

## **SEXUAL HARASSMENT PREVENTION POLICY**

### **Introduction**

The Town of Ossining (“the Town”) is committed to maintaining a work environment free from sexual harassment, which is one form of employment discrimination. This Policy is one component of the Town’s commitment to a discrimination-free work environment.

### **Policy:**

1. This Policy applies to all employees, elected and/or appointed officials, and applicants for employment. It also applies to individuals who are not employees of the Town of Ossining but are employees of contractors, subcontractors, vendors, consultants, volunteers and other persons who provide services in the Town of Ossining workplace, such as interns and temporary employees.
2. Sexual harassment is not tolerated by the Town and is prohibited by this Policy. This Policy prohibits not only behavior that constitutes unlawful harassment, but also other inappropriate or unprofessional behavior that may reasonably be considered offensive or otherwise inappropriate. Employees and other individuals covered under this Policy will be subject to disciplinary or other corrective action for any violations of this Policy. Where applicable, such discipline shall be in accordance with any statutory rights and/or collective bargaining agreement protections to which the individual may be entitled.
3. No person covered by this Policy shall be subject to adverse employment action because he/she makes a good faith report of an incident of sexual harassment, or provides information, or otherwise assists in any investigation of a sexual harassment complaint. Any person covered by this Policy, who retaliates against anyone involved in a sexual harassment investigation, is in violation of this Policy and subject to remedial or disciplinary action.
4. The Town will conduct a prompt, thorough, impartial, and appropriate investigation, consistent with this Policy, in response to any complaint about sexual harassment. The Town may also investigate other circumstances of inappropriate conduct occurring in its workplace or affecting the terms and conditions of employment for its employees or other individuals working in its workplace. The Town will take appropriate corrective action whenever sexual harassment or other inappropriate conduct is found to have occurred. All employees, including but not limited to department heads and supervisors, are required to cooperate with any internal investigation of sexual harassment conducted by the Town of Ossining.

### **What Is “Sexual Harassment”?**

Sexual harassment is a form of sex discrimination and is unlawful under 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 which is of a sexual nature or which is directed at an individual because of that individual's sex when:

- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating a hostile work environment, even if the complaining individual is not the intended target of the sexual harassment;
- Such conduct is made either explicitly or implicitly a term or condition of employment; or
- Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual's employment; or
- Such conduct has the purpose or effect of treating an individual unequally or less well than others with regard to a term or condition of employment.

A sexually harassing hostile work environment can consist of unwelcome advances, threats, derogatory comments, signs, jokes, pranks, intimidation, physical contact, violence, or other conduct which is of a sexual nature, or which is directed at an individual because of that individual's sex, where the conduct alters the terms of employment for the individual subject to the harassment. It makes no difference if the individual engaging in such conduct is "just joking" or "teasing" or "playful."

Sexual harassment can also occur when a person in authority tries to trade job benefits for sexual favors. This can include hiring, promotion, continued employment or any other terms, conditions or privileges of employment. This is also called "quid pro quo" harassment.

Examples of sexual harassment

The following is a non-exhaustive list of some of the types of acts that may constitute sexual harassment:

- Physical acts of a sexual nature, such as:
  - Touching, pinching, patting, kissing, hugging, grabbing, brushing against another employee's body or poking another employees' body;
  - Rape, sexual battery, molestation or attempts to commit these assaults.
- Unwanted sexual advances or propositions.
- Sexually-oriented gestures, noises, remarks, jokes, or comments about a person's sexuality or sexual experience.
- Written conduct such as authoring threatening, derogatory or offensive letters, e-mails, text messages, or social media posts.
- Sexual or discriminatory displays or publications anywhere in the workplace, such as:
  - Displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials or other materials that are sexually demeaning or pornographic. This includes sexual displays on computers, tablets, cell phones or any other devices in the workplace.
- Sex stereotyping 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.

- Hostile actions taken against an individual because of that individual's sex, sexual orientation, gender identity, or the status of being transgender.

### **Who can be a target of sexual harassment?**

Sexual harassment can occur between any individuals, regardless of their sex or gender. New York Law protects employees, paid or unpaid interns, and non-employees including contractors, subcontractors, vendors, consultants, independent contractors and those employed by companies contracting to provide services in the workplace. Harassers can be a superior, a subordinate, an elected and/or appointed official, a coworker or anyone else in the workplace, including an independent contractor, contract worker, vendor, or visitor.

### **Where can sexual harassment occur?**

Unlawful sexual harassment is not limited to the physical workplace itself. It can occur while employees are traveling for business, at employer-sponsored events, or other occasions outside of work, *i.e.*, not in the workplace. Calls, texts, emails, and social media usage containing inappropriate messages, language, pictures, videos or graphics may also constitute or contribute to unlawful workplace harassment, even if they occur away from the workplace, on personal devices, or during non-work hours.

### **What is "Retaliation"?**

Retaliation includes any conduct, whether or not in the workplace or employment-related, which might deter a reasonable person from making or supporting a charge of discrimination or harassment and is directed at someone who engages in protected activity. Protected activity includes opposing a discriminatory practice, making a good faith report of a suspected violation of this policy, filing a harassment complaint, participating in an investigation or proceeding of such a report or complaint, or encouraging a fellow employee to make a report. Even if the alleged harassment does not turn out to rise to the level of a violation of law, the individual is protected from retaliation if the person had a good faith belief that the practices were unlawful. However, the retaliation provision is not intended to protect persons making intentionally false charges of harassment.

### **Reporting Sexual Harassment**

**Preventing sexual harassment is everyone's responsibility.** The Town of Ossining cannot prevent or remedy sexual harassment unless it knows about it. Any employee or other person covered by this Policy, who has been subjected to behavior that may constitute sexual harassment is encouraged to report such behavior to a supervisor, department head or the Town Supervisor. Anyone who witnesses or becomes aware of potential instances of sexual harassment should report such behavior to a supervisor, department head or the Town Supervisor. If possible, the employee or witness should tell the alleged harasser that his/her actions are not welcome and must stop immediately.

If an employee makes a report to his/her supervisor or department head and believes the supervisor or department head is not taking appropriate action, the employee should report this inaction to the

Town Supervisor. If an employee believes that his/her supervisor or department head violated this Policy, then the employee should report the matter to a higher-level department head, or to the Town Supervisor.

Reports of sexual harassment may be made verbally or in writing. A form for submission of a written complaint is attached hereto as "Appendix "A", and all individuals are encouraged to use this complaint form, but using the form is not required. Regardless of whether being made verbally or in writing, a report of sexual harassment should be as detailed as possible and include the names of the individual(s) involved, any witness(es) to the harassment, direct quotes and/or evidence (*e.g.*, notes, e-mails, digital recordings, etc.) of the harassment. Individuals who report sexual harassment on behalf of another person should state clearly that the complaint is being made on another person's behalf.

### **Supervisory Responsibilities**

Any supervisor or department head who receives a complaint or information about suspected sexual harassment, or observes conduct that may be sexually harassing behavior or otherwise learns of such conduct, **is required to take appropriate steps to address the conduct and to report such suspected sexual harassment to the Town Supervisor.**

In addition to being subject to discipline if they engaged in sexually harassing conduct or retaliation themselves, supervisors and department heads will be subject to discipline for failing to report suspected sexual harassment or otherwise knowingly allowing sexual harassment to continue.

### **Investigation of Sexual Harassment**

All reports, complaints or other information about suspected sexual harassment will be investigated, whether that information was reported in verbal or written form. Investigations will be conducted in a timely and thorough manner commensurate with the nature of the complaint, and will be confidential to the extent possible.

In conducting an appropriate and impartial investigation, the Town of Ossining procedures will include these protections: the Town will provide appropriate notice of the allegations to anyone who is the subject of a harassment complaint and an opportunity to provide a response to the allegations. Complainants and witnesses will be provided with an appropriate opportunity to present relevant information including documents relevant to the investigation. The Town may adapt and modify the investigatory procedure, in its discretion, based on the nature of the complaint and the conduct at issue.

All employees and other individuals covered under this Policy may be required to cooperate, as needed, in an investigation of suspected sexual harassment. Employees and other individuals who participate in any investigation are protected from retaliation.

All persons involved in the reporting and investigation of harassment are obligated to keep the information pertaining to the investigation confidential to the maximum extent possible, to protect

the privacy of those involved in the investigation and to allow the Town to conduct an objective and appropriate investigation.

If the Town of Ossining determines that this Policy has been violated, it will take effective remedial action commensurate with the circumstances. Any employee who has been found by the Town to have harassed another employee in violation of this policy will be subject to corrective action, up to and including termination where appropriate. Any appropriate disciplinary action will be taken in accordance with applicable law and/or the terms of any applicable collective bargaining agreement. If it is concluded that a non-employee has subjected an employee or other person protected by this Policy to conduct in violation of this Policy, prompt and effective action will be taken to stop the harassment and deter any future harassment.

The Town will notify the individual who was subject to the reported conduct and the person who filed the complaint of the conclusion of its investigation, and will follow up with that individual as appropriate under the circumstances.

### **Legal Protections and External Remedies**

Sexual harassment is not only prohibited by the Town of Ossining, but is also prohibited by state, federal, and, where applicable, local law. In addition to the procedures described in this Policy, individuals may choose to pursue legal remedies with the following governmental entities:

The New York State Division of Human Rights (DHR) enforces the Human Rights Law (HRL), codified as N.Y. Executive Law, art. 15, § 290 *et seq.*, which prohibits sexual harassment in employment in New York State, and protects employees, and other individuals working in an employer's workplace. A complaint alleging a violation of the Human Rights Law may be filed either with the DHR, subject to a one-year statute of limitations (will increase to 3 years effective August 12, 2020), or in New York State Supreme Court, subject to a three-year statute of limitations.

If unlawful discrimination is found after a hearing, the DHR or the court may award relief, which may include requiring the employer to take action to stop the harassment, to redress the damage caused, including reversing an unlawful employment action, and paying monetary damages, attorneys' fees, and civil fines. The DHR can be contacted at (888) 392-3644 or at [www.dhr.ny.gov](http://www.dhr.ny.gov).

The U.S. Equal Employment Opportunity Commission (EEOC) enforces federal anti-discrimination laws, including Title VII of the 1964 Civil Rights Act (codified as 42 U.S.C. § 2000e *et seq.*). An employee must file a complaint with the EEOC within 300 days from the conduct giving rise to the complaint. The EEOC investigates complaints, and may pursue a claim in federal court on behalf of the complaining party, or issue a Right to Sue Letter that allows an individual to pursue his/her claims in federal court. Federal courts may award remedies if discrimination is found to have occurred. The EEOC can be contacted by calling 1-800-669-4000 (1-800-669-6820 (TTY)), or at their website: [www.eeoc.gov](http://www.eeoc.gov) or via email at [info@eeoc.gov](mailto:info@eeoc.gov). If an individual files an administrative complaint with the DHR, the DHR may file the complaint with the EEOC to preserve the individual's 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 to find out if such a law exists. If the harassment involves physical touching, coerced physical confinement or coerced sex acts, the conduct may constitute a crime, and it may be appropriate to report such conduct to the local police department.

## **Other Types of Harassment**

The Town of Ossining also prohibits discrimination or harassment on the basis of race, color, creed, ethnicity, disability, religion, national origin, military status, age, gender, arrest record, veteran status, sexual orientation, marital status, familial status, domestic violence victim status, criminal history, citizenship, predisposing genetic characteristics, genetic information, or any other category protected by federal, state or local law. For more information, see the Town's Unlawful Harassment Policy.

## **Questions**

If you have any questions about this Policy, please contact Budget officer Maddi Zachacz in the Supervisor's Office at (914) 762-6001.