

		Anti-Harassment & Retaliation Policy			
Owner:	HR Manager	Approving Position:	Common Council	Pages:	6
Issue Date:		Revision Date:		Review Date:	
Special Instructions:	Complete revision to CVMIC model policy.				

I. PURPOSE

The purpose of this policy is to maintain a healthy work environment in which all individuals are treated with respect and dignity and to provide procedures for reporting, investigating and resolving complaints of harassment, discrimination and retaliation.

II. POLICY

It is the policy of the City of Whitewater that all employees have the right to work in an environment free of all forms of harassment and retaliation. The City will not tolerate, condone, or allow harassment or retaliation by any employee or other non-employees who conducts business with the City. The City considers harassment, discrimination and retaliation of others to be forms of serious employee misconduct. Therefore, the City shall take direct and immediate action to prevent such behavior, and to remedy all reported instances of harassment, discrimination and retaliation. A violation of this City policy can lead to discipline up to and including termination, with repeated violations, even if "minor," resulting in greater levels of discipline as appropriate.

III. PROHIBITED ACTIVITY & RESPONSIBILITY

a. Sexual Harassment

Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when:

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

b. Harassment

Harassment is any verbal, written, visual or physical act that creates a hostile, intimidating or offensive work environment or interferes with an individual's job performance.

1. No employee shall either explicitly or implicitly ridicule, mock, deride or belittle any person.
2. Employees shall not make offensive or derogatory comments to any person, either directly or indirectly, based on age, ancestry, arrest & conviction record, color, creed, disability, genetic testing, honesty testing,

marital status, military service, national origin, pregnancy or childbirth, race, religion, sex (including sexual harassment), sexual orientation, and use or nonuse of lawful products of the employer's premises during non-working hours. Such harassment is a prohibited form of discrimination under state and federal employment law and/or is also considered misconduct subject to disciplinary action by the City.

c. Retaliation

1. Retaliation against any employee or applicant for filing a harassment or discrimination complaint, for assisting, testifying or participating in the investigation of such a complaint, or for requesting a protected leave of absence or reasonable accommodation, is illegal and is prohibited by the City and by federal statutes.
2. Retaliation can occur from a variety of sources, including co-workers, supervisors or elected officials.
3. Generally, any materially adverse action taken against an employee or applicant "because of" protected conduct is prohibited. The scope of retaliation goes beyond workplace-related or employment-related actions and includes conduct that would dissuade a reasonable worker from making or supporting a charge of discrimination. The significance of any given act of retaliation may depend upon the particular circumstances, but must be considered "materially adverse", thus separating significant from trivial harms that normally will not deter discrimination victims from filing a complaint. Examples of conduct that may be considered retaliation include:
 - a. Discharge
 - b. Demotion or not promoting
 - c. Reduction in pay
 - d. Reassignment of job duties
 - e. Giving a less distinguished job title
 - f. Filing false criminal charges against an employee
 - g. Significantly diminishing an employee's responsibilities
 - h. Unwarranted negative performance evaluations (impacting promotional opportunities)
 - i. Increased scrutiny of employee's work
 - j. Refusing to restore lost leave time
 - k. Isolation or shunning an employee
4. Complaint Procedure: Any employee who believes that he or she is being retaliated against shall report the incident(s) as soon as possible to their supervisor so that steps may be taken to protect the employee. Where doing so is not practical, the employee may instead file a complaint with another supervisor, Human Resources, the City Attorney or City Manager.
5. Retaliation is a form of employee misconduct. Any evidence of retaliation shall be considered a separate violation of this policy and is subject to discipline up to and including termination.
6. Monitoring to ensure that retaliation does not occur is the responsibility of the chief executive officer, supervisors and the appropriate internal investigative authority.

d. Covered Individuals

Individuals covered under this policy include employees and applicants for employment, volunteers, members of the public, elected officials and appointed boards and commissions.

e. Supervisory Responsibilities

1. Each supervisor shall be responsible for preventing prohibited activities as defined above by:
 - a. Monitoring the work environment on a daily basis for signs that harassment or retaliation may be occurring;

- b. Training and counseling all employees on what constitutes harassment, sexual harassment and retaliation, on the types of behavior prohibited by the City's policy and procedures for reporting and resolving complaints of harassment or retaliation.
- c. Stopping any observation that may be considered harassment or retaliation, and taking appropriate steps to intervene, whether or not the involved employees are within his/her line of supervision; and
- d. Taking immediate action to prevent retaliation towards the complaining party or witnesses and to eliminate the hostile work environment where there has been a complaint of harassment, pending an investigation. If a situation requires separation of the parties, care should be taken to avoid actions that appear to punish the complainant. Transfer or reassignment of any of the parties involved should be voluntary if possible and, if non-voluntary, should be temporary pending the outcome of the investigation.

f. Employee Responsibilities

- 1. Each employee of this agency is responsible for assisting in the prevention of harassment and retaliation through the following acts:
 - a. Refraining from participation in, or encouragement of actions that could be perceived as harassment or retaliation.
 - b. Reporting acts of harassment or retaliation to a supervisor; and
 - c. Encouraging any employee who confides that he or she is being harassed, discriminated or retaliated against to report these acts to a supervisor.
- 2. Failure of any employee to carry out the above responsibilities will be considered in any performance evaluation or promotional decisions and may be grounds for discipline.

g. Complaint Procedures

- 1. Any employee encountering harassment or retaliation is encouraged but not required to inform the person that his or her actions are unwelcome and offensive. This initial contact can be either verbal or in writing. The employee is to document all incidents of harassment and retaliation in order to provide the fullest basis for investigation.
- 2. Any employee who has unsuccessfully attempted to terminate the harassment or retaliation by means of Section 1 and who believes that he or she is being harassed shall report the incident(s) as soon as possible to their supervisor so that steps may be taken to protect the employee from further harassment or retaliation, and so that appropriate investigative and disciplinary measures may be initiated. Where doing so is not practical, the employee may instead file a complaint with another supervisor, Human Resources, the City Attorney or City Manager.
 - a. The supervisor or other person to whom a complaint is given shall meet with the employee and document the incident(s) complained of, the person(s) performing or participating in the harassment or retaliation, any witnesses to the incident(s) and the date(s) on which it occurred.
- 3. An employee should utilize the City's internal reporting procedure first. However, if after utilizing this procedure the complainant does not feel the complaint has been adequately addressed, the employee may file a complaint with either or both of the following:
 - a. **State of Wisconsin – Equal Rights Division**
201 East Washington Avenue
Madison, WI 53703
Phone: 608-266-6860
 - b. **Equal Employment Opportunity Commission**
210 Martin Luther King Boulevard
Madison, WI 53703
Phone: 608-266-4910

- c. *If the employee exercises the reporting options of (a) or (b) from above, they must file a copy of the complaint with the City Attorney within 24 hours of filing the complaint.*
4. The internal investigation authority shall be responsible for investigating any complaint alleging harassment, discrimination or retaliation.
 - a. The internal investigative authority shall immediately notify the chief executive officer and the City Attorney if the complaint contains evidence of criminal activity, such as battery, rape or attempted rape.
 - b. The investigation shall include a determination as to whether other employees are being harassed or retaliated against by the person, and whether other City employees participated in or encouraged the harassment or retaliation.
 - c. The internal investigative authority shall inform the parties involved of the outcome of the investigation.
 - d. A file of harassment, discrimination and retaliation complaints shall be maintained in a secure location. The chief executive officer shall be provided with an annual summary of these complaints.
5. There shall be no retaliation against any employee for filing a harassment or discrimination complaint, or for assisting, testifying or participating in the investigation of such a complaint.
6. The complaining party's confidentiality will be maintained throughout the investigatory process to the extent practical and appropriate under the circumstances.
7. Complaints of employees accused of harassment and/or retaliation may file a grievance/appeal in accordance with City procedures when they disagree with the investigation or disposition of a harassment or retaliation claim.

IV. DEFINITIONS

- a. **Harassment on any basis (race, sex, age, disability etc.) exists whenever:** Submission to harassing conduct is made, either explicit or implicit, a term or condition of an individual's employment; submission to or rejection of such conduct is used as the basis for an employment decision affecting an individual; the conduct interferes with an employee's work or creates an intimidating, hostile, or offensive work environment. Such conduct is prohibited under this policy and §111.31-111.39 Wis. Stats.
- b. **Non-Verbal:** Sexually suggestive or offensive objects or pictures, inappropriate usage of voicemail, e-mail, the internet or other such sources as a means to express or obtain sexual material, comments etc., printed or written materials including offensive cartoons, suggestive or offensive sounds, whistling, catcalls or obscene gestures. Any material which inappropriately raises the issues of sex or discrimination. Treating an employee differently than other employees when they have refused an offer of sexual relations.
- c. **Other Forms of Harassment:** Persistent and unwelcome conduct or actions on the basis of disability, sex, arrests or conviction record, marital status, sexual orientation, membership in the military reserve, or use or nonuse of lawful products away from work is prohibited under this policy and s.111.31-111.39, Wis. Stats.
- d. **Physical:** Unsolicited or unwelcome physical contact of a sexual nature, which may include touching, hugging, massages, kissing, pinching, patting, or regularly brushing against the body of another person.
- e. **Retaliation**, as outlined in Title VII of the Civil Rights Act of 1964, prohibits employers, employment agencies, joint labor management committees controlling apprenticeship or training, and labor organizations from discriminating against employees, applicants, or members who have opposed any unlawful employment practice, filed a charge, testified, assisted, or participated in any investigation, proceeding, or hearing under this subchapter.
- f. **Unwelcome:** Sexual conduct is unwelcome whenever the person subjected to it considers it unwelcome. The conduct may be unwelcomed even though the victim voluntarily engages in it to avoid adverse treatment.
- g. **Verbal Harassment:** Sexual innuendoes, degrading or suggestive comments, repeated pressure for dates, jokes of a sexual nature, unwelcome sexual flirtations, degrading words used to describe an individual,

obscene and/or graphic description of an individual's body or threats that job, wages, assignments, promotions or working conditions could be affected if the individual does not agree to a suggested sexual relationship.

All of the laws we enforce make it illegal to fire, demote, harass, or otherwise “retaliate” against people (applicants or employees) because they filed a charge of discrimination, because they complained to their [employer or other covered entity](#) about discrimination on the job, or because they participated in an employment discrimination proceeding (such as an investigation or lawsuit).

For example, it is illegal for an employer to refuse to promote an employee because she filed a charge of discrimination with the EEOC, even if EEOC later determined no discrimination occurred.

Retaliation & Work Situations

The law forbids retaliation when it comes to any aspect of employment, including hiring, firing, pay, job assignments, promotions, layoff, training, fringe benefits and any other term or condition of employment.

V. Job Aids – Form on Next Page



HARASSMENT/DISCRIMINATION/RETALIATION COMPLAINT FORM

Name of Complainant: _____ Date: _____

Date of Incident: _____ Time: _____

Location of Incident: _____

Name of Witnesses to the Incident [Include email / telephone number if known]: _____

Details of the Incident [Attach additional pages if necessary]: _____

Have you reported this or similar behavior before [If so, please indicate to whom and date reported]?

Have you discussed this complaint with anyone else [If so, please indicate to whom and date discussed]?

Do you know of any documents that may be relevant to this matter [Please attach]?

How would you like this matter resolved? _____

The foregoing information is true and correct to the best of my knowledge.

Signature: _____ Date: _____

Intake Signature: _____ Date: _____