

## *Sexual Harassment*

The City of Baltimore (“City”) does not tolerate workplace sexual harassment, whether it involves co-worker harassment, harassment by a supervisor or manager, or harassment by persons doing business on behalf of the City. Sexual harassment violates an employee’s fundamental rights and personal dignity, as well as state and federal law. Sexual harassment may also adversely affect an employee’s productivity and morale.

### **I. PURPOSE**

The purpose of this policy is to define sexual harassment, provide guidelines to an employee who believes that they have been subjected to sexual harassment, provide procedures that management can use to investigate sexual harassment claims, and ensure that violations are remedied.

### **II. SCOPE**

This Policy applies to all City employees, including regular full and part-time, probationary, seasonal, temporary, at-will, as well as elected officials and their appointed staff. Additionally, independent contractors, vendors, volunteers, and visitors must refrain from engaging in behavior that violates this Policy.

### **III. SEXUAL HARASSMENT DEFINED**

“Unwelcome sexual advances, request for sexual favors and other verbal and physical conduct of a sexual nature constitute sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individuals, or (3) such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile, or offensive working environment.”

While sexual harassment encompasses a wide range of conduct, some examples of specifically prohibited conduct include:

- Promising, directly or indirectly, an employee a reward, if the employee complies with a sexually oriented request;
- Threatening, directly or indirectly, to retaliate against an employee, if the employee refuses to comply with a sexually oriented request;
- Denying, directly or indirectly, an employee an employment-related opportunity, if the employee refuses to comply with a sexually oriented request;
- Engaging in sexually suggestive physical contact or touching another employee in a way that is unwelcome;
- Displaying, storing, or transmitting pornographic sexually oriented materials using the City’s equipment or facilities;

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- Engaging in indecent exposure;
- Making sexual or romantic advances toward an employee and persisting despite the employee’s rejection of the advances;
- Unwanted sexual jokes, flirtations, or propositions, or obscene comments or gestures of a sexual nature made in the presence of others;
- Unwanted or suggestive leering, whistling, pinching, or insulting; or
- Inappropriate comments based on an employee’s sex (e.g., commenting on an employee’s menstrual cycle or private body parts).

These types of behavior are unacceptable at any City work location, or in such work settings as business trips, and at business related social events. All City employees, and particularly managers and supervisors, have a responsibility for keeping the work environment free of harassment.

Sexual harassment can be physical and/or psychological in nature. An aggregation of a series of incidents can constitute sexual harassment even if one of the incidents considered on its own would not be harassing.

**IV. RESPONSIBILITIES**

**A. Employees**

If an employee believes that they have been subjected to sexual harassment or any unwanted sexual attention, they should:

1. Make their unease and/or disapproval directly and immediately known to the harasser as soon as feasible;
2. Make a written statement of the date, time, and nature of the incident(s) and the names of any witnesses; and
3. Report the incident to either the Agency Equal Opportunity Compliance (“EOC”) Officer or designee, Human Resources Personnel, or a Supervisor. It is not required that the employee report their claim of harassment to more than one of the persons identified immediately above.

An employee should follow the procedures delineated in *AM 226-1-1, Agency Internal Complaint*, or file a complaint with one of the following outside Agencies: Baltimore City Community Relations Commission, Maryland Human Relations Commission, or U.S. Equal Employment Opportunity Commission, by following the procedures delineated in *AM 226-1-2, Outside Agency Complaint*. It is not a requirement to file an internal complaint prior to filing an outside Agency complaint.

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All incidents of sexual harassment or inappropriate sexual conduct should be reported regardless of their seriousness.

**B. Supervisors**

Supervisors must deal expeditiously and fairly with allegations of sexual harassment within their sections whether or not there has been a written or formal complaint.

Supervisors must:

- Act promptly to ensure that the harassment or inappropriate sexually oriented conduct is reported immediately to the Agency’s EOC Officer or Human Resources Personnel, regardless of whether the individual filing the complaint (“complainant”) wants the supervisor to do so; and
- Take corrective action to prevent any prohibited conduct from reoccurring in the workplace.

Supervisors who knowingly allow or tolerate sexual harassment are in violation of this Policy and shall be subject to disciplinary action.

**C. EOC Officer**

An employee within each Agency shall be designated as an EOC Officer. Additionally, each Agency shall also designate an Alternate EOC Officer.

The EOC Officer shall inform the complainant and the accused individual (“respondent”) that the City takes complaints of sexual harassment seriously and will thoroughly investigate each claim of sexual harassment. The EOC Officer shall be responsible for:

- Explaining the City’s sexual harassment Policy and investigation procedures to the complainant and the respondent;
- Conducting an investigation of the alleged harassment and preparing a written report and recommendation, which may include exploring informal means of resolving the complaint;
- Referring the complainant and/or the respondent to the Employee Assistance Program (“EAP”) for counseling and referral services, if appropriate; and
- Notifying the police if criminal activities are alleged.

The Department of Human Resources (“DHR”) will coordinate training for Agency EOC Officers to ensure their understanding of equal employment opportunity laws and sexual harassment statutes. In cases of sexual harassment, the primary responsibility of the EOC Officer shall be to receive complaints of sexual harassment and to process them according to these procedures.

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In addition, the EOC Officer shall promote sensitivity to the problem of sexual harassment, e.g., obtaining brochures for distribution, requesting speakers for supervisory meetings, and including harassment as a training topic for staff development.

Each current and future employee of the Agency shall be advised either at the time of employment or upon adoption of these standards, whichever is appropriate, of the identification of the Agency EOC Officer and Alternate EOC Officer. The EOC Officer shall conduct interviews with employees in a professional and objective manner and must assure confidentiality to the extent practical and appropriate under the circumstances.

### **D. Law Department**

The Law Department staff will offer advice at any step of this procedure. If there are specific issues that require consultation, contact the Law Department at (410) 396-3297.

To assist the Law Department’s Labor, Employment & Personnel Division, a quarterly listing of pending EEO Complaints should be prepared and submitted by each Agency to the City Solicitor. This information will assist the Labor, Employment & Personnel Division in determining sections, areas, or classifications where there are specific problems involving a group.

The Law Department must be consulted if the EOC Officer suspects any validity to the charges.

The Law Department may assist in negotiating a settlement, in implementing remedies, or in recommending corrective action. The Director of DHR should be notified as early as possible if a settlement or court order includes rehiring a person to a classified position, recommends sanctions, or orders changes in Agency procedures.

## **V. COMPLAINT DECISIONS**

Decisions made regarding complaints of sexual harassment are usually expressed as findings of “probable cause” or “no probable cause.” Probable cause is when there is reasonable ground to believe that the charges of harassment on the basis of sex are valid. No probable cause is when there is reasonable ground to believe that the charges of harassment on the basis of sex are untrue and without basis in fact.

A regulatory Agency finding of “no probable cause” is accompanied by a “RIGHT TO SUE NOTICE.” Even if the outside Agency finds no probable cause, the complainant has a right to sue the employer under Title VII of the Civil Rights Act of 1964, assuming a timely charge was filed. The complainant may exercise a right to sue in federal court within ninety (90) days upon receipt of a decision rendered by the regulatory Agency.

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**VI. RETALIATION**

No employee will be subject to, and it is the City’s Policy to strictly prohibit, any form of discipline in retaliation for reporting any incident or situation of discrimination or harassment, pursuing any claim of discrimination or harassment, or otherwise participating or cooperating in any investigation of a complaint of discrimination or harassment.

**VII. LIABILITY**

All efforts should be made to identify problems and resolve complaints in an expeditious and unequivocal manner. The failure of an employee to complain to Agency administration or management does not insulate the City from liability for the supervisor’s conduct.

**VIII. AUTHORITY**

This Policy was issued pursuant to *AM 002-1* and *002-1-2 Administrative Manual* wherein the Department of Human Resources recommended changes to the Administrative Manual to the Board of Estimates for approval.

**IX. INTERPRETATION**

The Department of Human Resources reserves the right to revise or eliminate this Policy at any time. The City’s Board of Estimates reserves the right to approve proposed policy revisions or eliminations as determined by the Department of Human Resources.

**X. RELATED POLICIES**

- AM 204-18 Equal Employment Opportunity
- AM 226-1-1 Procedure for Agency Internal Complaint
- AM 226-1-2 Procedure for Outside Agency Complaint