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## **City of Holyoke MA - Sexual Harassment Policy**

It is the policy of the City of Holyoke to maintain and promote a work environment free from all forms of sexual harassment. In addition, the City of Holyoke affirms its commitment to maintain and promote a work environment free from all forms of harassment and discrimination, including, but not limited to, discrimination based upon age, ancestry, color, creed, disability, ethnicity, family status, gender, genetic information, marital status, military status, national origin, political affiliation, pregnancy, race, religion, sex, sexual orientation, or veteran status.

All employees are expected to conduct themselves in an appropriate manner with courtesy and respect for others. No harassment of any kind will be tolerated by the City.

Procedures and policies set forth in this Sexual Harassment Policy should also be utilized for claims of all types of discrimination or harassment.

### **1. What Is Sexual Harassment?**

(A) Sexual harassment is a form of sex discrimination. Sexual harassment in the workplace and retaliation for reporting sexual harassment or cooperating with a sexual harassment investigation are unlawful under both Commonwealth and federal law and will not be tolerated by the City.

(B) In Massachusetts, "sexual harassment" means sexual advances, requests for sexual advances, and verbal or physical conduct of a sexual nature when:

(1) Submission to, or rejection of, such advances, requests, or conduct is made either explicitly or implicitly a term or condition of employment, or as a basis for employment decisions; or

(2) Such advances, requests, or conduct have the purpose or effect of unreasonably interfering with an individual's work performance by creating an intimidating, hostile, humiliating, or sexually offensive work environment.

Thus, direct or implied requests by a supervisor for sexual favors in exchange for actual or promised job benefits, such as favorable reviews, salary increases, promotions, increased benefits, or continued employment, constitute sexual harassment.

(C) Sexual harassment is not limited to conduct by a male employee toward a female employee. The victim of sexual harassment may be male or female. Likewise, a harasser may be male or female.



(D) Sexual harassment is not limited to prohibited conduct by a supervisor toward a subordinate employee. Sexual harassment can also involve conduct by one employee toward a coworker. In some circumstances, sexual harassment may even involve a non-employee as the harasser or the victim of harassment.

## 2. Examples of Conduct That May Constitute Sexual Harassment

Although the definition of sexual harassment is broad, other sexually oriented conduct, whether intended or not, that is unwelcome and that has the effect of creating a workplace that is hostile, offensive, intimidating, or humiliating may also constitute sexual harassment.

The City's Sexual Harassment Policy prohibits conduct or behavior of an offensive or sexual nature that may go beyond what is prohibited by law. While it is not possible to list all additional circumstances that may constitute sexual harassment, the following are some examples of conduct that violate the City's policy and that may also constitute sexual harassment under the law, depending upon the totality of the circumstances, including the severity of the conduct and its pervasiveness.

- A supervisor indicates to a subordinate that the subordinate's performance review will be affected by whether the subordinate is willing to date the supervisor.
- A supervisor tells an employee that he/she could be promoted if he/she grants certain sexual favors to the supervisor.
- A manager demotes an employee because the employee refuses to share a bed with the manager during an out of town conference.
- Sexual advances, whether or not they involve physical touching.
- Sexual epithets, jokes, or oral or written references to sexual conduct.
- Gossip regarding one's sex life, comments about an individual's body, or comments about an individual's sexual activity, deficiencies, or prowess.
- Displaying sexually suggestive objects or materials, including, but not limited to, photographs, drawings, cartoons, postcards, or calendars.
- Leering, whistling, brushing against the body, sexual gestures, or suggestive or insulting comments.
- Inquiries into one's sexual activities or experiences.
- Discussion of one's sexual activities or experiences.
- Transmitting or accessing sexually explicit materials by computerized or other means.
- Touching, pinching, groping, kissing, or patting the body of another person.
- Repeatedly asking a person for a date or to socialize outside of work after being informed that such conduct is unwelcome.
- Exerting pressure on another person for sex or a romantic relationship.
- Following, shadowing, or stalking a person.



Retaliation against an individual who has complained about sexual harassment and retaliation against an individual for cooperating with an investigation of a sexual harassment complaint are both unlawful and will not be tolerated.

### 3. Responsibilities of Department Heads and Supervisors

Department Heads and supervisors should ensure that all employees refrain from all forms of discrimination or harassment. Any Department Head or supervisor who witnesses, receives a report of, or otherwise acquires knowledge of conduct prohibited by the City's Sexual Harassment Policy shall intervene and stop such harassment by citing the City's Sexual Harassment Policy and, when necessary, by instituting disciplinary action.

In addition, any Department Head or supervisor who witnesses, receives a report of, or otherwise acquires knowledge of conduct prohibited by the City's Sexual Harassment Policy shall report the conduct or incident immediately to the Personnel Administrator. The Department Head or supervisor shall submit a written statement to the Personnel Administrator within twenty-one (21) days of the alleged sexual harassment or alleged inappropriate conduct of a sexual nature detailing and including the following:

- (a) Specific conduct objected to;
- (b) Date(s) and time(s) such conduct took place;
- (c) Party/Parties against whom such conduct was directed;
- (d) Name(s) of the alleged harasser(s);
- (e) Location(s) where the conduct occurred; (f) Name(s) of any witnesses;
- (g) Any documentation (cards, notes, photographs, pictures, etc.) or other corroboration of the harassment; and
- (h) Any other relevant details or information, including information requested by the Personnel Administrator.

Department Heads and supervisors are required to cooperate fully in any investigation of alleged sexual harassment.

### 4. Responsibilities of All Employees

Each employee is personally responsible for ensuring that his/her conduct does not in any way sexually harass any other employee or non-employee with whom he/she has contact in the performance of his/her duties. Each employee is required to cooperate fully in any investigation of alleged sexual harassment.

Any employee who witnesses, receives a report of, or otherwise acquires knowledge of conduct prohibited by the City's Sexual Harassment Policy shall report the conduct or incident immediately to his/her supervisor or to the Personnel Administrator.



## 5. Procedure for Reporting Sexual Harassment

The following sexual harassment complaint procedure has been established to ensure prompt and effective investigation into allegations of sexual harassment.

If an individual believes that he/she is being sexually harassed or subjected to inappropriate conduct of a sexual nature, the individual should:

- (1) Immediately report the situation to his/her supervisor or Department Head, or to the Personnel Administrator; and
- (2) Submit a written complaint to the Personnel Administrator within twenty-one (21) days of the alleged sexual harassment or alleged inappropriate conduct of a sexual nature detailing and including the following:
  - (a) Specific conduct objected to;
  - (b) Date(s) and time(s) such conduct took place; (c) Name(s) of the alleged harasser(s);
  - (d) Location(s) where the conduct occurred; (e) Name(s) of any witnesses;
  - (f) Any documentation (cards, notes, photographs, pictures, etc.) or other corroboration of the harassment; and
  - (g) Any other relevant details or information, including information requested by the Personnel Administrator.

## 6. Investigation of Complaints

The Personnel Administrator shall investigate and act upon complaints of sexual harassment in a prompt and timely manner. The Personnel Administrator shall answer, in writing, a written complaint within ten (10) days of the date the written complaint was received by the Personnel Administrator.

The Personnel Administrator will inform the alleged harasser(s) of the complaint, interview the alleged harasser(s) regarding the circumstances of the complaint, and require the alleged harasser(s) to submit a detailed written response to the complaint within ten (10) days of informing the alleged harasser(s) of the complaint. The Personnel Administrator will also interview and obtain written statements from potential witnesses.

If the Personnel Administrator concludes that sexual harassment has occurred, the matter shall be referred immediately for appropriate disciplinary action. Moreover, the Personnel Administrator will act promptly to eliminate the offending conduct.

The Personnel Administrator shall also provide a written decision detailing the results of his/her investigation and the determination whether sexual harassment occurred to all



interested parties within twenty-one (21) days of the date the written complaint was received by the Personnel Administrator.

(a) Appeal to City Solicitor

If an employee is not satisfied with the handling of a sexual harassment complaint by the Personnel Administrator, the employee may submit a written appeal to the City Solicitor within ten (10) days of receiving the decision of the Personnel Administrator. The employee shall explain in the written appeal why he believes the decision of the Personnel Administrator was in error.

The City Solicitor shall investigate the appeal and conduct a hearing within twenty-one (21) days of receiving the written appeal with all interested parties to discuss the matter. The City Solicitor shall provide his/her decision, including an explanation of his/her reasoning therefore, to all interested parties within ten (10) days after the hearing.

(b) Appeal to Mayor

If dissatisfied with the decision of the City Solicitor, the aggrieved employee retains the right to appeal the Solicitor's decision directly to the Mayor. The employee shall submit a written appeal to the Mayor within ten (10) days of receiving the decision of the City Solicitor. The employee shall explain in the written appeal why he believes the decision of the City Solicitor was in error.

The Mayor, at his/her discretion, may investigate the written appeal or may rely upon the investigation conducted by the City Solicitor. The Mayor shall conduct a hearing within twenty-one (21) days of receiving the written appeal with all interested parties to discuss the matter. The Mayor shall provide his/her decision, including an explanation of his/her reasoning therefore, to all interested parties within ten (10) days after the hearing.

7. Consequences of Violation of Sexual Harassment Policy

Any employee who violates the City's Sexual Harassment Policy shall be subject to disciplinary action, up to and including termination. In appropriate circumstances, the City may refer the matter to law enforcement officials for possible prosecution.

8. Confidentiality

Investigations of complaints of sexual harassment shall be conducted in such a manner as to disclose information only to those with a need to know or to those who may have information pertinent to the investigation. The City shall endeavor to keep such information as confidential as possible without compromising the thoroughness of the investigation.



#### 9. Retaliation

Retaliation against an individual who has complained about sexual harassment and retaliation against an individual who has cooperated with an investigation of a sexual harassment complaint are both unlawful and will not be tolerated by the City.

#### 10. Commonwealth and Federal Authorities

In addition to the procedures outlined in the City's Sexual Harassment Policy, an individual who has a complaint concerning sexual harassment or any other type of discrimination may file a formal complaint with the following authorities:

- Massachusetts Commission Against Discrimination (MCAD)

436 Dwight Street

Springfield, MA 01103

Telephone: (413) 739-2145

- Equal Employment Opportunity Commission (EEOC) One Congress Street, Room 1001

Boston, MA 02114

Telephone: (617) 565-3200

#### 11. Receipt and Acknowledgment

The Personnel Administrator shall provide annually to all employees, and to new employees upon their employment with the City, an individual written copy of the City's Sexual Harassment Policy. The Personnel Administrator shall also provide all employees with an individual written copy of an updated Sexual Harassment Policy.

Every employee must read the City's Sexual Harassment Policy, familiarize himself with the material therein, and sign the Acknowledgement Form distributed by the Personnel Administrator. All employees must submit to the Personnel Department, within thirty (30) days of their date of hire and within thirty (30) days of the date of receipt of an updated Sexual Harassment Policy, a signed Acknowledgment Form certifying that they have received a copy of the City's Sexual Harassment Policy and that they understand that they are required to abide by the City's Sexual Harassment Policy.



**ACKNOWLEDGMENT OF RECEIPT OF CITY OF HOLYOKE SEXUAL HARASSMENT POLICY**

I hereby acknowledge that I have received a copy of the City of Holyoke's Sexual Harassment Policy.

I understand that I am required to abide by the Sexual Harassment Policy of the City of Holyoke throughout the time that I am employed by, or otherwise work for, the City of Holyoke.

I understand that the City's Sexual Harassment Policy is subject to change at any time.

I agree to read the City's Sexual Harassment Policy thoroughly. I agree that I will seek clarification from the Personnel Administrator if there is any policy, provision, procedure, or any other term or language in the City's Sexual Harassment Policy that I do not understand.

I understand and hereby agree and acknowledge that receipt of the City's Sexual Harassment Policy, in conjunction with employment with the City, shall serve as acknowledgment and acceptance of its terms.

\_\_\_\_\_  
DATE

\_\_\_\_\_  
EMPLOYEE NAME (Print/Type)

\_\_\_\_\_  
EMPLOYEE SIGNATURE