

CITY OF SPOKANE ADMINISTRATIVE POLICY AND PROCEDURE	ADMIN 0620-18-35 LGL 2005-0063
TITLE: SEXUAL HARASSMENT EFFECTIVE DATE: June 1, 1988 REVISION DATE: February 27, 2018	

1.0 GENERAL

1.1 Sexual harassment is a form of sex discrimination and is prohibited by Title VII of the Civil Rights Act of 1964, Washington State's Law Against Discrimination, and the Spokane Municipal Code Chapter 1.06.

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2.0 DEPARTMENTS/DIVISIONS AFFECTED

This policy shall apply to all City divisions and departments except for employees represented by the Spokane Police Guild and the Lieutenants and Captains Association.

3.0 REFERENCES

42 USC 2000e et. seq.
RCW chapter 49.60
SMC chapter 1.06

4.0 DEFINITIONS

4.1 "Sexual Harassment" is any verbal, non-verbal, or physical behavior of a sexual nature which is unwelcome, uninvited, and offensive to a reasonable person in the recipient's position and alters the condition of the recipient's

employment. Sexual harassment is a form of employee misconduct which is demeaning to another person and undermines the integrity of the employment relationship. Harassment may be subtle, manipulative and is not always evident. It does not refer to occasional compliments of a socially acceptable nature. It refers to behavior that is not welcome and is personally offensive. All forms of gender harassment are covered. Men can be sexually harassed; men can harass men; women can harass other women. Offenders can be managers, supervisors, co-workers, and non-employees such as clients or vendors.

- 4.2 Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:
 - a. Submission to such conduct is either an explicit or implicit term or condition of employment; or,
 - b. Submission to or rejection of the conduct is used as a basis for employment decisions affecting the recipient; or,
 - c. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an objectively hostile or offensive work environment.

- 4.3 Examples of this type of behavior include but are not limited to the following:
 - a. Verbal: sexual comments, innuendoes, suggestions, jokes, or pressure for sexual favors.
 - b. Non-Verbal: suggestive looks, gestures, pictures, cartoons, drawings, posters.
 - c. Physical: pats or squeezes, deliberate touching, cornering, pinching, attempts to kiss or fondle.

- 4.4. More specific examples of behavior include, but are not limited to the following:
 - a. Pranks, or repeated teasing, jokes, or innuendo, in person or via e-mail of a sexual nature;
 - b. Verbal abuse of a sexual nature;
 - c. Touching or grabbing of a sexual nature;

- d. Repeatedly standing too close to or brushing up against a person;
 - e. Repeatedly asking a person to socialize during off-duty hours when the person has said no or has indicated he or she is not interested (supervisors in particular should be careful not to pressure their employees to socialize);
 - f. Giving gifts or leaving objects that are sexually suggestive;
 - g. Repeatedly making sexually suggestive gestures;
 - h. Making or posting sexually demeaning or offensive pictures, cartoons or other materials in the workplace;
 - i. Off-duty, unwelcome conduct of a sexual nature that affects the work environment.
 - j. A victim of sexual harassment can be a man or a woman. The victim can be of the same sex as the harasser. The harasser can be a supervisor, co-worker, other Department employee, or a non-employee who has a business relationship with the Department.
- 4.5 A "Complaint" of sexual harassment is an allegation of unwelcome behavior that is sexual in nature.
- 4.6 A "Preliminary Inquiry" is a preliminary evaluation of the circumstances of a complaint to determine if an investigation is necessary.
- 4.7 "Investigation" is a complaint inquiry process initiated in response to an allegation of sexual harassment. When it is determined from a preliminary inquiry that there are allegations that, if found true, would constitute sexual harassment, further appropriate investigation is required. No inference of wrongdoing should be made because a preliminary inquiry or investigation process has been initiated.

5.0 POLICY

- 5.1 It is the City of Spokane's policy that there shall be no discrimination or harassment of any employee based on sex. The City of Spokane has zero tolerance regarding sexual harassment and does not condone and will not permit sexual harassment of any employee. Same-sex sexual harassment is also prohibited. All employees are expected to abide by this policy. Anyone who violates this policy will be subject to disciplinary action up to and including discharge.

5.2 Potential Liability Of The City And Individual Employee

- 5.2.1 The City and individual employees can be held liable for sexual harassment.
- 5.2.2 The City may be liable for sexual harassment by supervisors regardless of whether or not the City is aware of the behavior.
- 5.2.3 The City may be liable for sexual harassment by co-workers if the City knew, or should have known, of the conduct.

6.0 PROCEDURE

6.1 Complaint Procedure

- 6.1.1 A complainant is encouraged to use the City's complaint procedures to resolve sexual harassment complaints. Complaints may also be filed, within certain time frames, with appropriate state and federal agencies, such as:

State of Washington

Washington State Human Rights Commission, Rockpointe Plaza 3, 1330 North Washington Street, Suite 2460, Spokane, WA 99201, (509) 568-3196, TDD (800) 300-7575, Voice (800) 233-3247

Federal Government

U.S. Equal Employment Opportunity Commission, 909 First Avenue, Suite 400, Seattle, WA 98104-1061, (206) 220-6883, TDD (206) 220-6882, FAX (206) 220-6911, Voice (800) 669-4000

Office of Federal Contract Compliance Programs

U.S Department of Labor- OFCCP
Seattle District Office
300 5th Ave. Suite 1100
Seattle, WA 98104
Phone: (206) 398-8005

- 6.1.2 The sexual harassment complaint procedure does not limit any procedures available under any existing federal or state law.
- 6.1.3 An employee who experiences unwelcome sexual behavior may assertively tell the offending person that the conduct is unwelcome

and must cease immediately. It is not required that an employee tell the offending person that the conduct is unwelcome.

6.1.4 Internal Complaint Procedure: If the employee chooses not to address the offending person, and the employee desires an internal resolution of the complaint, the process outlined below shall be followed:

- a. Accepting Complaints: A complaint may be submitted to a supervisor, manager, director or the Human Resources Department by telephone, email, in writing, or by any other means of communication. A complaint may also be submitted anonymously using the City's complaint hotline.
- b. No employee shall attempt to discourage, interfere, or delay an individual from making a complaint.
- c. Documentation and Notice to Management: As soon as possible after the supervisor, manager, director, or the Human Resources Department receives a complaint pursuant to this policy, the complaint must be documented in writing on a Discrimination/Harassment Complaint Form. The individual completing the form should specify the date of receipt of the complaint, summarize the nature of the complaint, and provide any supporting data that accompanies the complaint or other pertinent information regarding the complaint.
 - i. The individual who documents the complaint must inform the Human Resources Department and the department/division director of the complaining party of the complaint as soon as possible, but no later than five business days after receipt of the complaint.
- d. Confidentiality: To the extent that it does not hinder the investigation or the resolution of the complaint and is permitted under local, state and federal laws, management representatives and any investigator shall maintain the confidentiality of a harassment complaint.
- e. Preliminary Inquiry: The Human Resources Department, in consultation with the department/division director of the complaining party, will conduct a preliminary inquiry to determine if the complaint will activate the investigation process under this policy. This determination will be made as soon as possible after receipt of the complaint, making every effort to make the determination within five business days.

- f. Investigation: The Human Resources Department shall ensure that any complaint determined to be subject to investigation is assigned to an investigator who shall complete the investigation process as soon as possible, making every attempt to complete the process within one calendar month after determination that investigation is required. The investigator may be a Human Resources Department employee or external investigator, at the discretion of the Human Resources Department Director. If the investigation is not completed within one calendar month, the investigator may be asked to provide the Human Resources Department and the department/division director with a status report.
 - i. Union Representation: The investigator shall assure compliance with any employee's right to union representation, including the right of the alleged harasser, who may reasonably believe that disciplinary action may be taken based upon his or her statements to the investigator or on the outcome of the investigation.
 - ii. Investigation File: If a matter is referred for investigation, the Human Resources Department will maintain an investigation file. The scope of the investigation will be documented in the investigation file to provide the investigator and parties clear notice of the issues that will be addressed in the investigation. All investigation interviews will be documented in the investigation file in writing.
- b. Response to Complaints: (appeal process)
 - i. The department/division director will inform the complainant if the investigation process is activated by the complaint. If the investigation process is not activated, the department/division director will discuss with the complainant options for resolving the issue raised.
 - ii. The department/division director will review and discuss the completed investigation report with the investigator, and the Human Resources Department Director or his/her designee. The department/division director, in consultation with the Human Resources Department Director or his/her designee, shall determine if corrective action is appropriate.

- iii. If it is determined that corrective action is necessary, the department/division director will take appropriate remedial and/or disciplinary action in accordance with the City's Disciplinary Action policy.

6.1.5 Retaliation: No individual will be retaliated against or otherwise adversely affected in employment as a result of making a sexual harassment complaint, or participating in an investigation of sexual harassment, or as a result of being erroneously accused of sexual harassment.

The Department will also take the necessary steps to protect from retaliation those employees who in good faith report incidents of potential sexual harassment. It is a violation of both federal law and this policy to retaliate against someone who has reported possible sexual harassment.

An employee may not be discharged (or discriminated against) in retaliation for opposing discrimination made unlawful by Washington's Law Against Discrimination (WLAD). Nor may an employee be discharged (or discriminated against) in retaliation for filing a charge, testifying, or assisting in a proceeding under WLAD. WLAD prohibits, among other things, discrimination in employment on the basis of age, sex, marital status, sexual orientation, race, creed, color, national origin, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a disabled person. Wash. Rev. Code § 49.60.210(1).

It is a violation of RCW 49.60 and Federal anti-discrimination laws to retaliate against someone who opposed a discriminatory action in employment.

6.2 Employee Rights

6.2.1 Employee rights are also protected through remedies available under the Washington State Law against Discrimination, (RCW 49.60), the U.S. Civil Rights Acts of 1964 and 1991, and Spokane Municipal Code Chapter 1.06.

6.3 Complainant's Responsibilities

6.3.1 Occasionally the offender may not be aware that a behavior is offensive. If at all possible, advise the offending individual that the

conduct in question is offensive, and request that it be discontinued immediately.

- 6.3.2 If the complainant is not comfortable talking to the offending person and/or the offending conduct continues or reoccurs, the matter should be immediately reported to the complainant's immediate supervisor, department head or the Human Resources Director.
- 6.3.3 Employees who witness sexual harassment, hear of it, or know of its occurrence should immediately report it to an appropriate party with whom the employee is comfortable, whether male or female, such as a supervisor, the Department Head, or the Human Resources Director, the bargaining unit, Ombudsman, or Hearing Examiner.
- 6.3.4 Employees are required to cooperate fully in processing of the complaint. Employees may be allowed to be accompanied by a union representative or a person of comfort. If the employee chooses to be accompanied by an attorney, the cost of the attorney will be the sole responsibility of the employee.
- 6.3.5 An employee who files a false or malicious complaint of sexual harassment may also be disciplined. Discipline may include dismissal.

6.4 Administration

- 6.4.1 If a violation continues, the Human Resources Department shall be consulted immediately. The Human Resources Department is to be notified of all sexual harassment complaints so that a record may be maintained as required by the Equal Employment Opportunity Commission.

7.0 RESPONSIBILITIES

The Human Resources Department shall administer this policy.

8.0 CONFLICT WITH OTHER POLICIES

In the event of any conflict between this policy (or any portion thereof) and any other City of Spokane department policy now existing or hereafter adopted, the terms of this policy shall prevail.

9.0 APPENDICES

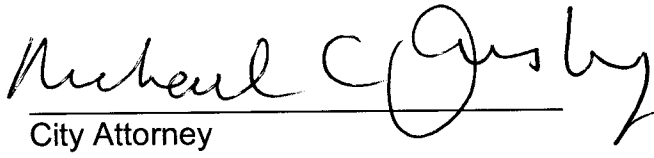
Sexual Harassment Complaint Form
Anonymous Complaint Information

APPROVED BY:



Human Resources Director

1/31/2018
Date



City Attorney

1/31/2018
Date



City Administrator

2/12/18
Date

DISCRIMINATION/HARASSMENT COMPLAINT FORM

Name: _____ Date: _____

Phone: _____ Email: _____ Department: _____

Address: _____ City: _____ State: _____ Zip: _____

Is this a discrimination/harassment complaint? Yes No Are you a City employee? Yes No

If yes, have you notified your supervisor? Yes No If yes, what was the outcome? _____

This complaint is based on: (Check all that apply)

- | | | |
|---|---|---|
| <input type="checkbox"/> Age | <input type="checkbox"/> Marital Status | <input type="checkbox"/> Religion |
| <input type="checkbox"/> Disability | <input type="checkbox"/> National Origin | <input type="checkbox"/> Sex/Gender |
| <input type="checkbox"/> Familial Status | <input type="checkbox"/> Race/Color | <input type="checkbox"/> Sexual Harassment |
| <input type="checkbox"/> Workplace Harassment | <input type="checkbox"/> Other Please Note: _____ | <input type="checkbox"/> Sexual Orientation |

Who allegedly discriminated against/harassed you: _____

Is the alleged offender a City employee? Yes No Department: _____

Where did it take place? _____

When did it take place? _____

Was this a single incident? Yes No If more than once, how many times? _____

How did the discrimination/harassment take place? _____

Please explain additional details of complaint including why you feel you were discriminated against and or harassed. List any witnesses:

In filing this complaint please explain the resolution you would like: _____

The following information is VOLUNTARY and is requested for statistical purposes

Age: _____ Gender: M F Race/Ethnicity _____ Disability _____

Signature: _____ Date: _____

FOR OFFICE USE

Complaint received by: Email Mail Phone Walk-In Prior Appointment

Date complaint received: STAMP HERE

Detail of action taken: _____

Referral(s):

Date: _____ To: _____

Date: _____ To: _____

Complaint Closed: _____

Is complainant satisfied with outcome? Yes No

Complainant Remarks (if any):

If you need assistance in filing your complaint please contact the Human Resources Department at the address below or call (509) 625-6703
PLEASE MAIL THIS FORM TO:
CITY OF SPOKANE HUMAN RESOURCES DEPARTMENT, 4TH FLOOR
808 W. SPOKANE FALLS BLVD. SPOKANE, WA 99201-3327
OR FAX TO: (509) 625-6379



A 21st Century workforce is empowered and protected from mistreatment. If you experience or witness employee mistreatment:

- Discrimination**
- Harassment or Sexual Harassment**
- Workplace Violence or Threatening Behavior**
- Workplace Bullying**
- Ethics or Municipal Code Violations**

Report unacceptable conduct to:



Supervisor



Human Resources



SpokaneCity.EthicsPoint.com



844-771-5039



Whistleblower complaint

