



Lincoln Police Department

Standard Operating Procedures

Integrity, Competency, Fairness



Subject:	Workplace Harassment	Policy #	A-22
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MLEAP:	2.11	Bureau of Labor Required	
	<i>Rescinds All Previous Policies Related To This Current Policy</i>		
Issuing Authority:	Chief of Police Lee Miller		

I. POLICY:

The Lincoln Police Department does not tolerate illegal harassment or bullying and is committed to a workplace free of both. Moreover, the Lincoln Police Department requires all employees to treat each other with respect and professionalism. Harassing or bullying conduct towards other employees based on the protected categories, even if not illegal, falls below the Lincoln Police Department standards and expectations for professional behavior and is a violation of this policy. Harassment or bullying of any kind will not be tolerated. The Lincoln Police Department is committed to preventing harassment and bullying and to quickly identifying and remedying these behaviors when they occur.

Employees at every level of the Lincoln Police Department have a stake in preventing harassment and bullying. In addition to being against the law and Lincoln Police Department policy, harassment and bullying have a negative effect on productivity, job satisfaction, teamwork, and an employee's sense of physical and emotional well-being at work. Its impact on those who experience it can be severe. It is in every employee's interest to avoid engaging in harassment and bullying and to refuse to tolerate or condone it.

It shall be a violation of this policy for any employee to engage in illegal harassment of another employee or group of employees based on race, nationality, color, religion or belief or lack thereof, age, sex (including pregnancy, maternity, and sexual harassment), sexual orientation, gender identity, expression, or reassignment, ancestry, ethnicity or national origin, physical or mental disability, veteran status, genetic information, previous assertion of a claim or right under Maine's Workers' Compensation Act, previous actions taken protected under Maine's Whistleblowers' Protection Act or any other protected group status as defined by applicable law ("the protected category characteristics").

MLEAP 2.11

II. PURPOSE:

It is the purpose of this policy to establish guidelines on identifying and reporting harassment. This policy applies to all employees, sworn, civilian, interns, volunteers, and individuals working with the Lincoln Police Department

III. TYPES OF HARASSMENT:

"Bullying" may be characterized as offensive, intimidating, malicious, or insulting behavior; abuse, or misuse of power through means that undermine, humiliate, denigrate, or injure the recipient.

Bullying behavior generally includes:

- A. Ridiculing a person.
- B. Shouting or screaming at a person.
- C. Setting someone up to fail, e.g., withholding necessary information or deliberate work overload.
- D. Unwarranted or invalid criticism and/or criticism that lacks the required constructive support to help the recipient improve their performance.
- E. Persistently singling out a person without good reason or deliberately excluding, isolating, or ignoring an individual.
- F. Making threats or comments about job security or academic success or failure without a foundation.

The above examples are not exhaustive. They are, however, indicative of behavior that would be considered unacceptable conduct by the Lincoln Police Department.

Bullying is distinct from the vigorous debate or the actions of a supervisor or manager making reasonable (if unpopular) requests. It is also different from techniques used to manage and improve performance, the distinguishing factor being that these have the effect of supporting and developing potential or promoting desired work performance. In contrast, bullying has the effect of undermining, humiliating, denigrating, or injuring the recipient.

"Harassment" is unwanted conduct related to a relevant protected category, which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating, or offensive environment for that individual. Harassment is any behavior that is unwelcome and effects the dignity of those subjected to it. For this policy, we will use and apply the following definition of harassment as being:

- i. Unwanted conduct related to a protected characteristic which has the purpose or effect of:
 - 1. Violating a person's dignity; or
 - 2. Creating an intimidating, hostile, degrading, humiliating, or offensive environment for them.'

Harassment may take place for several reasons. A person may be subjected to harassment because they are perceived as being "different" in some way or are in a less dominant position than the alleged harasser. For this reason, people who are in a minority position, be it numerical or hierarchical, may be more vulnerable to being harassed. However, it is essential to recognize that harassment can occur in less apparent scenarios and outside of traditional power relationships.

Also, an individual may feel harassed even if the behavior is not directed at them (harassment because of association) or it is directed at them. Still, they do not have the protected characteristic, but are perceived to have it (harassment because of perception).

Harassment and/or bullying may be by an individual against an individual or involve groups of people. It may be visible, or it may be insidious. Whatever form it takes, it is unwanted and unwelcome to the individual.

The following sections describe these forms of harassment and bullying in greater detail and provide examples of how such may manifest. These examples are not intended to be exhaustive. They are, however, indicative of conduct that would be considered unacceptable by the Lincoln Police Department.

“Sexual” Harassment is a form of sex discrimination. Unlawful sexual harassment means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

1. Submission to that conduct is made either explicitly or implicitly a term or condition of employment.
 2. Submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting that individual; or (3) the behavior has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment. However, sexual harassment need not rise to that level to be a violation of this policy.
- B. Sexual harassment may include conduct toward an employee of the Lincoln Police Department from a third party with whom the employee must deal as parts of their job, such as a client, vendor, or employee of another business. Just as an employee should not have to be exposed to, tolerate, or condone sexual harassment from a co-worker, third-party harassment is illegal and unacceptable and is subject to this policy.
- C. Some examples of sexual harassment include, but are not limited to:
1. Explicitly or implicitly conditioning any term of employment (e.g., continued employment, wages, evaluation, advancement, assigned duties) on the provision of sexual favors.
 2. Touching or grabbing a sexual part of an employee's body.
 3. Touching or grabbing any part of an employee's body after that person has indicated, or it is known or should be known, that such physical contact was unwelcome.
 4. Continuing to ask an employee to socialize on or off-duty when that person has indicated they are not interested.
 5. Displaying or transmitting sexually suggestive images, objects, graphics, videos, or content.
 6. Texting, emailing, writing, or otherwise sending sexually suggestive communications.
 7. Referring to or calling a person or persons a sexualized name.
 8. Repeatedly telling sexual jokes or using sexually vulgar or explicit language.
 9. Gestures, body language, or other non-verbal conduct that is sexually suggestive or offensive.
 10. Derogatory or provoking remarks relating to an employee's sex, gender, or sexual orientation.
 11. Off-duty conduct that falls within the definition of illegal harassment and affects the work environment; and

IV. OTHER TYPES OF HARASSMENT:

- A. Just as sexual harassment is illegal, so is harassment based on other protected categories where the harassment or conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment. Again, however, harassment need not be illegal to be a violation of town policy. Any behavior that ridicules, denigrates, insults, belittles, or shows hostility, aversion, or disrespect towards members of any of the protected categories is inappropriate. Harassment based on other protected types by third parties is also unacceptable and should be reported.
- B. Some examples of harassment based on other protected characteristics include:
1. Displaying or transmitting images, objects, graphics, videos, or content that a reasonable person would find offensive and that relates to any of the protected category characteristics.
 2. Texting, emailing, writing, or otherwise sending communications that a reasonable person would find offensive and relates to any of the protected category characteristics.
 3. Referring to or calling a person or persons a derogatory or offensive name based on protected category characteristics.

4. Telling jokes that a reasonable person would find offensive or engaging in conduct that is not appropriate for the workplace and that relates to any of the protected category characteristics.
5. Gestures, body language, and/or other non-verbal conduct that a reasonable person would find offensive and that relates to any of the protected category characteristics.
6. Derogatory or provoking remarks that relate to the protected category characteristics.
7. Off-duty conduct, statements, or behavior that falls within the definition of illegal harassment and affects the work environment.
8. Off-duty conduct, statements, or behavior that a reasonable person would find offensive that relates to a protected category characteristic, and that would impact the employee's ability to do his or her job effectively.

C. "Disability" Harassment

1. Harassment related to disability is unwanted conduct directed at a person because of their physical or mental disability. It may refer to the disability itself or to the person's actual or presumed capabilities or limitations. A person can also be harassed on the grounds of disability where they are not themselves disabled; for example, if they are the parent or caregiver for a child with disabilities and suffer harassment on that basis.
2. Specific examples of disability-related harassment can include individuals being ignored, disparaged, or ridiculed, inappropriate personal remarks, unnecessarily intrusive and inappropriate questions about a person's condition, or excessive and unnecessary references to a person's disability. At its extreme, disability harassment can manifest as the refusal to work alongside someone with a disability.

D. "Gender Identity" Harassment

1. Harassment related to gender identity is unwanted conduct directed at a person who is transgender or transsexual. This includes individuals who are undergoing, have undergone, or plan to undergo a gender reassignment process to change their gender identity. Specific examples of such harassment include excluding a person, jokes, name-calling, or refusing to acknowledge the person in their identified gender.

E. "Racial" Harassment

1. Racial harassment is unwanted conduct related to a person's race, including their ethnic or national origins, color, or nationality. It is usually, although not exclusively, directed at individuals from minority ethnic groups.
2. Specific manifestations of racial harassment may include racist jokes, 'banter' and language, the expression of racist views and stereotypes related to the display of racist materials, or deliberately excluding or refusing to cooperate with someone because of their race. Conduct that focuses upon a person's appearance, dress, culture, or customs can also constitute racial harassment, as does behavior that has the effect of fostering hatred and/or prejudice towards individuals of racial groups.

F. Harassment related to "Religion or Belief."

1. Harassment related to religion or belief is unwanted conduct directed at a person because of their faith or a comparable belief system. It can also occur because a person is presumed to be of a religion or belief system, even if this is not the case, or because of a person's non-adherence to a religion or belief system.
2. Harassment may take the form of insults or ridicule of a person's religion or belief, or non-belief.

3. Behavior may focus upon an aspect of a religion or belief system, such as clothing, religious artifacts, beliefs, and rituals, or the expression of stereotyped perceptions and assumptions about a religion or belief and its followers. It can also take the form of coercive pressure to convert or conform to a religion or belief system.

G. "Harassment related to Sex" - Including Pregnancy or Maternity

1. Harassment related to sex describes unwanted conduct that is directed at a person because they are male or female. For example, to deliberately exclude someone because they are the only man or woman in a team, group, or class would be considered harassment related to sex.
2. Harassment because a person is pregnant, breastfeeding, or recently given birth could be harassment related to sex.
3. Harassment related to sex is distinct from sexual harassment as, while the behavior refers to a person's sex, it is not sexual.

H. "Sexual Orientation" Harassment

1. Harassment related to sexual orientation is unwanted conduct directed at a person because of their actual or perceived sexual orientation. It most frequently affects individuals who are gay, lesbian or bisexual, but can sometimes be directed at heterosexuals too. Harassment related to sexual orientation may go unreported because a person does not wish to disclose their sexuality.
2. Harassment related to sexual orientation may be specifically manifested as intrusive questions about a person's private life, homophobic comments, jokes and 'banter' about sexuality, gossip, and speculation about a person's sexuality, refusal to work or study alongside someone because of their sexuality and actual physical assault. "Outing" someone by the release of personal information would also be considered harassment.

I. Homophobic, biphobic, or transphobic ("HBT") bullying

1. HBT bullying is behavior or language which makes a person feel unwelcome or marginalized because of their sexual orientation or gender identity, whether actual or perceived, or because of their association with people who are, or seen to be, gay, bisexual, or transgender (e.g., children of same-sex couples).
2. Some behaviors that have been associated with HBT bullying include:
 - i. Rumormongering.
 - ii. Being compared to LGBT celebrities, caricatures, or characters that portray
 - iii. Stereotypes of LGBT people.
 - iv. The threat of being exposed (or "outed") to friends and family as LGBT even when this is an incorrect perception.
 - v. Being ignored or left out (i.e., Indirect bullying or social exclusion).
 - vi. The use of inappropriate sexual gestures; and
 - vii. Physical bullying: hitting, punching, kicking, sexual assault, and threatening behavior.

J. The "Workplace" is considered as any place where the business of the Lincoln Police Department is conducted. This extends, for example, to locations away from the office (such as town vehicles and on town worksites) and can include work-related social activities.

K. "Retaliation" occurs when an individual is treated in a way that is detrimental because they have made a complaint about being discriminated against or harassed, or they intend to make a complaint about discrimination or harassment, or they have or intend to act as a witness or give evidence in support of another person(s) relating to a complaint about discrimination or harassment.

V. RESPONSIBILITIES:

- A. The Lincoln Police Department is responsible for preventing bullying or harassing behavior. It is the responsibility of all supervisors to ensure that their team complies with this policy and that any incident of harassment, bullying, or victimization is investigated immediately and compassionately. It is always the responsibility of all those working for the Lincoln Police Department to behave in an acceptable and appropriate manner.
- B. Supervisors are responsible for addressing relevant performance, attendance, or conduct issues in a timely, open, and appropriate manner. This would not constitute bullying or harassment.
- C. Every member of Lincoln Police Department, regardless of grade, rank, role, or position, which is found to be responsible for inciting, perpetrating, or condoning behavior that amounts to workplace bullying or harassment, may be subject to misconduct/discipline procedures. Such a person can be held personally liable if the target of the behavior undertakes legal proceedings.

VI. REPORTING ALL TYPES OF HARASSMENT:

Employees who experience any type of harassment from supervisors and/or co-workers should make it clear that such behavior is unwelcome. If the employee feels that harassment has occurred or continues to occur, the employee shall file a complaint.

A. Complaint Procedure:

- 1. The employee shall document all incidents of harassment to provide the fullest basis for investigation.
- 2. Any employee who believes that harassment has occurred shall report the incident(s) to their supervisor as soon as possible so that steps may be taken to protect the employee from further harassment, and appropriate investigative measures may be initiated.
 - i. If the offending party is in the effected employee's chain of command, the employee may instead file a complaint with another supervisor, the Town Manager, or the Human Resource representative.
 - ii. The person to whom the complaint is reported shall document, via memorandum, the incident(s) complained of, the person(s) performing or participating in the alleged harassment and the date(s) on which the alleged harassment occurred and forwarded the complaint immediately to the Town Manager or Human Resource representative.
 - iii. Each instance of harassment must be individually reported. The Town Manager or Human Resource representative, in consultation with supervisors and/or other appropriate officials, will immediately and confidentially investigate any reported act of harassment, including calling attention to this policy and applying appropriate disciplinary action.

VII. ALTERNATIVE REPORTING METHODS:

An alternative method for the employee to initiate a complaint is to follow grievance procedures in their collective bargaining agreement. Also, an employee may contact the Maine Human Rights Commission. The address and telephone number of the ***Maine Human Rights Commission is 51 State House Station, Augusta, ME 04333-0051, Telephone: 207-624-6290.***

VIII. PLEDGE AGAINST RETALIATION:

Just as the Lincoln Police Department does not tolerate harassment or bullying, it also does not tolerate retaliation against any person who is subject to harassment or bullying, who makes a complaint or report of any type regarding harassment or bullying, or who cooperates in an investigation related to allegations of harassment or bullying.

Any acts of retaliation by supervisors and/or co-workers against an employee making any type of sexual harassment complaint are contrary to the town's policy and this agency's policy of equal opportunity employment and will not be tolerated. Claims of retaliation should be made and handled in the same manner as the underlying claims.

IX. COUNSELING:

Employees who are unsure as to whether they have been the victim of any type of harassment, including sexual harassment, are encouraged to contact the Town Manager or Human Resource representative for confidential counseling.

Supervisors who have questions about handling any type of harassment claims are encouraged to contact the Town Manager or Human Resource representative for information, advice, and counseling. Some persons may find it difficult to recognize certain aspects of their behavior and actions towards others as harassment.

X. POLICY VIOLATIONS:

Any employee, supervisor, or superior who is found by the Lincoln Police Department to have harassed or bullied another employee will be subject to sanctions appropriate to the circumstances, ranging from a verbal warning up to and including dismissal. The Lincoln Police Department will take appropriate and prompt action to stop illegal harassment or bullying from any third party who has been found to have harassed a Lincoln Police Department employee.

XI. TRAINING:

- A. All staff members (full-time, part-time and volunteers) shall receive annual training on workplace harassment.
- B. Training on workplace harassment will be documented to ensure that all staff members have successfully completed this training.