

City of Twinsburg



Est. 1817

WORKPLACE HARASSMENT POLICY

Employees of the City of Twinsburg have a right to work in an environment free of harassment. The City will not tolerate any form of harassment or any offensive conduct that has the effect of severely interfering with an employee's work performance or creating an intimidating or hostile work environment. All employees and representatives of the City (including part-time, full-time, seasonal, elected and appointed staff) must understand that acts of harassment and violence, in the workplace or at City-sponsored events, whether on or off property owned by the City, is explicitly forbidden and is subject to appropriate disciplinary action up to and including termination of employment.

It is imperative that employees treat all other employees with dignity and respect in order to facilitate a professional, businesslike workplace. Therefore, all employees and representatives of the City are expected to know, understand and follow this policy. Supervisors and managers are expected to set the proper example by following this policy at all times and ensure that any violation of this policy, which is brought to their attention, is dealt with promptly, fairly and impartially.

This policy applies to all terms and conditions of employment, including, but not limited to hiring, placement, promotion, disciplinary action, layoff, reinstatement, transfer, leave of absence, compensation and training.

I. HARASSMENT DEFINED

Harassment is behavior (visual, physical or verbal) that has the effect of humiliating, intimidating or coercing another. It is behavior that causes discomfort, embarrassment or emotional distress. It is unwelcome behavior that is persistent and/or pervasive and has the intent or effect of interfering with another's work performance or creates a hostile environment. It frequently occurs when one person attempts to exert power or control over another person (quid pro quo harassment).

Harassment of an applicant, member of the public, contractor, business invitee, customer or employee by a supervisor, manager or co-worker on the basis of race, national origin, religion, age, marital status, physical and mental disability, gender and sexual orientation not only violates our City policy, but is prohibited under state and federal laws. Harassment may not always be discriminatory, but it is disrespectful and inappropriate behavior in the workplace.

Harassment may be intentional – targeting an individual, or it may be unintentional. What's important is how individuals perceive the behavior. This policy prohibits "quid pro quo", "sexual" and "discriminatory hostile environment" harassment as defined below.

A. Quid Pro Quo

Unwelcome sexual advances, requests for sexual favors and other verbal and physical conduct of a sexual nature by one in a position of power or influence constitutes quid pro quo harassment when:

- 1) Submission to the harassment is made either explicitly or implicitly a term or condition of employment

- 2) Submission to or rejection of the harassment is used as the basis for work-related decisions affecting an employee.

As defined here, quid pro quo harassment normally arises in the context of an authority relationship. This relationship may be direct as in the case of a supervisor and subordinate or it may be indirect when the harasser has the power to influence others who have authority over the victim.

Examples of quid pro quo harassment include, but are not limited to, directly or indirectly:

- Promising an employee a reward, if the employee complies with a sexually oriented request
- Threatening to retaliate against an employee, if the employee refuses to comply with a sexually oriented request
- Denying an employment-related opportunity such as hiring, promotion or pay raise, if the employee refuses to comply with a sexually oriented request
- Assigning more difficult or distasteful tasks because an employee rejected sexual advances
- Using the number or schedule of hours assigned to an employee as a reward or punishment for submitting to or rejecting sexual advances.

B. Sexual Harassment

Unwelcome sexual advances, requests for sexual favors and other verbal and physical conduct of a sexual nature constitute sexual harassment when such conduct is directed toward an individual because of his or her gender and has the purpose or effect of creating an intimidating, hostile or offensive work environment, or unreasonably interfering with another's work performance.

Generally, a single sexual joke, offensive epithet or request for a date does not constitute sexual harassment; however, being subjected to such jokes, epithets or requests repeatedly may constitute sexual harassment.

Examples of sexual harassment include but are not limited to:

1) Physical

- a. Engaging in sexually suggestive physical contact or touching another employee in a way that is unwelcome, such as pinching, patting or grabbing
- b. Sexually suggestive gestures; indecent exposure
- c. Impeding or blocking movement, leering or physical interference with work, privacy or movement when directed at an individual on the basis of gender

2) Verbal

- a. Derogatory comments, slurs or other offensive words or comments made on the basis of gender – whether made in general, directed to an individual or to a group of people regardless of whether the behavior was intended to harass
- b. Telling jokes of a sexual nature; making sexually oriented comments on a person's appearance, sexual rumors, code words and stories
- c. Using demeaning or inappropriate terms; using crude and offensive language of a sexual nature
- d. Making sexual or romantic advances toward an employee and persisting despite the employee's rejection of the advances
- e. Teasing or practical jokes of a sexual nature; ostracizing, starting or spreading rumors about a person's personal life or sexual activities

3) Visual

- a. Posted material or material placed in or on City equipment or one's own personal property or body (including clothing and tattoos) in the workplace, which is offensive on the basis of gender
- b. Displaying, storing or transmitting via e-mail, Internet or fax pin-up pictures or calendars, pornographic or sexually oriented materials
- c. Cartoons or caricatures of a racial, ethnic or sexual nature
- d. Displaying sexual objects in the workplace

In determining whether alleged sexually harassing conduct warrants corrective action, all relevant circumstances, including the context in which the conduct occurred, will be considered. Facts will be judged on the basis of what is reasonable to persons of ordinary sensitivity and not on the particular sensitivity or reaction of an individual.

C. Discriminatory Hostile Environment

Unwelcome verbal or physical conduct, when directed at an individual on the basis of race, creed, color, national origin, disability, marital status, gender or age, which create a hostile or intimidating work environment or which unreasonably interfere with an individual's job performance and/or opportunities, constitute discriminatory hostile environment harassment. Examples include, but are not limited to:

- Unwanted or persistent verbal hostility (such as degrading public tirades, profanity or offensive language, name-calling, racial or ethnic slurs, demeaning or derogatory comments) made on the basis of race, religious creed, color, national origin, disability, marital status, sexual orientation, age or disability – whether made in general, directed to an individual or to a group of people regardless of whether the behavior was intended to harass
- Anger expressed by throwing or kicking objects in the workplace
- Impeding or blocking movement or physical interference with work, privacy or movement when directed at an individual on the basis of race, religious creed, color, national origin, disability, marital status, sexual orientation or age
- Posting material or material maintained in or on City equipment or personal property in the workplace, which is offensive on the basis of race, religious creed, color, national origin, disability, marital status, sexual orientation or age
- Verbalizing a desire to harm someone, overt threats
- Communicating (whether in oral, recorded, electronic or printed form or by gesture) unwanted violent messages with the intent to intimidate or harm
- Continuing intimidation and harassment despite prior notice that the behavior is unwanted and offensive.

II. WHAT IS NOT HARASSMENT

Some behaviors may be viewed as offensive or inappropriate, but do not constitute harassment.

A. Administrative Actions

Supervisors may have to make unpopular decisions, such as changing work assignments or moving people. Such decisions may or may not please others, but they do not constitute harassment. Such decisions may not, however, be used to retaliate against someone for making a complaint under this policy.

B. Performance Appraisals

Feedback regarding unsatisfactory work conduct and/or a negative performance evaluation is not harassment. Supervisors have a responsibility to give appropriate criticism and to take appropriate corrective action when the work of an employee is not satisfactory. Such criticism should, however, be made in a reasonable manner and should be constructive. Negative performance appraisals may not be used in retaliation.

C. Ambiguous and Offensive Behavior

There is a wide range of ambiguous behavior that might offend or alarm some people. Examples include, but are not limited to:

- Polite requests for a date from a peer
- Comments on clothing or compliments about improved appearance
- Nondestructive practical jokes that most people find reasonable
- An individual stops interacting socially with another employee

Some verbal or written communications may be viewed as offensive, inappropriate or crude, but do not constitute harassment. Examples include occasional jokes or comments on appearance and discussions of controversial topics. Employees are entitled to express a wide range of opinions as a matter of free speech. There are no restrictions placed on the fundamental rights to free speech except those necessary to protect the rights of others and to preserve order in City government. However, these concepts do not extend to conduct that creates a hostile work environment.

III. WORKPLACE RELATIONSHIPS

It is not inappropriate behavior for an employee to ask a co-worker on a date. However, it is inappropriate for the employee to make continued attempts to initiate a personal relationship after a rejection is received. Repeated requests for a date, etc. could constitute sexual harassment. It is inappropriate for any relationship to interfere with normal work operations. Employees who become involved with another City employee must be aware of the following:

- 1) There will be no dating activities while working or on City property.
- 2) There will be no use of City property to arrange dating activities.
- 3) All behavior between employees must be professional at all times when on City property or while working. Hand holding, kissing, hugging, sexual comments and other behaviors generally associated with a dating relationship are inappropriate in the workplace.
- 4) Any relationship between employees at different levels of responsibility, or where one person has supervisory authority over another, is forbidden and should be reported immediately to the Human Resources Director so that appropriate measures can be taken to protect the City's best interests. Failure to report this relationship is a violation of this policy. The Human Resources Director will make recommendations to ensure this relationship will not interfere with the professional work environment. This may include the involuntary transfer of the higher-ranking employee to another unit or shift.

Any romantic involvement between employees must be voluntary and desired by both parties.

IV. REPORTING HARASSMENT ALLEGATIONS

The City encourages individuals who believe they are being harassed to clearly and promptly notify the offender that his or her behavior is unwelcome, however, such notification is not a required first step for reporting sexual harassment.

If for any reason an employee does not wish to approach the offender directly or if such discussion does not successfully end the harassment, then the employee should immediately notify the supervisor, department director or the Human Resources Director. Delay in reporting makes it more difficult to establish the facts of a case and may contribute to the repetition of offensive behavior.

Additionally, any employee who observes harassment of any type must report it to his or her supervisor, department director or the Human Resources Director.

A. Confidentiality

The City will do everything consistent with enforcement of this policy and with the law to protect the privacy of the individuals involved and to ensure that the complainant and the accused are treated fairly. Information about individual complaints and their disposition is considered confidential and will be shared only on a “need to know” basis.

B. Assurance Against Retaliation

Retaliation in any manner against a person for filing a harassment charge or initiating a harassment complaint, testifying in an investigation, providing information or assisting in an investigation, is expressly prohibited. Any act of reprisal, including internal interference, coercion and restraint by a City employee, violates this policy and will result in appropriate disciplinary action, commensurate with the severity of the offense, up to and including termination from employment.

Management will take reasonable steps to protect the victim and potential victims from further harassment and protect the victim from any retaliation as a result of communicating the complaint.

This harassment policy must not, however, be used to bring frivolous or malicious complaints against other employees. False complaints adversely affect the workplace and the career of the accused – even when disproved. If a complaint has been made in bad faith, as demonstrated by clear and convincing evidence, such bad faith complaint will be placed in the complaining employee’s personnel file. Disciplinary action may be taken against the person bringing the complaint, up to and including termination from employment.

V. HARASSMENT COMPLAINT PROCEDURES

Any employee, client, contractor, customer or job applicant who believes he or she is a victim of discriminatory workplace harassment is encouraged to immediately respond to the alleged harasser directly, by objecting to and requesting that the unwelcome behavior stop. The individual may also seek assistance or intervention, short of filing a complaint, from the department supervisor or director. Complainants must not delay in issuing a complaint.

Complaints of sexual harassment will receive prompt attention. Complaints may be resolved through the informal or formal procedures described below, and appropriate action will be taken. Informal means are encouraged as the beginning point, but the choice of where to begin normally rests with the complainant. However, if the complaint-receiving official believes that the matter is sufficiently grave because it seems to be part of a persistent pattern, because of the nature of the alleged offense, or because the complainant seeks to have a sanction imposed, then the complaint-receiving official will initiate a formal procedure with the Director of Human Resources.

A. Informal Complaint Procedures

- 1) The complainant may attempt to resolve the matter directly with the alleged offender and report back to the complaint-receiving official.

- 2) The complaint-receiving official may notify the alleged offender of the complaint, paying appropriate attention to the need to maintain confidentiality. The complaint-receiving official may take whatever steps short of formal sanctions that he or she deems appropriate to affect an informal resolution acceptable to both parties.
- 3) Where the alleged offender is a co-worker, the complainant and accused may choose to participate in mediation with their supervisor or department director.

If a complaint is resolved informally, no record of the complaint will be entered in the alleged offender's personnel file. However, the complaint-receiving official will, in the form of a confidential file memorandum, record the fact of the complaint and the resolution achieved. A copy of this memorandum will be forwarded to the Human Resources Director where it will be retained in confidential files and subject to disclosure only as required by State and/or Federal laws.

B. Formal Complaint Procedures

Formal complaint procedures must be filed within 30 calendar days of the alleged incident, using the Workplace Harassment Complaint Form. The written and signed complaint will be directed to the following officials:

- 1) If the formal complaint is against a co-worker, it should be directed to the director of the department.
- 2) If the formal complaint is against an employee in a different department, or against a department director, it should be directed to the Director of Human Resources.
- 3) If the formal complaint is filed by or against a third party, such as a customer, client or independent contractor, it should be directed to the department director or Director of Human Resources.
- 4) If the complainant is uncomfortable with the officials listed above, the complainant may direct the complaint directly to the Mayor.

The Human Resources Director will determine if he/she will personally conduct an inquiry or delegate it to the department director.

C. Conducting the Internal Investigation

- 1) **Interviewing the complainant** - The complainant will be interviewed in detail regarding the allegations: who did the harassing; what was said or done; how the complainant reacted or responded at the time; where the harassment took place; names of witnesses, if any; whether the incident was an isolated event or part of a pattern. The investigator will assure the complainant that the matter will be kept as confidential as possible. Absolute confidentiality may not be possible if witnesses must be interviewed. Witnesses must be asked not to discuss the matter with other employees.
- 2) **Interviewing the alleged harasser** – Inform the alleged harasser of the charge and give that person an opportunity to respond to each allegation in detail. (The alleged harasser may review the formal, signed complaint and will be given five calendar days to respond, in writing, to the complaint.)
- 3) **Interviewing named witnesses** – If the alleged harasser denies the complaint, you must interview witnesses to the offense for corroborating evidence.

Those conducting the investigations will make a record of the case and a copy of that record will be forwarded to the Human Resources Director for a final determination. The investigation will provide the accused an opportunity to respond to the allegations.

VI. OUTCOME & DISCIPLINARY ACTION

All factual information gathered during the investigation will be reviewed by the Human Resources Director to determine whether the alleged conduct constitutes harassment. Consideration will be given to all factual information, the nature of the verbal, physical, visual or sexual conduct and the context in which the alleged incident(s) occurred.

In making a determination as to the truth of the claim, the credibility of each party, the possible motives for their allegations or responses and the observations of other employees will be considered. A determination will be made within twenty calendar days of the conclusion of the investigation. The results of the investigation and the determination as to whether harassment occurred will be final and binding.

A. Notification

Absent extraordinary circumstances, the complainant and the alleged offender will be notified of the outcome of the investigation; however, that information should be treated by both parties as confidential and private. All records of harassment complaints must be retained by the Human Resources Director.

If no merit is found to the complaint, the supervisor and/or the Human Resources Director (or their designees) may still meet with the parties involved to attempt to reconcile the complaint or conflict between the parties. If the evidence from the investigation supports the charges, prompt action against the harasser will be taken.

B. Disciplinary Action

A conclusion that harassment has occurred will subject the offender to appropriate disciplinary action up to and including termination of employment.

VII. LIMITATIONS

The use of these complaint procedures is limited to complaints related to discriminatory workplace harassment on the basis of race, religion, color, national origin, disability, marital status, sexual orientation, gender or age. All other complaints should be handled through the appropriate union contract or as established by policies and procedures currently in place within the City.

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