

## SEXUAL AND OTHER UNLAWFUL HARASSMENT

### I. PURPOSE

The City of Harlingen is committed to providing a work environment which is free of unlawful harassment and intimidation. This policy applies to all City employees, citizens, vendors, and visitors to the workplace. City employees are entitled to a workplace free of unlawful harassment by management, supervisors, co-workers, vendors and citizens. Employees are also required to refrain from prohibited harassment of citizens, employees, and vendors.

### II. POLICIES AND PROCEDURES

Sexual harassment and other forms of unlawful harassment are contrary to basic standards of conduct between individuals and are prohibited by federal and state law. Any employee who engages in any such behavior will be subject to corrective action up to and including termination of employment. Because of the City's strong disapproval of such inappropriate or offensive behavior, all employees must avoid any action, conduct, or behavior which could be viewed as sexual or other forms of prohibited harassment.

No retaliation will be permitted against employees who make a good faith charge or report of prohibited harassment.

#### A. DEFINITION

One form of unlawful discrimination is sexual harassment. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; or
- Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting an individual; or
- Such condition has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment.

Examples of prohibited conduct include unwelcome discussion of sexual activities, touching, display of sexually explicit or suggestive pictures or cartoons, use of sexually suggestive gestures, sexual remarks about physical attributes, unwelcome propositions, profanity and off-color jokes.

#### B. OTHER FORMS OF PROHIBITED HARASSMENT

Harassment of employees on the basis of race, religion, color, marital status, national origin, age, disability or any other characteristic, protected by law is also prohibited. Slurs, jokes, offensive or derogatory comments, or other verbal or physical conduct based on these characteristics is unlawful if the conduct creates an intimidating, hostile, or offensive working environment, or unreasonably interferes with the individual's work performance. Slurs, epithets, offensive jokes, and derogatory comments have no place in the workplace. Conduct, comments, or innuendos that may be perceived by others as offensive, are

## SEXUAL AND OTHER UNLAWFUL HARASSMENT

wholly inappropriate and are strictly prohibited. This policy also prohibits sending, showing, sharing, or distributing in any form, inappropriate jokes, pictures, stories, etc., via facsimile, INTERNET, voice mail, or other electronic means.

### C. COMPLAINT REVIEW PROCEDURES

Human Resources is responsible for the review of sexual and other unlawful harassment complaints. Investigators from other departments may conduct and/or assist Human Resources with unlawful harassment complaint investigations. The procedures for handling unlawful harassment complaints are as follows:

#### 1. Reporting

Any employee who feels he or she has been subjected to unlawful harassment, who observes prohibited harassment in the workplace, or who otherwise becomes aware of it must report it immediately to his or her Department Director. If for any reason the employee does not feel comfortable discussing the matter with the Department Director, or if the Department Director has not been able to resolve the matter satisfactorily, the employee must contact the City's Human Resources Director, his/her designee, or the City Manager.

Any Supervisor, Manager or Department Director who becomes aware of possible sexual or other unlawful harassment must immediately advise the Human Resources Director or the Manager.

If Human Resources is initially notified of a complaint, Human Resources will immediately notify the appropriate Department Director. All reports of sexual harassment will be fully investigated immediately.

#### 2. Investigation

Each sexual or other unlawful harassment complaint will be investigated, regardless of when it was reported. The individuals will be interviewed regarding the nature of the allegations and instructed not to discuss the details of the incident(s) with anyone other than the complaint investigator, while the investigation is pending. Upon request, the complainant may be interviewed by a representative of the same sex. At the discretion of the investigator, interviews may be recorded in written, audio and/or video format.

#### 3. Administrative Leave

When warranted, the Department Director may place the respondent and/or complainant on administrative leave with pay pending complete investigation.

#### 4. Allegation Discussion

If appropriate, investigators will meet with the respondent's Department Director to discuss the allegation.

#### 5. Determination Filing

Within ten workdays of the investigation conclusion, the city attorney and the respondent's Department Director will be provided with a determination as to the validity of the complainant's allegations.

## SEXUAL AND OTHER UNLAWFUL HARASSMENT

### D. DEPARTMENT DIRECTOR ACTION

Department Directors will take the following actions:

#### 1. Disciplinary Action Decisions

Disciplinary actions, up to and including termination, will be imposed upon any employee who is found to have engaged in conduct prohibited by this policy. (Note: A transfer of the complainant may be considered only upon the complainant's request and/or approval.)

#### 2. Department Director Respondents

If the Department Director is the respondent, these actions will be taken by the appropriate Manager.

#### 3. Sexual Harassment Prevention

It will be the ongoing responsibility of the Department Director or his/her representatives to monitor work areas for inappropriate sexual and other inappropriate displays, comments or behavior and take necessary action.

#### A. Sexual and Other Unlawful Harassment Complaint Form

### E. RECORDKEEPING

All records concerning sexual and other unlawful harassment investigations, except those affected by civil service statutes, are to be kept in a separate locked file in Human Resources. Access shall be approved by the Human Resources Director.

## III. APPENDICES

**CITY OF HARLINGEN  
SEXUAL AND OTHER UNLAWFUL HARASSMENT  
COMPLAINT FORM**

Name \_\_\_\_\_ Date \_\_\_\_\_

Department \_\_\_\_\_ Division \_\_\_\_\_

Immediate Supervisor \_\_\_\_\_

The information you provide is essential to the City's investigation efforts. Please be as specific and accurate as you can in your statements.

1. a. **Where** did the incident occur? \_\_\_\_\_

b. On what **date(s)** did it occur? \_\_\_\_\_

2. As accurately and specifically as possible, **describe the act(s)** which is(are) the basis for this complaint and identify the person(s) involved.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Was this the first such incident?     Yes     No  
If "No," where did the previous incident occur and who was involved? \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. Were there any witnesses?     Yes     No  
If "Yes," **who**? \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**COMPLAINT OF SEXUAL HARASSMENT (Continued)**

5. Have you mentioned your concern/complaint to others?  Yes  No If so, who and when?

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6. Do(es) the person(s) you are complaining about know you are filing this formal complaint?  Yes  No If "Yes," how does he/she know? \_\_\_\_\_

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7. Did your supervisor or other member of management know about your concern/complaint prior to your filing of this complaint?  Yes  No If so, who and when?

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*Please attach any other information pertinent to our investigative efforts.*

*The information provided above is, to the best of my knowledge, factual.*

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Received by

\_\_\_\_\_  
Date

**APPENDIX A**