

Chapter XV - Unlawful Harassment Prevention Policy

15.0 Purpose

- To communicate to all employees the City's policy prohibiting unlawful harassment and discrimination in the workplace.
- To communicate the City's expectations of supervisory employees to maintain the workplace free from unlawful harassment and discrimination.
- To communicate to all employees their obligation to immediately report allegations of unlawful harassment and discrimination.

15.1 Policy

The City is committed to a work environment that promotes equal employment opportunities and is free from unlawful discriminatory and retaliatory practices, including Unlawful Harassment.

It is illegal and against the policy of the City for any person to harass, threaten or intimidate another employee on the basis of their race, color, religion, gender, disability, national origin age, genetic information, or other protected characteristic or conduct.

The City will not tolerate conduct that constitutes Unlawful Harassment by its employees.

15.2 Summary

It is illegal and against the policy of the City for any person to harass, threaten or intimidate another employee on the basis of their race, color, religion, gender, disability, national origin age, genetic information, or other protected characteristic or conduct.

Any employee who believes that they have been the subject of such harassment must report the alleged act immediately to their immediate supervisor, or to any supervisor in their chain-of-command. In addition, any employee may report such acts directly to the City Administrator, the Deputy City Administrator, any Department Head, the Director of Human Resources, or the City Attorney, without any adverse consequence for violating the chain-of-command.

A complaint will be immediately investigated by the Director of Human Resources in conjunction, where appropriate, with legal counsel, the Office of Professional Standards of the Roswell Police Department, or other parties deemed necessary and appropriate.

Any supervisor, agent or employee, who has harassed another on the basis of their race, color, religion, gender, disability, national origin, age, genetic information, or other protected characteristic or conduct, will be subject to appropriate disciplinary action, up to and including termination.

15.3 Definitions

Conduct in violation of this policy includes, but is not limited to the following definitions:

A. Unlawful Harassment

1. Unlawful harassment can include, but is not limited to, creating an intimidating, hostile or offensive working environment for another on the basis of one's race, color, religion, gender, disability, national origin, age, genetic information, or other protected characteristic or conduct.
2. Unlawful harassment includes unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when:
 - a. Submission to such conduct is made, directly or indirectly, a term or condition of a person's employment, or
 - b. Submission to or rejection of such conduct by a person is used as the basis for employment decisions affecting the person.
3. Unlawful harassment can include, but is not limited to:
 - a. Verbal Harassment - Sexual innuendo, sexually suggestive comments, jokes and/or teasing of an unwelcome nature, discussing sexual exploits, or continued requests for social or sexual contact.
 - b. Physical Harassment - Unwelcome contact, touching or impeding movement.
 - c. Visual Harassment - Unwelcome, derogatory or sexually suggestive posters, videos, cartoons, drawings, pictures, photographs, documents, writings, electronic mail, staring or leering.
 - d. Sexual Favors - Unwanted sexual advances conditioning an employment benefit on an exchange of sexual favors.

B. Unwelcome – used in the sense that the offended employee did not solicit or incite the conduct and regarded it as undesirable or offensive.

C. Hostile/Offensive Working Environment – determined based on the particular circumstances, but shall include severe or pervasive written, verbal, or physical conduct directed toward an employee on the basis of one's race, color, religion, gender, disability, national origin, age, genetic information, or other protected characteristic or conduct.

D. Reasonable Person/Victim Standard – based on the victim's perspective, as long as that perspective is reasonable. In determining whether sexually offensive or other unlawful harassing conduct has occurred, it is no defense that the alleged harasser did not intend to harass. It is the impact on the complainant, not the intent of the alleged harasser that must be evaluated. It is not a requirement that the complainant be the intended target of the offensive conduct. Witnessing offensive behavior between other employees may be grounds for complaint.

15.4 Supervisor/Management Responsibility

A. Conduct of a harassing nature by a supervisor is particularly unacceptable and will not be tolerated. Supervisors are strictly prohibited from making any employment decision, directly or indirectly, based upon submission to, or rejection of, a request for a sexual favor. Supervisors are also strictly prohibited from engaging in any conduct that could reasonably be construed by another employee as threatening, offensive or intimidating so as to constitute a hostile working environment in violation of this policy. Any supervisor who engages in such conduct shall be subject to disciplinary action, up to and including termination.

B. It is the responsibility of each supervisory and management level employee of the Department to maintain a workplace free of sexual and other unlawful harassment. This duty includes discussing this policy with all employees and assuring them that they are not to endure insulting, degrading or exploitative sexual or unlawful harassing treatment in violation of this policy, and to report perceived violations of this policy to the Human Resources Director, or other representatives of the City as identified in this policy.

C. Any supervisor who retaliates against an individual or a witness for exercising their right to report sexual or other unlawful harassment shall be subject to severe disciplinary action, up to and including termination.

15.5 Employee Rights and Responsibilities

No employee who, in good faith, exercises their right to make a complaint of sexual or other unlawful harassment will be subjected to any retaliatory act or incur any penalty or adverse consequence. Unlawful harassment in the workplace will not be tolerated and employees, who believe they have experienced such harassment, or have witnessed the harassment of another, have an obligation to report such unlawful conduct immediately.

15.6 Employee Reporting Procedure

A. Employees who believe they have been subjected to sexual or other unlawful harassment, or believe they have witnessed such conduct, must report this immediately to their immediate supervisor, other supervisor(s) in the chain-of-command, the City Administrator, the Deputy City Administrator, any Department Head, the Director of Human Resources, or the City Attorney.

B. Any reported allegations of harassment or retaliation will be investigated promptly and thoroughly, and the ongoing investigation shall be confidential, to the extent permitted by law.

C. It is extremely important that any unlawful harassment be reported immediately. Failure to report conduct in violation of this policy, or a delay in the reporting of same, may impede the City's ability to implement preventive or corrective measures when appropriate.

D. Any employee who interferes with or intimidates an individual or witness for exercising their right to report sexual or other unlawful harassment shall be subject to severe disciplinary action, up to and including termination.

The City encourages any employee to raise questions they may have regarding discrimination, retaliation or harassment with the Human Resources Division. Questions may be directed to the Director of Human Resources.