



ADMINISTRATIVE REGULATION

Effective Date: November 12, 1991

Administrative Regulation: 1-19

Revision Date: February 26, 2018

Supersedes: August 1, 2004

Approved By: William H. Ashton II

Subject: Workplace Harassment Policy

I. Purpose

The Town of Herndon has an affirmative duty to provide employees with a work environment free from discrimination and intimidation. Herndon culture is one of zero tolerance for harassment, retaliation or workplace hostility. A safe reporting process will be maintained and promoted, not only through policy, but through action. In keeping with this commitment, we will not tolerate unlawful harassment of our employees by anyone, including any supervisor, co-worker, or third party. All employees, regardless of their positions, are covered by and are expected to comply with this policy and to take applicable measures to ensure that prohibited conduct does not occur. Appropriate disciplinary action will be taken against any employee who violates this policy. Violations will be investigated thoroughly and promptly. Based on the seriousness of the offense, disciplinary action may include verbal or written reprimand, suspension or termination of employment.

Harassment consists of unwelcome conduct, whether verbal, physical or visual, that is based on a person's race, color, national origin, religion, age, sex, gender or disability. Harassment that affects job benefits, interferes with an individual's work performance, or creates an intimidating, hostile, or offensive work environment will not be tolerated.

The following policy shall be acknowledged by all employees. The policy (1) defines and provides examples of harassment; (2) prohibits the act of harassment and retaliation; and finally (3) provides procedures to follow when this policy has been violated.

II. Prohibited Conduct

A. Discrimination

The Town of Herndon complies with applicable federal, state and local laws including the Title VII of the Civil Rights Act 1964, The Age Discrimination Act of 1975, and the American with Disabilities Act of 1990 governing non-discrimination in employment in every location in which the company has facilities. It is a violation of this policy to discriminate in the provision of employment opportunities, benefits or privileges, to create discriminatory work conditions, or to use discriminatory evaluative standards in employment if the basis of that discriminatory treatment is, in whole or in part, the person's race, color, national origin, age, religion, disability status, or gender, sexual orientation.

Discrimination in violation of this policy will be subject to disciplinary measures up to and including termination.

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B. Harassment

Harassment is prohibited by federal and state laws. Under this policy, harassment is verbal, non-verbal or physical conduct that degrades or shows hostility or aversion toward an individual because of his/her race, color, national origin, age, religion, disability status, or gender, sexual orientation or any other characteristic protected by law, and that;

- (1) has the purpose or effect of creating an intimidating, hostile or offensive work environment;
- (2) has the purpose or effect of unreasonably interfering with an individual's work performance; or
- (3) otherwise adversely affects an individual's employment opportunities.

The following examples of harassment are intended to be guidelines and are not exclusive when determining whether there has been a violation of this policy:

- Verbal harassment includes comments that are offensive or unwelcome regarding a person's nationality, origin, race, color religion, gender, sexual orientation, age, body, disability or appearance, including epithets, slurs and negative stereotyping.
- Nonverbal harassment includes distribution, display or discussion of any written or graphic materials that ridicules, insults, belittles or shows hostility, aversion or disrespect toward an individual or group because of national origin, race, color, religion, age, gender, sexual orientation, pregnancy, appearance, disability, sexual identity, marital or protected status.

The Town of Herndon will take appropriate and immediate action in response to complaints or knowledge of violations of this policy. Violators will be subject to disciplinary action up to and including termination.

C. Sexual Harassment

Sexual harassment in any form is prohibited and will not be tolerated. Within the Town government, a supervisor or any employee who is in the process of conducting Town business who engages in sexual harassment will be subject to disciplinary action, up to or including termination

Sexual harassment is a form of employee misconduct which undermines the integrity of the employment relationship. Unwelcome sexual advances, requests for sexual favors and other verbal, non-verbal or physical conduct of a sexual nature constitute sexual harassment when:

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- (1) submission to such conduct is made, either explicitly or implicitly, a term or condition of an individual's employment;
- (2) submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individual;
- (3) 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.

Sexual harassment does not include occasional compliments of a socially acceptable nature or consensual personal and social relationships without a discriminatory employment effect. It refers to behavior which is not welcome and which is personally intimidating.

Two types of sexual harassment:

- (1) "Quid pro quo": submission to harassment is used as the basis for employment decisions. Employee benefits such as raises, promotions and better working hours are directly linked to compliance with sexual advances. Therefore, only someone in a supervisory capacity (with the authority to grant such benefits) can engage in quid pro quo harassment. Examples: A manager telling an employee she/he will fire her/him if he/she does not have sex with her.
- (2) "Hostile work environment": the harassment creates an offensive and unpleasant working environment. A hostile work environment can be created by anyone in the work environment, whether it be supervisors, other employees or customers. Hostile environment harassment consists of verbiage of a sexual nature, unwelcome sexual materials or even unwelcome physical contact as a regular part of the work environment. Examples: texts, e-mails, cartoons or posters of a sexual nature; vulgar or lewd comments or jokes; or unwanted touching or fondling.

D. Hostile Work Environment

Hostile work environment is not limited to scenarios involving sexual harassment. Harassment becomes violative when 1) enduring the offensive conduct becomes a condition of continued employment, or 2) the conduct is severe or pervasive enough to create a **work environment** that a reasonable person would consider intimidating, **hostile**, or abusive. Mistreatment of fellow employees, supervisor or subordinate is prohibited in the town and will be addressed accordingly.

E. Third Party Harassment

All individuals of the town including employees, applicants, vendors and contractors are forbidden from harassing other employees, applicants, vendors or contractors.

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III. Procedure

Any employee who feels that he or she has been the subject of discrimination or harassment has the obligation to notify his or her supervisor or the Director of Human Resources. The complainant shall provide information including a detailed account of the incidents complained of, witnesses (if any), dates, and other relevant information. All employees are required to be truthful, accurate, and cooperative during the Town's investigation of the incident.

If you feel you have been a victim of discrimination or harassment:

- (1) Make it clear to the harasser that you find such conduct offensive and unwelcome.
- (2) If you are uncomfortable confronting the person involved, consider going to your supervisor.
- (3) If the conduct does not stop, report it to the Director of Human Resources.
- (4) Keep a written log of all incidents, as well as the date and time, and any witnesses to the event.

Supervisors or other appropriate officials will address in a timely manner any act of discrimination or harassment of which they become aware, calling attention to the Town's policy regarding such behavior, or, if appropriate, applying disciplinary action.

If a complaint is reported to the Human Resources Director against the Town Manager, infractions will be escalated to the Town Attorney. If a complaint is reported against the Town Attorney, infractions will be escalated to the Town Manager.

IV. Retaliation

Any acts of reprisal by supervisors and/or co-workers against an employee making a harassment complaint is contrary to the Town's policy of equal employment opportunity and will not be tolerated. Claims of retaliation should be made and dealt with in the same manner as stated above. Any employee who is found to have retaliated against another, will be subject to disciplinary action up to and including termination.

V. Disciplinary Action

After an investigation, the Town of Herndon will determine if a violation has occurred. If so, person who violated the policy will be subject to appropriate disciplinary action up to and including termination of employment.

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VI. Counseling and Confidentiality

Employees who are unsure as to whether they have been the victim of harassment are encouraged to contact the Town's Director of Human Resources for confidential reporting.

Discussions for the purpose of obtaining general information or advice from responsible administrators or managers at the office will remain confidential as far as possible in order to resolve the situation. Confidence cannot always be maintained if corrective or disciplinary action is necessary. Moreover, the town may be legally obligated to take action once the staff is informed of the incident.

The Employee Assistance Program (EAP) also provides confidential counseling services to Town of Herndon employees. Those wishing to discuss an incident of possible discrimination, harassment, or retaliation, are encouraged to contact the EAP. The role of the EAP in such cases will be limited to personal counseling and treatment for the employee who is an EAP client. Contacting the EAP will not qualify as notification to The Town of Herndon of a potential harassment or discrimination issue.



William H. Ashton II
Town Manager