

## **Harassment & Discrimination in the Workplace**

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<b>Special Instructions:</b>		

### **I. PURPOSE**

The purpose of this policy is to maintain a healthy work environment in which all individuals are treated with respect and dignity and to provide procedures for reporting, investigating and resolving complaints of harassment and discrimination.

### **II. POLICY**

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

### **III. PROCEDURES**

#### **A. Prohibited Activity (Sexual Harassment and Harassment)**

1. Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when:
  - a. Submission to such conduct is made either explicitly or implicitly a term of condition of employment; or
  - b. Submission to or rejection of such conduct by an employee is used as the basis for employment decisions affecting the employee; or
  - c. Such conduct has the purpose or effect of unreasonably interfering with an employee’s work performance or creating an intimidating, hostile, or offensive working environment.
2. Harassment is any verbal, written, visual or physical act that creates a hostile, intimidating or offensive work environment or interferes with an individual’s job performance.
  - a. No employee shall either explicitly or implicitly ridicule, mock, deride, or belittle any person.
  - b. Employees shall not make offensive or derogatory comments to any person, either directly or indirectly, based on race, color, sex, religion, age, disability, sexual orientation, or national origin. Such harassment is a prohibited form of discrimination under state and federal employment law and/or is also considered misconduct subject to disciplinary action by the City.

#### **B. Covered Individuals**

Individuals covered under this policy include employees and applicants for employment, volunteers, members of the public, elected officials and appointed boards and commissions.

#### **C. Supervisory Responsibilities**

1. Each supervisor shall be responsible for preventing prohibited activities as defined above.

- a. Monitoring the work environment on a daily basis for signs that harassment may be occurring;
  - b. Training and counseling all employees on what constitutes harassment and sexual harassment, on the types of behavior prohibited by the City's policy and procedures for reporting and resolving complaints of harassment.
  - c. Stopping any observation that may be considered harassment, and taking appropriate steps to intervene, whether or not the involved employees are within 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 investigation. If a situation requires separation of the parties, care should be taken to avoid actions that appear to punish the complainant. Transfer or reassignment of any of the parties involved should be voluntary if possible and, if non-voluntary, should be temporary pending the outcome of the investigation.
2. Each supervisor has the responsibility to assist any employee of this agency who comes to that supervisor with a complaint of harassment in documenting and filing a complaint with the internal investigations authority as designated by this agency.
  3. Failing to carry out these responsibilities will be considered in any evaluation or promotional decisions and may be grounds for discipline.

#### **D. Employee Responsibilities**

1. Each employee of this agency is responsible for assisting in the prevention of harassment through the following acts:
  - a. Refraining from participation in, or encouragement of actions that could be perceived as harassment;
  - b. Reporting acts of harassment to a supervisor; and
  - c. Encouraging any employee who confides that he or she is being harassed or discriminated against to report these acts to a supervisor.
2. 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.

#### **E. Complaint Procedures**

1. Any employee encountering harassment is encouraged but not required to inform the person that his or her actions are unwelcome and offensive. This initial contact can be either verbal or in writing. The employee is to document all incidents of harassment in order to provide the fullest basis for investigation. Documentation should include but is not limited to:
  - The date and times which the alleged incident(s) occurred.
  - The location of any incident(s).
  - The circumstances surrounding any incident(s).
  - Whether any witnesses to the incident(s) exist.
  - Whether any witnesses exist who might be able to substantiate corroborating facts in the occurrence(s).
  - Whether any personnel or other records exist which might have an impact upon the investigation.

(Personal Notes): Allegations shall be deemed to be made upon personal knowledge unless stated as being made upon information and belief. While the City of New London encourages individuals to keep written notes in order to accurately record objectionable conduct, the City of New London hereby notifies all employees that the complainant's written notes may be subject to disclosure as evidence in any administrative or judicial proceedings arising there from.

2. Any employee who has unsuccessfully attempted to terminate the harassment by means of Section 1 and who believes that he or she is being harassed shall report the incident(s) as soon as possible to

their supervisor so that steps may be taken to protect the employee from further harassment, and so that appropriate investigative and disciplinary measures may be initiated. Where doing so is not practical, the employee may instead file a complaint with another supervisor, Human Resources, the City Attorney, City Administrator or Mayor.

- a. 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, any witnesses to the incident(s) and the date(s) on which it occurred.
3. An employee should utilize the City's internal reporting procedure first. However, if after utilizing this procedure the complainant feels the complaint has not been adequately addressed, the employee may file a complaint with either or both of the following:
- a. State of Wisconsin Equal Rights Agency  
201 East Washington Avenue  
Madison, WI 53703  
Phone: (608) 266-6860
  - b. Equal Employment Opportunity Commission  
210 Martin Luther King Boulevard  
Madison, WI 53703  
Phone: (608) 266-4910

If the employee exercises the reporting options of (a) or (b) from above, they must file a copy of the complaint with the City Attorney within 24 hours of filing of the complaint.

4. The internal investigation authority shall be responsible for investigating any complaint alleging harassment or discrimination.
  - a. The internal investigative authority shall immediately notify the chief executive officer and the City Attorney if the complaint contains evidence of criminal activity, such as battery, rape or attempted rape.
  - b. The investigation shall include a determination as to whether other employees are being harassed by the person, and whether other City employees participated in or encouraged the harassment.
  - c. The internal investigative authority shall inform the parties involved of the outcome of the investigation.
  - d. A file of harassment and discrimination complaints shall be maintained in a secure location. The chief executive officer shall be provided with an annual summary of these complaints.
5. 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.
6. The complaining party's confidentiality will be maintained throughout the investigatory process to the extent practical and appropriate under the circumstances.
7. Complaints or employees accused of harassment may file a grievance/appeal in accordance with City procedures when they disagree with the investigation or disposition of a harassment claim.

## **F. Retaliation**

1. Retaliation against any employee for filing a harassment or discrimination complaint, or for assisting, testifying, or participating in the investigation of such a complaint, is illegal and is prohibited by this City and by federal statutes.
2. Retaliation is a form of employee misconduct. Any evidence of retaliation shall be considered a separate violation of this policy and shall be handled by the same complaint procedures established for harassment and discrimination complaints.

3. Monitoring to ensure that retaliation does not occur is the responsibility of the chief executive officer, supervisors and the appropriate internal investigative authority.

#### **G. False Accusations**

1. If an investigation results in a finding that the complainant falsely accused another of sexual harassment knowingly, or in a malicious manner, the complainant will be subject to discipline up to and including termination.

#### **H. Records Maintenance**

1. The City of New London shall maintain a complete written record of each complaint and how it was investigated and resolved. Written records shall be maintained in a confidential manner in the office of the City Administrator, except where disclosure is required under the Open Records Law. Written records will be maintained for seven (7) years from the date of the resolution unless new circumstances dictate that the file should be kept for a longer period of time.

### **IV. DEFINITIONS**

- A. **Verbal Harassment:** Sexual innuendoes, degrading or suggestive comments, repeated pressure for dates, jokes of a sexual nature, unwelcome sexual flirtations, degrading words used to describe an individual, obscene and/or graphic descriptions of an individual's body or threats that job, wages, assignments, promotions or working conditions could be affected if the individual does not agree to a suggested sexual relationship.
- B. **Non-Verbal:** Sexually suggestive or offensive objects or pictures, inappropriate usage of voicemail, e-mail, the internet or other such sources as a means to express or obtain sexual material, comments etc., printed or written materials including offensive cartoons, suggestive or offensive sounds, whistling, catcalls or obscene gestures. Any material which inappropriately raises the issues of sex or discrimination. Treating an employee differently than other employees when they have refused an offer of sexual relations.
- C. **Physical:** 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.
- D. **Other Forms of Harassment:** Persistent and unwelcome conduct or actions on the basis of disability, sex, arrests or conviction record, marital status, sexual orientation, membership in the military reserve, or use or nonuse of lawful products away from work is prohibited under this policy and s.111.31-111.39, Wis. Stats.
- E. **Harassment on any basis (race, sex, age, disability etc.) exists whenever:** Submission to harassing conduct is made, either explicit or implicit, a term or condition of an individual's employment; submission to or rejection of such conduct is used as the basis for an employment decision affecting an individual; the conduct interferes with an employee's work or creates an intimidating, hostile, or offensive work environment. Such conduct is prohibited under this policy and §111.31-111.39 Wis. Stats.
- F. **Unwelcome:** Sexual conduct is unwelcome whenever the person subjected to it considers it unwelcome. The conduct may be unwelcome even though the victim voluntarily engages in it to avoid adverse treatment.