

**VIII. GENERAL RULES AND REGULATIONS**

**POLICY**

**Sexual Harassment and Discrimination**

**I. POLICY**

The purpose of this policy is to maintain a healthy work environment in which all individuals are treated with respect and dignity and to provide procedures for reporting, investigating and resolving complaints of harassment and discrimination. Federal law provides for the protection of classes of persons based on race, color, sex, religion, age, disability and national origin. Not protected by federal law but also protected by this policy are persons based on their sexual orientation.

It is the policy of Pemberton Township that all employees have the right to work in an environment free of all forms of harassment. The Township will not tolerate, condone or allow harassment by any employee, applicant, volunteer or other non-employee who conducts business with Pemberton Township. The Township considers harassment and discrimination of others a form of serious employee misconduct. Therefore, Pemberton Township shall take direct and immediate action to prevent such behavior, and to remedy all reported instances of harassment and discrimination.

**II. DEFINITIONS**

**A. Sexual Harassment**

1. Unwelcome sexual advances, requests for sexual favors and other inappropriate verbal or physical conduct of a sexual nature when:
  - (a) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment.
  - (b) Submission to or rejection of sexual harassment by an individual is used as the basis for employment decisions affecting that individual; or
  - (c) Sexual harassment has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.
2. Intimidating, abusive or hostile behavior of a non-sexual nature toward an employee because of his or her gender.
3. Verbal abuse and hostility that is not sexual in character but is directed solely at females because they are female, or males because they are male.
4. Offensive conduct by non-employees, such as vendors, outside contractors, etc. directed against employees in the workplace.

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5. Sexual Harassment may include but is not limited to the following:
- (a) Unwelcome sexual advances such as offensive sexual flirtations, repeated requests for dates or love letters after rejection of overtures.
  - (b) Discussing sexual activities.
  - (c) Pressure or coercion for sexual activity.
  - (d) Repeated remarks to a person with sexual or demeaning implications.
  - (e) Unwelcome intentional touching, such as patting, pinching or brushing against the body of another.
  - (f) Suggesting or demanding sexual involvement accompanied by implied or explicit threats concerning one's evaluation, raise, promotion, etc.
  - (g) Display of nude or pornographic pictures, lewd or vulgar cartoons, etc.
  - (h) Practical jokes about gender-specific traits.
  - (i) Suggestive or demeaning looks or leering.

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**A. General Prohibited Activity**

1. Employees shall not commit any form of harassment or discrimination as defined in this policy.
2. No employee shall either explicitly or implicitly ridicule, mock, deride or belittle any person.
3. Employees shall not make offensive or derogatory comments to any person, either directly or indirectly, based on race, color, sex, religion, age, disability, sexual orientation or national origin.
4. Individuals covered under this policy include Township employees and applicants for employment, whether sworn, regular or volunteer.
5. Employees shall not display, or otherwise publicize in the work environment, pictures, posters, calendars, graffiti, objects, promotional materials, reading materials, or other materials that are:
  - a. sexually revealing, sexually suggestive, sexually demeaning, pornographic or
  - b. directly or indirectly, based on race, color, sex, religion, age, disability, sexual orientation or national origin, or
  - c. that explicitly or implicitly ridicules, mocks, derides or belittles any employee.

**B. Supervisor Responsibilities**

1. Each supervisor shall be responsible for preventing acts of harassment. This responsibility includes:
  - a. Monitoring the unit work environment on a daily basis for signs that harassment may be occurring;
  - b. Counseling all employees on the types of behavior prohibited and the Township procedures for reporting and resolving complaints of harassment;
  - c. Stopping any observed acts that may be considered harassment and taking appropriate steps to intervene, whether or not the involved employees are within his or her line of supervision; and
  - d. Taking immediate action to prevent retaliation towards the complaining party and to eliminate the hostile work environment where there has been a complaint of harassment, pending investigation.
  - e. Assisting any employee of the Township who comes to the supervisor with a complaint of harassment in documenting and filing a complaint.

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2. If a situation requires separation of the parties, care should be taken to avoid actions that appear to punish the complainant.
3. Transfer or reassignment of any parties involved should be voluntary if possible and, if non-voluntary, should be temporary pending the outcome of the investigation.
4. Failure to carry out these responsibilities may be grounds for disciplinary action.

**C. Employee Responsibilities**

1. Each employee of the Township is responsible for assisting in the prevention of harassment through the following acts:
  - a. Refraining from participation in, or encouragement of, actions that could be perceived as harassment;
  - b. Reporting acts of harassment to a supervisor; and
  - c. Encouraging any employee who confides that he or she is being harassed or discriminated against to report these acts to a supervisor.
2. Failure of any employee to carry out the above responsibilities may be grounds for disciplinary action.

**D. Reporting Procedures**

1. Any employee encountering harassment is encouraged to inform the person that his or her actions are unwelcome and offensive. The employee is encouraged to document all incidents of harassment in order to provide the fullest basis for investigation.
2. Any employee who believes that he or she is being harassed shall report the incident(s) as soon as possible so that steps may be taken to protect the employee from further harassment and so that appropriate investigative and disciplinary measures may be initiated. Failure to report a perceived harassment will be considered by Township management to indicate an acceptable relationship or that the incidents do not create unreasonable working conditions.

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3. The report may be made to any supervisor, department head or directly to the Mayor and/or Business Administrator. Although employees are encouraged to try to resolve disputes with the help of their immediate supervisor, there is no requirement that the employee exhaust the chain of command.
  - a. The supervisor or other person to whom a complaint is given shall meet with the employee and document the incident(s) complained of, the person(s) performing or participating in the harassment, any witnesses to the incident(s), and the date(s) on which it occurred.
  - b. The department employee taking the complaint shall promptly submit a confidential memorandum documenting the complaint to the Mayor and/or Business Administrator.
  - c. If the complaint contains evidence of criminal activity, such as assault, criminal sexual contact, sexual assault, or attempted sexual assault, the employee taking the complaint shall immediately notify the Mayor and/or Business Administrator and Chief of Police.

**E. Confidentiality**

1. The complaining party's confidentiality will be carefully protected and maintained to the extent practical and appropriate under the circumstances. Information will be provided only to those with a need to know and then only to the extent necessary.
2. Every effort shall also be made to protect the privacy of the person accused of harassment or discrimination.
3. Any employee who compromises or hinders an ongoing investigation by divulging any information concerning their participation in any harassment or discrimination investigation, may be subject to disciplinary action.
4. A file of harassment and discrimination complaints shall be maintained in a secure location separate from other personnel records and or files.

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**F. Investigation**

1. The Mayor, Business Administrator and/or Chief of Police shall ensure that the complaint receives a prompt and complete investigation.
2. The Mayor and/or Business Administrator may assign all or part of the investigation to the Police Department's Internal Affairs Unit and may where appropriate utilize outside agencies and resources to assist in the investigation. Every effort should be made to complete the investigation within a period of fifteen (15) working days.
3. The investigation will include interviews with all relevant persons including the complainant, the accused and other potential witnesses.
4. Victims of harassment will not be compelled to provide a statement. Such lack of cooperation shall not relieve the Township of its investigative responsibilities.
5. The investigation shall include a determination as to whether other employees are being harassed by the person, and whether other employees participated or encouraged the harassment.
6. The complaining party and the person(s) accused shall be informed of the outcome of the investigation within three (3) working days of its conclusion.

**G. Retaliation**

1. Retaliation against any employee for filing a harassment or discrimination complaint, or for assisting, testifying or participating in the investigation of such a complaint, is illegal and is prohibited by the Township and federal statutes.
2. Retaliation is a form of employee misconduct. Any evidence of retaliation shall be considered a separate violation of this policy and shall be handled by the same complaint procedures established for harassment and discrimination complaints.
3. Monitoring to ensure that retaliation does not occur is the responsibility of the Mayor, Business Administrator, Chief of Police, department heads, supervisors and those department personnel assigned to investigate the complaint.

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**H. Appeals**

1. Complainants or employees accused of harassment may file an appeal with the Mayor and/or Business Administrator when they disagree with the investigation or disposition of a harassment complaint.
2. This policy does not preclude any employee from filing a complaint, or grievance with an appropriate outside agency such as the New Jersey Department of Personnel, Equal Employment Opportunity Commission, New Jersey Division of Civil Rights, etc.
3. It is advisable for any employee intending to formally complain of discrimination and/or harassment to clarify his or her procedural options with the appropriate legal counsel.

**I. Related Information**

1. All employees should understand that teasing and horseplay that they might consider acceptable in a social setting may not be appropriate in the work environment. Physical affection that may not be intended to have a sexual connotation may be inappropriate to the point of being illegal.
2. Many employees are not sensitive to what constitutes harassment or discrimination. They may not realize that comments, jokes, etc., they consider innocent may be demeaning, insulting or intimidating to other employees.
3. An employee's contemporaneous statements about the conduct to which he or she is objecting may be the first indicator that the conduct is unwelcome. A complaint or protest about sexual conduct may not demonstrate that the conduct is unwelcome if the person gave prior indication that such behavior was welcome.
4. Questions about whether conduct was welcome or unwelcome often arise in the context of the work environment in which an employee has participated in certain banter, joking, or conduct, later claiming that there was a hostile work environment. The employee's participation in the verbal or physical conduct tends to show that the conduct was not unwelcome. Even ceasing participation in the behavior does not always demonstrate that the conduct was unwelcome. Under these circumstances, the employee has a special duty to clearly indicate that the conduct is no longer acceptable to him or her.

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**J. Distribution of Policy and Training**

1. A copy of this policy shall be issued to each employee of the Township, placed in all department general duty manuals and permanently posted on the official Employee Bulletin Boards.
2. Mandatory training on this policy and the prevention of harassment in the workplace shall be conducted during employee orientation sessions and periodically thereafter, as determined by the Mayor and/or Business Administrator and Chief of Police.

**K. Monitoring Unit**

Internal Affairs Unit