

EXECUTIVE ORDER NO. S-39-18

SEXUAL HARASSMENT POLICY

PURPOSE:

The City of Omaha ("City") will not tolerate sexual harassment in any form and this policy shall serve to declare and reaffirm the fact the City has zero tolerance for any type of unwelcomed sexual advances, request for sexual favors, or any other inappropriate verbal or physical conduct of a sexual nature committed by any City employee, elected official, contractor, or any other party affiliated with the City, toward any person.

Executive Order No. S-33-16 provides information and procedures for managing an unlawful discrimination claim. While sexual harassment can qualify as a form of discrimination, the serious and in some cases criminal nature of this type of conduct mandate a broader approach to dealing with the issue.

This policy is intended to provide a definition of sexual harassment, outline applicable procedures for reporting and managing an allegation, and enumerate the rights and responsibilities of City employees and management, as they relate to this issue. The City expects all employees to perform their work in a professional manner with a concern for the well-being of their co-workers and the public. Accordingly, all employees are encouraged to report any harassment that is suffered, suspected or observed.

DEFINITION

Sexual Harassment means any unreasonable and unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when said conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile, or offensive work environment. This is also known as hostile work environment sexual harassment.

Moreover, when submission to the conduct described above is made a term or condition of an individual's employment, or submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, the perpetrator's behavior qualifies as a form of sexual harassment called quid pro quo.

When a perpetrator commits any of the offenses identified above, the perpetrator's actions are in direct violation of City policy and federal law. In addition to behaviors that violate the prohibitions outlined above and in federal law, the City will also investigate and discipline any employee deemed to have committed any other conduct of a sexual nature determined to be unreasonable and inappropriate in an employment setting, and any employee found guilty of any state or federal crime involving sexual misconduct while serving in his or her capacity as a City employee.

POLICY AND PROCEDURES:

It is not the intent of the City of Omaha to regulate the social interactions or relationships freely entered into by employees on their own time. However, the City strictly prohibits sexually unacceptable or improper behavior and all employees have the right to work in a safe environment free from sexual harassment. Appropriate disciplinary action, up to and including termination of employment, shall be taken whenever the City determines a party subject to the provisions of this policy has committed sexual harassment. Moreover, if a City investigation reveals the existence of conduct thought to be a violation of state or federal criminal law, the case will also be referred to appropriate law enforcement authorities if the reporting employee has not already taken this action.

The sensitive nature and serious consequences inherent in a claim of sexual harassment require any allegation be treated as confidential to the maximum extent possible. Any investigation resulting from a claim of sexual harassment may include interviews with the complainant/victim (person allegedly subject to the harassment), accused employee (person alleged to have committed the harassment), reporting party (if different from the complainant), witnesses, and City management. Any parties interviewed during the investigation will be directed to keep the matter confidential.

Any supervisor or manager who allows sexual harassment to occur on the job, when the supervisor or manager knows or should have known about the harassment, may be subject to independent disciplinary action.

Retaliation by any employee accused of harassment, or any other individual subject to this policy, against any person because such person has complained of sexual harassment, offered evidence of harassment, or assisted in any fashion in an investigation conducted pursuant to this policy, will be subject to independent disciplinary action up to and including termination of employment.

I. Procedure:

An employee, coworker or manager who reasonably believes workplace sexual harassment is occurring should report the alleged misconduct immediately.

A. Employee Responsibilities:

1. Any City employee who believes he or she is being sexually harassed in the workplace, or being harassed as a result of his or her employment with the City, has the responsibility to:
 - a. if the alleged victim feels comfortable and can safely do so, notify the person responsible for the harassing behavior and request the person stop behaving in such a manner; and

- b. immediately report the harassment to either a direct supervisor, and/or any of the individuals identified in section two (2) directly below. Following notification of a sexual harassment allegation, a supervisor/manager shall produce written documentation outlining the allegations and identifying all relevant facts and evidence.
2. Any employee who is not comfortable or cannot safely approach the person who is responsible for the harassment, should immediately notify any of the following:
 - a. The employee's immediate supervisor.
 - b. The employee's division manager.
 - c. A department director.
 - d. The Human Resources Director.
3. Any employee who believes that he or she is being sexually harassed by a department director should notify the mayor.
4. No employee will be retaliated against for complaining of offensive behavior or sexual harassment, for offering evidence of such conduct, or for assisting in any fashion in the investigation of a complaint submitted pursuant to this policy.

It is the intent of the City by defining the employee's responsibilities above to provide a process by which an employee can seek the assistance of a party of the employee's choosing in reporting and resolving an allegation of sexual harassment.

B. City of Omaha's Responsibilities:

The City of Omaha has an obligation to effectively investigate and remedy any allegation of workplace sexual harassment.

1. When one of the supervisory individuals identified above is notified or becomes aware of possible sexual harassment, he or she shall take immediate action in addressing the issue and ensuring any harassment is stopped. Such supervisory individual shall also promptly notify the Human Resources Director. The Human Resources Director shall cause the alleged sexual harassment to be investigated as deemed appropriate.
2. Such investigation will be done under the direction of the Labor Relations Director or his/her designee. In so doing, the Labor Relations Division may

seek the assistance of the director(s) of the department(s) of the affected employee(s).

3. If such investigation determines that:
 - a. sexual harassment has occurred; and/or
 - b. a supervisor or manager should have known, or was aware of, the sexual harassment and failed to act;

corrective action shall be taken. Corrective action may include discipline up to and including termination for all persons determined to have violated this policy. Further corrective action may include required employee counseling and/or training as is deemed appropriate by the circumstances.

4. Regardless of whether or not a complaint results in corrective action, the Labor Relations Director or his/her designee shall report, in writing, the results of every investigated complaint to the Human Resources Director. The Human Resources Director or Labor Relations Director shall also convey the results to the complainant/victim employee. The Human Resources Director shall keep a file containing all such complaints and the results of any related investigations.

OVERSIGHT:

The City Human Resources Department shall have oversight over the maintenance and enforcement of this policy. The City Human Resources Department will work with the City Law Department and other departments to insure compliance with this policy and may provide or coordinate employee and management training, as needed.

BY THE POWER VESTED IN ME AS MAYOR BY SECTION 3.04 OF THE HOME RULE CHARTER OF THE CITY OF OMAHA, 1956, AS AMENDED, I HEREBY PROCLAIM THIS TO BE THE EXECUTIVE ORDER ESTABLISHING AND GOVERNING THE PROHIBITION AGAINST UNLAWFUL DISCRIMINATION BASED UPON RACE, COLOR, CREED, ETHNICITY, RELIGION, SEX, MARITAL STATUS, SEXUAL ORIENTATION, GENDER IDENTITY, NATIONAL ORIGIN, AGE, OR DISABILITY.

WITNESS my hand as Mayor of the City of Omaha this 23 day of April, 2018.



Jean Stothert, Mayor
City of Omaha