



## POLICY AND PROCEDURE MEMO

NO. 2.004  
DATE 4-1-13 Approved  
4-3-19 Revised

SUBJECT: **HARASSMENT AND DISCRIMINATION**

  
CITY MANAGER

- I. **Overview:** The City of Rochester (the City) is committed to providing a work environment that is free of harassment based on sex, race, color, national origin, religion, age, military or veteran status, physical or mental disability, marital status, pregnancy, sexual orientation, gender identity, and any other characteristic protected by applicable law. The City recognizes the harmful effects of harassment and will not tolerate it.

The City requires all employees to report violations of this policy. The City will respond promptly to reports of harassment, and will take corrective and/or disciplinary action, as appropriate, in an effort to ensure that the goals of this policy are met. The City will not tolerate any form of retaliation against any employee who reports harassment or who participates in an investigation of a report or harassment.

- II. **Examples of Prohibited Harassment:** This policy prohibits offensive, intimidating, threatening, or otherwise unwelcome comments or conduct based on sex, race, color, national origin, religion, age, military or veteran status, physical or mental disability, marital status, pregnancy, sexual orientation, or gender identity. Examples of prohibited conduct include, but are not limited to:

- Written or spoken derogatory terms about sex, race, color, national origin, religion, age, military or veteran status, physical or mental disability, marital status, pregnancy, sexual orientation, or gender identity;
- Slurs and epithets;
- Unwelcome jokes;
- Insults;
- Threats of physical violence or harm to a person's property;
- Display or circulation of materials, items, or images that are degrading or disparaging to individuals or groups based on the characteristics listed above;
- Any other unwelcome conduct or comments directed at a person or group because of a particular protected characteristic (i.e. sex, race, age, etc.).

It is important to note that the types of conduct explained in this policy are prohibited regardless of the intent of the person(s) engaging in the conduct (i.e. to be intentionally offensive, a misguided attempt at humor, attempts at establishing a romantic relationship, etc.). Prohibited conduct includes conduct that is direct as well as indirect (e.g. overheard conversations, e-mail messages sent or forwarded by accident, etc.).



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III. **Specific Information About Sexual Harassment:** The formal definition of sexual harassment includes unwelcome sexual advances, requests for sexual favors and other verbal, physical, and non-physical conduct of a sexual nature when:

- Submission to or rejection of such conduct is made explicitly or implicitly a term or condition of employment;
- Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting that individual, or for awarding or withholding favorable employment opportunity, evaluation or assistance; or
- Such conduct has the purpose or effect of unreasonably interfering with an individual's performance at work, or creating an intimidating, hostile, or offensive work environment.

Less formally, the types of conduct prohibited by this policy cover a wide range of inappropriate behaviors including, but not limited to, the actual coercion of sexual relations, unwelcome comments, jokes, innuendoes, sexually suggestive materials, and other unwelcome sexually oriented actions.

While it is not possible to list all of the types of conduct that might violate this policy, the following are some examples:

- Unwelcome sexual advances, whether they involve physical touching or not;
- Sexual epithets, jokes, vulgarity;
- Written or oral references to sexual conduct;
- Gossip regarding an individual's sex life;
- Comments regarding an individual's body;
- Comments about an individual's sexual activity, deficiencies, or prowess;
- Displaying sexually suggestive objects, pictures, cartoons, electronic images;
- Leering, staring, whistling, grabbing, pinching;
- Sexual flirtation;
- Brushing against someone's body;
- Sexual gestures;
- Suggestive or insulting comments;
- Inquiries into one's sexual experiences; and
- Discussion of one's sexual activities.



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- IV. **Individuals Covered by this Policy:** This policy applies to all employees of the City at every level. This policy also prohibits harassment of or by non-employees (The City's vendors, Boards & Commission, etc.) who come in contact with the City's employees. This policy prohibits conduct whether it is directed at men by women, at women by men, at men by men, or at women by women, and regardless of whether the conduct occurs on or off the City's premises or during or outside of working hours.
- V. **Mandatory Reporting Procedure:** Employees must report any conduct that violates this policy using the "Reporting Procedure for Discrimination, Harassment, and Retaliation" below (referred to as the "Reporting Procedure"). Do not assume that the City is aware of the problem. Each employee has a responsibility to report harassment. It is only through the active involvement of all employees that the City can prevent and correct harassment in the workplace.

Using the City's mandatory Reporting Procedure does not preclude an employee who has experienced conduct in violation of this policy from discussing the matter directly with the person(s) engaging in the offensive conduct. Employees who are offended by conduct are encouraged, but not required, to inform the person(s) engaging in the conduct of how they feel. This discussion may resolve the issue, but even if it is resolved the matter must still be reported through the Reporting Procedure.

**Consequences for Violating the Policy:** Violations of this policy, whether intended or not, will not be tolerated. Any employee who violates this policy will be subject to corrective and/or disciplinary action, up to and including termination of employment. Note that the City may take corrective and/or disciplinary action up to and including termination to address inappropriate conduct even if it does not rise to the level of unlawful harassment.

**Retaliation will not be Tolerated:** The City requires employees to report violations of this policy and will not tolerate any form of retaliation against an employee who makes a report or who participates in an investigation of a report under this policy. All incidents of retaliation must be immediately reported using the Reporting Procedure.

- VI. **Reporting Procedure for Discrimination, Harassment, and Retaliation:** Any employee who has observed, been made aware of, or experienced conduct in violation of our Policy Against Harassment or policy regarding Diversity and Equal Employment Opportunity (collectively referred to in this Reporting Procedure as the "Policies") must follow this



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reporting procedure to notify the City of the problem so that the matter can promptly and thoroughly be investigated and appropriate action taken.

1. Any employee may file a complaint regarding harassment, discrimination, and/or retaliation with the employee's supervisor, the Human Resource Manager, the City Attorney or the City Manager. An employee can report the matter to any (or more than one) of these individuals, orally or in writing.
2. In the event that the report is about conduct engaged in by the City Manager or by a member of the governing body, the employee may choose to make the report directly to the Mayor, and may do so orally or in writing.
3. Employees are encouraged to utilize the City's procedure, but in addition to the above, you may file a formal complaint with either or both of the government agencies set forth below.
  - a. The United States Equal Employment Opportunity Commission (EEOC)  
John F. Kennedy Federal Building  
475 Government Center  
Boston, MA 02203 (800) 669-4000
  - b. NH Commission for Human Rights  
2 Industrial Park Drive  
Concord, NH 03301 (603) 271-2767

- VII. **Investigation:** The City will investigate reports made through this Reporting Procedure promptly and fairly. The investigation will be conducted in such a way as to maintain confidentiality to the extent practicable under the circumstances. The investigation may be conducted internally or, in appropriate circumstances, an outside investigator may be retained.

Investigations will typically include private interviews with the person filing the report and with witnesses. The person alleged to have violated the Policies will also typically be interviewed. Any employee asked to participate in an investigation is expected to cooperate fully and truthfully. When the investigation is complete, to the extent appropriate, the City will inform the person filing the report and the person alleged to have violated the Policies of the results of that investigation.



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- VIII. **Corrective/Disciplinary Action:** Any employee who has violated the Policies or otherwise acted inappropriately will be subject to corrective and/or disciplinary action, up to and including termination of employment.
- IX. **Retaliation is Prohibited:** Employees who make reports in good faith under this Reporting Procedure and/or participate in good faith in any investigation under this Reporting Procedure have the City's assurance that it will not tolerate any form of retaliation against them for their participation in the process. Any concerns regarding retaliation must be reported using the Reporting Procedure.

### ***Acknowledgment***

I have received a copy of and understand the City of Rochester's Policy Against Harassment and Reporting Procedure for Discrimination, Harassment, and Retaliation, and have read them or had them read to me.

\_\_\_\_\_  
Employee's Printed Name

\_\_\_\_\_  
Employee's Signature

\_\_\_\_\_  
Date

**-END OF PROCEDURE-**