

**Revision Date: 9/20/2018**

**EQUAL EMPLOYMENT OPPORTUNITY,  
ANTI-DISCRIMINATION AND HARASSMENT POLICY  
(including Sexual Harassment)**

**PURPOSE**

It is the goal of the City of Northampton to promote a workplace that is free of unlawful harassment and discrimination. Unlawful harassment or discrimination of employees occurring in the workplace or in other settings in which employees may find themselves in connection with their employment will not be tolerated by this organization. Further, any retaliation against an individual who has complained about harassment or discrimination, or retaliation against individuals for cooperating with an investigation of a harassment or discrimination complaint, is similarly unlawful and will not be tolerated. To achieve our goal of providing a workplace free from unlawful harassment and discrimination, the conduct that is described in this Policy will not be tolerated and we have provided a procedure by which inappropriate conduct will be dealt with, if encountered by employees.

**APPLICATION**

This Policy applies to all employees of the City of Northampton.

**POLICY**

It is the policy of the City of Northampton to promote a professional and productive workplace in which all employees are treated with dignity and respect. Employees are expected to act in a positive manner and contribute to a productive work environment that is free from harassing or disruptive activity. Discrimination, including harassment, whether based upon race, color, gender, gender identity, national origin, religion, ancestry, age, sexual orientation, disability, pregnancy or pregnancy-related conditions, genetic information, military service or other bases prohibited under state or federal anti-discrimination statutes will not be tolerated. To achieve the goal of providing a workplace free from discrimination, the City of Northampton will implement the procedures described below to address any potential inappropriate conduct.

**A. Coverage**

This Policy applies to all employment practices and employment programs sponsored by the City of Northampton. This Policy shall apply, but not be limited to, the areas of:

- Recruitment
- Selection
- Compensation and benefits

- Professional development and training
- Reasonable accommodation for disabilities or religious practices
- Promotion
- Transfer
- Termination
- Layoff, and
- Other terms and conditions of employment.

This Policy may apply to discrimination (including harassment) that occurs between co-workers that takes place outside the workplace (including, but not limited to, online conduct or conduct utilizing the internet or other electronic media). When the conduct complained of occurs outside the workplace, the City of Northampton may consider the following and other factors in assessing whether the conduct constitutes conduct in violation of this Policy:

- Whether the event at which the conduct occurred is linked to the workplace in any way, such as at a City-sponsored function;
- Whether the conduct occurred during work hours;
- The severity of the alleged outside-of-work conduct;
- The work relationship of the complainant and alleged harasser, which includes whether the alleged harasser is a supervisor and whether the alleged harasser and complainant come in contact with one another on the job;
- Whether the conduct adversely affected the terms and conditions of the complainant's employment or impacted the complainant's work environment.

Because the City of Northampton takes allegations of unlawful discrimination and harassment seriously, officials will respond promptly to complaints and, where it is determined that such inappropriate conduct has occurred, will act promptly to eliminate the conduct and impose such corrective action as necessary, including disciplinary action where appropriate.

Please note that while this Policy sets forth the City of Northampton's goals of promoting a workplace that is free from unlawful discrimination and harassment, the Policy is not designed or intended to limit the City's authority to discipline or take remedial action for workplace conduct which is deemed unacceptable, regardless of whether that conduct satisfies the legal definitions of discrimination and harassment.

## **B. Examples of Prohibited Discriminatory Behavior**

It is not possible to list all the circumstances that may constitute discrimination in violation of this Policy. Discrimination may take many forms, including both verbal and non-verbal behaviors. Prohibited behavior includes, but is not limited to, the following behaviors connected to someone's membership in one or more groups protected by law as noted in the first paragraph above: slurs or other derogatory comments; sharing demeaning pictures, cartoons or jokes; demeaning gestures; and any conduct constituting sexual harassment.

### C. Definition of Sexual Harassment

**Sexual Harassment** – That conduct, including unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature, which may constitute sexual harassment when:

1. Submission to such conduct is made explicitly or implicitly a term or condition of an individual's employment;
2. Submission to or rejection of such conduct by an individual is used for 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.

**Hostile Work Environment** – A form of sexual harassment, where pervasive and sexually hostile working conditions unreasonably interfere with an employee's ability to do his or her job.

**Quid Pro Quo** – Another form of sexual harassment, where tangible job benefits are offered or withheld in exchange for sexual favors.

*Note:* While it is not possible to list all those additional circumstances that may constitute sexual harassment, the following are some examples of conduct which, if unwelcome, may constitute sexual harassment depending on the totality of the circumstances, including the severity of the conduct and its pervasiveness:

- Unwelcome sexual advances, whether they involve physical touching or not;
- Sexual epithets, jokes, written or oral references to sexual conduct, gossip regarding one's sex life; comments on an individual's body, comments on an individual's sexual activity, deficiencies or prowess;
- Displaying sexually suggestive objects, pictures or cartoons;
- Unwelcome leering, whistling, brushing against the body, sexual gestures, suggestive or insulting comments;
- Inquiries into one's sexual experiences; and
- Discussion of one's sexual activities.

Under these definitions, direct or implied requests by a supervisor for sexual favors in exchange for actual or promised job benefits such as favorable reviews, salary increases, promotions, increased benefits or continued employment constitutes sexual harassment.

The legal definition of sexual harassment is broad and in addition to the above examples, other sexually-oriented conduct, whether it is intended or not, that is unwelcome and has the effect of creating a workplace environment that is hostile, offensive, intimidating or humiliating to male or female workers may also constitute sexual harassment. This can include conduct that is aimed at a person's sexual orientation or gender identity.

## **PROCEDURES**

### **A. Complaints of Sexual Harassment**

If an employee believes that they have been subjected to sexual harassment, it is the City of Northampton's policy to provide the employee with the right to file an internal complaint. This may be done orally or in writing. An employee may file a complaint of sexual harassment by contacting Glenda Stoddard, Director of Human Resources. Alternatively, Northampton Public School employees may file a complaint with Karen Robitaille, Director of Health Services. These persons will remain available to discuss any concerns employees may have and to provide information about the City of Northampton's policy on sexual harassment and the complaint process.

### **B. Sexual Harassment Investigation**

When a complaint of sexual harassment is received, the City will promptly investigate the allegation in a fair and expeditious manner. The investigation will be conducted in such a way as to maintain confidentiality to the extent practicable under the circumstances. The City's investigation will include a private interview with the person filing the complaint and with any witnesses. The City will also interview the person alleged to have committed sexual harassment. When the investigation is concluded, the City will, to the extent appropriate, inform the person filing the complaint and the person alleged to have committed the conduct of the results of that investigation.

If it is determined that inappropriate conduct has occurred, the City will act promptly to eliminate the offending conduct and, where appropriate, impose disciplinary action.

### **C. Complaints Concerning Other Forms of Discrimination and/or Harassment**

Complaints alleging forms of discrimination and/or harassment, other than sexual harassment, will be processed in accordance with Sections A and B, above, when appropriate.

### **D. Confidentiality**

Given the sensitive nature of complaints of discrimination and/or harassment, all parties and witnesses in the complaint, as well as Department Heads, supervisors, etc. who are aware of a complaint or investigation thereof are strongly encouraged to maintain this information as confidential, so as not to negatively impact an investigation. The City's investigators will conduct the investigation in such a way as to maintain confidentiality to the extent practicable under the circumstances.

## **E. Retaliation**

Any retaliation against an individual who has formally or informally complained about discrimination, including harassment, or has cooperated with an investigation of a discrimination complaint is prohibited.

Retaliation can be overt or subtle. Retaliation may include, but is not limited to, treating a complainant or witness differently, more harshly or in a hostile manner; physical interference with movement such as blocking a path; derogatory comments or action which would tend to have a chilling effect on other complainants; sudden investigations of the complainant's private life; or sudden strict enforcement of work rules. Retaliation in any form will not be tolerated.

## **SANCTIONS**

If it is determined that inappropriate conduct has been committed by an employee, the City will take such action as is appropriate under the circumstances. Such action may include counseling, informal or formal reprimands, verbal or written warnings, suspension, reduction in pay, reduction in duties, transfers and other formal sanctions, including termination from employment.

## **STATE AND FEDERAL REMEDIES**

In addition to the above, if an employee believes that the employee has been subjected to discriminatory harassment of any type, including sexual harassment, the employee may file a formal complaint with either or both of the government agencies set forth below. Using the City's complaint process does not prohibit the employee from filing a complaint with these agencies. Each of the agencies requires that claims be filed within 300 days from the alleged incident of when the complainant became aware of the incident.

### **The United States Equal Employment Opportunity Commission ("EEOC"):**

John F. Kennedy Federal Building  
475 Government Center  
Boston, MA 02203  
(800) 669-4000  
TTY: (800) 669-6820

### **The Massachusetts Commission Against Discrimination ("MCAD"):**

#### *Boston Office:*

One Ashburton Place, Room 601  
Boston, MA 02108  
(617) 994-6196  
TTY: (617) 994-6196

#### *Springfield Office:*

436 Dwight Street, Room 220  
Springfield, MA 01103  
(413) 739-2145

*Worcester Office:*  
4874 Main Street, Suite 320  
Worcester, MA 01604  
(508) 453-9630

## **REASONABLE ACCOMMODATIONS**

The City of Northampton will not discriminate against people with disabilities in any employment practices or in terms, conditions or privileges of employment, including, but not limited to, application, testing, hiring, assignment, evaluation, disciplinary action, training, promotion, medical examination, layoff/recall, termination, compensation, leaves or benefits. The City will make reasonable accommodation to the known physical or mental limitations of a qualified applicant or employee with a disability, unless such action would cause an undue hardship to the operations of the City.

In addition, the City complies with the provisions of General Laws Chapter 151B, Section 1E, requiring certain reasonable accommodations for an employee's pregnancy or pregnancy-related condition.

Employees seeking reasonable accommodations may submit their request in writing to their supervisor or to Glenda Stoddard, 240 Main Street, Room 6, Northampton, MA 01060 (413) 587-1257.

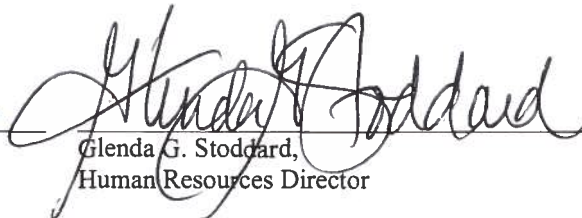
## **EQUAL OPPORTUNITY STATEMENT**

The City of Northampton will not discriminate in its employment practices on the basis of race, color, gender, gender identity, national origin, religion, ancestry, age, sexual orientation, disability, pregnancy or pregnancy-related conditions, genetic information, military service or other basis prohibited under the state or federal anti-discrimination statutes. This shall include such areas as recruitment, selection, compensation and benefits, professional development and training, reasonable accommodation for disability and religious practices, promotion, transfer, termination, layoff and other terms and conditions of employment.

***This Policy does not supersede a Department Manager's rights to direct and redirect employee behavior or performance in the workplace so long as that action is not unlawfully discriminatory or harassing.***



David J. Narkewicz,  
Mayor



Glenda G. Stoddard,  
Human Resources Director