

## **TOWN OF HYDE PARK DISCRIMINATION/HARASSMENT POLICY**

### **902 Equal Employment Opportunity**

**Policy Statement** - The Town of Hyde Park is an Equal Opportunity Employer. The Town does not discriminate on the basis of race, religion, color, sex, age, national origin, disability, marital status, sexual orientation, or military status. Discrimination based on any of the above is strictly prohibited. This policy applies to all terms and conditions of employment, including, but not limited to, hiring, placement, compensation, promotion, transfer, training, leave of absence, and termination.

In addition, harassment in the work place is unlawful. This includes harassment based on age, race, color, ethnicity, physical or mental disability, national origin, sexual orientation, marital status, military status, and/or religion. The Town prohibits any form of harassment of its employees, volunteers, and applicants for employment by any person.

### **903 Sexual Harassment**

**A. Policy Statement** - Sexual harassment in the work place is unlawful. The Town's sexual harassment policy applies to all employees, volunteers, applicants for employment, interns, whether paid or unpaid, contractors and persons conducting business with the Town. Sexual harassment is offensive, is a violation of our policies, is unlawful, and subjects the Town to liability for harm to victims of sexual harassment. Harassers may also be individually subject to liability. Employees and covered non-employees of every level who engage in sexual harassment, including managers and supervisors who engage in sexual harassment or who knowingly allow such behavior to continue, will be penalized for such misconduct.

The Town will conduct a prompt, thorough and confidential investigation that ensures due process for all parties, whenever management receives a complaint about sexual harassment, or otherwise knows of possible sexual harassment occurring. Effective corrective action will be taken whenever sexual harassment is found to have occurred. All employees, including managers and supervisors, are required to cooperate with any internal investigation of sexual harassment.

All employees, volunteers, paid or unpaid interns, and covered non-employees are encouraged to report any harassment or behaviors that violate this policy. The Town will provide a complaint form for reporting harassment and file complaints. Managers and supervisors are required to report any complaint that they receive, or any harassment that they observe to the Town Compliance Officer.

## **B. Sexual Harassment Defined**

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, gender identity and the status of being transgender. Sexual harassment includes unwelcome conduct which is either 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 an intimidating, hostile or offensive 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.

Sexual conduct that the Town considers unacceptable and which may constitute sexual harassment includes, but is not limited to, the following:

- Physical assaults of a sexual nature, such as:
  - Touching, pinching, patting, 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, such as:
  - Requests for sexual favors accompanied by implied or overt threats concerning the victim's job performance evaluation, a promotion or other job benefits or detriments;
  - Subtle or obvious pressure for unwelcome sexual activities.
- Sexually oriented gestures, noises, remarks, jokes or comments about a person's sexuality or sexual experience, which create a hostile work environment.
- 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 such sexual displays on workplace computers or cell phones and sharing such displays while in the workplace.
- Hostile actions taken against an individual because of that individual's sex, sexual orientation, gender identity and the status of being transgender, such as:

- Interfering with, destroying or damaging a person's workstation, tools or equipment, or otherwise interfering with the individual's ability to perform the job;
- Sabotaging an individual's work;
- Bullying, yelling, name-calling.

Sexual harassment can occur between any individuals, regardless of their sex or gender. A perpetrator of sexual harassment can be a superior, a subordinate, a coworker or anyone in the workplace including an independent contractor, contract worker, vendor, or visitor.

Sexual harassment is not limited to the physical workplace itself. It can occur while employees are traveling for business or at employer sponsored events. Calls, texts, emails, and social media usage by employees can constitute unlawful workplace harassment, even if they occur away from the workplace premises or not during work hours.

### **C. Reporting Sexual Harassment**

Preventing sexual harassment is everyone's responsibility. The Town cannot prevent or remedy sexual harassment unless it knows about it. Any employee, volunteer, paid or unpaid intern or covered non-employee who has been subjected to behavior that may constitute sexual harassment is encouraged to report such behavior to a supervisor, manager or the Town Supervisor. Anyone who witnesses or becomes aware of potential instances of sexual harassment should report such behavior to the Town Compliance Officer. All supervisors and managers who receive a complaint or information about suspected sexual harassment, observe what may be sexually harassing behavior or for any reason suspect that sexual harassment is occurring, are required to report such suspected sexual harassment to the Town Compliance Officer.

Reports of sexual harassment may be made verbally or in writing. A form for submission of a written complaint is available in every department office and on the Town Website on the Human Resources page. All employees are encouraged to use this complaint form. Employees who are reporting sexual harassment on behalf of other employees should use the complaint form and note that it is on another employee's behalf. Employees, paid or unpaid interns or covered non-employees who believe they have been a victim of sexual harassment may also seek assistance in other available forums, as explained below in the section on Legal Protections.

All complaints of sexual harassment will be investigated in accordance with the Discrimination & Sexual Harassment Complaint Procedure set forth below.

## 904 ***Discrimination & Sexual Harassment Complaint Procedure***

**Definitions** – For the purposes of this section only of this Employee Handbook, the following definitions shall apply:

- A. “Employee” shall mean all individuals employed by the Town of Hyde Park who receive a federal W-2 form, applicants for employment, interns, and all contractors employed by the Town of Hyde Park to perform town functions and elected officials and appointed officials of the Town. For the purpose of the complaint procedure only, volunteers shall be considered an employee.
- B. “Covered Non-Employee” shall mean contractors and other persons conducting business with the Town whom are covered by the Town’s Sexual Harassment Policy.
- C. “Complainant” shall mean any employee or covered non-employee who complains of being the object of prohibited harassment or discrimination.
- D. “Complaint” shall mean the statement concerning harassment or discrimination made by Complainant.
- E. “Compliance Officer” shall mean the individual who processes the complaints in accordance with these regulations.
- F. “Reporter” shall mean any employee or other individual who informs his/her Department Head, the Compliance Officer or the Alternate Compliance Officer of an incident(s) of discrimination or harassment which has been observed by that individual or which has come to that individual’s attention.
- G. “Report” shall mean a statement about discriminatory or harassing conduct made by a reporter.

### **PROCEDURES**

- A. The Compliance Officer(s) as herein defined shall be appointed by the Town Board, who shall also appoint an Alternate Compliance Officer who shall assume the duties of the Compliance Officer when said Compliance Officer is unable or unwilling to perform said duties, when said Compliance Officer is the victim or the alleged harasser or if so requested by the Complainant.
- B. The Town will investigate all complaints of harassment or discrimination committed by Town employees or covered non-employees while subject to Town jurisdiction. Complainants who believe they have been subjected to discrimination or harassment are strongly encouraged to promptly report the incident to their Department Head, the Compliance Officer or the Alternate Compliance Officer. The Compliance Officer and Alternate Compliance Officer may be contacted at the Town Hall of Hyde Park, 4383 Albany Post Road, Hyde Park, New York 12538. Any Department Head who receives a report of harassment or discrimination must promptly notify the Compliance Officer or Alternate Compliance Officer.
- C. All complaints and reports of discrimination or harassment will be kept as private as is reasonable while still allowing for thorough investigation of the complaint

- D. Consistent with federal, state law, and local law (if applicable), and all applicable provisions contained in the Town's collective bargaining agreements, the foregoing procedures shall be employed, but will not be exclusive, in handling any report, investigation, remedial and disciplinary action concerning allegations of discrimination or harassment.

## **INVESTIGATING A COMPLAINT**

- A. Upon receipt of a complaint, a prompt, thorough, and impartial investigation of the allegations must follow. This investigation is to be conducted diligently by the Compliance Officer.
- B. The investigation should be completed within 30 days. If additional time is needed to complete the investigation, the investigator will provide all parties with notice of the need for additional time.
- C. While the process may vary from case to case, investigations will be done in accordance with the following steps:
  - a. Upon receipt of complaint, the Compliance Officer will conduct an immediate review of the allegations, and take any interim actions, as appropriate. If the complaint is oral, encourage the individual to complete the "Complaint Form" in writing. If he or she refuses, prepare a Complaint Form based on the oral reporting.
  - b. If documents, emails or phone records are relevant to the allegations, take steps to obtain and preserve them.
  - c. Request and review all relevant documents, including all electronic communications.
  - d. Interview all parties involved, including any relevant witnesses;
  - e. When reviewing cases involving non-employees and volunteers, the investigator shall consider the extent of the Town's control and any other legal responsibility the Town may have with respect to the conduct of the accused.
  - f. Create a written documentation of the investigation (such as a letter, memo or email), which contains the following:
    - i. A list of all documents reviewed, along with a detailed summary of relevant documents;
    - ii. A list of names of those interviewed;
    - iii. A timeline of events;
    - iv. A summary of prior relevant incidents, reported or unreported; and
    - v. The basis for the decision and final resolution of the complaint, together with any recommended corrective action(s).
  - g. Keep the written documentation and associated documents in the employer's records.
  - h. Promptly notify the individual who complained and the individual(s) who responded of the final determination
  - i. Implement any corrective actions identified in the written document.
  - j. Inform the individual who complained of their right to file a complaint or charge externally as outlined below.

- D. The Complainant and the accused is to be notified of the outcome of the investigation to the extent possible consistent with the requirements of confidentiality.
- E. A report of the investigation shall be made by the Compliance Officer to the Town Board who may take remedial or disciplinary or any other action consistent with his or her authority if the report reveals that harassment has taken place. This Report is advisory in nature.
- F. If the Complainant or the accused is not satisfied with the outcome of the investigation and remedial action taken, if any, the Complainant or the accused may appeal to the Town Board.

### **DISCIPLINARY ACTION**

- A. If in the opinion of the Town Board the investigation reveals that discrimination or harassment has occurred, and the accused is an employee, appropriate steps will be taken consistent with any applicable law and collective bargaining agreements.
- B. Depending on the gravity of the determined misconduct and the employment protection of the employee, penalties may range from counseling up to and including dismissal from employment.

### **RETALIATION**

No person covered by Policy 902 and 903 shall be subject to adverse employment action including being discharged, disciplined, discriminated against, or otherwise subject to adverse employment action because the employee reports an incident of discrimination or harassment, provides information, or otherwise assists in any investigation of a discrimination or harassment complaint. Any employee of the Town who retaliates against anyone involved in a discrimination or harassment investigation will be subject to disciplinary action, up to and including termination. Any employee, paid or unpaid intern, or covered non-employee working in the workplace who believes they have been subject to such retaliation should inform the Town Compliance Officer. Any employee, paid or unpaid intern or covered non-employee who believes they have been a victim of such retaliation may also seek assistance in other available forums, as explained below in the section on Legal Protections.

### **LEGAL PROTECTIONS**

Discrimination and sexual harassment is not only prohibited by the Town but is also prohibited by state, federal, and, where applicable, local law. Aside from the internal process at the Town, employees may also choose to pursue legal remedies with the following governmental entities at any time.

**A. New York State Division of Human Rights (DHR)**

The Human Rights Law (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 or unpaid interns and covered non-employees regardless of immigration status. A complaint alleging violation of the Human Rights Law may be filed either with DHR or in New York State Supreme Court.

DHR's main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, New York 10458, (718) 741-8400, [www.dhr.ny.gov](http://www.dhr.ny.gov)

Contact 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 DHR.

**B. United States Equal Employment Opportunity Commission (EEOC)**

The 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.).

If an employee believes that he/she has been discriminated against at work, he/she can file a "Charge of Discrimination" with the EEOC. 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 DHR, DHR will file the complaint with the EEOC to preserve the right to proceed in federal court.

**C. 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.

**PUBLICATION OF POLICY**

Copies of the Town of Hyde Park discrimination and harassment policies are to be distributed to all employees as herein above defined and posted in appropriate places. The Town employees will verify receipt of the policies and regulations in writing using a form provided by the Personnel Assistant. The Town shall provide training to employees as required by State, Federal, and Local (if applicable) law.