



Benefits

# Policy For Preventing Sexual Harassment In City Government

EEO/AA  
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The City of Philadelphia is an Equal Opportunity Employer and does not discriminate on the basis of race, color, national origin, sexual orientation, gender, religion, age or disability.

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## DEFINITION

This is to reaffirm the policy of the City of Philadelphia that sexual harassment of a City employee, applicant for employment, or the public by City officials or employees is prohibited. Sexual harassment, or harassment because of one's gender has been defined by the Equal Employment Opportunity Commission (EEOC), as well as by federal, state and local laws, and for the purposes of this Policy, Philadelphia has adopted this definition.

*Unwelcome* sexual advances, requests for sexual favors, or other verbal or physical acts 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 individual, 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 work environment.

Recent court cases have recognized acts of harassment directed at a person because of gender, *to include persons of the same gender* to be sexual harassment, despite the intent behind the act. The City adopts this interpretation as part of its policy. Sexual harassment is a violation of federal and state laws and the Philadelphia Fair Practices Ordinance, and may expose not only the City, but individuals to significant liability under the law.

Supervisors shall be held to a higher standard of conduct and shall be subject to a higher level of discipline when engaging in sexual harassment.

Any person who feels he or she is being subjected to sexually harassing behavior of any kind is encouraged to object to the behavior and/or report the behavior to his/her supervisor or other appropriate officials as indicated in the *Procedures for Processing Sexual Harassment Complaints*. It is a violation of this Policy to retaliate or engage in any form of reprisal because a person has raised a concern, filed a complaint of, or been a witness to sexual harassment. Any supervisor who receives a sexual harassment complaint or who has reason to believe sexual harassment is occurring shall refer to the procedures for processing sexual harassment complaints.

It shall also be the policy of the City of Philadelphia that the basic rights of all concerned must be respected at all times.

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## PROHIBITED CONDUCT

The following are examples of acts which violate the City's Sexual Harassment Policy. These are not to be construed as an all inclusive list of prohibited acts under the Policy:

**A. Physical assaults of a sexual nature, such as:**

1. rape, sexual battery, molestation or attempts to commit those offenses, or committing an act with intent to cause fear in another of immediate bodily harm or death; and
2. intentional physical conduct which is sexual in nature, such as touching, pinching, patting, grabbing, brushing against another employee's body, or poking another employee's body, or touching of the clothing covering the immediate area of the complainant's intimate parts.

**B. Unwelcome sexual advances, propositions or other sexual comments, such as:**

1. sexually-oriented gestures, sounds, remarks, jokes, or comments about a person's sexuality or sexual experience directed at or made in the presence of any employee;
2. preferential treatment or promise of preferential treatment for submitting to sexual conduct, including soliciting or attempting to solicit any employee to engage in sexual activity for compensation or reward; and
3. subjecting, or threatening to subject, an employee to unwelcome sexual attention or conduct or intentionally making job performance more difficult because of the employee's gender.

**C. Display of publications anywhere in the City's work place such as:**

1. displaying pictures, posters, cartoons, calendars, graffiti, objects, promotional materials, reading materials, music or other materials that are sexually suggestive, sexually demeaning, or pornographic;

exceptions will be considered in situations where nudity or sexually explicit language is necessary to convey a message important to public health and/or safety;

a picture will be presumed to be sexually suggestive if it depicts a person of either sex who is nude or seminude and/or who is posed for the obvious purpose of displaying or drawing

attention to private portions of his or her body;

2. displaying or publicizing, in the work environment, materials that are in any way sexually revealing, sexually suggestive, sexually demeaning or pornographic;
3. displaying signs or other materials purporting to segregate an employee by gender in any area of the work place (other than rest rooms and similar semi-private lockers/changing rooms);
4. *production, transmission or display of any sexually explicit material electronically via, fax, e-mail, or any other similar mode of municipal communication; or*
5. possession of such material in a manner that they might be seen by others.

**D. Sexual Favoritism.** Impact on other employees:

1. The granting or withholding of employment opportunities and benefits including, but not limited to, job assignments, unequal discipline, promotion, evaluation and compensation constitutes sexual harassment when it is based on sexual favoritism, and is prohibited.

**E. Other Forms of Prohibited Sexual Harassment:** Other conduct that has the purpose or effect of unreasonably interfering with an employee's work performance or working conditions on the basis of gender may also constitute sexual harassment, and therefore, is prohibited. Examples of conduct which, when based upon gender, constitute prohibited sexual harassment include:

1. Assigning disagreeable or unsafe duties; or not making comparable assignments that would tend to disadvantage an employee's development or career;
2. withholding information, materials, equipment or supplies which are necessary for the efficient performance of a job;
3. unreasonably failing to cooperate or assist employees with work-related matters;
4. interfering with an employee's efforts to satisfactorily complete a job assignment;
5. maintaining unequal standards of performance;
6. ostracizing employees, or otherwise making it known to employees that they are not welcomed in the work place because of their gender; or
7. referring to employees by sexually denigrating or insulting names because of their gender.
8. *slurs, disparaging remarks, spreading rumors, participating in conversations about another's real or perceived sexual activity.*

F. **Retaliation for sexual harassment complaints.** Examples of retaliation may include:

1. Arbitrary discipline, unwarranted change of work assignments, providing inaccurate work information, or failing to cooperate or discuss work-related matters with any employee because that employee has complained about, been a witness to or resisted harassment, discrimination or retaliation; and
2. intentionally pressuring, falsely denying, lying about, or covering up or attempting to cover up conduct such as that described in any item above.

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## PROCEDURES FOR MAKING COMPLAINTS

The City is committed to resolving these complaints as quickly and efficiently as possible. If you believe that you have been sexually harassed, or have knowledge that others have been sexually harassed, you are encouraged to contact your supervisor, your Departmental Personnel Officer/EEO Officer, or the Personnel Department's EEO/AA Unit.

The employee may seek either an informal or formal resolution to their complaint:

A. **INFORMAL**

Where behaviors may be offensive and the offended party has a desire to stop the behaviors without formal procedure, the employee may notify the offending party directly, but is not required to do so. The employee may also request a supervisor to intervene by notifying the alleged offender or the entire work unit that the specific offensive behavior(s) will not be tolerated in the work place. In such case the supervisor must discuss the matter with the alleged offender, and, if warranted require that he/she participate in non-disciplinary counseling. The supervisor shall document actions taken and inform the Departmental Personnel Officer/EEO Officer in writing. Copies will also be forwarded to the EEO/AA Unit of the Personnel Department and the Special Litigation Division of the City Solicitor's Office.

B. **FORMAL**

An individual who believes that he/she has been sexually harassed can file a complaint requesting an investigation into the allegation. Formal complaints shall be taken in writing and signed by the complainant. A thorough and complete investigation shall be conducted by the individual designated by the Department Head, or in the case of a complaint filed with the Personnel Department with the Personnel Department, the investigation will be conducted by the Affirmative Action Officer, or his/her assigned investigator.

To the extent possible confidentiality shall be maintained within the confines of the investigation of the alleged behavior prohibited. All parties will be treated with dignity and respect.

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## **PROCEDURES FOR INVESTIGATING AND RESOLVING COMPLAINTS**

### **A. EQUAL EMPLOYMENT OPPORTUNITY OFFICER**

Each Department has an EEO Officer capable of conducting a thorough investigation. Employees wishing to file a complaint with the Departmental EEO Officer can reach him/her through the Departmental Personnel Office.

Each Department shall routinely and continuously post, notice of the role of the EEO Officer along with the name, work location and phone number where he/she can be reached.

### **B. CONDUCTING INVESTIGATIONS**

Any Supervisor or EEO Officer receiving a complaint of sexual harassment shall take the details of the complaint in writing and have the complainant sign it. Copies of this document will be forwarded to the head of the Department, the Special Litigation Division of the Law Department, the EEO/AA Unit of the Personnel Department, and the appropriate Cabinet official. All complaints of sexual harassment against a City employee shall be received, investigated and disposed of in accordance with the procedures set forth in this Policy, and complainants shall be notified of the final disposition/action taken by the Appointing Authority of the accused.

If the complaint involves sexual assault, rape or conduct of a criminal nature, the Philadelphia Police Department shall be contacted and a report of the incident made. If there is any question in the mind of the Appointing Authority, or the Departmental EEO Officer, of whether the conduct complained of constitutes criminal activity, the City Solicitor's Office should be contacted.

The assigned investigator shall attempt to secure statements from all participants in, and witnesses to the alleged incident. The accused shall have the right of representation during his/her interview as required by Law.

All investigations shall be completed by the assigned investigator within sixty (60) days from the filing date of the complaint. Extenuating circumstances for not being able to comply with the deadline must be approved by the Appointing Authority. The extension must be a specified period of time not exceeding twenty-five (25) days, and must be communicated to the complainant.

Within fifteen (15) days of the completion of the investigation, then Appointing Authority of the accused shall review the investigation report, and make a determination if the facts and findings revealed in the investigation result in the charge being substantiated or unsubstantiated.

If the charge is substantiated, the Appointing Authority shall, after review and consultation with the Personnel Director and the City Solicitor's Office, determine the appropriate level of discipline. Such discipline as it deemed appropriate will be initiated within five (5) working days of the conclusion of the consultation, and in accordance with Departmental disciplinary procedures and applicable collective bargaining agreements. Documents regarding substantiated charges of sexual harassment are permitted to be placed in the accused employee's personnel file. Documents regarding unsubstantiated charges shall not be placed in personnel files, but shall be maintained by the Departmental EEO Officer in a confidential EEO file established expressly for retaining complaints of sexual harassment against employees of that Department.

The Appointing Authority shall then forward a copy of the entire investigation file as well as the Department Head's written conclusion and recommendation of the investigation to the appropriate Cabinet official, the City Solicitor, Attention: Special Litigation Division, and the Personnel Director, Attention: Affirmative Action Officer.

#### **C. TRAINING**

It is the responsibility of each Appointing Authority to insure that all supervisors receive the appropriate training to enforce this Policy.

Employees, who in the opinion of the Appointing Authority, and who by the nature of their position, situation, or behavior would benefit from sexual harassment prevention training can be scheduled to receive prevention training from the Personnel Department, at the Training and Development Center, or upon request, in a group setting on site.

#### **D. DISSEMINATION**

It is the responsibility of each Appointing Authority to insure that all employees, both current and new hire receive and sign for a copy of this Policy.

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## **CONCLUSION**

This procedure is within the scope of [Article VII, Chapter 1, Section 7-100, Annotation 5 of the Philadelphia Home Rule Charter](#).

1. Nothing in this procedure shall be considered as against the

preservation of the rights of employees pursuant to the [Civil Service Regulations](#) of the City of Philadelphia.

2. Nothing in this Policy shall be construed as violating existing [labor contracts](#).
3. If any section of this procedure is declared as violating the constitutional rights of the accused, the remaining sections shall remain valid and unaffected.

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