

**POLICY AGAINST DISCRIMINATION AND HARASSMENT  
AND COMPLAINT PROCEDURE**

**NON-DISCRIMINATION/EQUAL EMPLOYMENT OPPORTUNITY**

It is the policy of the Town of Huntington (“Town”) that all employees and applicants, as well as everyone with whom we do business (including independent contractors, vendors, and consultants) should be able to enjoy a work environment free from harassment and/or discrimination based on race, color, creed, sex, age, sexual orientation, disability, religion, national origin, pregnancy, marital status, military or veteran status, gender, gender identity or expression, status as a victim of domestic violence, or any other basis protected by federal, state or local laws and regulations. The Town has a zero-tolerance policy for unlawful harassment and discrimination, in any form. Anyone who believes that he/she has been the victim of unlawful harassment and/or discrimination or has witnessed same, should promptly report such conduct in accordance with the complaint procedure set forth herein.

No employee, intern or applicant for employment will be discriminated against because of age, marital status, religion, national origin, disability and/or military status, alienage, citizenship, race, color, creed, gender, gender identity or expression, disability, marital status, political affiliation/activities, sex, sexual orientation, domestic partnership, pre-disposing genetic characteristic, carrier status, domestic violence victim status or any other protected category under federal, state and/or local laws and regulations. For the purposes of this policy, the aforementioned terms shall have the same meaning as the terms defined in Section 292 of the Human Rights Law.

It is also the policy of the Town of Huntington to prohibit retaliation against any employee who makes a good faith complaint/report, testifies in the case of, or otherwise opposes discriminatory practices against any individual.

This policy governs the conduct of all employees, applicants for employment, interns, whether paid or unpaid, contractors, and persons conducting business with the Town.

Employees and/or interns found to have violated this policy may be subject to disciplinary action which, depending upon the severity of the violation, may include termination from Town employment.

**Reasonable Accommodation**

Requests for reasonable accommodation by employees, interns and/or applicants should be made to the Town Personnel Officer. The Personnel Officer will engage in a dialogue with any employee, intern or applicant who believes he/she needs a reasonable accommodation in order to perform the essential functions of his/her job and makes a request for such an accommodation. The Town will attempt to provide reasonable accommodations for qualified individuals with known disabilities unless doing so would result in an undue hardship. This policy governs all aspects of employment, including selection, job assignment, compensation, discipline, termination, and access to benefits and training.

Victims of domestic violence may also request reasonable accommodations in order to address circumstances specific to their personal situations. Requests for such accommodations should be made to the Town Personnel Officer and may include, but are not limited to, requests for time off

to seek medical attention for injuries caused by domestic violence, to obtain services of a domestic violence shelter or other service provider, to obtain related counseling services, to obtain legal services and/or to appear in court. The Town will attempt to provide reasonable accommodations unless doing so would result in an undue hardship.

### **Non-Discrimination**

The non-discrimination provisions of this policy apply to all aspects of the employer-employee relationship, including, but not limited to: recruitment, selection, compensation, promotion, transfer, benefits, and termination of employment.

### **Unlawful Harassment**

#### **Sexual Harassment**

Sexual harassment in any form is expressly prohibited and will not be tolerated. The Town is committed to vigorously enforcing this policy against sexual harassment. In particular, the Town prohibits the following:

Sexual Harassment is a form of sex discrimination. Sexual harassment includes harassment on the basis of sex, sexual orientation, gender identity and/or the status of being transgender.

Sexual harassment consists of unwelcome conduct which is either sexual in nature or which is directed at an individual because of that individual's sex where:

1. Submission to such conduct is an explicit or implicit term or condition of employment;
2. Employment decisions are based on an employee's submission to or rejection of such conduct;
3. Such conduct interferes with an individual's work performance or creates an intimidating, hostile or offensive working environment, even if the complaining individual is not the intended target of the harassment.

A sexually harassing hostile work environment may consist of words, signs, jokes, pranks, intimidation or physical violence which are of a sexual nature, or which are directed at an individual because of that individual's sex. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory statements or sexually discriminatory remarks made by someone which are offensive or objectionable to the recipient, which cause the recipient discomfort or humiliation, which interfere with the recipient's job performance.

Sexual harassment also occurs when a person in authority tries to trade job benefits for sexual favors. This can include hiring, promotion, continued employment or any other terms, conditions or privileges of employment. This is also called "quid pro quo" harassment.

Any employee who feels harassed should complain so that any violation of this policy can be corrected promptly. Any harassing conduct, even a single incident, can be addressed under this policy.

## Examples of Prohibited Sexually Harassing Conduct

The Town considers the following conduct to represent some types of actions which violate the unlawful harassment policy.

1. Physical assaults of a sexual nature
2. Unwanted sexual advances, propositions, innuendos or other sexual comments, i.e., unwanted sexual jokes, vulgar language, and sexual gestures.
3. Sexual or discriminatory displays, photographs, publications in any observable location, i.e., any sexually suggestive pictures, cartoons or photographs.
4. Hostile actions taken against an individual because of that individual's sex, sexual orientation, gender identity or expression, such as:
  - Interfering with, destroying or damaging a person's workstation, tools or equipment, or otherwise interfering with the individual's ability to perform the job;
  - Sabotaging an individual's work or otherwise bullying an individual.
5. Offensive comments, jokes, innuendos, and other sexually oriented statements or conduct.
  - Touching, such as rubbing or massaging someone's neck or shoulders, stroking someone's hair, or brushing against another's body.
  - Sexually-suggestive touching.
  - Grabbing, groping, kissing, fondling,
  - Whistling in a lewd manner.
  - Lewd, off-color, sexually oriented comments or jokes.
  - Foul or obscene language.
  - Leering, staring or stalking.
  - Suggestive or sexually explicit posters, calendars, photographs, graffiti, cartoons.
  - Unwanted or offensive letters or poems
  - Sitting or gesturing sexually
  - Offensive e-mails or voice-mail/text messages
  - Sexually oriented or explicit remarks, including, written or oral references to sexual conduct, gossip regarding one's sex life, body, sexual activities, deficiencies, or prowess.
  - Questions about one's sex life or experiences.
  - Repeated requests for dates.
  - Sexual favors in return for employment rewards, or threats if sexual favors are not provided.
  - Sexual assault or rape.
  - Any other conduct or behavior deemed sexually inappropriate by the Town.

The above list is not meant to be exhaustive but is included to provide examples of prohibited actions.

Sexual harassment can occur regardless of the sex or gender of the alleged harasser or the alleged victim. Sexual harassment in the workplace will not be tolerated, regardless of whether it

involves co-worker harassment, harassment by a department head, supervisor, or other management personnel, or harassment by persons with whom or for whom the Town is working.

Unlawful sexual harassment is not limited to the physical workplace itself. It can occur while employees are traveling for business or at employer sponsored events or parties. Calls, texts, emails, and social media usage by employees may, depending on the circumstances, constitute unlawful workplace harassment, even if they occur away from the workplace premises or not during work hours.

### Other Forms of Harassment

In addition to sexual harassment, this policy prohibits any conduct that is based on an individual's age, marital status, religion, national origin, disability and/or military status, alienage, citizenship, race, color, creed, gender, gender identity or expression, disability, marital status, political affiliation, sex, sexual orientation, domestic partnership, pre-disposing genetic characteristic, carrier status, status as a domestic violence victim or any other protected category under federal, state and/or local laws and regulations, and has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

Specific behavior that the Town considers to be a violation of this policy includes, but is not limited to, the following:

- Abusive, demeaning, or offensive language, including innuendos, slurs, suggestive, derogatory and/or insulting comments or sounds, whistling, jokes, and threats based on an individual's protected status.
- Abusive messages and/or pictures transmitted via e-mail or otherwise, showing or displaying offensive objects, graphic commentaries, obscene gestures and/or other materials based on a protected status that unreasonably interferes with an individual's work performance or creates an intimidating, hostile or offensive working environment.
- Any unwelcome physical contact based on the individual's protected status.
- Any other conduct, in whatever form, deemed to be inappropriate by the Town, where such conduct is motivated by an individual's protected status.

### **What You Should Do If You Are the Victim of Unlawful Harassment or Discrimination**

The purpose of this policy is to provide employees with a convenient, confidential and reliable method for reporting incidents of harassment/discrimination.

Any employee who feels that he or she has been or is being harassed should tell or otherwise inform, if feasible, the harasser that the conduct is unwelcome and must stop. If this course of action is not feasible, or is not successful, then the employee should immediately report such incidents to any Department Director, the EEO Officer or the Town Personnel Officer. If an

employee is uncomfortable reporting the incident to any of the above for any reason, he/she can make a complaint directly to the Town Attorney. Complaints may be made verbally or in writing. The report should include all facts available to the employee regarding the alleged harassment. You will not be penalized in any way for reporting such conduct, except to the extent that such allegation is found to be false. All reports of harassment will be treated seriously, and to the greatest extent possible, confidentiality will be maintained.

Any employee who feels that he or she has been or is being discriminated against should immediately report such incidents to any Department Director, the EEO Officer or the Town Personnel Officer. If an employee is uncomfortable reporting the incident to any of the above for any reason, he/she can make a complaint directly to the Town Attorney. Complaints may be made verbally or in writing. The report should include all facts available to the employee regarding the alleged discrimination. You will not be penalized in any way for reporting such conduct, except to the extent that such allegation is found to be false. All reports of discrimination will be treated seriously, and to the greatest extent possible, confidentiality will be maintained.

Attached to this policy is a Complaint Form which may be used by any individual seeking to file a complaint of unlawful harassment or discrimination.

### **Investigation of Harassment/Discrimination Complaints**

The Town EEO Officer, in conjunction with the Town Personnel Officer and/or another designee, shall be responsible for investigating all reports/complaints of alleged harassment or discrimination. If the report/complaint involves either the Town EEO Officer or the Town Personnel Director, the alleged offending party shall not participate in any investigation into the matter and the Town Attorney, or his/her designee, shall participate in conducting the investigation. Investigation into a complaint/report of alleged harassment or discrimination may include, among other things, a request for written statements from the parties involved and witnesses, conducting interviews with relevant parties/witnesses, reviewing documents, and/or any other steps deemed necessary consistent with the rights of employees under relevant law and collective bargaining agreements.

The Town, at all times, reserves the right to investigate possible incidents of discrimination and/or harassment even in the absence of a complaint or report by an employee.

At the conclusion of the investigation into any complaint/report of alleged discrimination or harassment, the EEO Officer shall prepare a report and recommendation, and then, in conjunction with the Personnel Officer and/or designee, shall refer the matter to the appointing authority of the accused for consideration of remedial and/or disciplinary action, if any. In the event that the accused does not have an appointing authority, the matter will be referred to the Town Attorney for consideration of remedial and/or disciplinary action, if any. Any disciplinary action taken against an employee as a result of an investigation under this policy shall be done in compliance with applicable law and/or relevant collective bargaining agreements.

In the event that the subject of the discrimination/harassment complaint is an Elected Official, or another Town employee/intern such that neither the EEO Officer, Town Attorney, nor the Personnel Officer can conduct the investigation without raising concerns about the impartiality

of the investigation, the Town Attorney shall select an investigator from a pre-approved list adopted pursuant to Town Board resolution following a Request for Proposals/Request for Qualifications Process. The Town Attorney shall select the investigator that is next on the list unless such investigator is unavailable or has a conflict of interest. At the conclusion of the investigation, the investigator shall prepare a report and recommendation and forward such report to the Town Attorney, who shall in turn forward the report to the EEO Officer and Personnel Officer.

Employees who are found to have made false complaints of harassment and/or discrimination may be subject to disciplinary action, up to and including termination of employment.

### **Determination/Conclusion of Investigation**

Once the investigation is completed, a determination will be made as to the allegations and appropriate disciplinary action, if any. If it is determined that unlawful harassment/discrimination has occurred, prompt remedial action will be taken.

This may include some or all of the following steps.

1. Provide the complaining employee with any lost terms, condition or benefits of employment; and/or
2. Taking disciplinary action against the harassing/discriminating employee, including, but not limited to, seeking termination of employment.

After the completion of the report and recommendation, the complainant and the subject of the investigation shall be informed in writing by the Town Attorney that the investigation has been completed and whether the allegations were substantiated, unsubstantiated, or substantiated, but not constituting a violation of this policy.

### **Duties of Employees**

All employees of the Town are responsible for assuring that a workplace free of unlawful harassment/discrimination is maintained. Any employee should file a harassment/discrimination complaint regarding incidents experienced personally or incidents observed in the workplace.

Do not assume that the Town is aware of the problem. It is the employee's responsibility to bring the complaints to a supervisor, the EEO Officer, or the Town Personnel Officer so that the Town can help to resolve them. The Town strives to maintain a lawful, pleasant work environment where all employees are able to effectively perform their work without interference of any type.

Any supervisor who receives a complaint or information about suspected unlawful harassment or discrimination, observes what may be considered unlawful harassing or discriminating behavior or for any reason suspects that unlawful harassment or discrimination is occurring, **is required** to report such suspected conduct to the Town Attorney, the EEO Officer and/or Town Personnel Officer. In addition to being subject to discipline if they engage in unlawful harassment or discrimination themselves, managers will be subject to discipline for failing to report suspected

unlawful harassment/discrimination or otherwise knowingly allowing unlawful harassment/discrimination to continue.

### **Non-Retaliation**

The Town has zero-tolerance for any form of retaliation. Retaliation of any kind against an individual who makes a good-faith report of harassment or discrimination or who participates in an investigation into a complaint is strictly prohibited. Follow-up interview(s) with a complainant or witness may be conducted for an appropriate period of time, to ensure that the harassment/discrimination has not resumed and that no retaliatory action has been taken.

### **Employee Rights**

Nothing contained in this policy and procedure shall be construed to limit or otherwise abrogate the rights of any employee under federal or state law or applicable collective bargaining agreements. The filing of a complaint pursuant to this policy/procedure does not, in any way, relieve any complainant from complying with applicable time limitations for filing of complaints as required under any federal or state law or applicable collective bargaining agreements.

### **Legal Protections and External Remedies**

Unlawful harassment/discrimination is not only prohibited by the Town but it is also prohibited by state, federal, and, where applicable, local law.

Aside from the internal process described in this policy, employees may also choose to pursue legal remedies with the following governmental entities at any time.

#### **New York State Division of Human Rights (DHR)**

The Human Rights Law (HRL), applies to employers in New York State with regard to sexual and other forms of unlawful harassment, and protects employees, paid or unpaid interns and non-employees regardless of immigration status. A complaint alleging violation of the Human Rights Law may be filed either with DHR or in New York State Supreme Court.

Complaints of sexual harassment may be filed with DHR any time within three years of the alleged harassment. If an individual did not file at DHR, they can sue directly in state court under the HRL, within three years of the alleged sexual harassment. Complaints of other forms of harassment or discrimination may be filed with the DHR within one year of the alleged harassment or discrimination. An individual may not file with DHR if they have already filed an HRL complaint in state court. Complaining internally to the Town does not extend your time to file with DHR or in court.

#### **United States Equal Employment Opportunity Commission (EEOC)**

The EEOC enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act. An individual can file a complaint with the EEOC anytime within 300 days of the alleged unlawful harassment/discrimination. If an employee believes that he/she has been

discriminated against at work or the victim of unlawful harassment, he/she can file a “Charge of Discrimination” with the EEOC. There is no cost to file a charge with the EEOC.

### **Suffolk County Human Rights Commission**

Complaints of alleged harassment and/or discrimination may also be made directly to the Suffolk County Human Rights Commission within the same time periods set forth for filing complaints with the Division of Human Rights.

### **Contact the Local Police Department**

If the harassment involves physical touching, coerced physical confinement or coerced sex acts, the conduct may constitute a crime. An individual who believes that he/she may have been the victim of criminal conduct may contact his/her local police department.