

# CITY OF MEDINA POLICY PROHIBITING DISCRIMINATION AND SEXUAL HARASSMENT

## Section 1: Purpose

The purpose of this policy is to state the City of Medina's position prohibiting discrimination and prohibiting sexual harassment. This policy is designed to address sexual harassment by defining what it is, by assisting employees in identifying sexual harassment, by listing types of sexual harassment and some concrete examples, by describing who can be involved in sexual harassment, and by providing employees a procedure by which they can complain of sexual harassment and have their complaints investigated and resolved. This policy shall serve to encourage any employee who believes that he or she is a victim of sexual harassment to come forward and to voice the complaint to his or her superior so that the City of Medina can act to terminate any sexual harassment.

## Section 2: City Policy Governing Discrimination

It is the policy of the City of Medina and all departments thereof, to provide equal employment opportunity and equal treatment to all employees in all aspects of employment without regard to race, color, religion, sex (including pregnancy), age (40 or over), national origin, or physical or mental disability of an otherwise qualified individual.

## Section 3: Sexual Harassment Defined

"Sexual Harassment" is defined as unwelcome sexual advances, requests for sexual favors, and other verbal, visual, written or physical conduct of a sexual nature when:

- A. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; or
- B. Submission to or rejection of such conduct by any individual is used as the basis for employment decisions affecting an individual; or
- C. The purpose or effect of such conduct is to substantially interfere with the individual's work performance or to create a hostile or abusive work environment.

#### Section 4: Identification of Sexual Harassment

Sexual harassment may occur in a variety of forms. Four categories of sexual harassment and some concrete examples of conduct that may constitute sexual harassment, if unwelcome, are:

A. Verbal - unwelcome words of a sexual nature directed at another, including: making sexual demands or sexual propositions; sexual innuendoes; demeaning sexual jokes; references to a person's anatomy; catcalls; whistles; demeaning name-calling; remarks on the intimate details of one's life or sexual likes or preferences; and, if unwelcome invitations including, but not limited to, lunch, dinner, drinks, or dates.

B. Visual - unwelcome exposure to visual objects, electronic or otherwise, such as: pictures, photos, drawings, cartoons, magazines, objects or posters (including poster calendars); sexually obscene gestures or obvious staring and nudity.

C. Written - notes or letters of sexual content or propositions; sexually-explicit literature, poems, or magazine articles; and obscene words, phrases or graphics on walls, bulletin boards, or posters.

D. Physical - unwelcome physical contact with another, including touching, hugging, kissing, patting, fondling, grabbing, rubbing, pinching, and in some instances close physical positioning.

This list does not include all the possible behavior which could be viewed as sexually harassing by the City and which could result in job discipline. It is merely a list of offensive behavior. Other behavior might be viewed as being sexually harassing depending on the circumstances and frequency in which they occur. Plus, some of the behavior on the list might not in all circumstances be sexually harassing, such as when they are not unwelcome.

Employees are reminded, however, that certain behavior may be inappropriate for other reasons, even if the behavior is not sexually harassing. For example, intimate behavior at work, such as kissing and handholding with a willing partner, is always unprofessional. The City wishes its employees to err on the safe side.

#### Section 5: Who Can Be Involved In Sexual Harassment

Sexual harassment can occur in a wide variety of circumstances and may encompass many variables. It is important to realize that:

- Victims can be of either gender (male or female);
- Harassers can be of either gender (male or female);
- Harassers may be supervisors of victims, but harassers may also be co-workers or even non-employees;
- Harassers may be elected officials;
- Harassers and victims need not be of the opposite gender, if the conduct is still based upon sex;
- Victims may be third-party observers, affected by the behavior of others and exposed to a hostile or abusive atmosphere based upon sex;
- Victims need not suffer any financial loss;
- The sexual harassment need not seriously affect a victim's psychological well being or lead the victim to suffer injury; instead, conduct or an environment based upon sex that a reasonable person would and does believe to be hostile or abusive constitutes sexual harassment.

**Section 6: If You Are Subjected To Sexual Harassment, Register A Complaint With Your Superiors**

Any employee of the City who feels he or she has been subjected to sexual harassment should register a complaint with his or her immediate superior. However, if it is the immediate superior who is the alleged harasser, the employee should register the complaint with the superior next in charge. If all supervisors over the employee are believed to be involved in the sexual harassment, the employee should register the complaint with the Law Director. If an employee believes that the Law Director is involved in the sexual harassment, the complaint should be made to any department-level supervisor, the Mayor or the Council President.

The sexual harassment complaint may initially be made verbally, by talking to the appropriate supervisor. The complaint will then be put in writing and signed and dated by the person complaining. Any employee may write his or her own complaint or, if the employee wishes, the supervisor or City Law Director will assist the employee in drafting a complaint of sexual harassment. The person receiving the complaint shall notify the City Law Director promptly.

To the extent practicable, a complaint of sexual harassment will be kept confidential, with due regard to the sensitive nature of such complaints.

**Section 7: Prompt Investigation of Complaint**

The City shall fully, impartially and promptly investigate any sexual harassment complaint filed by one of its employees.

**Section 8: Confidential Report of Investigation**

A confidential written report of the result of the investigation shall be submitted to either an impartial supervisor of the complainant or to the Mayor, depending on the situation at hand, with a copy to the City Law Director. Also, the complainant shall be promptly informed of the results of the investigation. If the investigation reveals that the accused harasser acted in a manner to sexually harass the complainant, the accused employee shall also receive a copy of the special investigator's report.

**Section 9: Prompt Remedial Action**

The City shall take prompt action to end any sexual harassment. Following a report finding that sexual harassment in fact occurred, the City shall take immediate steps to discipline the offending employee or employees, including, if appropriate, immediate discharge. Any City employee who acts in a manner to sexually harass any other City Employee is acting outside the line and scope of his or her employment with the City.

**Section 10: Right of Rebuttal**

Both the complaining employee and the employee who has been accused of sexual harassment have the right to submit facts, documents or other evidence contesting the report to a higher supervisor, or the Mayor, if the circumstances so dictate.

**Section 11: Retaliation Prohibited**

No employee of the City shall discharge or otherwise discriminate against or harass any other City employee who has filed a complaint of sexual harassment under this policy or who has

sought redress for sexual harassment with the Equal Employment Opportunity Commission or by instituting an action in Court.

**Section 12: False Claims**

Any employee of the City who knowingly files a false complaint shall be subject to disciplinary action up to and including, if deemed appropriate, termination of employment.

**Section 13: Notice**

The City shall take all appropriate steps to inform all employees of the City of the contents of this policy. Each department shall distribute a copy of this policy to its City employees, current and future.

The City of Medina encourages employees to come forward if they have a complaint of sexual harassment. The City assures each employee that no retaliatory action will be taken or allowed against an employee who asserts a sexual harassment complaint.

**Remember, if you do not make your complaint known to your superiors, there will not be any opportunity for the City to assist you in ending the sexual harassment.**