

CITY OF ALPENA

STANDARD OPERATING POLICY

SUBJECT: Policy Prohibiting Sexual Harassment and/or Illegal Discrimination

SOP No.: 6

Date Issued: 5-5-88

Effective Date: 5-5-88

Revised Date: 3-1-99

Copies to: Mayor, Council Members, Department Heads, Supervisors, and All City Employees

STATEMENT OF POLICY:

Purpose The City of Alpena prohibits illegal discrimination and sexual harassment. The purpose of this policy is to establish the City's policy on nondiscrimination and sexual harassment for City employees and applicants for employment and to clarify proper action for responding to violations of such.

I. POLICY PROHIBITING DISCRIMINATION

It is the City's philosophy and policy that any unlawful discrimination against any employee or applicant based on race, color, sex, religion, national origin, age, handicap, height, weight, arrest record, veteran or marital status or membership in another protected group will not be allowed or tolerated. This policy applies to all employment practices including but not limited to recruiting, hiring, pay rates, conditions of employment and termination.

The City of Alpena also prohibits any form of harassment, joking remarks, stories, nick names or other abusive conduct directed at employees because of their race, color, sex, religion, national origin, age, handicap, height, weight, arrest record, veteran or marital status or membership in another protected group.

II. POLICY PROHIBITING SEXUAL HARASSMENT

A. Sexual Harassment Prohibited

Sexual harassment at the City of Alpena is unlawful discrimination. This policy and the law prohibit sexual harassment and retaliation for having brought a complaint of or having opposed sexual harassment and/or for having participated in the complaint process.

B. Sexual Harassment Defined

1. Basic Definition:

For purposes of this policy, the term "sexual harassment" means unwelcome sexual advances, unwelcome requests for sexual favors, and other unwelcome verbal or physical conduct or communication of a sexual nature when:

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

2. Examples:

Examples of unwelcome sexual harassment include, but are not limited to, threatening adverse employment actions if sexual favors are not granted; promising preferential treatment in return for sexual favors; unwanted physical contact; and/or sexually offensive remarks, including the following kinds of prohibited behavior:

- a. Verbal Sexual advances or propositions or threats; continuing to express interest after being informed the interest is unwelcome; sexual innuendoes; suggestive or insulting comments or sounds, including whistling; sexual jokes or teasing of a sexual nature; commentary about an individual's body, sexual prowess, or sexual deficiencies; and any other abuse of a sexual nature.
- b. Visual Display of sexually suggestive objects, pictures, or letters; leering; obscene gestures; sexually suggestive or offensive graffiti.
- c. Physical Unwanted physical contact including offensive touching, pinching, brushing the body, impeding or blocking movement;

unwanted sexual intercourse or other unwanted sexual acts; sexual assault or battery.

The above list is not meant to be exhaustive, but is included to provide examples of prohibited action.

C. Persons and Settings Covered

Sexual harassment of any individual, whether an employee or not, by any employee, official, non-employee, or agent of the City, is unacceptable whether it takes place inside or outside the workplace.

Non-employees covered under this policy include members of the public, vendors, independent contractors, applicants for employment, or visitors to the workplace.

The employer does not condone, either explicitly or implicitly, sexual harassment by members of the public, vendors, independent contractors, applicants for employment, or visitors to the workplace.

III. COMPLAINT PROCEDURE

The employer is responsible for fostering a workplace free from discrimination and harassment, and for implementing and enforcing this policy. This responsibility is continuing, whether or not complaints of discrimination or harassment have been brought to the attention of the employer.

Each Department Head is appointed to answer questions and disseminate information about discrimination or harassment and this policy, to be principally responsible for enforcing this policy and procedure within their respective departments, to monitor the workplace, to investigate complaints, and to take appropriate corrective action. Any person who feels that he or she has been subjected to discrimination or harassment, who is aware of conduct prohibited under this policy, or who feels that he or she has been retaliated against for having brought a complaint of or having opposed discrimination or harassment and/or for having participated in the complaint process is encouraged to bring the matter to the immediate attention of their Department Head.

If an employee is uncomfortable for any reason in bringing such a matter to the immediate attention of their Department Head or is not satisfied after bringing the matter to the attention of the Department Head, the employee should report the matter to his/her immediate supervisor, the City Manager, or another City official. Also, any questions about this policy, discrimination or harassment should be brought to the attention of these persons.

The employer will investigate all allegations of discrimination and harassment promptly. To protect the interests of the complainant, the person complained against, witnesses, any others who may report incidents of discrimination or harassment, and all other persons affected, confidentiality will be maintained to the extent practicable and appropriate under the circumstances.

- A. Once a complaint of discrimination or harassment is received, a prompt, thorough, and impartial investigation will be conducted by an employee selected by the City Manager and may include:
1. interviewing the complainant, both at the time the complaint is initially presented and at the time the complaint is reduced to writing;
 2. interviewing all witnesses identified by the complainant and reducing their statements to writing, either by requesting that the witnesses do so or by reducing their statements to writing to be signed or otherwise acknowledged by the witnesses;
 3. reviewing any documentary or other evidence submitted by the complainant;
 4. interviewing the alleged offender and reducing his or her statement to writing;
 5. interviewing all witnesses identified by the alleged offender and reducing their statements to writing, either by requesting that the witnesses do so or by reducing their statements to writing to be signed or otherwise acknowledged by the witnesses;
 6. interviewing other potential witnesses who may have observed the conduct alleged or who may possess knowledge regarding the allegation under investigation and reducing their statements to writing, either by requesting that the witnesses do so or by reducing their statements to writing to be signed or otherwise acknowledged by the witnesses;
 7. reviewing any documentary or other evidence submitted by the offender;
 8. informing all witnesses including the complainant and the alleged offender of the confidentiality of the investigation;
 9. completing a written determination of the validity of the complaint;
 10. recommending a disposition to the City Manager or other responsible party or advising the City Manager or other responsible party of the disposition.

IV. RESOLVING THE COMPLAINT

A. If Violation Found

If, as a result of an investigation, the employer determines that a violation of this policy has occurred, the employer will take prompt and appropriate remedial action to eliminate the policy violation and to insure that it does not recur.

Such remedial action may include:

1. disciplinary action of the offender up to and including transfer or termination of employment;
2. restoration to an individual of any employment benefits or employment status impaired as a result of the discrimination or harassment or the exercising of rights under this policy;
3. removal from the individual's personnel record or other records of the employer of any documents containing adverse or negative references to the complainant flowing from the policy violation;
4. referral of any individual, including the offender, the complainant, or both to counseling;
5. at the option of the complainant, transfer or reassignment of the complainant to an equivalent position;
6. other appropriate measures to assure that any individual adversely affected by the filing of a complaint, participation in any complaint proceeding, or opposition to discrimination or harassment is restored to the position held prior to the policy violation;
7. removal of the effects of the policy violation in the workplace, such as the removal of offensive graffiti or posters or similar objects of visual discrimination or harassment, the elimination of sexually offensive remarks, and/or the elimination of unwanted physical contact;
8. other appropriate measures to assure that this policy, and the employer's commitment to enforcing this policy, is reiterated in the workplace, such as republication of the policy and in-house training relating to the policy.

B. If No Violation Found

If, as a result of the investigation, the employer determines that no violation of this policy has occurred, the employer may:

1. inform the complainant and the alleged offender of the results of its investigation and the reasons for its finding of no policy violation;
2. advise the complainant and the alleged offender that the employer is committed to the enforcement of this policy and will not tolerate discrimination or harassment or retaliation of any sort;
3. notwithstanding the determination that no policy violation has occurred, advise all individuals that there will be no retaliation for making a complaint of discrimination or harassment, opposing discrimination or harassment, or participating in an investigation under this policy;
4. advise the complainant to provide additional information relating to any policy violations in the future;
5. take appropriate measures to assure that this policy, and the employer's commitment to enforcing this policy, is reiterated in the workplace, such as republication of the policy and in-house training relating to the policy.

C. If No Determination Possible

If, as a result of the investigation, the employer determines that there is insufficient information from which to make a determination whether a policy violation has occurred, the employer may:

1. inform the complainant and the alleged offender of its finding that no determination can be made;
2. advise the complainant and the alleged offender that the employer is committed to the enforcement of this policy and will not tolerate discrimination or harassment or retaliation of any sort;
3. notwithstanding the determination that there is insufficient information from which to determine that a policy violation has occurred, advise all individuals that there will be no retaliation for making a complaint of discrimination or

harassment, opposing discrimination or harassment, or participating in an investigation under this policy;

4. advise the complainant to provide additional information relating to any policy violations in the future;
5. take appropriate measures to assure that this policy, and the employer's commitment to enforcing this policy, is reiterated in the workplace, such as republication of the policy and in-house training relating to the policy.

D. No Retaliation

There shall be no retaliation against any individual for making a complaint of discrimination or harassment, opposing discrimination or harassment, or participating in an investigation under this policy, regardless of whether a policy violation is found, no policy violation is found, or no determination of a policy violation is possible.

City Manager

POLICY PROHIBITING DISCRIMINATION AND/OR HARASSMENT
STANDARD OPERATING POLICY NO. 6
ACKNOWLEDGEMENT SHEET

<u>Name</u>	<u>Signature</u>	<u>Date</u>
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____
4. _____	_____	_____
5. _____	_____	_____
6. _____	_____	_____
7. _____	_____	_____
8. _____	_____	_____
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10. _____	_____	_____
11. _____	_____	_____
12. _____	_____	_____
13. _____	_____	_____
14. _____	_____	_____
15. _____	_____	_____
16. _____	_____	_____
17. _____	_____	_____
18. _____	_____	_____
19. _____	_____	_____
20. _____	_____	_____

CITY OF ALPENA
EMPLOYEE COMPLAINT FORM FOR DISCRIMINATION AND HARASSMENT

Name _____ Date _____

Department _____ Job Title _____

Name of Immediate Supervisor _____

Statement of Complaint: (Read the Non-Discrimination and Sexual Harassment Standard Operating Procedure No. 6. Be specific.)

Date of incident(s) _____

Name(s) of Person(s) Accused of Wrongdoing:

Description of Incident(s): (Describe actions of all persons involved, including yourself. Add additional pages as necessary.)

Names(s) of Witness(es) _____

Adjustment Requested _____

Employee Signature _____ Date _____

Complaint Submitted To: (check one)

Immediate Supervisor Other (Name) _____

Department Head

City Manager

Complaint Received _____ at _____
(Date) (Time)

Signature _____ Job Title _____