

CITY OF RACINE ANTI-HARASSMENT & RETALIATION POLICY

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Special Instructions: This policy applies to all elected officials and employees of the City of Racine. In addition to the provisions of this policy, such officials and employees are required to comply with State and local traffic laws and City/Development Safety and Work Rules.

It is the policy of the City of Racine that all employees have the right to work in an environment free of all forms of harassment and retaliation. The City of Racine will not tolerate, condone, or allow harassment or retaliation by any employee or non-employee who conducts business with the City. The City of Racine considers harassment, discrimination and retaliation of others to be a serious form of employee misconduct. Therefore, the City shall take direct and immediate action to prevent such behavior and to remedy all reported instances of harassment, discrimination and retaliation. A violation of this City policy can lead to discipline up to and including termination. This also applies to repeated violations, even if “minor,” resulting in greater levels of discipline as appropriate.

A. Definitions:

1. Harassment – Harassment on any basis (age, sex, race, color, veteran's status, disabled veteran's status, religion, disability or disabilities, national origin, marital status, gender identity, sexual orientation, familial status, lawful source of income, or economic status, or any other protected status or characteristic defined by State or Federal law) exists whenever submission to harassing conduct, whether explicitly or implicitly, is a condition of employment; submission to or rejection of such conduct is used as the basis for an employment decision affecting an individual; and, such conduct interferes with an employee’s work or creates an intimidating, hostile, or offensive work environment.
2. Hostile Work Environment – Workplace conditions or harassment by co-workers, managers, supervisors, etc. under which employees cannot perform their job without feeling harassed or threatened. A hostile work environment may consist of but is not limited to:
 - a. Verbal abuse and/or derogatory comments for whatever reason;
 - b. Displaying derogatory or offensive materials;
 - c. Physical contact, intimidation or violence against an employee;
 - d. Vulgar or lewd jokes;
 - e. Horseplay, pranks, passive aggressive acts or other such action;
 - f. Disparate treatment of employees without a reasonable basis; and,
 - g. Imposition or enforcement of unreasonable work rules for the sole purpose of exerting power over them.

3. Verbal Harassment

- a. Sexual innuendoes, degrading or suggestive comments;
- b. Repeated requests for dates or unwelcome sexual flirtations;
- c. Jokes of a sexual nature;
- d. Degrading words used to describe an individual;
- e. Obscene and/or graphic descriptions of an individual's body; and,
- f. Threats that job, wages, assignments, etc. could be affected if the individual does not agree to a suggested sexual relationship.

4. Non-verbal Harassment

- a. Sexually suggestive or offensive objects or pictures;
- b. Inappropriate usage of voicemail, e-mail, the internet or other such sources as a means to express or obtain sexual material or comments;
- c. Printed or written materials including offensive cartoons, suggestive or offensive sounds, whistling, catcalls or obscene gestures; and,
- d. Treating an employee differently than other employees when they have refused an offer of sexual relations.

5. Physical Harassment – Unsolicited or unwelcome physical contact of a sexual nature, which may include touching, hugging, massages, kissing, pinching, patting, or regularly brushing against the body of another person.

6. Unwelcome – Sexual conduct is unwelcome whenever the person subjected to it considers it unwelcome, even if the victim voluntarily engages in or permits it to avoid adverse treatment.

7. Retaliation – Any adverse action taken against an employee or job applicant because of protected conduct, such as filing a harassment or discrimination complaint, participating in an investigation of such a complaint, or requesting a protected leave of absence or reasonable accommodation.

B. Prohibited Activity and Responsibility:

1. Sexual Harassment – The City protects both males and females from sexual harassment by prohibiting unwelcome sexual advances, requests for sexual favors, and other physical, verbal or visual conduct based on sex as defined in Section A above.
2. Harassment – Any form of unwelcome conduct, whether verbal, physical, or visual, that is based on a person's protected status, including age, sex, race, color, veteran's status, disabled veteran's status, religion, disability or disabilities, national origin, marital status, gender identity, sexual orientation, familial status, lawful source of income, or economic status, or any other protected status or characteristic defined by

State or Federal law. Harassment that is based on a person's protected class, as defined in Section 3.01 above, will be considered misconduct subject to disciplinary action by the City.

3. Retaliation – Generally, any materially adverse action taken against an employee or applicant “because of” protected conduct is prohibited. “Protected conduct” means opposing a practice made unlawful by an applicable employment discrimination statute or filing a charge, testifying, assisting, or participating in any manner in an investigation, proceeding, or hearing under such applicable statute. The scope of retaliation goes beyond workplace-related or employment-related actions and includes conduct that would dissuade a reasonable worker from making or supporting a charge of discrimination. The significance of any given act of retaliation may depend upon the particular circumstances, but must be considered “materially adverse,” thus separating significant from trivial harms that normally will not deter discrimination victims from filing a complaint. Examples of conduct that may be considered retaliation include:
 - a. Discharge;
 - b. Demotion or not promoting;
 - c. Reduction in pay;
 - d. Reassignment of job duties;
 - e. Significantly diminishing an employee's responsibilities;
 - f. Unwarranted negative performance evaluations;
 - g. Increased scrutiny of an employee's work; and,
 - h. Isolating or shunning an employee.

Any employee who believes that he or she is being retaliated against shall report the incident(s) as soon as possible to their supervisor so that steps may be taken to protect the employee. Where it is not practical to do so, the employee may instead file a complaint with another supervisor, the Human Resources Department, the City Attorney, the City Administrator, or the Mayor. Evidence of retaliation is considered a separate violation of this policy and is subject to discipline up to and including termination.

4. Supervisory Responsibilities – Each supervisor shall be responsible for preventing harassment, discrimination, and retaliation by:
 - a. Monitoring the work environment on a daily basis for signs of harassment or retaliation;
 - b. Training and counseling all employees on what constitutes harassment, sexual harassment, and retaliation, types of prohibited conduct, and how to file a complaint;
 - c. Intervening if an incident of harassment, sexual harassment, or retaliation is observed, even if it occurs outside his/her line of supervision; and,
 - d. Taking immediate action to prevent retaliation towards the complaining party or witnesses and to eliminate the hostile work environment where there has been a complaint of harassment, pending an investigation.

5. Employee Responsibilities – Each employee is responsible for assisting in the prevention of harassment and retaliation by the following acts:

- a. Refraining from participation in actions that could be perceived as harassment or retaliation;
- b. Reporting acts of harassment or retaliation to a supervisor; and,
- c. Encouraging any employee who confides that he or she is being harassed, discriminated, or retaliated against to report these acts to a supervisor.

Failure of any employee to carry out the above responsibilities will be considered in any performance evaluation or promotional decisions and may be grounds for discipline.

6. Complaint Procedures – The City of Racine is committed to maintaining a workplace free of illegal discrimination, harassment, and retaliation. The City cannot prevent or stop harassment or retaliation of which it is unaware. Therefore, the following actions are required:

- a. Any employee encountering harassment or retaliation is encouraged, but not required to, inform the offending person verbally or in writing that his or her actions are unwelcome and offensive;
- b. Any employee who has unsuccessfully attempted to terminate the harassment or retaliation by his or her own means and believes that he or she is being harassed shall report the incident(s) as soon as possible to his or her supervisor so that steps may be taken to protect the employee from further harassment or retaliation;
- c. The supervisor or other person to whom a complaint is given shall meet with the employee and document the incident(s) complained of, the person(s) performing or participating in the harassment or retaliation, any witnesses to the incident(s) and the date(s) on which it occurred;
- d. An employee should utilize the City's internal reporting procedure first, but if after utilizing this procedure the complainant does not feel the complaint has been adequately addressed, the employee may file a complaint with either the State of Wisconsin- Equal Rights Division or the Equal Employment Opportunity Commission, or both.
- e. The internal investigation authority shall be responsible for investigating any complaint alleging harassment, discrimination or retaliation;
- f. There shall be no retaliation against any employee for filing a harassment or discrimination complaint, or for assisting, testifying or participating in the investigation of such a complaint;
- g. The complaining party's confidentiality will be maintained throughout the investigatory process to the extent practical and appropriate under the circumstances; and,
- h. Employees accused of harassment and/or retaliation may file a grievance/appeal in accordance with City procedures when they disagree with the investigation or disposition of a harassment or retaliation claim.