

Section I - Purpose

This policy ensures that all employees of the City of Hagerstown will enjoy a safe work environment free from unreasonable interference, intimidation, hostility, or offensive behavior on the part of supervisors, managers, co-workers, appointed or elected officials or visitors. Harassment, sexual or otherwise, is illegal. It violates Title VII of the Federal Civil Rights Act of 1964 and state fair employment laws and will not be tolerated by the City of Hagerstown.

Section II - Policy

The City of Hagerstown will maintain a workplace free of harassment of any kind and from any source, while treating all complaints fairly and evenhandedly. Employees are assured that complaints of sexual harassment may be lodged with no fear of reprisal. Employees, supervisors, managers and others who violate this policy are subject to disciplinary action, up to and including discharge. Any supervisor or manager who receives a complaint of sexual harassment and fails to take appropriate action pursuant to this policy is also subject to disciplinary action.

Section III - Definition

Sexual Harassment is a form of discrimination and is a violation of both federal and state laws. Sexual Harassment is defined by the Equal Employment Opportunity Commission (EEOC) as follows:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature are unlawful when the following occurs:

- A. Submission to such conduct is either explicitly or implicitly a term or condition of an individual's employment.
- B. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individuals.
- 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.

Section IV - Examples of Sexual Harassment

Sexual Harassment does not refer to occasional compliments of a socially

acceptable nature or to acts that are usually acceptable by all elements of society. It refers to behavior that is not welcome, that personally is offensive to some people, and that fails to respect the rights of others.

"Quid Pro Quo" Sexual Harassment refers to the more obvious sexual harassment, including (1) making submission to sexual demands an implicit or explicit term or condition of employment; or (2) making decisions affecting someone's employment or compensation on the basis of whether the person submits to or rejects sexual demands.

"Hostile Work Environment" refers to conduct which unreasonably interferes with an individual's performance or creates an intimidating, hostile, or offensive work environment. This area of sexual harassment can sometimes be more subjective and difficult to define. Some examples of prohibited actions which can constitute sexual harassment by creating a hostile environment are as follows:

1. Repeated sexual flirtations, advances or propositions;
2. Repeated verbal abuse, such as graphic or degrading remarks, jokes or slurs;
3. Uninvited touching, including petting, pinching, impeding or blocking movement, and/or repeated brushing against another's body;
4. Derogatory or offensive posters, pin-ups, cards, cartoons, graffiti, drawings, or gestures.

These are just some examples of harassment. Remember that different people have different ideas as to what constitutes sexual harassment. Actions that seem harmless or amusing to some people may be offensive to others. To avoid sexually harassing others, you must be sensitive to others' feelings of harassment. As a rule of thumb, ask yourself: "If someone behaved this way toward my spouse, parent or child, how would I feel?" Or "Would I be embarrassed to see my remarks or behavior reported in the local newspaper or described to my family?"

Additional examples include, but are not limited to, the following:

1. The victim as well as the harasser may be a woman or a man. The victim does not have to be of the opposite sex.
2. The victim does not have to be the person harassed but could be anyone affected by the offensive conduct.
3. The harasser can be the victim's supervisor, an agent of the employer, a supervisor in another area, a co-worker, or a non-employee.
4. Unlawful sexual harassment may occur without economic injury to or discharge of the victim.

5. The harasser's conduct must be unwelcome.

Section V - Complaint Procedures

Any employee who believes he or she is being sexually harassed by a manager, supervisor, co-worker, or other person should promptly take the following actions:

- A. Politely, but firmly, confront the person and ask him or her to stop, or write your complaint in a letter or memo. State how you feel intimidated or harassed by these actions. If practical, have a witness present. Be specific about the exact behavior you want stopped. Make a written note of what was said, the date and time of discussion, or if in writing, keep a copy of the memo.

If you feel uncomfortable confronting the person, or if the behavior does not stop or recurs, move to (B) of the complaint process. No individual will suffer reprisal or retaliation from reporting any incidents of sexual harassment, making any complaints, or participating in any investigation.

- B. Submit your complaint directly to your supervisor, department manager or the Human Resources Manager. The Director of Human Resources must receive a copy of all complaints.

- C. The complaint should be in writing and should include the following (Use Complaint Form, attached):

1. Who allegedly committed the offensive behavior.
2. Description of the specific behavior.
3. When and where the incident occurred.
4. Any witnesses or persons with knowledge of the incident or behavior.
5. Any action that has been taken by the complainant.

The complaint should be signed and dated by the complainant, and include a statement giving the City permission to investigate the claim. During an investigation, certain details of the alleged occurrence may be released to those involved in the investigation.

- D. Complaints will be investigated in a prompt, objective and confidential manner by the Director of Human Resources or designee utilizing any resources of the City necessary to conduct a thorough investigation. The Director of Human Resources will work with the appropriate department manager, as necessary, to conduct this investigation and/or to take immediate remedial action if applicable. The investigation will also include interviews with the complainant, alleged harasser, and any witnesses.

Confidentiality: In no event will information concerning a complaint be released

to anyone who is not involved in the investigation. Nor will anyone be permitted to discuss the subject outside the investigation.

- E. A formal report of the complaint and investigation will normally be submitted to the City Administrator, Department Manager, Complainant, and accused offender within fifteen (15) working days of the receipt of the complaint. The report will include findings of the investigation and any corrective action recommended or taken.
- F. Based on the contents of the report, appropriate disciplinary action and/or counseling will be taken.

Section VI - Discipline

While it is not the City's policy to regulate an employee's personal morality, sexual harassment is illegal. If an employee is guilty of sexual harassment in any of its previously mentioned forms, it will be considered an act of gross misconduct and grounds for disciplinary action up to and including discharge. The employee may also be required to undergo appropriate counseling through the City's Employee Assistance Program. Additionally, any supervisor or manager who receives a complaint of sexual harassment and fails to take appropriate action pursuant to this policy is also subject to disciplinary action.

Section VII - Harassment by/of Outsiders

It is the policy of the City of Hagerstown to protect employees from sexual harassment, regardless of the source. If an employee is harassed by a non-employee, the employee should take the same steps as listed in the Complaint Procedure.

In consultation with other appropriate management or involved personnel, effective remedial action will be promptly taken. Possible remedial actions may include written warnings or prohibiting the harasser from returning to the premises.

Additionally, any Citizen alleging harassment by a city employee during his/her work hours may file a complaint using the procedure above. The same complaint investigation procedures and disciplinary action, if applicable, will apply.

HARASSMENT COMPLAINT FORM

Name: _____ Date:

Position: _____ Dept:

STATEMENT OF COMPLAINT (Please read the policy before completing):

Date(s) of Incident(s):

Name(s) of person(s) accused of harassment:

Name(s) of witness(es), if any:

Description of incident(s). Describe actions and/or statements of all persons involved, including yourself. Be specific.

What action, if any, have you taken regarding these events(e.g., spoken with accused, spoken with supervisor, etc.)? When?

Adjustment or remedy requested:

I, _____, authorize the City to conduct a thorough investigation of the above complaint, including disclosing portions of the information provided to those involved in the investigation.

Employee Signature