

ORDINANCE 2019 - 15

**An ordinance to amend the Personnel Policy Handbook of
Monroe County and the Tenth Judicial Circuit and to update Chapters 266 and 296
of the Monroe County Code**

WHEREAS, the Personnel Policy Handbook ("Handbook") of Monroe County and the Tenth Judicial Circuit was intended to be revised periodically to address the changing needs of and circumstances affecting these entities; and,

WHEREAS, the Monroe County Board of Commissioners ("Commissioners") wishes to amend Section 2.4 of the Handbook to ensure that Monroe County's longstanding prohibition on harassment of any form includes and protects an even broader population; and,

WHEREAS, the Commissioners have reviewed the revisions proposed to the Handbook and finds that the Amendment should be approved; and,

WHEREAS, the Commissioners wish for representatives of the Board of Judges of the Tenth Judicial Circuit and the Monroe County Prosecutor to, subsequently, review and approve the proposed revisions to the Handbook; and,

WHEREAS, the Commissioners are the legislative body for Monroe County and have sole authority to update the Monroe County Code ("MCC"); and

WHEREAS, the Commissioners desire to include the updated Policy Prohibiting Harassment in Chapters 266 and 296 of the MCC so that the Policy clearly and explicitly applies to the County's purchasing and ethical practices.

NOW, THEREFORE, BE IT ORDAINED by the Commissioners, as follows:

Section 1. The Personnel Policy Handbook of Monroe County and the Tenth Judicial Circuit, shall be and, hereby, is amended to read as follows.

2.4 POLICY PROHIBITING HARASSMENT

It is the policy of the County to provide all elected officials, employees, volunteers, and those with whom we consult and work, an environment, which is safe, comfortable, and free of harassment. It is the County's policy to prohibit all forms of harassment on County time and County property, including harassment based on age, color, disability, ethnicity, gender, sexual orientation, national origin, race, religion, veteran status, housing status, or any other legally-protected classification. All elected officials, employees, volunteers and those with whom we consult with and work are responsible for complying with the County's policy prohibiting harassment.

A. Harassment means any unwelcome or offensive conduct, whether written, verbal or physical, which is:

1. Directed at or to a person because of the person's age, color, disability, ethnicity, gender, sexual orientation, national origin, race, religion, or veteran status, housing status, or other legally-protected classification; or,
2. Directed toward any person concerning an individual, or a class of individuals, because of the age, color, disability, ethnicity, gender, sexual orientation, national origin, race, religion, veteran status, or housing status of the individual or class of individuals. For example, racial or ethnic slurs or

derogatory epithets are prohibited in the workplace, regardless of whether a member of the racial or ethnic group is present when the statement is made.

Harassment does not refer to occasional compliments or other statements of a socially - acceptable nature. Harassment refers to behavior which is unwelcome and which is so offensive and/or persistent as to create, or have the potential of creating, an intimidating, hostile, or offensive working environment for any person.

B. Sexual harassment may include the following:

1. Offensive or unwelcome sexual flirtations, advances or propositions, communicated verbally, by touch, or in writing, including texting and all forms of electronic communication ;
2. Obscene or sexually suggestive comments about a person's body or appearance;
3. The use of "off color" language or "dirty jokes";
4. Printed or electronic display or transmission of sexually explicit photographs, drawings, greeting cards, articles, books, magazines, messages, cartoons, or any other image;
5. Electronic messaging, including but not limited to, emails, blogs, chat rooms, etc.
6. Conduct with sexual implication that has the purpose or the effect of interfering with work performance or creating an intimidating, hostile, or offensive work environment;
7. Unwelcome or unnecessary touching of any part of another's body;
8. Sexually degrading words to describe a person or a group of people;
9. Slurs, threats, repeated commands or other offensive verbal or physical conduct relating to a person's sex or sexual orientation.

C. This policy applies to all full-time, part-time, and temporary employees and to elected officials, department heads, volunteers, and to those with whom we consult and work.

D. It is a violation of this policy to use an individual's submission to or rejection of harassing conduct as the basis for any employment decision affecting the individual. Retaliation towards a person who reports harassment is strictly prohibited.

E. Persons who believe they have been subjected to, witnessed, or been made aware of harassment shall promptly report the harassment to their elected or appointed department head, the Human Resources Department, or the Monroe County Legal Department and complete a Harassment Complaint Form. The best time to register a complaint is immediately after the act occurs. The completed Harassment Complaint Form shall be turned into the appropriate elected official, department head, the Human Resources Department, or the Monroe County Legal Department.

1. If the department head is the subject of the harassment complaint, the person may submit the completed form to the elected official responsible for that department head, the Human Resources Department, and the Monroe County Legal Department.

2. If the elected official is the subject of the harassment complaint, the person may submit the completed Harassment Complaint Form to the Human Resources Department, the Monroe County Commissioners, the Board of

Judges, or the Monroe County Legal Department. The Monroe County Legal Department and the Human Resources Department must be provided a copy of each completed Harassment Complaint Form.

F. All persons who observe or otherwise learn of or have reason to suspect any conduct which may violate this policy shall promptly report such facts to their elected official, department head, the Human Resources Department or the Monroe County Legal Department, and shall cooperate fully in any investigation or disciplinary action undertaken pursuant to this policy. Failure to comply with this section shall be grounds for appropriate disciplinary action, up to and including termination or replacement, as allowed by law.

G.

The elected official, department head, or the Human Resources Department, with assistance from the Monroe County Legal Department, shall conduct a prompt and careful investigation. The investigation may include interviews with all persons having direct knowledge of the unwelcome behavior, including the person who made the complaint, the person accused of sexual or other harassment, and other potential witnesses.

H. At the conclusion of the investigation, the elected official, department head, Human Resources Department, or other investigator will review the findings with the person(s) who made the complaint. If the investigation reveals that the complaint is factual, appropriate corrective action will be taken to prevent the harassment from occurring again, up to and including discharge of any person believed to be guilty of harassment, as allowed by law. In any case, particularly in situations where the facts uncovered during the investigation are inconclusive or unclear, the County will ensure that all parties are reacquainted with the policy prohibiting sexual or other harassment at work.

I. Monroe County will take reasonable steps to keep the complaint confidential and, to the extent possible, maintain the privacy of the persons involved. Monroe County, however, cannot guarantee confidentiality.

J. Monroe County takes this harassment policy very seriously and will make all reasonable efforts to educate its elected officials, employees, volunteers and those with whom we consult and work about this policy. Every new elected official, employee, volunteer, and those with whom we work will be provided a copy of the policy when hired or retained. If the policy is amended, copies of the amendments will be provided. All employees are expected to annually review the Personnel Policy Handbook.

K. Monroe County also recognizes that careful consideration must be given to questions regarding whether a particular action or incident is purely personal or social without any discriminatory effect. False accusations of harassment can have devastating effects on the lives and reputations of innocent people; therefore, the County may discipline, up to and including termination of employment, those employees who are proved to have intentionally, maliciously, and wrongly accused others of harassment. Appropriate legal action may be taken against elected officials, volunteers, and those with whom we consult and work who are proved to have intentionally, maliciously, and wrongly accused others of sexual harassment.

L. Prevention is the best policy for the elimination of harassment. Elected officials, employees, volunteers, and those with whom we work and consult shall be aware of

this harassment policy at all times and seek to avoid creating conditions that encourage such activity.

M. Sexual and other forms of harassment by any person may result in personal legal and financial responsibility for the offender. (*Harassment Complaint Form*)
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Section 2. Chapter 266 of the Monroe County Code shall be and, hereby, is amended to read as follows.

CHAPTER 266

PURCHASE OF SUPPLIES AND SERVICES

266-1. Establishment

WHEREAS, IC 5-22 (the "Act") applies to every expenditure of public funds by a governmental body;

WHEREAS, Monroe County (the "County") is a governmental body under the Act;

WHEREAS, the Act authorizes the County to establish a purchasing agency for the County, and to establish rules for the purchase of supplies and services.

266-2. Purchasing Agency

The Board of Commissioners hereby determines that it is the Purchasing Agency for the County.

266-3. Purchasing Agents

The Board of Commissioners hereby designates the following persons to serve as Purchasing Agents for the County:

- (A) each elected County official;
- (B) each elected circuit court judge;
- (C) the director of Court Services;
- (D) the county highway superintendent and engineer;
- (E) each appointed county department head;
- (F) each employee who is designated by his or her department head on a register maintained by the County Auditor.

266-4. General Requirements for Purchasing

Except as provided in this Ordinance, IC 5-22, as amended from time to time, shall govern the manner in which supplies and services are purchased by the County.

266-5.

Purchase of Services

- (A) "Services" means the furnishing of labor, time or effort by a person, not involving the delivering of specific supplies other than printed documents or other items that are merely incidental to the required performance.
- (B) Services providers may be selected by the Purchasing Agent through any process (e.g., request for proposals, inviting quotes, calling a specialist, etc.) the agent deems to be reasonable.
- (C) A contract for services must be reduced to writing and approved by the Board of Commissioners, during a public meeting, prior to work being performed. It shall be unlawful for a person, either individually or as part of an entity or business, to act on Monroe County's behalf, to informally or formally act in a representative capacity or as an agent of Monroe County, or to hold himself/herself/itself out as having authority of Monroe County unless and until a written contract authorizing such agency has been approved by the Board of Commissioners. A violation of this subsection of the Monroe County Code constitutes a Class A ordinance Violation, as described in Monroe County Code 115-3(A)(1), and may result in the debarment of the violator (entity and/or individual) from Monroe County service contracts for up to a year.
- (D) All service contracts shall be subject to the relevant provisions of the Monroe County Code of Ethics and to the contract assurances required by the Monroe County Title VI and ADA transition plans.
- (E) All service contracts shall identify the County officer or employee who shall be contacted by any service provider and/or subcontractor, regarding notices, progress reports, clarifications, requests, and matters requiring County input or approval.

266-6.

Purchases Less Than Fifty Thousand Dollars (\$50,000).

A Purchasing Agent may purchase supplies or services with an estimated cost of less than Fifty Thousand Dollars (\$50,000) on the open market, without inviting or receiving bids or quotes.

266-7.

Purchases Thousand Dollars (\$50,000) and One Hundred Fifty Thousand Dollars (\$150,000).

A Purchasing Agent shall follow the procedure described in IC 5-22-8-3 in awarding a contract for supplies, unless another purchasing method is required or authorized by IC 5-22 or this Ordinance.

266-8.

Purchases greater than One Hundred Fifty Thousand Dollars (\$150,000).

A Purchasing Agent shall follow the procedure described in IC 5-22-7 in awarding a contract for supplies unless another purchasing method is authorized by I.C. 5-22 or this Ordinance.

266-9

Evidence of Financial Responsibility.

- (A) The Purchasing Agent may include in a solicitation that an offeror provide evidence of financial responsibility in the form of a bid bond, certified check or other evidence. The amount of a bond or certified check may not be set to exceed ten percent (10%) of the estimated cost of the purchase.
- (B) This section does not preclude the use of a performance bond in addition to the evidence of financial responsibility stated above if the amount of the performance bond is stated in the solicitation.

266-10. Receiving Offers

- (A) Opening of Offers.

Bids or quotes received in a response to a solicitation must be opened publicly in the presence of one or more witnesses at the time and place designated in the solicitation.
- (B) Correction and Withdrawal of Bid or Quote.

An offeror may correct inadvertent errors in a bid or quote up to the time at which bids will be opened by withdrawing the bid, or by supplementing the erroneous bid and submitting a revised bid.
- (C) Cancellation of Solicitation.

When the Purchasing Agent makes a written determination that it is in the County's best interest, the Purchasing Agent may cancel a solicitation or reject all offers, provided that the solicitation included information concerning the procedures for cancellation.

266-11. Request for Proposals

- (A) The Purchasing Agent may make a written determination that the use of competitive bidding is not practicable or not advantageous for purchasing certain types of supplies, and that receiving proposals is the preferred method of purchasing.
- (B) The following types of supplies may be purchased by making a request for proposals:
 - (1) computer hardware or software.
 - (2) communications equipment.
- (C) The Purchasing Agent may conduct discussions with, and best and final offers may be obtained from responsible offerors who submit proposals determined to be reasonably susceptible of being selected for a contract award.
- (D) Public Record Status of Proposals:

In order to avoid disclosure of contents to competing offerors during the process of negotiation, proposals are not open to public inspection prior to award of a contract. The Purchasing Agent may provide for the protection of vendors' proprietary information in the request for proposals.

- (E) The request for proposals shall be conducted in the matter prescribed by IC 5-22-9.

266-12.

Modification and Termination of Contracts

- (A) Price Adjustments.

The Purchasing Agent may include provisions to permit price adjustments in a purchase contract. The following provisions for price adjustments may be included:

- (1) Price adjustments must be computed by agreement on a fixed price adjustment before the beginning of the pertinent performance or as soon after the beginning of performance as possible;
 - (2) Price adjustments must be computed by unit prices specified in the contract or subsequently agreed upon;
 - (3) Price adjustments must be computed by costs attributable to the events or situations under such clauses with adjustment of profit or fee, all as specified in the contract or subsequently agreed upon;
 - (4) Price adjustments must be computed in such other manner as the contracting parties may mutually agreed upon; or
 - (5) in the absence of agreement by the parties, price adjustments must be computed by a unilateral determination by the governmental body of the costs attributable to the events or situations under such clauses with adjustment of profit or fee, all as computed by the governmental body in accordance with applicable rules adopted by the governmental body.
- (B) Adjustments in Time of Performance. The Purchase Agent may include provisions in a purchase contract concerning adjustments for time of performance under the contract.
 - (C) Unilateral Rights of County. The Purchasing Agent may include in a purchase contract provisions dealing with the unilateral right of the County to order changes in the work within the scope of the contract or to order temporary work stoppage or delays in time of performance.
 - (D) Quantity Variations. The Purchasing Agent may include in a purchase contract provisions dealing with variations between the estimated quantities of work in a contract and the actual quantity delivered.

266-13. Required Sources of Purchase

(A) United States Manufacturer.

The Purchasing Agent shall purchase supplies which are manufactured in the United States. For purposes of this requirement, an item is deemed to be of United States manufacture if 50% or more of its component costs (excluding the cost of assembly) are manufactured in the United States. This requirement shall not apply if the Purchasing Agent makes any of the following determinations:

- (1) the supplies are not manufactured in the United States in reasonably available quantities.
- (2) the price of the supplies manufactured in the United States exceeds by an unreasonable amount the price of available and comparable supplies manufactured outside the United States.
- (3) the quality of the supplies is substantially less than the quality of comparably priced available supplies manufactured outside the United States.
- (4) the purchase of supplies manufactured in the United States is not in the public interest.
- (5) the cost of the item exceeds Twenty-five Thousand Dollars (\$25,000), and no offeror bids an item of United States manufacture.

(B) Department of Correction.

A Purchasing Agent shall purchase supplies and services produced or manufactured by the Indiana Department of Correction as listed in the Department's printed catalog unless the Agent makes any of the following written determinations:

- (1) the supplies or services cannot be furnished within a reasonable time as designated by the Purchasing Agent.
- (2) the supplies and services do not meet the specifications and needs of the County.
- (3) the supplies and services exceed a fair market price.

(C) Indiana Rehabilitation Center.

Unless supplies or services are produced by and purchased from the Department of Correction, the Purchasing Agent shall purchase supplies and services from the Indiana Rehabilitation Center as listed in the Center's printed catalogue unless the Agent makes any of the following determinations:

- (1) the supplies or services cannot be furnished within a reasonable time as designated by the Purchasing Agent.

- (2) the supplies and services do not meet the specifications and needs of the County.
- (3) the supplies and services exceed a fair market price.

266-14. Special Purchasing Methods

A Purchasing Agent may make a purchase of supplies and services without soliciting bids or proposals in the following circumstances, provided, however, that the Purchasing Agent complies with the provisions of IC 5-22-10-2 and 5-10-22-10-3:

- (A) emergency conditions as authorized by IC 5-22-10-4.
- (B) savings to governmental body as authorized by IC 5-22-10-5.
- (C) auctions as authorized by IC 5-22-10-6.
- (D) data processing contract or license agreements as authorized by IC 5-22-10-7.
- (E) single source for supply as authorized by IC 5-22-10-8.
- (F) purchasing method impairs functioning of agency as authorized by IC 5-22-10-9.
- (G) no offer received under other purchasing method as authorized by IC 5-22-10-10.
- (H) evaluation of supplies or system containing supplies as authorized by IC 5-22-10-11.
- (I) governmental discount as authorized by IC 5-22-10-12.
- (J) single source for supply; award of contract as authorized by IC 5-22-10-13.
- (K) efficiency and economic advantages as authorized by IC 5-22-10-14.
- (L) purchase from a person who has a contract with a federal agency as authorized by IC 5-22-10-15.
- (M) acquisition of supplies through transfer from federal government as authorized by IC 5-22-10-16.
- (N) acquisition of supplies through an acceptance of gift as authorized by IC 5-22-10-17.

266-15. Rule Making

The Board of Commissioners may, from time to time, adopt rules to govern and facilitate the purchase of supplies and services which are not inconsistent with this Ordinance or IC 5-22.

266-16. Effective Date

This Ordinance is effective upon passage.

266-17. Anti-nepotism requirements

- (A) All purchases of supplies and services shall be conducted in accordance with the terms and provisions of IC 36-1-21, the terms and provisions of which are incorporated in this section by reference.
- (B) Each year, between December 15th and December 31st, each elected official, department head, and employee who acts as a purchasing agent, shall certify to the Board of Commissioners, in writing, the purchasing agent's compliance with this section and IC 36-1-21. The annual certification shall be made in the following form:

SECTION 266-17 ANNUAL CERTIFICATION FORM

I, _____, a purchasing agent for the following office or department of Monroe County, Indiana: _____, being first duly sworn, affirm and certify, subject to the penalties for perjury, that, during the calendar year _____, I did not violate the terms and provisions of Monroe County Code Section 266-17, and Indiana Code Chapter 36-1-21.

Dated this _____ day of December, _____.

(Signature)

(Printed Name)

(Office)

STATE OF INDIANA)
) SS:
COUNTY OF MONROE)

Sworn and subscribed before me, a Notary Public for the State of Indiana, this _____ day of December, _____. My Commission expires on _____, _____.

(Signature)

(Printed Name)

(Office)

- (C) It is the intent of this section to require full compliance with Indian Code 36-1-21. Where a term or provision set forth in this chapter differs from the incorporated terms and provisions of Indiana Code 36-1-21, the more restrictive or limiting term or provision shall take precedence.

266-18. Policy Prohibiting Harassment

It is the policy of the County to provide all elected officials, employees, volunteers, and those with whom we consult and work, an environment, which is safe, comfortable, and free of harassment. It is the County's policy to prohibit all forms of harassment on County time and County property, including harassment based on age, color, disability, ethnicity, gender, sexual orientation, national origin, race, religion, veteran status, housing status, or any other legally-protected classification. All elected officials, employees, volunteers and those with whom we consult with and work are responsible for complying with the County's policy prohibiting harassment.

A. Harassment means any unwelcome or offensive conduct, whether written, verbal or physical, which is:

1. Directed at or to a person because of the person's age, color, disability, ethnicity, gender, sexual orientation, national origin, race, religion, or veteran status, housing status, or other legally-protected classification; or,
2. Directed toward any person concerning an individual, or a class of individuals, because of the age, color, disability, ethnicity, gender, sexual orientation, national origin, race, religion, veteran status, or housing status of the individual or class of individuals. For example, racial or ethnic slurs or derogatory epithets are prohibited in the workplace, regardless of whether a member of the racial or ethnic group is present when the statement is made.

Harassment does not refer to occasional compliments or other statements of a socially - acceptable nature. Harassment refers to behavior which is unwelcome and which is so offensive and/or persistent as to create, or have the potential of creating, an intimidating, hostile, or offensive working environment for any person.

B. Sexual harassment may include the following:

1. Offensive or unwelcome sexual flirtations, advances or propositions, communicated verbally, by touch, or in writing, including texting and all forms of electronic communication ;
2. Obscene or sexually suggestive comments about a person's body or appearance;
3. The use of "off color" language or "dirty jokes";
4. Printed or electronic display or transmission of sexually explicit photographs, drawings, greeting cards, articles, books, magazines, messages, cartoons, or any other image;
5. Electronic messaging, including but not limited to, emails, blogs, chat rooms, etc.
6. Conduct with sexual implication that has the purpose or the effect of interfering with work performance or creating an intimidating, hostile, or offensive work environment;
7. Unwelcome or unnecessary touching of any part of another's body;
8. Sexually degrading words to describe a person or a group of people;

9. Slurs, threats, repeated commands or other offensive verbal or physical conduct relating to a person's sex or sexual orientation.

C. This policy applies to all full-time, part-time, and temporary employees and to elected officials, department heads, volunteers, and to those with whom we consult and work.

D. It is a violation of this policy to use an individual's submission to or rejection of harassing conduct as the basis for any employment decision affecting the individual. Retaliation towards a person who reports harassment is strictly prohibited.

E. Persons who believe they have been subjected to, witnessed, or been made aware of harassment shall promptly report the harassment to their elected or appointed department head, the Human Resources Department, or the Monroe County Legal Department and complete a Harassment Complaint Form. The best time to register a complaint is immediately after the act occurs. The completed Harassment Complaint Form shall be turned into the appropriate elected official, department head, the Human Resources Department, or the Monroe County Legal Department.

1. If the department head is the subject of the harassment complaint, the person may submit the completed form to the elected official responsible for that department head, the Human Resources Department, and the Monroe County Legal Department.

2. If the elected official is the subject of the harassment complaint, the person may submit the completed Harassment Complaint Form to the Human Resources Department, the Monroe County Commissioners, the Board of Judges, or the Monroe County Legal Department. The Monroe County Legal Department and the Human Resources Department must be provided a copy of each completed Harassment Complaint Form.

F. All persons who observe or otherwise learn of or have reason to suspect any conduct which may violate this policy shall promptly report such facts to their elected official, department head, the Human Resources Department or the Monroe County Legal Department, and shall cooperate fully in any investigation or disciplinary action undertaken pursuant to this policy. Failure to comply with this section shall be grounds for appropriate disciplinary action, up to and including termination or replacement, as allowed by law.

G. The elected official, department head, or the Human Resources Department, with assistance from the Monroe County Legal Department, shall conduct a prompt and careful investigation. The investigation may include interviews with all persons having direct knowledge of the unwelcome behavior, including the person who made the complaint, the person accused of sexual or other harassment, and other potential witnesses.

H. At the conclusion of the investigation, the elected official, department head, Human Resources Department, or other investigator will review the findings with the person(s) who made the complaint. If the investigation reveals that the complaint is factual, appropriate corrective action will be taken to prevent the harassment from occurring again, up to and including discharge of any person believed to be guilty of harassment, as allowed by law. In any case, particularly in situations where the facts uncovered during the investigation are inconclusive or unclear, the County will

ensure that all parties are reacquainted with the policy prohibiting sexual or other harassment at work.

I. Monroe County will take reasonable steps to keep the complaint confidential and, to the extent possible, maintain the privacy of the persons involved. Monroe County, however, cannot guarantee confidentiality.

J. Monroe County takes this harassment policy very seriously and will make all reasonable efforts to educate its elected officials, employees, volunteers and those with whom we consult and work about this policy. Every new elected official, employee, volunteer, and those with whom we work will be provided a copy of the policy when hired or retained. If the policy is amended, copies of the amendments will be provided. All employees are expected to annually review the Personnel Policy Handbook.

K. Monroe County also recognizes that careful consideration must be given to questions regarding whether a particular action or incident is purely personal or social without any discriminatory effect. False accusations of harassment can have devastating effects on the lives and reputations of innocent people; therefore, the County may discipline, up to and including termination of employment, those employees who are proved to have intentionally, maliciously, and wrongly accused others of harassment. Appropriate legal action may be taken against elected officials, volunteers, and those with whom we consult and work who are proved to have intentionally, maliciously, and wrongly accused others of sexual harassment.

L. Prevention is the best policy for the elimination of harassment. Elected officials, employees, volunteers, and those with whom we work and consult shall be aware of this harassment policy at all times and seek to avoid creating conditions that encourage such activity.

M. Sexual and other forms of harassment by any person may result in personal legal and financial responsibility for the offender.

[end of chapter]

Section 3. Chapter 296 of the Monroe County Code shall be and is hereby amended to read as follows.

CHAPTER 296

Monroe County Code of Ethics

296-1. Definitions

- (A) "Business relationship" means dealings Monroe County government has with a person seeking, obtaining, establishing maintaining, or implementing:
- (1) a pecuniary interest in a contract or purchase with Monroe County governments; or,
 - (2) a license or permit requiring the exercise of judgment or discretion by Monroe County government.

(B) "Conflict of interest" means a situation in which the private financial interest of a Monroe County government officer, employee, or agent, or the spouse, or unemancipated child of an officer, employee, or agent, may influence the officer's, the employee's, or the agent's performance of a public duty.

(C) "Financial interest" means an interest:

- (1) in the purchase, sale, lease, contract, option, or other transaction between Monroe County government and any person; or
- (2) involving services.

The term includes an interest arising from employment or prospective employment for which negotiations have begun. The term does not include an interest of the officer, employee, or agent in the common stock of a corporation unless the combined holdings in the corporation of the officer or the employee, that individual's spouse, and that individual's unemancipated children are more than one percent (1%) of the outstanding shares of the common stock of the corporation. The term does not include an interest that is not greater than the interests of the general public.

(D) "Gift" means the transfer or promise of a transfer of something of value regardless of the form without adequate and lawful consideration or consideration less than that required of others who are not employees, including the full or partial forgiveness or indebtedness, which is not extended to others who are not Monroe County government officers, employees, or agents, on the same terms and conditions. However, "gift" does not include gifts from relatives of less than two hundred fifty dollars (\$250) or campaign contributions subject to IC 3-9-2.

(E) Harassment means any unwelcome or offensive conduct, whether written, verbal or physical, which is:

- (1) Directed at or to a person because of the person's age, color, disability, ethnicity, gender, sexual orientation, national origin, race, religion, or veteran status, housing status, or other legally-protected classification; or,
- (2) Directed toward any person concerning an individual, or a class of individuals, because of the age, color, disability, ethnicity, gender, sexual orientation, national origin, race, religion, veteran status, or housing status of the individual or class of individuals. For example, racial or ethnic slurs or derogatory epithets are prohibited in the workplace, regardless of whether a member of the racial or ethnic group is present when the statement is made.

Harassment does not refer to occasional compliments or other statements of a socially- acceptable nature. Harassment refers to behavior which is unwelcome and which is so offensive and/or persistent as to create, or have the potential of creating, an intimidating, hostile, or offensive working environment for any person.

- (F) "Honorarium" means a payment of money for an appearance, a speech, or an article but does not include payment or reimbursement of travel expenses for a Monroe County government officer, employee, or agent.
- (G) "Officer" means anyone who holds public office, elected or appointed, in Monroe County government.
- (H) "Person" means any individual, proprietorship, partnership, unincorporated association, trust, business trust, group or corporation, whether or not operated for profit, or a governmental agency, or a political subdivision.
- (I) "Relative" means any person related as father, mother, step-father, step-mother, brother, sister, step-brother, step-sister, uncle, aunt, husband, wife, son, daughter, step-child, son-in-law, daughter-in-law, grandchild, step-grandchild, niece, or nephew.
- (J) "Travel expenses" means transportation, lodging, and meals. It may be actual travel expenses or an amount approximating those expenses which would be allowed by the Monroe County government travel policies and procedures set forth in the Monroe County Personnel Policy.

296-2

Conflict of Interest

No employee, officer, or agent of Monroe County government shall participate in the selection, in the award, or in the discretionary administration of a contract if a conflict of interest, real or apparent, would be involved. Such a conflict arises when there is a financial interest in the person selected for award by:

- (A) The employee, officer, or agent;
- (B) Any member of his or her immediate family;
- (C) His or her partner, or,
- (D) An organization that employs or is about to employ any of the above.

296-3

Gifts, Favors, Services, Entertainment, Food, and Drink, etc.

- (A) Monroe County government employees, officers, and agents, or the spouse or unemancipated child of a Monroe County government employee, officer, or agent, shall not knowingly solicit, accept, or receive any gift, favor, service, entertainment, food, drink, travel expenses, or registration fees (collectively and individually "gift") from a person who has a business relationship with the employee's agency or is seeking to influence an action by the employee, officer, or agent in his or her official capacity. The following shall not be subject to this section, unless restricted by Subsection (D) below:
 - (1) Gifts, favors, services, entertainment, food, or drink from public agencies or public institutions;

- (2) Food or drink consumed at a public meeting to which at least twenty-five (25) individuals are invited. A meeting will be considered public if:
 - (a) the event is a reception or other gathering of public officials that is not arranged to solicit government procurement of goods or services;
 - (b) the employee is giving a speech or participating in a presentation in the employee's official capacity; or,
 - (c) the meeting has a formal educational program that the employee is attending to assist him or her in performing official duties.
 - (3) Unsolicited gifts, favors, services, entertainment, food, or drinks of nominal value (for purposes of this provision, nominal value shall be an amount less than \$100.01; the total value of nominal gifts is limited to \$300.00 per year per officer, employee, or agent).
 - (4) Political contributions subject to IC 3-9-2 that are reported in accordance with applicable law.
 - (5) Discount or other promotional programs approved and made generally available by or through Monroe County government to its officers, employees, and agents.
- (B) Upon written application of a Monroe County government officer, employee, or agent, the Monroe County Commissioners may waive application of subsection (A), above, in individual cases, when consistent with the public interest. The waiver shall:
- (1) be in writing; and
 - (2) identify the following:
 - (a) The employee.
 - (b) The nature and value of the gift.
 - (c) The donor of the gift.
 - (d) Why acceptance of the gift is consistent with the public interest.
- (C) A person who has a business relationship with Monroe County government shall not provide any gifts, favors, services, entertainment, food, or drink to a Monroe County officer, employee, or agent, if the officer, employee, or agent would not be able to accept the gift, favor, service, entertainment, food, or drink under this Section.
- (D) Contrary provisions of Subsection A above notwithstanding, with respect to engineering and design related service contracts ("Contracts") supported by Federal-aid funds, officers, employees, and agents of Monroe County government shall;

- (1) abide by the conflict of interest provisions of Section 296-2 above;
- (2) promptly report, in writing, potential conflicts of interest to INDOT;
- (3) neither solicit nor accept gratuities, favors, or anything with a monetary value greater than \$100.00, from the engineering and design related service providers under the Contract (the foregoing amount is insubstantial interest/nominal unsolicited gifts threshold for purposes of this Chapter); and,
- (4) promptly report, in writing, violations of this Subsection to INDOT.

296-4 Honoraria

- (A) An officer, employee, or agent of Monroe County government shall not personally accept an honorarium for himself or herself for anything that may be considered part of the officer's, employee's, or agent's official duties. However, the official, employee, or agent may accept an honorarium on behalf of Monroe County government. Such an honorarium shall be remitted to the Monroe County Treasurer, who shall quietus the honorarium into the County General Fund.
- (B) An officer, employee, or agent of Monroe County government may personally accept an honorarium for activities not done in connection with the employee's official duties and that are prepared on the employee's own time and without the use of Monroe County government resources. The above notwithstanding, an officer, employee, or agent of Monroe County government may not accept an honorarium from a person who has a business relationship or seeks to influence an official action of Monroe County government.

296-5 Reimbursement of Travel Expenses

A person may reimburse Monroe County government for any part of, or for all of, the expenses incurred by Monroe County government for appearances of a Monroe County officer, employee, or agent on behalf of the County. Reimbursement shall be remitted to the Monroe County Treasurer who shall quietus the funds into the General Fund.

296-6 Donations

Nothing in this Chapter prohibits donations to Monroe County government that are made in accordance with applicable law (e.g., IC 36-1-4-10).

296-7 Nepotism

Nepotism restrictions are set forth in MCC 266-17 and MCC 274-3.

296-8 Policy Prohibiting Harassment

It is the policy of the County to provide all elected officials, employees, volunteers, and those with whom we consult and work, an environment, which is safe, comfortable, and

free of harassment. It is the County's policy to prohibit all forms of harassment on County time and County property, including harassment based on age, color, disability, ethnicity, gender, sexual orientation, national origin, race, religion, veteran status, housing status, or any other legally-protected classification. All elected officials, employees, volunteers and those with whom we consult with and work are responsible for complying with the County's policy prohibiting harassment.

A. Harassment means any unwelcome or offensive conduct, whether written, verbal or physical, which is:

1. Directed at or to a person because of the person's age, color, disability, ethnicity, gender, sexual orientation, national origin, race, religion, or veteran status, housing status, or other legally-protected classification; or,
2. Directed toward any person concerning an individual, or a class of individuals, because of the age, color, disability, ethnicity, gender, sexual orientation, national origin, race, religion, veteran status, or housing status of the individual or class of individuals. For example, racial or ethnic slurs or derogatory epithets are prohibited in the workplace, regardless of whether a member of the racial or ethnic group is present when the statement is made.

Harassment does not refer to occasional compliments or other statements of a socially - acceptable nature. Harassment refers to behavior which is unwelcome and which is so offensive and/or persistent as to create, or have the potential of creating, an intimidating, hostile, or offensive working environment for any person.

B. Sexual harassment may include the following:

1. Offensive or unwelcome sexual flirtations, advances or propositions, communicated verbally, by touch, or in writing, including texting and all forms of electronic communication ;
2. Obscene or sexually suggestive comments about a person's body or appearance;
3. The use of "off color" language or "dirty jokes";
4. Printed or electronic display or transmission of sexually explicit photographs, drawings, greeting cards, articles, books, magazines, messages, cartoons, or any other image;
5. Electronic messaging, including but not limited to, emails, blogs, chat rooms, etc.
6. Conduct with sexual implication that has the purpose or the effect of interfering with work performance or creating an intimidating, hostile, or offensive work environment;
7. Unwelcome or unnecessary touching of any part of another's body;
8. Sexually degrading words to describe a person or a group of people;
9. Slurs, threats, repeated commands or other offensive verbal or physical conduct relating to a person's sex or sexual orientation.

C. This policy applies to all full-time, part-time, and temporary employees and to elected officials, department heads, volunteers, and to those with whom we consult and work.

D. It is a violation of this policy to use an individual's submission to or rejection of harassing conduct as the basis for any employment decision affecting the individual. Retaliation towards a person who reports harassment is strictly prohibited.

E. Persons who believe they have been subjected to, witnessed, or been made aware of harassment shall promptly report the harassment to their elected or appointed department head, the Human Resources Department, or the Monroe County Legal Department and complete a Harassment Complaint Form. The best time to register a complaint is immediately after the act occurs. The completed Harassment Complaint Form shall be turned into the appropriate elected official, department head, the Human Resources Department, or the Monroe County Legal Department.

1. If the department head is the subject of the harassment complaint, the person may submit the completed form to the elected official responsible for that department head, the Human Resources Department, and the Monroe County Legal Department.

2. If the elected official is the subject of the harassment complaint, the person may submit the completed Harassment Complaint Form to the Human Resources Department, the Monroe County Commissioners, the Board of Judges, or the Monroe County Legal Department. The Monroe County Legal Department and the Human Resources Department must be provided a copy of each completed Harassment Complaint Form.

F. All persons who observe or otherwise learn of or have reason to suspect any conduct which may violate this policy shall promptly report such facts to their elected official, department head, the Human Resources Department or the Monroe County Legal Department, and shall cooperate fully in any investigation or disciplinary action undertaken pursuant to this policy. Failure to comply with this section shall be grounds for appropriate disciplinary action, up to and including termination or replacement, as allowed by law.

G.

The elected official, department head, or the Human Resources Department, with assistance from the Monroe County Legal Department, shall conduct a prompt and careful investigation. The investigation may include interviews with all persons having direct knowledge of the unwelcome behavior, including the person who made the complaint, the person accused of sexual or other harassment, and other potential witnesses.

H. At the conclusion of the investigation, the elected official, department head, Human Resources Department, or other investigator will review the findings with the person(s) who made the complaint. If the investigation reveals that the complaint is factual, appropriate corrective action will be taken to prevent the harassment from occurring again, up to and including discharge of any person believed to be guilty of harassment, as allowed by law. In any case, particularly in situations where the facts uncovered during the investigation are inconclusive or unclear, the County will ensure that all parties are reacquainted with the policy prohibiting sexual or other harassment at work.

I. Monroe County will take reasonable steps to keep the complaint confidential and, to the extent possible, maintain the privacy of the persons involved. Monroe County, however, cannot guarantee confidentiality.

J. Monroe County takes this harassment policy very seriously and will make all reasonable efforts to educate its elected officials, employees, volunteers and those with whom we consult and work about this policy. Every new elected official,

employee, volunteer, and those with whom we work will be provided a copy of the policy when hired or retained. If the policy is amended, copies of the amendments will be provided. All employees are expected to annually review the Personnel Policy Handbook.

K. Monroe County also recognizes that careful consideration must be given to questions regarding whether a particular action or incident is purely personal or social without any discriminatory effect. False accusations of harassment can have devastating effects on the lives and reputations of innocent people; therefore, the County may discipline, up to and including termination of employment, those employees who are proved to have intentionally, maliciously, and wrongly accused others of harassment. Appropriate legal action may be taken against elected officials, volunteers, and those with whom we consult and work who are proved to have intentionally, maliciously, and wrongly accused others of sexual harassment.

L. Prevention is the best policy for the elimination of harassment. Elected officials, employees, volunteers, and those with whom we work and consult shall be aware of this harassment policy at all times and seek to avoid creating conditions that encourage such activity.

M. Sexual and other forms of harassment by any person may result in personal legal and financial responsibility for the offender.

296-9

Penalties for Violations

Officers, employees, and agents who violate this Subsection, may be subject to discipline in accordance with the Monroe County Personnel Policy. Contractors and their agents may be subject to suspension or debarment from future contracting opportunities.

[end of chapter]

Section 4. This ordinance shall take effect upon adoption.

Approved this 29 day of May, 2019, by the Board of Commissioners of Monroe County, Indiana.

MONROE COUNTY BOARD OF COMMISSIONERS

"AYES"

"NAYS"



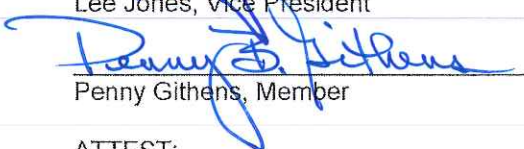
Julie Thomas, President

Julie Thomas, President



Lee Jones, Vice President

Lee Jones, Vice President



Penny Githens, Member

Penny Githens, Member

ATTEST:



Catherine Smith, Auditor

The Monroe County Board of Judges approves only this Amendment to the Handbook.

By:



MARY ELLEN DIEKHOFF, Presiding Judge

June 13, 2019
Date

The Monroe County Prosecuting Attorney approves only this Amendment to the Handbook.



Erika Oliphant, Monroe County Prosecuting Attorney

6/13/2019
Date