

City of Manchester
Human Resources Department
One City Hall Plaza
Manchester, NH 03101-1932
Tel: (603) 624-6543 (V/TTY)
Fax: (603) 628-6065

SEXUAL HARASSMENT POLICY CITY OF MANCHESTER, NEW HAMPSHIRE

I. Policy:

1. Sexual harassment by employees or any other person is prohibited and will not be tolerated.
2. Retaliation against any person because he or she has reported a matter, filed a complaint, testified, assisted or participated in any manner in an investigation under this Policy or opposed any practice prohibited by this Policy will not be tolerated.

II. Objectives and Philosophy:

1. It is the objective and philosophy of the City:
 - A) to provide employees with a working environment as free as possible from unlawful sexual harassment and sexual discrimination;
 - B) to prevent sexual harassment of employees by co-workers, management, supervisors, vendors, contractors, elected and appointed officials and the public;
 - C) to prevent retaliation against any employee;
 - D) to encourage prompt reporting of complaints of sexual harassment and retaliation; and
 - E) to resolve complaints promptly, discretely and at the lowest management level possible.

CITY OF MANCHESTER, NEW HAMPSHIRE POLICY ON SEXUAL HARASSMENT

III. Definitions:

1. The term "sexual harassment" as used in this Policy means:
 - A) unwelcome, offensive or workplace-inappropriate verbal or physical conduct of a sexual nature directed at an individual because of his or her gender when:
 - 1) submission to the conduct is implicitly or explicitly made a term or condition of employment;
 - 2) submission to or rejection of the conduct is used as the basis for an employment decision affecting the individual; or
 - 3) the conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, offensive, hostile or inappropriate work environment.
 - B) Sexual harassment may be overt or subtle. Examples of sexual harassment that are prohibited include, but are not limited to:
 - 1) sexual innuendo, suggestive comments, insults, threats, jokes;
 - 2) suggestive or insulting noises, staring, leering, whistling or making obscene gestures;
 - 3) propositions or pressure to engage in sexual activity;
 - 4) indecent exposure or sexual assault;
 - 5) touching, pinching, cornering, massaging or purposely brushing up against another person's body;
 - 6) inappropriate comments concerning appearance;
 - 7) sexual or sexually insulting communications or public postings, including electronic media, telephone calls and written documents;
 - 8) displaying, viewing, possessing or bringing to the workplace magazines, books, videos, TV or computer programs, music or pictures with a sexual connotation;
 - 9) hiring or promoting sex partners over more qualified persons;
 - 10) any harassing conduct which is sexual in nature, that is directed toward a person because of the person's gender;

CITY OF MANCHESTER, NEW HAMPSHIRE POLICY ON SEXUAL HARASSMENT

11) harassing conduct that occurs during non-working hours but is directed at a co-employee, such as harassing telephone calls made during off-duty hours, if such conduct carries over to the workplace and has the effect(s) outlined in paragraphs A1-3 above.

2. The term "retaliation" as used in this Policy means:

A) any form of adverse action against an employee by a supervisor or co-employee because he or she has made a report of alleged sexual harassment or discrimination; has testified against or participated in any manner in an investigation of a report of sexual harassment; or has opposed any practice prohibited by this Policy or made unlawful by Title VII of the Civil Rights Act of 1964, as amended, and N.H. RSA 354-A:21 et. seq., as amended.

B) Examples of prohibited retaliation may include, but are not limited to:

- 1) failure to hire or promote or withholding pay increases;
- 2) poor performance reports;
- 3) unduly onerous work assignments;
- 4) spreading false and malicious rumors;
- 5) demotion, discharge or abolishing position without legitimate reasons.

3. The term "complainant" as used in this Policy means

an individual who believes he or she has been subjected to sexual harassment.

4. The term "respondent" as used in this Policy means

an individual who has been accused of sexual harassment.

IV. Reporting Procedure:

1. If any employee has been a subject of or has observed sexual harassment, he or she should, if practical and appropriate under the circumstances, clearly tell the
2. harasser that such conduct is offensive and it must stop. If confronting the harasser is not practical or appropriate under the circumstances, the employee should follow steps in #2 below.

CITY OF MANCHESTER, NEW HAMPSHIRE POLICY ON SEXUAL HARASSMENT

3. If any employee has been a subject of or has observed sexual harassment, he or she should, and is encouraged to report the conduct as soon as possible after the alleged harassment occurs to any or all of the following:
 - A) the employee's immediate supervisor or the first level supervisor who is not involved in the alleged harassment;
 - B) the Human Resources Director or his designee; or
 - C) the City Solicitor.
4. All management or supervisory personnel who have received a complaint of sexual harassment shall immediately communicate the receipt of and content of the complaint to his or her department head and to the Human Resources Director or his designee. The Human Resources Director or his designee shall then make arrangements for the prompt and proper investigation of such complaint.
5. In order to stop sexual harassment, all management and supervisory personnel are under an affirmative duty to report and take appropriate action on sexual harassment of which they are aware, even if the complainant desires confidentiality and desires that no formal complaint or report be filed. Supervisory and management personnel may be disciplined for failure to report such conduct or complaints.
6. Any employee who reports alleged sexual harassment should provide as many specific facts about the conduct as possible, including:
 - A) who committed the conduct;
 - B) what the specific conduct was;
 - C) when and where the conduct occurred;
 - D) if there were any witnesses and who they were;
 - E) if the conduct occurred more than once; and
 - F) if the complainant or any other employee told the respondent to stop the offensive conduct.
7. Employees are encouraged to report sexual harassment to the above-listed city officials or departments in order that the City can take immediate corrective action.

V. Investigation of Alleged Sexual Harassment:

1. When a complaint of alleged sexual harassment is received, an investigation shall begin as soon as possible (usually within a matter of days after the Human Resources Department has been notified). The complainant shall be apprised of the status of the investigation on a regular basis, as appropriate.
2. The investigation shall include, but not necessarily be limited to, interviewing individuals who are believed to have knowledge of the matter, including the complainant and the respondent, reviewing any relevant documents, materials, or information (whether in hard copy or electronically stored) and visiting/inspecting relevant work areas.
3. The respondent will be given sufficient information about the allegation and will be given an opportunity to respond to the complaint before any corrective action or discipline is imposed.
4. Respondents shall not be assumed to have violated this Policy unless the Final Report of Investigation determines that they have done so.
5. All employees shall cooperate in any investigation or may be subject to discipline for failure to cooperate.
6. Upon receipt of a complaint, the City shall take appropriate steps to prevent the alleged conduct from continuing, pending completion of the investigation. The City shall determine the steps to be taken by balancing the rights of the complainant including the severity of the alleged conduct and the rights of the respondent.

VI. Final Report of Investigation:

1. The investigator shall issue a written report to the Human Resources Department which shall include a review of the facts in the complaint, a description of the investigation, and a review of findings by the investigator. After a review of the report, the Director of Human Resources will issue a Final Report on the matter. The Final Report will determine whether or not a violation of this Policy has occurred.
2. The Human Resources Director shall provide a copy of the final report to the respondent's department head.
3. The Human Resources Director will provide the complainant and the respondent with a summary of the findings.

VII. Confidentiality:

1. All inquires, complaints and investigations are to be treated discretely and information is to be revealed only on a need-to-know basis.

VIII. Corrective or Disciplinary Action:

1. If the Final Report states that there is insufficient evidence that a violation of this Policy occurred, the Human Resources Director will inform the parties and the matter will be concluded.
2. If the Final Report states that a violation of this Policy occurred, the respondent's department head, after consultation with the Human Resources Department, will take appropriate corrective or disciplinary action to end the harassing conduct, including but not limited to:
 - A) counseling and training;
 - B) transfer or reassignment; or
 - C) reprimand, suspension, demotion or termination of employment.
3. The department head and the Human Resources Director or his designee shall follow up with the complainant regarding resolution of the complaint periodically.
4. If corrective or disciplinary action is taken against any employee, he or she may file a grievance under the applicable collective bargaining agreement provisions, or when appropriate, file an appeal with the City Personnel Appeals Board.

IX. Modifications of Policy:

1. The City reserves the right to change or modify this Policy at any time. This Policy is not intended to be part of any contract of employment between the City and any person.