

Waltham Police Department

ANTI –HARASSMENT/ SEXUAL HARASSMENT AND DISCRIMINATION

CHAPTER 36

General Order #: GO-01 2006

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Accreditation Standard #: 26.1.3

POLICY:

The Waltham Police Department, as an employer, has a goal and a duty to eliminate unlawful harassment, sexual harassment, and discrimination from the workplace. It is destructive of morale and teamwork and can lead to poor job performance. This duty arises from Title VII of the Civil Rights Act of 1964 and Mass. Gen. Law, Chap. 151B and 151C, and Chapter 149, s 24A, Chapter 93, s 102.

It is the policy of the Waltham Police Department that all members **shall** enjoy a working environment free from all forms of harassing behavior based on a person's race, skin color, religion, national origin, ancestry, gender, age, handicap (disability), participation in discrimination complaint-related activities, sexual orientation, genetics, or active military or veteran status. **[26.1.3]**

Each member of the Department must avoid offensive and/or inappropriate sexual and/or sexually harassing behavior at work and shall be held responsible for ensuring that the workplace is free of harassment, sexual harassment, or discrimination. Harassment, sexual harassment, or discrimination against an individual filing a claim, or retaliation against a cooperating individual in an investigation is unlawful and will not be tolerated.

The Department recognizes that any allegation of harassment, sexual or otherwise, requires a determination of the facts in each case, and further recognizes that any such investigation should be conducted in a confidential manner until the allegation is properly reviewed. The following procedures shall be adhered to in all circumstances when an employee feels that they are the victim of any harassment. **[26.1.3]**

In compliance with MGL 151B, the department shall provide annually to all employees an individual written copy of the Anti-Harassment / Sexual Harassment and Discrimination Policy; provided, however, that a new employee shall be provided such a copy at the time of their employment. **[26.1.3]**

1. **DEFINITIONS:**

- a. **DISCRIMINATION:** The unequal and unlawful treatment of persons in employment related decisions because of race, color, religious creed, national origin, sex, sexual orientation, ancestry, age, handicap or other such category protected under the law.
- b. **HARASSMENT:** Any conduct that denigrates or shows hostility towards an individual or individuals because of race, color, religion, creed, national origin, sex, sexual orientation, ancestry, age, handicap or other such category protected under the law that:

1. Has the purpose or effect of creating an intimidating, humiliating, hostile or offensive work environment; or
2. Has the purpose or effect of unreasonably interfering with an individual's work performance.

All employees should take special note that, as stated above, retaliation against an individual who has complained about sexual harassment, and retaliation against individuals for cooperating with an investigation of a sexual harassment complaint is unlawful and will not be tolerated by this organization.

- c. **SEXUAL HARASSMENT:** Any repeated or deliberate unwelcome advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature which constitute sexual harassment when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment.
2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individuals.
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

The victim does not have to be the person at whom the unwelcome sexual conduct is directed. The victim may also be someone who is affected by such conduct when it is directed toward another person. For example, the harassment, sexual harassment, or discrimination of one employee may create an intimidating, hostile, or offensive

working environment for another co-worker or unreasonably interfere with the co-worker's work performance.

Examples of abhorrent behaviors that the Waltham Police Department considers being sexual harassment or creating a hostile work environment are as follows:

a. QUID PRO QUO:

1. Requests for sexual favors in exchange for actual or promised job benefits, such as favorable performance reviews, promotions, choice assignments, or continued employment.
2. Unwelcome sexual advances whether they involve physical touching or not.
3. Sexual epithets, jokes, written or verbal references to sexual conduct, gossip regarding one's sex life, comments on an individual's body, comment about an individual's sexual activity, deficiencies, or prowess.
4. Unwelcome leering, whistling, or brushing against the body of an individual; unwelcome sexual gestures or suggestive comments.
5. Displaying sexually suggestive objects, pictures, and cartoons.
6. Inquiries into a person's sexual experiences.
7. Discussion of one's own sexual activities.

b. BROADLY DEFINED: The legal definition of sexual harassment is broad, and in addition to the above examples, other sexual oriented conduct, whether it is intended or not, is unwelcome and has the effect of creating a workplace environment that is hostile, offensive, intimidating, or humiliating to coworkers, may also constitute sexual harassment.

c. CONSIDERATIONS: Harassment, sexual harassment, or discrimination is not, by definition, limited to prohibited

conduct by a male employee toward a female or by a supervisory employee toward a non-supervisory employee. The Department's view of harassment, sexual harassment, or discrimination includes, but is not limited to, the following considerations: [26.1.3]

1. A man, as well as a woman, may be the victim of harassment, sexual harassment, or discrimination, and a woman, as well as a man, may be the harasser.
2. The harasser does not have to be the victim's supervisor. The harasser may also be a supervisory employee who does not supervise the victim, a non-supervisory employee (coworker), or may in some circumstances even be a nonemployee.
3. The victim does not have to be the opposite sex from the harasser.
4. The victim does not have to be the person at whom the unwelcome sexual conduct is directed. The victim may also be someone who is affected by such conduct when it is directed toward another person. For example, the harassment, sexual harassment, or discrimination of one employee may create an intimidating, hostile, or offensive working environment for another co-worker or unreasonably interfere with the co-worker's work performance.

2. **PROCEDURES:**

- a. **REPORTING OF INCIDENT:** Any employee who believes that they have been harassed, sexually harassed, or discriminated against shall report the incident to their first supervisor who is superior in rank or their Division Commander. The report and its details shall be held in strictest confidence to further protect the alleged victim. Confidentiality is paramount to protect all involved. In the event that an employee may need to notify a supervisor, the employee can access these numbers through the Waltham Police Department Rolodex in QED. All internal extensions are posted in each division throughout the Department. [26.1.3]

In the event that the offending party is in the victim's chain of command or if the victim prefers to notify someone outside of the Department, the victim should report the incident directly to the Personnel Director and/or the other

person designated by the Mayor to receive harassment, sexual harassment, or discrimination complaints. [26.1.3]

In addition to filing a complaint with the Department, if you believe you have been subjected to harassment, sexual harassment, or discrimination you may file a complaint with any or all of the government agencies listed below. Each agency has a time limit for filing a claim (MCAD – 300 days; EEOC – 300 days):

1. The Massachusetts Commission Against Discrimination
One Ashburton Place, Room 601
Boston, MA 02108-1518
(617) 994-6000 (Office)
(617) 994-6196 (TTY)
Email: mcad@mass.gov
Website: www.mass.gov
2. The United States Equal Employment Opportunities Commission
JFK Federal Building
15 New Sudbury Street, Room 475
Boston, MA 02203-0506
(617) 565-3200 (Office)
(617) 565-3196 (Fax)
(800) 669-6820 (TTY)

The Boston Area Office is open Monday - Friday from 8:30 a.m. - 5:00 p.m. Intake hours are Monday - Friday from 8:30 a.m. - 3:00 p.m. Although walk-ins are accepted, scheduling an interview is strongly recommended, and individuals with appointments will be given priority. You are encouraged to schedule an interview through their online system.

<https://www.publicportal.eeoc.gov>

Difficulty accessing the portal call: 1-800-669-4000

For further information: info@eeoc.gov

3. Office of Diversity and Equal Opportunity
100 Cambridge Street, Suite 600
Boston, MA 02114
(617) 727-7441 (Office)
(617) 878-9830 (Fax)
(617) 878-9819 (TTY)

4. City of Waltham Personnel Department 119 School Street
Waltham, MA 02451
(781) 314-3355

Complaints of harassment, sexual harassment, discrimination, or retaliation shall be accepted verbally but preferably in writing. All complaints will be taken seriously and thoroughly investigated. Anyone may make such complaints, whether it is the victim or any other individual who has witnessed an act of harassment, sexual harassment, discrimination, or retaliation. The Department **requires** individuals who witness such acts to report this conduct.

The Department shall make every effort to conduct such investigations in a professional manner, as expeditiously and as confidentially as is reasonably possible.

Information shall be limited to those individuals who have an immediate need to know, including but not limited to the Chief of Police, the investigating officer(s), the alleged target of harassment or retaliation, the alleged harasser, and any possible witness(es) or others who may be able to provide information necessary to the investigation.

- b. **INVESTIGATION OF THE INCIDENT:** The superior officer receiving such complaint shall notify the Chief of Police forthwith of such complaint. The Chief of Police shall assign the Commanding Officer - Internal Affairs Unit to have the matter investigated pursuant to Department policy and report it to them. Upon completion of the investigation, the investigating officer shall prepare a written report to be submitted to the Chief of Police for appropriate action. A general summary of the investigation results shall be shown to the complainant within five days of the conclusion of the investigation if possible. The findings of the investigation shall also be communicated to the alleged harasser.
- c. **REVIEW AND FINDINGS:** The Chief of Police shall review the results of the investigation and shall notify the reporting employee(s) of the findings of the investigation and of the corrective action, if any, to be taken by the Department with regard to the offending employee(s).
- d. **CORRECTIVE/DISCIPLINARY ACTION:** Any corrective or disciplinary action taken shall be consistent with current Department policies, procedures, rules and regulations. **[26.1.3]**
- e. **RETALIATION:** In no case shall an employee reporting an incident of harassment, sexual harassment, or discrimination be subject to adverse employment action. Retaliation may sometimes take the form of shunning,

intimidating, obstructing, or interfering with an individual's work and/or the denial of desirable work assignments, placements and/or other employment benefits.

In the employment context, retaliation may include, but is not limited to, any adverse employment action (e.g., termination, suspension, demotion, reassignment or transfer) taken against an individual because he or she engaged in protected activity, including, but not limited to opposing prohibited conduct or an employment practice that violated this policy or applicable law, filing a complaint or cooperating or participating in any investigation or other proceeding(s).

- f. **FALSE ALLEGATION:** If the investigation reveals that the allegations were false with malicious intent or knowledge that the allegations were false – the employee will be disciplined pursuant to Department policy, up to and including termination.
- g. **RESPONSIBILITY/LIABILITY:** The City of Waltham, as an employer, may be held responsible for harassment, sexual harassment, or discrimination as follows:
 - 1. The City may be held liable for acts of harassment, sexual harassment, or discrimination by its supervisory employees towards subordinates.
 - 2. The City may be responsible for its employees' acts of harassment, sexual harassment, or discrimination of fellow employees (co-workers) where it or its supervisory employees knew or should have known of the conduct, unless the City can show that it took immediate and appropriate corrective action.
 - 3. In certain limited circumstances, the City may be held liable for acts of harassment, sexual harassment, or discrimination by non-employees. The City's potential responsibility for harassment, sexual harassment, or discrimination depends additionally on the extent of its control over the non-employee's and any other legal responsibility it may have with respect to the non-employee's conduct.
- h. **NOTIFICATION:** It shall be the Appointing Authority's responsibility to notify the Personnel Director that the particular remedial and/or disciplinary action has been carried out.

i. **EMPLOYEE RESPONSIBILITIES:**

1. Ensuring that their conduct does not harass, sexually harass, or discriminate against any other employee, applicant for employment, or other individual in the workplace; each employee who experiences what they believe to be harassment should make it clear to the offending person that the particular type of behavior is offensive.
2. Cooperating in the investigation of informal reporting or formal complaints of alleged harassment, sexual harassment, or discrimination by providing any information possessed concerning the matters being investigated.
3. Cooperating with the City's efforts to prevent and eliminate harassment, sexual harassment, or discrimination and to maintain a working environment free from such unlawful discrimination.
4. Maintaining confidentiality and flexibility in approaches to investigation and resolution of complaints. All employees shall keep their communications in such an investigation confidential and shall disclose them only to authorized investigators and employees who need the disclosure in order to perform their duties.

- j. **SANCTIONS:** Any employee found to have engaged in harassment, sexual harassment, or discrimination in violation of this policy is subject to disciplinary actions up to and including termination of employment. Disciplinary actions short of termination may include withholding of promotions and/or pay raises, reassignment, and/or suspension.