

**POLICY & COMPLAINT PROCEDURE REGARDING  
DISCRIMINATION AND HARASSMENT**

**I. POLICY**

It is the policy of the Town of Amsterdam to provide and maintain a work environment which is free from unlawful harassment and discrimination based on sex (with or without sexual conduct), race, creed, color, religion, national origin, age, disability, sexual orientation, familial status, marital status, military status, domestic violence victim status, arrest or conviction record, genetic characteristics, gender identity or gender expression (“GENDA”), and any other class protected by law (collectively referred to as “discriminatory harassment” or “harassment”). Discrimination or harassment based on these characteristics is a form of unlawful discrimination and is a form of misconduct that undermines the integrity of the employment relationship and will not be tolerated. Accordingly, such conduct is prohibited in each and every work environment and each and every situation which directly impacts the work environment.

As such the Town expressly prohibits any form of employee discrimination or harassment based on race, creed, color, religion, sex, national origin, age, disability, sexual orientation, familial status, marital status, military status, domestic violence victim status, arrest or conviction record, genetic characteristics, gender identity or gender expression, or an individual’s status in any class protected as stated above by applicable federal, state, or local law. Improper interference with the ability of our employees to perform their expected job duties will not be tolerated.

All employees of the Town of Amsterdam will be expected to comply with this policy and with all applicable laws and regulations prohibiting sexual harassment and other forms of discrimination or harassment and must take appropriate measures to ensure that such conduct does not occur. Appropriate disciplinary action will be taken against any employee who violates this policy. Based on the seriousness of the offense, disciplinary action may include, but is not limited to, verbal or written reprimand, suspension or termination.

This policy applies to all applicants, employees, and elected or appointed Town Officials of the Town of Amsterdam, committee members, and volunteers engaged in Town activities, as well as any non-employee such as citizens, contractors, sub-contractors, vendors, consultants, interns (paid and unpaid), temporary workers, “gig” workers, or anyone providing services in the workplace.

Conduct prohibited by these policies is unacceptable in the workplace and in any work-related setting outside the workplace, such as during work trips, work meetings, and work-related social events. Harassment can occur when an employee is working remotely from home, through calls, texts, emails and/or social media.

The interpretation and administration of this policy shall be the responsibility of the Town Supervisor. This includes development of procedures for handling and investigating complaints of sexual harassment and other forms of harassment, and enforcement of appropriate sanctions for such conduct. The Town Supervisor will disseminate information

and training, in a manner that is consistent with and in furtherance of this policy. Any and all questions regarding this policy should be directed to the Town Supervisor.

## II. DEFINITIONS

A. **Sexual Harassment** is a form of gender-based discrimination. It includes harassment on the basis of sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity and the status of being transgender. Sexual harassment is unlawful when it subjects an individual to inferior terms, conditions, or privileges of employment. Under New York State law it does not need to be severe or pervasive but must be more than petty slights.

There are two main types of sexual harassment:

1. **Quid Pro Quo**
  - Unwelcome sexual advances, request for sexual favors, and other verbal or physical conduct of a sexual nature;
  - Submission to such conduct is made explicitly or implicitly a term or condition of an individual's employment (e.g., promotion, training, assignments, etc.); or
  - Submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individual.
2. **Hostile Work Environment**
  - Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment; however, you do not need to be the intended target of the sexual harassment.

Examples of specific behaviors that may be considered sexual harassment include, but are not limited to:

- Spoken or written words related to an individual's sex;
- Any sexual advance that is unwelcome;
- Sexually oriented comments, gestures, noises or remarks;
- Hostile actions taken against an individual because of that individual's sex, such as interfering with, destroying or damaging a person's workstation, tools or equipment, or otherwise interfering with the individual's ability to perform the job;
- Showing or displaying pornographic or sexually explicit objects or pictures in the workplace;
- Physical attacks (i.e., rape, sexual battery, etc.);
- Physical acts of a sexual nature (i.e., kissing, hugging, touching, etc.);
- Offensive touching, patting or pinching;
- Requests for sexual acts or favors;
- Abusing the dignity of an employee through insulting or degrading sexual remarks or conduct;

- Implied or overt threats, demands or suggestions that an employee's work status is contingent upon her/his toleration of or acquiescence to sexual advances;
- Subtle pressure for sexual activities;
- Sexually charged or explicit jokes, stories and comments;
- Leering at a person; or
- Visiting sexual or otherwise inappropriate websites or distributing the same via electronic mail.

Sex stereotyping is a form of sexual harassment and occurs when conduct or personality traits are considered inappropriate simply because they may not conform to other people's ideas or perceptions about how individuals of a particular sex should act or look.

Sexual harassment can occur between members of the same or different gender or sex. It can occur between supervisor/supervisee, co-workers, independent contractors, vendors, clients, customers, patients, residents and/or visitors.

It is no excuse that the alleged conduct "meant no harm" or was "a joke."

## **B. Other Unlawful Harassment**

Discrimination or harassment on the basis of any other protected characteristic is also prohibited.

Prohibited discrimination or harassment is verbal or physical conduct that is offensive to or shows hostility or aversion toward an individual because of his/her race, creed, color, religion, national origin, age, disability, or any of the protected statuses enumerated above, and that:

- i. has the purpose or effect of creating an intimidating, hostile or offensive work environment;
- ii. has the purpose or effect of unreasonably interfering with an individual's work performance; or
- iii. otherwise adversely affects an individual's employment opportunities.

Examples of discrimination or harassment include, but are not limited to:

- Distributing derogatory epithets, slurs, jokes, or remarks;
- Stereotyping that is derogatory or demeaning to an individual's or group's characteristics or that promote stereotypes;
- Threatening, intimidating or hostile acts; or
- Displaying or circulating in the workplace (including through e-mail, internet, or social networking sites, such as, but not limited to Facebook, TikTok, Instagram, or Snapchat) written or graphic material that denigrates or shows hostility or aversion toward an individual or group, based on an individual's protected class.

### III. PROCEDURE

#### A. Reporting Discrimination and Harassment

1. If an individual is subjected to a situation which he/she believes constitutes discriminatory harassment in violation of this policy, they may advise the harasser that his/her behavior is not welcomed and will not be tolerated, but that is not required under this policy. This policy and state/federal law do not require that an individual tell an alleged harasser to stop his/her actions. Employees should feel free to keep written records of any alleged harassment incidents, including the date, time, location, names of people involved, witnesses (if any), and who said or did what to whom.
2. If an individual is subjected to what he/she believes to be discriminatory harassment in violation of this policy, the Town encourages the individual to file a written or verbal complaint with the Town Supervisor or their immediate supervisor.
3. In the event an employee does not feel comfortable filing a complaint internally to the Town Supervisor or their immediate supervisor, they may submit a complaint to the Deputy Town Supervisor or Town Board.
4. Any employee that witnesses harassment as a bystander is encouraged to report it to the Town Supervisor. Any supervisor or manager who is a bystander to harassment is required to report it to the Town Supervisor.

#### B. Investigation Process

1. All harassment complaints, whether reported verbally or in writing, will be investigated as promptly as possible and resolved within a reasonable time after the receipt of the complaint. The Town will coordinate an investigation of the complaint, and, as part of the investigation, will collect relevant documents and/or records to be reviewed. Interviews will be conducted with all parties involved, including any relevant witness/witnesses.
2. Following the investigation, a written report of the Findings and Conclusions shall be issued by the investigator to the Town Supervisor. In the event the complaint is against the Town Supervisor, the Findings and Conclusions shall be forwarded to the Deputy Town Supervisor. All information gathered during an investigation of a harassment complaint will be handled in a confidential manner, to the extent possible. The documents and interviews of employees will be maintained in a secure location.
3. Based upon the Findings and Conclusions of the investigation, a Determination on the complaint will be issued by the Town Supervisor and/or the Town Board as may be appropriate. Thereafter, the Town Supervisor will communicate the results back to the complainant and the Town Board. In the event the alleged

harasser is also an employee, they will also receive notification of the results of the investigation from the Town Supervisor.

#### IV. RETALIATION

1. No person covered by this Policy shall be subject to adverse action for reporting incidents of harassment or discrimination, assisting in any investigation of such a complaint or testifying in a proceeding involving sexual harassment or discrimination.
2. Retaliation against any individual making a discrimination or harassment complaint or assisting in the investigation of such a complaint is strictly forbidden.
3. Retaliation is a form of misconduct.
4. Retaliation, like discrimination and harassment, is against the law and is a serious violation of this policy.
5. Employees who retaliate against other employees who complain about discrimination or harassment and/or participate in an investigation of discrimination or harassment will be subject to disciplinary action.
6. Individuals subject to this policy who believe they have been subject to retaliation should immediately reports same to the Town Supervisor, unless the allegation is against the Town Supervisor, then to the Deputy Town Supervisor.

#### V. MISCELLANEOUS

1. In the event a complaint of discriminatory harassment is determined to be founded, the Town will take appropriate disciplinary action in accordance with employer policies and procedures, and the provisions of state law.
2. This Policy does not preclude the filing of harassment complaints with either the New York State Division of Human Rights or the Federal Equal Employment Opportunity Commission, or the pursuing of any other remedies as permitted by law, including any applicable local laws. (See VII below) File your complaint as soon as possible as some time limitations may preclude bringing an action in certain forums. The following is contact information for the New York State Division of Human Rights. **General inquiries may also be directed to [info@dhr.ny.gov](mailto:info@dhr.ny.gov) and local offices are also available at [infoAlbany@dhr.ny.gov](mailto:infoAlbany@dhr.ny.gov).** The following is contact information for the Federal Equal Employment Opportunity Commission: [www.eeoc.gov](http://www.eeoc.gov).

#### VI. RESPONSIBILITIES OF MANAGERS/SUPERVISORS

1. All managerial and supervisory personnel and elected or appointed Town Officials of the Town of Amsterdam shall be responsible for enforcing this Policy and shall

have particular responsibility for ensuring that the work environment under their supervision is free from discriminatory harassment, retaliation and their effects. Failure of a manager or supervisor to comply with this responsibility may result in disciplinary action.

2. All managerial and supervisory personnel who witness harassment or any violation of this policy are required to report it. Failure to report may result in disciplinary action.
3. All managerial and supervisory personnel who receive discriminatory harassment complaints will be responsible for immediately forwarding such complaints to the Town Supervisor.
4. The Town will conduct annual training for personnel on the issues surrounding discriminatory harassment, its effects and its appearances, and the role and responsibility of managerial/supervisory personnel in preventing incidents of harassment complaints.
5. The Town shall distribute this Policy to all employees and all others covered by its parameters. Copies of this Policy will be distributed to new employees as they are hired and provided at each annual training.
6. Copies of this Policy will be conspicuously posted.

## **VII. LEGAL PROTECTIONS AND EXTERNAL REMEDIES**

### **1. State Human Rights Law (HRL)**

The Human Rights Law (HRL), codified as N.Y. Executive Law, art. 15, §290 et seq., applies to all employers in New York State with regard to sexual harassment, and protects employees, paid or unpaid interns and non-employees, regardless of immigration status. A complaint alleging violation of the Human Rights Law may be filed either with the Division of Human Rights (DHR) or in New York State Supreme Court.

If you believe that you have been sexually harassed, you can file a complaint with the New York State Division of Human Rights. The statute of limitations for filing a sexual harassment complaint with DHR is three years.

If an individual did not file at DHR, they can sue directly in state court under the HRL **within three years** of the alleged sexual harassment. An individual may not file with DHR if they have already filed a HRL complaint in state court.

Complaining internally to the Town does not extend your time to file with DHR or in court. The one year or three years is counted from date of the most recent incident of harassment.

You do not need an attorney to file a complaint with DHR, and there is no cost to file with DHR.

DHR will investigate your complaint and determine whether there is probable cause to believe that sexual harassment has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If sexual harassment is found after a hearing, DHR has the power to award relief, which varies but may include requiring your employer to take action to stop the harassment, or redress the damage caused, including paying of monetary damages, attorney's fees and civil fines.

Individuals experiencing sexual harassment in the workplace may call the DHR hotline to seek counsel relative to issues of workplace sexual harassment at 1-800-HARASS-3, Monday through Friday, 9:00 AM to 5:00 PM. DHR's main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, New York 10458. You may call (718) 741-8400 or visit: [www.dhr.ny.gov](http://www.dhr.ny.gov).

Contact DHR at (888) 392-3644 or visit [dhr.ny.gov/complaint](http://dhr.ny.gov/complaint) for more information about filing a complaint. The website has a complaint form that can be downloaded, filled out, notarized and mailed to DHR. The website also contains contact information for DHR's regional offices across New York State.

## 2. Civil Rights Act of 1964

The United States Equal Employment Opportunity Commission (EEOC) enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act (codified as 42 U.S.C. §2000e et seq.). An individual can file a complaint with the EEOC anytime within 300 days from the harassment. There is no cost to file a complaint with the EEOC. The EEOC will investigate the complaint, and determine whether there is reasonable cause to believe that discrimination has occurred, at which point the EEOC will issue a Right to Sue letter permitting the individual to file a complaint in federal court.

The EEOC does not hold hearings or award relief, but may take other action including pursuing cases in federal court on behalf of complaining parties. Federal courts may award remedies if discrimination is found to have occurred. In general, private employers must have at least 15 employees to come within the jurisdiction of the EEOC.

An employee alleging discrimination at work can file a "Charge of Discrimination." The EEOC has district, area, and field offices where complaints can be filed. Contact the EEOC by calling 1-800-669-4000 (TTY: 1-800-669-6820), visiting their website at [www.eeoc.gov](http://www.eeoc.gov) or via email at [info@eeoc.gov](mailto:info@eeoc.gov).

If an individual filed an administrative complaint with DHR, DHR will file the complaint with the EEOC to preserve the right to proceed in federal court.

3. Local Protections

Many localities enforce laws protecting individuals from sexual harassment and discrimination. An individual should contact the county, city or town in which they live to find out if such a law exists.

4. Contact the Local Police Department

If the harassment involves unwanted physical touching, coerced physical confinement or coerced sex acts, the conduct may constitute a crime. Contact the local police or sheriff's department.