

# TOWN OF OSWEGO

## HARASSMENT POLICY

10-9-2018

The Town of Oswego believes that all individuals deserve a workplace environment where they are treated with respect and decency. It is the intent of the Town to foster an atmosphere where individual rights are honored with integrity, dignity and mutual trust.

The Town will not tolerate discrimination, harassment or retaliation of any kind and recognizes that it is unlawful. By educating its employees, elected officials, and board and committee members and by the enforcement of this policy, the Town will establish a place of work that prevents, corrects and disciplines any behavior that infringes upon this policy.

Regardless of position or rank in the Town of Oswego, all employees, elected officials, board and committee members are covered by this policy and are expected to adhere to it and its enforcement. Any employee, elected official, board or committee member will be disciplined in accordance with this policy. Any employee, elected official, board or committee member who knowingly tolerates or allows discrimination, retaliation and/or harassment or fails to report such behavior will also be considered in violation of this policy and subject to discipline.

The Town of Oswego enforces this policy in compliance with all applicable federal, state and local anti-discrimination, harassment and retaliation laws and regulations.

### **What is Workplace Harassment?**

“Harassment is a form of employment discrimination that violates Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, (ADEA), and the Americans with Disabilities Act of 1990, (ADA).”

U.S. Equal Employment and Opportunity Commission (2018)

**Harassment is considered any unwelcome advances and/or conduct, including but not limited to, written, verbal or physical. It can be based on sex (including orientation and pregnancy), race, religion, national origin, disability, age (40 or older), or genetic information.**

To be unlawful, harassment must be considered hostile, intimidating and abusive to reasonable people. It may include, but is not limited to racial slurs; physical touching, assault and threats; mockery, insults and put-downs; offensive pictures, objects, slurs, jokes and name calling; and interference with one’s work. Harassment can occur between same sexes or opposite sex individuals. Harassment can be divided into two groups – ‘quid pro quo’ and hostile work environment.

**Quid pro quo**, or ‘this for that’ harassment is generally made by an individual who holds power over another, such as the ability to fire, hire promote or demote. It is generally committed as unwelcome

advances, conduct and/or requests. An example is a supervisor denying a promotion because of an employee's refusal to be sexually cooperative.

**Hostile workplace harassment** can result from unwelcome conduct by supervisors, coworkers, agents of the Town, customers or anyone else the employee, elected official or board and committee member comes into contact with while in service for the Town. The conduct must make the working environment hostile, offensive or intimidating such as sabotaging an employee's work, talking about sexual activities, unnecessary physical contact, indecent language and gestures, or commenting on physical characteristics.

### **What is Discrimination?**

**Discrimination** is the unfair treatment of an individual because of who they are or the characteristics they possess. In accordance with the Equality Act 2010, the Town recognizes nine protected characteristics: age, gender, race, disability, religion, pregnancy and maternity, sexual orientation, gender reassignment and marriage and civil partnership.

**Two types of discrimination are direct and indirect.** An example of direct discrimination would be the refusal to hire a fully qualified individual because she is pregnant. An example of indirect discrimination is a policy that requires no head gear be worn at work. This would indirectly discriminate against some religious sects that must wear head dress at all times when in public.

### **What is Retaliation?**

**Retaliation** is the punishment of an individual(s) for asserting their rights from discrimination and harassment in the workplace. Asserting these rights is considered a 'protected activity' and cannot be retaliated against.

For example, it would be unlawful to retaliate against:

- A board member who files a discrimination complaint;
- An employee who participates in an harassment investigation;
- An elected official who refuses to follow Board direction that would be discriminatory;
- An employee inquiring about salary information to discover discriminatory practices.

### **Reporting Harassment, Discrimination and Retaliation**

The Town encourages all employees, elected officials and board and committee members to report any violation that they experience or of which they have knowledge. It is the Town's legal responsibility to take action to stop the behavior.

Any such incident will be reported to the immediate supervisor. If it is felt that the immediate supervisor would be unable to appropriately handle the reported behavior, another supervisor may be contacted. All reports will be promptly investigated and appropriate action will be taken. All reports will be handled in a discreet and confidential matter.

### **Disciplinary Action**

All employees found to have engaged in harassment, discrimination or retaliation will be dealt appropriate disciplinary action including possible termination. Elected officials, board and committee members will be asked to resign. If the incident is serious enough, lawful recourse will be taken.

### **Resources for Employees, Elected Officials and Board and Committee Members**

U.S. Equal Employment Opportunity Commission <https://www.eeoc.gov/laws/types/harassment.cfm>

U.S. Equal Employment Opportunity Commission <https://www.eeoc.gov/laws/statutes/index.cfm>

Workplace Bullying Institute <http://www.workplacebullying.org/>

U.S. Dept. of Labor <https://www.dol.gov/dol/fact-sheet/immigration/RetaliationBasedExerciseWorkplaceRightsUnlawful.htm>

U.S. Dept. of Labor <https://www.dol.gov/oasam/programs/crc/2011-workplace-harassment.htm>

NYS Combating Sexual Harassment in the Workplace <https://www.ny.gov/programs/combating-sexual-harassment-workplace>

USA.gov Labor Laws and Issues <https://www.usa.gov/labor-laws#item-192580>