



SEXUAL HARASSMENT

PM-30-03

Section: 30-00, EQUAL EMPLOYMENT COMPLIANCE

A. Sexual Harassment

Sexual harassment is unwanted sexual attention of a persistent or offensive nature made by a person who knows, or reasonably should know, that such attention is unwanted. Sexual harassment includes sexually oriented conduct that is sufficiently pervasive or severe to unreasonably interfere with an employee's job performance or create an intimidating, hostile, or offensive working environment. Additionally, sexual harassment is unwelcome sexual advances, sexual favors or verbal, written, or physical conduct of a sexual nature by a manager, supervisor, co-worker or non-employee (customers, vendors, contractors or volunteers). Sexual harassment in any form is prohibited under this policy. Sexual harassment is a form of discrimination and is unlawful under Title VII of the Civil Rights Act of 1964 as amended.

While sexual harassment encompasses a wide range of conduct, some examples of specifically prohibited conduct include but are not limited to the following:

1. Promising, directly or indirectly, an employee a reward, if the employee complies with a sexually oriented request;
2. Threatening, directly or indirectly, to retaliate against an employee, if the employee refuses to comply with a sexually oriented request;
3. Denying, directly or indirectly, an employee an employment-related opportunity, if the employee refuses to comply with a sexually oriented request;
4. Engaging in sexually suggestive physical contact or touching another employee in a way that is unwelcome;
5. Displaying, storing, or transmitting pornographic or sexually oriented materials using EMPLOYER equipment or facilities;
6. Engaging in indecent exposure; or
7. Making sexual or romantic advances toward an employee and persisting despite the employee's rejection of the advances.

Sexual harassment can be physical and/or psychological in nature. An aggregation of a series of incidents can constitute sexual harassment even if one of the incidents considered on its own would not be harassing.



SEXUAL HARASSMENT

PM-30-03

Section: 30-00, EQUAL EMPLOYMENT COMPLIANCE

Employees are prohibited from harassing other employees whether or not the incidents of harassment occur on the City's premises and whether or not the incidents occur during working hours.

Sexual harassment can involve males or females being harassed by members of either sex. Although sexual harassment typically involves a person in a greater position of authority as the harasser, individuals in positions of lesser or equal authority also can be found responsible for engaging in prohibited harassment. Consensual sexual or romantic relationships between employees are deemed unwise and are strongly discouraged if one employee has supervisory authority over the other employee.

a. Responsibility of Employees

If an employee believes that he or she has been subjected to sexual harassment or any unwanted sexual attention, the employee should:

1. Make his or her unease and/or disapproval directly and immediately known to the harasser;
2. Make a written record of the date, time, and nature of the incident(s) and the names of any witnesses; and
3. Report the incident to the employee's immediate supervisor/manager, Office of Equity, Diversity and Inclusion office, Division of Human Resources or the alleged harasser's supervisor within forty-eight (48) hours or within 300 days of the alleged harassment or the date they became aware of the alleged harassment. **Under no circumstances shall the individual alleging harassment be required to file a complaint with the alleged harasser.**

All incidents of sexual harassment or inappropriate sexual conduct must be reported. Publicizing information about alleged harassment without following the reporting procedures or filing a formal complaint might be considered evidence of an aggravating intent on the part of the accuser.



SEXUAL HARASSMENT

PM-30-03

Section: 30-00, EQUAL EMPLOYMENT COMPLIANCE

b. Responsibility of Supervisors

Supervisors must deal expeditiously and fairly with allegations of sexual harassment within their departments whether or not there has been a written or formal complaint. Supervisors must:

1. Stop any acts that they see that may be considered workplace harassment and take appropriate steps to intervene;
2. Express strong disapproval of all forms of workplace harassment;
3. Act promptly to investigate sexual harassment or inappropriate sexually oriented conduct;
4. Ensure that harassment or inappropriate sexually oriented conduct is reported to the Division Director and Office of Equity, Diversity and Inclusion/Human Resources;
5. Take corrective action to prevent prohibited conduct from reoccurring.
6. Take immediate action to prevent retaliation towards the complaining party or any participant in an investigation;
7. Take immediate action to eliminate any hostile work environment where there has been a complaint of workplace harassment.

Supervisors who knowingly allow or tolerate sexual harassment are in violation of this policy and will be subject to discipline up to and including termination.

c. Responsibility of the Office of Equity, Diversity & Inclusion, Human Resources

The Office of Equity, Diversity and Inclusion Office is responsible for:

1. Ensuring that both the individual filing the complaint (hereafter referred to as the complainant) and the accused individual (hereafter referred to as the respondent) are aware of the seriousness of a sexual harassment complaint;
2. Explaining the City of Memphis Government's sexual harassment policy and investigation procedures to the complainant and the respondent;



SEXUAL HARASSMENT

PM-30-03

Section: 30-00, EQUAL EMPLOYMENT COMPLIANCE

3. Exploring informal means of resolving sexual harassment complaints;
4. Notifying the police and legal if criminal activities are alleged; and
5. Arranging for an investigation of the alleged harassment and the preparation of a written report.

d. Informal Resolution Procedures

An employee can often stop or prevent sexual harassment by immediately and directly expressing his or her disapproval of an individual's sexually oriented attention or conduct. In any case, employees should report all incidents of sexual harassment or inappropriate sexually oriented conduct to Office of Equity, Diversity and Inclusion or their supervisor within forty-eight (48) hours or the alleged harasser's supervisor within forty-eight (48) hours or within 300 days of the alleged harassment or the date they became aware of the alleged harassment. In many cases, a supervisor's informal warning to an alleged harasser combined with appropriate follow-up supervision and monitoring of the employee's behavior might be sufficient to prevent or stop sexual harassment. Some complaints can be resolved through informal mediation between the two parties. The Office of Equity, Diversity and Inclusion/Human Resources, arranges for or facilitates mediation between the parties and coordinates other informal problem resolution measures.

If mediation is successful, a written settlement agreement must be prepared. Generally, the mediation agreement includes:

1. A pledge by the respondent not to engage in any behavior that could be construed as in violation of this policy
2. A promise by the respondent not to retaliate against the complainant;
3. The restoration of any employment terms, conditions, or opportunities the complainant lost or was denied because of the harassment and for any other relief necessary to remedy the situation; and
4. Procedures for monitoring compliance with the agreement.



SEXUAL HARASSMENT

PM-30-03

Section: 30-00, EQUAL EMPLOYMENT COMPLIANCE

5. The settlement agreement must be in writing, signed by both parties, and approved by the Office of Equity, Diversity and Inclusion/Human Resources.

If the complaint cannot be resolved informally, the complainant should follow the formal resolution procedures set forth below.

e. Formal Resolution Procedures

All incidents of sexual harassment or inappropriate sexually oriented conduct should be reported. Employees who consider themselves victims of sexual harassment should make a complaint to their immediate supervisor at once. If the immediate supervisor is viewed as the source of the sexual harassment, the matter should be reported to the next higher level of supervision or management. Complaints may also be made to the City of Memphis Office of Equity, Diversity & Inclusion, Division of Human Resources, City Hall, or if an employee chooses, charges may be filed with the Federal Equal Employment Opportunity Commission or with the Tennessee Human Rights Commission.

Individuals who wish to file charges with either the City's Office of Equity, Diversity & Inclusion or the Federal Equal Employment Opportunity Commission (EEOC) must do so with 300 days of the date of the alleged harassment or the date they became aware of the alleged harassment. Individuals who wish to file charges with the Tennessee Human Rights Commission must do so within 180 days from the date of the alleged harassment or the date they became aware of the alleged harassment.

Complaints should be filed as soon as possible after an incident of alleged sexual harassment. To ensure a prompt and thorough investigation of a sexual harassment complaint, the complainant should provide as much of the following information as is possible:

1. The name, department, and position of the person or persons allegedly causing the harassment;
2. A description of the incident(s), including the date(s), location(s), and the presence of any witnesses;
3. The alleged effect of the incident(s) on the complainant's position, salary, benefits, promotional opportunities, or other terms or conditions of employment;
4. The names of other employees who might have been subject to the same or similar harassment;



SEXUAL HARASSMENT

PM-30-03

Section: 30-00, EQUAL EMPLOYMENT COMPLIANCE

5. The steps the complainant has taken to try to stop the harassment; and
6. Any other information the complainant believes to be relevant to the harassment complaint.

f. Discipline

Employees who violate this policy are subject to appropriate discipline. If an investigation results in a finding that this policy has been violated, the mandatory minimum discipline is a written reprimand unless otherwise indicated per Memorandum of Understanding or other applicable rules and regulations. The discipline for very serious or repeat violations is severe discipline up to and including termination of employment. Persons who violate this policy also are subject to civil damages and/or criminal penalties.

The procedures available under this policy do not preempt or supersede any legal procedures or remedies otherwise available to a victim of sexual harassment under state or federal law

g. Confidentiality

All inquiries, complaints, and investigations are treated confidentially. Information is revealed strictly on a need to know basis. Information contained in a formal complaint is kept confidential to the extent allowed pursuant to the Open Records Act. However, the identity of the complainant usually is revealed to the respondent and witnesses. The Office of Equity, Diversity and Inclusion/Human Resources takes adequate steps to ensure that the complainant is protected from retaliation during the period of the investigation.

All information pertaining to a sexual harassment complaint or investigation is maintained by the Office of Equity, Diversity and Inclusion /Human Resources in secure files.

REFERENCES:

Title VII
Equal Employment Opportunity Commission (EEOC)
TN Human Rights Commission