



Sexual Harassment

I. Purpose

Title VII of the federal Civil Rights Act of 1964 prohibits employment discrimination on the basis of race, color, sex and national origin. A form of sex discrimination, sexual harassment, violates individual rights under federal and under state law. In order to uphold the law and protect the rights of its employees, the Town of Huntington requires a work environment free of discriminatory conduct. This policy specifically addresses and prohibits sexual harassment in the workplace whose purpose and/or effect is to interfere with or create a hostile working environment for any employee. It further creates a procedure for prompt and impartial investigation of allegations of any and all occurrences of sexual harassment.

II. Policy

The Town of Huntington has a zero-tolerance policy against acts of sexual discrimination in the workplace. It is the policy of the Town to prohibit sexual harassment whose purpose and/or effect is to interfere with or create a hostile working environment for another employee is, therefore, strictly prohibited. This policy shall apply with equal force to males and females and to heterosexual and homosexual harassment.

Employees are encouraged to report complaints of sexual harassment to the Town. The Town Board prohibits any retaliatory action against complainants or witnesses. In the absence of a reported complaint, the Town EEO Officer shall commence an investigation upon learning, or having reason to believe, that an act of sexual harassment has occurred respect to any Town employee.

III. Procedure

A. Definitions

1. “*Sexual Harassment*” shall mean unwelcome sexual advances, requests for sexual favors and other verbal 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 unreasonably interfering with an individual’s work performance or creating an intimidating, hostile or offensive working environment.
2. “Employee’s Supervisor” shall mean the elected official, officer, Department Director/Deputy or their designee maintaining supervisory authority over the employee. For the purposes of this policy, the levels of management with supervisory authority over an employee shall, in ascending order of importance, be: designees of Department Directors/Deputies, Department Director/Deputy, Director of Personnel, Town Attorney, Deputy Town Supervisor, and Town Supervisor/Town Board.
3. “Compliance Officer” shall mean the Town EEO Officer or in his/her absence, the Town

Attorney.

4. "Findings Panel" shall mean a three-member investigatory panel. The Findings Panel members and panel Chair shall be selected in accordance with the provisions of Town's Equal Opportunity Grievance Procedure.⁵²

B. Complaint Procedure

Employees who believe they have been subjected to *Sexual Harassment* are to report the harassment to their *Employee's Supervisor* and, at the same time, to the *Compliance Officer* designated to coordinate compliance with Title VII. (Should the *Employee's Supervisor* be the alleged harasser, the report shall be made to the next higher level of management.) Incidents of *Sexual Harassment* may be reported verbally as an Informal Complaint or in writing as a Formal Complaint.

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 complaint/report, investigation and remedial action concerning allegations of Sexual Harassment:

1. Informal Complaints

An employee may lodge an informal *Sexual Harassment* complaint by requesting a meeting with his/her *Employee's Supervisor*. Once contacted, an *Employee's Supervisor* MUST promptly, and in no event more than five (5) business days, schedule a meeting with the complainant to discuss the allegations and remedial steps available. The *Employee's Supervisor* is to keep written notes as a record of the meeting, specifying at a minimum the name of the complainant and/or victim; name of the alleged sexual harasser; nature and date of the *Sexual Harassment*; and a description of the sexually harassing behavior.

Following the meeting with a complainant, the *Employee's Supervisor* MUST promptly, and in no event more than five (5) business days, forward the complaint with a copy of the meeting notes attached to the *Compliance Officer* for investigation by the *Compliance Officer* OR schedule a meeting directly with the alleged harasser.

If the *Employee's Supervisor* schedules a meeting with the alleged harasser, the *Employee's Supervisor* is to keep written notes as a record of the meeting, indicating: the nature of the allegations; a description of what occurred when the *Employee's Supervisor* informed the alleged harasser of the allegations against him/her, the harasser's response to the allegations.

a. If the harasser ADMITS to the allegations, the *Employee's Supervisor* is to ask the harasser for his/her written assurance the unwelcome behavior will stop.

i. If the harasser AGREES to provide written assurance that the unwelcome behavior will stop, the *Employee's Supervisor* is to:

(1) Obtain the written assurance that unwelcome behavior will stop;

(2) Inform the complainant of the potential resolution and have complainant indicate in writing on the *Employee's Supervisor's* meeting record whether or not he/she is satisfied with this resolution;

⁵² See: Equal Employment Opportunity Policy, Section E (2)(c) "Definitions".

(3) Depending upon the severity of the harassment, recommend to *Compliance Officer* that EITHER further disciplinary action be taken OR that the case be closed, in which case the complainant must also be informed that the complaint can be reopened for investigation if the *Sexual Harassment* recurs or any retaliatory action takes place;

(4) Forward a copy of file and recommendation to the *Compliance Officer*.

ii. If the harasser REFUSES to provide written assurance, then the Employee’s Supervisor is to:

(1) File a report with the next appropriate level of management that includes a copy of the meeting record and recommendation that stronger corrective measures be taken.

(2) Advise complainant that a Formal Complaint should be filed.

b. If the alleged harasser DENIES the allegations or REFUSES to meet with the Employee’s Supervisor, the Employee’s Supervisor is to, first, inform the complainant of the denial or refusal and advise that a written Formal Complaint will be required for further formal investigation and, second, file a report with copies of all meeting notes to the Compliance Officer. (If the complainant submits the Formal Complaint to the Employee’s Supervisor, a copy should accompany the Employee’s Supervisor’s report with a recommendation for further action to the Compliance Officer.)

2. Formal Complaints

a. Formal complaints may be lodged as an:

- 1. Initial report of an allegation of Sexual Harassment;
- ii. Follow-up to an unsatisfactory resolution of an Informal Complaint of Sexual Harassment;
- iii. Recurrence of the sexually harassing behavior;
- iv. Retaliatory action based on a Sexual Harassment complaint.

b. In all cases, a Formal Complaint shall be made in writing and submitted as prescribed in the “Format” subdivision of Town’s Equal Employment Opportunity grievance procedure.⁵³ The signed and dated written complaint shall contain a clear and concise statement of the relevant facts, including but not limited to date and place of incident(s), description of the sexual misconduct, names of any witnesses and any previous action taken to resolve the matter. It shall be accompanied by copies of any applicable meeting notes and/or reports compiled by the Employee’s Supervisor.

C. Formal Sexual Harassment Complaint Review

A Formal Review of a *Sexual Harassment* complaint shall follow the procedure set forth in the “Complain Review Phase” of the EEO Policy.⁵⁴

⁵³ See: Equal Employment Opportunity Policy, Section E (3)(a)(ii).

⁵⁴ See: Equal Employment Opportunity Policy, Section E (3)(b).

D. Remedial Action

1. At the conclusion of the *Sexual Harassment* complaint review, should the Findings Panel determine that *Sexual Harassment* has occurred, appropriate sanctions and remedial action will be implemented in a manner consistent with any applicable law and collective bargaining agreements. Depending on the gravity of the misconduct, the sanction for the sexual harasser may range from a minimum of a formal reprimand with notation of same in his/her employment file up to and including the sanction of dismissal from Town employment. Remedial actions may include transfer, reassignment, training and/or counseling.

2. A Findings Panel recommendation shall be non-binding upon an *Employee's Supervisor*. However, should an *Employee's Supervisor* refuse to adopt the recommendations, he/she shall prepare a detailed written response addressed to the panel Chair, identifying the basis for the refusal. The panel Chair shall notify each member of the Town Board and provide each member with the report and recommendations of the Panel together with copies of the *Employee's Supervisor's* response. An *Employee's Supervisor* who fails to follow the procedures contained in this policy or fails to effect, without just cause, the recommendations of a Findings Panel when it determines that Sexual Harassment has occurred is subject to disciplinary action consistent with any applicable provisions of collective bargaining agreements.

3. Anyone who retaliates in any form against a Complainant or witness in a *Sexual Harassment* or employee who otherwise discloses or opposes *Sexual Harassment* in the workplace shall also be subject to disciplinary action consistent with any applicable provisions in the Town's collective bargaining agreements.

E. Post-Remedial Action

Following a finding of Sexual Harassment, complainants will be periodically interviewed by Employee's Supervisor to ensure that the Sexual Harassment has not resumed and that no retaliatory action has occurred. In the discretion of the Town, these follow up interviews will continue for an appropriate period of time. Written note will be taken and a report will be made of the complainant's responses during the follow up interviews.

F. Investigation in Absence of Complaint

The Town's EEO Officer, in the absence of an Informal or Formal complaint by a complainant, will, upon leaning of or having reason to believe the occurrence of any Sexual Harassment, direct and ensure that the appropriate individuals commence a Sexual Harassment investigation as provided for herein.

G. Rights of Employees

Nothing contained in these procedures shall be construed to limit or otherwise abrogate the rights of employees under state or federal law or applicable collective bargaining agreements. The filing of a complaint pursuant to this procedure does not in any manner relieve any complainant from complying with applicable time limitations for filing of complaints as required under any state or federal law or applicable collective bargaining agreements.