

	<b>KENOSHA POLICE DEPARTMENT</b>			
	<b>POLICY AND PROCEDURE</b>			
	<b>26.4 Harassment and discrimination in the Workplace</b>			
<b>Effective Date:</b>	1/24/1985	<b>Revision Date:</b>	1/3/2007	
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**I. PURPOSE**

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 and State Law provides for the protection of classes of persons based on race, color, sex, religion, age, disability, national origin, sexual orientation, military status and ethnicity. The further purpose of this policy is to articulate an anti-discrimination and harassment policy applicable to all officers and volunteers of the City of Kenosha Police Department. This policy is in conformance with the anti-discrimination and harassment goals contained within applicable Federal, State and local ordinance law.

**II. POLICY**

It is the policy of the Kenosha Police Department that all employees have the right to work in an environment free of all forms of harassment. The Kenosha Police Department will not tolerate, condone, or allow harassment by employees, whether sworn, civilian, volunteer or other non-employees who conduct business with this agency. The Kenosha Police Department considers harassment and discrimination forms of serious employee misconduct. Therefore, the Kenosha Police Department shall take direct and immediate action to prevent such behavior, and to remedy all reported instances of harassment and discrimination. A violation of this agency policy can lead to discipline up to and including termination, with repeated violations, even if "minor," resulting in greater levels of discipline as appropriate.

**III. APPLICATION**

This Policy covers all employees and volunteers of the City of Kenosha Police Department. Further, all employees of the Kenosha Police Department are covered by Section 1.29 of the City of Kenosha Code of General Ordinances which is incorporated herein by reference and attached hereto.

**IV. PROCEDURES**

**A. SEXUAL HARASSMENT**

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 employment; or

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2. Submission to or rejection of such conduct by an employee is used as the basis for employment decisions affecting the employee; or
3. Such conduct has the purpose or effect of unreasonably interfering with an employees work performance or creating an intimidating, hostile, or offensive working environment.

### **B. HARASSMENT**

Harassment is any verbal, written, visual or physical act that creates a hostile, intimidating or offensive work environment or interferes with an individual's job performance.

1. No employee shall either explicitly or implicitly ridicule, mock, deride, or belittle any person.
2. 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, national origin, ethnicity, or military status. Such harassment is a prohibited form of discrimination under state and federal employment law and/or is also considered misconduct subject to disciplinary action by this agency.

### **C. EMPLOYEE RESPONSIBILITIES**

1. Each supervisor shall be responsible for preventing prohibited activities as defined above.
  - 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 agency procedures for reporting and resolving complaints of harassment;
  - c. Stopping any action that may be considered harassment, and taking appropriate steps to intervene, whether or not the involved employees are within his/her line of supervision;
  - 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. If a situation requires separation of the parties, care should be taken to avoid actions that appear to punish the complainant. Transfer or reassignment of any of the parties involved should be voluntary if possible and, if non-voluntary, should be temporary pending the outcome of the investigation; and
  - e. Failing to carry out these responsibilities will be considered in any evaluation or promotional decisions and may be grounds for discipline.
2. Each supervisor has the responsibility to assist any employee of this agency who comes to that supervisor with a complaint of harassment in documenting and filing a complaint with the Chief of Police or other investigator authority as designated by this agency or the City of Kenosha.
3. Each employee of this agency is responsible for assisting in the prevention of harassment through the following acts:

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- 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.
4. Failure of any employee to carry out the above responsibilities will be considered in any performance evaluation or promotional decision and may be grounds for discipline.

### **D. COMPLAINT PROCEDURE**

1. Any employee encountering harassment is encouraged to inform the person that his or her actions are unwelcome and offensive. This initial contact can be either verbal or in writing. The employee is to document all incidents of harassment in order to provide the fullest basis for investigation.
2. Any employee who has unsuccessfully attempted to terminate the harassment by means of Section 1 and who believes that he or she is being harassed shall report the incident(s) as soon as possible to their supervisor so that steps may be taken to protect the employee from further harassment, and so that appropriate investigative and disciplinary measures may be initiated. Where doing so is not practical, the employee may instead file a complaint with another supervisor, the Chief of Police or designee.
  - a. The supervisor 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 incidents(s) and the date(s) on which it occurred. The documentation must be forwarded to the Chief of Police on all complaints.
3. Any employee who believes it is not appropriate to file their complaint directly within their departmental structure must file the complaint with either the City Attorney or the appointed individual in the Personnel Department of the City of Kenosha.

If the complainant does not feel it is appropriate to file their complaint with either the City Attorney or the Personnel Department of the City of Kenosha, they may file the complaint with either or both of the following:

- a. State of Wisconsin  
Department of Industry, Labor, and Human Relations  
Equal Rights Division  
Room 255 Wisconsin State Office Building  
819 N. 6<sup>th</sup> Street  
Milwaukee, WI 53203                      Phone (414) 227-4384

#### **OR**

- b. United States Government  
Equal Employment Opportunities Commission  
Suite 800 Federal Office Building  
310 W. Wisconsin Avenue  
Milwaukee, WI 53202                      Phone (800) 669-4000

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If the employee exercises the reporting options of 3 (a) or (b) from above, they must file a copy of the complaint with the City Attorney within 24 hours of filing of the complaint.

### E. INVESTIGATING THE COMPLAINT

1. **CONFIDENTIALITY.** Any allegation of discrimination and harassment brought to the attention of appropriate personnel will be promptly investigated in a confidential manner as to protect the privacy of persons involved. Confidentiality will be maintained throughout the investigatory process to the extent practical and appropriate under the circumstances. The Common Council and Committees therefore shall not have access to confidential information. Collective bargaining units and members therefore shall retain any rights to representation authorized under a Collective Bargaining Agreement.
2. **INVESTIGATION.** Discrimination and harassment complaints will be investigated by the Police Department Enforcing Officer(s) appointed by the Chief of Police. The Chief of Police will notify the City Administrator and City Attorney of this appointment(s). Should the Chief of Police or the Police Department Enforcing Officer(s) be the alleged harasser, the Enforcing Officer shall be appointed by the Mayor.
3. **INVESTIGATION PROCESS.** In pursuing the investigation, the Enforcing Officer will try to take the wishes of the complainant under consideration, but should thoroughly investigate the matter as he/she see fit, keeping the complainant and alleged harasser informed as to the status of the investigation. Steps to be taken in the investigation include:
  - a. Confirm the name and position of the complainant.
  - b. Identify the alleged harasser.
  - c. Ascertain all facts from both parties and potential witnesses that explain what happened. Questions should be asked in a nonjudgmental manner.
  - d. Determine frequency/type of alleged harassment, and if possible the dates and locations where alleged harassment occurred. Determine whether there is a hostile or abusive work environment, using the "reasonable person" standard and considering the following factors:
    1. Frequency of conduct;
    2. Severity of conduct;
    3. Whether the conduct is physically threatening or humiliating, or mere offensive utterance;
    4. Whether the conduct unreasonably interferes with an employee's work performance; and,
    5. The effect of the conduct on the employee's psychological well-being.

Any relevant factor may be taken into account; no single factor is required.

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- e. Determine if there were witnesses who observed the alleged harassment.
- f. Determine how the complainant responded to the alleged harassment.
- g. Determine whether the complainant consulted anyone about the harassment and take note of whom else knows the allegations and their response to the disclosure.
- h. Develop a thorough understanding of the professional relationship, degree of control and amount of interaction between the alleged harasser and complainant. (Does the person control compensation, terms of employment or promotion? Do these individuals work in close proximity to one another and/or on the same project?)
- i. Determine whether the alleged harasser has carried out any threats or promises directed at the complainant.
- j. Does the complainant know of or suspect that there are other individuals who have been harassed by alleged harasser?
- k. Has the complainant informed other officers or Supervisors of the situation? What response, if any, did complainant receive from these individuals?
- l. Ascertain what action complainant would like the City of Kenosha to take as a consequence of the harassment.
- m. Notify the alleged harasser when first interviewing him/her of the City of Kenosha's policy against retaliation for making a complaint of harassment or discrimination.

### **F. RESOLVING THE COMPLAINT**

Upon completing the investigation of a harassment or discrimination complaint, the Enforcing Officer will communicate his/her/their findings to the Chief of Police and the City Attorney.

If the Enforcing Officer finds that harassment occurred, the harasser will be subject to appropriate disciplinary procedures, as listed below, in accordance with applicable procedures. The complainant will be informed of the disciplinary action taken.

If the Enforcing Officer determines that no harassment has occurred, this finding will be communicated to the complainant in an appropriately sensitive manner.

The Enforcing Officer may, with consent of the parties, attempt to resolve the complaint by conciliation. However, any proposed Resolution of the complaint shall only have the force and effect of a recommendation to the Chief of Police or body having appropriate jurisdiction to impose discipline upon the party who is deemed to have violated this policy.

The Enforcing Officer, upon making a finding of a violation of this policy may, but is not obligated to, make recommendation with respect to the nature of the discipline to be imposed to the Chief of Police.

**1. SANCTIONS**

Individuals found to have engaged in misconduct constituting discrimination or harassment will be disciplined up to and including discharge. Appropriate sanctions will be determined by the Chief of Police, or body having appropriate jurisdiction in accordance with applicable procedures and standards. In addressing incidents of discrimination or harassment, minimum response will include reprimanding the offender and preparing a written record. Additional action may include referral to counseling, withholding of a promotion, reassignment, suspension without pay, withholding of salary increases, or termination, when and as authorized by applicable law, rule, regulation or collective bargaining agreement where applicable.

**G. MAINTAINING A WRITTEN RECORD OF THE COMPLAINT**

The City of Kenosha shall maintain a complete record of each complaint and how it was investigated and resolved. Written records shall be maintained in a confidential manner in the office of the Director of Personnel, and the office of the Chief of Police, except where disclosure is required under the Public Records Law.

1. Written records will be maintained for seven (7) years from the date of the Resolution unless new circumstances dictate that the file should be kept for a longer period of time.
2. Complainants or employees accused of discrimination or harassment may file a grievance/appeal in accordance with agency procedures when they disagree with the investigation or disposition of a harassment claim.
3. This policy does not preclude any employee from filing a complaint or grievance with an appropriate outside agency.

**H. RETALIATION**

1. There shall be no retaliation against any employee for filing a complaint of harassment or discrimination or for assisting, testifying, or participating in the investigation of such a complaint.
2. 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 this agency and by Federal, State and Local Law.
3. Retaliation is a form of employee misconduct. Any evidence of retaliation shall be considered a separate violation of this policy.
4. Monitoring to ensure that retaliation does not occur is the responsibility of the Chief of Police, supervisors and employees of the department.

**I. FALSE ACCUSATIONS**

Falsely accusing another of harassment, knowingly and/or in a malicious manner, is itself an act of harassment, which may subject any person making or supporting such false allegation to the penalties and sanctions set forth in this policy.