

**DISCRIMINATORY HARASSMENT
POLICY AND COMPLAINT PROCEDURE**

I. PURPOSE:

- A. It is the policy of the City of Oneonta to provide and maintain a work environment which is free from unlawful discrimination based on sex (with or without sexual conduct), race, color, religion, national origin, age, disability, sexual orientation and any other class protected by law (collectively referred to as "discriminatory harassment" or "harassment"). Harassment based on these characteristics is a form of unlawful discrimination and is prohibited in each and every work environment and each and every situation which directly impacts the work environment.

- B. The City of Oneonta will take appropriate steps to prevent and correct unlawful harassment and discrimination as defined by both federal and state law. The federal laws include Title VI and Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, and the Americans with Disabilities Act. The state law is the New York State Human Rights Law.

II. POLICY:

The City of Oneonta considers discriminatory harassment to be a form of employee misconduct and considers this type of misconduct to be a serious offense which will not be tolerated. Allegations of harassment will be investigated thoroughly and if substantiated, will be met with appropriate corrective and/or disciplinary action commensurate with the seriousness of the offense(s), and in accordance with the parameters of applicable collective bargaining agreements and/or state law.

III. DEFINITIONS:

- A. Sexual harassment is defined as:

Unwelcome sexual advances, request for sexual favors, and other verbal or physical conduct of a sexual nature when:

- 1. Submission to such conduct is made explicitly or implicitly a term or condition of an individual's employment (e.g., promotion, training, assignments, etc. . .);

- 2. Submission to or rejection of such conduct by an individual is used as a basis for employment decisions (e.g., hiring, evaluation, promotion) 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.

Examples of specific behaviors that may be considered sexual harassment include, but are not limited to:

- Spoken or written words related to an employee's sex
- Any sexual advance that is unwelcome
- Sexually oriented comments
- Showing or displaying pornographic or sexually explicit objects or pictures in the workplace
- Offensive touching, patting or pinching
- Requests for sexual acts or favors
- Abusing the dignity of an employee through insulting or degrading sexual remarks or conduct
- Threats, demands or suggestions that an employee's work status is contingent upon her/his toleration of or acquiescence to sexual advances
- Subtle pressure for sexual activities
- Leering at a person

Sexual harassment is gender neutral and may involve members of the same or different gender.

B. Other unlawful harassment:

Harassment on the basis of any other protected characteristic is also prohibited. Under this policy, prohibited harassment is verbal or physical conduct that is offensive to or shows hostility or aversion toward an individual because of his/her race, color, religion, national origin, age, disability, sexual orientation or marital status (and any other class protected by law) , and that: (i) has the purpose or effect of creating an intimidating, hostile or offensive work environment; (ii) has the purpose or effect of unreasonably interfering with an individual's work performance; or (iii) otherwise adversely affects an individual's employment opportunities.

Harassing conduct includes, but is not limited to: epithets, slurs or negative stereotyping; threatening, intimidating or hostile acts; denigrating jokes and display or circulation in the workplace (including through e-mail) of written or graphic material that denigrates or shows hostility or aversion toward an individual or group, based on an individual's protected class.

C. Individuals and conduct covered:

This policy applies to all applicants and employees of the City of Oneonta and

prohibits harassment, discrimination and retaliation whether engaged in by fellow employees, by a supervisor or manager or by someone not directly connected to the City (e.g., an outside vendor, consultant or citizen).

Conduct prohibited by these policies is unacceptable in the workplace and in any work-related setting outside the workplace, such as during business trips, business meetings, and business-related social events.

IV. PROCEDURE:

A. REPORTING HARASSMENT

1. If an individual is subjected to a situation which he/she believes constitutes discriminatory harassment in violation of this Policy, the City recommends that the employee confront the harasser directly and advise the harasser that his/her behavior is not welcomed and will not be tolerated; note that neither this policy nor state/federal law requires that an individual tell an alleged harasser to stop his/her actions. Employees are encouraged to keep written records of any alleged harassment incidents, including the date, time, location, names of people involved, witnesses (if any), and who said or did what to whom.
2. If an alleged incident of harassment cannot be resolved directly between the parties involved, a written or verbal complaint should be filed by the affected employee with the employee's immediate supervisor. In the event the employee does not believe it would be appropriate to file the complaint with the immediate supervisor, it may be filed directly to the appropriate Department Head or to the City's Personnel Director.

B. INVESTIGATION PROCEDURE

1. All harassment complaints will be investigated as promptly as possible and resolved within a reasonable time after the receipt of the complaint. The Personnel Director will coordinate an investigation of the complaint. In the event that the Personnel Director is conflicted out or is otherwise unavailable in a timely manner, the Office of the City Attorney will coordinate an investigation of the complaint. Following the investigation, the Personnel Director (or City Attorney if necessary) shall issue a written report of findings and conclusions to the Office of the City Manager.
2. Thereafter, an initial determination on the complaint will be issued from the Office of the City Manager and results communicated, in writing, back to the complainant.

C. APPEAL PROCEDURE

1. In the event that the City Manager, after reviewing the report of the Personnel Director, determines that the incident(s) reported do(es) not constitute unlawful discriminatory harassment as defined in this Policy, the employee

who filed the complaint may appeal the initial determination to the Common Council for a final determination.

2. In the event that an appeal is filed with the Common Council, the appeal shall be reviewed by the Common Council or its designee. The Common Council may obtain additional information if necessary including meeting with the complainant. Thereafter, the Common Council or its designee will issue a decision within twenty (20) working days after receipt of the appeal.
3. If no appeal is taken within thirty (30) calendar days from the date of the City Manager's initial determination, said determination will constitute the final determination in the matter.

D. **MISCELLANEOUS**

1. In the event a complaint of discriminatory harassment is determined to be founded, the City will take disciplinary action in accordance with the provisions of applicable collective bargaining agreements and/or state law, if applicable.
2. If disciplinary charges are filed against an employee on the grounds that the City has determined the employee is guilty of unlawful harassment, the accused employee may exercise his/her rights through the disciplinary procedure provided for in his/her labor contract and/or state law, if applicable.
3. Reporting of a false complaint is a serious act. In the event it is found that the individual bringing the complaint has made false accusations, the City will take action in accordance with the provisions of the applicable collective bargaining agreement and/or state law, if applicable.
4. All information gathered during an investigation of a harassment complaint will be handled in a confidential manner, to the extent possible.
5. Retaliation against any individual making a harassment complaint or assisting in the investigation of such a complaint is strictly forbidden. Retaliation, like discrimination and harassment, is against the law and is a serious violation of this Policy. Employees who retaliate against other employees who complain about harassment and/or participate in investigation of harassment will be subject to disciplinary action.
6. This Policy does not preclude the filing of discriminatory harassment complaints with either the New York State Division of Human Rights or the Federal Equal Employment Opportunity Commission, or the pursuing of any other remedies as permitted by law.

B. RESPONSIBILITIES OF MANAGERS/SUPERVISORS

1. All managerial and supervisory personnel of the City of Oneonta shall be responsible for enforcing this Policy and shall have particular responsibility for ensuring that the work environment under their supervision is free from discriminatory harassment and its effects. Failure of a manager or supervisor to comply with this responsibility may result in disciplinary action.
2. All managerial and supervisory personnel who receive discriminatory harassment complaints will be responsible for immediately forwarding such complaints to the Personnel Director.
3. The City of Oneonta will conduct periodic training for managerial and supervisory personnel in each Department of the City on the issues surrounding discriminatory harassment, its effects and its appearances, and the role and responsibility of managerial/supervisory personnel in preventing incidents of harassment complaints.
4. The City of Oneonta shall distribute this Policy to all City employees and all others covered by its parameters. Copies of this Policy will be distributed to new employees as they are hired.
5. Copies of this Policy will be conspicuously posted.

Attachments: Harassment Complaint Form; Notice of
Withdrawal of Complaint

DISCRIMINATORY HARASSMENT COMPLAINT FORM:
(Submit to Department Head and/or Personnel Director)

This form may be used to file a charge of harassment which is a form of discrimination prohibited by federal law, the New York State Human Rights Law, and City Policy.

It in no way deprives you of the right to file a complaint with the U.S. Equal Employment Opportunity Commission, New York State Division of Human Rights, or the Federal/State courts.

(PLEASE PRINT OR TYPE)

1. Name _____ Phone Number _____
Residence _____
Mailing Address (if different from residence) _____
City _____ State _____ Zip Code _____

2. Department that you work in _____

3. (a) Have you filed this charge with a Federal, State or local government agency?
YES/NO: _____ When _____ Where _____
(Month/Day/Year)

(b) Have you instituted a suit or court action on this charge?
YES/NO: _____ When _____ Where _____
(Month/Day/Year)

(AN AFFIRMATIVE REPLY TO THIS QUESTION WILL IN NO WAY STOP A CITY REVIEW OF YOUR COMPLAINT)

4. Alleged Discrimination Occurred on or about:
Month: _____ Day: _____ Year: _____ Time: _____

Is this alleged discrimination continuing: YES ___ NO ___

Describe the alleged act of harassment. Use **additional sheets if necessary.**

5. Indicate the name(s) of the alleged harasser(s): _____

6. State the name(s) of any potential witness(es): _____

7. I swear or affirm that I have read the above related facts and that the statements are true and correct to the best of my knowledge, information and belief.

Date: _____

(Sign your name)

-INFORMATION PROVIDED WILL BE CONFIDENTIALLY MAINTAINED-

**NOTICE OF WITHDRAWAL OF COMPLAINT OF DISCRIMINATORY
HARASSMENT**

COMPLAINANT'S NAME: _____

TITLE AND DEPARTMENT: _____

DATE COMPLAINT FILED: _____

DEPARTMENT HEAD NOTIFIED: _____

I hereby withdraw this complaint and agree that no further internal action is required on it.

Complainant's Signature Date

cc: Personnel Director