

City of Westfield

Harassment, Discrimination and Sexual Harassment Policy

I. Introduction

It is the goal of the City of Westfield to promote a workplace that is free of harassment of any type, including but not limited to harassment of a discriminatory or sexual nature. Harassment consists of unwelcome conduct, whether verbal or physical, that is based on a characteristic protected by law, such as gender, race, color, national origin, ancestry, religion, age, disability, genetics, military status, sexual orientation, or participation in discrimination complaint-related activities (retaliation). The City of Westfield will not tolerate harassing conduct that affects employment conditions, that interferes unreasonably with an individual's performance, or that creates an intimidating, hostile, or offensive work environment.

Harassment of employees occurring in the workplace, in connection with work-related travel, and/or work-sponsored events will not be tolerated. Further, any retaliation against an individual who has complained about harassment or retaliation against individuals for cooperating with an investigation of a harassment complaint is similarly unlawful and will not be tolerated.

Because the City of Westfield takes allegations of harassment seriously, we will respond promptly to complaints of harassment. Where it is determined that inappropriate conduct has occurred, we will act promptly to eliminate the conduct and impose such corrective action as is necessary, including disciplinary action where appropriate.

Please note that while this policy sets forth our goals of promoting a workplace that is free of harassment, the policy is not designed or intended to limit our authority to discipline or take remedial action for workplace conduct which we deem unacceptable, regardless of whether that conduct satisfies the definition of harassment.

II. Definitions

“Harassment” means unwelcome conduct, whether verbal or physical, that is designed to threaten, intimidate, or coerce an individual in the workplace; and is based on a characteristic protected by law. Harassment includes, but is not limited to:

1. Display or circulation of written materials or pictures that are degrading to a person or group as previously described.
2. Verbal abuse, slurs, derogatory comments, or insults about, directed at, or made in the presence of an individual or group as previously described.

“Sexual harassment” means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

Under these definitions, 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 constitutes sexual harassment.

The definition of sexual harassment is broad. In addition to the above examples, other unwelcome sexually oriented conduct, whether intended or not, that has the effect of creating a work environment that is hostile, offensive, intimidating or humiliating to either male or female workers may also constitute sexual harassment.

While it is not possible to list all those additional circumstances that may constitute sexual harassment, the following are some examples of conduct which, if unwelcome, may constitute sexual harassment depending upon the totality of the circumstances including the severity of the conduct and its pervasiveness:

- Unwelcome sexual advances – whether they involve physical touching or not;
- Sexual epithets, jokes, written or oral references to sexual conduct, gossip regarding one's sex life; comment on an individual's body, comment about an individual's sexual activity, deficiencies, or prowess;
- Displaying sexually suggestive objects, pictures, cartoons;
- Unwelcome leering, whistling, brushing against the body, sexual gestures, suggestive or insulting comments;
- Inquiries into one's sexual experiences; and,
- Discussion of one's sexual activities.

All employees should take special note that, as stated above, retaliation against an individual who has complained about sexual harassment, and retaliation against individuals for cooperating with an investigation of a sexual harassment complaint is unlawful and will not be tolerated by this organization.

III. Complaint Procedures

All employees, managers, and supervisors of the City share responsibility for avoiding, discouraging and reporting any form of discriminatory harassment. The primary responsibility for ensuring proper investigation and resolution of harassment complaints rests with the City of Westfield Personnel Director or their designee, who will administer the policy and procedures described herein.

If any of our employees believe that they have been subjected to harassment, the employee has the right to file a complaint with our organization. This may be done in writing or orally and should be filed with the employee's immediate supervisor or Department Head. If an employee cannot file a complaint comfortably because the alleged harasser is involved with the complaint procedure, the initial complaint should be made to the Personnel Director or their designee.

Prompt reporting of harassment is in the best interest of our organization and is essential to a fair, timely, and thorough investigation. Accordingly, complaints should be filed as soon as possible following the incident(s) at issue. The Personnel Director is also available to provide information to you about our policy on harassment and our complaint process.

IV. Complaint Investigation

When we receive the complaint, we will promptly investigate the allegation in a fair and expeditious manner to determine whether there has been a violation of our policy. The investigation will be conducted in such a way as to maintain confidentiality to the extent practicable under the circumstances, but confidentiality cannot be guaranteed. Our investigation may include private interviews with the person filing the complaint and with witnesses. We may also interview the person alleged to have committed harassment. The complainant, the person alleged to have committed harassment, and all witnesses are required to fully cooperate with all aspects of an investigation. The employee being interviewed may request to have an individual or representative accompany them to the interview. The individual may be present for support but shall not speak for the interviewee or otherwise participate in the interview.

At the conclusion of the investigation the Personnel Director or their designee shall make a written report. The report shall identify the conduct complained of, shall state the facts as found and shall, if a conclusion may be drawn from the facts, state a conclusion as to whether unlawful harassment took place or not. To the extent possible, the complaining employee and the person alleged to have committed the conduct shall be notified at the completion of the investigation.

Notwithstanding any provision of this policy, we reserve the right to investigate and take action on our own initiative in response to behavior and conduct which may constitute harassment or otherwise be inappropriate, regardless of whether an actual complaint has been filed.

V. Disciplinary Action

If the final report concludes that unlawful harassment did occur, the investigator shall forward the final report to the appropriate appointing authority with such recommendations as they deem proper. The appointing authority may consult with whomever is appropriate, e.g. Law Department, Personnel Director, and must commence the process to take such corrective or disciplinary action as is suitable under the circumstances.

Such action may range from counseling to termination from employment and may include such other forms of disciplinary action as is deemed appropriate under the circumstances. Any discipline will be taken in accordance with applicable labor contracts.

Employees found to have knowingly made false accusations of or knowingly given false statements regarding discrimination, sexual harassment and/or retaliation may be disciplined up to and including termination.

VI. State and Federal Remedies

In addition to the above, if you believe you have been subjected to discriminatory harassment of any type, including sexual harassment, you may file a formal complaint with either or both of the government agencies set forth below. Using our complaint process does not prohibit you from filing a complaint with these agencies. Each of the agencies requires that claims be filed within 300 days from the alleged incident of when the complainant became aware of the incident.

The United States Equal Employment Opportunity Commission (“EEOC”)

JFK Federal Building
15 New Sudbury Street Room 475
Boston, MA 02203-0506,
(800) 669-4000

The Massachusetts Commission Against Discrimination (“MCAD”)

Boston Office:
One Ashburton Place, Room 601, Boston, MA 02108
(617) 994-6000

Springfield Office:
436 Dwight Street, Room 220, Springfield, MA 01103
(413) 739-2145

Worcester Office:
18 Chestnut Street, Room 520, Worcester, MA 01641
(508) 453-9630