

Town of Guilford
223 Marble Road
Guilford, NY 13780

POLICY AND PROCEDURE

Anti-Harassment Policy

Policy: It is the policy of the Town of Guilford to prohibit sexual, racial, color, creed, national origin, age, gender, disability, sexual orientation, gender identity, marital status, military status, domestic violence victim status, genetic predisposition or carrier status, political affiliation or belief, or religious harassment.

Purpose:

The Town of Guilford is committed to maintaining a positive work environment in which all individuals are treated with respect and dignity. Each individual has the right to work in a professional atmosphere which promotes equal opportunities and prohibits discriminatory actions. Harassment, whether verbal, physical, or arising out of the work environment and whether in the office, at work assignments outside the office, at office sponsored social functions, or elsewhere, is unacceptable and will not be tolerated. It also is illegal.

I. DEFINITIONS

- A. Harassment is verbal or physical conduct that denigrates or shows hostility or aversion toward an individual because of his/her race, color, creed, national origin, age, gender, disability, sexual orientation, gender identity, marital status, military status, domestic violence victim status, genetic predisposition or carrier status, political affiliation or belief, or religion or that of his/her relatives, friends, or associates, 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;
 3. Otherwise adversely affects an individual's employment opportunities.
 4. Harassing conduct includes, but is not limited to the following: epithets, slurs, negative stereotyping, or threatening, intimidating, or hostile acts, that relate to race, color, creed, national origin, age, gender, disability, sexual orientation, gender identity, marital status, military status, domestic violence victim status, genetic predisposition or carrier status, political affiliation or belief, or religion; and written or graphic material (including electronic, visual, audio, and computer generated or maintained matter) that denigrates or shows hostility or aversion toward an individual or group because of race, color, creed, national origin, age, gender, disability, sexual orientation, gender identity, marital status, military status, domestic violence victim status, genetic predisposition or carrier status, political affiliation or

belief, or religion and that is placed on walls, bulletin boards, or elsewhere on the Town's premises, vehicles, equipment, real property, facilities, roadways, or circulated in the workplace.

- B. Sexual harassment is defined as unwelcome or unwanted sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature when: (1) submission to or rejection of this conduct by an individual is used explicitly or implicitly as a factor in decisions affecting hiring, evaluation, promotion, or other aspects of employment; or (2) this conduct substantially interferes with the individual's employment or creates an intimidating, hostile, or offensive work environment. For the purposes of this policy, sexual harassment shall include heterosexual and homosexual actions.

Examples of sexual harassment include, but are not limited to: unwanted sexual advances; demands for sexual favors in exchange for favorable treatment or continued employment; sexual jokes, flirtations, advances or propositions; verbal abuse of a sexual nature: graphic, verbal commentary about an individual's body, sexual prowess or sexual deficiencies; touching, pinching, assault, coerced sexual acts or insulting, obscene or demeaning comments or gestures; display in the workplace of sexually suggestive objects or pictures.

This behavior is unacceptable both in the workplace itself and by any official or employee in any setting outside the workplace, including but not limited to other work-related settings such as business trips, court appearances and business-related social events.

Consenting romantic and sexual relationships between an official or an employee and his/her subordinate may lead to unforeseen complications. The respect and trust afforded a person by his/her subordinate, as well as the power exercised by that person in evaluating or otherwise supervising his/her subordinate, greatly diminish the subordinate's actual freedom of choice. Therefore, each official and employee should be aware of the possible risks of even an apparently consensual sexual relationship. An official or an employee, who enters into a sexual relationship with another person, where there exists a difference in power between the persons involved, should realize that, if a complaint of sexual harassment is subsequently made, it will be exceedingly difficult to prove immunity on grounds of mutual consent.

- C. Individuals covered under the policy:

This policy covers all officials and employees. The Town of Guilford will not tolerate harassment whether engaged in by officials or employees. In addition, the Town of Guilford will not tolerate harassment on Town controlled facilities by contractors, vendors, agents, or other persons over whom the Town has control. The Town encourages reporting of all incidents of harassment, regardless of who the offender might be, in accordance with the method set out in Section 4 below.

II. REPORTING A COMPLAINT

- A. The Town of Guilford encourages individuals who believe they are being harassed to clearly and promptly notify the offender that his/her behavior is unwelcome. If for any

reason an individual does not wish to confront the offender directly or if such a confrontation does not successfully end the harassment, the individual should notify the Town Supervisor/Town Clerk or his/her designee who may, if the individual so requests, talk to the alleged harasser on the individual's behalf or arrange for mediation between the individual and the alleged harasser, with a third person acceptable to both. In addition, there may be instances in which an individual seeks only to discuss matters with the Town Supervisor/Town Clerk, and such discussion should be encouraged. An individual reporting harassment should be made aware, however, that the Town may decide it is necessary to take action to address the harassment beyond an informal discussion. The best course of action in any case will depend on many factors and, therefore, the informal procedure should be and remain flexible. Moreover, the informal procedure is not a required first step for the reporting individual.

B. In the event that the reporting individual does not wish to pursue the informal procedure, or in the event that the informal procedure does not produce a result satisfactory to the reporting individual, the following steps should be followed to report the harassment complaint and to initiate a formal procedure:

1. Notification of a member of the staff – An individual who believes he/she has been subjected to harassment should report the incident to the Town Supervisor/Town Clerk.

An individual also has the option of reporting the harassment to his/her immediate supervisor. In such a case, the supervisor must file a written report of the complaint and its resolution with the Town Supervisor/Town Clerk.

2. Description of misconduct – An accurate written record of objectionable behavior is necessary to resolve a formal complaint of harassment.

All oral reports of harassment must be reduced to writing by either the complainant or the individuals designated to receive complaints. If reduced to writing by someone other than the complainant, the complainant must review, and sign the complaint. If written by the complainant, the report must be signed by him/her.

3. Time for reporting a complaint – Prompt reporting of complaints is strongly encouraged, as it allows for rapid response and resolution of objectionable behavior or conditions for the complaining individual and any other affected employees.

The Town will not undertake investigation of reports of sexual harassment occurring more than twelve (12) months prior to the filing of the complaint unless the Town Supervisor/Town Clerk, in his/her sole discretion, determines to do so. The reporting individual should be aware that applicable statutes of limitations do constrain the time for instituting outside legal action and the reporting individual should consult with his/her own legal counsel as to private legal remedies, if any, which may be available.

4. Protection against retaliation – the Town will not retaliate against an individual who in good faith makes a report of harassment and also not permit any official or employee to do so. Retaliation is a very serious violation of this policy and should be reported immediately. Any person found to have retaliated against an individual for reporting harassment or who makes a false report of harassment will be subject to appropriate disciplinary procedures.

III. INVESTIGATING THE FORMAL COMPLAINT

- A. Confidentiality – Any allegation of harassment brought to the attention of the Town Supervisor/Town Clerk will be promptly investigated. Confidentiality will be maintained throughout the investigatory process to the extent practicable and appropriate under the circumstances. However, the ability of the Town to take disciplinary or other appropriate actions will often depend on the cooperation of the complainant and/or witnesses in pursuing action against the alleged harasser. Further, the Town reserves the right to take such steps as it deems appropriate to carry out its legal obligation to prevent and eradicate harassment and while it will strive to accommodate a request for confidentiality by an individual making a report circumstances may render this impossible.
- B. Identification of investigators – Complaints will be initially investigated by the Town Supervisor/Town Clerk unless he/she determines another person should be the investigator. In addition, any of the following individuals may be asked to participate in or review the investigation unless he/she is the alleged harasser:
 1. Complainant's Supervisor
 2. Complainant's Union Representative (if applicable)
 3. Town Attorney
 4. Law Enforcement Agencies.
- C. Investigation Process
In pursuing the investigation, the investigator will try to take the wishes of the complainant into consideration, but should thoroughly investigate the matter as he/she sees fit, keeping the complainant informed as to the status of the investigation. The investigation process may include any or all of the following:
 - Confirm name and position of the complainant.
 - Identify the alleged harasser.
 - Thoroughly ascertain all facts in connection with the alleged incident, beginning by interviewing the complainant and the alleged harasser. Questions of all parties should be asked in a nonjudgmental manner.
 - Determine frequency/type of alleged harassment and, if possible, the dates and locations where alleged harassment occurred.
 - Find out if any witnesses observed the alleged harassment. If the complainant and the alleged harasser present conflicting versions of the facts, interview any witnesses.
 - Ask the complainant how he/she responded to the alleged harassment and determine what efforts, if any, at informal resolution of the matter were made.

- Determine whether the complainant consulted anyone else about the alleged harassment and take note of who else knows and their response to the disclosure.
- Develop a thorough understanding of the professional relationship, degree of control, and amount of interaction between the alleged harasser and complainant.
- Determine whether the alleged harasser has carried out any threats or promises directed at the complainant.
- Determine whether the complainant knows of or suspects that there are other individuals who have been harassed by the alleged harasser.
- Determine whether the complainant informed other officials or supervisors of the situation and what response, if any, complainant received from these individuals.
- When first interviewing the alleged harasser, remind him/her of the Town's policy against retaliation for making a complaint of harassment.

IV. RESOLVING THE COMPLAINT

Upon completing the investigation of a harassment complaint, the individual investigator will report to the Town Supervisor/Town Clerk who will review the investigation, and decide upon appropriate action to be taken. The Town Supervisor/Town Clerk may communicate his/her findings and intended actions to the Town Board, the complainant, and alleged harasser.

If the Town Supervisor/Town Clerk finds that harassment occurred, the harasser will be subject to appropriate disciplinary procedures in accordance with applicable labor agreements and/or statutory provisions and/or Town policy. The complainant will be informed of the disciplinary action taken and the result of same to the extent determined by the Town Supervisor/Town Clerk to be legally permitted.

If the Town Supervisor/Town Clerk determines that no harassment has occurred, this finding will be communicated to the complainant.

If either party directly involved in a harassment investigation is dissatisfied with the outcome or resolution, that individual has the right to appeal the decision. The party who is dissatisfied should submit his/her written comments in a timely manner to the Deputy Town Supervisor.

If an investigation results in a finding that the complainant falsely and/or maliciously accused another of harassment, the complainant will be subject to appropriate disciplinary procedures including the possibility of termination and/or any civil or criminal penalties.

V. MAINTAINING A WRITTEN RECORD OF THE COMPLAINT

The Town of Guilford shall maintain a complete written record of each complaint and how it was investigated and resolved. Written records shall be maintained in a confidential manner to the extent practical and appropriate in the office of the Town Clerk. Written records will be maintained

for five (5) years from the date of the resolution unless new circumstances or legal requirements dictate that the file should be kept for a longer period of time.

Records shall be treated as confidential documents and disclosed only as permitted by law and to the extent disclosure is deemed appropriate by the Town Supervisor/Town Clerk in consultation with the Town Attorney's Office.

VI. CONCLUSION

The Town of Guilford has developed this policy to ensure that all of its officials and employees can work in an environment free from harassment. The Town will facilitate the dissemination of this policy to current officials and employees and to all new officials and employees. The Town will take efforts to ensure that all officials and employees understand the Town's commitment to eliminating any harassment in the workplace, are familiar with the policy, and know that any complaint received will be investigated and appropriately resolved.

Adopted 4/8/2020