

# **SEXUAL HARASSMENT PREVENTION POLICY\***

\*(pursuant to New York State Labor Law Section 201-g)

As part of the Town of Brookhaven's continuing effort to ensure equal employment opportunity based solely on an individual's abilities and qualifications, and consistent with the guidelines issued by the Equal Employment Opportunity Commission (EEOC), the Town of Brookhaven issues this policy prohibiting sexual harassment.

Sexual harassment by any employee, whether or not in a supervisory capacity, against any other employee, paid or unpaid intern, independent contractors, or any persons working for a company that provides services to the Town of Brookhaven, is strictly prohibited. Sexual harassment includes unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature:

- 1) which is made a term or condition of employment,
- 2) the submission or rejection of which is used as a basis for employment decisions, or
- 3) which has as its purpose or effect the unreasonable interference with work performance or the creation of an intimidating, hostile or offensive environment.

## **Examples of sexual harassment include:**

- a) physical assaults of a sexual nature such as touching, pinching, patting, grabbing, brushing against another employee's body or poking another employee's body;
- b) requests for sexual favors accompanied by implied or overt threats concerning the victim's job performance, evaluation, a promotion, or other job benefits or detriments;
- c) subtle or obvious pressure for unwelcome sexual activities;
- d) sexually oriented gestures, noises, remarks, jokes or comments about a person's sexuality or sexual experience;
- e) displaying pictures, posters, calendars, graffiti, objects or other materials that are sexually demeaning or pornographic, including such displays on workplace computers or cell phones, and sharing such displays while in the workplace; and
- f) hostile actions taken against an individual because of that person's sex, sexual orientation, gender identity or status of being transgender.

Recognizing that employees of the Town often come in contact with the public, this policy prohibiting sexual harassment, shall also prohibit such conduct by an employee of the Town

against a member of the public when it is either expressly or implicitly a term or condition of that person's entitlement to any benefit or right otherwise afforded to the public under applicable laws, rules and regulations.

The Town of Brookhaven **strongly encourages** those who believe they are victims of sexual harassment prohibited by this policy to come forward and report in writing the circumstances **without fear of retaliation or intimidation**. **Employees** will be given the choice of lodging their complaint with either a male or a female. Due to the sensitive and serious nature of these complaints, those employees who believe they are victims of sexual harassment prohibited by this policy are encouraged to bring their complaint to the attention of the Town Attorney, or his/her designee, who will assist the employee in the preparation of the written statement detailing the complaint. The Town Attorney or his/her designee will immediately initiate and coordinate a thorough and impartial investigation of the matter. Although efforts will be made to protect the confidentiality of all persons involved, such confidentiality cannot always be guaranteed.

Moreover, employees who do not complain about unlawful harassment or who do not fully cooperate in an investigation may be compromising their legal rights. If a determination is made that there has, in fact, been unlawful sexual harassment, appropriate disciplinary action, up to and including termination, will be taken. **Any coercion, retaliation, or intimidation of those who complained of the sexual harassment, who participated in the investigation thereof, or who testified in a proceeding or action involving the sexual harassment, is unlawful and will be grounds for disciplinary action, up to and including termination.** Likewise, false accusations may also result in appropriate disciplinary action.

It shall be the additional responsibility of all supervisors who observe, learn of or suspect a violation of the policy to immediately bring the matter to the attention of the Town Attorney, or his/her designee. **Supervisors who fail to report instances of harassment will be subject to disciplinary action, up to and including termination.**

Aside from the Town of Brookhaven's internal complaint procedure described above, those who believe they are a victim of sexual harassment may:

1. File a complaint with the **New York State Division of Human Rights ("DHR") within one (1) year of the sexual harassment**. DHR enforces New York's Human Rights Law codified at NY Executive Law § 290 et. seq. DHR will investigate the complaint and determine whether there is or is not probable cause to believe that

unlawful sexual harassment has occurred. Where probable cause is determined, the matter is referred to an administrative law judge for a public hearing. If discrimination is found after a hearing, DHR may award relief including, but not limited to, requiring the employer to stop the sexual harassment or redress the damage caused, including the payment of monetary damages, attorney's fees and civil fines. DHR may be contacted at 1-888-392-3644 or by visiting [www.dhr.ny.gov/complaint](http://www.dhr.ny.gov/complaint).

Individuals who do not file a complaint with DHR have the right to

2. Commence an action in **New York State Supreme Court within three (3) years of the unlawful sexual harassment**. Complaining directly to Town of Brookhaven does not extend this time limitation.

**The federal Equal Employment Opportunity Commission ("EEOC") enforces various federal anti-discrimination laws including Title VII of the Civil Rights Act, codified at 42 U.S.C. § 2000e et. seq. An individual can:**

3. **File a charge of discrimination alleging sexual harassment with the EEOC within three hundred (300) days of the sexual harassment**. The EEOC may investigate the matter, or defer to the investigation conducted by DHR. After the EEOC determines if there is reasonable cause to believe unlawful discrimination has occurred, it will issue a right to sue letter to the individual, permitting the filing of a complaint in federal district court. Although the EEOC does not conduct any administrative hearings, even if it determines that unlawful sexual discrimination has occurred, it can pursue an action in federal court on the individual's behalf. For questions, the EEOC can be contacted at 1-800-669-4000 or by visiting its website at [www.eeoc.gov](http://www.eeoc.gov).

Individuals in Suffolk County can also:

4. File complaints of sexual harassment with the **Suffolk County Human Rights Commission** which can be reached at 631-853-5480 or by visiting [www.suffolkcountyny.gov/Departments/HumanRightsCommission](http://www.suffolkcountyny.gov/Departments/HumanRightsCommission).