

ADMINISTRATIVE POLICY: 2005-02 (supercedes 00-05)

SUBJECT: ANTI-HARASSMENT POLICY

DATE ISSUED: April 1, 2005

DATE EFFECTIVE: April 1, 2005

APPROVED: 
Janice B. Vassar, City Manager

SECTION ONE: INTENT

The City of Lewiston is committed to providing a work environment in which all people are treated with respect and dignity and strictly prohibits harassment based on all protected classes including race, religion, age, sex, marital status, national origin, ancestry, disability, and sexual orientation. All employees are expected to help with this effort.

While some of this policy focuses specifically on sexual harassment, it in fact establishes a zero tolerance policy for harassment based on any and all protected classes listed above. Any conduct that the City determines violates our policy may result in strict disciplinary action, up to and including termination.

It is the intent of this policy to define types of harassment, to establish a City policy prohibiting harassment, to identify actions and material prohibited in the workplace, and to establish procedures for individuals who feel they have been subjected to harassment to pursue their complaints.

SECTION TWO: STATEMENT OF POLICY

No employee should feel required to tolerate any form of prohibited discrimination or harassment, regardless of whether the source of the conduct is a City employee, supervisor, customer, vendor, visitor or anyone else that the employee encounters in a work-related environment. Harassment of an employee, or of a member of the public when the harassment occurs during work hours or is otherwise work-related, is absolutely prohibited. Each individual has the right to work in an atmosphere that promotes equal opportunity and is free from all forms of discrimination and conduct that may be considered harassing, coercive, or disruptive. To enforce this policy, the City shall provide training to all supervisors and employees regarding the continuing implementation of this policy. The Human Resources Manager shall maintain training materials for review by all City employees. In addition, all new

employees will be advised of the contents of this policy during the new employee's initial orientation.

City employees have the right to raise issues of harassment without fear of retaliation, including the right to seek relief through the Federal Equal Opportunity Commission (EEOC), or through the State of Idaho Human Rights Commission. Allegations of harassment are serious and should not be raised frivolously. All employees are to be aware and understand City policy regarding harassment. To give the City of Lewiston the opportunity to correct an incident in which harassment is alleged, employees are encouraged to follow the procedures as described in this policy.

In the event an action is brought against an employee for engaging in harassment, ignorance of this policy will not constitute an affirmative defense or excuse.

SECTION THREE: SEXUAL (GENDER) HARASSMENT DEFINED – EXAMPLES

Sexual (Gender) harassment is not limited to conduct by men towards women or by women towards men: it can include unwelcome gender-based conduct directed at a person of the same sex. Sexual harassment has been legally defined as follows:

Unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature constitutes sexual harassment when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment,
- Submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individual, or
- 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.

Examples of some forms of sexual harassment are:

- Suggestive or obscene e-mails, letters, notes, invitations, calendars, posters, cartoons or photographs of a sexual, hostile, or degrading nature;
- Unwanted sexual advances, propositions or requests for sexual favors, repeated unwelcome requests for dates, or derogatory or sexual comments, epithets, or slurs;

- Inappropriate or sexually suggestive touching, such as grabbing, groping, fondling, kissing, brushing up against another's body, stroking someone's hair, or rubbing or massaging someone's neck or shoulders;
- Standing too close; leering, staring or stalking an individual in a suggestive manner or impeding or blocking another's movements;
- Off-color jokes or innuendoes, obscene, lewd or suggestive language; or sexually oriented or explicit remarks (including questions, comments or gossip about sexual experience, prowess or deficiencies);
- Verbal abuse of a sexual nature, graphic, verbal commentaries about an individual's body, or using degrading words to describe an individual; or
- Using the City's computers (including the Internet or e-mail access) to search for, view, create, forward or otherwise disseminate sexually explicit audio, visual or textual material.

Prohibited sexual harassment also includes any effort by a person in authority to use his or her position or authority to control, influence or affect the career, salary, employment status or terms and conditions of employment of any employee or prospective employee in exchange for sexual favors. No director, manager or supervisor or other employee may state or imply to anyone that cooperation or non-cooperation of a sexual nature could in some way – either positively or negatively – affect an individual's career development or any term or condition of employment. Similarly, the City prohibits supervisors, managers and employees from making or threatening reprisals if an individual rejects any sexual advance or other sexual conduct.

Harassment is any unwelcome conduct that denigrates or shows hostility or aversion toward an individual because of a trait protected by law, and that has the purpose or effect of unreasonably interfering with the individual's work performance or creating an intimidating, hostile or offensive work environment. Following are some examples of the types of conduct that may constitute prohibited harassment, depending on the circumstances.

- Demeaning, hostile or negative communications based on an individual's race, color, religion, sex, age, national origin, physical, mental or sensory disability, marital status, veteran status or any other trait protected by federal, state or local law. This may include, for example, derogatory comments, hateful symbols, epithets, jokes, teasing, slurs or negative stereotyping, regardless of the form of communication (i.e., written, verbal or graphic).
- Any other hostile, intimidating or threatening conduct that is directed at an individual because of that individual's race, color, religion, sex, age,

national origin, physical, mental or sensory disability, marital status, veteran status or any other trait protected by applicable federal, state or local law.

SECTION FOUR: REPORTING HARASSMENT

Victims of Harassment: If you believe that you are being harassed, you should clearly and promptly tell the offender that you want him or her to stop the behavior. If for any reason you do not wish to confront the offender directly or if confrontation does not successfully end the harassment, you should immediately report the harassment to any one of the following people:

- Your supervisor or manager; or
- The Human Resources Manager.

Employees Who Witness Harassment: Any employee who witnesses harassment or becomes aware that another employee has been subjected to prohibited harassment, is required to immediately report the conduct to one of the people listed above.

Directors, Managers and Supervisors: Any director, manager or supervisor who receives a complaint about harassment or who believes that someone is engaged in conduct that may be prohibited, must immediately report it to the Human Resources Manager. Ignoring such conduct is not acceptable and may subject the supervisor or manager to disciplinary action.

The Human Resources Manager will fairly and expeditiously investigate all claims of harassment. Complaints of discrimination or harassment will be handled with sensitivity, discretion and confidentiality to the extent allowed by the circumstances and the law. This means that allegations of harassment will only be shared with those who have a need to know so that the City can conduct an effective investigation.

The complainant will be requested to provide as many details as possible, such as date(s), location(s), name(s) of witnesses, or information about the alleged harasser(s). Persons with relevant information will be interviewed. After the investigation is completed, the Human Resources Manager will share the findings with the complainant, the alleged harasser, and if appropriate, other employees directly concerned with the incident.

If the Human Resources Manager concludes that unlawful harassment occurred, prompt and effective remedial action will be taken. This may include, providing counseling or training to remedy the effects of the harassment and prevent further harassment, or taking strict disciplinary action up to and including possible termination.

SECTION FIVE: RESPONSIBILITY FOR ENFORCEMENT

All city employees are responsible for ensuring that the policy on harassment is enforced. A special burden for enforcement rests with the department directors, managers and other supervisors. By virtue of his/her position of authority, a director, manager, or supervisor shall make reasonable efforts to be aware of any acts of harassment within the workplace for which the director, manager or supervisor is responsible, and is further expected to take immediate and appropriate action to prevent such harassment from continuing or reoccurring. This responsibility includes acts of harassment by directors, managers, supervisors, coworkers and by people who are not City employees, but are harassing an employee of the City during the performance of his/her job.

In responding to circumstances that, in the supervisor's eyes, could be harassment, the supervisor should notify their department director and contact the Human Resources Manager immediately to discuss those circumstances and an appropriate course of action. Based on the information presented, the Human Resources Manager will coordinate the information with the department manager and initiate the investigation. In this case, the person who is the object of the suspected harassment will be treated as the complainant and the suspected harasser will be identified based on the information available.

Directors, managers and supervisors shall take all necessary steps to prevent harassment from occurring, including, but not limited to:

- Setting examples of acceptable conduct by not participating in or provoking behavior which is offensive;
- Disseminating information defining harassment and informing employees of their rights;
- Establishing and maintaining a working environment free from intimidation, ridicule or insult.

Directors, managers and supervisors who fail to take appropriate action in the presence of harassment practices as defined in this policy may be subject to disciplinary action.

SECTION SIX: RETALIATION PROHIBITED

To encourage employees to bring forward any concerns they may have about possible harassment, the City prohibits all directors, managers, supervisors and employees from retaliating against anyone who makes a complaint of possible discrimination or harassment, or who is involved in the investigation of such a complaint. Employees who believe they have suffered or witnessed any form of

retaliation should report the matter immediately to their supervisor or to the Human Resources Manager. Anyone who is found to have engaged in retaliation is subject to strict disciplinary action, up to and including possible termination.

SECTION SEVEN: DISCIPLINE

When the investigation of a formal complaint leads to the determination that a City employee harassed another person, the employee shall be disciplined, which may include suspension, demotion or termination, all pursuant to the City's Personnel Policy or appropriate collective bargaining contract.

It shall be the responsibility of the department director or take corrective action to eliminate any continued harassment and to make a recommendation to the City Manager regarding appropriate disciplinary action.

SECTION EIGHT: DOCUMENTATION

The Human Resources Manager shall maintain a record of all complaints, notes of the investigation and the final report. In the event an investigation concludes the complaint of harassment was unfounded, said documents shall be forwarded to the City Attorney and the name of the alleged harasser shall be deleted from the record, and the records shall be kept for ten (10) years. In the event an investigation concludes that harassment did occur, the Human Resources Manager shall maintain a record of all complaints, notes of the investigation, the final report and documentation of any disciplinary actions in the personnel file of the harasser. Said documents shall be exempt from public disclosure pursuant to Idaho Code Section 9-340C(i).

SECTION NINE: FALSE OR MALICIOUS REPORTS

Disciplinary action may be imposed if the City determines that a false or malicious complaint was made under this policy.

SECTION TEN: REASSIGNMENT OF DUTIES

The City Manager may reassign the duties provided for in this policy to other City personnel, as he/she deems appropriate.

SECTION ELEVEN: DISTRIBUTION

Department Managers
Division Managers
City Council
City Manager