



Subject: Anti-Harassment
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Department: Human Resources
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To All City Employees:

I. Purpose

It is the policy of the City of Durham to maintain a working environment that is free from all forms of discrimination and harassment, including sexual harassment. For that reason, the City of Durham will not tolerate unlawful discrimination or harassment of any kind. Through enforcement of this policy and by education of employees, the City will seek to prevent, correct and discipline behavior that violates this policy.

All employees, regardless of their positions, are covered by and are expected to comply with this policy and to take appropriate measures to ensure that prohibited conduct does not occur. Any employee who feels subjected to unlawful harassment in the workplace is obligated to promptly report this information in accordance with the procedures provided in this policy.

Appropriate disciplinary action will be taken against any employee who violates this policy. Based on the seriousness of the offense, disciplinary action may include verbal or written reprimands, suspension, demotion or termination of employment.

II. Policy

It is against the policy of the City of Durham and illegal under local, state and federal law to discriminate against someone on the basis of their:

- Race
- Color
- Gender
- Religion
- National Origin

- Age
- Disability
- Genetic Information

It is also against the policy of the City of Durham and illegal under state and federal law to retaliate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit.

In addition, it is against the policy of the City of Durham to discriminate against someone on the basis of their marital status, sexual orientation, gender identity or gender expression.

III. Definitions

Covered Employees -This policy applies to all employees of the City of Durham, including, but not limited to, full and part-time employees, regular, temporary, contract and seasonal employees, employees covered or exempted from personnel rules or regulations, on or off duty City employees harassing another City employee on or off duty, non-City employees harassing City employees and City employees harassing non-City employees while the City employee is on duty or in City uniform.

Harassment - For purposes of this policy, any verbal or physical conduct designed to threaten, intimidate or coerce an employee, co-worker, non-City employee, or any person working for or on behalf of the City of Durham

The following examples of harassment are intended to be guidelines and are not exclusive when determining whether there has been a violation of this policy:

1. Verbal harassment includes comments that are offensive or unwelcome regarding a person's national origin, race, color, religion, gender, gender expression, sexual orientation, age, body, disability or appearance. Verbal harassment includes epithets, slurs, and negative stereotyping.
2. Non-verbal harassment includes distribution, display or discussion of any written or graphic material that ridicules, denigrates, insults, belittles or shows hostility, aversion or disrespect towards an individual or group because of national origin, race, color, religion, age, gender, gender expression, gender identity, sexual orientation, pregnancy, disability or other protected status.

Hostile Work Environment - Results from harassing conduct, as defined above, that has the purpose or effect of unreasonably interfering with an employee's work performance, or creates an intimidating, hostile or offensive working environment.

Retaliation - Any adverse action taken against an individual because he or she filed a charge of harassment, complained about harassment on the job, or participated as a witness in an investigation.

Sexual Harassment - A form of sex discrimination that consists of unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when:

1. Submission to that conduct is made either explicitly or implicitly a term or condition of employment;
2. Submission to or rejection of such conduct by an individual is used as a component of the basis for employment decisions affecting that individual; or
3. The conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Examples of sexual harassment can include, but are not limited to, the following when such acts or behavior comes within one of the above definitions:

1. Either explicitly or implicitly conditioning any term of employment (e.g. continued employment, wages evaluation, advancement, assigned duties or shifts) on the provision of sexual favors;
2. Touching or grabbing a sexual part of an employee's body;
3. Touching or grabbing any part of an employee's body after that person has indicated or it is known that such physical contact is unwelcome;
4. Continuing to ask an employee to socialize on or off-duty when that person has indicated that she or he is not interested;
5. Displaying or transmitting sexually suggestive pictures, objects, cartoons or posters;
6. Writing sexually suggestive notes or letters to another employee;
7. Referring to or calling a person a sexualized name;
8. Regularly telling sexual jokes or using sexually vulgar or explicit language in the presence of other employees;

9. Retaliation of any kind for having filed or supported a complaint of sexual harassment (such as but not limited to ostracizing the person, pressuring the person to drop or not support the complaint, adversely altering the person's duties or work environment, etc.);
10. Derogatory or provoking remarks about or relating to an employee's sex or sexual orientation or gender identity or gender expression;
11. Harassing acts or behavior directed against a person on the basis of an employee's sex, sexual orientation, gender identity, or gender expression; or
12. Off-duty conduct that falls within the above definition and affects the work environment.

Electronic mail (e-mail), social media (Facebook, Twitter, Instagram, etc.) or other computer aided transmissions of sexually explicit materials or harassing conduct may also constitute prohibited conduct under this policy.

Sexual harassment can also consist of intimidating, abusive or hostile behavior of a non-sexual nature towards an employee on the basis of gender. Verbal abuse and hostility that is not sexual in character but is directed solely at females because they are female or males because they are male may also constitute a violation of this policy on the same level as harassment of a sexual nature.

Sexual Harassment can also take the form of offensive conduct by non-employees such as vendors and outside contractors against employees in the workplace.

IV. Procedure

A. Procedures for Reporting Harassment

1. Any employee who feels subjected to harassment, including sexual harassment should immediately contact one of the persons below with whom the employee feels comfortable. Complaints may be made orally or in writing to:
 - a. The employee's immediate supervisor;
 - b. The employee's Department Director;
 - c. Human Resources (Employee Relations Analyst); or
 - d. The City Manager.

2. Although employees are strongly encouraged to try to resolve disputes with the help of their immediate supervisor, employees may circumvent the chain of command in selecting the person to make a complaint of harassment, particularly when the immediate supervisor is the harassing employee.

3. The employee should be prepared to provide the following information, if known, to the individual to whom a complaint of harassment is made:

a. The employee's name, department and position title;

b. The name of the person committing the harassment, including person's title, if known;

c. The specific nature of the harassment, its duration, and any employment action (demotion, failure to promote, dismissal, refusal to hire, transfer, etc.) taken against the employee as a result of the harassment, or any other threats made against the employee as a result of the harassment;

d. Any witnesses to the harassment; and

e. Whether the employee has previously reported such harassment and, if so, when and to whom.

4. The filing of a good faith complaint or otherwise reporting harassment will not adversely affect the individual's employment status or future terms and conditions of employment.

B. Investigation

1. In the event the City receives a complaint of harassment, or otherwise has reason to believe that harassment is occurring, the City will take all necessary steps to ensure that the matter is promptly investigated and addressed.

2. The City is committed, and required by law, to take appropriate and remedial action if it learns of potential harassment in the workplace. Once a complaining party makes a report of harassment to the supervisor, department director, Human Resources, or the City Manager the person receiving the report must forward all relevant information to the Employee Relations Analyst regardless of any request or desire by the complaining party not to initiate a formal investigation under this policy. Failure to appropriately

report such harassment complaints or suspected acts of harassment shall be considered a violation of this policy.

3. Care will be taken to protect the identity of the complaining party and of the accused party or parties, except as may be reasonably necessary to successfully complete the investigation. Employees who are involved in any aspect of the harassment complaint are advised to refrain from discussing the alleged facts of the complaint with other City employees, particularly during the pendency of the investigation. It shall be a violation of this policy for any employee who learns of the investigation or complaint to take any retaliatory action that affects the working environment of any person involved in this investigation.
4. When an allegation of harassment is made by an employee, the person to whom the complaint is made shall immediately prepare a report of the complaint and submit it to the Human Resources Employee Relations Analyst.
5. The Employee Relations Analyst shall make and keep a written record of the investigation, including notes of responses made to the investigator in connection with the investigation. The notes shall be made at or near the time the interview is in progress.

Upon the receipt of a complaint of harassment, the Employee Relations Analyst shall immediately:

- a. Obtain a written statement(s) (oral if necessary) from the person complaining of sexual harassment that includes a comprehensive report of the nature of the harassment complained of, and the times, dates and places where the harassment occurred. The investigator shall interview the person complaining of harassment about any information in the written statement that is not clear or needs further explanation.
- b. Obtain a written statement(s) (oral if necessary) from witnesses that includes a comprehensive report of the nature of the conduct witnessed, and the times, dates, and places where the conduct occurred, and the conduct of the person complaining of harassment toward the person against whom the complaint of harassment was made. The investigator shall orally question witnesses about any information in their written statements that is not clear or needs further explanation.

c. Obtain a written statement(s) (oral if necessary) from the person against whom the complaint of harassment has been made. The investigator shall orally question the person against whom the complaint of harassment has been made about any information in the written statement that is not clear or needs further explanation.

d. Prepare a report of the investigation, that includes the written or transcribed statement of the person complaining of harassment, the written or transcribed statements of witnesses, the written or transcribed statement of the person against whom the complaint of harassment was made, and the investigator's notes connected to the investigation, and submit the report to the City Manager. In the event that the harassment complaint is filed against the City Manager, the report shall be submitted to the City Council.

C. Mediation

At any point in time during or after the investigation into a complaint of harassment, the alleged victim and harasser may agree to participate in mediation to be conducted at the direction of the Employee Relations Analyst. Mediation under this section cannot take place without the consent of both parties. Participation in mediation will not affect an ongoing investigation of the underlying harassment complaint or any disciplinary action that may result therefore.

D. Sanctions

1. If it is determined that a complaint of harassment is substantiated, immediate and appropriate disciplinary action will be taken against the employee guilty of harassment. This action may be directed through the appropriate Deputy City Manager or Department Director.

2. The disciplinary action shall be consistent with the nature and severity of the offense, the rank of the employee, and any other factors the City Manager believes relate to fair and efficient administration of the City, including, but not limited to, the effect of the offense on employee morale and public perception of the offense, and the light in which it casts the City.

3. The disciplinary action may include demotion, suspension, dismissal, warning or reprimand. A determination of the level of disciplinary action shall be made on a case by case basis.

4. A written record of disciplinary action taken shall be kept.
5. The victim of sexual harassment shall be informed of the nature of any disciplinary action taken subject to the provisions of N.C.G.S 160A-168 and Section 120 of the Durham City Charter.
6. Future conduct of the parties involved may be monitored in order to reasonably insure that the remedial action taken has been effective in stopping the harassment and that no retaliation has occurred.

E. Notifications

This Policy will be made available to all employees and incorporated into employee handbooks. The Policy shall also be included in any standard operating procedures manual of all City Departments. Mandatory training sessions on this Policy and the prevention of harassment shall be held for all personnel during appropriate in-service training programs and orientation sessions.

F. Employee Responsibility

1. Employees are not only encouraged to report instances of harassment, including sexual harassment, but they are obligated to report instances of harassment. Harassment exposes the City to liability, and part of each employee's job is to reduce the City's exposure to liability.
2. It is the duty of all employees, especially supervisory personnel, to be familiar with this Policy. Each employee has a stake in preventing harassment and thus shares responsibility with the City Manager in eliminating harassment in the workplace.
3. No employee shall, in any way, retaliate, harass or discriminate against a person making or involved as a witness or otherwise in a complaint of harassment.
4. In cases in which the harassment is committed by a non-employee against a City employee in the workplace, the City Manager shall take whatever lawful action is necessary against the non-employee to bring the harassment to an end.
5. Employees are obligated to cooperate in every investigation of harassment. The obligation includes, but is not necessarily limited to:
 - a. Coming forward with evidence, both favorable and unfavorable concerning a person accused of harassment;

- b. Fully and truthfully making a written report under oath upon request; and
- c. Orally answering questions when required to do so by an investigator during the course of an investigation of harassment.

6. Employees are also obligated to refrain from making accusations of sexual harassment in bad faith.

V. Other

VI. Attachments

[Policy Attachments]