

# **POLICY AGAINST WORKPLACE SEXUAL HARASSMENT**

## **Introduction**

The Town of Riverhead Industrial Development Agency (Agency) is committed to maintaining a workplace that is free from sexual harassment. Sexual harassment is a form of workplace discrimination and will not be tolerated. All employees are required to work in a manner that prevents sexual harassment in the workplace. This Policy is one component of the Agency's commitment to a discrimination-free work environment.

Sexual harassment is against the law. All employees, applicants for employment, interns, non-employees (as defined below) and other persons conducting business with the Agency have a legal right to a workplace that is free from sexual harassment.

The Agency is equally committed to maintaining a workplace that is free from discrimination and other types of prohibited harassment. For more information, please see the Agency's "Policy Against Unlawful Workplace Harassment and Discrimination."

## **Policy**

This Policy applies to all board members employees, project applicants, applicants for employment, interns, non-employees (see definition below), and other persons conducting business with the Agency.

For purposes of this Policy, a "non-employee" is an independent contractor, agent or someone who is (or who is employed by) a contractor, subcontractor, vendor, consultant or anyone providing services in the workplace. Non-employees also include volunteers, temporary workers, persons providing equipment repair, cleaning services or any other service pursuant to a contract, or other relationship with the Agency.

All covered individuals must follow and uphold this Policy.

Sexual harassment is a form of misconduct and will not be tolerated. Sexual harassment is offensive, a violation of the Agency's policies, unlawful, and may subject the Agency to liability for harm to targets of sexual harassment. Sexual harassers may also be individually subject to liability.

Following receipt of a complaint about sexual harassment or of knowledge regarding possible sexual harassment that is occurring or has occurred, the Agency will conduct a prompt, thorough and confidential investigation that ensures due process for all parties. Appropriate corrective action, subject to any statutory or contractual limitations, will be taken whenever sexual harassment is found to have occurred.

## **What is "Sexual Harassment?"**

Sexual harassment is a form of sex discrimination and is unlawful pursuant to federal, State and (where applicable) local law. Sexual harassment includes harassment on the basis of

sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity and the status of being transgender.

Sexual harassment includes unwelcome conduct that is of a sexual nature or that is directed at an individual because of his/her sex, sexual orientation, gender identity or transgender status when:

- the conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment, even if the reporting individual is not the intended target of the sexual harassment;
- the conduct is made either explicitly or implicitly a term or condition of employment; or
- submission to or rejection of the conduct is used as the basis for employment decisions affecting an individual's employment.

A sexually harassing hostile work environment includes, but is not limited to, words, signs, jokes, pranks, intimidation or physical violence that are of a sexual nature, or that are directed at an individual because of his/her sex, sexual orientation, gender identity or transgender status. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory statements or sexually discriminatory remarks made by someone that are offensive or objectionable to the recipient, which cause the recipient discomfort or humiliation or that interfere with his/her job performance.

Sexual harassment also occurs when a person in authority tries to trade job benefits for sexual favors. Job benefits may include hiring, promotion, continued employment or any other terms, conditions or privileges of employment. This is also called *"quidpro quo"* harassment.

Any covered individual who believes that he/she is being or has been sexually harassed should report the sexual harassment so that any violation of this Policy can be promptly corrected. Any sexually harassing conduct, even a single incident, can be addressed pursuant to this Policy.

### **Examples of Sexual Harassment**

The following describes some of the types of acts that are strictly prohibited and that may constitute unlawful sexual harassment:

- Physical acts of a sexual nature including:
  - o Touching, pinching, patting, kissing, hugging, grabbing, brushing against another person's body or poking another person's body; and
  - o Rape, sexual battery, molestation or attempts to commit these assaults.
- Unwanted sexual advances or propositions including:

- o Requests for sexual favors accompanied by implied or overt threats concerning the target's job performance evaluation, a promotion or other job benefits or detriments; and
- o Subtle or obvious pressure for unwelcome sexual activities.
- Sexually oriented gestures, noises, remarks, jokes or comments about a person's sexuality or sexual experience that creates a hostile work environment.
- Sex stereotyping which occurs when conduct or personality traits are considered inappropriate simply because they may not conform to other people's ideas or perceptions about how individuals of a particular sex should act or look.
- Sexual or discriminatory displays or publications anywhere in the workplace including:
  - o Displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials or other materials that are sexually demeaning or pornographic. This includes displays on workplace computers, cell phones or other electronic devices and sharing these displays while in the workplace.
- Hostile actions taken against an individual because of his/her sex, sexual orientation, gender identity or transgender status, including:
  - o Interfering with, destroying or damaging a person's workstation, tools or equipment, or otherwise interfering with the person's ability to perform the job;
  - o Sabotaging a person's work; and
  - o Bullying, yelling or name-calling.

### **Who Can be a Target of Sexual Harassment?**

Sexual harassment can occur between or among any individuals, regardless of their sex or gender. New York Law protects covered individuals from sexual harassment. Sexual harassers can be a superior, a subordinate, a co-worker or anyone in the workplace including another covered individual or any other person, including a visitor.

### **Where Can Sexual Harassment Occur?**

Unlawful sexual harassment is not limited to the physical workplace itself. It can also occur outside of the workplace while covered individuals are traveling for work or at employer-sponsored events, programs, activities or parties. Calls, texts, emails, and social media usage can constitute unlawful workplace harassment even if they occur away from the workplace premises, on personal devices or outside of work hours.

## **Retaliation is Prohibited**

Retaliation against anyone who, in good faith, complains, provides information or assists in an investigation of suspected sexual harassment as a witness or otherwise will not be tolerated.

No covered individual will be subject to adverse action(s) (*e.g.*, being discharged, disciplined, discriminated against; *etc.*) because that person, in good faith, reports an incident of sexual harassment, provides information, or otherwise participates in any investigation of a sexual harassment complaint.

Appropriate corrective action, subject to any statutory or contractual limitations, including, but not limited to, disciplinary action, termination of employment and/or termination of any contractual or other relationship with the Agency will be implemented.

Unlawful retaliation can be any action that could discourage a covered individual from coming forward to make or support a sexual harassment claim. Adverse action need not be job-related or occur in the workplace to constitute unlawful retaliation (*e.g.*, threats of physical violence outside of work hours).

Retaliation is unlawful pursuant to federal, State and (where applicable) local law. The New York State Human Rights Law protects any individual who has engaged in "protected activity." Protected activity occurs when a person has, in good faith:

- made a complaint of sexual harassment, either internally or with any anti-discrimination agency;
- testified or assisted in a proceeding involving sexual harassment pursuant to the Human Rights Law or other anti-discrimination law;
- opposed sexual harassment by making a verbal or informal complaint to management, or by simply informing a supervisor or manager of harassment;
- reported that another employee has been sexually harassed; or
- encouraged a fellow employee to report sexual harassment.

Even if the alleged sexual harassment does not rise to the level of a violation of law, the individual is protected from retaliation if he/she had a good faith belief that the practices were unlawful. The retaliation provision is not intended, however, to protect persons making intentionally false charges of sexual harassment.

Any covered individual who believes that he/she has been a target of any acts of retaliation in violation of this Policy should immediately report that conduct to the Agency's Compliance Officer. If the complaint involves or the individual is hesitant to report to the Agency's Compliance Officer, the individual should inform the Agency's Alternate Compliance Officer. Contact information for these individuals can be found on the Agency's website and in Agency policy.

Anyone who believes that he/she has been a target of prohibited retaliation may seek legal remedies, as explained below in the section on "Legal Protections."

### Reporting Sexual Harassment

Preventing sexual harassment is everyone's responsibility. The Agency cannot prevent or remedy sexual harassment unless we know about it.

All covered individuals are encouraged to report any behavior that may constitute sexual harassment in violation of this Policy to the Agency's Compliance Officer. If the complaint involves or the individual is hesitant to report to the Agency's Compliance Officer, the behavior should be reported to the Agency's Alternate Compliance Officer. Contact information for these individuals can be found on the Agency's website and in Agency Policy.

Anyone who witnesses or becomes aware of a potential instance of sexual harassment should also report this behavior to one of the above individuals.

Reports of sexual harassment may be made orally or in writing. A form for submission of a written complaint is attached to this Policy, and all covered individuals are encouraged to use this complaint form. If a covered individual reports sexual harassment on behalf of someone else, he/she should use the written complaint form and note that he/she is submitting the complaint on someone else's behalf.

Anyone who believes that he/she has been a target of prohibited sexual harassment may seek legal remedies, as explained below in the section on "Legal Protections."

### Supervisory Responsibilities

Any supervisor or manager who receives a complaint or information about suspected sexual harassment, observes what may be sexually harassing behavior or for any reason becomes aware of or suspects that sexual harassment is occurring or has occurred, is required to report that suspected sexual harassment to the Agency's Compliance Officer, irrespective of whether the affected individual files a complaint. If the complaint or information involves the Agency's Compliance Officer, the supervisor/manager must report the suspected sexual harassment to the Agency's Alternate Compliance Officer. Contact information for these individuals can be found on the Agency's website and in Agency Policy.

In addition to potentially being subject to appropriate corrective action, subject to any statutory or contractual limitations, if they engage in sexually harassing conduct or retaliation themselves, supervisors and managers will be subject to appropriate corrective action, subject to any statutory or contractual limitations, for failing to report suspected sexual harassment or for otherwise knowingly allowing sexual harassment to continue. Corrective action includes, but is not limited to, disciplinary action or termination of employment.

## Complaint and Investigation of Sexual Harassment

All complaints or information about sexual harassment will be investigated, whether that information was reported in oral or written form. An investigation of any complaint, information or knowledge of suspected sexual harassment will be prompt and thorough, commenced immediately and completed as soon as possible. All persons involved, including complainants, witnesses and alleged sexual harassers will be afforded due process, as outlined below, to protect their rights to a fair and impartial investigation.

All covered individuals, including supervisors and managers, may be required to cooperate as needed in an investigation of suspected sexual harassment to the extent permitted by law. Anyone who participates in an investigation will not be retaliated against for that reason. The Agency will not tolerate retaliation against anyone who files a complaint, supports another's complaint or participates in an investigation regarding a violation of this Policy.

While the process may vary from case to case, the following investigation procedure must be followed when there is any indication that sexual harassment has taken, or is taking, place:

- The Compliance Officer, or designee, will investigate all complaints of sexual harassment, except as otherwise outlined herein. Third parties may be designated to investigate a complaint or assist with any investigation.
- Upon receipt of a complaint or report of suspected sexual harassment, the Compliance Officer, or designee, will conduct an immediate review of the allegations. If the complaint is oral, the Compliance Officer, or designee, will encourage the complainant or informant to complete the written complaint form, a copy of which is attached to this Policy. If he or she refuses, the Compliance Officer, or designee, will prepare a complaint form based on the oral reporting.
- If documents, emails, phone records or other paper or electronic records are relevant to the allegations, the Agency will take steps to obtain and preserve them.
- The Compliance Officer, or designee, will request and review all relevant documents, including all electronic communications.
- The Compliance Officer, or designee, will interview all parties involved, including any relevant witnesses.
- All records of the investigation will be maintained in a secure and confidential location.
- The Compliance Officer, or designee, will notify the individual who complained and the alleged perpetrator of the outcome of the investigation.
- The Compliance Officer, or designee, will inform the individual who complained of his/her right to file a complaint or charge externally, as outlined below.

## **Corrective Action**

Any person, including covered individuals of every level who, upon an investigation in accordance with this Policy, is determined to have engaged in impermissible sexual harassment or retaliation in violation of this Policy, will be subject to appropriate corrective action, subject to any statutory or contractual limitations, including, but not limited to, disciplinary action (*e.g.*, suspension or termination of employment).

If the sexual harassment involves a non-employee or other individual, then other consequences may be implemented up to and including termination of any contractual or other relationship between the Agency and the non-employee or other individual.

## **Confidentiality**

The confidentiality and privacy of all parties involved in a complaint, report or investigation of suspected sexual harassment or retaliation in accordance with this Policy will be respected to the extent possible while permitting the Agency to conduct a thorough investigation of the complaint or report and take appropriate corrective action as necessary.

## **Bad Faith Claims**

If, after investigating a complaint of sexual harassment, it is determined that a person has made a claim of sexual harassment or retaliation in bad faith, or intentionally provided false information regarding a claim of sexual harassment or retaliation, legal action and/or appropriate corrective action including, but not limited to, disciplinary action, termination of employment and/or termination of any contractual or other relationship with the Agency may be taken against that person, subject to any statutory or contractual limitations.

## **Legal Protections and External Remedies**

Sexual harassment is not only prohibited by the Agency, but it is also prohibited by State, federal and (where applicable) local law. Aside from the internal process at the Agency, covered individuals may also choose to pursue legal remedies including, for example, in court and/or with the below governmental entities. While a private attorney is not required to file a complaint with a governmental agency, you may seek the legal advice of an attorney.

### **New York State Human Rights Law (HRL)**

The HRL, codified as N.Y. Executive Law, Art. 15, § 290 *et seq.*, applies to employers in New York State with regard to sexual harassment and protects employees, paid and unpaid interns and non-employees regardless of immigration status. A complaint alleging violation of the Human Rights Law may be filed either with the Division of Human Rights (DHR) or in New York State Supreme Court. Complaints with the DHR may be filed any time within one year of the harassment. If an individual did not file at the DHR, they can sue directly in State court pursuant to the HRL within three years of the alleged harassment. An individual may not file with the DHR if they have already filed a HRL complaint in State court.

Complaining internally to the Agency does not extend your time to file with the DHR or in court. The one-year and three-year time periods outlined above are counted from the date of the most recent incident of harassment.

You do not need an attorney to file a complaint with the DHR, and there is no cost to file. The DHR will investigate your complaint and determine whether there is probable cause to believe that sexual harassment has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If sexual harassment is found after a hearing, the DHR has the authority to award relief, which varies but may include requiring an employer to take action to stop the harassment, or redress the damage caused, including paying monetary damages, attorneys' fees and civil fines.

The DHR's main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, New York 10458, (718) 741-8400. The contact information for DHR's Suffolk County Office is: 250 Veterans Memorial Highway, Suite 2B-49, Hauppauge, New York 11788, (631) 952-6434, [www.dhr.ny.gov](http://www.dhr.ny.gov). Individuals can contact the DHR at (888) 392-3644 or visit [dhr.ny.gov/complaint](http://dhr.ny.gov/complaint) for more information about filing a complaint. The website has a complaint form that can be downloaded, filled out, notarized and mailed to the DHR. The website also contains contact information for DHR's regional offices across New York State.

### **Civil Rights Act of 1964**

The United States Equal Employment Opportunity Commission (EEOC) enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act (codified as 42 U.S.C. § 2000e et seq.). An individual can file a complaint with the EEOC anytime within 300 days from the harassment. You do not need an attorney to file a complaint with the EEOC and there is no cost to file. The EEOC will investigate the complaint and determine whether there is reasonable cause to believe that discrimination has occurred, at which point the EEOC will issue a Right to Sue letter permitting the individual to file a complaint in federal court.

The EEOC does not hold hearings or award relief, but may take other action including pursuing cases in federal court on behalf of complaining parties. Federal courts may award remedies if discrimination is found to have occurred.

If an employee believes that he/she has been discriminated against at work, he/she can file a "Charge of Discrimination." The EEOC has district, area, and field offices where complaints can be filed. Contact the EEOC by calling 1-800-669-4000 (1-800-669-6820 (TTY)), visiting their website at [www.eeoc.gov](http://www.eeoc.gov) or via email at [info@eeoc.gov](mailto:info@eeoc.gov). If an individual filed an administrative complaint with the DHR, the DHR will file the complaint with the EEOC to preserve the right to proceed in federal court.

### **Local Protections**

Many localities enforce laws protecting individuals from sexual harassment and discrimination. An individual should contact the county, city or town in which they live or work to find out if one or more of these laws exist.

For example, anyone who lives or works in Suffolk County may file complaints of sexual harassment with the Suffolk County Human Rights Commission at: H. Lee Dennison Building, 100 Veterans Memorial Hwy, Third Floor, Hauppauge, NY 11788, (631) 853-5480.

### **Contact the Police Department**

If the sexual harassment involves physical touching, coerced physical confinement or coerced sexual acts, the conduct may constitute a crime and affected individuals should contact the police department.

### **Dissemination and Training**

This Policy should be posted prominently in all work locations to the extent practicable (for example, in a main office, but not an off-site work location). The Agency will provide this Policy to all employees and will provide this Policy to new employees upon hire.

All employees will receive sexual harassment prevention training made available through the Town..

**We trust that everyone will continue to act responsibly to establish a working environment free of sexual harassment. We encourage you at any time to raise any questions you may have about this Policy.**

**SEXUAL HARASSMENT COMPLAINT FORM**

If you believe that you have been subjected to sexual harassment, you are encouraged to complete this form and submit it to the Agency's Compliance Officer. If your complaint involves or you are hesitant to submit this form to the Agency's Compliance Officer, you should submit the form to the Agency's Alternate Compliance Officer. Contact information for these individuals can be found on the Agency's website and in Agency Policy Book. This form can be submitted in person or via e-mail. Retaliation against anyone who, in good faith, files a sexual harassment complaint form is prohibited. If you are more comfortable reporting orally or in another manner, the Agency will complete this form, provide you with a copy of it and follow its Policy Against Workplace Sexual Harassment by investigating the claims.

**For additional resources, visit: [ny.gov/programs/combating-sexual-harassment-workplace](http://ny.gov/programs/combating-sexual-harassment-workplace)**

**COMPLAINANT INFORMATION**

Name: \_\_\_\_\_

Work Address: \_\_\_\_\_

Work Phone: \_\_\_\_\_

Job Title: \_\_\_\_\_

Select Preferred Communication Method:

Email: \_\_\_\_\_

Email   Phone   In Person

**SUPERVISORY INFORMATION**

Immediate Supervisor's Name: \_\_\_\_\_

Title: \_\_\_\_\_

Work Phone: \_\_\_\_\_

Work Address: \_\_\_\_\_

**COMPLAINT INFORMATION**

1. The complaint of Sexual Harassment is made about:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Work Address: \_\_\_\_\_

Work Phone: \_\_\_\_\_

Relationship to you: Supervisor   Subordinate   Co-Worker   Other

2. Please describe what happened and how it is affecting you and your work. Please use additional sheets of paper if necessary and attach any relevant documents or evidence.

3. Date(s) sexual harassment occurred:

Is the sexual harassment continuing? Yes No

4. Please list the name and contact information of any witnesses or individuals who may have information related to your complaint:

*The last question is optional, but may help the investigation.*

5. Have you previously complained or provided information (oral or written) about related incidents? If yes, when and to whom did you complain or provide information?

If you retained legal counsel and would like us to work with them, please provide their contact information.

*I hereby affirm that the information contained in this complaint is true and correct to the best of my knowledge, information and belief*

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Town of Riverhead Industrial Development Agency**  
**Sexual and Other Unlawful Harassment**

The Board of the Town of Riverhead Industrial Development Agency ("the Board") is committed to safeguarding the right of all employees within the Agency to work in an environment that is free from all forms of sexual harassment. Conduct is deemed to be sexual harassment when the recipient perceives such behavior as unwelcome. It is irrelevant that the harasser had no intention to sexually harass the person.

The Board recognizes that sexual harassment of employees can originate from a person of either sex against a person of the opposite or same sex, and from peers as well as other employees, Board Members or any individual who foreseeably might come in contact with employees on Town/Agency property or at Town/Agency-sponsored activities. When an alleged sexual harassment occurs and the Agency becomes aware of it, immediate and appropriate corrective action shall be taken.

The Board, consistent with State and Federal law, therefore condemns all unwelcome behavior of a sexual nature which may impose a requirement of sexual cooperation as a condition of employment, or which may have the purpose or effect of creating an intimidating, hostile, or offensive work environment. The Board also prohibits any retaliatory behavior against complainants or witnesses.

The Equal Employment Opportunity Commission has provided a very broad definition of "sexual harassment." The EEOC definition reads as follows:

Sexual harassment consists of unwelcomed 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 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.

Sexual harassment may take different forms. The most obvious form is the demand for sexual favors. Other forms of harassment include:

**verbal** - lewd or sexually suggestive comments, jokes of a sexual nature, sexual propositions or threats;

**non-verbal** -displaying pornographic photographs or other objects, obscene gestures;

**physical** - unwanted physical contact such as touching, pinching, coerced intercourse, assault.

Just as sexual harassment is strictly prohibited, so is harassment on the basis of race, color, ethnicity, religion, creed, sex, national origin, citizenship, age, disability, pregnancy, marital status, veteran status, sexual orientation, or any other status protected by applicable law. The Board is committed to providing a work environment free from all forms of prohibited harassment or intimidation.

**Definition of Prohibited Harassment:**

**1. Verbal or physical conduct constitutes prohibited harassment when:**

**A. It is based on an applicant or employee's race, color, ethnicity, religion, creed, sex, national origin, citizenship, age, disability, pregnancy, marital status, veteran status, sexual orientation, or any other status protected by applicable law; and**

**B. This conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.**

**2. Prohibited harassment refers to behavior that is based on a protected classification; that is not welcome; that is, or would be, offensive to a person of reasonable sensitivity and sensibilities; that fails to respect the rights of another; and that, therefore, unreasonably interferes with an employee's work performance and effectiveness, or creates an intimidating, hostile or offensive working environment. It makes no difference if the harassment is "just joking" or "teasing" or "playful." This conduct may be just as offensive as any other type of harassment.**

**Specific forms of behavior that may constitute prohibited harassment include, but are not limited to, the following:**

**Abusive language related to an employee's race, color, ethnicity, religion, creed, sex, national origin, citizenship, age, disability, pregnancy, marital status, veteran status, sexual orientation, or other protected status, including innuendoes, slurs, suggestive, derogatory or insulting comments or sounds, threats, and jokes based on the employee's protected status.**

**Use of demeaning or offensive words when referring to an employee's race, color, ethnicity, religion, creed, sex, national origin, citizenship, age, disability, pregnancy, marital status, veteran status, sexual orientation, or other protected status.**

**Prohibited harassment is not limited to verbal comments. Abusive written language, transmitted via e-mail or otherwise, showing or displaying offensive objects or pictures, graphic commentaries or gestures in the workplace, which unreasonably interferes with an employee's work performance or creates an intimidating, hostile, or offensive working environment, is also prohibited.**

**Any physical contact based on an employee's race, color, ethnicity, religion, creed, sex, national origin, citizenship, age, disability, pregnancy, marital status, veteran status, sexual orientation, or other protected status that is not welcome.**

**Any employee who believes that he or she has been subjected to a prohibited harassment should report the alleged misconduct immediately, so that appropriate corrective action, up to and including discharge of an employee, may be taken at once. An employee who feels he/she has been subjected to any form of prohibited harassment may report the incident to one of the designated Compliance Officers. The complainant shall not be discouraged from reporting an incident of an alleged prohibited harassment. In the absence of a victim's complaint, the Board, upon learning of, or having reason to suspect, the occurrence of any prohibited harassment, will ensure that an investigation is promptly commenced by appropriate individuals.**

**The Board has implemented a regulation and procedures on reporting, investigating and remedying allegations of prohibited harassment. Such procedures are to be consistent with any applicable provisions contained in the State Civil Service Law and other Federal and State laws on prohibited harassment. Training programs have been established for employees of the Town of Riverhead to raise awareness of the issues surrounding prohibited harassment and to implement preventative measures to help reduce incidents of prohibited harassment. Agency staff will participate in offered trainings.**

**A copy of this Policy and its accompanying Regulations are available to all personnel and posted in appropriate places.**

#### **Sexual and Other Prohibited Forms of Harassment Regulation**

**In addition to any relevant procedures contained in the previous policy, the following regulation will implement the Board's policy concerning sexual and other prohibited forms of harassment of employees.**

**The Equal Employment Opportunity Commission has provided a very broad definition of "sexual harassment". The EEOC definition reads as follows:**

**Sexual harassment consists of unwelcomed sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:**

- (4) Submission to such conduct is made either explicitly or implicitly a term of an individual's employment,**
- (5) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or**
- (6) 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.**

**An employee can be subjected to sexual harassment even by another employee, an Agency Board Member, a Town Board member, or any individual who foreseeably might come in contact with the employee on Town/Agency property or at Town/Agency activities. Sexual harassment experienced by employees is not always**

easily recognized. Sexual harassment may take different forms. The most obvious form is the demand for sexual favors. Other forms of harassment include:

verbal - lewd or sexually suggestive comments, jokes of a sexual nature, sexual propositions or threats;

non-verbal -displaying pornographic photographs or other objects, obscene gestures;

physical - unwanted physical contact such as touching, pinching, coerced intercourse, assault.

More specific examples of harassment include:

- I. Unwanted sexual behavior, which may include touching, verbal comments, sexual name calling, spreading sexual rumors, gestures, jokes, leers, overly personal conversation, corning or blocking an employee's movement, pulling at clothes, attempted rape, and rape;
- II. Impeding a female employee's work performance in, and for example, a maintenance shop, by hiding her tools, questioning her ability to handle the work or suggesting she is somehow "abnormal" for performing these duties;
- III. A female in a predominantly male office subjected to sexual remarks by employees who regard the comments as joking and part of the usual work environment;
- IV. Purposefully limiting or denying female employees access to work-related equipment or tools, such as computers; and
- V. Teasing a male employee about his assignment to work as, for example, a secretary.

Just as sexual harassment is strictly prohibited, so is harassment on the basis of race, color, ethnicity, religion, creed, sex, national origin, citizenship, age, disability, pregnancy, marital status, veteran status, sexual orientation, or any other status protected by applicable law. The Board is committed to providing a work environment free from all forms of prohibited harassment or intimidation.

Definition of Prohibited Harassment:

1. Verbal or physical conduct constitutes prohibited harassment when:

A. It is based on an applicant or employee's race, color, ethnicity, religion, creed, sex, national origin, citizenship, age, disability, pregnancy, marital status, veteran status, sexual orientation, or any other status protected by applicable law; and

B. This conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

2. Prohibited harassment refers to behavior that is based on a protected classification; that is not welcome; that is, or would be, offensive to a person of reasonable sensitivity and sensibilities; that fails to respect the rights of another; and that, therefore, unreasonably interferes

with an employee's work performance and effectiveness, or creates an intimidating, hostile or offensive working environment. It makes no difference if the harassment is "just joking" or "teasing" or "playful." This conduct may be just as offensive as any other type of harassment.

Specific forms of behavior that may constitute prohibited harassment include, but are not limited to, the following:

Abusive language related to an employee's race, color, ethnicity, religion, creed, sex, national origin, citizenship, age, disability, pregnancy, marital status, veteran status, sexual orientation, or other protected status, including innuendoes, slurs, suggestive, derogatory or insulting comments or sounds, threats, and jokes based on the employee's protected status.

Use of demeaning or offensive words when referring to an employee's race, color, ethnicity, religion, creed, sex, national origin, citizenship, age, disability, pregnancy, marital status, veteran status, sexual orientation, or other protected status.

Prohibited harassment is not limited to verbal comments. Abusive written language, transmitted via e-mail or otherwise, showing or displaying offensive objects or pictures, graphic commentaries or gestures in the workplace, which unreasonably interferes with an employee's work performance or creates an intimidating, hostile, or offensive working environment, is also prohibited.

Any physical contact based on an employee's race, color, ethnicity, religion, creed, sex, national origin, citizenship, age, disability, pregnancy, marital status, veteran status, sexual orientation, or other protected status that is not welcome.

### *Procedures*

The Board shall designate a Compliance Officer to carry out the Agency's responsibilities associated with compliance with the aforementioned policy. In addition, the Board will designate a second individual for ensuring compliance with this Policy and Regulation so that employees who believe that they have been subjected to a prohibited harassment as described in this regulation will have a second avenue of complaint, if the alleged harasser is the Compliance Officer.

The Chairman shall notify all employees of the name, office address, and telephone number of both designees. In addition, the board through this Regulation has established the grievance procedures that provide for prompt investigation and equitable resolution of employees' prohibited harassment complaints. The Chairman shall implement specific and continuing steps to notify employees, vendors, constituents, and prospective employees that the Agency does not discriminate on the basis of sex or any other protected classification as mentioned in these regulations in its programs or activities. This notification shall include publication on the Agency website, posted within the Agency location of office and distributed to every employee.

All reports of a prohibited harassment as mentioned in these regulations will be held in confidence, subject to all applicable laws and any relevant provisions found in any employee contract.

Consistent with Federal and State law, the following procedures shall be employed in handling any report, investigation and remedial action concerning allegations of a prohibited harassment as described in these regulations.

### *Complaints*

An employee who believes that he or she has been subjected to any form of prohibited harassment is to report the incident to the Compliance Officer or the Alternate Compliance Officer. The Compliance Officer or Alternate Compliance Officer shall notify the Chairman or other Executive Board member of all complaints. The employee can pursue his/her complaint informally or file a formal complaint.

### *Investigation of a Complaint*

Upon receipt of a formal or informal complaint, a prompt, thorough and impartial investigation of the allegations must follow by the Compliance Officer or Alternate Compliance Officer. This investigation is to be conducted diligently. All witnesses shall be interviewed and if requested, the victim shall speak with an individual of his/her choice. Complainants are to be notified of the outcome of the investigation.

### *Informal Complaints*

In addition to notification to the Compliance Officer or the Alternate Compliance Officer, an employee who believes that he or she has been subjected to a prohibited harassment may request that an informal meeting be held between the employee and the Chairman or Executive Board Member. The employee may also request a meeting with another managerial employee of his or her choice. The employee shall be notified of his/her right to have a representative also attend the interview. The purpose of such a meeting will be to discuss the allegations and remedial steps available.

Depending on the avenue by which the complaint was filed, the Compliance Officer, Alternate Compliance Officer or Executive Board Member each of which will be referred to as the "Manager", will then promptly discuss the complaint with the alleged harasser. The alleged harasser shall be informed of his/her right to union or other representation. Should the alleged harasser deny the allegations, the manager is to inform the complainant of the denial and request a formal written complaint to file with his/her report to the next level of management on what has transpired to date. If the complainant submits a formal complaint, a copy of the complaint shall accompany the report with a recommendation for further action.

Should the harasser admit the allegations, the manager is to obtain a written assurance that the unwelcomed behavior will stop. Depending on the severity of the charges, the Manager may impose and/or recommend the imposition of further disciplinary action. Thereafter, the Manager is to prepare a written report of the incident and inform the complainant of the resolution. The complainant is to indicate on the report whether or not he/she is satisfied with the resolution.

If the complainant is satisfied with the resolution, the incident will be deemed closed. However, the complaint may be reopened for investigation if a recurrence of a prohibited harassment is reported. The Manager is to inform the complainant to report a recurrence of the harassment or any retaliatory action that might occur. Should the complainant be dissatisfied with the resolution, he/she is to file a formal written complaint.

If, during the Manager's informal attempt to resolve the complaint, the alleged harasser admits the allegations but refuses to give assurance that he/she will refrain from the unwelcomed behavior, the manager is to file a report with the next appropriate level in the complaint procedure. The report is to indicate the nature of the complaint, a description of what occurred when the Manager informed the alleged harasser of the allegations against him/her, the harasser's response to the allegations, and a recommendation that stronger corrective measures be taken. This report should be accompanied by the employee's formal complaint.

#### *Formal Complaint*

Formal complaints may be submitted either to initially report any incidence of a prohibited harassment, or as a followup to an unsatisfactory resolution of an informal attempt to resolve a complaint. In the latter case, the formal written complaint is to be submitted to the manager originally consulted, who will then forward it to the next appropriate level of management, e.g. the Chairman or the Executive Board, for appropriate action.

The formal written complaint will consist of any appropriate forms and a copy of any applicable Manager reports. The appropriate forms solicit the specifics of the complaint, e.g. date and place of incident, description of the prohibited misconduct, names of any witnesses, and any previous action taken to resolve the matter.

The Chairman or the Executive Board shall take immediate, appropriate and corrective action upon a determination of a prohibited harassment. The Chairman or the Executive Board shall notify the complainant of any findings and action taken.

#### *Remedial Action*

If the investigation reveals that any prohibited harassment has occurred, appropriate sanctions will be imposed in a manner consistent with any applicable law and Agency contracts/agreements. Depending on the gravity of the misconduct, sanctions may range from a reprimand up to and including dismissal of an employee.

Anyone subjecting complainants or witnesses to any form of retaliation will also be subject to disciplinary action in the manner prescribed by law and consistent with any applicable provisions.

**. If the investigation reveals that no prohibited harassment has occurred, or if the complainant is not satisfied with the remedial action taken after a finding of a prohibited harassment, the complainant may appeal to the next appropriate level in the complaint procedure. The appeal must include a copy of the original complaint, all relevant reports, the specific action being appealed, and an explanation of why the complainant is appealing.**

#### ***Post Remedial Action***

**Following a finding of a prohibited harassment, a victim will be periodically interviewed by the appropriate Manager to ensure that the prohibited harassment has not resumed and that no retaliatory action has occurred. At the discretion of the Agency, these follow-up interviews will continue for an appropriate period of time. A report will be made of any victim's response.**

#### ***Complaint Records***

**Upon written request, a complainant should receive a copy of any resolution reports filed by the Manager concerning his complaint. Upon substantiation, copies should also be filed with the employment records of both the complainant and the alleged harasser.**

#### ***Investigation in the Absence of a Complaint***

**The Board will, upon learning of, or having reason to suspect, the occurrence of any prohibited harassment, and in the absence of a victim's complaint, ensure that an investigation is commenced by the appropriate individuals.**

#### ***Compliance Officers***

**The Compliance Officers designated to carry out the Agency's responsibilities associated with compliance are currently Meg Ferris, Town Personnel Officer, 727-3200 Ext. 603 and Ray Coyne, Superintendent of Recreation, 727-5744 Ext. 26. Formal complaints may also be made to Agency Counsel**