

# CITY OF DOVER PERSONNEL POLICY

## ARTICLE VII. ETHICAL CONDUCT

### **SECTION 6. DISCRIMINATION AND HARASSMENT**

State and/or Federal law prohibits discrimination on the basis of, among others, race, marital status, genetic information, color, age (40 or older), religion, sex (including pregnancy), sexual orientation, gender identity, national origin, disability, or status as a victim of domestic violence, a sexual offense, or stalking. Harassment (including sexual harassment) often is considered a form of unlawful discrimination. It is the policy of the City of Dover to prohibit and not tolerate unlawful discrimination or unlawful harassment and to promote a workplace and work environment that is free of unlawful discrimination or unlawful harassment or conduct that might reasonably be perceived as constituting such, whether verbal, physical, or environmental.

#### **Anti Sex Harassment Specifically (Definition):**

For purposes of this policy, sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when: (1) submission to such conduct is made, either explicitly or implicitly, a term or condition of a person's employment; (2) submission to or rejection of such conduct by a person is used as the basis for employment decisions affecting the person; or (3) such conduct has the purpose or effect of unreasonably interfering with a person's work performance, or creates an intimidating, hostile or offensive working environment.

Examples of sexual harassment include, *but are not limited to*: unwanted physical advances; requests for sexual favors in exchange for favorable treatment or continued employment; unwelcome flirtation, advances, or propositions; verbal abuse of a sexual nature; graphic, verbal commentary about a person's body, sexual prowess, or sexual deficiencies; leering, whistling, touching, or pinching; suggestive insulting, or obscene comments or gestures of a sexual nature; display in the work place of sexually-suggestive objects or pictures; transmitting or forwarding e-mails containing offensive, suggestive, or lewd attachments, statements, or jokes; and uploading, downloading, or viewing inappropriate pictures or material onto organizational information systems. The above list is illustrative of types of conduct that would violate this policy and, as such, by no means represents an exclusive list of conduct that could lead to disciplinary action, up to and including termination of employment.

#### **Guidelines:**

- All City of Dover employees must comply with this policy, which applies to conduct both within the work environment and elsewhere when an employee acts in an official capacity as a City of Dover representative.
- The City of Dover will not tolerate, condone, or allow unlawful discrimination or unlawful harassment, whether engaged in by fellow employees, supervisors, managers, outside clients, or other non-employees who conduct business with us.
- While the City of Dover encourages persons who believe they are being unlawfully harassed firmly and promptly to notify the offender that his or her behavior is unwelcome and must cease immediately, we also realize that the power and status disparities between the alleged harasser and

the person allegedly harassed may make such a confrontation unlikely. Especially when direct communication is either ineffective or impossible, City employees are expected to follow the procedures stated below.

- All employees must take appropriate measures to ensure that prohibited conduct does not occur. Members of management in particular must intercede to stop any violating behavior. City of Dover employees must report all such harassment, regardless of who the offender may be.
- In addition to discipline by the City of Dover as your employer, persons who engage in acts in violation of this policy may also be subject to civil and criminal penalties.
- The City of Dover will not retaliate in any way against any person who makes a good faith report of violation of this policy, nor will the City of Dover permit any supervisor, officer, or employee to do so. Retaliation is a serious violation of this policy and should be reported immediately.

**Procedures:**

- 1) A report of violation of this policy must be made promptly to the City of Dover Human Resources Director. While initial reports may be made verbally, a written statement of complaint also must be provided.
- 2) Such alleged violations will be investigated by the City of Dover Human Resources Department as appropriate under the circumstances. Throughout the investigation process, confidentiality will be maintained to the extent practical and appropriate under the circumstances, including to protect the privacy of persons involved. During an investigation, alleged offenders will generally be made aware of the report and, where deemed appropriate, will be given an opportunity to respond and propose witnesses. The Department of Human Resources will keep the complainant informed as to the status of the investigation. Upon completion of the investigation, the Human Resources Director shall recommend to the City of Dover Manager the appropriate action to be taken, unless the report alleges violation by the City Manager, in which case the recommendation shall be made to the City of Dover Council President.
- 3) In the event an employee alleges a violation of this policy by the Human Resources Director, then a report of a violation of this policy may instead be made to the City Manager; and any investigation will be handled through the City Manager.
- 4) Employment conditions of the complainant and any witnesses will be in no way adversely affected through use of this procedure. However, if an investigation clearly reveals that the complainant knowingly and intentionally made a false accusation of harassment, appropriate disciplinary action will be taken.
- 5) If the alleged violation of this policy cannot be substantiated, this finding will be communicated to the complainant in an appropriately sensitive manner. The complainant is always free to provide additional evidence for investigation.
- 6) Persons found to have engaged in misconduct constituting a violation of this policy, will be disciplined, up to and including termination of employment. Appropriate sanctions also may include written reprimand and referral to counseling.