

HARASSMENT

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MASSACHUSETTS POLICE ACCREDITATION STANDARDS REFERENCED: 26.1.3	REVISION DATE: _____

I. GENERAL CONSIDERATIONS AND GUIDELINES

The Everett Police Department is committed to promoting and maintaining a working environment that is free from harassment.

The department, in accordance with City of Everett policy, state and federal law, prohibit discrimination against or harassment of any person on the basis of race, color, gender, age, disability, national origin, religious creed, sexual orientation, veteran status, marital status, military status or parental status. 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 unlawful and will not be tolerated.

Individuals who are victimized by harassment have statutory remedies which include filing a complaint with an administrative agency and/or the courts, both on a state and federal level. The department has developed this policy to familiarize employees with applicable legal guidelines.

This policy affords those who feel they are victims of harassment with a procedure for making the department aware of the problem and allowing it to attempt to remedy the situation. It is the policy of this department to promptly investigate all complaints of harassment. When it has been determined that inappropriate conduct has occurred, the department will act promptly to eliminate such conduct and impose any necessary corrective action, including disciplinary action where appropriate.

This policy shall be provided annually to all department employees and to all new employees at the time of their employment.

II. DEFINITIONS

- A. *Sexual Harassment:*** M.G.L. c. 151B, s.1 (18) defines sexual harassment as sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:
1. Quid Pro Quo Harassment:
 - a. Submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of employment or as a basis for employment decisions; or
 - b. Such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individual's work performance by creating an intimidating, hostile, humiliating or sexually offensive work environment; or
 2. Discrimination on the basis of sex.
 3. Sexual harassment is not limited to prohibited conduct by a male towards a female or by a supervisor towards one of lower rank.
 4. Men and women may be the victims of sexual harassment, and a woman as well as a man may be the harasser.
 5. The harasser does not have to be the victim's supervisor. [S]he may also be an agent of the supervisor, a supervisory employee who does not supervise the victim, a non-supervisory employee (coworker), or, in some circumstances, even a non-employee.
 6. The harasser may, but need not, be the same sex and have the same sexual orientation as the victim.
 7. The victim does not have to be the person at whom the unwelcome sexual conduct is directed. [S]he may also be someone who is affected by such conduct when it is directed toward another person. For example, the sexual harassment of one employee may create an intimidating, hostile, or offensive working environment for another coworker or interfere with the coworker's work performance. The belief that such interference has occurred must be objectively reasonable.
 8. Sexual harassment does not depend on the victim having suffered an actual economic injury as a result of the harasser's conduct. For example, improper sexual advances which do not result in the loss of a promotion by the victim or the discharge of the victim may, nonetheless, constitute sexual harassment where they interfere with the victim's work or create a harmful or offensive work environment. The belief that such interference occurred must be objectively reasonable.

B. Hostile or Abusive Work Environment Harassment. Whether an environment is “hostile” or “abusive” can be determined by looking at all the circumstance which include:

1. Frequency of the conduct;
2. The severity of the conduct; and
3. Whether it unreasonably interferes with an employee’s work performance.

III. EXAMPLES OF SEXUAL HARASSMENT HOSTILE OR ABUSIVE WORK ENVIRONMENT

- A.** Demanding sexual favors accompanied by direct or overt threats concerning one's job, performance evaluation, promotion, salary increases, increased benefits, or continued employment.
- B.** Engaging in reprisals (not granting promotions, assigning undesirable tasks, making negative statements about the victim's personal or work conduct, etc.), as a result of an individual's refusing to engage in social/sexual behavior.
- C.** Contact with any sexual part of a coworker's body (e.g., touching, patting or pinching).
- D.** Touching any nonsexual part of the body (e.g., shoulder, etc.) after that person has verbally or otherwise indicated that such touching is unwanted.
- E.** Refusing to take action or to enforce disciplinary measures against a person who has been sexually harassing another staff member or otherwise condoning such behavior.
- F.** Continuing to ask a person to socialize after work when that person has verbally or in writing indicated no interest in such activities.
- G.** Displaying sexually suggestive pictures, objects, cartoons or posters after being told they are offensive.
- H.** Subtle pressure for sexual activities; e.g., continuing to write suggestive notes or letters after being informed they are unwelcome.
- I.** Verbal harassment or abuse; e.g., referring to or calling a person an endearing, demeaning or sexualized term, or making reference to a person's physical characteristic (e.g., pregnancy) when that person has verbally or in writing indicated to the harasser or the department [s]he does not wish to be addressed or referred to in that manner.
- J.** Leering (i.e., prolonged staring) at a person's body or whistling.

- K.** Language of a sexual nature in another's presence or conduct, even if not directed to said individual, once it is known that [s]he objects; such as sexual epithets, jokes, written or oral references to sexual conduct, gossip regarding one's sex life, comments about an individual's body, comments about an individual's sexual activity, deficiencies, or prowess.
- L.** Inquiries into one's sexual experience or discussion of one's sexual activities, after it is known that the individual does not welcome such inquiries or discussions.

IV. PROCEDURE

A. Generally

1. PROHIBITIONS

- a. Harassment (sexual or other) in the work place is unlawful and is prohibited.
- b. It is unlawful to retaliate against an employee for filing a complaint of harassment or for cooperating with an investigation of a complaint for harassment.

2. TRAINING

- a. All employees shall receive a written copy of the harassment policy annually.¹
- b. All new employees shall receive a written copy of the harassment policy at the time of employment.²

B. Responsibilities of All Employees: Each employee is personally responsible for:

- 1. Ensuring that [s]he does not harass any other employee, applicant for employment, or other individual, either in the workplace or at a work-related activity;
- 2. Informing any individual that their words or actions are unwelcome and offensive, when any type of harassment is encountered;
- 3. Immediately reporting acts of harassment;
- 4. Cooperating in the investigation of complaints of alleged harassment by providing any information [s]he possesses concerning the matters being investigated; and
- 5. Otherwise cooperating with the department's efforts to prevent and eliminate harassment and to maintain a working environment free from such unlawful discrimination.

C. Sanctions

1. Any employee found to have engaged in harassment in violation of this policy is subject to disciplinary action up to and including termination of employment.
2. Retaliation against an individual that has complained about harassment or has cooperated with an investigation of a harassment complaint is such a serious violation of this policy and the law that disciplinary action, most likely discharge, will be taken.

D. Reporting Procedures

1. Any employee who believes [s]he has been the victim of harassment shall report this fact, either orally or in writing, as soon as possible to his/her supervisor.
 - a. The supervisor shall report such information, through the chain of command, to the Chief.
2. If the employee believes that the nature of the harassment is such that [s]he is not comfortable discussing the situation with her/his immediate supervisor, the employee may make such report to a higher level of supervision in the chain of command, up to and including the Chief.
3. If the alleged harasser is a supervisor or otherwise in the chain of command, the employee should make such report to a higher level of supervision in the chain of command, up to and including the Chief.
4. If a supervisor is contacted, [s]he shall report such information, through the chain of command, to the Chief.
5. In the event the employee feels it is not appropriate to contact the Chief, [s]he may the City of Everett Human Resources Director.

E. Investigations

1. INFORMAL PROCEEDINGS
 - a. The supervisor, individual in the chain of command or the Chief who receives the initial complaint may propose informal remedies. If the complainant agrees to pursue this approach, the supervisor, individual in the chain of command or the Chief will meet with the alleged harasser, relate the fact that a harassment incident or practice has been reported, and propose a remedy.
 - b. If the informal remedy is accepted by the alleged harasser, the situation shall be monitored closely by the supervisor, individual in the chain of command or the Chief to determine whether the work

climate changes or whether there are further incidents. If the complainant reports that the situation has not been rectified or if the alleged harasser declines to agree to informal adjustment, the complainant will be encouraged to file a formal complaint.

- c. The Chief shall be notified when a complaint is received and informal proceedings are instituted and the Chief shall maintain records reflecting the substance of the informal remedy agreement.

2. Formal Proceedings

- a. An employee may institute a formal procedure by filing a written complaint with the Chief.
 - b. A thorough investigation will be conducted by the Chief or his/her designee, which shall include attempting to obtain statements from the alleged harasser and co-workers of the complainant and alleged harasser. The Chief should resolve the matter within 30 business days of receipt of the complaint.
 - c. The Chief shall maintain records of all complaints, investigations, and actions taken.
 - d. The Chief or his/her designee shall handle complaints with confidentiality, sensitivity and due concern for the dignity of all parties involved.
 - e. In a situation where the complainant and the alleged harasser will continue working in the same general area or environment during or after the completion of the investigation, it may be necessary or appropriate for the Chief to clearly define the terms of the continued professional interaction.
3. In a situation where the complainant is transferred to another position during or after the completion of the investigation, there shall not be a detrimental change in the terms and conditions of the complainant's employment. This includes but is not limited to: a demotion or a decrease in pay, responsibilities, benefits, or prestige.
 4. CONFIDENTIALITY: The department will maintain the confidentiality of the allegations of the complaint, the complainant and the alleged harasser to the extent lawful and practical without handicapping the department's ability to perform an investigation.

F. Other Legal Remedies

1. Following the procedures outlined above does not preclude a complainant from seeking legal remedies outside this process.
2. A complaint may be filed with one or both of the following:

a. United States Equal Employment Opportunity Commission (EEOC)

John F. Kennedy Federal Building
Government Center
Room 475
Boston, MA 02203
(617) 565-3200

b. Massachusetts Commission Against Discrimination (MCAD)

Boston Office
One Ashburton Place, Rm 601
Boston, MA 02108
(617) 727-3990

Springfield Office:
State Office Building
436 Dwight St., Rm 220
Springfield, MA 01103
(413) 739-2145

3. Complainants are cautioned that following department complaint procedures does not affect the 90 day statute of limitations for filing discrimination complaints with the MCAD or the 180 day statute of limitations for filing discrimination complaints with the EEOC.
4. Some courts have found that a complainant's unreasonable failure to follow a department's complaint or grievance procedure may limit his/her ability to recover certain kinds of damages.

¹ M.G.L. c. 151B, §3A(2)

² M.G.L. c. 151B, §3A(2)