



Subject/Title  
**Harassment**

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Date Effective  
July 1, 1990

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*W. Curtis W. W. W.*  
City Manager

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Revision Date Effective  
March 29, 2010

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Code Number  
HR 5

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Human Resources  
Responsible Key Business

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**Objective:**

To establish the City's policy regarding harassment and to establish procedures for the investigation and resolution of grievances or complaints about harassment.

**Policy:**

1. The City will not tolerate or condone acts of harassment based upon race, religion, color, sex, national origin, sexual orientation, age, disability, or political affiliation.
2. City employees and supervisors will make every effort to prevent and avoid harassment in the workplace. The City believes that such efforts are necessary for productive working relationships within the organization.
3. The City will comply with Title VII of the Civil Rights Act of 1964 (as amended), the Age Discrimination in Employment Act and the Americans with Disabilities Act.
4. Violators of this policy will be subject to appropriate disciplinary action up to and including termination. (See Disciplinary Schedule - Exhibit I.)

**Responsibilities & References:**

1. Title VII of the Civil Rights Act of 1964 (as amended) states that it is an unlawful employment practice:
  - A. To fail or refuse to hire or to discharge any individual or otherwise to discriminate against an individual with respect to his/her compensation, terms, conditions, or privileges of employment because of such individual's race, sex, national origin, religion, or color, or
  - B. To limit, segregate or classify employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his/her status as an employee because of such individual's race, sex, national origin, color, or religion.
2. The Age Discrimination in Employment Act establishes essentially the same prohibitions as mentioned above under Title VII, but for individuals age 40 years and above.

3. The Americans with Disabilities Act also requires non-discrimination and includes prohibitions as outlined above in Title VII, but for qualified individuals with disabilities.

**Definitions:**

1. Harassment is verbal or non-verbal conduct or physical acts which are unwelcome or offensive to or retaliatory against an employee or group of employees based on their race, religion, color, sex, national origin, sexual orientation, age, disability or political affiliation and which:
  - A. Affects an employee's conditions of employment, or
  - B. Interferes with an employee's ability to perform his or her job, or
  - C. Creates an intimidating or hostile work environment.
  - D. Examples of acts which may constitute harassment are:

Slurs and epithets; offensive jokes or statements; threats; derogatory pictures/materials/articles displayed on bulletin boards or in work areas; derogatory graffiti; segregating facilities (such as break rooms, bathrooms, eating areas, work stations); physical violence intended to harass, intimidate or discourage employees from pursuing complaints; retaliatory acts based on an employee having filed a charge of discrimination.
2. Sexual Harassment is **unwelcome** verbal, non-verbal or physical advances of a sexual nature or non-sexual hostile or physically aggressive behavior directed to an employee because of such employee's sex, which:
  - A. Affects an employee's conditions of employment; or
  - B. Interferes with an employee's ability to perform his or her job; or
  - C. Creates an intimidating or hostile work environment.
  - D. Examples of acts which may constitute sexual harassment are:
    - (1) Verbal - Referring to an adult as "girl", "hunk", "doll", "beefcake", "babe", "studmuffin", "honey", or "sweetie"; whistling or catcalling; sexual comments or innuendoes; sexual jokes or stories; making sexual comments about a person's clothing, body; recounting one's sexual exploits or asking about sexual fantasies, preferences or history; repeatedly asking a person for a date after being turned down; starting or spreading rumors about the sex life of a person; making kissing sounds, howling or smacking lips; threats.
    - (2) Nonverbal - Blocking a person's path; following the person; making sexual gestures; making facial expressions.
    - (3) Physical - Hugging, kissing, patting, stroking, pinching or grabbing; rubbing oneself sexually around another person; brushing against a person; touching the person's clothing, hair or body; giving a massage around the neck or shoulders; revealing parts of the body in violation of common decency; physically forcing sexual activity on someone ranging from assault to rape.

**Subject/Title**

Harassment

**Code Number**

**HR 5**

**Page**

**3**

**of**

**6**

- (4) All of the conduct listed in Examples 1, 2, and 3 which are directed to an employee by a non-employee in the workplace, i.e., contractors or vendors who may do business with or for the City.
- (5) Employment opportunities or benefits granted by a supervisor to his/her employee because such employee submits to the supervisor's advance.

3. Hostile Environment means a workplace that has become intimidating or offensive due to conduct of employees which is threatening in nature.

**Procedure:**

1. An employee who believes he or she has been the subject of harassment should, if possible, follow Rule VI Grievance Procedure of the City's Personnel Rules and Regulations.
2. If the employee chooses not to present a complaint or grievance directly to his or her supervisor (for example, this may be the case if an employee is alleging sexual harassment by his or her supervisor), the complaint or grievance may be filed directly with the key business executive, a representative of the key business executive, or Human Resources.
3. Regardless of to whom the employee makes a complaint of harassment, the employee should be prepared to provide the following information:
  - A. His or her name, key business unit and position title.
  - B. The name of the person(s) committing the harassment, including his or her title(s), if known.
  - C. The specific nature of the harassment, how long it has gone on, any employment action (demotion, failure to promote, dismissal, refusal to hire, transfer, etc.) taken as a result of the harassment, or any other threats made as a result of the harassment.
  - D. Witnesses to the harassment, if any.
  - E. Whether the employee has previously reported such harassment and, if so, when and to whom.
4. All complaints will be handled in a timely and confidential manner. Information concerning a complaint will not be released to anyone who is not involved with the investigation unless there is a compelling legal reason for the release. The purpose of this provision is to protect the confidentiality of the employee who files a complaint, to encourage the reporting of any incidents of harassment, and to protect the reputation of any employee wrongfully charged with harassment.
5. Investigation of a complaint will normally include conferring with the parties involved and any named or apparent witnesses. A review of written documentation will be made. Employees are guaranteed an impartial and fair hearing. All employees will be protected

**Subject/Title**

Harassment

**Code Number**

**HR 5**

**Page**

4

**of**

6

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from coercion, intimidation, retaliation, interference or discrimination for filing a complaint or assisting in an investigation.

6. Human Resources and the City Attorney's Office are available to assist in the investigation of harassment complaints.
7. If the investigation reveals that the complaint is valid, prompt attention and disciplinary action designed to stop the harassment immediately and to prevent its recurrence will be taken. A schedule of appropriate disciplinary actions is attached.
8. Complaints of harassment which are found to be malicious, willful attempts to misrepresent or tarnish the reputation of individuals will be dealt with through appropriate discipline to include a minimum of a 3-day suspension up to and including terminations.

**Forms and Exhibits:**

Exhibit 1. Disciplinary Schedule

**EXHIBIT I**

**DISCIPLINARY SCHEDULE**

**Acts of Harassment**

1. **Class A:**

- a. Conduct which is threatening to terms and conditions of employment and whereby favors are required in exchange for rewards on the job or to avoid unfavorable job actions.
- b. Physically forcing sexual activity on someone, ranging from assault to rape.
- c. Physical violence intended to harass, intimidate or discourage employees based on their race, religion, color, sex, national origin, sexual orientation, age, disability or political affiliation.

**Discipline For First Occurrence:**

Termination of employment

2. **Class B:**

Conduct which is threatening to terms and conditions of employment, or which creates an intimidating/hostile work environment and has an adverse impact on work performance.

**Discipline For First Occurrence:**

Negative Performance Incident, 5 days suspension, 180 days probation and warning that a second occurrence will result in termination of employment. Possible demotion if harasser is in a supervisory position.

**Discipline For Second Occurrence:**

Termination of employment

EXAMPLES: Unwelcome physical advances or unwelcome physical contact; repeated sexually explicit language; pressuring an employee for a date; rubbing oneself sexually around or against another person; segregating facilities based on race, religion, color, sex, national origin, sexual orientation, age, disability or political affiliation; retaliatory acts based on an employee having filed a charge of discrimination.

3. **Class C:**

Conduct which is not threatening to terms and conditions of employment, nor does it significantly impact employee work performance.

**Discipline For First Occurrence:**

Counseling, Negative Performance Incident.

**Subject/Title**

Harassment

**Code Number**

**HR 5**

**Page**

**6**

**of**

**6**

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DISCIPLINARY SCHEDULE

Acts of Harassment

(Continued)

Discipline For Second Occurrence:

1 day Suspension, 90 day probation, Warning of further discipline for future incidents.

Discipline For Third Occurrence:

3 day Suspension, 180 day probation, Warning of termination of employment for the next offense.

Discipline For Fourth Occurrence:

Termination.

EXAMPLES: Jokes oriented toward race, religion, color, sex, national origin, sexual orientation, age, disability or political affiliation; display of sexually suggestive pictures or materials, pictures, articles or graffiti which are derogatory towards race, religion, color, sex, national origin, sexual orientation, age, disability or political affiliation.

**Notes:**

*Harassment occurs in many forms and it is thereby difficult to categorize types of harassment. This Disciplinary Schedule may not cover all acts or combinations of acts of harassment. It lists three general categories and appropriate discipline for acts falling into one of these three categories.*

*The City of Charlotte is an at-will employer and can terminate an employee at anytime and is not bound by the schedule. Discipline outside of this schedule must be done with the agreement of City Human Resources.*