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Harassment, Discrimination and Sexual Harassment Policy

I. General

It is the goal of the City of Fitchburg to promote a workplace that is free from harassment of any type, including but not limited to harassment of a discriminatory or sexual nature. The City of Fitchburg will not tolerate harassing conduct that affects employment conditions, that interferes with an individual's performance or that creates an intimidating, hostile or offensive work environment.

Harassment of employees occurring in the workplace or in other work related settings, is unlawful and will not be tolerated by the City of Fitchburg. Further, any retaliation against an individual who has made a complaint about harassment or retaliation against individuals for cooperating with an investigation of a harassment complaint is similarly unlawful and will not be tolerated. To achieve our goal of providing a workplace free from any type of harassment and retaliation, the City of Fitchburg is committed to following the procedures set forth below in the event of allegations of inappropriate conduct.

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

While this policy sets forth our goals of promoting a workplace that is free of harassment, the policy is not designed or intended to limit the City of Fitchburg's authority to discipline or take remedial action for workplace conduct which we deem unacceptable, regardless of whether that conduct satisfies the definition of harassment.

II. Definitions

- A. Harassment** is defined as unwelcome conduct, whether verbal or physical, that is designed to threaten, intimidate or coerce an individual in the workplace. Harassment based on unlawful discrimination occurs when the conduct is based on a characteristic protected by law such as gender, race, color, national origin, ancestry, religion, age, disability, genetics, military status, sexual orientation, gender identity or participation in discrimination complaint related activities (retaliation).

Harassment includes, but is not limited to:

- Display or circulation of written materials or pictures that are degrading to a person or group as described above;
- Verbal abuse, slurs, derogatory comments or insults about, directed at or made in the presence of an individual or group as described above.

- B. Sexual harassment** is defined as unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when:

- Submission to such conduct is made explicitly or implicitly a term or condition of an individual's employment
- Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual or;
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment;
- Direct or implied requests by a supervisor for sexual favors in exchange for actual or promised job benefits such as favorable performance reviews, salary increases, promotions, increased benefits or continued employment constitutes sexual harassment.

Harassment, Discrimination and Sexual Harassment Policy, Definitions, Sexual Harassment, continued:

While the legal definition of sexual harassment is broad, other sexually-oriented conduct, in addition to the aforementioned examples, whether it is intended or not, that is unwelcome and has the effect of creating a work environment that is hostile, offensive, intimidating or humiliating to male or female workers may also constitute sexual harassment.

A. Examples of Sexual Harassment

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; comment on an individual’s body; comment about an individual’s sexual activity, deficiencies or prowess
- Displaying sexually suggestive objects, pictures, cartoons;
- Unwelcome leering, whistling, brushing against the body, sexual gestures, suggestive or insulting comments;
- Inquiries into one’s sexual experiences;
- Discussion of one’s sexual activities.

Sexual harassment can occur in a variety of circumstances, including but not limited to:

- The harasser can be the victim’s supervisor, a supervisor in another department, division or area, an agent of the employer, co-worker or a someone who is not an employee of the employer, such as a client or customer;
- The victim does not have to be the person harassed but can be anyone affected by the offensive conduct;
- Unlawful harassment may occur without economic injury to, or discharge of, the victim.

The foregoing list is only meant to be illustrative and is not exhaustive. Further, all employees should take note that, as stated above, retaliation against an individual who has complained about sexual harassment and retaliation against individuals for cooperating with an investigation of a sexual harassment complaint is unlawful and will not be tolerated by the City of Fitchburg.

III. Complaint Procedure

If an employee believes that s/he has been subjected to harassment, sexual harassment, discrimination, retaliation or similarly abusive verbal or physical conduct that interferes with work performance or creates an intimidating, hostile or offensive work environment, the employee has the right and is encouraged to file a complaint. The complaint may be made in writing or verbally and should be filed with a City of Fitchburg Sexual Harassment Officer promptly following any incident of alleged harassment.

A. City of Fitchburg Sexual Harassment Officers

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If an employee cannot file a complaint comfortably because the alleged harasser is involved with the complaint procedure, the initial complaint should be made to the Mayor of the City of Fitchburg.

Harassment, Discrimination and Sexual Harassment Policy, Definitions, continued:

B. State and Federal Remedies

In addition to the above, if an employee believes that s/he has been subjected to unlawful harassment or discrimination or retaliation, the employee may file a formal complaint with either or both of the government agencies set forth below. Utilizing the City's complaint process neither prohibits an employee from filing a complaint with these agencies nor does the employee's decision not to utilize the City's complaint process prohibit the employee from filing a complaint with either of the agencies listed below. Any claims filed with these agencies must be done within a set period of time (EEOC – 30 days; MCAD – 300 days).

United States Equal Employment Opportunity Commission (EEOC)



John F. Kennedy Federal Building
475 Government Center
Boston, MA 02203
Phone: 800.669.4000
Fax: 617.565.3196

Massachusetts Commission Against Discrimination (MCAD)

Boston Headquarters
One Ashburton Place, Suite 601
Boston, MA 02108
Phone: 617.994.6000



Worcester Office
484 Main Street, Room 320
Worcester, MA 01608
Phone: 508.453.9630

C. Sexual Harassment Complaint Investigation

When a complaint is received, the allegation will be promptly and thoroughly investigated 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 investigation will normally 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 completed, the City will, to the extent appropriate, inform both the person filing the complaint and the person alleged to have committed the conduct of the results of said investigation. If the investigation determines that sexual harassment has occurred, the City will act promptly to eliminate and remedy the offending conduct. Where it is appropriate, disciplinary action will be imposed, which may include termination of the offending employee.

D. Disciplinary Action

If it is determined that inappropriate conduct has occurred, the City will take immediate action to stop the offending conduct and, where appropriate, impose disciplinary action against the offending employee. Contingent upon the severity of the inappropriate conduct, such action may include counseling, formal reprimand, verbal or written warning, suspension or other formal sanctions up to and including termination of employment.