



**City of Berkley, Michigan  
ADMINISTRATIVE DIRECTIVE**

**Directive #:**  
2017 - 02

**Effective Date:**  
July 6, 2017

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Supersedes: 2013-5 Sexual Harassment Policy

Approved by:   
Mathew C. Baumgarten  
City Manager

**Title:**  
**SEXUAL HARASSMENT, HARASSMENT AND  
DISCRIMINATION**

**OVERVIEW:**

Sexual harassment is a form of discrimination that is offensive, impairs morale, undermines the integrity of employment relationships and causes serious harm to the productivity, efficiency and stability of our organization.

Sexual harassment occurs when a covered person makes unwelcome advance for sexual favors upon another covered person or requests sexual favors or engages in sexual related conduct of a physical and/or verbal nature when:

1. submission to such conduct is made either explicitly or implicitly as a term or condition of an individual's employment,
2. submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individuals, or
3. such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Discrimination occurs when an employee or job applicant is treated unfavorably on the grounds of race, age, religion or gender. Workplace discrimination may also include:

- Ethnicity
- Skin Color
- National Origin
- Mental or Physical Disability
- Genetic Information
- Relationship to someone who may be discriminated against
- Pregnancy or Parenthood

All employees have a right to work in an environment free from discrimination and harassing conduct, including sexual harassment. All City of Berkley employees are responsible for ensuring that the workplace is free from sexual harassment of any kind. Because of the City's strong disapproval of offensive and inappropriate sexual behavior at work, all employees must avoid any action or conduct which could be viewed as sexual harassment.

Both sexual harassment and discrimination are illegal and the City of Berkley has a zero tolerance against such acts. The city will investigate all complaints and any possible violation of this policy of which the city is made aware. Retaliation against any person who makes a sexual harassment or discrimination complaint is prohibited.

Title:

**SEXUAL HARASSMENT, HARASSMENT AND DISCRIMINATION**

Supersedes: 2013-5 Sexual Harassment Policy

A copy of the City of Berkley's Sexual Harassment, Harassment and Discrimination Policy is attached to this directive for reference.

**DEFINITIONS:**

1. **Sexual harassment:** Any unwelcomed sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature that tends to create a hostile or offensive work environment.
2. **Harassment:** a pattern of repeated offensive behavior that appears to target a specific person or persons with the intent to threaten or intimidate.
3. **Covered persons:** Individuals covered under this directive includes employees, elected and appointed officials, members of boards and commissions, volunteers, vendors and contractors
4. **Hostile work environment:** Occurs when unwelcome comments or conduct based on sex, race or other legally protected characteristics unreasonably interferes with an employee's work performance or creates an intimidating, hostile or offensive work environment
5. **Threat:** The implication or expression of intent to inflict physical harm or actions that a reasonable person would interpret as a threat to physical safety or property.
6. **Intimidation:** Making others afraid or fearful through threatening behavior.
7. **Retaliation:** Any actions that causes a reasonable person to be afraid of filing a complaint or asserting their rights.

**PROHIBITED BEHAVIOR:**

The following are a few examples of prohibited conduct intended for illustrative purposes. They do not in any way limit the authority of the City to act as circumstances may warrant.

- a) Unwelcome or unwanted physical and or verbal sexual advances.
- b) Requests or demands, expressed or implied, for sexual favors.
- c) Granting or an express or implied offer of sexual favors for purposes of obtaining some form of advantageous treatment or consideration that would otherwise not be granted.
- d) Stating or implying that a particular employee's advances in, or other perceived favorable condition of employment resulted from the granting of sexual favors or the establishment or continuance of a sexual relationship.
- e) Stating or implying that a particular employee's actual or perceived deficiencies in performance are attributable in whole or in part to the gender of that person.
- f) Display of sexually oriented photographs, drawings, cartoons, etc.,. Playing sexually oriented recorded materials.
- g) Sexually degrading or suggestive words, jokes or insults
- h) Comments regarding a person's private life or sexual preference
- i) Graphic commentary about a person's body
- j) Physical contact of a sexual or otherwise inappropriate nature

Title:

**SEXUAL HARASSMENT, HARASSMENT AND DISCRIMINATION**

Supersedes: 2013-5 Sexual Harassment Policy

**NOTIFICATION PROCESS:**

Any employee who believes he or she is being harassed, or any employee, who becomes aware of harassment, should promptly notify his or her supervisor submit a completed Sexual Harassment, Harassment and Discrimination Complaint Form. If the employee believes that the supervisor is the harasser, the department director should be notified. If an employee is uncomfortable discussing the matter with the director, the employee should contact the office of the City Manager or Deputy City Manager. If the department director is involved in the harassing activity, the violation should be reported to the City Manager's Office immediately.

Upon notification of a harassment complaint, a confidential and impartial investigation will be promptly commenced and will include direct interviews with involved parties and employees who may be witnesses or have knowledge of matters relating to the complaint.

**RESPONSIBILITY:**

**A.** Employees are expected to comply with the Sexual Harassment, Harassment and Discrimination Policy and guidelines described in this Directive. Employees are also expected to report any incident of harassing behavior to his or her supervisor and cooperate with resulting investigations. This includes, but is not limited to, submitting a completed Sexual Harassment, Harassment and Discrimination Complaint form to the City Manager's Office providing names, dates, times and a description of the actions believed to be a violation of this policy.

Current and new employees will be asked to sign a document confirming receipt of this policy. A copy of the signed document will be placed in the employee's personnel file.

**B.** Department Directors are responsible for ensuring that all employees, including managers and supervisors, are informed of the attached policy and are aware of the procedures and requirements when alleged harassment occurs.

**C.** Directors are also responsible for taking appropriate actions when harassment and discrimination is reported. This includes, but is not limited to, disciplinary action, launching investigations, obtaining statements from the alleged target of harassment, observers and others who may have credible information related to an incident due to their proximity to the event. Other actions may be taken as deemed appropriate under the circumstances.

**D.** The City Manager is responsible for ensuring that all employees, including managers, supervisors and elected officials are aware of this directive along with their duty to comply.

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- E. The Public Safety Department, or appropriate law enforcement agencies or special investigators may be involved in an investigation of reported incidences as conditions warrant. Investigation results and a recommended course of action will be documented and given to the City Manager, Deputy City Manager and City Attorney. Corrective actions will be implemented based on the recommendations.
  
- F. When an investigation concludes that criminal action has occurred, the case will be referred to the appropriate law enforcement authorities for further action.
  
- G. The City Attorney is responsible for working with City officials to ensure that the appropriate legal measures are taken to mitigate instances of sexual harassment, harassment and discrimination.

Questions regarding this directive, or any process described herein, should be directed to the City Manager's Office.

Attachment: City of Berkley Sexual Harassment, Harassment and Discrimination Policy



**City of Berkley  
SEXUAL HARASSMENT,  
HARASSMENT AND DISCRIMINATION  
COMPLAINT FORM**

Any City of Berkley employee or applicant may file a Sexual Harassment, Harassment and Discrimination complaint.

Complainant is (check one): Employee  Applicant

Date Reported: \_\_\_\_\_

Name of Person Submitting Complaint: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

**BASIS OF COMPLAINT** *Please check the appropriate boxes*

- |  |                                      |  |
|--|--------------------------------------|--|
| <input type="checkbox"/> Sexual Harassment | <input type="checkbox"/> Age         | <input type="checkbox"/> Marital status  |
| <input type="checkbox"/> Race or Color     | <input type="checkbox"/> Retaliation | <input type="checkbox"/> Religion        |
| <input type="checkbox"/> Disability        | <input type="checkbox"/> Gender      | <input type="checkbox"/> National origin |

**COMPLAINT DETAILS**

Name of individual(s) who allegedly committed harassment/discrimination

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_

**LOCATION** *Department and street address where the incident occurred*

Department

Address

_____	_____
_____	_____
_____	_____

**INCIDENT DETAILS:**

1. Please describe in detail, the circumstances that cause you to believe you have been harassed or discriminated against. Include dates, places, names of persons involved and witnesses.

2. Why do you believe this action was taken against you?

3. Identify all employees or others with knowledge of the conduct about which you are complaining.

4. Did employees or others listed above observe or overhear the alleged conduct?

YES  NO *If yes, please indicate the dates of the observed/overheard behavior.*

5. Do you have any physical evidence that supports your complaint?

YES  NO *If so, please describe or attach a copy.*

6. Have you missed work as a result of the alleged harassment/discrimination?

YES  NO *If so, please indicate the dates of such absences.*

7. Have you received any counseling or medical treatment as a result of the alleged harassment/discrimination?

YES  NO *If so, please indicate the dates of such counseling or treatment*

8. Have you previously complained about this or related acts of harassment/discrimination to your supervisor or other city official?

YES  NO *If so, please identify the individuals to whom you complained, the date of the complaint and resolution of your complaint.*

What is your requested remedy in this complaint?

9. Are there any other individuals that should be contacted regarding your complaint?

YES  NO *If so, please indicate why these individuals should be contacted and provide the name(s) and contact information below.*

Acknowledgment

To investigate your complaint, it will be necessary to interview you, the persons named in this complaint and any witnesses with knowledge of the allegations. The City of Berkley will inform all persons involved in the investigation that it is confidential and that unauthorized disclosures of information concerning the investigation could result in disciplinary action, up to and including termination of employment.

The information provided in this complaint is true and correct to the best of my knowledge. I am willing to cooperate fully in the investigation of my complaint and provide whatever evidence the City of Berkley deems relevant.

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Date*



## CITY OF BERKLEY SEXUAL HARASSMENT, HARASSMENT AND DISCRIMINATION POLICY

### **OVERVIEW:**

The most productive and satisfying work environment is one in which work is accomplished in a spirit of mutual trust and respect. Sexual harassment is a form of discrimination that is offensive, impairs morale, undermines the integrity of employment relationships and causes serious harm to the productivity, efficiency and stability of our organization.

All employees have a right to work in an environment free from harassing and discriminatory conduct. All City of Berkley employees are responsible for ensuring that the workplace is free from sexual harassment and discrimination of any kind. Because of the City's strong disapproval of such offensive or inappropriate behavior at work, all employees must avoid any action or conduct which could be viewed as sexual harassment or discrimination.

### **DEFINITIONS:**

**Sexual harassment** does not refer to occasional compliments of a socially acceptable nature. It refers to behavior that is not welcomed and is personally offensive. All forms of gender harassment are covered. Sexual harassment includes unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexually harassing nature, when:

- (1) submission to the harassment is made either explicitly or implicitly a term or condition of employment;
- (2) submission to or rejection of the harassment is used as the basis for employment decisions affecting the individual; or
- (3) the harassment has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

**Harassment** occurs when there is a pattern of repeated offensive behavior that appears to target a specific person or persons with the intent to threaten or intimidate.

**Discrimination** occurs when an employee or job applicant is treated unfavorably on the grounds of race, age, religion or gender. Workplace discrimination may also include:

- Ethnicity
- Skin Color
- National Origin
- Mental or Physical Disability
- Genetic Information
- Relationship to someone who may be discriminated against
- Pregnancy or Parenthood



**NOTIFICATION PROCESS:**

Any employee who believes they have been, or are being, harassed or subjected to discrimination, or any employee, who becomes aware of harassment or discrimination, should promptly notify their supervisor and complete the Sexual Harassment, Harassment and Discrimination Complaint form. Submit the complaint form to the City Manager's Office for handling.

If the employee believes that the supervisor is the source of such behavior, the department director should be notified. If an employee is uncomfortable discussing harassment with the director, the employee should contact the City Manager's Office. If the department director is involved in the harassing or discriminatory activity, the violation should be reported to the City Manager's Office immediately.

Upon notification of such complaint(s), a confidential and impartial investigation will be initiated and will include direct interviews with involved parties and, where necessary, with employees who may be witnesses or have knowledge of matters relating to the complaint. The parties subject to the investigation will be notified of the findings and their options.

This policy also expressly prohibits retaliation of any kind against any employee bringing a complaint or assisting in the investigation of a complaint. Such employees may not be adversely affected in any manner related to their employment.

**My signature below indicates that I received a copy of this policy and understand the content.**

\_\_\_\_\_  
*Employee Name (please print)*

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Department:*