

**City of Asheville
Administrative Policy**

Subject: Workplace Harassment Policy		Manual
		Effective Date November 1, 2013
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Issued By: Human Resources Department <i>Keely Cooper</i>		City Manager Approval: <i>Angela...</i>

PURPOSE

The City of Asheville is committed to a workplace in which all individuals are treated with respect and dignity. Each individual has the right to work in a professional atmosphere that promotes equal employment opportunities and prohibits discriminatory practices, including harassment. Therefore, the City of Asheville expects that relationships among persons in the workplace will be professional and free of harassment. The City of Asheville expressly prohibits employee harassment for any reason, including but not limited to marriage to, or association with, individuals of a particular race, color, religion, age, military status, pregnancy, national origin, disability, sexual orientation, gender, or gender identity or expression, or genetic information. All City of Asheville employees are responsible for helping to ensure an environment free from harassment.

The purpose of this policy is to educate employees about what constitutes workplace harassment to include sexual harassment, what remedies are available to employees who believe they may have been harassed, and management's responsibility in dealing with harassment complaints.

Harassment is a violation of the City of Asheville's Personnel Policy (Section 61) referencing inappropriate personal conduct. The intent of this policy is to clarify the City of Asheville's position in matters relating to compliance, discovery, and remedy.

POLICY

It is the intent of the City of Asheville to maintain a workplace free of harassment from any source. This policy affirms the City's refusal to tolerate workplace harassment; informs managers and supervisors and other employees of performance expectations, guidelines and possible penalties related to harassment; and provides procedures for

employees to follow when they believe they may have been harassed. The policy also prohibits retaliation against employees who report harassment or participate in an investigation involving harassment.

DEFINITIONS

1. Sexual Harassment

Sexual harassment is defined as unsolicited and unwelcome sexual advances, requests for sexual favors, or other unsolicited and unwelcome verbal, visual, or physical conduct of a sexual nature, when:

- a. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or;
- b. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual or;
- c. Such conduct has the purpose or effect of substantially interfering with a person's work performance or creating an intimidating, hostile or offensive work environment.

The definition of sexual harassment includes conduct directed by the opposite sex as well as the same sex. Prohibited acts of sexual harassment can take a variety of forms ranging from subtle pressure for sexual activity to physical assault. Some examples are unsolicited and unwelcome conduct can take the form of pinching, grabbing, patting, sexual flirtations, touching, propositioning; making either explicit or implicit job threats or promises in return for submitting to sexual favors; making sexual-oriented comments about appearance, including dress or physical features; leering, catcalls, or other insulting or obscene comments or gestures; jokes or innuendo; telling sexually explicit stories; displaying, transmitting, or circulating sexually explicit or pornographic material (including but not limited to email, text, or other electronic means), no matter how it is displayed; sexual assaults on or off the job by supervisors, fellow employees, or others; or other physical, verbal, or visual conduct of a sexual nature. When response to any of the foregoing conduct influences employment decisions or makes the job environment intimidating, offensive, or hostile, or substantially interferes with work performance, this policy has been violated.

2. Harassment

Under this policy, harassment is verbal, visual or physical conduct that denigrates or shows hostility or aversion toward an individual.

Harassing conduct includes, but is not limited to: epithets, slurs, or negative stereotyping; threatening, intimidating, or hostile acts; denigrating jokes and display, transmission, or circulation in the workplace of written or graphic material that denigrates or shows hostility toward an individual or group (including but not limited to email, text, or other electronic means).

COVERAGE AND DISTRIBUTION OF THIS POLICY

This harassment policy applies to all officers and employees of the City of Asheville, including, but not limited to, full and part-time employees, board members, regular and temporary employees, and employees working under contract. Conduct prohibited by this policy is unacceptable in the workplace or any work related setting outside the workplace, such as business trips, business meetings, or business related social events. This policy shall be distributed initially to all employees. Every employee will be required to acknowledge his or her receipt of this policy in writing. A copy of that acknowledgment shall be kept in the permanent personnel file. Department directors and supervisors shall be responsible for ensuring that all employees under their direction are familiar with this policy. Formalized supervisory training is required and conducted through the Human Resources Department on an on-going and periodic basis.

REPORTING AND INVESTIGATING HARASSMENT COMPLAINTS

The City encourages employees to follow the chain of command where possible when dealing with a job related complaint. However, due to the personal nature of harassment, any employee who feels he or she is being subject to harassment may complain to anyone listed below, orally or in writing:

1. The employee's immediate supervisor.
2. Any supervisor employed by the City of Asheville.
3. Any employee in the Human Resources Department.
4. The City Manager.
5. The Deputy City Manager or Assistant City Manager.
6. The City Attorney.

Supervisors are not permitted to receive or have knowledge of a complaint of alleged harassment without taking prompt and immediate action. **In an instance where a supervisor receives or has knowledge of such a complaint, he/she is required to contact the Human Resources Director or his/her designee immediately.**

All complaints shall be fully investigated immediately by the Human Resources Department to determine if the conduct of the person whom a complaint of harassment has been made constitutes a violation of this policy. The City Manager may determine that someone other than the Human Resources Department shall investigate if the Human Resources Department is involved in the allegation. If allegations are substantiated, a determination of the level of disciplinary action shall be made on a case-by-case basis and based on the findings of the investigation.

The Department Director in consultation with the Human Resources Director or his/her designee, reserve the right to render disciplinary action up to and including dismissal.

Harassment is considered inappropriate personal conduct in accordance with our City Personnel Policy.

The City of Asheville intends to foster an environment free from harassment. Management and supervisory level staff shall be held to the highest level of accountability for their behavior in situations involving harassment of another employee. Supervisors are expected to set the appropriate example by modeling a work environment that discourages inappropriate behavior that may be deemed as harassing in nature.

The City acknowledges that there are certain situations when an employee may not be aware that certain behavior is offensive to a co-worker. An appropriate manner in which to handle a complaint of this nature may be as simple as placing the offending party on notice that their behavior is offensive and counsel them to stop. Once the supervisor or complaining party places the offending party on notice to stop the behavior, the supervisor is required to follow-up within thirty (30) days to ensure the behavior has stopped.

In such cases, the Human Resources Department is required to keep written record of such occurrences in case of additional occurrences at a later date. Any reoccurrence of this behavior once the offending party is placed on notice may constitute disciplinary action up to and including dismissal from employment.

Knowingly communicating or filing a false or malicious discrimination/retaliation complaint is a violation of this Policy and is subject to discipline, up to and including dismissal.

HARASSMENT COMMITTED BY NON-EMPLOYEES

In cases of harassment committed by a non-employee against a City employee in the workplace or while engaged in work, the Department Director and/or City Manager shall take appropriate steps to insure that the harassment is brought to an immediate end. Employees should immediately report any instances of harassment by non-employees in accordance with the reporting lines outlines in the policy.

THREAT OF RETALIATION PROHIBITED

It is the obligation of the City of Asheville to create an environment that encourages employees to come forward and report when they feel that they are being harassed. To that end, it is imperative that employees understand that once a charge has been filed, the City will not tolerate any actions by staff that are deemed or could be deemed retaliatory in nature. Retaliation is any adverse treatment or disciplinary action that is directed to an individual because they came forth with an allegation of workplace harassment. The City of Asheville prohibits retaliation against one who reports harassment or any who participates in an investigation. Any behavior exhibited by employees that may be interpreted as retaliatory in nature will be treated as

Inappropriate Personal Conduct as discussed in Section 61 of the City of Asheville's Personnel Policy.

OBLIGATION OF EMPLOYEES

Employees are obligated to report instances of harassment. Employees are prohibited from withholding information regarding knowledge of supposed conduct that may meet the definition of harassment. Harassment exposes the City to liability, decreases morale, and affects productivity. It is every employee's job to ensure that the City is free of harassment.

Employees are expected to treat other employees with respect and consideration, realizing that standards of acceptable language and conduct are different for different people, and that behavior which may be acceptable in a congenial social setting may be inappropriate for work. You are expected to show good judgment in the area of work relations and avoid actions which violate another person's right to a workplace free of harassment.

Employees shall cooperate in every investigation of harassment, including, but not limited to: coming forward with evidence, whether favorable or unfavorable to a person accused of harassment, and fully and truthfully answering questions during the course of an investigation of harassment.

CONFIDENTIALITY

City officials, managers and supervisors are bound to maintain the confidentiality of all investigations of alleged violations of the policy. However, management cannot "guarantee confidentiality". Depending on circumstances, there may be situations where investigative findings must be released to appropriate outside authorities.

All personnel involved in a matter dealing with harassment shall honor the need for strict confidentiality in order for the City to investigate such allegations without undue disruption in the workplace. Information gathered either before or after investigations shall not be shared with anyone other than those parties deemed responsible for conducting the administrative investigation or where required by law or court order. Therefore, if you are involved in an investigation you are not at liberty to discuss anything related to that activity with coworkers, friends or family.

All records placed in the employee's personnel file are protected under the provisions of North Carolina General Statute § 160A-168.

Employees are encouraged to direct questions about this policy to their Department Director, Human Resources, the City Attorney, the Deputy City Manager, the Assistant City Manager or the City Manager.