

CITY OF TUMWATER

POLICY MANUAL – PART 1: PERSONNEL POLICIES

SECTION 9
SEXUAL HARASSMENT PREVENTION

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9.01 Purpose

Sexual Harassment of employees is prohibited by the City of Tumwater. This policy is intended to establish standards for defining and preventing Sexual Harassment and offensive behavior of a sexual nature, to establish a means for reporting and complaining about Sexual Harassment and to define the range of disciplinary action that will be taken by the city in cases where Sexual Harassment has occurred.

Harassment based on unlawful discrimination such as to race, ethnicity, religion, sexual orientation, marital status, age, disability or national origin is also prohibited and is subject to the reporting procedures of this policy.

9.02 Policy and Objectives

It is the policy of the City of Tumwater:

- 9.02.01 To communicate this Sexual Harassment policy to employees and supervisors in order to assure that all employees and supervisors understand that Sexual Harassment is prohibited.
- 9.02.02 To recognize the unique nature of complaints of Sexual Harassment, to encourage early reporting by employees, victims or witnesses, and to resolve complaints promptly, confidentially, and, when possible, at the lowest levels of the organization.
- 9.02.03 To prohibit retaliation against any employee because he or she has made a report of alleged Sexual Harassment, or retaliation against any employee who has testified, assisted, or participated in any manner in an investigation of the allegations.

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9.02 Policy and Objectives

- 9.02.04 To prohibit and prevent actions which unlawfully discriminate on the basis of race, gender, religious belief or national origin in areas such as compensation, benefits, privileges, transfers, layoffs, returns from layoff, training and social programs.
- 9.02.05 To provide education to employees or, under some circumstances, to non-employees; to raise awareness of Sexual Harassment as a workplace issue; to prevent Sexual Harassment by providing information about Sexual Harassment in general and about this policy in particular.

9.03 Definitions

- 9.03.01 "Sexual Harassment" means unwelcome sexual advances, requests for favors and other offensive verbal or physical conduct of a sexual nature when:
- a) submission to such conduct is made either explicitly, or implicitly, a term or condition of an individual's employment;
 - b) submission to, or rejection of, such conduct by an individual is used as the basis for employment decisions affecting such individual; or
 - c) 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.
- 9.03.02 "Intimidating, hostile, or offensive working environment" means a workplace in which: a) repeated, unwelcome, sexually-oriented jokes, innuendoes, obscenities, pictures or any action with sexual connotation has the cumulative effect of making an employee feel uncomfortable in the workplace; or b) aggressive, harassing behavior in the workplace whether or not sexual in connotation, is directed toward an employee based on the employee's gender.

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9.03 Definitions

- 9.03.03 "Offensive conduct of a sexual nature" means physical contacts, sexual comments, obscenities, gestures, propositions, unnecessary touching, sexually explicit, or offensive pictures, discussion of sexual activities, commenting on another person's anatomy or attributes, using demeaning or diminutive terms toward officers, employees or members of the public such as "babe", "hunk" or "honey", ostracizing employees of one gender by employees of the another, granting job favors to those who participate in consensual sexual relationships or activities, or any other action with sexual connotation whether at, or away from work, which is unwelcome or which makes an employee feel uncomfortable in his/her employment.
- 9.03.04 "Management" means the immediate or first level supervisor who is not involved in the alleged harassment and other managers in the direct line of authority above these supervisors.
- 9.03.05 "Retaliation" means acts of reprisal such as: open hostility to the complainant, participant or others involved; exclusion/ostracism of the complainant or others; creation of or the continued existence of a hostile work environment; gender-based negative remarks about the complainant, participants or others; special attention to, or assignment of the complainant, participant or others to demeaning duties not otherwise performed; tokenism or patronizing behavior; discriminatory treatment; subtle harassment; or unreasonable, supervisory-imposed time restrictions on employees on preparing complaints or compiling evidence of Sexual Harassment activities or behaviors.

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9.04 Reporting Procedures

9.04.01 Complainant's Responsibility:

An employee who believes he or she has been a victim of Sexual Harassment is encouraged to report the incident(s) or working conditions as soon as possible after the alleged harassment occurs.

9.04.01 Complainant's Responsibility:

Prompt reporting is encouraged because the ability of management to investigate and act on reports diminishes with time. Employees may bring reports to the attention of any or all of the following:

- a) The alleged harasser. When reporting or giving notice to the alleged harasser, the employee should clearly request that the action stop immediately;
- b) The immediate supervisor or the first level of management who is not directly involved in the alleged harassment;
- c) The Administrative Services Director; or
- d) The City Attorney may be contacted if the Administrative Services Director is unavailable or implicated in the allegation, or if the employee for other reasons, is not willing to disclose the matter to the Administrative Services Director.

It shall be a responsibility of the employee to cooperate with management, the Administrative Services Director or the responsible management official in all efforts to investigate and verify such reports.

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9.04.02 Management's Responsibility:

All reports of alleged Sexual Harassment received by management, shall be promptly referred to the Administrative Services Director. The Administrative Services Director shall immediately initiate an investigation or recommend another appropriate management representative to initiate the investigation.

Any report of Sexual Harassment and its investigation is confidential. Dissemination of confidential information shall be limited to persons with a need to know to participate in the investigation or implement an action resulting from the investigation. If discipline is anticipated, it may be necessary to disclose the name of the complaining employee to the employee accused of harassment.

The standard to be applied in evaluating allegations of Offensive Conduct of a Sexual Nature or an Intimidating, Hostile or Offensive Working Environment shall be that of a reasonable victim. For instance, if an allegation is made by a female employee, the standard under this policy shall be whether, to a reasonable woman, such conduct would have the effect of making a woman feel offended, uncomfortable, threatened or intimidated. If the allegation is made by a male employee, the allegation shall be evaluated from the perspective of a reasonable male.

If, as the result of investigation, sufficient facts are gathered to support the complaint, management will contact the alleged harasser to obtain a response to the complaint. If the alleged harasser denies the allegation, he/she may be afforded an opportunity to provide details, witnesses or documentation to support his/her denial of the allegation.

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Records pertaining to the investigation shall be maintained in a file separate from the complainant's personnel file.

9.04.03 Employees' Responsibility

Employees who are not personally victims of Sexual Harassment, but who observe actions which they have interpreted to be harassment or offensive conduct of a sexual nature, are strongly encouraged to immediately report such matters to management. Supervisors and members of management must report observations which they have interpreted to be harassment or offensive conduct of a sexual nature.

9.04.04 Alleged Harasser's Responsibility:

It shall be the responsibility of any employee accused of sexual harassment to fully cooperate with management in its investigation of complaints and to refrain from retaliating against the complainant for coming forward with the complaint.

9.05 Violations of Policy

9.5.01 The investigator of the complaint will determine whether violations of this policy have occurred on the basis of facts verified during the investigation and after consultation with the City Attorney. If a violation of the policy has occurred, the investigator of the complaint will recommend disciplinary action to the Mayor or his/her designee.

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9.05 Violations of Policy

9.05.02 Substantiated violations of this policy may result in disciplinary action in accordance with Section 4 of the City of Tumwater Personnel Policy Manual. Appropriate discipline may include discharge, if the initial violation is sufficiently severe, if the violator's position within the organization has had the effect of worsening the harassment, or if lesser violations are repeated after discipline or warnings have been given.

In addition, or as an alternative, to traditional disciplinary actions, violators of this policy may be subject to corrective measures such as educating the harasser about Sexual Harassment, requiring counseling or reassignment.

9.05.03 Disciplinary action taken under this policy may be subject to the City's grievance policy as described in Section 4 of the City of Tumwater Personnel Policy Manual, to applicable civil service rules and procedures or to collective bargaining agreements.