

Discriminatory Harassment

315.1 PURPOSE AND SCOPE

The purpose of this policy is to prevent department members from being subjected to discriminatory harassment, including sexual harassment and retaliation (Labor Law § 201-g). Nothing in this policy is intended to create a legal or employment right or duty that is not created by law.

315.2 POLICY

The Troy Police Department is an equal opportunity employer and is committed to creating and maintaining a work environment that is free of all forms of discriminatory harassment, including sexual harassment and retaliation. The Department will not tolerate discrimination against a member in hiring, promotion, discharge, compensation, fringe benefits, and other privileges of employment. The Department will take preventive and corrective action to address any behavior that violates this policy or the rights and privileges it is designed to protect.

The nondiscrimination policies of the Department may be more comprehensive than state or federal law. Conduct that violates this policy may not violate state or federal law but still could subject a member to discipline.

315.3 DEFINITIONS

Definitions related to this policy include:

315.3.1 DISCRIMINATION

The Department prohibits all forms of discrimination, including any employment-related action by a member that adversely affects an applicant or member and is based on actual or perceived race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, pregnancy, genetic information, veteran status, marital status, and other classification or status protected by law (Executive Law § 296).

Discriminatory harassment, including sexual harassment, is verbal or physical conduct that demeans or shows hostility or aversion toward an individual based upon that individual's protected class. It has the effect of interfering with an individual's work performance or creating a hostile or abusive work environment.

Conduct that may, under certain circumstances, constitute discriminatory harassment can include making derogatory comments; making crude and offensive statements or remarks; making slurs or off-color jokes; stereotyping; engaging in threatening acts; making indecent gestures, pictures, cartoons, posters, or material; making inappropriate physical contact; or using written material or department equipment and/or systems to transmit or receive offensive material, statements, or pictures. Such conduct is contrary to department policy and to a work environment that is free of discrimination.

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315.3.2 RETALIATION

Retaliation is treating a person differently or engaging in acts of reprisal or intimidation against the person because the person has engaged in protected activity, filed a charge of discrimination, participated in an investigation, or opposed a discriminatory practice. Retaliation will not be tolerated (Executive Law § 296; Labor Law § 201-g).

315.3.3 DISCRIMINATORY HARASSMENT

The Department prohibits all forms of discrimination and discriminatory harassment, including sexual harassment (Executive Law § 296; Labor Law § 201-g). It is unlawful to harass an applicant or a member because of that person's sex.

Sexual harassment includes but is not limited to unwelcome sexual advances, requests for sexual favors, or other verbal, visual, or physical conduct of a sexual nature when:

- (a) Submission to such conduct is made either explicitly or implicitly as a term or condition of employment, position, or compensation.
- (b) Submission to, or rejection of, such conduct is used as the basis for any employment decisions affecting the member.
- (c) Such conduct has the purpose or effect of substantially interfering with a member's work performance or creating an intimidating, hostile, or offensive work environment.

Sexual harassment also includes any other act or conduct deemed sexual harassment under the state sexual harassment policy (Labor Law § 201-g).

315.3.4 ADDITIONAL CONSIDERATIONS

Discrimination and discriminatory harassment do not include actions that are in accordance with established rules, principles or standards, including:

- (a) Acts or omission of acts based solely upon bona fide occupational qualifications under the Equal Employment Opportunity Commission and the New York State Department of Labor, Division of Equal Opportunity Development guidelines.
- (b) Bona fide requests or demands by a supervisor that a member improve his/her work quality or output, that the member report to the job site on time, that the member comply with City or department rules or regulations, or any other appropriate work-related communication between supervisor and member.

315.3.5 UNLAWFUL DISCRIMINATORY PRACTICES AGAINST NON-EMPLOYEES

Unlawful discriminatory practices against non-employees in the workplace or while on-duty (including contractors and persons conducting business with the department) are prohibited (Executive Law § 296-d).

315.4 RESPONSIBILITIES

This policy applies to all department members, who shall follow the intent of these guidelines in a manner that reflects department policy, professional standards and the best interest of the Department and its mission.

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Members of the Troy Police Department shall familiarize themselves with the current City of Troy's [Anti Harassment and Discrimination Policy](#) and the [Workplace Violence Policy](#) and adhere to the provisions of those policies.

Members are encouraged to promptly report any discriminatory, retaliatory, or harassing conduct, or known violations of this policy to a supervisor or personnel officer. Any member who is not comfortable with reporting violations of this policy to the member's immediate supervisor may bypass the chain of command and make the report to a higher-ranking supervisor. Complaints may also be filed with the Chief of Police, the Personnel Director, or the Mayor.

Any member who believes, in good faith, that the member has been discriminated against, harassed, or subjected to retaliation, or who has observed harassment, discrimination, or retaliation, is encouraged to promptly report such conduct in accordance with the procedures set forth in this policy.

Supervisors receiving information regarding alleged violations of this policy shall determine if there is any basis for the allegation and shall proceed with a resolution as stated below.

315.4.1 COMPLAINTS OF SEXUAL HARASSMENT

Members making a complaint of sexual harassment should be encouraged to use the state's standard complaint form. If a member making a complaint chooses not to use the form, supervisors should document the complaint on the state's standard complaint form with the information provided by the complainant.

315.4.2 QUESTIONS OR CLARIFICATION

Members with questions regarding what constitutes discrimination, sexual harassment, or retaliation are encouraged to contact a supervisor, the Chief of Police, the Personnel Director, or the Mayor for further information, direction, or clarification.

315.4.3 SUPERVISOR RESPONSIBILITIES

The responsibilities of each supervisor shall include but are not limited to (Labor Law § 201-g):

- (a) Continually monitoring the work environment and striving to ensure that it is free from all types of unlawful discrimination, including harassment or retaliation.
- (b) Taking prompt, appropriate action within their work units to avoid and minimize the incidence of any form of discrimination, harassment, or retaliation.
- (c) Ensuring that their subordinates understand their responsibilities under this policy.
- (d) Ensuring that members who make complaints or who oppose any unlawful employment practices are protected from retaliation and that such matters are kept confidential to the extent possible.
- (e) Making a timely determination regarding the substance of any allegation based upon all available facts.

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- (f) Notifying the Chief of Police or Personnel Director in writing of the circumstances surrounding any reported allegations or observed acts of discrimination, harassment, or retaliation no later than the next business day.

315.4.4 SUPERVISOR'S ROLE

Supervisors shall be aware of the following:

- (a) Behavior of supervisors should represent the values of the Department and professional law enforcement standards.
- (b) False or mistaken accusations of discrimination, harassment or retaliation can have negative effects on the careers of innocent members.

Nothing in this section shall be construed to prevent supervisors from discharging supervisory or management responsibilities, such as determining duty assignments, evaluating or counseling members, or issuing discipline, in a manner that is consistent with established procedures.

315.5 INVESTIGATION OF COMPLAINTS

Various methods of resolution exist. During the pendency of any such investigation, the supervisor of the involved member should take prompt and reasonable steps to mitigate or eliminate any continuing abusive or hostile work environment. It is the policy of the Department that all complaints of discrimination, retaliation or harassment shall be fully documented and promptly and thoroughly investigated.

315.5.1 SUPERVISORY RESOLUTION

Members who believe they are experiencing discrimination, harassment or retaliation should be encouraged to inform the individual that the behavior is unwelcome, offensive, unprofessional, or inappropriate. However, if the member feels uncomfortable or threatened or has difficulty expressing the member's concern, or if this does not resolve the concern, assistance should be sought from a supervisor who is a rank higher than the alleged transgressor.

315.5.2 FORMAL INVESTIGATION

If the complaint cannot be satisfactorily resolved through the supervisory resolution process, a formal investigation will be conducted.

The person assigned to investigate the complaint will have full authority to investigate all aspects of the complaint. Investigative authority includes access to records and the cooperation of any members involved. No influence will be used to suppress any complaint and no member will be subject to retaliation or reprisal for filing a complaint, encouraging others to file a complaint or for offering testimony or evidence in any investigation.

Formal investigation of the complaint will be confidential to the extent possible and will include but is not limited to details of the specific incident, frequency and dates of occurrences, and names of any witnesses. Witnesses will be advised regarding the prohibition against retaliation, and that a disciplinary process, up to and including termination, may result if retaliation occurs.

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Members who believe they have been discriminated against, or harassed or retaliated against because of their protected status, are encouraged to follow the chain of command but may also file a complaint directly with the Chief of Police, the Personnel Director, or the Mayor.

315.5.3 INVESTIGATING COMPLAINTS OF SEXUAL HARASSMENT

All complaints of or information indicating sexual harassment, including those by or against non-employees, should be thoroughly investigated pursuant to the requirements of the State Sexual Harassment Policy for All Employers in New York State (Labor Law § 201-g).

315.5.4 ALTERNATIVE COMPLAINT PROCESS

No provision of this policy shall be construed to prevent any member from seeking legal redress outside the Department. Members who believe that they have been harassed, discriminated, or retaliated against are entitled to bring complaints of employment discrimination to federal, state, and/or local agencies responsible for investigating such allegations. Specific time limitations apply to the filing of such charges. Members are advised that proceeding with complaints under the provisions of this policy does not in any way affect those filing requirements.

Complaints at the state level may be filed with the New York State Division of Human Rights (DHR) or the New York State Supreme Court pursuant to the requirements of Executive Law § 290 et seq. Complaints at the federal level may be filed with the Equal Employment Opportunity Commission (EEOC) pursuant to the requirements of Title VII of the Civil Rights Act of 1964, 42 USC § 2000e et seq. More information regarding filing complaints under state and federal law can be found at the websites for DHR and the EEOC.

315.6 DOCUMENTATION OF COMPLAINTS

All complaints or allegations shall be thoroughly documented on the appropriate forms and in a manner designated by the Chief of Police. The outcome of all reports shall be:

- (a) Approved by the Chief of Police, the Mayor or the Personnel Director, depending on the ranks of the involved parties.
- (b) Maintained in accordance with the established records retention schedule.

315.6.1 NOTIFICATION OF DISPOSITION

The complainant and/or victim will be notified in writing of the disposition of the investigation and the actions taken to remedy or address the circumstances giving rise to the complaint.

315.7 POSTING OF POLICY

This policy and the standard complaint form should be available in all work locations (Labor Law § 201-g).

315.8 TRAINING

All new members shall be provided with a copy of this policy as part of their orientation (Labor Law § 201-g). The policy shall be reviewed with each new member. The member shall certify by signing

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the prescribed form that the member has been advised of this policy, is aware of, and understands its contents, and agrees to abide by its provisions during the member's term with the Department.

All members shall receive annual training on the requirements of this policy and shall certify by signing the prescribed form that they have reviewed the policy, understand its contents, and agree that they will continue to abide by its provisions.

315.8.1 SEXUAL HARASSMENT PREVENTION TRAINING

All members should also participate annually in sexual harassment prevention training. The Training/ Human Resources Captain should develop this training consistent with the sexual harassment prevention training program established by the Department of Labor and the Division of Human Rights (Labor Law § 201-g).

Each member should receive an additional written copy of this policy at each annual sexual harassment prevention training as well as information presented at the training in writing. The policy and information should be provided in English and in any primary language identified by each member (Labor Law § 201-g).

Attachments

Anti Harassment and Discrimination Policy.pdf



**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-employees¹ 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 race, color, religious creed (including religious dress and grooming practices), national origin (including language use restrictions), ethnicity, ancestry, disability (mental and physical)

¹ 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.

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)

Confidential Hotline: 1-800-HARASS-3 (1-800-427-2773) for complaints of workplace sexual harassment. New York employees may call the confidential hotline to obtain free legal counseling for any complaint of sexual harassment in the workplace. (Established 07/2022)

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.

Contact DHR at (888) 392-3644 or visit 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 or via email at 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

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: _____

Workplace Violence Policy.pdf

CITY OF TROY

WORKPLACE VIOLENCE PREVENTION POLICY STATEMENT

The City of Troy is committed to providing a work environment free from the hazards of workplace violence or any physical assault, threatening behavior or verbal abuse. Any acts of violence occurring where an employee performs any work-related duty in the course of his or her employment will not be tolerated.

This policy is designed to meet the requirements of NYS Labor Law 27b and highlights some of the elements that are found within our Workplace Violence Prevention Program. The process involved in complying with this law included a workplace evaluation that was designed to identify the workplace violence hazards our employees could be exposed to. Authorized Employee Representative(s) will, at a minimum, be involved in:

- The evaluation of the physical environment;
- The development of the Workplace Violence Prevention Program and;
- The review of workplace violence incident reports at least annually to identify trends in the types of incidents in the workplace and review of the effectiveness of the mitigating actions taken.

All employees will participate in the annual Workplace Violence Prevention Training Program.

What is Workplace Violence?

New York State Public Employer Workplace Violence Prevention Code Rule 827 defines Workplace Violence as any physical assault, threatening behavior, and/or verbal abuse occurring where a public employee performs any work-related duty in the course of his or her employment.

A reportable workplace violence incident is defined as one or more of the following:

- An attempt or threat whether verbal or physical to inflict injury upon a person;
- Any intentional display of force which would give a person reason or fear to expect bodily harm;
- Intentional and wrongful physical contact with a person without his or her consent that entails some injury or offensive touching;
- Harassment of a nature that would give a person reason to fear escalation or make it difficult to pursue a normal work life or private life when harassment arises out of or in the course of employment;
- Stalking a person with the intent of causing fear when such stalking has arisen through or in the course of employment. An incident may be committed without one person actually touching or striking or doing bodily harm to another person.

The goal of this policy is to promote the safety and well being of all people in our workplace. Employees are often in the best position in the workplace to observe behavior that may indicate that an individual is being threatened.

Employees are expected to exercise sound judgment and to inform a supervisor or department head if any employee exhibits behavior that could be a sign of a potentially dangerous situation. This includes threats by employees, as well as threats by clients, vendors, solicitors or other members of the public. Such behaviors include, but are not limited to:

- Carrying or keeping weapons in the workplace
- Engaging in derogatory or verbally abusive speech
- Making threatening remarks or behaving in a hostile manner
- Fighting or physical abuse
- Harassing or intimidating another employee
- Vandalism to property or equipment

Employees who feel threatened in any way by such behaviors should immediately report details of the incident to any supervisor, department head or human resources representative. All such complaints will receive immediate attention and will be thoroughly investigated. Based upon the results of this inquiry, disciplinary action may be taken against the offender up to and including termination.

Employees who observe or have knowledge of any violation of this policy should report it immediately to any supervisor or human resources representative.

The City of Troy is committed to maintaining a workplace where conflicts can be resolved appropriately and without anger, aggression or intimidation of any kind. This policy extends to visitors, vendors and all full- and part-time employees. Violence in any form will not be tolerated and this policy will be rigorously enforced.

A copy of the complete Workplace Violence Prevention Program is available in the Personnel Office, City Hall, 433 River St, 5th floor, Troy, NY 12180, (518)279-7123.

If you have questions, issues or concerns please contact:

**The Personnel Office
(518) 279-7123**

CITY OF TROY
Workplace Violence Incident Report

Name of person completing this form:	
Job Title:	
Work Phone #	Alternate Phone #
Department:	

Date of Incident:	Time of Incident:
Workplace Location where incident occurred:	

Provide a detailed description of the incident:

Include any events leading up to the incident and how the incident ended:

List all employee(s) involved:	<u>Name</u>	<u>Job Title</u>

Name or other identifier of other individuals involved:	<u>Name</u>	<u>Identifier</u>

Nature and extent of injuries arising from the incident:	
Name(s) of witnesses:	<u>Name</u>
Signature:	
Date of Report:	

WITHIN 24 HOURS OF INCIDENT, SEND REPORT TO:

Personnel Department
City Hall, 433 River St, 5th flr
268-1686 (fax)
279-7123 (phone)