



**CITY OF  
TROY, NY**

# **Anti- Harassment and Discrimination Policy**

## **ANTI-HARASSMENT AND DISCRIMINATION POLICY**

The City of Troy is committed to maintaining a workplace free of discrimination and harassment. The City of Troy believes in the dignity of the individual and recognizes the right of any person to equal opportunities. In this regard, the City has had a longstanding practice of protecting and safeguarding the rights and opportunities of any person who might seek or obtain employment without being subjected to illegal discrimination or harassment in the workplace.

The City of Troy does not discriminate on the basis of race, color, religious creed (including religious dress and grooming practices), national origin (including language use restrictions), ethnicity, ancestry, disability (mental and physical) including HIV and AIDS, citizenship status, veteran status, sex (which includes pregnancy, childbirth, breastfeeding and medical conditions relating to those), age, sexual orientation, gender (including gender identity or gender expression), marital status, medical condition, genetic information, status as a victim of domestic violence, stalking or sexual assault, familial status, conviction status, or any other characteristic protected under applicable law. Equal employment opportunities will be extended to all persons in all aspects of the employment relationship, including recruitment, hiring, promotion, transfer, corrective action, layoff, recall, and separation. Sexual harassment is also a form of workplace discrimination.

The City of Troy will not tolerate sexual harassment, other illegal harassment or discrimination or retaliation and all employees are required to work in a manner that prevents harassment and discrimination in the workplace. This policy is one component of the City of Troy's commitment to a discrimination-free work environment.

### **I. POLICY**

1. The City of Troy's policy applies to all employees, applicants for employment, interns, whether paid or unpaid, contractors and persons conducting business, regardless of immigration status, with the City of Troy. In the remainder of this document, the term "employees" refers to this collective group.
2. Harassment, sexual harassment, discrimination, or retaliation will not be tolerated. Any employee or individual covered by this policy who engages in harassment or retaliation will be subject to remedial and/or disciplinary action (e.g., counseling, suspension, termination).
3. Retaliation Prohibition: No person covered by this Policy shall be subject to adverse action because the employee reports an incident of illegal harassment, sexual harassment, discrimination, or retaliation, provides information, or otherwise assists in any investigation of a harassment, discrimination or retaliation complaint. The City of Troy will not tolerate such retaliation against anyone who, in good faith, reports or provides information about suspected harassment, sexual harassment, discrimination or retaliation. Any employee of City of Troy who retaliates against anyone involved in a harassment, discrimination, sexual harassment or retaliation investigation will be subjected to

disciplinary action, up to and including termination. All employees, paid or unpaid interns, or non-employees<sup>1</sup> working in the workplace who believe they have been subject to such retaliation should inform a supervisor, manager, or the Personnel Officer. All employees, paid or unpaid interns or non-employees who believe they have been a target of such retaliation may also seek relief in other available forums, as explained below in the section on Legal Protections.

4. Harassment, discrimination, sexual harassment and retaliation is offensive, is a violation of our policies, is unlawful, and may subject the City of Troy to liability for harm to targets of harassment, discrimination or retaliation. Harassers may also be individually subject to liability. Employees of every level who engage in harassment, sexual harassment, discrimination or retaliation, including managers and supervisors who engage in harassment, discrimination or retaliation or who allow such behavior to continue, will be penalized for such misconduct.
5. The City of Troy will conduct a prompt and thorough investigation that ensures due process for all parties, whenever management receives a complaint about harassment, sexual harassment, discrimination or retaliation or otherwise knows of possible harassment, discrimination, retaliation or sexual harassment occurring. The City of Troy will keep the investigation confidential to the extent possible. Effective corrective action will be taken whenever harassment, sexual harassment, discrimination or retaliation is found to have occurred. All employees, including managers and supervisors, are required to cooperate with any internal investigation of harassment, discrimination, retaliation or sexual harassment.
6. All employees are encouraged to report any harassment or behaviors that violate this policy. The City of Troy will provide all employees a complaint form for employees to report harassment and file complaints.
7. Managers and supervisors are **required** to report any complaint that they receive, or any harassment that they observe or become aware of, to the Personnel Officer.
8. This policy applies to all employees, paid or unpaid interns, and non-employees and all must follow and uphold this policy. This policy must be provided to all employees and should be posted prominently in all work locations to the extent practicable (for example, in a main office, not an offsite work location) and be provided to employees upon hiring.

## **II. HARASSMENT IN THE WORKPLACE**

The City of Troy is committed to providing a work environment that is free of harassment, intimidation, retaliation and discrimination. In keeping with this commitment, the City of Troy prohibits all forms of illegal harassment, including sexual harassment and harassment based on

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<sup>1</sup> A non-employee is someone who is (or is employed by) a contractor, subcontractor, vendor, consultant, or anyone providing services in the workplace. Protected non-employees include persons commonly referred to as independent contractors, "gig" workers and temporary workers. Also included are persons providing equipment repair, cleaning services or any other services provided pursuant to a contract with the employer.

race, color, religious creed (including religious dress and grooming practices), national origin (including language use restrictions), ethnicity, ancestry, disability (mental and physical) including HIV and AIDS, citizenship status, veteran status, sex (which includes pregnancy, childbirth, breastfeeding and medical conditions relating to those), age, sexual orientation, gender (including gender identity or gender expression), marital status, medical condition, genetic information, status as a victim of domestic violence, stalking or sexual assault, familial status, conviction status or any other characteristic protected under applicable law.

The City of Troy's policy against inappropriate harassment, discrimination, and retaliation applies whether the inappropriate behavior is engaged in by an employee (i.e., co-worker, manager or supervisor) or non-employee (i.e., contractors, vendors, or customers). It is the responsibility of all City of Troy's employees to ensure that such conduct does not occur and to follow the complaint procedure set forth below.

Examples of "harassment" that are covered by this policy include offensive language, jokes, or other physical, verbal, written, or pictorial conduct relating to the employee's race, color, religious creed (including religious dress and grooming practices), national origin (including language use restrictions), ethnicity, ancestry, disability (mental and physical) including HIV and AIDS, citizenship status, veteran status, sex (which includes pregnancy, childbirth, breastfeeding and medical conditions relating to those), age, sexual orientation, gender (including gender identity or gender expression), marital status, medical condition, genetic information, status as a victim of domestic violence, stalking or sexual assault, familial status, conviction status or any other characteristic protected by applicable law that would make a reasonable person experiencing such behavior feel uncomfortable or would interfere with the person's work performance.

The examples above are just that – examples. It is impossible to list every type of behavior that can be considered harassment in violation of this policy. In general, any conduct based on these traits that could interfere with an individual's work performance or could create an offensive environment will be considered harassment in violation of this policy. This is the case even if the offending employee did not mean to be offensive.

Unlawful harassment and discrimination is not limited to the physical workplace itself. It can occur while employees are traveling for business or at employer sponsored events or parties. Calls, texts, emails, and social media usage by employees can constitute unlawful workplace harassment, even if they occur away from the workplace premises, on personal devices or during non-work hours.

### **III. WHAT IS SEXUAL HARASSMENT?**

Sexual harassment is a form of sex discrimination and is unlawful under federal, state, and (where applicable) local law. Sexual harassment includes harassment on the basis of sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity and the status of being transgender.

Sexual harassment includes unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual's sex when:

- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment, even if the reporting individual is not the intended target of the sexual harassment;
- Such conduct is made either explicitly or implicitly a term or condition of employment; or
- Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual's employment.

A sexually harassing hostile work environment includes, but is not limited to, words, signs, jokes, pranks, intimidation or physical violence which are of a sexual nature, or which are directed at an individual because of that individual's sex. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory statements or sexually discriminatory remarks made by someone which are offensive or objectionable to the recipient, which cause the recipient discomfort or humiliation, which interfere with the recipient's job performance.

Sexual harassment also occurs when a person in authority tries to trade job benefits for sexual favors. This can include hiring, promotion, continued employment or any other terms, conditions or privileges of employment. This is also called "quid pro quo" harassment.

Any employee who feels harassed should report so that any violation of this policy can be corrected promptly. Any harassing conduct, even a single incident, can be addressed under this policy.

#### Examples of sexual harassment

The following describes some of the types of acts that may be unlawful sexual harassment and that are strictly prohibited:

- Physical acts of a sexual nature, such as:
  - Touching, pinching, patting, kissing, hugging, grabbing, brushing against another employee's body or poking another employee's body;
  - Rape, sexual battery, molestation or attempts to commit these assaults.
- Unwanted sexual advances or propositions, such as:
  - Requests for sexual favors accompanied by implied or overt threats concerning the target's job performance evaluation, a promotion or other job benefits or detriments;
  - Subtle or obvious pressure for unwelcome sexual activities.

- Sexually oriented gestures, noises, remarks or jokes, or comments about a person's sexuality or sexual experience, which create a hostile work environment.
- Sex stereotyping occurs when conduct or personality traits are considered inappropriate simply because they may not conform to other people's ideas or perceptions about how individuals of a particular sex should act or look.
- Sexual or discriminatory displays or publications anywhere in the workplace, such as:
  - Displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials or other materials that are sexually demeaning or pornographic. This includes such sexual displays on workplace computers or cell phones and sharing such displays while in the workplace.
- Hostile actions taken against an individual because of that individual's sex, sexual orientation, gender identity and the status of being transgender, such as:
  - Interfering with, destroying or damaging a person's workstation, tools or equipment, or otherwise interfering with the individual's ability to perform the job;
  - Sabotaging an individual's work;
  - Bullying, yelling, name-calling.

Who can be a target of sexual harassment?

Sexual harassment can occur between any individuals, regardless of their sex or gender. New York Law protects employees, paid or unpaid interns, and non-employees, including independent contractors, and those employed by the City of Troy contracting to provide services in the workplace. Harassers can be a superior, a subordinate, a coworker or anyone in the workplace including an independent contractor, contract worker, vendor, client, customer or visitor.

Where can sexual harassment occur?

Unlawful sexual harassment is not limited to the physical workplace itself. It can occur while employees are traveling for business or at employer sponsored events or parties. Calls, texts, emails, and social media usage by employees can constitute unlawful workplace harassment, even if they occur away from the workplace premises, on personal devices or during non-work hours.

**IV. RETALIATION**

Unlawful retaliation can be any action that could discourage a worker from coming forward to make or support a harassment, sexual harassment, discrimination or retaliation claim. Adverse action need not be job-related or occur in the workplace to constitute unlawful retaliation (e.g., threats of physical violence outside of work hours).

Such retaliation is unlawful under federal, state, and (where applicable) local law. The New York State Human Rights Law protects any individual who has engaged in “protected activity.” Protected activity occurs when a person has:

- made a complaint of harassment, sexual harassment, discrimination, or retaliation either internally or with any anti-discrimination agency;
- testified or assisted in a proceeding involving harassment, sexual harassment, discrimination, or retaliation under the Human Rights Law or other anti-discrimination law;
- opposed harassment, sexual harassment, discrimination, or retaliation by making a verbal or informal complaint to management, or by simply informing a supervisor or manager of harassment;
- reported that another employee has been harassed, sexually harassed, discriminated against, or retaliated against; or
- encouraged a fellow employee to report harassment, sexual harassment, discrimination, or retaliation.

Even if the alleged harassment does not turn out to rise to the level of a violation of law, the individual is protected from retaliation if the person had a good faith belief that the practices were unlawful. However, the retaliation provision is not intended to protect persons making intentionally false charges of harassment.

## **V. REPORTING HARASSMENT, SEXUAL HARASSMENT, DISCRIMINATION, OR RETALIATION.**

**Preventing harassment, sexual harassment, discrimination, or retaliation is everyone’s responsibility.** The City of Troy cannot prevent or remedy harassment, sexual harassment, discrimination or retaliation unless it knows about it. Any employee, paid or unpaid intern or non-employee who has been subjected to behavior that may constitute harassment, sexual harassment, discrimination or retaliation is encouraged to report such behavior to a supervisor, manager or Personnel Officer. Anyone who witnesses or becomes aware of potential instances of harassment, sexual harassment, discrimination or retaliation should report such behavior to a supervisor, manager or Personnel Officer.

Reports of harassment, sexual harassment, discrimination or retaliation may be made verbally or in writing. A form for submission of a written complaint is attached to this Policy, and all employees are encouraged to use this complaint form. Employees who are reporting harassment, sexual harassment, discrimination or retaliation on behalf of other employees should use the complaint form and note that it is on another employee’s behalf.

Employees, paid or unpaid interns or non-employees who believe they have been a target of harassment, sexual harassment, discrimination or retaliation may also seek assistance in other available forums, as explained below in the section on Legal Protections.

## **VI. SUPERVISORY RESPONSIBILITIES**

All supervisors and managers who receive a complaint or information about suspected harassment, sexual harassment, discrimination or retaliation, observe what may be harassing, discriminatory or retaliatory behavior or for any reason suspect that harassment, sexual harassment, discrimination or retaliation is occurring, **are required** to report such suspected sexual harassment to the Personnel Officer.

In addition to being subject to discipline if they engaged in harassing, discriminatory or retaliatory conduct themselves, supervisors and managers will be subject to discipline for failing to report suspected harassment, sexual harassment, discrimination or retaliation or otherwise knowingly allowing harassment, sexual harassment, discrimination or retaliation to continue.

Supervisors and managers will also be subject to discipline for engaging in any retaliation.

## **VII. COMPLAINT AND INVESTIGATION OF HARASSMENT, DISCRIMINATION OR RETALIATION**

*All* complaints or information about harassment, sexual harassment, discrimination or retaliation will be investigated, whether that information was reported in verbal or written form. Investigations will be conducted in a timely manner, and will be confidential to the extent possible.

An investigation of any complaint, information or knowledge of suspected harassment, sexual harassment, discrimination or retaliation will be prompt and thorough, commenced immediately and completed as soon as possible. The investigation will be kept confidential to the extent possible. All persons involved, including complainants, witnesses and alleged harassers will be accorded due process, as outlined below, to protect their rights to a fair and impartial investigation.

Any employee may be required to cooperate as needed in an investigation of suspected harassment, sexual harassment, discrimination or retaliation. The City of Troy will not tolerate retaliation against employees who file complaints, support another's complaint or participate in an investigation regarding a violation of this policy.

While the process may vary from case to case, investigations should be done in accordance with the following steps:

- Upon receipt of complaint, the Personnel Office will conduct an immediate review of the allegations, and take any interim actions (e.g., instructing the respondent to refrain from communications with the complainant), as appropriate. If complaint is verbal, the



Personnel Office will encourage the individual to complete the “Complaint Form” in writing. If he or she refuses, the Personnel Office will prepare a Complaint Form based on the verbal reporting.

- If documents, emails or phone records are relevant to the investigation, take steps to obtain and preserve them.
- Request and review all relevant documents, including all electronic communications.
- Interview all parties involved, including any relevant witnesses.
- Create a written documentation of the investigation (such as a letter, memo or email), which contains the following:
  - A list of all documents reviewed, along with a detailed summary of relevant documents;
  - A list of names of those interviewed, along with a detailed summary of their statements;
  - A timeline of events;
  - A summary of prior relevant incidents, reported or unreported; and
  - The basis for the decision and final resolution of the complaint, together with any corrective action(s).
- Keep the written documentation and associated documents in a secure and confidential location.
- Promptly notify the individual who reported and the individual(s) about whom the complaint was made of the final determination and implement any corrective actions identified in the written document.
- Inform the individual who reported of the right to file a complaint or charge externally as outlined in the next section.

The final written report will be provided to the Mayor, or his designee, with a copy to the Corporation Counsel in the case of complaints arising out of alleged actions occurring in departments that are under the supervision of the Mayor. In the case of complaints arising out of alleged actions of any Council Members or their staff, the final written report shall be provided to the City Council President with a copy of the Corporation Counsel. If the individual who would ordinarily receive the written report under this paragraph is the subject of the complaint, or a participant in the investigation, the individual will not be provided with a copy under that circumstance and review of the written report will be conducted by an appropriate individual who is not the subject of the investigation or a participant, as recommended by the Corporation Counsel. Any individual reviewing the written report under this paragraph shall keep the information contained in the report confidential to the extent possible.

## **VIII. DISABILITY DISCRIMINATION AND REQUESTING AN ACCOMMODATION**

The City of Troy is also committed to complying with the laws protecting qualified individuals with disabilities. The City of Troy will provide a reasonable accommodation for any known physical or mental disability of a qualified individual with a disability to the extent required by law, provided the requested accommodation does not create an undue hardship for the City of Troy and/or does not pose a direct threat to the health or safety of others in the workplace and/or to the individual. If you require an accommodation to perform the essential functions of your job, you must notify the Personnel Officer. Once the City of Troy is aware of the need for an accommodation, it will engage in an interactive process to identify possible accommodations that will enable the Employee to perform the essential functions of the job.

## **IX. LEGAL PROTECTIONS AND EXTERNAL REMEDIES**

Harassment, sexual harassment, discrimination or retaliation is not only prohibited by the City of Troy but is also prohibited by state, federal, and, where applicable, local law.

Aside from the internal process at the City of Troy, employees may also choose to pursue legal remedies with the following governmental entities. While a private attorney is not required to file a complaint with a governmental agency, you may seek the legal advice of an attorney.

In addition to those outlined below, employees in certain industries may have additional legal protections.

### **State Human Rights Law (HRL)**

The Human Rights Law (HRL), codified as N.Y. Executive Law, art. 15, § 290 et seq., applies to all employers in New York State with regard to sexual harassment, and protects employees, paid or unpaid interns and non-employees, regardless of immigration status. A complaint alleging violation of the Human Rights Law may be filed either with the Division of Human Rights (DHR) or in New York State Supreme Court.

Complaints with DHR may be filed any time within one year of the harassment. If an individual did not file at DHR, they can sue directly in state court under the HRL, within three years of the alleged sexual harassment. An individual may not file with DHR if they have already filed a HRL complaint in state court.

Complaining internally to the City of Troy does not extend your time to file with DHR or in court. The one year or three years is counted from date of the most recent incident of harassment.

You do not need an attorney to file a complaint with DHR, and there is no cost to file with DHR.

DHR will investigate your complaint and determine whether there is probable cause to believe that sexual harassment has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If sexual harassment is found after a hearing, DHR has the

power to award relief, which varies but may include requiring your employer to take action to stop the harassment, or redress the damage caused, including paying of monetary damages, attorney's fees and civil fines.

DHR's main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, New York 10458. You may call (718) 741-8400 or visit: [www.dhr.ny.gov](http://www.dhr.ny.gov).

Contact DHR at (888) 392-3644 or visit [dhr.ny.gov/complaint](http://dhr.ny.gov/complaint) for more information about filing a complaint. The website has a complaint form that can be downloaded, filled out, notarized and mailed to DHR. The website also contains contact information for DHR's regional offices across New York State.

### **Civil Rights Act of 1964**

The United States Equal Employment Opportunity Commission (EEOC) enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act (codified as 42 U.S.C. § 2000e et seq.). An individual can file a complaint with the EEOC anytime within 300 days from the harassment. There is no cost to file a complaint with the EEOC. The EEOC will investigate the complaint, and determine whether there is reasonable cause to believe that discrimination has occurred, at which point the EEOC will issue a Right to Sue letter permitting the individual to file a complaint in federal court.

The EEOC does not hold hearings or award relief, but may take other action including pursuing cases in federal court on behalf of complaining parties. Federal courts may award remedies if discrimination is found to have occurred. In general, private employers must have at least 15 employees to come within the jurisdiction of the EEOC.

An employee alleging discrimination at work can file a "Charge of Discrimination." The EEOC has district, area, and field offices where complaints can be filed. Contact the EEOC by calling 1-800-669-4000 (TTY: 1-800-669-6820), visiting their website at [www.eeoc.gov](http://www.eeoc.gov) or via email at [info@eeoc.gov](mailto:info@eeoc.gov).

If an individual filed an administrative complaint with DHR, DHR will file the complaint with the EEOC to preserve the right to proceed in federal court.

### **Contact the Local Police Department**

If the harassment involves unwanted physical touching, coerced physical confinement or coerced sex acts, the conduct may constitute a crime. Contact the local police department.

## ***City of Troy Complaint Form***

New York State Labor Law requires all employers to adopt a harassment prevention policy that includes a complaint form to report alleged incidents of harassment.

If you believe that you have been subjected to harassment, sexual harassment, discrimination or retaliation are encouraged to complete this form and submit it to the Personnel Office by mailing or delivering it to the Personnel Office located at the City of Troy, 433 River Street, Troy, NY 12180 or by calling the Personnel Office at (518) 279-7123. You will not be retaliated against for filing a complaint.

If you are more comfortable reporting verbally or in another manner, your employer should complete this form, provide you with a copy and follow its harassment prevention policy by investigating the claims as outlined at the end of this form.

**For additional resources, visit: [ny.gov/programs/combating-sexual-harassment-workplace](http://ny.gov/programs/combating-sexual-harassment-workplace)**

### **COMPLAINANT INFORMATION**

Name:

Work Address:

Work Phone:

Job Title:

Email:

Select Preferred Communication Method:

Email

Phone

In person

### **SUPERVISORY INFORMATION**

Immediate Supervisor's Name:

Title:

Work Phone:

Work Address:

**UNION INFORMATION:**

Are you a member of a Union?  Yes  No

If yes, which Union?

Is there a certain Union representative you would like us to contact in relation to your complaint?  
If so, who?

**COMPLAINT INFORMATION**

1. Your complaint of Harassment, Sexual Harassment, Discrimination or Retaliation is made about:

Name:            Title:

Work Address:

Work Phone:

Relationship to you: Supervisor Subordinate Co-Worker Other

2. Please describe what happened and how it is affecting you and your work. Please use additional sheets of paper if necessary and attach any relevant documents or evidence.

3. Date(s) harassment, sexual harassment, discrimination or retaliation occurred:

Is the sexual harassment continuing? Yes No

4. Please list the name and contact information of any witnesses or individuals who may have information related to your complaint:

*The last question is optional, but may help the investigation.*

5. Have you previously complained or provided information (verbal or written) about related incidents? If yes, when and to whom did you complain or provide information?

If you have retained legal counsel and would like us to work with them, please provide their contact information.

*Signature:* \_\_\_\_\_ *Date:* \_\_\_\_\_