

COURT ORDER

ORDER NO: _____

DATE: April 26, 2011

21

STATE OF TEXAS'

COUNTY OF DALLAS'

BE IT REMEMBERED, at a regular meeting of the Commissioners Court of Dallas County, Texas, held on

the 26th day of April, 2011, on motion made by _____

and seconded by _____, the following Order was adopted:

WHEREAS, The Dallas County Commissioners Court approved a court order on March 22, 2011 to update various sections of Chapter 86 that pertain to Dallas County's philosophy on equal rights; the court order incorporated the words "sexual orientation" in Dallas County non-discrimination policies; and

WHEREAS, The Human Resources/Civil Service Department has revised the same sections in Chapter 86 of the Dallas County Code to incorporate the words "transgender, gender identity, and gender expression" non-discrimination; and

WHEREAS, The revised policy language will provide clarification and guidance to supervisors, managers, and employees when addressing these issues; and

WHEREAS, The revised policy language is consistent with Strategic Plan Vision 1: Dallas County is a model interagency partner.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Dallas County Commissioners Court *approve the revisions to various sections of Chapter 86 to incorporate the words "transgender, gender identity, and gender expression" non-discrimination, for immediate inclusion in the Dallas County Code.*

DONE IN OPEN COURT this the 26th day of April, 2011.

Clay Lewis Jenkins
County Judge

Maurine Dickey
Commissioner District #1

Mike Cantrell
Commissioner District #2

John Wiley Price
Commissioner District #3

Dr. Elba Garcia
Commissioner District #4

Recommended by:



Mattie Mauldin-Taylor, Ph.D., Director
Human Resources/Civil Service Department

DIVISION 1. HIRING POLICY

***Editor's note:** Court Order No. 2001-655, adopted April 3, 2001, amended the employment hiring policy in its entirety, in effect superseding provisions formerly set out as art. III, div. 1, §§ 86-91--86-106, of this chapter, which derived from the Administrative Policy Manual, § A(5.01--5.18). See the Code Comparative Table for a detailed analysis of inclusion of Ord. No. 2001-655.

Sec. 86-90. [Policy of Dallas County.]

Dallas County values the diverse backgrounds, experiences, knowledge and skills of all individuals, including applicants and employees. Treating individuals with dignity and respect is one of our core values. Our goal is to create and foster a work environment that offers equal employment opportunities and fair treatment to all applicants and employees without regard to race, religion, color, national origin, sex (including pregnancy), age, disability, sexual orientation, transgender, gender identity, and gender expression, or political affiliation. This policy includes, but is not limited to, all decisions relating to the employment process (recruiting and hiring), employment actions, compensation, benefits, disciplinary actions, application of policies and procedures and any other terms or conditions of employment.

(Ord. No. 2009-0241, 2-3-2009)

Sec. 86-91. Purpose.

The purpose of this policy is to ensure that hiring departments utilize sound, consistent and effective personnel selection methods to identify the best suited applicant to fill vacant positions in the county. This policy complies with applicable federal, state and local laws and statutes.

(Ord. No. 2001-655, §§ 5.00, 5.01, 4-3-2001; Ord. No. 2001-1889, 10-2-2001; Ord. No. 2009-0241, 2-3-2009)

DIVISION 2. HARASSMENT (EXCERPT)

Sec. 86-781. Division policy.

- (a) It is the policy of the county to provide all employees a work environment that is free from any form of unlawful harassment, any hostile work environment based on unlawful harassment, or any retaliatory action against an employee who reports unlawful harassment. Unlawful harassment of any kind is expressly prohibited and will not be tolerated. All employees are responsible for ensuring that the workplace is free from unlawful harassment and all employees must avoid any action, conduct or behavior which could be viewed as unlawful harassment. Unlawful harassment includes sexual harassment and harassment of employees on the basis of race, religion, color, sex,

national origin, age or disability. Slurs, epithets, and jokes based on these characteristics have no place in the workplace. Harassment of any nature, when based on race, religion, color, sex, national origin, age, sexual orientation, transgender, gender identity, and gender expression, or disability will not be tolerated. The unlawful harassment prohibited by this division includes harassment by management, co-workers, citizens, and vendors. Employees of the county are also prohibited from harassing customers, employees of vendors, and other third parties.

Sec. 86-782. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Complainant means an employee who reports unlawful harassment to a supervisor or manager.

Hostile work environment means when the conduct interferes with an individual's work performance or creates an intimidating, hostile or offensive working environment. Like quid pro quo harassment, hostile work environment harassment may involve management and supervisory personnel. In addition, however, hostile work environment harassment may also involve co-employees and nonemployees. Example: remarks, slurs, epithets, jokes or gestures based on race, religion, color, sex, national origin, age, sexual orientation, transgender, gender identity, and gender expression, or disability in the presence of or directed toward an employee which result in an intimidating or threatening work environment for any employee.

Quid pro quo (this for that) means when submission to or rejection of the harassment is the basis for an employment decision affecting the individual, or is made a term or condition of the individual's employment. Quid pro quo harassment usually involves management or supervisory personnel because these individuals have the ability to grant or deny job benefits. Example: if an employee's raise or promotion depends on his granting sexual favors to a supervisor.

Retaliation/reprisal means an intimidating, vengeful action by members of management, any person with authority to affect the employee relationship, and/or employees directed against an individual for reports of unlawful harassment or for cooperating with an investigation.

Sexual harassment means, as defined by the Equal Employment Opportunity Commission, unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- (1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- (2) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- (3) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Incidents of sexual harassment can involve members of the same gender as well as members of the opposite gender. The harasser may be male or female.

Supervisor/manager means an employee vested with the authority to control working conditions or tangible job benefits of another employee.

Cross references: Definitions generally, § 1-2.

DIVISION 5. EQUAL EMPLOYMENT OPPORTUNITY*

*Federal law reference--Employment discrimination, 42 USC 2000e et seq.

State law references: Employment discrimination, V.T.C.A., Labor Code § 21.01 et seq.

Sec. 86-221. Policy of Dallas County.

Dallas County values the diverse backgrounds, experiences, knowledge and skills of all individuals, including applicants and employees. Treating individuals with dignity and respect is one of our core values. Our goal is to create and foster a work environment that offers equal employment opportunities and fair treatment to all applicants and employees without regard to race, color, national origin, religion, sex (including pregnancy), age, disability, sexual orientation, transgender, gender identity, and gender expression, or political affiliation. This policy includes, but is not limited to, all decisions relating to the employment process (recruiting and hiring), employment actions, compensation, benefits, disciplinary actions, application of policies and procedures and any other terms or conditions of employment.

(Admin. Policy Manual, § A(3.00); Ord. No. 2009-0241, 2-3-2009)

Sec. 86-222. Bona fide occupational qualifications.

The equal employment opportunity policy, however, is not to be construed to prohibit the county from recognizing bona fide occupational qualifications, as defined by the Labor Code, reasonably necessary to the normal operation of the particular position.

(Admin. Policy Manual, § A(3.01))

ARTICLE VIII. GRIEVANCE PROCEDURES* (EXCERPT)

Sec. 86-1003. Scope of grievance appeal procedures.

- (a) A personal grievance may be filed by an employee, as defined in section 86-1002, on one or more of the following grounds:
- (1) Improper application of rules, regulations and procedures;
 - (2) Unfair treatment, including coercion, restraint or reprisal;
 - (3) Discrimination because of race, religion, color, creed, gender, age, national origin, disability, sexual orientation, transgender, gender identity, and gender

expression, or political affiliation;

- (4) Disciplinary actions taken against him/her without proper cause;
- (5) Improper application of fringe benefits or improper working conditions;
- (6) Demotion, suspension, or dismissal.

(Admin. Policy Manual, § A(12.02); Ord. No. 2001-1954, 10-9-2001)

ARTICLE IX. EQUAL EMPLOYMENT OPPORTUNITY PLAN* (excerpt)

***Editor's note:** Ord. No. 2009-0241, adopted Feb. 3, 2009, amended Art. IX in its entirety to read as herein set out. Former Art. IX, §§ 86-1041--86-1055, pertained to Affirmative Action Plan, and derived from Admin. Policy Manual, §§ A(15.00)--(15.34); Ord. No. 2001-1338, adopted July 17, 2001; Ord. No. 2004-1516, adopted Aug. 31, 2004.

State law references: Discrimination, V.T.C.A., Civil Practice and Remedies Code § 106.001 et seq.

Sec. 86-1041. Philosophy.

Dallas County values the diverse backgrounds, experiences, knowledge and skills of all individuals, including applicants and employees. Treating individuals with dignity and respect is one of our core values. Our goal is to create and foster a work environment that offers equal employment opportunities and fair treatment to all applicants and employees without regard to race, religion, color, national origin, sex (including pregnancy), age, disability, sexual orientation, transgender, gender identity, and gender expression, or political affiliation. This policy includes, but is not limited to, all decisions relating to the employment process (recruiting and hiring), employment actions, compensation, benefits, disciplinary actions, application of policies and procedures and any other terms or conditions of employment.

(Ord. No. 2009-0241, 2-3-2009)

Sec. 86-1042. General policy.

- (a) To provide an atmosphere of equality of opportunity for all applicants to, and employees of, the county in all phases of employment, activities, including recruitment, hiring, job assignment, supervision, training, upgrading, transfers, compensation, benefits, educational opportunities, recreational activities or facilities, regardless of race, religion, color, national origin, sex (including pregnancy), age, disability, sexual orientation, transgender, gender identity, and gender expression, or political affiliation., except where gender may be a bona fide occupational qualification and except where state or federal law may place minimum or maximum age limitations on employees.
- (b) It is the responsibility of all county officials, supervisors and employees to conform to both the letter and spirit of such executive orders as may be legally enforced from time

to time and all related civil rights orders and laws. The head of each department will be responsible for developing, coordinating and monitoring the equal employment opportunity programs, including the equal employment opportunity plan for the county. It is the responsibility of each elected official and department head to provide the supportive personnel functions, including the maintenance of appropriate records required to execute the equal employment opportunity programs.

(Ord. No. 2009-0241, 2-3-2009)

Sec. 86-1044. County equal employment opportunity plan recruitment.

- (a) All recruitment practices will be reviewed by the human resources/civil service department to ensure that minorities and women in the county are notified regarding job opportunities and are encouraged to apply.
- (b) Each department head shall communicate periodically to the human resources/civil service department all sources of recruitment, and the human resources/civil service department by letter, will communicate to each source the county's policy on equal employment opportunity. The letter shall follow the general form set out at the end of this section.
- (c) The human resources/civil service department is a clearing house for applicants. The civil service commission is authorized to appoint a director of human resources/civil service for the county to assist in carrying out these duties. The director of human resources/civil service shall be directly responsible and shall answer to the civil service commission.
- (d) In order to ensure that all applicants are given consideration, the director of human resources/civil service will:
 - (1) Advertise in minority news media and thereby notify the minority community that the county is an equal opportunity employer; and
 - (2) Solicit assistance in recruitment from well known and predominantly minority and women's groups.
- (e) Each department head shall notify the human resources/civil service department of all job openings by creating and submitting a vacancy through the iRecruitment system to initiate the recruitment/selection process.
- (f) The program shall ensure that minorities and women are included in all phases of county employment with an absence of discrimination.
- (g) Recruitment shall include only job qualifications. Although the potential employee must be able to do the job today, emphasis shall be placed on the potential of the applicant to fill the position.
- (h) Adequate recruitment and interview records shall be maintained.
- (i) All advertising for job openings in magazines, newspapers or other advertising media shall contain the statement: "an equal opportunity employer."
- (j) Sample letter; recruitment.

TO WHOM IT MAY CONCERN:

The County of Dallas, Texas, has always considered itself an Equal Employment Opportunity employer.

Positions in the county will be filled by qualified individuals without regard to race, religion, color, national origin, sex (including pregnancy), age, disability, sexual orientation, transgender, gender identity, and gender expression, or political affiliation.

It is our understanding that you, as a potential source of recruitment for county employees, will also adhere to this equal employment opportunity when referring applicants to the county.

Sincerely,

(Ord. No. 2009-0241, 2-3-2009)

Sec. 86-1045. Benefits.

Benefits will be offered to employees as they qualify, regardless of race, religion, color, national origin, sex (including pregnancy), age, disability, sexual orientation, transgender, gender identity, and gender expression, or political affiliation.

(Ord. No. 2009-0241, 2-3-2009)

Sec. 86-1046. Promotional opportunities.

- (a) All employees are eligible for promotion on an equal opportunity basis.
- (b) Promotions will be based on performance, skill and potential job performance, and shall not be based on race, religion, color, national origin, sex (including pregnancy), age, disability, sexual orientation, transgender, gender identity, and gender expression, or political affiliation.
- (c) Each department will develop career ladders, indicating entry levels and positions into which an employee could be promoted, to permit movement of capable lower level employees to higher positions.
- (d) Each department shall make available counseling for career development.
- (e) Promotional opportunities shall be posted on bulletin boards in the department and the human resources/civil service department via the iRecruitment system during periods of recruitment.
- (f) Any employee in a department may apply for a promotional opportunity, and there shall be no restrictions on the opportunity to apply.
- (g) If an employee feels that he cannot apply for a promotion through his supervisor, he may bypass the supervisor and go directly to the head of the department or the elected official responsible for such department for consideration of promotional opportunity.
- (h) Only job qualifications shall be considered in connection with promotional opportunities.

- (i) Employee performance evaluations will be required on all individuals seeking promotion.
- (j) Adequate justification must be given to employees who are passed over for promotion.

(Ord. No. 2009-0241, 2-3-2009)

Sec. 86-1047. Internal dissemination of article.

Each department head will take steps to ensure compliance with the equal employment opportunity plan, as amended, by disseminating this article to all employees under their supervision in order to ensure that females and minority employees are given opportunities to compete for vacancies and promotions.

(Ord. No. 2009-0241, 2-3-2009)

Sec. 86-1048. Transfers.

Employees will be considered for other positions within the department or other departments provided they are eligible for transfer. Employees must meet all requirements or meet the minimum requirements specified for the job and have the potential to be trained for the position.

(Ord. No. 2009-0241, 2-3-2009)

Sec. 86-1049. Salary rates.

Departmental training programs will be carried out to develop the potential of all employees. An inventory of employees attending training programs will be maintained by each department. Opportunity for training shall be without race, religion, color, national origin, sex (including pregnancy), age, disability, sexual orientation, transgender, gender identity, and gender expression, or political affiliation.

(Ord. No. 2009-0241, 2-3-2009)

Sec. 86-1050. Training.

Departmental training programs will be carried out to develop the potential of all employees. An inventory of employees attending training programs will be maintained by each department. Opportunity for training shall be without race, religion, color, national origin, sex (including pregnancy), age, disability, sexual orientation, transgender, gender identity, and gender expression, or political affiliation. (Admin. Policy Manual, § A(15.28))

Sec. 86-1051. Social and recreational activities.

Social and recreational activities shall be open to all personnel regardless of race, religion, color, national origin, sex (including pregnancy), age, disability, sexual orientation, transgender, gender identity, and gender expression, or political affiliation.

(Ord. No. 2009-0241, 2-3-2009)

Sec. 86-1052. Departmental Meetings.

- (a) Periodic meetings of department head personnel under each elected official will be held to discuss the equal employment opportunity plan in order to keep supervisory personnel aware of their responsibilities. Minutes of these meetings are to be kept on file by each department head.
- (b) Employees will be made aware of this article during interviews and training sessions.

(Ord. No. 2009-0241, 2-3-2009)

Sec. 86-1053. Goals.

The goals for the future of the county will be to continue specific training programs and institute other training programs to upgrade, where possible, all employees and to provide a safe, nondiscriminatory working environment. Each department shall make every effort, within county budgetary limits, to eliminate all dead-end jobs if, in fact, any such jobs exist.

(Ord. No. 2009-0241, 2-3-2009)

Sec. 86-1054. Termination of employment.

- (a) Termination of employment shall not be based on race, religion, color, national origin, sex (including pregnancy), age, disability, sexual orientation, transgender, gender identity, and gender expression, or political affiliation.
- (b) If an employee is terminated by someone other than the department head or elected official, the employee shall be entitled to an employment review with the department head, if the employee requests such a review.

(Ord. No. 2009-0241, 2-3-2009)