

ANTI-DISCRIMINATION AND ANTI-HARASSMENT POLICY

The Town of Duanesburg prohibits any form of discrimination or harassment of any employee by anyone in the workplace (including supervisors, coworkers, consultants, vendors, customers, and other non-employees) for any illegal discriminatory reason based on any protected classification, including: race, color, sex, national origin, ethnicity, military or veteran status, mental or physical disability, marital status, sexual orientation, genetic information/predisposition or carrier status, age, religion, creed, domestic violence victim status, and any other classification protected by federal, state, and local law. The Town of Duanesburg takes this prohibition seriously and the behavior of individuals engaging in such conduct, or supervisors/managers who knowingly allow such behavior to continue, will not be tolerated.

This policy applies to all employees, whether supervisory or non-supervisory, interns, contractors, and other non-employee personnel conducting business with the Town of Duanesburg.

Unlawful Discrimination and Harassment Defined

Discrimination and harassment can occur in a variety of forms among any combination of individuals at the Town of Duanesburg.

Unlawful harassment is a form of unlawful discrimination. The Town of Duanesburg prohibits harassment on the basis of any classification protected by federal, state, and local law. Unlawful harassment includes, but is not limited to, unwelcome or inappropriate verbal, physical, or other communication or conduct that denigrates or shows hostility or aversion to an individual and/or group and:

- Has the purpose or effect of creating an intimidating, hostile, or offensive work environment; or
- Has the purpose or effect of unreasonably interfering with the individual's work performance.

Unlawful harassment may include, but is not limited to: jokes, epithets, slurs, negative stereotyping; threatening, intimidating, or hostile acts; or written or graphic material including email that denigrates or shows hostility or aversion toward an individual or group on the basis of a protected characteristic.

Other unwelcome conduct may constitute harassment, such as:

- Verbal: derogatory slurs, off-color jokes, propositions, threats, or suggestive or insulting sounds;
- Visual/non-verbal: derogatory posters, cartoons, or drawings; suggestive objects or pictures; graphic commentaries; leering; or obscene gestures;
- Physical: unwanted physical contact, including touching, interference with an individual's normal work movement, or assault; and
- Other: making or threatening reprisals to an individual who opposes, objects to, or complains about illegal discrimination including harassment.

Verbal and physical conduct may constitute 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 the basis for employment decisions; or
- The conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Sexual Harassment Defined

Sexual harassment is a form of discrimination and harassment that is prohibited by New York State and federal law as well as this policy.

What is Sexual Harassment

Sexual harassment is a form of sex discrimination and may include 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 includes unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual's sex when:

- The conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment, even if the reporting individual is not the intended target of the sexual harassment;
- The conduct is made either explicitly or implicitly a term or condition of employment; or
- Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual's employment.

A sexually harassing hostile work environment includes, but is not limited to, words, signs, jokes, pranks, intimidation or physical violence which are of a sexual nature, or which are directed at an individual because of that individual's sex. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory statements, or sexually discriminatory remarks made by someone which are offensive or objectionable to the recipient, which cause the recipient discomfort or humiliation, which interfere with the recipient's job performance.

Sexual harassment also occurs when a person in authority tries to trade job benefits for sexual favors. This can include hiring, promotion, continued employment, or any other terms, conditions, or privileges of employment. This is also called "quid pro quo" harassment.

Any employee who feels harassed should report so that any violation of this policy can be corrected promptly. Any harassing conduct, even a single incident, can be addressed under this policy.

Examples of Sexual Harassment

The following describes some of the types of acts that may be unlawful sexual harassment and that are strictly prohibited:

- Physical acts of a sexual nature, such as:
 - Touching, pinching, patting, kissing, hugging, grabbing, brushing against another individual's body or poking another individual's body;
 - Rape, sexual battery, molestation, or attempts to commit these assaults.
- Unwanted sexual advances or propositions, such as:
 - Requests for sexual favors accompanied by implied or overt threats concerning the target's job performance evaluation, a promotion, or other job benefits or detriments;
 - Subtle or obvious pressure for unwelcome sexual activities.
- Sexually oriented gestures, noises, remarks, or jokes, or comments about a person's sexuality or sexual experience, which create a hostile work environment.
- Sex stereotyping 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 or discriminatory displays or publications anywhere in the workplace, such as:
 - Displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials or other materials that are sexually demeaning or pornographic. This includes such sexual displays on workplace computers or cell phones and sharing such displays while in the workplace.
- Hostile actions taken against an individual because of that individual's sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity, and the status of being transgender, 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;
 - Sabotaging an individual's work;
 - Bullying, yelling, name calling.

Who Can Be a Target of Sexual Harassment

Sexual harassment can occur between any individuals, regardless of their sex or gender. New York law protects employees, paid or unpaid interns, and non-employees, including independent contractors, and those employed by companies contracting to provide services in the workplace. Harassers can be a superior, a subordinate, a coworker, or anyone in the workplace including an independent contractor, contract worker, vendor, client, customer, or visitor.

Where Can Sexual Harassment Occur

Unlawful sexual harassment is not limited to the physical workplace itself. It can occur while employees are traveling for business or at employer sponsored events or parties. Calls, texts,

emails, and social media usage by employees can constitute unlawful workplace harassment, even if they occur away from the workplace premises, on personal devices, or during non-work hours.

Retaliation Prohibited

The Town of Duanesburg will not take any adverse employment action in retaliation against any employee who, with a good faith belief, reports that s/he has been discriminated against, harassed, or brings or voices a report of such conduct pursuant to this policy on behalf of him or herself or on behalf of another. Any employee of the Town of Duanesburg who retaliates against another individual for: (1) making a report under this policy; (2) participating in any investigation into discrimination or harassment; or (3) opposed acts of unlawful discrimination in the workplace, will be subjected to disciplinary action, up to and including termination.

Under State and federal law, an individual is protected from retaliation if that individual engages in “protected activity.” Under New York State law, protected activity occurs when a person has:

- Made a report of harassment, either internally or with any anti-discrimination agency;
- Testified or assisted in a proceeding involving harassment under the Human Rights Law or other anti-discrimination law;
- Opposed harassment by making a verbal or informal complaint to management, or by simply informing a supervisor or manager of harassment;
- Reported that another employee has been harassed; or
- Encouraged a fellow employee to report harassment.

Adverse employment action need not be job-related or occur in the workplace to constitute unlawful retaliation.

Individuals who knowingly bring false charges of discrimination, including any form of harassment, against another the Town of Duanesburg employee or other individual shall be subjected to disciplinary action, up to and including termination.

Reporting Discrimination and Harassment

The Town of Duanesburg cannot prevent or remedy discrimination or harassment unless it is aware of it. Any individual who experiences or becomes aware of discrimination or harassment has a responsibility to promptly report the behavior.

Any individual who believes that they have been the victim of discrimination or harassment or who has witnessed discrimination or harassment should report the incident to one, or all, of the following:

- the Town Supervisor; or
- their supervisor/manager.

Reports submitted under this policy may be made formally or informally, orally or in writing, and are not required to be made within the employee’s chain of command. Employees are encouraged

to report incidents of discrimination and harassment, including sexual harassment, using the complaint form provided by the Town of Duanesburg.

All employees, including supervisors/managers, are required to immediately report all formal and informal complaints to the Town Supervisor. In addition to being subjected to discipline if they engaged in discriminatory or harassing behavior themselves, supervisors/managers will be subjected to discipline for failing to report suspected discrimination or harassment or otherwise knowingly allowing discrimination or harassment to continue.

The investigation of any report, information, or knowledge of any discrimination or harassment will be prompt and thorough, commenced immediately and completed as soon as possible. The investigation will be kept confidential to the extent possible. All persons involved, including those making a report, witnesses, and alleged harassers, will be accorded due process, as outlined below, to protect their rights to a fair and impartial investigation. Any employee who participates in such an investigation will not be retaliated against.

Investigations of discrimination and harassment may be conducted by the Town of Duanesburg in accordance with the following steps:

- Conduct an immediate review of the allegations upon receipt of the oral or written report and take such interim actions as may be appropriate. If the report is oral, an individual may be asked to fill out the complaint form. If the employee refuses or would prefer not to do so, a complaint form will be prepared by the Town Supervisor based on the oral report.
- Take steps to obtain and preserve documents, emails, and/or phone records that are relevant to the investigation.
- Request and review all relevant documents, including all electronic communications.
- Interview all parties involved, including any relevant witnesses.
- Create written documentation of the investigation, which may contain the following:
 - A list of all documents reviewed, along with a detailed summary of relevant documents;
 - A list of names of those interviewed, along with a detailed summary of their statements;
 - A timeline of events;
 - A summary of prior relevant incidents, reported or unreported; and
 - The basis for the decision and final resolution of the report, together with any corrective action.
- Keep the written documentation and associated documents in a secure and confidential location.
- Promptly notify (1) the individual who reported, and (2) the individual(s) against whom the report was made, of the final determination and implement any corrective actions identified in the written document.
- Inform the individual who reported of the right to file a complaint or charge externally as outlined below.

Any individual determined to have engaged in unlawful discrimination or harassment, including sexual harassment, will be subject to discipline, up to and including termination.

Legal Protections and External Remedies

Discrimination and harassment are not only prohibited by the Town of Duanesburg, but are also prohibited by federal, state, and where applicable, local law.

In addition to the internal process at the Town of Duanesburg, individuals may choose to pursue legal remedies with the governmental entities identified below. While individuals are not required to retain a private attorney to file a complaint with a governmental agency, they may seek the advice of an attorney.

(1) New York State Division of Human Rights

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 other illegal discriminatory conduct, and protects employees, paid or unpaid interns, and non-employees, regardless of immigration status. A complaint alleging violation of the Human Rights Law (“HRL”) may be filed either with the Division of Human Rights (DHR) or in New York State Supreme Court.

Complaints may be filed with DHR any time within one year of the harassment/discrimination.

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/discrimination. An individual may not file with DHR if they have already filed an HRL complaint in state court.

Complaining internally to the Town of Duanesburg does not extend an individual’s 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. Individuals do not need an attorney to file a complaint with DHR, and there is no cost to file with DHR.

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

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.

Contact DHR at (888) 392-3644 or visit 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) The United States Equal Employment Opportunity Commission

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/discrimination. 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 harassment/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 or via email at 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 Agencies

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. For example, employees who work in New York City may file complaints of sexual harassment with the New York City Commission on Human Rights. Contact their main office at Law Enforcement Bureau of the NYC Commission on Human Rights, 40 Rector Street, 10th Floor, New York, New York; call 311 or (212) 306-7450; or visit www.nyc.gov/html/cchr/html/home/home.shtml.

(4) 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 department.

Conclusion

This policy and procedures have been established to ensure that every employee may work in an environment free from illegal discrimination, including illegal harassment. Any questions regarding this policy and procedure should be brought to the attention of the Town Supervisor.

Complaint Form for Reporting Discrimination and/or Harassment

If you believe that you have been subjected to discrimination and/or harassment, you are encouraged to complete this form and submit it to your supervisor/manager or the Town Supervisor. If you are more comfortable reporting orally rather than in writing, or in some reasonable manner other than this form, you may do so.

Once the Town of Duanesburg receives your complaint, it will follow its anti-discrimination/harassment policy by investigating the claim(s) as outlined at the end of this form.

For additional resources, visit: <https://dhr.ny.gov/complaint> or <https://www.ny.gov/programs/combating-sexual-harassment-workplace>

COMPLAINANT INFORMATION

Name: _____

Home Address: _____

Work Address: _____

Home Phone: _____

Work Phone: _____

Job Title: _____

Email: _____

Preferred Communication Method: Email

Telephone

SUPERVISOR/MANAGER INFORMATION

Immediate Supervisor/Manager Name: _____

Title: _____

Work Phone: _____ Work Address: _____

COMPLAINT INFORMATION

1. Your complaint of discrimination and/or harassment is made against:

Name: _____ Title: _____

Work Address: _____ Work Phone: _____

Relationship to you: Supervisor Subordinate Co-Worker Other

2. Please describe the conduct or incident(s) that is the basis of this complaint and your reasons for concluding that the conduct is discrimination and/or harassment. Please use additional sheets of paper if necessary and attach any relevant documents or evidence.

3. Date(s) discrimination and/or harassment occurred:

Is the discrimination and/or harassment continuing? ____ Yes ____ No

4. Please list the name and contact information of any witnesses or individuals that may have information related to your complaint:

The last two questions are optional but may help facilitate the investigation.

5. Have you previously complained or provided information (verbal or written) about discrimination and/or harassment at the Town of Duanesburg? If yes, when and to whom did you complain or provide information?

6. Have you filed a claim regarding this complaint with a federal, state or local government agency?

_____ Yes _____ No

Have you instituted a legal suit or court action regarding this complaint?

_____ Yes _____ No

Have you hired an attorney with respect to this complaint?

_____ Yes _____ No

I request that the Town of Duanesburg investigate this complaint of discrimination and/or harassment in a timely and confidential manner and advise me of the results of the investigation.

Signature: _____ *Date:* _____