

Organizational Policy

HARASSMENT

Purpose

The City of Rochester is committed to creating and maintaining a workplace free of harassment. As such, the City upholds a strict policy prohibiting harassment within the course and scope of employment.

Nothing stated in this policy creates an employment contract between the City of Rochester and its employees.

Definitions

Harassment – at its broadest level, harassment is defined as unwelcome or unwanted conduct towards an individual(s). Generally, but not always, harassment is repeated, intentional and creates a work environment that a reasonable person would view as intimidating, hostile and/or offensive. Within the workplace, protected class/discriminatory and sexual harassment are unlawful forms of harassment, as further described below:

Protected Class/Discriminatory Harassment - is defined as conduct that is directed at an individual because of their protected class. In Minnesota, protected classes include race, color, creed, religion, national origin, sex, marital status, familial status, disability, public assistance, age, sexual orientation, gender identity or local human rights commission activity. Unlawful harassment is sufficiently severe, pervasive, or persistent that it has the purpose or effect of creating a hostile work environment, unreasonably interfering with the individual's work performance and/or otherwise adversely affecting the individual's employment.

Protected class/discriminatory harassment may include, but is not limited to: offensive jokes, slurs, epithets or name calling, physical assaults or threats, intimidation, ridicule or mockery, insults or put-downs, intentionally misgendering others, offensive objects or pictures, and interference with work performance.

Sexual Harassment - is defined as unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact or other verbal or physical conduct or communication of a sexual nature, when:

1. submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining employment; or
2. submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting the individual's employment; or
3. such conduct or communication has the purpose or effect of substantially interfering with an individual's employment, or creates an intimidating, hostile or offensive employment environment.

Sexual harassment may include, but is not limited to, the following:

- Unwelcome or unwanted sexual advances/physical contact - this includes stalking, patting, pinching, brushing up against, hugging, cornering, kissing, fondling or any other similar physical contact considered unacceptable by another individual.
- Verbal or written statements, jokes, or comments that are sexually-oriented and considered unacceptable by another individual – this includes comments about an individual’s body, appearance, or gender identity/expression where such comments go beyond mere courtesy, posting sexually explicit posters/materials, or repeated and unwelcome request for dates.
- Requests or demands for sexual favors - this includes subtle or obvious expectations, pressures, or requests for any type of sexual favor, along with an implied or specific promise of favorable treatment (or negative consequence) concerning one’s current or future job.

Guidelines

Reporting Procedures:

A. Employees

An employee who feels that they have been the victim of harassment within the course and scope of their employment with the City should follow the procedure noted below:

If appropriate, as a first step, an employee may politely, but firmly inform the person(s) engaging in the inappropriate behavior that such behavior is unwelcome and ask the person(s) to stop.

If an employee is uncomfortable or fearful of confronting the offender directly, they should contact their supervisor, another supervisor, Department Head or Human Resources business partner to report the behavior. Employees have the right to report complaints directly to the Human Resources Director at their discretion.

Where a basis exists, allegations of harassment will be investigated and/or acted upon. City supervisory and Human Resources staff cannot honor employee requests for inaction.

B. Supervisors/Department Heads

All City supervisors and Department Heads are designated as responsible for receiving oral or written reports of harassment. Upon the receipt of an allegation, the City supervisor and/or Department Head shall notify the Human Resources Director or Human Resources business partner immediately, without investigating the report, within one (1) business day. Failure to report an allegation to Human Resources is a violation of City policy and subject to disciplinary action.

Investigation:

Upon report to the Human Resources Department, an allegation of harassment will be promptly reviewed with the City Administrator to determine whether an investigation is warranted, and to determine the investigative process necessary to complete a thorough investigation of the allegation. In determining whether harassment has occurred, the following factors may be considered:

- severity/intensity of the conduct
- duration of time the conduct has occurred
- frequency of the conduct
- the intent of the accused (if known)
- effect of the conduct on the victim
- the conduct as viewed using a “reasonable person” standard¹

Confidentiality:

Information obtained as part of the investigation will be handled as confidentially as possible in accordance with applicable law and without compromising the thoroughness of the investigation.

Confidentiality of the complaint, investigative materials and/or resulting actions will be maintained to the extent allowable under law and the Minnesota Government Data Practices Act.

Policy Violations:

An employee who is found to be in violation of this policy or an employee who makes a false complaint or provides false information during an investigation will be subject to disciplinary action up to and including the termination of employment.

Reprisal:

The City will not tolerate retaliation or intimidation directed towards anyone who makes a complaint or testifies, assists, or participates in an investigation under this policy. Retaliation includes, but is not limited to, any form of intimidation, reprisal or harassment. Engaging in retaliatory conduct may subject the offender to disciplinary action up to and including termination.

Alternative Complaint Procedure:

Filing a complaint under this policy shall not prevent an individual from pursuing action under other applicable state and federal law.

Policy revisions approved by City Administrator:



Alison Zelms

11/9/2023

Date

Policy History

Current Revision: 10/31/2023

Previous Revision(s): 12/03/2007, 10/06/2014

Associated Form(s)

N/A if there are no associated forms.

Legal/Statutory Authority

- Minnesota Statute, Chapter 13
- Minnesota Statute 363A.03
- Minnesota Human Rights Act