

**Greenbelt City Council
Work Session**

Anti-Harassment Policy

**June 6, 2018
8:00 p.m.**

**Greenbelt Community Center
Room 201**

Agenda

- Introductions
- Council Discussion
- Questions and Answers
- Other

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1. Current Policy
2. LGIT Recommended Revision
3. Councilmember Byrd Changes to LGIT Recommendation
4. LGIT Comments on Councilmember Byrd Changes
5. Community Pledge
6. LGIT Training

CITY OF GREENBELT

ANTI-HARASSMENT POLICY

PURPOSE

The City of Greenbelt has zero tolerance for sexual-unlawful harassment. Thus, the purpose of this policy is to re-affirm the City's commitment to keeping its workplaces free of unlawful harassment, to define and provide examples of the conduct that is prohibited, to summarize the respective responsibilities for preventing, reporting, investigating, and responding to violations, and to give clear warning of the serious consequences that violators will face.

A copy of this policy shall be provided to all persons who are subject to it, and shall be posted in the City workplaces.

POLICY

All of the following are prohibited by this policy, and by state and federal laws:

- harassment in any aspect of City employment, based on any legally protected characteristic or status, including but not limited to, sex, sexual orientation, gender identity, race, color, national origin, ancestry, religion, age, marital status, physical disability, mental disability, ~~or~~ medical condition, or genetic information;
- retaliation for opposing, filing a complaint about, or participating in an investigation of any such harassment;
- aiding, abetting, inciting, compelling, or coercing any such harassment or retaliation, or attempting to do so.

The City will take all reasonable steps necessary to prevent such misconduct from occurring, and to remedy any occurrences. Any City employee found to have engaged in such misconduct will be subject to disciplinary action, up to and including demotion, suspension, and termination, and will be deemed to have acted outside the course and scope of his or her City employment. Allegations for which there are conflicting witness accounts or inconclusive evidence may result in employee movements or role changes. Given the nature of the type of discrimination, the City of Greenbelt also recognizes that false accusations of harassment can have serious effects on innocent men and women. Therefore, false accusations will result in the same severe disciplinary action applicable to one found guilty of harassment.

This policy prohibits all forms of harassment in any aspect of City employment, based on any legally protected characteristic or status and is broader in scope than the Sexual Harassment Policy of April 1998.

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The Community Pledge (2001) states:

"The strength of Greenbelt is diverse people living together in a spirit of cooperation. We celebrate people of many cultures, faiths, and races living together. By sharing together all are enriched.

We pledge to foster a community which is respectful, safe, and fair for all people."

This policy applies to all City employees, volunteers, interns, vendors, and contractors, as well as to all applicants for such positions. **Contractors and recipients of city grants must sign an anti-harassment affirmation.**

This policy shall not be interpreted or applied in any manner that would be inconsistent with any applicable state or federal law or regulation, or increase the legal liability of the City.

It is mandatory for all city employees and members of the city council to complete sexual unlawful harassment training.

City staffers must complete sexual-unlawful harassment training every five years. Council members must complete sexual unlawful harassment training in person every two years.

DESCRIPTION AND EXAMPLES OF PROHIBITED HARASSMENT

Harassment may take many forms, including but not limited to:

Discrimination

Personnel decisions based on stereotypes or assumptions about the abilities, traits, or performance of individuals on the basis of race, religion, sex, sexual orientation, gender identity, color, ancestry, serious medical condition, national origin, age, disability, marital or parental status, **pregnancy**, political opinions or affiliations, or lawful employee organization activities.

Verbal Harassment

Use of epithets, innuendos, threats, derogatory comments or references, slurs or jokes, gestures, pranks, teasing or other banter, including negative stereotyping, on the basis of race, religion, sex, sexual orientation, gender identity, color, ancestry, serious medical condition, national origin, age, disability, marital or parental status, political opinions or affiliations or lawful employee organization activities. Verbal harassment may also include **whistling**, sexual remarks or well-intentioned compliments about a person's clothing, body, or sexual activities, and **verbal harassment may include face-to-face or remote interactions, like sexting and the use of self-destructive messaging applications such as Snapchat.**

Physical Harassment

Assault, unwelcome or hostile touching or contact, **groping**, **stalking**, intimidation, impeding or blocking movement, and/or any physical interference with normal work or movement when directed at an individual on the basis of race, religion, sex, sexual orientation, gender identity, color, ancestry, serious medical condition, national origin, age, disability marital or parental status, political opinions or affiliations, or lawful employee organization activities.

Visual Forms of Harassment

Displaying sexual organs and displaying or distributing written or graphic material in the workplace that is derogatory, demeaning, or displays hostility on the basis of race, religion, sex, sexual orientation, gender identity, color, ancestry, serious medical condition, national origin, age, disability, marital or parental status, political opinions or affiliations, or lawful employee organization activities, including but not limited to jokes, posters, notices, bulletins, magazines, cartoons, **pictures, calendars**, drawings, advertisements, videos, Internet sites, or other electronic media.

Sexual Favors

Unwelcome sexual advances, expectations, propositions, requests, demands, or pressure for sexual favors, and other verbal or physical conduct of a sexual nature which are implicitly or explicitly a term or condition of an employee's employment, are used as the basis of employment decisions, or affect or interfere with the employee's work performance.

Hostile Environment

Conduct including the above-referenced behavior(s) that has the purpose or effect of creating an intimidating, hostile, or offensive work environment on the basis of race, religion, sex, sexual orientation, gender identity, color, ancestry, serious medical condition, national origin, age, disability, marital or parental status, political opinions or affiliations, or lawful employee organization activities.

The City of Greenbelt is committed to fostering a culture of respect and service, and the city recognizes that sexual harassment can be an impediment to fulfilling this commitment. Thus, all city employees with knowledge of incidents of harassment should promptly them.

Steps To Take If You Believe You Are Being Harassed (or if You Know of Incidents of Harassment)

1. If you feel safe in doing so, you should verbally tell the co-worker to stop the offensive behavior.
2. ~~If the co-worker does not stop the offensive behavior or the person who believes he/she is being harassed chooses not to tell the co-worker to stop the offensive behavior,~~ you should then make a complaint to one of the following:
 - Your immediate supervisor
 - A supervisor other than your direct supervisor
 - Your Department Head
 - The Human Resources Director
 - The City Manager

You should make this complaint to the person with whom you feel most comfortable.

3. When making the complaint you must provide specific facts concerning the offensive behavior. These facts should answer the following:
 - Who committed the offensive behavior?
 - What was the specific behavior?

- When and where did the incident(s) occur?

Steps Supervisors Should Take When Receiving A Harassment Complaint:

1. You should get as many facts as possible. Questions you should ask include:
 - Who committed the offensive behavior?
 - What was the specific behavior?
 - When and where did the incident(s) occur?
 - Does the person making the complaint have any idea why the offensive behavior occurred?
 - Were there any witnesses to the situation?
 - What is the history of the relationship between the complainant and the alleged harasser? Were they friends? Casual acquaintances? Only co-workers?
 - Has this type of incident ever happened before?
2. Stay neutral. It is your responsibility to gather facts not make judgments. It is also important that you not make any promises, other than to say an investigation will be forthcoming.
3. Call the Human Resources Director with the complaint. Relay all information you have gathered. It is critical that you make this step as soon as possible after receiving the complaint.

Most importantly, as a Supervisor, if you actually observe harassing conduct, it is your responsibility to immediately intervene to halt the conduct. You should also call the Human Resources Director so an investigation can begin.

Upon completion of the investigation by the Human Resources Director or his or her designee, the Human Resources Director shall communicate the results of the investigation to the complainant, the accused, the City Manager, and as appropriate, all others directly concerned.

To the extent permitted by law, confidentiality shall be maintained with respect to the complaint, the information gathered during the investigation, and the results of the investigation.

The city council shall be provided with notice of all complaints of unlawful sexual harassment against city employees.

Complaints alleging certain ethical violations (e.g. gifts for sexual favors or to potential accusers; using government resources to process sexually explicit materials) shall be referred to the Ethics Commission for review.

Retaliation

The City of Greenbelt has a zero tolerance for retaliation against victims of sexual unlawful harassment, as well as individuals who report or otherwise participate in investigations of incidents of alleged the harassment. Retaliation may include

unwarranted reprimands, unfairly downgraded personnel evaluations, reassignments to less desirable jobs, verbal or physical abuse, and more inconvenient work schedules.

Transparency

The City of Greenbelt shall furnish an annual report on the number, type, and resolutions of harassment-related complaints and investigations.

February 2017

Preventing Unlawful Harassment in the Workplace

Presented by
LGIT In-house Legal Staff



Purpose

To increase your awareness of what unlawful harassment is, to discuss how to prevent unlawful harassment in the workplace, and to discuss how to respond to unlawful harassment in the workplace.

Course Objectives

To make participants aware of:

- The definition of harassment
- Different types and examples of harassment
- The rights and responsibilities of employees and supervisors when faced with harassment
- Your employer's anti-harassment policy

Harassment

Harassment is a form of employment discrimination that may violate several federal and State anti-discrimination laws, including: Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, and the Americans With Disabilities Act of 1990

What is Harassment?

Harassment is unwelcome conduct based upon:

- Sex/Sexual Orientation
- Race
- Color
- Religious Beliefs
- National Origin
- Disability (mental or physical)
- Age
- Pregnancy
- Genetic Information

When Does Harassment Violate Anti-Discrimination Laws?

Harassment becomes unlawful when:

1. The conduct in question is unwelcome and offensive
2. Enduring the offensive conduct becomes a condition of continued employment, or
3. The conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive

The Basics

- The victim does not have to be the person harassed but could be anyone affected by the offensive conduct
- The harasser can be the victim's supervisor, a co-worker, an agent of the employer, an elected official, or a non-employee

Frequency

- Generally there must be a pattern of harassing conduct that occurs over a period of time
- A single occurrence can give rise to a successful harassment claim if it is severe. Examples of severe occurrences include:
 - Threatening behavior
 - Acts of violence
 - Unlawful or invasive touching
 - Other criminal behavior
 - Use of a certain racially or ethnically charged words

Retaliation and the Anti-Discrimination Laws

Anti-Discrimination laws also prohibit retaliation against individuals who:

1. File a discrimination charge, testify, or participate in any way in an investigation, proceeding, or lawsuit conducted under anti-discrimination laws, or
2. Oppose employment practices that they reasonably believe discriminate against individuals in violation of anti-discrimination laws

Sexual Harassment

- Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature
- It includes practices ranging from direct requests for sexual favors to workplace conditions that create a hostile environment for persons of either gender
- 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

Quid Pro Quo Sexual Harassment

- “Something for something”
- Harasser has position of power or authority over the person being harassed
- Refusal to submit will have an adverse impact on the terms or conditions of the victim’s employment

Examples of *Quid Pro Quo* Sexual Harassment

- Offering a promotion or raise in exchange for sexual favors
- Threatening to demote or fire an employee because he or she will not comply with sexual demands
- Loss of supervisory responsibilities due to refusing to engage in sexual activities
- Loss of benefits for refusing to engage in sexual activities

More Examples of *Quid Pro Quo* Sexual Harassment

- Threatening to cut an employee's hours if he or she refuses to engage in sexual activities
- Giving an employee a negative evaluation after he or she refuses sexual advances
- A supervisor disciplines or fires an employee who ends a romance
- Unwelcome sexual contact is explicitly or implicitly made a term or condition of employment

Response to *Quid Pro Quo* Sexual Harassment

- Three responses to demands for sex from supervisor:
 - Victim refuses to submit to the sexual demand
 - Victim attempts to ignore the sexual demand
 - Victim complies to the sexual demand
- Regardless of the response – the victim still can advance a claim for *quid pro quo* sexual harassment – the law is violated as soon as the demand is made – the response is irrelevant

Hostile Work Environment

Sexual Harassment

Unwelcome conduct of a sexual nature that unreasonably interferes with a person's work or creates an intimidating, hostile, or offensive working environment

Conduct that Does Not Create a Hostile Work Environment

Petty slights, annoyances, and isolated incidents (unless extremely serious), will not rise to the level of illegality. To be unlawful, the conduct must create a work environment that would be intimidating, hostile, or offensive to reasonable people.

Examples of Conduct that Creates a Hostile Work Environment

- Discussing Sexual Activities
- Telling off-color jokes
- Inappropriate hugging or touching a co-worker
- Using demeaning or inappropriate terms, such as “Babe”, “Darling”, or “Sweetheart”
- Sexually offensive, explicit, or sexist signs, cartoons, calendars, literature, photographs, or videos displayed in plain view
- Staring at or looking a co-worker up and down

More Examples of Conduct that Creates a Hostile Work Environment

- Commenting on physical attributes
- Offensive or vulgar e-mails or text messages
- Using cell phones or other devices to take inappropriate pictures or videos
- Asking questions pertaining to sexual experiences
- Repeatedly asking a co-worker for a date after he or she has already shown no interest
- Sabotaging the victim's work or making false accusations against the victim

Examples of Conduct that Does Not Create a Hostile Work Environment

- A stray remark
- A consensual relationship
- A touching of another that could not reasonably be perceived in a sexual way
- Showing concern for a co-worker

More Examples of Conduct that Does Not Create a Hostile Work Environment

- Giving a polite compliment
- Having a friendly conversation
- Simple teasing, flirting, or joking
- An off-hand comment made during an isolated incident

The Reasonable Person Standard

The conduct is judged from the perspective of a reasonable person in the plaintiff's position, considering all of the circumstances, including:

- The nature of the employment setting
- The frequency of the conduct in question
- The severity of the conduct
- Whether the conduct is physically threatening or humiliating
- Whether the conduct is a mere offensive utterance
- Whether the conduct unreasonably interferes with the employee's work performance

Harassment Based Upon Other Protected Characteristics

Harassment based on race, color, religious beliefs, national origin, disability, age, and/or pregnancy occurs when an employee's conduct unreasonably interferes with another individual's work performance or creates an intimidating, hostile, or offensive work environment

Examples of Conduct that Creates a Hostile Work Environment

- The use or display of racially charged symbols such as nooses, swastikas, and burning crosses
- The use of racially charged derogatory words, phrases, or epithets
- Demonstrations of a racial or ethnic nature such as the use of a gesture
- Displaying pictures or drawings which would offend a particular racial or ethnic group
- Comments about an individual's skin color or other racial or ethnic characteristics

More Examples of Conduct that Creates a Hostile Work Environment

- Making disparaging remarks about an individual's gender that are not sexual in nature
- Negative comments about an employee's religious beliefs or lack of religious beliefs
- Expressing negative stereotypes regarding an employee's birthplace or ancestry
- Negative comments regarding an employee's age when referring to an employee who is 40 years of age or older
- Derogatory or intimidating references to an employee's mental or physical impairments
- Sending e-mails or text messages that are racially charged

Conduct That Will Not Create a Hostile Work Environment

Once again, as discussed earlier, petty slights, annoyances, and isolated incidents (unless extremely serious), will not rise to the level of illegality. To be unlawful, the conduct must create a work environment that would be intimidating, hostile, or offensive to a reasonable person.

The Reasonable Person Standard

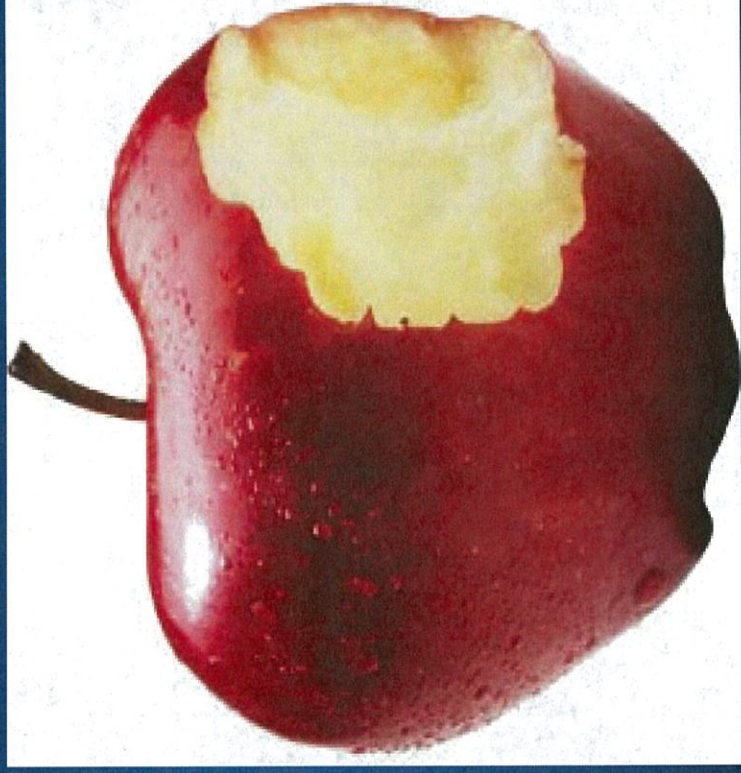
The conduct is judged from the perspective of a reasonable person in the plaintiff's position, including:

- The nature of the employment setting
- The frequency of the conduct in question
- The severity of the conduct
- Whether the conduct is physically threatening or humiliating
- Whether the conduct is a mere offensive utterance
- Whether the conduct unreasonably interferes with the employee's work performance

Questions for All Employees:

- Is my behavior welcome?
- Is my intent the same as the impact?

No Free Bite at the Apple



BREAK

Effects of Workplace Harassment

- Low Morale
- Declining productivity
- Loss of innovation
- Absenteeism
- High turnover
- Public dissatisfaction
- Official investigations (EEOC or MCCR)
- Litigation

Employee Rights & Responsibilities

- Right to be free from harassing behavior
- Right to report harassing behavior
- Responsibility to avoid making statements or engaging in conduct that could be perceived as harassment
- Responsibility to complain about harassing behavior

Response of Employee: Do's

- Be assertive and confront the harasser if your physical safety is not threatened
- Provide a clear and emphatic objection every time the unwelcome conduct happens
- Keep documentation
- Make an official complaint
- Continue to report to work and to perform all of your duties

Response of Employee: Don'ts

- Don't retaliate or sink to the harasser's level.
- Don't make yourself guilty of insubordination.
- Don't allow the harasser to intimidate you or make you feel bad about yourself - you know your true worth, don't forget what that is
- Don't socially or emotionally isolate yourself - maintain your workplace friendships.

Employer/Supervisor Responsibilities

- Let your employees know you take this issue seriously
 - tell them to report harassing behavior
- Be proactive in preventing unlawful harassment
- Do not ignore complaints of harassment – if you become aware of alleged harassment, you must conduct an investigation
- Conduct an investigation in a timely manner
- Assure employees of confidentiality & that there will be no retaliation

Review of the County's Policy

Investigations of Complaints

- Gather information about the complaint
- Interview the complainant, the alleged harasser and any witnesses
- Gather and review documents or tangible evidence, including e-mails, photos, etc.
- Determine whether the incident took place
- Resolve the complaint and impose discipline, if necessary
- Document everything

Preventing Harassment in the Workplace

- Eliminating harassment in the workplace requires a team effort
- Employers must make sure that all employees understand its anti-harassment policy and that it will be rigorously enforced
- Employees must not engage in harassing behavior and must report incidents of harassment when they see it
- Supervisors must work to ensure that harassment does not occur and must report any harassing behavior that they become aware of in accordance with the employer's policy

Summary

- Unlawful harassment is a form of employment discrimination
- Alleged conduct must be unwelcome and offensive
- Your employer's policy is that unlawful harassment will not be condoned or tolerated
- If the policy is violated, you will be subject to progressive discipline
- Employees have the responsibility to consider the feelings of their coworkers, and to notify supervisors in the event of any inappropriate behavior in the workplace
- If a supervisor becomes aware of potentially harassing behavior, he or she must take action to put an end to the behavior and report it in accordance with the employer's anti-harassment policy ³⁸

Quiz

That's It! Thank You For Participating

Local Government Insurance Trust



Name: _____

Date: _____

1. The anti-discrimination laws prevent an employer from retaliating against someone for complaining about harassment in the workplace.

True or False

2. For an action to constitute sexual harassment, the victim must be of the opposite sex of the alleged harasser.

True or False

3. In the context of *quid pro quo* sexual harassment, the harasser has a position of power over the person being harassed.

True or False

4. No conduct other than unwelcome sexual advances can give rise to sexual harassment.

True or False

5. A hostile work environment is created when a person's conduct creates an intimidating, hostile or offensive work environment.

True or False

6. A petty slight can give rise to a successful harassment claim.

True or False

7. A single action can give rise to a successful harassment claim.

True or False

8. A court or jury deciding whether your conduct constitutes harassment will consider your intent and will disregard the impact of your conduct.

True or False

9. An employee does not have the right to report harassing behavior.

True or False

10. If an employee fails to make a formal complaint, a supervisor is still required to investigate alleged acts of harassment.

True or False