

Sexual and Other Unlawful Harassment

The Town Board of the Town of Riverhead ("the Board") is committed to safeguarding the right of all employees within the Town to work in an environment that is free from all forms of sexual harassment. Conduct is deemed to be sexual harassment when the recipient perceives such behavior as unwelcome. It is irrelevant that the harasser had no intention to sexually harass the person.

The Board recognizes that sexual harassment of employees can originate from a person of either sex against a person of the opposite or same sex, and from peers as well as other employees, Board Members or any individual who foreseeably might come in contact with employees on Town property or at Town-sponsored activities. When an alleged sexual harassment occurs and the Town becomes aware of it, immediate and appropriate corrective action shall be taken.

The Board, consistent with State and Federal law, therefore condemns all unwelcome behavior of a sexual nature which may impose a requirement of sexual cooperation as a condition of employment, or which may have the purpose or effect of creating an intimidating, hostile, or offensive work environment. The Board also prohibits any retaliatory behavior against complainants or witnesses.

The Equal Employment Opportunity Commission has provided a very broad definition of "sexual harassment." The EEOC definition reads as follows:

Sexual harassment consists of unwelcomed sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- (1) Submission to such conduct is made either explicitly or implicitly a term of an individual's employment,
- (2) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or
- (3) 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.

Sexual harassment may take different forms. The most obvious form is the demand for sexual favors. Other forms of harassment include:

verbal - lewd or sexually suggestive comments, jokes of a sexual nature, sexual propositions or threats;

non-verbal -displaying pornographic photographs or other objects, obscene gestures;

physical - unwanted physical contact such as touching, pinching, coerced intercourse, assault.

Just as sexual harassment is strictly prohibited, so is harassment on the basis of race, color, ethnicity, religion, creed, sex, national origin, citizenship, age, disability, pregnancy, marital status, veteran status, sexual orientation, or any other status protected by applicable law. The Board is committed to providing a work environment free from all forms of prohibited harassment or intimidation.

Definition of Prohibited Harassment:

1. Verbal or physical conduct constitutes prohibited harassment when:

A. It is based on an applicant or employee's race, color, ethnicity, religion, creed, sex, national origin, citizenship, age, disability, pregnancy, marital status, veteran status, sexual orientation, or any other status protected by applicable law; and

B. This conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

2. Prohibited harassment refers to behavior that is based on a protected classification; that is not welcome; that is, or would be, offensive to a person of reasonable sensitivity and sensibilities; that fails to respect the rights of another; and that, therefore, unreasonably interferes with an employee's work performance and effectiveness, or creates an intimidating, hostile or offensive working environment. It makes no difference if the harassment is "just joking" or "teasing" or "playful." This conduct may be just as offensive as any other type of harassment.

Specific forms of behavior that may constitute prohibited harassment include, but are not limited to, the following:

Abusive language related to an employee's race, color, ethnicity, religion, creed, sex, national origin, citizenship, age, disability, pregnancy, marital status, veteran status, sexual orientation, or other protected status, including innuendoes, slurs, suggestive, derogatory or insulting comments or sounds, threats, and jokes based on the employee's protected status.

Use of demeaning or offensive words when referring to an employee's race, color, ethnicity, religion, creed, sex, national origin, citizenship, age, disability, pregnancy, marital status, veteran status, sexual orientation, or other protected status.

Prohibited harassment is not limited to verbal comments. Abusive written language, transmitted via e-mail or otherwise, showing or displaying offensive objects or pictures, graphic commentaries or gestures in the workplace, which unreasonably interferes with an employee's work performance or creates an intimidating, hostile, or offensive working environment, is also prohibited.

Any physical contact based on an employee's race, color, ethnicity, religion, creed, sex, national origin, citizenship, age, disability, pregnancy, marital status, veteran status, sexual orientation, or other protected status that is not welcome.

Any employee who believes that he or she has been subjected to a prohibited harassment should report the alleged misconduct immediately, so that appropriate corrective action, up to and including discharge of an employee, may be taken at once. An employee who feels he/she has been subjected to any form of prohibited harassment may report the incident to one of the designated Compliance Officers. The complainant shall not be discouraged from reporting an incident of an alleged prohibited harassment. In the absence of a victim's complaint, the Board, upon learning of, or having reason to suspect, the occurrence of any prohibited harassment, will ensure that an investigation is promptly commenced by appropriate individuals.

The Board has implemented a regulation and procedures on reporting, investigating and remedying allegations of prohibited harassment. Such procedures are to be consistent with any applicable provisions contained in the Town's collective bargaining agreements, the State Civil Service Law and other Federal and State laws on prohibited harassment. Training programs have been established for employees to raise awareness of the issues surrounding prohibited harassment and to implement preventative measures to help reduce incidents of prohibited harassment.

A copy of this Policy and its accompanying Regulations are available to all personnel and posted in appropriate places.

Sexual and Other Prohibited Forms of Harassment Regulation

In addition to any relevant procedures contained in the previous policy, the following regulation will implement the Town Board's policy concerning sexual and other prohibited forms of harassment of employees.

The Equal Employment Opportunity Commission has provided a very broad definition of "sexual harassment". The EEOC definition reads as follows:

Sexual harassment consists of unwelcomed sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- (4) Submission to such conduct is made either explicitly or implicitly a term of an individual's employment,
- (5) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or
- (6) 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.

An employee can be subjected to sexual harassment even by another employee, a Town Board member, or any individual who foreseeably might come in contact with the employee on Town property or at Town activities. Sexual harassment experienced by employees is not always

easily recognized. Sexual harassment may take different forms. The most obvious form is the demand for sexual favors. Other forms of harassment include:

verbal - lewd or sexually suggestive comments, jokes of a sexual nature, sexual propositions or threats;

non-verbal -displaying pornographic photographs or other objects, obscene gestures;

physical - unwanted physical contact such as touching, pinching, coerced intercourse, assault.

More specific examples of harassment include:

- I. Unwanted sexual behavior, which may include touching, verbal comments, sexual name calling, spreading sexual rumors, gestures, jokes, leers, overly personal conversation, corning or blocking an employee's movement, pulling at clothes, attempted rape, and rape;
- II. Impeding a female employee's work performance in, and for example, a maintenance shop, by hiding her tools, questioning her ability to handle the work or suggesting she is somehow "abnormal" for performing these duties;
- III. A female in a predominantly male office subjected to sexual remarks by employees who regard the comments as joking and part of the usual work environment;
- IV. Purposefully limiting or denying female employees access to work-related equipment or tools, such as computers; and
- V. Teasing a male employee about his assignment to work as, for example, a secretary.

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B. This conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

2. Prohibited harassment refers to behavior that is based on a protected classification; that is not welcome; that is, or would be, offensive to a person of reasonable sensitivity and sensibilities; that fails to respect the rights of another; and that, therefore, unreasonably interferes

with an employee's work performance and effectiveness, or creates an intimidating, hostile or offensive working environment. It makes no difference if the harassment is "just joking" or "teasing" or "playful." This conduct may be just as offensive as any other type of harassment.

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Any physical contact based on an employee's race, color, ethnicity, religion, creed, sex, national origin, citizenship, age, disability, pregnancy, marital status, veteran status, sexual orientation, or other protected status that is not welcome.

Procedures

The Town Board shall designate a Compliance Officer to carry out the Town's responsibilities associated with compliance with the aforementioned policy. In addition, the Board will designate a second individual for ensuring compliance with this Policy and Regulation so that employees who believe that they have been subjected to a prohibited harassment as described in this regulation will have a second avenue of complaint, if the alleged harasser is the Compliance Officer.

The Supervisor shall notify all employees of the name, office address, and telephone number of both designees. In addition, the board through this Regulation has established the grievance procedures that provide for prompt investigation and equitable resolution of employees' prohibited harassment complaints. The Supervisor shall implement specific and continuing steps to notify employees, vendors, constituents, and prospective employees that the Town does not discriminate on the basis of sex or any other protected classification as mentioned in these regulations in its programs or activities. This notification shall include publication in: local newspapers, newspapers and magazines operated by the Town or by groups for or in connection with the Town, and memoranda or other written communications distributed to every employee.

All reports of a prohibited harassment as mentioned in these regulations will be held in confidence, subject to all applicable laws and any relevant provisions found in the Town's collective bargaining agreements.

Consistent with Federal and State law, and all applicable provisions contained in the Town's collective bargaining agreements, the following procedures shall Be employed in handling any repot, investigation and remedial action concerning allegations of a prohibited harassment as described in these regulations.

Complaints

An employee who believes that he or she has been subjected to any form of prohibited harassment is to report the incident to the Compliance Officer or the Alternate Compliance Officer. The Compliance Officer or Alternate Compliance Officer shall notify the Supervisor of all complaints. The employee can pursue his/her complaint informally or file a formal complaint.

Investigation of a Complaint

Upon receipt of a formal or informal complaint, a prompt, thorough and impartial investigation of the allegations must follow by the Compliance Officer or Alternate Compliance Officer. This investigation is to be conducted diligently. All witnesses shall be interviewed and if requested, the victim shall speak with an individual of his/her choice. Complainants are to be notified of the outcome of the investigation.

Informal Complaints

In addition to notification to the Compliance Officer or the Alternate Compliance Officer, an employee who believes that he or she has been subjected to a prohibited harassment may request that an informal meeting be held between the employee and the Supervisor. The employee may also request a meeting with another managerial employee of his or her choice. The employee shall be notified of his/her right to have a representative also attend the interview. The purpose of such a meeting will be to discuss the allegations and remedial steps available.

Depending on the avenue by which the complaint was filed, the Compliance Officer, Alternate Compliance Officer or Supervisor, each of which will be referred to as the "Manager", will then promptly discuss the complaint with the alleged harasser. The alleged harasser shall be informed of his/her right to union or other representation. Should the alleged harasser deny the allegations, the manager is to inform the complainant of the denial and request a formal written complaint to file with his/her report to the next level of management on what has transpired to date. If the complainant submits a formal complaint, a copy of the complaint shall accompany the report with a recommendation for further action.

Should the harasser admit the allegations, the manager is to obtain a written assurance that the unwelcomed behavior will stop. Depending on the severity of the charges, the Manager may impose and/or recommend the imposition of further disciplinary action. Thereafter, the Manager is to prepare a written report of the incident and inform the complainant of the resolution. The complainant is to indicate on the report whether or not he/she is satisfied with the resolution.

If the complainant is satisfied with the resolution, the incident will be deemed closed. However, the complaint may be reopened for investigation if a recurrence of a prohibited harassment is reported. The Manager is to inform the complainant to report a recurrence of the harassment or any retaliatory action that might occur. Should the complainant be dissatisfied with the resolution, he/she is to file a formal written complaint.

If, during the Manager's informal attempt to resolve the complaint, the alleged harasser admits the allegations but refuses to give assurance that he/she will refrain from the unwelcomed behavior, the manager is to file a report with the next appropriate level in the complaint procedure. The report is to indicate the nature of the complaint, a description of what occurred when the Manager informed the alleged harasser of the allegations against him/her, the harasser's response to the allegations, and a recommendation that stronger corrective measures be taken. This report should be accompanied by the employee's formal complaint.

Formal Complaint

Formal complaints may be submitted either to initially report any incidence of a prohibited harassment, or as a follow-up to an unsatisfactory resolution of an informal attempt to resolve a complaint. In the latter case, the formal written complaint is to be submitted to the manager originally consulted, who will then forward it to the next appropriate level of management, e.g. the Supervisor or the Town Board, for appropriate action.

The formal written complaint will consist of any appropriate forms and a copy of any applicable Manager reports. The appropriate forms solicit the specifics of the complaint, e.g. date and place of incident, description of the prohibited misconduct, names of any witnesses, and any previous action taken to resolve the matter.

The Supervisor or the Board shall take immediate, appropriate and corrective action upon a determination of a prohibited harassment. The Supervisor or the Board shall notify the complainant of any findings and action taken.

Remedial Action

If the investigation reveals that any prohibited harassment has occurred, appropriate sanctions will be imposed in a manner consistent with any applicable law and Town collective bargaining agreements. Depending on the gravity of the misconduct, sanctions may range from a reprimand up to and including dismissal of an employee.

Anyone subjecting complainants or witnesses to any form of retaliation will also be subject to disciplinary action in the manner prescribed by law and consistent with any applicable provisions

in the Town's collective bargaining agreements. If the investigation reveals that no prohibited harassment has occurred, or if the complainant is not satisfied with the remedial action taken after a finding of a prohibited harassment, the complainant may appeal to the next appropriate level in the complaint procedure. The appeal must include a copy of the original complaint, all relevant reports, the specific action being appealed, and an explanation of why the complainant is appealing.

Post Remedial Action

Following a finding of a prohibited harassment, a victim will be periodically interviewed by the appropriate Manager to ensure that the prohibited harassment has not resumed and that no retaliatory action has occurred. At the discretion of the Town, these follow-up interviews will continue for an appropriate period of time. A report will be made of any victim's response.

Complaint Records

Upon written request, a complainant should receive a copy of any resolution reports filed by the Manager concerning his complaint. Upon substantiation, copies should also be filed with the employment records of both the complainant and the alleged harasser.

Investigation in the Absence of a Complaint

The Board will, upon learning of, or having reason to suspect, the occurrence of any prohibited harassment, and in the absence of a victim's complaint, ensure that an investigation is commenced by the appropriate individuals.

Compliance Officers

The Compliance Officers designated to carry out the Town's responsibilities associated with compliance are Meg Ferris, Town Personnel Officer, 727-3200 Ext. 603 and Ray Coyne, Superintendent of Recreation, 727-5744 Ext. 26. Formal complaints may also be made to Department heads or other managers.