

TOWN OF CAZENOVIA
SEXUAL HARASSMENT PREVENTION POLICY

(Adopted 7/8/2019)

A. Statement of Policy

1. **Sexual Harassment Prohibited:** It is the policy of the Town of Cazenovia to promote a safe, productive environment for its employees and visitors. As with discrimination involving other protected characteristics, the Town of Cazenovia prohibits sex discrimination, including sexual harassment of its employees, applicants for employment, interns (paid or unpaid), contractors, subcontractors, vendors, consultants or other persons providing services pursuant to a contract in the workplace. The Town of Cazenovia has zero-tolerance for any form of sexual harassment and requires all of its employees to work in a manner that prevents sexual harassment in the workplace.

The Town of Cazenovia recognizes that sexual harassment is prohibited by federal and state law and considers sexual harassment by an employee to be a form of employee misconduct. It is further the policy of the Town of Cazenovia that employees who engage in sexual harassment, or who are a manager or supervisory employee who knowingly allows harassment to occur, shall be subject to potential disciplinary action.

2. **Sexual Harassment Defined:** Sexual harassment is a form of sex discrimination, and includes harassment on the basis of sex, sexual orientation, self-identified sex, gender expression or identity and the status of being transgender. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when this conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance, is made either explicitly or implicitly a term or condition of employment, or creates an intimidating, hostile, or offensive work environment.

Sexual harassment can occur in a variety of circumstances, including but not limited to the following:

- a. The victim as well as the harasser may be a woman or a man. The victim does not have to be of the opposite sex.
 - b. The harasser can be the victim's supervisor, an agent of the employer, a supervisor in another area, a co-worker, or a non-employee.
 - c. The victim does not have to be the person harassed but could be anyone affected by the offensive conduct.
 - d. Sexual harassment may occur without economic injury to or discharge of the victim.
 - e. The harasser's conduct must be unwelcome.
3. **Forms of Sexual Harassment:** Specific conduct that may constitute prohibited sexual harassment includes, but is not limited to:

- a. Any sexual advance or request for sexual favors that is unwelcome, or that occurs when a person in authority tries to trade job benefits for sexual favors.
- b. Verbal comments of a sexual nature related to a person's gender, including sexual innuendoes, slurs, comments or sounds of a sexual nature that are suggestive, derogatory or insulting, whistling, sexually-themed jokes or stories and sexual propositions or threats.
- c. Sexually-oriented comments about a person's body or appearance that are unwelcome and/or unreasonably interfere with an employee's work performance or create an intimidating, hostile or offensive working environment.
- d. Displaying or distributing written, recorded or electronically-transmitted material that is sexually suggestive, including, but not limited to: pornographic or sexually explicit images or objects, graphic commentaries or obscene gestures that unreasonably interferes with an employee's work performance, or creates an intimidating, hostile or offensive working environment.
- e. Physical contact of any kind, which is unwelcome, including, but not limited to: touching, grabbing, hugging, fondling, jostling, petting, pinching, coerced sexual intercourse or sexual relations, assault or intentional brushing up against another person's body.

B. Reporting and Investigation of Sexual Harassment

1. **Reporting Sexual Harassment:** Any covered individuals who believe they have been subjected to sexual harassment or who witness or become aware of potential instances of sexual harassment and would like to either obtain guidance about how to file a complaint or report such incidents should contact their immediate supervisor or the Town Supervisor. A person who reports possible sexual harassment shall be advised of the right to file a written report and provided with a copy of the Town of Cazenovia's policy and reporting form, a copy of which is incorporated as part of this policy.
2. **Investigation of Reported Sexual Harassment:** Upon receiving a report of possible sexual harassment, whether communicated verbally or through the written complaint form referenced in this policy, the designated coordinator/investigator shall log the report, provide the reporter with written acknowledgement of the report, and conduct a fact-finding inquiry designed to determine within a reasonable degree of probability what happened. Such fact-finding investigations shall be conducted in such a manner as to protect the confidentiality of the reporter to the fullest extent possible.
 - a. The fact-finding investigation should be conducted in a timely manner after the report is made and pursued with sufficient diligence to reach a conclusion without undue delay.
 - b. An independent third party may be designated to conduct the investigation.
 - c. The investigation should determine, with as much detail as possible, the sequence in which events occurred, the identity of each person involved and their respective roles, and the exact words and/or conduct of each person involved in the reported events. To the extent possible, fact-finding interviews should be conducted by one person.

- d. The investigation shall include an opportunity for any person alleged in such a report to have violated this policy to respond to each statement or action constituting an alleged violation.
 - e. Investigative interviews shall be scheduled and conducted in compliance with applicable provisions of law and collective bargaining agreements.
 - f. Each person interviewed in connection with such an investigation shall be advised that they are protected by the non-retaliation provision of this policy.
3. **Resolution of Investigation:** Upon completion of the investigation, the designated investigator shall:
- a. Promptly prepare a written fact-finding report describing:
 - i. The investigation, including a summary of each interview performed and any documents or other evidence reviewed
 - ii. Any conclusions drawn regarding disputed facts
 - iii. A conclusion as to whether or not prohibited sexual harassment has occurred
 - iv. A recommendation regarding any corrective action if sexual harassment is found to have occurred
 - b. If the fact-finding report determines that sexual harassment did not occur, the reporter and any person who was alleged by the reporter to have engaged in sexual harassment shall be advised of the determination verbally and in writing. The reporter may request that the report be reviewed.
 - c. If the fact-finding report determines that sexual harassment did occur, the reporter shall be advised of the determination orally and in writing and, consistent with applicable policies or law concerning the confidentiality of employee personnel records, be advised that corrective action shall be taken to deter similar conduct in the future. Any person(s) found in the report to have committed sexual harassment shall be advised verbally and in writing of the determination and the right to have such determination reviewed, advised verbally of the recommended corrective action and, to the extent required by applicable law or collective bargaining agreement, the steps that the Town of Cazenovia intends to pursue to implement such corrective action.
 - d. Review of a fact-finding report shall be conducted by the Town Supervisor, the Town's designated review officer, who shall perform such review promptly and advise the person requesting such review of any action taken resulting from the review.
 - e. Upon issuance of a final fact-finding report, the reporter shall be advised that sexual harassment is prohibited under federal and state nondiscrimination laws and regulations, and of the right to pursue redress of a report of sexual harassment, whether or not the fact-finding report determined that sexual harassment occurred, through the filing of an external complaint, as outlined in Section E herein.

C. **Retaliation Prohibited**

1. No person covered by this policy shall be subjected to retaliation of any kind, including adverse employment actions such as discharge, discipline, or other discrimination, as a result of reporting sexual harassment or assisting or participating in the investigation of a complaint of sexual harassment.
2. Intimidation, coercion, threats, reprisal or discrimination against any person who in good faith reports possible sexual harassment, or any person who cooperates, aids or assists with an investigation of such a report, is strictly prohibited.
3. Retaliation against a person who makes a good faith report of sexual harassment, or any person who cooperates, aids or assists with an investigation of such a report is unlawful and a form of employee misconduct that may be subject to disciplinary action.
4. This retaliation provision is not intended to protect persons who make intentional false charges of harassment.

D. **Supervisory Responsibility:** Department heads and supervisory personnel are responsible for promoting a workplace that is free from unsolicited, unwelcome and/or intimidating conduct of a sexual nature. Supervisory employees must take immediate and appropriate corrective action upon becoming aware of such conduct involving any employee of the Town of Cazenovia or any contractor, consultant, vendor or other person providing services to or receiving services from the Town of Cazenovia.

E. **Availability of Administrative and Judicial Review and Employee Rights:**

1. Persons who believe they have been the subject of sexual harassment may, in addition to the procedures set forth in this policy, pursue claims of sexual harassment through state or federal entities such as:
 - a. **The New York State Division of Human Rights (“DHR”):** The New York State Human Rights Law, codified as Executive Law Article 15, sections 290 et seq., applies to employers in New York State with regard to sexual harassment and protects employees, paid or unpaid interns and non-employees. A complaint alleging a violation of the Human Rights Law may be filed with the DHR or in an appropriate federal or state court.

Complaints filed with DHR may be filed within one (1) year of the date of alleged harassment. Upon receiving a complaint, DHR will investigate and determine whether probable cause exists that discrimination has occurred. If probable cause is found, DHR refers the matter to a public hearing before an administrative law judge. If discrimination is found after a hearing, DHR has the power to award various forms of relief, including directives to an employer to stop harassment and monetary damages.

If an individual does not file a complaint with DHR, they can still pursue a claim directly in an appropriate court within three (3) years of alleged discrimination.

An internal complaint made under this policy does not extend the time in which to file a complaint with DHR or in court. A complaining party does not need an attorney, and there is no cost to the complainant to file a complaint with DHR.

More information about filing a complaint with DHR may be obtained through the DHR website at www.dhr.ny.gov or by calling (888) 392-3644.

- b. **The Equal Employment Opportunity Commission (“EEOC”)**: The EEOC enforces federal antidiscrimination laws, including Title VII of the Civil Rights Act of 1964, codified at 42 U.S.C. Section 2000e et seq. An individual may file a complaint with the EEOC any time within 300 days of harassment. There is no cost to file a complaint with the EEOC. The EEOC will investigate the complaint and determine if there is reasonable cause to believe that discrimination has occurred, at which point it may issue a Right to Sue letter permitting the individual to file a complaint in an appropriate court.

The EEOC does not hold hearings or award relief directly to a complaining individual but may take other action including pursuing cases in federal court on behalf of a complaining party. Federal courts may award remedies if discrimination is found to have occurred.

Any employee who believes he or she has experienced sexual harassment or any other form of unlawful discrimination at work can file a Charge of Discrimination with the EEOC. More information may be obtained through the EEOC’s website www.eeoc.gov or by calling 1-800-669-4000.

- c. **Local Protections**: Many localities enforce laws protecting individuals from sexual harassment. An individual should contact the county, city or town in which they live or work to find out if such a law exists.

- 2. Nothing in this policy should be construed as in any way limiting, diminishing or otherwise affecting the rights of employees to use any applicable Dispute Resolution Procedure or to affect any due process rights available under applicable law or regulation.

- F. **Posting and Distribution of this Policy**: A copy of this Policy will be provided to all employees in writing, including the method of electronic transmission (e-mail). A copy of this Policy may also be posted in areas of the workplace where it is visible to employees and other covered individuals.

TOWN OF CAZENOVIA
SEXUAL HARASSMENT COMPLAINT FORM
(Submit to Town of Cazenovia Supervisor)

This form may be used to file a complaint of sexual harassment as prohibited by federal law, the New York State Law and the Town of Cazenovia Sexual Harassment Prevention Policy.

Filing of this complaint form in no way deprives you of the right to file a complaint with the US Equal Employment Opportunity Commission, New York State Division of Human Rights, or the Federal/State courts.

(PLEASE PRINT OR TYPE)

COMPLAINANT'S INFORMATION:

1. Name _____ Phone Number _____

Residence _____

Mailing Address (if difference from residence)

City _____ State _____ Zip Code _____

E-mail address _____

2. Job Title/Department _____

3. Alleged Harassment Occurred on or about:

Month: _____ Day: _____ Year: _____ Time: _____

Is this alleged harassment continuing: YES: NO:

Describe the alleged act(s) of discrimination. **Use additional sheets if necessary.**

4. Indicate the name(s) of the alleged harasser(s): _____

5. Provide the name(s) and contact information of any potential witness(es) or individual(s) who may have information related to your complaint: _____

6. 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?

7. (a) Have you filed this complaint with a Federal, State or local government agency?
YES/NO: _____ When _____ Where _____
- (b) Have you instituted a suit or court action regarding this complaint?
YES/NO: _____ When _____ Where _____
- (c) Have you retained or consulted with an attorney regarding this complaint?
YES/NO: _____ When _____ Where _____

(AN AFFIRMATIVE RESPONSE TO ANY THESE QUESTIONS WILL IN NO WAY STOP OR AFFECT REVIEW OF YOUR COMPLAINT)

INFORMATION PROVIDED WILL BE CONFIDENTIALLY
MAINTAINED TO THE EXTENT POSSIBLE