

TOWN OF LANCASTER
HARASSMENT PREVENTION POLICY

Adopted by the Town Board of the Town of Lancaster, NY on March 18, 2019

The Town of Lancaster (the “Town”) is committed to maintaining a workplace free from all unlawful harassment.

Sexual Harassment is Strictly Prohibited

One form of harassment prohibited by this policy is sexual harassment. Sexual harassment is unlawful, violates Town policy, subjects the Town and the harasser to potential liability, constitutes employee misconduct, and will not be tolerated. Appropriate sanctions and/or disciplinary action (up to and including termination) will be enforced against individuals engaging in sexual harassment and against supervisory and managerial personnel who knowingly allow such behavior to continue.

Sexual Harassment Definition

Sexual harassment is a form of sex discrimination and includes harassment on the basis of sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity and the status of being transgender. Sexual harassment includes unwelcome conduct which is either of a sexual nature or directed at an individual because of his or her sex, when:

- Such conduct is made either explicitly or implicitly a term or condition of employment;
- Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual’s employment; or
- Such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile or offensive work environment, even if the complaining individual is not the intended target of the sexual harassment.

Sexual harassment in the form of “hostile environment” harassment consists of words, signs, jokes, pranks, intimidation, or physical violence which are of a sexual nature, or which are directed at an individual because of that individual’s sex. Hostile environment harassment also consists of unwanted verbal or physical advances, sexually explicit derogatory statements, or sexually discriminatory remarks made by someone in the workplace which are offensive or objectionable to the recipient, which cause the recipient discomfort or humiliation, or which interfere with the recipient’s job performance.

Sexual harassment in the form of “quid pro quo” harassment occurs when a person in authority tries to trade job benefits for sexual favors. This can include hiring, promotion, continued employment, or any other term, condition, or privilege of employment.

Sexual harassment can occur between males and females, or between persons of the same sex. Sexual harassment that occurs because the target is transgender is also unlawful.

Sexual Harassment Examples

The following describes some of the types of acts that may be unlawful sexual harassment:

- Unwanted sexual advances, propositions or other sexual comments, such as:
 - Requests for sexual favors accompanied by implied or overt threats concerning the target's job performance evaluation, a promotion, or other job benefits or detriments;
 - Subtle or obvious pressure for unwelcome sexual activities;
 - Sexually oriented gestures, noises, remarks, jokes or comments about a person's sexuality or sexual experience which are sufficiently severe or pervasive to create a hostile work environment.
- Sexual or discriminatory displays or publications anywhere in the workplace, such as displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials, or other materials that are sexually demeaning or pornographic. This includes such sexual displays on workplace computers or cell phones and sharing such displays while in the workplace.
- Physical acts of a sexual nature, such as:
 - Touching, pinching, patting, kissing, hugging, grabbing, brushing against another employee's body, or poking another employee's body;
 - Rape, sexual battery, molestation, or attempts to commit these assaults.
- Hostile actions taken against an individual because of that individual's sex, sexual orientation, gender identity, or status of being transgender, such as:
 - Interfering with, destroying, or damaging a person's workstation, tools, or equipment, or otherwise interfering with the individual's ability to perform the job;
 - Sabotaging an individual's work;
 - Bullying, yelling, or name-calling.

- Sex stereotyping – When conduct or personality traits are considered inappropriate simply because they may not conform to other people’s ideas or perceptions about how individuals of a particular sex should act or look.

Other Types of Unlawful Harassment are Strictly Prohibited

The Town’s Harassment Prevention Policy also applies to harassment based on race, color, religion, national origin, ancestry, ethnicity, age, disability, citizenship, military service, domestic violence victim status, genetic information, or any other characteristic protected by law. Such harassment often takes a similar form to sexual harassment and includes harassment that is:

- Verbal (e.g., epithets, derogatory statements, slurs, derogatory comments or jokes, or obscene language).
- Physical (e.g., assault or inappropriate physical contact).
- Visual (e.g., displaying derogatory posters, cartoons, drawings or making derogatory gestures).
- Online (e.g., derogatory statements in any e-mail or through any social media platform).

This list is illustrative only, and not exhaustive. No form of harassment will be tolerated.

Complaint and Investigation Procedure

Preventing unlawful harassment is everyone’s responsibility. The Town cannot prevent or remedy harassment unless it knows about it. Anyone who witnesses, becomes aware of, or is subjected to behavior that may constitute harassment or otherwise violate this policy is strongly encouraged to **immediately** report such behavior to the Director of Administration & Finance or the Payroll Supervisor in the Town Supervisor’s Office.

Reports of harassment or any other violation of this policy should be made in writing, though verbal reports will be accepted. A Complaint Form for the submission of reports of unlawful harassment or any other violation of this policy is included with this policy and available from the Town Supervisor’s Office, and all personnel are encouraged to use this Form. If the report is verbal, the complainant will be asked to complete a written Complaint Form. If he or she declines, the Town may prepare a Complaint Form based on the verbal report.

All supervisors and managers who receive a report or information about, observe, or suspect any potential harassment or other violation of this policy **must immediately** report it to the Director of Administration & Finance or the Payroll Supervisor. A supervisor or manager who fails to make such a report or otherwise knowingly allows sexually harassing or retaliatory behavior to continue will be subject to disciplinary action, up to and including termination of employment.

The Town will conduct an investigation of any report or complaint of harassment or any other violation of this policy that it receives. Investigations will be conducted in a prompt and timely manner, and will be confidential to the extent possible. The Town will take prompt and appropriate

corrective action whenever it determines that harassment or another violation of this policy has occurred.

All persons involved, including complainants, witnesses, and alleged harassers, will be accorded due process, as outlined below. While the process may vary from case to case depending on the circumstances, an investigation of a report of harassment or other violation of this policy will generally include the following steps:

- Upon receipt of a report of harassment or other violation of this policy, the Town will conduct an immediate review of the allegations and take any appropriate interim action.
- Relevant documents and electronic communications will be collected and reviewed.
- Interview the complainant, witnesses, and accused.
- Create confidential written documentation of the investigation.
- Notify the complainant(s) and the alleged harasser(s) that the investigation has concluded and any other relevant information where appropriate.
- Implement any corrective action.

All employees are required to fully cooperate with any investigation conducted under this policy.

Retaliation is Strictly Prohibited

The Town strictly prohibits and does not tolerate any retaliation against an individual because he or she has in good faith (1) made a complaint of, reported, or opposed harassment, either internally or with any government agency, or encouraged another to do so; or (2) testified or assisted in an investigation or proceeding involving harassment under the Human Rights Law or other anti-discrimination law. Such retaliation is unlawful and contrary to Town policy. An individual is protected from retaliation if he or she had a good faith belief that the practice complained of was unlawful, even if it ultimately does not rise to the level of a legal violation. This policy, however, does not protect any person making an intentionally false charge of harassment.

Retaliation consists of adverse action taken against the individual because he or she engaged in any of the protected activities described above. The action need not be job-related or occur in the workplace. Unlawful retaliation can be any action, more than trivial, that would have the effect of dissuading a reasonable worker from engaging in any protected conduct.

An adverse employment action is not retaliatory simply because it occurs after the protected activity in question. Employees continue to be subject to all job requirements and disciplinary rules after having engaged in protected activity. In order to make a claim of retaliation, the individual must be able to prove that the adverse action was retaliatory.

Statutory Provisions, Redress Rights, and Adjudication Forums for Sexual Harassment

Sex harassment and discrimination is unlawful pursuant to the New York Human Rights Law § 296.1 (codified as N.Y. Executive Law, Article 15), and the federal Civil Rights Act of 1964, Title VII (codified as 42 U.S.C. § 2000e et seq.).

The Human Rights Law applies to all employers in New York State with respect to sexual harassment and protects employees, paid or unpaid interns, and non-employees, regardless of immigration status. A complaint alleging a violation of the Human Rights Law may be filed with either the Division of Human Rights (DHR) or in New York State Supreme Court. Additional information about DHR can be found at www.dhr.ny.gov. If sexual harassment is found to have occurred, DHR or a court has the authority to award appropriate relief.

Title VII of the Civil Rights Act of 1964 applies to private employers with at least 15 employees. A complaint alleging a violation of Title VII may be filed with the Equal Employment Opportunity Commission (EEOC). If the EEOC determines that there is reasonable cause to believe that harassment occurred, it will issue a Right to Sue letter permitting the complainant to file a complaint in federal court. The EEOC does not hold hearings or award relief, but may pursue cases in federal court on behalf of a complainant. Additional information about EEOC can be found at www.eeoc.gov. If harassment is found to have occurred, federal courts may award appropriate relief.

There may also be applicable local laws that protect individuals from sexual harassment. An individual may contact the county, city, town, or village in which they live to determine whether such a local law exists.

The remedies available to victims of sexual harassment vary depending on the circumstances and forum involved, but may include requiring the defendant(s) to take action to stop the harassment, or redress the damage caused, including reinstatement/instatement to a job, payment of monetary damages (e.g., back pay, out-of-pocket expenses), compensatory damages, punitive damage in certain circumstances, reasonable attorneys' fees, and civil fines.

If the sexual harassment involves unwanted physical touching, coerced physical confinement, or coerced sex acts, the conduct may constitute a crime. Redress can be sought by contacting the local police department.

Administration of Policy

This policy is intended to comply with and implement New York law regarding sexual harassment policies (Labor Law § 201-g) and any accompanying regulations. To the extent that this policy is inconsistent therewith, the law and applicable regulations will apply.

**TOWN OF LANCASTER
COMPLAINT FORM**

If you believe that you have been subject to unlawful harassment or retaliation, you are strongly encouraged to complete this form and submit it to the Director of Administration & Finance or the Payroll Supervisor in the Town Supervisor's Office. Please complete all aspects of this form in as much detail as possible. In particular, you are encouraged to include your name and contact information, as anonymous complaints may be very difficult, if not impossible, to adequately investigate.

The Town prohibits retaliation of any kind against an individual for making a complaint in good faith.

Please use additional sheets of paper if necessary.

Your Name: _____

Your Phone: _____

Your Email: _____

Your Title/Position: _____

Your Supervisor: _____

Name and title of any alleged harasser or retaliator: _____

Relationship of any alleged harasser or retaliator to you:

Supervisor Subordinate Co-Worker Other _____

Details of the harassment or retaliation. Please include as much detail as possible, including what happened, a description of the incident(s) complained of, how it is affecting you and your work, and your reasons for believing that the conduct is sexual or other harassment or retaliation.

Date(s) of harassment or retaliation: _____

Is the harassment or retaliation continuing? Yes No Explain: _____

List the names and contact information of each witness or individual who may have information related to your complaint or who are otherwise involved:

Identify any documents or other evidence that you believe substantiates your complaint of harassment or retaliation. Attach any relevant documents and evidence.

The last question is optional, but may assist in the investigation.

Have you previously complained or provided information (verbal or written) about harassment or retaliation at the Town? If yes, when and to whom did you complain or provide information?

I certify that I have read (or have had read to me) the foregoing complaint and know the contents of this complaint; and that the foregoing is true and correct, based on my current knowledge, information, and belief.

Signature _____ **Date** _____

EMPLOYEE ACKNOWLEDGMENT FORM

I have received a copy of the Town of Lancaster Harassment Prevention Policy adopted by the Town Board on March 18, 2019. I agree to review the policy and abide by it at all times.

Employee Name (Please Print)

Employee Signature

Date