performing routine workloads is an indication of difficulty

dealing with the incident and may be a reaction to Post Traumatic Stress Disorder. Employees displaying or communicating difficulties should be encouraged to seek professional help.

A copy of all Workplace Violence Reports obtained by County Management must be submitted to the Commissioner of Human Resources and the County Manager. The County Manager will retain all documentation and Workplace Violence Reports. The County Manager will also make recommendations to the Legislature to remedy any security breaches or suggest new policy to create a more secure working environment. An annual report will be prepared and submitted by the County Manager to the Legislature and Personnel Department stating the number of instances of workplace violence, including a general overview of the nature of violence reported.

## **XII. REPORTING A SERIOUS VIOLATION OF THIS POLICY**

Labor Law Section 27-b, The New York State Workplace Violence Prevention Act, provides the following course of action for any employee who feels there is a serious violation of this policy.

### **Application:**

- a.) Any employee or authorized employee representative who believes that a serious violation of the workplace violence protection program exists or that an imminent danger exists shall bring such matter to the attention of a supervisor in the form of a written notice and shall afford the County of Sullivan a reasonable opportunity to correct such activity, policy or practice. Written notice shall not be required where imminent danger or threat exists to the safety of a specific employee or to the general health of a specific patient and the employee reasonably believes in good faith that reporting to a supervisor would not result in corrective action.
- b.) If following a referral of such matter to the employee's supervisor's attention and after a reasonable opportunity to correct such activity, policy or practice the matter has not been resolved and the employee or representative of employees still believes that a violation of a workplace violence prevention program remains, or that an imminent danger exists, such employee or representative of employees may request an inspection by giving notice to the County Manager of such violence or danger. Such notice and request shall be in writing, shall set forth with reasonable particularity the grounds for the notice, shall be signed by such employee or representative of employees, and a copy shall be provided by the County Manager to the department head or the person in charge no later than the time of inspection, except that on the request of the person giving such notice, such person's name and the names of individual employees or representatives of employees shall be withheld. Such inspection shall be made forthwith.
- c.) A representative of the department or division and an authorized employee representative shall be given the opportunity to accompany the County Manager during an inspection for the purpose of aiding such inspection. Where there is no authorized employee

representative, the County Manager shall consult with a reasonable number of employees concerning matters of safety in the workplace.

- d.) The authority of the County Manager to inspect premises pursuant to such an employee complaint shall not be limited to the alleged violation contained in such complaint. The County Manager may inspect any other area of the premises in which he or she has reason to believe that a serious violation of this section exists.
- e.) No department head or supervisor shall take retaliatory action against any employee because the employee does any of the following:
  - 1. makes an application pursuant to paragraph a of this subdivision;
  - 2. requests an inspection as authorized in paragraph b of this subdivision;
  - 3. accompanies the County Manager as authorized in paragraph c of this subdivision;
- f.) The County Manager may, upon his or her own initiative, conduct an inspection of any premises occupied by an employer if he or she has reason to believe that a violation of this section has occurred or if he or she has a general administrative plan for the enforcement of this section, including a general schedule of inspections, which provide a rational administrative basis for such inspecting. Within one hundred twenty days of the effective date of this paragraph the County Manager shall adopt rules and regulations implementing the provisions of this section.
- g.) Any information obtained by the County Manager pursuant to this subdivision shall be obtained with a minimum burden upon the employers.
- h.) When a request for an inspection has been made in a situation where there is an allegation of an imminent danger such that an employee would be subjecting himself or herself to serious injury or death because of the hazardous condition in the workplace, the inspection shall be given the highest priority by the department and shall be carried out immediately.
- i.) Employer is responsible to develop a Workplace Violence Incident Report , which shall contain, at a minimum: the workplace location where the incident took place; time of day/shift when the incident occurred; a detailed description of the incident, including events leading up to the incident and how the incident ended; names and job titles of involved employees; name or other identifier of other individual(s) involved; nature and extent of injuries arising from the incident; and names of witnesses.
- j.) Notwithstanding anything contained above to the contrary, when a case is a “privacy concern case”, as defined below, the employer shall still be liable for developing a Workplace Violence Incident Report as set forth above. However before sharing, a copy of such report with any party other than the County Manager, the employer shall remove the name of the employee who was the victim of the workplace violence and shall instead enter “PRIVACY CONCERN CASE” in the space normally used for the employee’s name.

1. Employer shall treat incident involving the following injuries or illnesses as Privacy Concern Cases:

- A.** An injury or illness to an intimate body part or the reproductive system;
- B.** An injury or illness resulting from a sexual assault;
- C.** Mental illness;
- D.** HIV infection;
- E.** Needle stick injuries and cuts from sharp objects that are or may be contaminated with another person's blood or other potentially infectious material; and
- F.** Other injuries or illnesses, if the employee independently and voluntarily requests that his or her name not be entered on the Report.

k.) The Workplace Violence Incident Report must be maintained for use in annual program review and updates.

l.) Reports and any determinations will be deemed not subject to disclosure under the New York State Freedom of Information Law (hereinafter "FOIL"), unless the complaint is founded. In such case, any such reports and determinations shall be disclose-able under FOIL. Otherwise a lawful court order will be required.



<b>IF THREATENED:</b>		
1. As closely as possible, what were the exact words used?		
2. Was the aggressor in a position to carry out the threat immediately?		
3. How serious do you believe the threat was and why?		
<b>EMPLOYEE RELATED ACTIONS</b>		
What actions were taken by the employee? ) e.g. workers compensation, obtained medical treatment, used sick/leave/ vacation time, etc.)		
What specific actions from the County does the employee request in relation to the incident? If none, also indicate.		
<b>LAW ENFORCEMENT INFORMATION</b> (Attach a copy of the police report, when possible)		
Law Enforcement Agency Contacted (Name of Officer)	Date Contacted	Telephone
Was a written report completed?	YES	NO
What action was promised?		
I hereby certify the above report made is a true accounting of the incident described and the above questions have been answered truthfully and to the best of my ability under penalty of perjury.		
Signature of Person Making Report/ Date		Title
<b>WORKPLACE VIOLENCE REPORT SUPERVISOR'S ACTIONS</b>		
Directions given to employee ( i.e. go home, go to hospital, etc.):		
Supervisor's Recommendation: ___ Prosecution ___ Restraining Order ___ Letter to Aggressor ___ Other Please specify:		
<b>LEGAL COUNSEL ACTION(S)/RECOMMENDATIONS:</b>		
<b>NOTIFICATION DATES</b>		
Date Notification Received:		
Employee Notified of Chosen Action:	___ YES ___ NO	
County Manager/ Commissioner of HR Notified:	___ YES ___ NO	
EAP Officer Notified:	___ YES ___ NO	
Was employee and management notified of other options that can be pursued personally?	___ YES ___ NO	
Supervisors Signature/Date		Department Head Signature/Date

# **BENEFITS**

- A. **CANCER SCREENING**
- B. **CREDIT UNION**
- C. **DEFERRED COMPENSATION**
- D. **EMPLOYEE ASSISTANCE PROGRAM**
- E. **FAMILY MEDICAL LEAVE**
- F. **HEALTH INSURANCE**
- G. **LEAVE OF ABSENCE**
- H. **NEW YORK STATE RETIREMENT PLAN**
- I. **SHORT TERM DISABILITY**
- J. **UNEMPLOYMENT INSURANCE**
- K. **WORKER'S COMPENSATION**

## *CANCER SCREENING POLICY*

Sullivan County recognizes that early detection for cancer is a priority for diagnosis and treatment for its employees. Although currently there is no cure for cancer, the need for ample time to undergo routine cancer screenings will be afforded by this policy without detriment or prejudice to the employees who benefit from this program.

New York Civil Service Law Sections 159-b and 159-c entitle Sullivan County employees excused leave not to exceed four hours on an annual basis to undertake screenings for breast and prostate cancers. The County Legislature extends the intent of the law to cover all cancer screenings. Excused leave will not be charged against the employee's sick, vacation, personal, compensatory or other time accruals. The employee will be compensated at his or her regular hourly rate, not exceeding four hours per annum, in accordance with this policy.

The four hours of excused paid time off per annum is effective every January 1<sup>st</sup>. If the employee does not exercise his/her rights to the four hours of excused paid leave during the calendar year, the hours are not carried forward to the next year. The four hours of excused time may include travel time to and from the appointment and any subsequent follow up consultation visits. In addition, the four hours of excused time may be staggered throughout the year until the maximum time has been reached. Any additional time exceeding the annual four hours of paid leave must be compensated by use of sick time or other accruals.

### **REQUIREMENTS:**

An employee who seeks to benefit from this Policy must submit sufficient documentation to support his/her request, such as a letter, note, or similar from a medical professional qualified to represent the date and time of the screening.

## *CAPITAL COMMUNICATIONS CREDIT UNION*

County employees may choose to become a member of Capital Communications Credit Union. To become a member complete a membership application, available in the Personnel Department, and open a share account with at least a \$25.00 deposit. Once you become a member you are eligible for all the services offered. A minimum share account balance of \$10.00 is required to maintain membership. **Apply online at [capcomfcu.org](http://capcomfcu.org).**

## *DEFERRED COMPENSATION PLAN*

Deferred Compensation is an employee benefit that you're entitled to under federal law. A deferred compensation program lets you defer payment of taxes, or "put aside" a portion of your earnings (pre-tax dollars) each pay period into an account for your retirement.

Your contributions are conveniently payroll deducted from your earnings each pay period before you receive your payroll check. You decide how much to contribute. The minimum contribution is \$10.00 a pay period.

You can choose among a variety of investment options, from extremely conservative to very aggressive.

Sullivan County offers employees the opportunity to participate in a Deferred Compensation program. The Provider is Nationwide Retirement Solutions. For further information contact the Headquarters at:

One Nationwide Plaza  
P.O. Box 16747  
Columbus, OH 43216  
(877)677-3678

### *EMPLOYEE ASSISTANCE PROGRAM*

The County of Sullivan provides an Employee Assistance Program (EAP) to all employees and their families. This program provides personalized, professional and confidential assistance in addition to other professional and personal development programs including:

- Problem assessment, brief counseling and crisis intervention services from certified professional staff
- Comprehensive treatment recommendations and follow up
- 24 hour [800] emergency help line for crisis support staffed by professionals
- Specialized legal and financial assistance
- Work/Life Benefits – child or elder care assistance, real estate concerns, pet help center.
- Financial Coaching – Debt counseling and restructuring.
- Career Development and Training Benefits
- Wellness Benefits – stress reduction, fitness, diet and smoking cessation.
- Referrals to community resources based upon individual need and third-party reimbursement considerations

The program is available via the toll free number 1-800-252-4555 or online @[www.theeap.com](http://www.theeap.com). Any contact with the program is completely confidential, unless the employee signs a release permitting authorizing specific information to be released.

### *FAMILY MEDICAL LEAVE*

Employees who have worked at least twelve (12) months and for at least 1250 hours during the preceding twelve (12) months, are eligible for family medical leave of up to twelve (12) weeks of unpaid leave in a calendar year when the unpaid leave is requested for a qualified reason as set forth below. Family leave granted for an employee's own serious health condition may, subject to collective bargaining agreements, include and require substitution of an employee's accrued paid leaves including sick leave, personal leave, and vacation leave. If leave is requested for any reasons listed below, other than personal illness, an employee must use all of his or her accrued

paid personal, vacation or compensatory leave. The remainder of the leave period will then consist of unpaid leave. At the discretion of the department head and Human Resources Department, a leave of more than twelve (12) weeks can be provided.

REASON FOR LEAVE:

Qualified reasons for the granting of family leave are as follows:

- For the birth of and to care for the employee's child after birth, or the placement with employee of a child for adoption or foster care (This entitlement expires twelve months from the date of the birth or placement);
- For an employee to take care of themselves or the employee's son, daughter, spouse or parent, sibling (brother or sister) who requires care for a serious health condition: that is, an illness, injury, impairment, or physical or mental condition that involves in patient care in a hospital, hospice or residential treatment facility or continuing treatment by a health care provider. Continuing treatment by a health care provider includes any one or more of the following:
  - ✓ Two or more treatments by a health care provider, by a nurse or physician's assistant under the direct supervision of a health care provider, or by a provider of health care services under orders of, or on referral by, a health care provider; or
  - ✓ Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider.
- Any period of incapacity due to pregnancy or for prenatal care; or
- Any period of incapacity or treatment for such incapacity due to a chronic serious health condition; or
- A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective, however, the employee or family member must be under and continue with the supervision of a health care provider; or
- Any period of absence to receive multiple treatments by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment.

APPLICATION FOR LEAVE:

In all cases, an employee requesting leave must complete the *Application for Paid or Unpaid Leave* and return it to their department head, who shall immediately forward it to the Personnel Department for approval. The completed application must state the reason for the leave, the duration of the leave, and the starting and ending dates of the leave.

#### NOTICE OF LEAVE:

An employee intending to take Family Medical Leave because of an expected birth or placement, or because of a planned medical treatment, must submit an application for leave at least thirty (30) days before the leave is to begin. If leave is to begin within thirty (30) days, an employee must give notice to his or her immediate supervisor, department head *and* the Personnel Department as soon as the necessity for the leave arises.

#### MEDICAL CERTIFICATION OF LEAVE:

An application for leave based on the serious health condition of the employee or the employee's spouse, child or parent must also be accompanied by a "Medical Certification Statement" completed by the applicable health care provider. The certification must state the date on which the health condition commenced, the probable duration of the condition, and the appropriate medical facts regarding the condition.

If the employee is needed to care for a spouse, child or parent, the certification must state that care is needed; along with an estimate of the amount of time care will be needed. If the employee has a serious health condition, the certification must state that the employee cannot perform the functions of his or her job.

#### BENEFIT COVERAGE DURING LEAVE:

During a period of Family Medical Leave, an employee will be retained on the County's health plan under the same conditions that applied before leave commenced. To continue health coverage, the employee must continue to make any contributions that he or she made to the plan before taking leave. Failure of the employee to pay his or her share of the health insurance premium may result in loss of coverage.

If the employee fails to return to work after the expiration of the leave, the employee will be required to reimburse the County for payment of health insurance premiums during the family leave, unless the reason the employee fails to return is the presence of a serious health condition which prevents the employee from performing his or her job or due to circumstances beyond the employee's control.

#### RESTORATION TO EMPLOYMENT:

An employee eligible for Family Medical Leave – with the exception of those designated as "highly compensated employees" – will be restored to his or her old position or to a position with

equivalent pay, benefits, and other terms and conditions of employment. The County cannot guarantee that an employee will be returned to his or her original job. A determination as to whether a position is an equivalent position will be made by the County's Personnel Department.

#### RETURN FROM LEAVE:

An employee must provide their department head with a doctor's certificate or note stating that the employee is able to return to work and perform the functions of his or her job. If an employee wishes to return to work prior to the expiration of a Family Medical Leave of absence, notification must be given to the employee's supervisor at least five (5) working days prior to the employee's planned return.

#### FAILURE TO RETURN FROM LEAVE:

The failure of an employee to return to work upon the expiration of a Family Medical Leave of absence may subject the employee to termination unless an extension is granted. An employee who requests an extension of family leave or medical leave due to the continuation, recurrence or onset of her or his own serious health condition, or of the serious health condition of the employee's spouse, child or parent, must submit a request for an extension, in writing, to the employee's department head. This written request should be made as soon as the employee realizes that she or he will not be able to return at the expiration of the leave period. The department head should forward this request, to the Personnel Department for a decision on the leave extension.

#### EMPLOYER'S RIGHTS:

It is the employers right to designate a leave under the Family Medical Leave, whether or not it is requested by the employee, as long as all the conditions of FMLA are met.

### *LEAVE OF ABSENCE*

A leave of absence without pay, not to exceed one year, may be granted to an employee by an appointing officer, with the consent of the County Manager or designee. Notice of such leave of absence shall be given to the Personnel Officer. Where a leave of absence without pay has been granted for a period which aggregates one year, a further leave of absence without pay shall not be granted unless the employee returns to his position and serves continuously therein for three months immediately preceding the subsequent leave of absence. Notice of such subsequent leave of absence shall also be given to the Personnel Officer. Absence of leave for more than one year shall be deemed the equivalent of a resignation from the service upon the date of commencement of such absence, except as described below.

In an exceptional case, the Personnel Officer, with the consent of the County Manager, may for good cause shown waive the provisions of this rule to permit an extension of the leave of absence for an additional one-year period. In no case may such leave of absence exceed in aggregate two years from the date of commencement of the leave.

A leave of absence without pay, not to exceed four years, shall be granted by an appointing officer to an employee who is a veteran of the Armed Forces of the United States, providing such a leave of absence is for the purpose of taking courses under the educational benefits provided for in Title 38, Code or under a New York State Board of Regents War Service Scholarship Education Law Section No. 614. An employee taking such a leave shall be reinstated to their position provided he makes application for such reinstatement within sixty days after the termination of his course of study.

## *HEALTH INSURANCE BENEFITS*

Sullivan County provides eligible employees with health and other insurance benefits through NYSHIP (Registered Nurses are covered through NYSNA). Employees are eligible to participate in line with waiting periods as outlined in their collective bargaining or non-union agreements.

You will be provided with detailed information outlining your coverage. This information will be provided by the Risk Management and Insurance Department.

All questions pertaining to health insurance coverage should be directed to the Risk Management and Insurance Department.

## *NYS LOCAL GOVERNMENT EMPLOYEES RETIREMENT SYSTEM*

All county employees are eligible for membership in the New York State and Local Government Employees Retirement System. The right of enrollment in the retirement system cannot be withheld. The retirement system provides for service retirement and also for benefits in the event of death or disability. Membership in the retirement system is mandatory for any full time permanent employee employed on or after July 1, 1976. Membership for part time, permanent part time, provisional, temporary, and probationary employees are optional. Optional employees who elect not to join the retirement system may subsequently join the system at any time while membership is optional by completing an application for enrollment; these applications are available in the Office of Personnel and Civil Service Administration.

There are several tiers of membership in the retirement system depending on when a person is first enrolled in the system and are summarized as follows:

- Tier I: Those who became members on or before June 30, 1973
- Tier II: Those who became members on or after July 1, 1973 and on/before July 26, 1976
- Tier III: Those who became members on or after July 27, 1976 and on/before August 31, 1983
- Tier IV: Those who became members on or after September 1, 1983 to December 31, 2009
- Tier V: Those who became members on or after January 1, 2010 to March 31, 2012
- Tier VI: Those who became members on or after April 1, 2012 to present

Depending upon your tier status, there are variations in the retirement plan with respect to employee contributions, benefits, and retirement age. If you were a member of the retirement system prior to being employed by the County, your tier status may be determined by your previous public employment.

Under current state law or regulations, persons employed in the retirement system or persons who are ineligible for enrollment in the retirement system must have social security withholdings deducted from their pay.

Persons who are not mandated to join the retirement system but who opt to do so will have social security withheld from their pay if they choose to enroll in the retirement system. The Personnel Office can provide assistance with matters relating to the retirement system. Inquiries can also be directed to the following address:

New York State and Local Employees Retirement System  
110 State Street  
Albany, New York 12244

General information can be obtained by calling: (866)805-0990 or (518)474-7736

### ***SHORT TERM DISABILITY***

The County provides eligible employees with disability insurance. The purpose of this insurance is to provide temporary cash benefits to employees who are disabled by an "Off-the-Job" injury or illness.

All disability claims are processed through the Risk Management and Insurance Department. To file a claim, you should obtain a claim form from the Risk Management and Insurance Department and complete the Claimant's Statement Section of the form, have the physician complete the Doctor's Statement and return the claim form to your department head.

Employees who become disabled off the job and who are entitled to sick leave may elect to use their sick leave or to receive disability payments. However, they may not be paid both simultaneously. Even though an employee elects to use their sick leave first, a disability claim should be filed immediately. This will ensure that payments are made as soon as an employee is eligible. Claims filed more than twenty (20) days after a disability begins, normally will not be paid. There is a seven-day waiting period for eligibility for this coverage.

Questions concerning disability insurance would be directed to the Risk Management and Insurance Department.

### ***UNEMPLOYMENT INSURANCE BENEFITS***

Unemployment insurance is protection for people who are out of work through no fault of their own. It provides them a weekly benefit of about one-half their regular pay (the current weekly maximum is \$504) to keep them and their families going while they look for new jobs.

New York State Law requires that County employees, who qualify for benefits, be covered for Unemployment Insurance. Employees do not make contributions to this coverage.

The Unemployment Insurance Program is administered by the New York State Department of Labor. Inquiries about application procedures, eligibility requirements, etc. should be directed to the local New York State Department of Labor office, Unemployment Insurance Division at 845-794-3340.

## ***WORKERS COMPENSATION***

Sullivan County provides Workers Compensation Insurance through a self-insured fund administered by the designated Self Insurance Program Administrator who is:

Department of Risk Management and Insurance  
County Government Center  
P.O. Box 5012  
Monticello, NY 12701

Every job related injury or illness must be reported to the department head or their designee at the earliest possible time that circumstances allow. The department head and employee are required to complete an *Accident/Incident Report*. This form is forwarded to the County Department of Risk Management and Insurance.

## ***OCCUPATIONAL SAFETY AND HEALTH STANDARDS EXPOSURE CONTROL AND HAZARD COMMUNICATION PROGRAM***

**Statement of Policy:** The County is committed to providing a safe and healthful work environment for our entire staff. In pursuit of this endeavor we have established a *Safety Policy and Procedures Manual* and *Exposure Control Plans* for both *Blood borne* and *Airborne Pathogens*.

**Safety Policy and Procedures Manual:** This manual sets forth policies, procedures, and guidelines for planning, organizing, and conducting an effective accident prevention program to preclude incidence and occurrences, which result in personal injury or monetary losses in the form of property damage or work stoppage. The manual defines the minimum requirements of Sullivan County's Safety Policy and Procedure Program and should not be construed to address all of the relevant safety issues of every department. It is the responsibility of each department to establish and implement additional safety practices and procedures necessary to minimize the risks, which are specific to their operation.

**Exposure Control Plans:** The *Exposure Control Plans* apply to all occupational exposure to blood or other potentially infectious materials (*Blood borne Pathogens Exposure Control Plan*) or to occupational exposure to tuberculosis (*Airborne Pathogens Exposure Control Plan*). The intent of the *Exposure Control Plans* (ECP) is to prevent the transmission of blood borne or airborne diseases within the potentially exposed workplace occupations. The ECP for *Blood borne pathogens* refers to pathogenic microorganisms that are present in human blood and other potentially infectious materials, and which can cause disease in humans. These pathogens include, but are not limited to, hepatitis B virus (HBV) and human immunodeficiency virus (HIV). The ECP for *Airborne pathogens* is limited only to the control of tuberculosis. Other airborne pathogenic diseases such as pneumococcal, rubella, influenza, and measles are covered by guidelines, policies, and regulations of the Center for Disease Control and/or the New York State Department of Health.

**Hazard Communication Program:** Your employer maintains a *Hazard Communication Program* in compliance with the OSHA Hazard Communication Standard. This program consists of an investigation and evaluation of the available scientific evidence relating to hazardous substances. The designated Safety Program Coordinator maintains a library of *Material Safety Data Sheets (MSDS)* listing hazardous chemicals that employees may encounter in connection with their employment activities. The MSDS consists of a fully completed OSHA Form 174 or its equivalent. A copy of the *Hazard Communication Program* is available for inspection at the Department of Risk Management and Insurance or in the Personnel Department.

**Universal Precautions:** *Universal Precautions* is an approach to infection control. According to the concept of *Universal Precautions*, all human blood and certain human body fluids are treated as if known to be infectious for HIV, HBV and other blood borne pathogens.

**Training:** The County provides periodic training concerning the use of *Universal Precautions* and the requirements of the *OSHA Blood borne Pathogens Standard*. Training is provided to all persons who are employed in positions that are considered to have occupational exposure.

**Occupational Exposure:** Employees are considered to have occupational exposure if it can be reasonably anticipated that they have exposure to blood or other potentially infectious material in the course of their duties. Employee exposure to blood borne and airborne pathogens is concentrated in the following County Departments:

- Adult Care Center
- Public Health Nursing
- County Jail
- Community Services Department

**Follow-up Procedures for Exposure Incidents:** The *Exposure Control Plan* provides for the following follow-up procedures in the event of an exposure incident:

- Immediate treatment, including cleaning of the exposed area
- Evaluation of the need for further treatment
- Source serological testing when possible
- HBV and HIV testing of the employee when indicated
- Hepatitis B and HIV prophylaxis when indicated

**Availability of Exposure Control Plan:** The plan is available for inspection in the following places:

- From your department head
- In the Department of Risk Management and Insurance
- In the Personnel Department

**Further information or Questions:** If you require additional information or have questions concerning the *Safety Policy and Procedures Manual*, *Exposure Control Plans*, or *the Hazard Communication Program*, you should contact:

Sullivan County Department of Risk Management and Insurance  
P.O. Box 5012  
Monticello, New York 12701  
845-807-0475

# **COMPENSATION**

**D. YOUR PAYCHECK**

**E. OVERTIME AND THE FLSA**

**F. TRAVEL EXPENSE AND MEAL ALLOWANCE**

## *YOUR PAYCHECK*

Rate of Pay: Your rate of pay is based upon a salary schedule and other provisions contained in the collective bargaining agreement or Personnel Policy for Non-Union Employees covering your employment. Changes in your pay may occur periodically as a result of negotiated increases, promotions, demotions, or similar changes in employment status.

Payroll Errors: The County is a large and complex organization. Occasionally an error is made in which an employee is paid a higher or lower rate of pay than he or she is entitled to receive. If you believe that your rate of pay is not correct, you should promptly notify your department head or their designated personnel liaison. After discussing this at the department level, if you continue to feel that your rate of pay is incorrect, you can seek further review by following the grievance procedure in the collective bargaining agreement. Employees who are not covered under one of the collective bargaining units should contact the Personnel Department to review a possible error in a pay rate. Should an error occur involving an overpayment, the employee will be required to establish a repayment schedule.

The County also provides employees with the benefit of Automatic Deposit of payroll checks into a bank of your choice.

The County payroll is on a two week pay-lag, which means the payroll period for each check ends two weeks prior to receipt of the payroll check.

## *OVERTIME UNDER THE FAIR LABOR STANDARDS ACT*

The Federal Fair Labor Standards Act (FLSA) requires the payment of premium pay (time and one-half) for hours worked in excess of forty hours per week. All employees covered under collective bargaining agreements are eligible to receive overtime compensation at premium rates of pay.

The *Personnel Policies for Non-Union Employees* identifies positions which are excluded from the overtime provisions of the Fair Labor Standards Act. Positions in the county government can be exempted from overtime if the position is a bona fide executive, administrative or professional position. These positions are listed in the following categories contained in the *Personnel Policies for Non-Union Employees*:

- Elected officials
- Administrative and managerial positions
- Exempt confidential positions

The Office of Personnel and Civil Service Administration determines if a position meets the criteria for exemption by using the appropriate exemption test in accordance with criteria and requirements set forth in 29 CFR 541.

An employee, who believes that their position is improperly exempted from the overtime provisions of the FLSA, should contact the Office of Personnel and Civil Service Administration to request an FLSA review.

## *TRAVEL EXPENSES AND MEAL ALLOWANCES*

County employees authorized to make trips for County purposes will be reimbursed for transportation and travel expenses in accordance with the County Guide for Reimbursement of Employee Travel Expenses.

This Guide to Reimbursement of Employees' Travel Expenses will outline what expenditures may be considered to be a County charge. It will also clearly delineate which reimbursable expenses are taxable according to the Internal Revenue Service (IRS) and which are non-taxable. Taxable reimbursable expenses must be reported on the employee's W-2.

### A. Procedure for Filing Mileage/Travel Reimbursement Claims

1. Employee mileage/travel expenses for which reimbursement is being requested must be presented on a standardized County Travel Voucher. Claims for mileage reimbursement must show true odometer readings. All other expenses, including but not limited to lodging, parking, tolls, public transportation, including common carriers, and meals, should be accurately itemized and documented with appropriate receipts and/or other pertinent documentation. Please note: meals require an **itemized** receipt and reasonable tipping will be allowed. (See Section 3A. Meal Reimbursement)
2. Claims should be submitted on a monthly basis; however **must** be submitted within 60 days of the date the expense was incurred. (See Section 2. Accountable Plan) Reimbursements will still be made to the employee if submitted after 60 days of the date the expense was incurred; however, the reimbursement will become taxable, processed through payroll and create potential significant tax consequences for the employee.
3. All travel vouchers will be audited. Any amount deemed to be taxable according to IRS regulations shall be electronically scanned by the Office of Audit and Control and sent to the Payroll Department for processing. The employee will receive this scan as well via email.

### B. Fraudulent Bills or Claims

The County reserves the right to prosecute fraudulent claims to the fullest extent of the law. In addition to other statutes, local laws and rules that may be relevant, please note:

1. "A person is guilty of offering a false instrument for filing in the first degree when, knowing that a written instrument contains a false statement or false information, and with intent to defraud the state or any political subdivision thereof, he offers or presents it to a public office or public servant with the knowledge or belief that it will become a part of the records of such public office or public servant."

2. “Offering a false instrument for filing in the first degree is a Class E Felony”  
(Penal Law, Section 175.35)

C. Relevant Provisions of Law

As required by Internal Revenue Code, County Law, Sections 203 and 369, General Municipal Law, Section 77-b, and County Administrative Code A9-3. Claims for travel expenditures should indicate the reason for the travel and/or expenses along with the authorization for incurring such expenditures. Prior written approval must be obtained via the “Request to Attend Form”.

D. Request to Attend

1. A “Request to Attend” is required for any employee to travel either outside of the County of Sullivan or when any expense is incurred for said travel to attend seminars, workshops, conventions, conferences, meetings, schools, etc. A Request to Attend is not required for travel for an employee to carry out his/her duties as required by their position, i.e. investigations, court appearances, etc. A Request to Attend is not required when travel is within Sullivan County and has no cost for which an employee would seek reimbursement. An employee must get prior-approval from their Department Head before any travel not requiring a Request to Attend.
2. A Request to Attend must identify the purpose of the travel, whether the travel is mandated, and how the employee or County will benefit by attending the seminar, workshop, convention, conference, meeting, school, etc. The request must also identify whether the employee(s) will receive a certificate, continuing education credits, or any other professional development designation or value associated with the seminar, workshop, convention, conference, meeting, school, etc.
3. The Request to Attend must be approved and signed by the employee’s Department Head, Division Head, and the County Manager or designee. Total estimated cost and local share costs must be submitted with every Request to Attend.
  - a. All incidental charges incurred during the course of travel that were not anticipated or previously known, i.e. parking, tolls, special fees, etc. may be paid upon the discretion of the County Auditor, with documented receipts, without approval from the County Manager or designee up to \$25 per trip.
  - b. In the event that the additional expenses exceed \$25, additional approval from the County Manager or designee is required.

## Section 2. Accountable Plan

An “accountable plan” is an I.R.S. reimbursement policy under which amounts are nontaxable to the recipient only if **ALL** of the following requirements are met. If these criteria are not met, the reimbursement will become **taxable** to the employee.

- A. There must be a business connection to the expense.
  - 1. Business Connection - There must be a business purpose for an employee’s travel that can be supported by documentary evidence in order to consider treating the reimbursement of travel expenses. Further, to meet the business connection requirement of an accountable plan, travel expense reimbursements other than mileage are only nontaxable to the extent that the expenses are incurred when the employee is away from home as defined by the IRS.
  - 2. Away From Home (aka in “travel status”)- In order for a reimbursement of an expense for business travel to be excluded from income, including meals and lodging, the employee must travel away from home for official business. Employees are considered to be in travel status if their business duties require them to be away from home for longer than an ordinary day's work and, during that time, they need substantial sleep or rest in order to meet the demands of employment. Employees must obtain appropriate approvals prior to traveling for an assignment (See, Request to Attend).
- B. There must be adequate accounting by the recipient within a reasonable period of time. IRS Safe Harbor rules for a reasonable period of time indicate the reimbursement must be substantiated within 60 days of the date the expense was incurred.
  - I. Substantiation Requirements: IRS substantiation requirements provide that the employee must document the date, time, place, amount, and business purpose of expenses. Employees should have documentary evidence, such as bills, itemized receipts, canceled checks, or similar documentation to support their claimed expenses.
- C. If applicable, excess reimbursements must be returned to the County within a reasonable period of time. IRS “Safe Harbor” rules for a reasonable period of time indicate the excess reimbursements must be repaid within 120 days of the date the expense was incurred.

### Section 3. Expenses

- A. Meal Reimbursement
  - 1. Any meal reimbursement for an employee who does not have overnight travel is a taxable fringe benefit according to the IRS and must be reported as wages on Form W-2.
  - 2. Day Trip Reimbursement. Travelers may be reimbursed for lunch for day trips when traveling **outside of the County**. Travelers are entitled to reimbursement for breakfast if they have to leave at least two hours before their normal work start

time, and/or for dinner if they return at least two hours later than their normal work ending time. Vouchers for meals must state the purpose of the travel, and in cases of a voucher for multiple meals, the voucher must state the names of the individuals who received each meal.

3. Meal limits. Based on the County's past practice and interpretation of actual and necessary expenses, the maximum amount of reimbursement per meals is as follows:
  - a. Breakfast \$10.00
  - b. Lunch \$15.00
  - c. Dinner \$25.00

Exceptions to meal limits may be made under limited special circumstances, at the discretion of the County Auditor.

4. Reasonable tipping will be allowed when properly documented. In no event shall it exceed 20% of the meal or 20% of the maximum amount of the meal reimbursement listed above, whichever is less.

#### B. Meal Allowance

1. Any employee designated by his/her Department Head to report to work prior to such employee's regular workday or so designated to continue to work after the end of his normal work day may be paid a meal allowance when so provided by the employee's work agreement.
2. Travel is not required for an employee to receive a meal allowance but it will be treated as a taxable fringe benefit.
3. Employees may not receive an allowance and a reimbursement for the same meal.

#### C. Mileage Reimbursement

1. In general, an employee shall receive mileage reimbursement for official travel only to the extent that the total miles travelled exceed the total round trip miles of commutation. Commuting mileage is defined as the number of miles travelled by an employee to and from the employee's residence and the employee's official work station. Commuting mileage is generally not reimbursed; however, to the extent it is, payment of commuting mileage is taxable according to the IRS regulations.

##### 2. Official Work Station.

The employee's official work station is the main office or branch office to which an employee is assigned to report to work. The official work station is designated by the Department Head and the designation must be in the best interest of the County. The purpose of an official work station is to establish when the employee is in travel status and eligible for reimbursement of travel expenses. Travel between the employee's home and official work station is considered commuting and is generally not reimbursable. The employee's home is considered to be in the city or town in which the employee primarily resides when working at his/her official station. If an employee works at more than one location, the department will designate the employee's official

work station to be where he/she normally conducts business (i.e., the place where the employee works more time than any other work location). While a department can still make a designation in the best interest of the County, if a department assigns an official station that is not an employee's main place of business, there may be tax reporting obligations on the part of the County and potentially significant tax consequences for the employee.

3. Official travel mileage shall be computed along the most direct route possible with the employee bearing the expense of any extra mileage for travel by an indirect route.
4. Special Rule.
  - a. Official travel by an employee who has been designated by the Personnel Officer as a field employee; **OR**
  - b. An employee that uses his/her privately owned or leased automobile to transport a person other than a County employee to a hospital, court, home or other facility on the County's behalf; **OR**
  - c. Travel is required by the employee's Department Head to work
    - i. other than during the employee's normal work week, **OR**
    - ii. other than during the employee's normal work day (see below) **AND** at other than the employees official work station

shall receive mileage reimbursement without deduction for commutation. If required to work other than the normal work day, an employee must have left for/arrived home from work more than one hour prior to/after their normal leave/arrival time in order to receive commutation mileage. However, any amount of commutation mileage that is reimbursed shall be a taxable fringe benefit according to IRS regulations. For field employees, this means reimbursement for daily travel between the employee's residence and the first and/or last work location, other than their official work station, are taxable.

#### D. Other Expenses.

1. Only actual, reasonable and necessary business-related expenses, such as lodging, registration fees, etc. will be reimbursed, and such expenses must be properly itemized with supporting documentation attached to the travel voucher. When meals and/or lodging are provided as part of a conference for which attendance has been approved, additional reimbursement is not permitted for those items.
2. Non-business related expenses including but not limited to: speeding fines, parking tickets, laundry, entertainment (e.g., theater tickets, in-room movies), other personal charges or alcoholic beverages will not be reimbursed.

#### Section 4. Transportation

##### A. County-Owned Vehicles

1. A County owned vehicle, if available, must be utilized by all County employees for any travel. The County Manager will not approve a Request to Attend and the Office of Audit and Control is not authorized to process claims for mileage unless the Division of Public Works (DPW) certifies that an appropriate County vehicle was not available. Please note, if there is a medical need or special circumstances that a

County owned vehicle cannot be utilized by an employee for travel, prior approval must be given by the County Manager or designee.

2. If a County vehicle is available, vehicles should be fueled up at one of the County locations. When traveling a far distance, a gas credit card should be requested from the Division of Public Works. There is a separate policy for the use of these cards which must be followed. A reasonable purchase of gasoline to get the vehicle to a County location to be fueled up may be approved.
3. Other necessary and/or emergency expenses incurred while using a County vehicle for business purposes may be reimbursed, if justified. Please note, before incurring any out of the ordinary expense, the Department of Public Works should be contacted for approval.
4. A daily use record log shall be maintained for all County vehicles, except for Sheriff's Department and Department Heads' vehicles. Daily use log forms are available from the Department of Public Works. These forms should be maintained on a daily basis and forwarded to DPW monthly within 10 days after the end of each month. Certain revised forms may be approved by the County Manager for departmental use.

B. Common Carrier

Often times the most efficient and cost effective method of transportation is using a common carrier such as a train, bus, taxicab or airplane. Common carrier should be used when appropriate.

C. Personal Vehicle

A personal vehicle may be used for County business purposes when a County vehicle or common carrier is not available, is not cost effective, or is otherwise not feasible.

Mileage reimbursement rates are determined by the IRS.

1. Claims must indicate the date and points of travel and be supported by a properly completed statement of auto travel which includes actual odometer readings.
2. Charges for gasoline, oil, accessories, repairs, depreciation, anti-freeze, towing, insurance and other expenditures will not be allowed. These are considered operational costs and are factored into the mileage reimbursement rate.