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26.6 Equal Employment Opportunity

Equal Employment Opportunity is also addressed in the *Human Resources Handbook* Article XIII Section 1303

- A. The *Town* and the *Department* are committed to providing equal employment opportunity to all persons who apply for and/or accept employment with the *Town*. Terms, privileges, and conditions of employment *shall* be administered in a manner that does not discriminate in violation of federal, state or local law.
- B. Every *employee* has the right to work in an environment free from hostile, offensive or intimidating behavior. Harassment, including the creation or maintenance of a hostile, intimidating, or offensive working environment, is a violation of *Town* policy and this *General Order*.
- C. The *Department* will take action to prevent and correct conduct that violates equal employment opportunity laws. Any *employee* with a complaint of discrimination *may* raise that complaint with a *supervisor* where it *will* be documented and forwarded to Human Resources and the *Chief* for investigation.

26.6.1 Discrimination

- A. All applicants and *employees* will be treated equally without regard to race, color, religion, national origin, age (40 and older), sex (including LGQBT+), pregnancy, citizenship status, disability, or genetic information in all employment matters, including, but not limited, to, promotions, transfers, job rotation, training, work assignments, *hiring*, merit increases, overtime, awards, and *discipline*.
- B. It is illegal to discriminate in the terms and conditions of employment and the provision of police services on the basis of race, color, religion, national origin, age (40 and older), sex, pregnancy, citizenship status, disability, or genetic information based on federal laws, state laws, and *Town* rules, regulations and ordinances.

26.6.2 Harassment-Free Work Environment

- A. Harassment is unwelcome conduct that is based on race, color, religion, national origin, age (40 and older), sex (including LGQBT+), pregnancy, citizenship status, disability, or genetic information. Harassment becomes unlawful where 1)



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enduring the offensive conduct becomes a condition of continued employment, or 2) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive.

Harassment is prohibited in the workplace and in retaliation for filing a discrimination charge, testifying, or participating in any way in an investigation, proceeding, or lawsuit under anti-discrimination laws; or opposing employment practices that a person reasonably believes discriminate against individuals, in violation of these laws.

- B. All *employees will* be provided a work environment free from harassment.
- C. Examples of harassment *may* include the use of derogatory comments, slurs, jokes, or derogatory pictures, cartoons, or posters.
- D. The *Department* has a zero tolerance policy on harassment and prohibits any harassment of *employees*.
- E. Inappropriate conduct that is in violation of this policy *may* result in *discipline* the first time such behavior occurs. Prior incidents of harassment *may* be considered when assessing the facts and circumstances of a later complaint.
- F. As to whether an alleged action constitutes harassment, each situation *will* be determined on a case-by-case basis by assessing the entire record and the totality of the circumstances. Factors such as the nature of the behavior and the context in which the alleged incidents occurred *will* be considered in assessing the allegations and in determining the appropriate resolution.

26.6.3 Sexual Harassment

- A. Sexual harassment is a form of illegal gender discrimination. It is defined by law as unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature when:
 - 1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, or
 - 2. Submission to, or rejection of, such conduct is used as the basis for employment decisions affecting that *employee*, or



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3. Such conduct has the effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Unwelcome is defined as conduct that the offended *employee* did not solicit or incite and that was regarded as undesirable or offensive.

- B. Behavior that constitutes sexual harassment as defined by this policy includes, but is not limited to, the following:
1. Verbal Harassment: Sexual innuendo, sexually suggestive comments, jokes, teasing of a sexual nature, discussing sexual exploits, spreading rumors of a sexual connotation, or continued requests for social or sexual contact.
 2. Physical Harassment: Unwelcome contact, touching, or impeding movement.
 3. Visual Harassment: Sexually suggestive or derogatory posters, videos, cartoons, drawings, documents, writings, electronic mail, staring, or leering.
 4. Sexual Favors - Unwanted sexual advances in exchange for employment benefits that constitute advancement, assignment preference, job duty preference, or employment benefits for or in exchange of sexual favors.
- C. Whether or not harassment occurred depends not on whether the act was intended to cause harm but on the impact of the act on the complainant's employment or work environment. *Personnel must* understand that a person who teases in a sexual manner or tells sexual jokes *may* create an offensive work environment for another worker, even though the person intended such actions merely to be "good fun."
- D. If one's behavior is harassing to an individual or a group of individuals, it *will* not be excused simply because the harasser failed to recognize the behavior as harassing.



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- E. It is not a requirement that the complainant be the intended target of the offensive conduct. Witnessing offensive behavior between other *employees may* be grounds for complaint.
- F. This policy does not prohibit mutually welcome social relationships between *employees*. However, persons involved in consensual relationships *must* exercise caution to prevent harassing behavior from developing and from using authority inappropriately. If a consensual relationship changes and is no longer mutual, conduct once welcome by both individuals *may* become offensive to one or the other.

26.6.4 Disability Discrimination

The *Americans with Disabilities Act (ADA)* requires the *Department* to make reasonable accommodations for a qualified individual with a disability (as defined by the *ADA*) who can perform the essential functions of the job. An *employee may* not be subjected to discrimination, harassment, or retaliation for exercising his or her rights under the *ADA*. *Employees* seeking accommodation under the *ADA should* contact the Human Resources Department for further information.

26.6.5 Discrimination Based on Religion

The *Department* is required to reasonably accommodate an *employee's* religious practices provided that doing so does not create an undue hardship in light of the public health, safety, and welfare considerations associated with police work.

26.6.6 Family/Medical/Pregnancy Leave

Employees have specific rights under the Family Medical Leave Act and the Pregnancy Discrimination Act. The FMLA *may* also interact with *ADA* provisions. Specific questions concerning an employee's rights and responsibilities *should* be referred to the HR Department.

26.6.7 Retaliation

- A. Retaliation is defined as an adverse employment action taken against an *employee* because that *employee* filed a complaint of discrimination under any federal, state or local law, complained of discrimination on the job or participated in an internal investigation involving allegations of discrimination.



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- B. An adverse employment action can include, but is not limited to, unwanted transfers, change in work assignment or location, denial of leave requests, demotions, negative performance evaluations, unsupported *discipline*, ostracism, or other actions that adversely affect the work environment.
- C. Retaliation is illegal and *will* not be tolerated. Any incidents of retaliation *should* be reported immediately.
- D. An *employee* found to have retaliated against another *employee/volunteer* is subject to *discipline*.
- E. An allegation of retaliation does not require the original complaint to be sustained, retaliation can occur even if the original complaint was not sustained.

26.6.8 Responsibility of Supervisors and Commanders

- B. *Supervisors* and commanders, both *sworn* and professional staff, *shall* educate and train their *employees* on EEO policy and ensure they are aware of the procedures for reporting potential violations.
- B. *Supervisors* and commanders, both *sworn* and professional staff, are required to personally monitor and evaluate the *personnel* actions of subordinates to ensure compliance with EEO laws and to ensure that the workplace is free from harassment and discrimination as well as inappropriate workplace behavior. When made aware of a potential or current problem or complaint, commanders and *supervisors*, both *sworn* and professional staff, *shall* promptly take immediate action to stop any offensive or illegal behavior and *shall* notify the *Chief* and Human Resources of the complaint to determine the appropriate course of any further action.

26.6.9 Department Employees

All *personnel* of the *Department*, including unpaid volunteers, are responsible for creating and maintaining a professional working environment free from harassment and discrimination. *Personnel shall*:



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- Demonstrate sensitivity to and respect for differences arising from a person's race, color, religion, national origin, age (40 and older), sex (including LGQBT+), pregnancy, citizenship status, disability, or genetic information.
- Notify their chains of command and Human Resources of any EEO violations that they experience or observe.

26.6.10 Confidentiality Required

All matters pertaining to EEO complaints and investigations are confidential. All participants in a *report* or investigation are strictly prohibited from discussing the matter outside of formal channels. Information concerning such issues *will* be disseminated on a need-to-know basis only.

