

**CITY OF HAMILTON, OHIO**

No. 323

**ADMINISTRATIVE DIRECTIVE**

Supersedes No. 323 dated 11/13/91, 02/10/99

Effective Date: 5-5-15

Approved by: Joshua A. Smith,  
City Manager

SUBJECT: SEXUAL HARASSMENT

REFERENCES: 42 U.S.C § 2000e, et seq., Civil Rights Act of 1964 (Title VII), as amended;  
29 C.F.R. § 1604.11 (Equal Employment Opportunity Commission)

**1. Policy.**

- a. The City of Hamilton is committed to maintaining a work environment in which all individuals are treated in such manner as the law fairly and respectfully requires. Each individual has the right to work in an employment atmosphere which promotes equal opportunities and prohibits illegal discriminatory practices, including harassment on the basis of sex and other protected classes.
- b. **SEXUAL HARASSMENT IS A VIOLATION OF FEDERAL AND STATE LAW; THE CITY OF HAMILTON ADHERES TO THESE LAWS AND WILL NOT TOLERATE ILLEGAL HARASSMENT OF ANY FORM, AT ANY LEVEL WITHIN THE WORKPLACE BY OR AMONG ITS EMPLOYEES.**

**2. Individuals Covered by This Policy.**

- a. This policy covers all City employees. The City will not tolerate illegal harassment or sexual harassment whether engaged in by fellow employees, supervisors, management or by non-employees who conduct business with the City.

**3. Definitions.**

- a. **Illegal Harassment** is defined by federal and state law as unwarranted and unwanted verbal or nonverbal conduct which threatens, intimidates or insults another employee, where such conduct has the effect of creating an offensive, intimidating or hostile environment or interferes with or adversely affects an employee's work performance.
  - i. All employees are prohibited from engaging in the harassment of any employee, applicant for employment, City contractor, or other individual in the performance of his or her duties. The desired standard of Hamilton employee behavior is one of diversity, inclusion and respect of differences in race, color, religion, national origin, sex (including sexual harassment), age, disability, genetic information, military status, veteran status, ancestry, sexual orientation, or any other non-job-related characteristic protected by law.
  - ii. Harassment does not include the conduct or actions of supervisors intended to provide employee discipline or correct problems through oral warnings, reprimands, performance evaluations or other supervisory actions to promote positive performance.
- b. **Sexual harassment** is any unwelcome and unwanted sexual advances, requests for sexual favors, subtle pressure and other verbal, non-verbal or physical conduct of a sexual

nature when: (1) submission to or rejection of this conduct is used explicitly or implicitly as a factor in decisions affecting hiring, evaluation, promotion or other aspects of employment; or (2) this conduct substantially interferes with employment or creates an intimidating, hostile or offensive work environment.

- i. Examples of sexual harassment include, but are not limited to, unwanted sexual advances; demands for sexual favors in exchange for favorable treatment or continued employment; repeated sexual jokes, flirtations, advances or propositions; verbal abuse of a sexual nature; graphic, verbal commentary about an individual's physical attributes, sexual prowess or sexual deficiencies; leering; whistling; touching; pinching; assault; coerced sexual acts; suggestive insulting, obscene comments or gestures; circulating sexually suggestive e-mails, text messages, or social media posts to co-workers; and display in the workplace of sexually suggestive objects or pictures.
- c. **This behavior is unacceptable in the workplace by any employee in any business-related setting, including but not limited to other work-related settings such as business trips and business-related social events.**

#### **4. Who is Capable of Sexually Harassing Conduct?**

- a. Any employee is capable of sexually harassing another employee. Sexual harassment may be directed by a male toward a female co-worker or vice-versa. Furthermore, sexual harassment can be directed by an employee against another of the same gender. Third parties, such as contractors or customers, can engage in such conduct in a way that the employer may have a legal duty to prevent it. In order for there to be sexual harassment, the aggressor need not be a supervisor of, or of a higher job classification than, the employee harassed.

#### **5. Complaint Procedure.**

- a. Informal Procedure
  - i. An employee who believes he or she has been subjected to unwelcome conduct that does not rise to the level of illegal or sexual harassment may notify the offender that his or her conduct is unwelcome.
  - ii. If, for any reason, an employee does not wish to approach the offender directly or if such discussion does not successfully end the conduct, then the employee may take the steps as described in the Formal Procedure.
- b. Formal Procedure
  - i. **Notification of Sexually Harassing Behavior**
    1. An employee who believes he or she has been subjected to illegal or sexual harassment shall promptly report the incident to either his or her non-involved supervisor, Department Director, Chief, Law Director, or any staff member in the Department of Civil Service and Personnel, or the City Manager's Office.
    2. In any case in which a supervisor becomes aware of alleged, apparent, or suspected harassment, the supervisor shall report the matter to his or her Department Director or Chief, who in turn, shall report the matter to

the Civil Service and Personnel Director. Such reports by supervisors, Department Directors, and to the Civil Service and Personnel Director are to be made regardless of how knowledge of the case was acquired.

3. If a complaint involves a member of management or supervision, the complainant shall file the complaint directly with either the Civil Service and Personnel Director, Law Director or the City Manager.
4. Any applicant or employee who believes that he or she has been illegally or sexually harassed in violation of existing laws or regulations, in a matter falling within the jurisdiction of the Hamilton Civil Service Commission, may also present such complaint in written form to the Civil Service Commission for resolution. The Complainant should address his or her written statement of facts and remedy sought to:  
The Hamilton Civil Service Commission  
One Renaissance Center, First Floor  
345 High Street  
Hamilton, Ohio 45011  
(513) 785-7030
5. Any non-supervisory employee who becomes aware of alleged, apparent, or suspected harassment by any City employee shall promptly notify either the Civil Service and Personnel Director, Law Director, or City Manager.
6. An employee is not required to, and should not report illegal or sexual harassment to, the harasser or someone who appears to condone it.

c. Reporting of Complaint

- i. A reported complaint may be made by an employee initially either orally or in writing. In order to facilitate a thorough investigation, reports made orally should be reduced to writing by the affected employee within five (5) working days of the initial oral complaint.
- ii. A reported complaint should provide specific facts about the offensive conduct to include the following:
  1. Employee's name, division/department, classification title;
  2. Name and title of person allegedly committing harassment;
  3. Specific nature of harassment, how long it has gone on and any related adverse employment action (demotion, failure to promote, dismissal, refusal to hire, transfer, etc.) taken against him/her;
  4. Witnesses to the harassment; and
  5. Whether the harassment was previously reported, when and to whom.

d. Protection Against Retaliation

- i. The City of Hamilton shall not retaliate against an employee, or any witness or any other participant in the investigation of a complaint of harassment. Retaliation is a very serious violation of this policy and should be reported immediately.

- ii. **Any employee found to have retaliated against another employee for reporting harassment, or against an employee participating in the investigation of a complaint, shall be subject to appropriate disciplinary procedures up to and including dismissal.**

**6. Investigation of Complaints.**

- a. Any allegation of illegal or sexual harassment brought to the attention of the City shall be promptly investigated.
- b. Confidentiality cannot be guaranteed although information will be maintained on a need-to-know basis throughout the investigatory process to the extent practical and consistent with laws requiring prompt release of the public records of the City.
- c. The investigation shall include, but not be limited to, interviewing individuals who are believed to have knowledge of the matter including the alleged victim and the alleged offender and reviewing of all relevant documents.
- d. Employees named in complaints shall be given sufficient information about the allegation to provide them a reasonable opportunity to respond before any corrective action or discipline is determined.
- e. Employees named in complaints shall not be assumed to have violated this policy unless and until a Final Report of Investigation determines that they have done so.
- f. All employees shall cooperate in any investigation or may be subject to discipline, up to and including termination, for failure to cooperate in a lawful City investigation.
- g. Subsequent to fact-finding measures, the results of the investigation shall be reported to the Civil Service and Personnel Director and the Appointing Authority (Department Director or Chief) and may precipitate appropriate disciplinary hearing procedures intended to establish a fact basis for Appointing Authority action and provide due process to the alleged offender.

**7. Sanctions and Discipline.**

- a. Any employee who violates this policy either by engaging in harassing conduct or allowing harassing conduct to go unaddressed including, but not limited to, failing to report it shall be subject to the full range of disciplinary action, including dismissal.

**8. False Accusations.**

- a. If an investigation results in a finding that the reporting employee falsely and maliciously accused another of illegal or sexual harassment, the reporting employee will be subject to the full range of disciplinary action, including dismissal.

**9. Appeals Process.**

- a. If either party directly involved in a sexual harassment investigation is dissatisfied with the outcome or resolution, that employee has the right to appeal the decision. The dissatisfied party may appeal the decision through the appropriate grievance procedure.



**10. Record of Complaints.**

- a. The City shall maintain a complete written record of each complaint and how it was investigated and resolved. Written records shall be maintained in a manner consistent with laws regulating the public records of the City.
- b. The permanent record shall be maintained in the office of the Department of Civil Service and Personnel.

**11. Conclusion.**

- a. The City of Hamilton has developed this policy to ensure that all of its employees can work in an environment free from illegal or sexual harassment.
- b. The City reserves the right to change or modify this policy at any time. This policy is not intended to be part of or to create any contract of employment between the City and any person or group.



ACKNOWLEDGMENT OF RECEIPT  
OF  
SEXUAL HARASSMENT POLICY  
ADMINISTRATIVE DIRECTIVE NO. 323

I have received a copy of the City of Hamilton’s Sexual Harassment Policy and understand that harassment/discrimination, including sexual harassment, in the workplace is illegal and against City policy. I understand it is my responsibility to read and comply with this policy. Any violation of this policy **will not be tolerated** and will result in disciplinary action, up to and including dismissal.

I understand that if I am being harassed or receive knowledge of harassment that I should report the harassment for investigation as set forth in this Directive. I understand that I am responsible for reporting any harassment/discrimination claims to either my non-involved immediate supervisor, to a Department Director, Chief, Law Director, or a staff member in the Department of Civil Service and Personnel or City Manager’s Office as I choose.

Retaliation against employees who report harassment or discrimination claims and those who assist in an investigation will not be tolerated.

Employee Printed Name: \_\_\_\_\_ Date: \_\_\_\_\_

Employee Signature: \_\_\_\_\_