

Town of Greenfield, Massachusetts

Human Resources Department

SEXUAL HARASSMENT POLICY PROCEDURES FOR MANAGERS

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POLICY PROVISIONS

Law

Federal Law: Title VII of the Civil Rights Act of 1964 and the regulations adopted by the Equal Employment Opportunity Commission (EEOC).

State Law: Pursuant to Chapter 151B of the Massachusetts General Law, all employers, employment agencies, and labor organizations shall promote a workplace free of sexual harassment.

Purpose

It is the policy of the Town of Greenfield to maintain a non-hostile working environment free from all forms of sexual harassment or intimidation. Sexual harassment in any form is unlawful and will not be tolerated by the Town. Any employee who violates the policy will be subject to disciplinary action up to and including discharge. Further, any retaliation against an individual who has complained about sexual harassment or retaliation against individuals for cooperating with an investigation of a sexual harassment complaint is similarly unlawful and will not be tolerated. Managers have a significant responsibility in ensuring inappropriate conduct is dealt with swiftly and in accordance with federal, state, and town procedures.

Scope of Policy

The town's policy refers to, but is not limited to, harassment in the following areas: sex or sexual orientation. The policy applies to all employees of the town while they are involved in work-related activities on and off town owned premises.

Sexual Harassment is a form of behavior that fundamentally undermines the integrity of employment relationships. It includes but is not limited to:

- solicitation of sexual favors as a condition of employment or continued employment, also known as quid-pro-quo harassment,
- solicitation of sexual favors on a basis or requirement for promotion, transfer, or other employment conditions, also known as quid-pro-quo harassment, and
- unsolicited verbal, non-verbal, and/or physical conduct and/or innuendoes of a sexual nature which have the purpose or effect of substantially interfering with an individual's work performance or which creates an intimidating, hostile, and/or offensive work environment.

DEFINITIONS

The following terms are likely to arise in connection with complaints of harassment.

Harassment

Harassment may be defined as the display or circulation of written materials or pictures degrading to either gender or to racial, ethnic, religious or other protected groups; verbal abuse or insults related to protected characteristics (e.g. age, race, color, national origin, religion, sex, sexual orientation, marital status); verbal or physical conduct that is sexual in nature; and quid-pro-quo sexual harassment.

Unreasonable Conduct

Unreasonable conduct may be defined as conduct which is discriminatory, harassing, or which creates a hostile environment.

Discrimination

Employment decisions implicitly or explicitly based on protected characteristics of employment (e.g. gender, age, race, color, national origin, persons with a disability, religion or sexual orientation) rather than job-related considerations.

Hostile Environment

Conduct that has the purpose or effect of unreasonably interfering with a person's job performance or which creates an intimidating or offensive work environment.

Quid-Pro-Quo Harassment

- Making submission to sexual demands an implicit or explicit term or condition of employment, and/or
- Making decisions affecting someone's employment or compensation on the basis of whether the person submits to or rejects sexual demands.

Unwelcome Behavior

Conduct that the employee did not solicit or invite and that the employee regards as undesirable or offensive.

TYPES OF SEXUAL HARASSMENT

The EEOC and courts have defined two types of sexual harassment.

Hostile Work Environment

The following examples will help clarify what constitutes a hostile work environment or sexual harassment.

- It could be sexual harassment if someone keeps asking you for a date even after you have said "no".
- It's probably not sexual harassment if someone asks you out once and accepts your "no" answer.
- It could be sexual harassment if a person stares at your body frequently.
- It's probably not sexual harassment if a person glances up as you walk by.
- It could be sexual harassment if a person regularly brushes against you.
- It's probably not sexual harassment if a person accidentally bumps into you.
- Making lewd or nasty comments about the opposite/same sex or about a specific individual.
- Telling off color or dirty jokes around members of the opposite/same sex.
- Bragging about sexual prowess and/or detailing sexual experiences.
- Displaying suggestive photographs or cartoons.

Quid-Pro-Quo Harassment

Examples of Quid -Pro-Quo harassment:

- Requiring an individual to date you in order to keep or obtain more favorable treatment.
- Requiring an individual to submit to sexual activities of any kind as a condition employment.

MANAGEMENT RESPONSIBILITIES & PROCEDURES

Management personnel should ensure that all employees refrain from all forms of discrimination or harassment at all times. Management is considered to be ‘the employer’ because of the nature of the organizational structure. When imposing liability on an organization the courts have looked at the following four elements:

- when and if the employer learned of the harassment - whether the employer knew or should have known about the harassment;
- the employer’s response;
- whether the employer had a sexual harassment policy and the employer’s enforcement of policies and complaint procedures;
- whether that policy was adequately communicated to employees and the prompt investigation of a complaint and appropriate discipline.

The single biggest mistakes managers make is the failure to take every complaint seriously. Managers often brush off complaints based on their:

- Ignorance of the elements of sexual harassment (“what’s the big deal? He never even touched her).
- Long association with the alleged harasser (“Joe’s not the kind of guy who would do something like that.”)
- Assumption that the complainant was at fault (“He has no sense of humor” or “What did she expect? Look at how she dresses.”).
- Inability to understand the complaint, often because the employee’s first attempt to state it fails to convey the whole story (“put it in writing, you’re not making sense”).

Therefore, in fulfilling their obligation to maintain a positive and productive work environment, management personnel are expected to:

- make the Human Resources Department aware of observations of inappropriate commentary or conduct, or of general workplace knowledge of harassing behavior, and
- immediately halt any harassment of which they become aware by emphasizing the Town’s sexual harassment policy and, when necessary, by more direct action (i.e. verbal warning, written warnings), and
- document all disciplinary action taken regarding sexual harassment including verbal warnings etc. A copy of the document must be forwarded to the Human Resources Department, and
- refer an employee who wishes to formally file a sexual harassment complaint with the Town of Greenfield to either of the following individuals (employee's choice):

Dennis Helmus, Director of Human Resources, Town of Greenfield, Town Hall Annex, 253 Main Street, Greenfield, MA (413) 772-1513, or

Office of the Mayor or Director of Administration and Finance, Town of Greenfield, Town Hall, 14 Court Square, Greenfield, MA (413-772-1560); (413-772-1567x167)

- if harassment activity continues or recurs, management personnel should file a formal sexual harassment complaint regarding the conduct to the person(s) or office(s) listed above. Whether the employee or management personnel file the formal complaint, the Town investigator(s) will make every reasonable effort to determine the facts and resolve the situation. If there is a determination made that harassment did occur, the Appointing Authority will determine what sanctions should be applied.

Formal Sexual Harassment Investigation Procedures

A Town investigator will investigate formal sexual harassment complaints in a fair and expeditious manner. The investigation will be conducted in such a way as to maintain confidentiality to the extent practicable. The investigation will include a private interview for the person filing the complaint. Witnesses will also be interviewed. The person(s) alleged to have committed sexual harassment would also be interviewed. When the investigation is completed, the person filing the complaint will be informed of the results, to the extent possible, as will the person(s) alleged to have committed the sexual harassment.

Any retaliation against an individual who has complained about sexual harassment or retaliation against individuals for cooperating with an investigation of a sexual harassment complaint is unlawful and will not be tolerated.

Please refer to the Sexual Harassment Complaint and Investigation Procedures for a more detailed outline of the process and any additional specific requirements of you as a supervisor.

DISCIPLINARY ACTION

Employee(s) found in violation of the Town of Greenfield's Sexual Harassment Policy may be subject to any or all of the following disciplinary actions:

- Counseling for the offender and implementation of disciplinary action.
- Transfer offender to another division or department,
- Suspension based on any applicable civil service guidelines or other personnel policy
- Termination.