

SEXUAL AND OTHER FORMS OF EMPLOYEE HARASSMENT

Revised August 1998

SECTION: 16

CATEGORY: GENERAL

A. PURPOSE:

It is the purpose of this policy to assure a working environment which is free from sexual and other forms of employee harassment and to promote compliance with the legal mandates of state and federal law.

B. DEFINITIONS:

1. Sexual Harassment - Any behavior or conduct of a sexual nature which is pervasive, insulting, unwelcome, demeaning, ridiculing, derisive, or coercive and results in a hostile, abusive, or intimidating work environment constitutes sexual harassment.
2. Harassment - Any behavior which is defined under sexual harassment or behavior which is deemed to be hostile, abusive, insulting, intimidating, violent, or threatening constitutes employee harassment.

C. POLICY:

1. Harassment in the work place is not acceptable and will not be tolerated. All employees including elected officials, appointed personnel, and volunteers shall avoid any behavior or conduct toward any other employee which could be interpreted as sexual or employee harassment.
2. Discrimination based on harassment, subtle or otherwise, shall not be tolerated; employees found to be violators shall be subject to disciplinary action up to and including termination or referral for criminal prosecution.
3. Any quid pro quo behavior which offers job advancements, enhancements or other tangible job benefits in return for sexual favors shall be prohibited and subject to disciplinary action up to and including termination.
4. Harassment complaints may be filed regardless of whether or not the behavior occurred on or off duty if it resulted in a hostile work environment.

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5. Supervisors who knew or should have known that harassing behavior was occurring on duty, or have been made aware of such behavior occurring off duty which resulted in a hostile work environment and did not take timely action to correct the situation shall be subjected to disciplinary action up to and including termination.
6. Malicious or frivolous complaints of harassment shall result in corrective or disciplinary action, up to and including termination, taken against the complainant.
7. Individuals affected by alleged harassment may, but shall not be required to, confront the accused harasser before filing a complaint (See Section 16E - Complaint Procedure).
8. The accused shall not contact the complainant regarding allegations of harassment once a complaint has been filed.

D. REPRISALS

1. Reprisals against any individual(s) associated with a harassment complaint, investigation, or proceeding are prohibited.
2. Any act of reprisal toward such individual(s) shall result in disciplinary action up to and including termination. Prohibited reprisal actions shall include, but are not limited to, the following:
 - (a) open hostility;
 - (b) exclusion/ostracism;
 - (c) creation of, or the continued existence of, a hostile work environment;
 - (d) gender based negative remarks;
 - (e) special attention to or substantial and unjustified changes in individual work assignments;
 - (f) tokenism or patronizing behavior;
 - (g) discriminatory treatment;

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- (h) subtle harassment; or
- (i) unreasonable supervisory-imposed time restrictions on individuals in preparing complaints or compiling evidence of harassment activities or behaviors.

E. COMPLAINT PROCEDURE

1. Individuals who feel they have been harassed shall be afforded avenues for filing complaints which are free from bias, collusion, intimidation, or reprisal. Affected individuals:
 - a) shall continue to report to work,
 - b) are encouraged to attempt to verbalize disapproval of the action to the perpetrator and demand that it cease; however, individuals shall not be required to confront the accused harasser before filing the complaint,
 - c) are encouraged to document the behavior and identify witnesses,
2. If the problem persists, the affected individual shall file a formal complaint by immediately notifying their supervisor, department head, director of human resources, or city attorney. Notification shall be as follows:
 - a) Complaints may be submitted by any individual with knowledge of the behavior.
 - b) Complaints may be made through either verbal or written notification; however, written notification is preferred.
3. Any supervisor with knowledge of harassment shall take immediate, appropriate action to resolve the situation. (See Section F below - Preliminary Review).
4. To the extent possible, complaints shall be handled with confidentiality.

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F. PRELIMINARY REVIEW

1. The individual to whom the complaint was made shall initiate a preliminary review in cooperation with the preliminary review committee. The preliminary review committee shall consist of the complainant and accused department head(s), director of human resources, and city attorney. If a conflict of interest arises, the preliminary review committee may be modified by committee members.
2. Based upon its findings and recommendations the committee may seek resolution of the harassment complaint by obtaining a mutual agreement to resolve issues with the complainant and accused.
3. Agreements toward resolution of the harassment shall be documented in writing with all parties receiving copies.
4. If information is received that any employee refuses to comply with the agreed upon resolution or if the harassing behavior continues, a formal investigation shall be initiated following the notice of noncompliance.
5. If after a preliminary review, the review committee determines that an investigation is not warranted, the complainant and accused shall be notified.
6. If the preliminary review results in findings of a bad faith or false claim, the individual filing such action shall be subject to corrective action, up to and including termination.

G. INVESTIGATIVE PROCEDURE & RESULTS OF THE INVESTIGATION

1. If a claim of harassment cannot be resolved by the preliminary review process, the director of human resources and city attorney shall promptly begin the investigation. The determination of whether a particular action constitutes harassment shall be made based on the facts and circumstances of each case in which the alleged incidents occurred.
2. If the investigation reveals that harassment occurred and disciplinary action is warranted, the department head shall be advised and shall take appropriate action as specified under Tooele City disciplinary policy.
3. If an investigation reveals evidence of criminal conduct, the matter shall be

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referred to the city attorney.

4. If the investigation reveals that the accusations are unfounded, this information shall be documented, the investigation terminated, and all parties involved notified by the director of human resources.
5. If the investigation results in finding of a malicious, frivolous, bad faith, or false claim, the complainant shall be subject to corrective or disciplinary actions up to and including termination.

H. RECORDS

1. A separate file for each harassment complaint shall be maintained and stored in Tooele City's human resource office. Information in the harassment files shall be maintained for a minimum of 5 years and may thereafter, be destroyed. Related material such as disciplinary actions, shall be maintained in the individual's personnel file and in accordance with the respective provision of the policies and procedures manual.
2. Separate files related to harassment complaints shall not be kept by supervisors.
3. Pursuant to this policy, all information contained in the harassment protected file shall be classified as protected pursuant to requirements of law, Government Records Access and Management Act, Section 63-2-101 et. Seq.
4. Information contained in the harassment protected file shall only be released by the director of human resources or the city attorney and only when in compliance with the requirements of law. A record of any such release and the reason shall be placed in the file.
5. Participants in any harassment proceeding shall treat all information as protected.
6. Final disposition of harassment cases shall be communicated to the appropriate parties by the director of human resources.