

**TOWN OF AMHERST
POLICY AGAINST UNLAWFUL DISCRIMINATION,
HARASSMENT AND SEXUAL HARASSMENT**

**I.
POLICY STATEMENT**

The Town of Amherst is committed to maintaining a workplace free of discrimination, harassment, sexual harassment or any form of inappropriate or disrespectful conduct imposed by one individual on another which adversely affects an employment relationship or working environment. Employees of the Town are entitled to a professional working environment free of harassment or interference for reasons unrelated to the performance of their duties. Any form of discrimination or harassment, either written, verbal or physical, based on race, color, sex, religious beliefs, national origin, age, physical or mental disability, marital status, sexual orientation or veteran status is unlawful. Accordingly, the Town will not engage in, tolerate, permit or ignore any such behavior or conduct.

This policy shall apply to all employees, appointees and officials of the Town of Amherst. Any individual violating this policy shall be subject to appropriate discipline, up to and including discharge.

No individual shall be intimidated, threatened, coerced or discriminated against for filing a complaint, furnishing information or for participating in any manner in an investigation, compliance review, hearing or any other activity related to the administration of laws or regulations prohibiting discrimination and harassment.

**II.
DISCRIMINATION**

The Town of Amherst strictly prohibits any form of unlawful discrimination on the basis of race, color, sex, religious beliefs, national origin, age, physical or mental disability, marital status, sexual orientation or veteran status. The Town does not engage in such conduct, and insists that its employees avoid such conduct at all times.

The Town believes there should be equal opportunity afforded to all individuals. Under no circumstances shall an individual's terms or conditions of employment, or opportunities for employment or advancement, be based on or affected by the individual's status.

III. **HARASSMENT**

Harassment is a form of discrimination. It is conduct which oppresses or takes advantage of individuals because of their status. Harassment violates the standards of integrity and impartiality which are required of all employees, causes harm to harassed employees, and interferes with work productivity.

The Town will not tolerate harassment of its employees in any form. Each employee is responsible for respecting the rights of their co-workers and creating an atmosphere free of discrimination or harassment. Any form of harassment relating to an employee's race, color, sex, religious beliefs, national origin, age, physical or mental disability, marital status, sexual orientation or veteran status is a violation of this policy and will be treated as a serious disciplinary matter. For these purposes, the term harassment includes, but is not necessarily limited to:

- ❖ Offensive jokes, criticisms, insinuations, slurs, or other offensive conduct which relates or tends to relate to an individual's race, color, sex, religious beliefs, national origin, age, physical or mental disability, marital status, sexual orientation or veteran status.

IV. **SEXUAL HARASSMENT**

Sexual harassment has been defined by Federal regulations as unwelcome sexual advances, requests for sexual favors, or any other written, verbal, physical or visual conduct based on sex, by male or female personnel, 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 unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment, OR
- d) In third-party situations, one individual is offended by the sexual interaction, conduct or communications between others.

When an employee's job or working conditions depend on another person's good will and reasonable behavior, the employee may try to avoid friction in order to prevent an adverse employment decision or other form of retaliation. This can place sexually harassed individuals in situations where they are tolerating offensive or demeaning behavior in order to maintain their jobs, with a concomitant loss of self-esteem and

increased job stress. An employee who is harassed, pressured or intimidated is less productive than someone who is allowed to work in a professional environment.

Employees cannot assume that their conduct is inoffensive just because it seems acceptable to them, or because the recipient of the conduct does not complain about it. Behavior that is in fact offensive may constitute sexual harassment.

The following kinds of behavior, or others which have a similar harassing effect, are absolutely prohibited by the Town:

- ❖ Abusing an employee through insulting or degrading sexual remarks, jokes, innuendos, or other sexually oriented conduct.
- ❖ Making graphic or descriptive comments relating to an individual's body or physical appearance; sexually oriented teasing or practical jokes; improper suggestions, or displaying obscene cartoons, objects or pictures.
- ❖ Making unwanted physical contact with sexual overtones, such as touching, patting, repeatably "brushing" against someone or impeding the movement of another person.
- ❖ Presenting threats, demands or suggestions that an employee's work status or employment benefits depend in any way upon tolerating or accepting sexual advances or sexually oriented conduct.
- ❖ Demeaning, excluding, or otherwise failing to accord equal professional stature to an employee because of their sex.
- ❖ Making offensive visual contact such as staring or leering, or making obscene or offensive gestures.
- ❖ Sending suggestive or obscene written comments in notes, letters, memos or e-mail.
- ❖ Making inappropriate, repeated or unwelcome sexual flirtations, advances or propositions.
- ❖ Retaliating against an employee for complaining about or refusing to tolerate any of the behaviors described above.

V. APPLICABILITY OF POLICY

The prohibition against harassment applies to everyone – managers, supervisors, salaried and hourly workers, part-time employees, seasonal employees, temporary employees, vendors, contractors, suppliers, visitors, guests, elected officials and

appointed administrative officials. The Town of Amherst will not tolerate harassment of any kind by anyone.

VI. REPORTING ILLEGAL HARASSMENT

While the Town of Amherst encourages individuals who believe they are being harassed to firmly and promptly notify the offender that his or her behavior is unwelcome, the Town of Amherst also recognizes that such a confrontation may be uncomfortable or even impossible. In the event that such informal direct communication between individuals cannot be accomplished for any reason, or is ineffective or inappropriate given the circumstances or severity of the situation, the following steps should be taken to file a formal harassment complaint:

A. Notify Appropriate Staff

Individuals who believe they have been sexually harassed or subject to harassment because of race, color, national origin, age, ancestry, religion, creed, physical or mental disability, marital status, sexual orientation or any other basis protected by federal, state or local law, should immediately report the incident to their direct supervisor. If the supervisor is the alleged harasser or the employee is uncomfortable reporting the alleged harassment to their supervisor, the incident should be reported directly to their Department Head. In the event that the circumstances of the situation make it inappropriate to report the incident to the individual's supervisor or to their Department Head, the incident should be reported to another Department Head or the Director of Personnel, 631-7025. Remember, if the Town does not know about the conduct, it cannot take responsive action.

B. Prepare Written Report of Misconduct

An accurate record of objectionable behavior or misconduct is needed to resolve a formal complaint of harassment. Verbal reports of harassment must be reduced to writing by either the complainant or their supervisor, and be signed by the complainant. The written report must then be submitted to the Director of Personnel for investigation. Individuals who believe they have been or currently are being harassed should maintain a record of objectionable conduct in order to prepare effectively to make their written report, and to substantiate their allegations. Your complaint should be as detailed as possible including the names of individuals involved, the names of any witnesses, direct quotations when language is relevant and any available documentary evidence (notes, pictures, cartoons, et cetera).

C. Promptly Report the Complaint

The Town of Amherst encourages a prompt reporting of complaints so that a rapid response and appropriate action may be taken. A prompt report not only aids the complainant, but also helps to maintain an environment free from discrimination for all

employees. Employees, supervisors, and managers must report any incident of sexual harassment or harassment because of race, color, national origin, age, ancestry, religion, creed, physical or mental disability, marital status, sexual orientation or any other basis protected by federal, state or local law they may observe or become aware of, even if they are not the target or victim of such harassment. Such reports will be handled in the same fashion as complaints by victims of harassment.

VII. **INVESTIGATING THE COMPLAINT**

A. Confidentiality

Any allegation of harassment will be promptly investigated. Confidentiality will be maintained throughout the investigatory process to the extent practicable and appropriate under the circumstances, consistent with the need to conduct an adequate investigation.

B. Investigation Process

The Town of Amherst will thoroughly and quickly investigate any incident of sexual harassment or harassment because of race, color, national origin, age, ancestry, religion, creed, physical or mental disability, marital status, sexual orientation or any other basis protected by federal, state or local law and will try to take the wishes of the complainant under consideration, keeping the complainant informed as to the status of the investigation.

VIII. **DISCIPLINE FOR ENGAGING IN HARASSMENT**

Depending on the nature and seriousness of the offense, the Town of Amherst will impose all appropriate discipline, up to and including termination, against any manager, supervisor, or employee found to have engaged in sexual harassment or other forms of harassment.

When a vendor, guest, contractor or other person not employed by the Town of Amherst is found to have engaged in harassment against a Town of Amherst employee, the Town of Amherst will advise the person and his or her employer of the Town of Amherst's policy against such harassment, and will take such other action as is appropriate under the circumstances.

IX. **PROTECTION AGAINST RETALIATION**

The Town of Amherst will not in any way retaliate against an individual who makes a complaint of harassment or against any participant in the investigation, nor will

it permit any supervisor/manager or employee to do so. Retaliation is defined as discriminating against any employee or applicant because he or she opposed an unlawful employment practice or made a charge, testified, assisted, or participated in any manner in an investigation, proceeding or hearing. Retaliation is a serious violation of this harassment policy and should be reported immediately. Any person found to have retaliated against another individual for reporting any harassment will be subject to the same disciplinary action described above (see §VIII).

Examples of retaliation are:

- a) Treating someone who has reported an incident of harassment or participated in an investigation differently than other employees (i.e. “cold shoulder”).
- b) Disciplining an individual, making negative comments, reducing an individual’s responsibility, denying a transfer, requiring a transfer, giving unfavorable evaluations, scrutinizing an individual’s work, etc. who has reported an incident of harassment or participated in an investigation.
- c) Subjecting an individual to any adverse employment action or loss of benefit for reporting an incident of harassment or participating in an investigation.

X.

LEGAL REMEDIES FOR HARASSMENT

Employees or job applicants who believe they have been harassed may file a complaint with the Equal Employment Opportunity Commission at (716) 551-4441 and/or the New York State Division of Human Rights (716) 847-7632, both of which are authorized to investigate the allegations in the complaint. Employees or applicants may also contact a private attorney should they believe they have been subjected to any form of harassment or retaliation.

XI.

ADDITIONAL INFORMATION

Questions concerning this policy, or its application to particular workplace situations, should be addressed to the Director of Personnel or the Town Attorney. Additional information or instruction concerning this policy may be distributed from time to time by the Town Board or by individual Town departments.

January 25, 2000
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