

POLICY MEMORANDUM
THIS POLICY SUPERSEDES ALL OTHER MEMORANDA AND POLICIES

I. Subject:

Prohibition of Sexual Harassment

II. Policy:

The state and federal anti-discrimination statutes prohibit harassment and discrimination. Title VII, Civil Rights Act of 1964 § 7, 42 U.S.C. § 2000e et seq (1964), the Age Discrimination in Employment Act, 29 U.S.C. § 631 and the American with Disabilities Act, 20 U.S.C. § 1400, et. prohibit harassment or discrimination for the protected reason listed in the statute. The Louisiana Anti-discrimination statute and its accompanying laws, La R.S. 23:332, likewise, prohibits harassment and discrimination under Louisiana state laws. Title VII and the Louisiana Anti-Discrimination Statutes specifically prohibit sexual harassment.

It is the goal of the City of Kenner to promote a workplace that is free of sexual harassment. Accordingly, the City of Kenner strictly prohibits it. Sexual harassment may include but is not limited to unwelcome sexual advances, requests for sexual favors, other verbal or physical contact of a sexual nature when such conduct has a purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive environment or when submission to or rejection of such conduct by an individual is used as the basis of employment decisions affecting the individual either implicitly or explicitly.

Sexual harassment of employees occurring in the workplace or in other settings in which employees may find themselves in connection with their employment is unlawful and will not be tolerated by this organization. Further, any retaliation against an individual who has complained about sexual harassment or retaliation against individuals for cooperating with an investigation of sexual harassment complaint is similarly unlawful and will not be tolerated. To achieve our goal of providing a workplace free from sexual harassment, the conduct that is described in this policy will not be tolerated and we have provided a procedure by which inappropriate conduct will be dealt with, if encountered by employees.

Because the City of Kenner takes allegations of sexual harassment seriously, we will respond promptly to complaints of sexual harassment and where it is determined that such inappropriate conduct has occurred, we will act promptly to eliminate the conduct and impose such corrective action as is necessary, including disciplinary action where appropriate. Disciplinary action may include suspension and/or termination.

Retaliation and/or reprisals against an individual who in good faith reports or provides information in an investigation about behavior that may violate this policy

are against the law and will not be tolerated. Intentionally making a false report or providing false information, however, is grounds for discipline.

It is our expectation that every employee support the principles of equal opportunity as stated in this Policy. Appointing Authorities and supervisors are responsible for enforcing these principles and for providing every City employee with a work environment free of discrimination and harassment. Appointing Authorities and supervisors must understand how important this issue is, and that they will be held accountable for ensuring that equal opportunity practices are adhered to in their work units.

Good faith employment actions taken by an Appointing Authority, such as: offering constructive feedback or criticism, holding employees accountable, and providing discipline, where appropriate, do not constitute, and should not be mistaken for, harassment or retaliation. These employment actions are aimed at enhancing workplace productivity and/or addressing work performance and are within the responsibilities and obligations of City Appointing Authorities.

Please note that while this policy sets forth our goals of promoting a workplace that is free of sexual harassment the policy is not designed or intended to limit our authority to discipline or take remedial action for workplace conduct that is deemed unacceptable, regardless of whether that conduct satisfies the definition of sexual harassment.

III Applicability

This policy applies to all City employees, regardless of position, status or authority and includes classified, unclassified, full-time, part-time, seasonal and temporary employees. Note, the prohibitions of this policy are equally applicable to executive management, appointing authorities, directors, managers, supervisors, staff, interns and students.

This policy also applies to non-employees, including vendors, contractors, and consultants. These non-employees are prohibited from engaging in any sexually inappropriate behavior, and are protected from experiencing such behavior by City employees.

IV Definition of Workplace Sexual Harassment

Federal and state law define sexual harassment as:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment 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 such conduct by an individual is used as the basis for employment decisions affecting such individual, or
- c. Such conduct has the purpose or effect of unreasonably interfering with individual's work performance, creating an intimidating, hostile or offensive working environment,

Sexual harassment can occur between individuals of different sexes or of the same sex. Although sexual harassment most often exploits a relationship between individuals of unequal power (such as between a supervisor and employee) it may also occur between individuals of equal power (such as between co-workers), or in some circumstances even where it appears that the harasser has less power than the individual harassed (for example, an employee sexually harassing a supervisor). A lack of intent to harass may be relevant to, but will not be determinative of, whether sexual harassment has occurred.

V. EXAMPLES OF CONDUCT THAT MAY CONSTITUTE SEXUAL HARASSMENT:

Under this definition, direct or implied requests by a supervisor for sexual favors in exchange for actual or promised job benefits such as favorable reviews, salary increases, promotions increased benefits, or continued employment constitutes sexual harassment.

The legal definition of sexual harassment is broad and in addition to the above examples, other sexually oriented conduct, whether it is intended or not, that is unwelcome and has the effect of creating a workplace environment that is hostile, offensive, intimidating, or humiliation to male or female workers may also constitute sexual harassment.

While it is not possible to list all those additional circumstances that may constitute sexual harassment, the following are some examples of conduct which if unwelcome, may constitute sexual harassment depending upon the totality of the circumstances including the severity of the conduct and its pervasiveness:

1. Obscene or sexual remarks concerning a person's body;
2. Inappropriate language or improper jokes of a sexual connotation;
3. Insults, pressures, demands on other insulting physical or verbal behaviors concerning a person's sex or sexual orientation.
4. Vulgar or unwelcome sexual advances, flirtations, or propositions, communicated by touch, verbally, or in writing;
5. Use of sexually humiliating words to depict a person or group of people.

6. Any exhibit of sexually explicit drawings, photographs, articles, books, greeting cards, magazines; or other printed items; or
7. Posting, making or displaying pornographic, sexually demeaning, or sexually explicit material in the workplace;
8. Repetitive unwelcome touching of another's body.
9. Unwelcome leering, whistling, brushing against the body, sexual gestures, suggestive or insulting comments.
10. Inquiries into one's sexual experiences; and
11. Discussion of one's sexual activities.

Sexual harassment does not refer to occasional compliments of a socially acceptable nature. It refers to behavior that is not welcome, which is personally offensive, which debilitates morale and which therefore interferes with an individual's work performance.

Whether or not an alleged action constitutes sexual harassment will be determined on a case-by-case basis by assessing the entire record and the totality of the circumstances. Factors such as the nature of the sexual advances and the context in which the alleged incidents occurred will be considered in assessing the allegations and in determining the appropriate resolution.

VI. Policy Objectives:

- A. To provide a workplace, which is free of any form of sexual harassment, and which is conductive to efficient, effective public service.
- B. To ensure that no employee should be subjected to unsolicited, unwelcome, or offensive sexual overtures or conduct, either physical or verbal.
- C. To provide for a procedure where employees may seek relief from all forms of unwelcome sexual harassment without fear of retaliation.
- D. To provide corrective consequences to employee found to be in violation of this policy.

VII. Policy Scope:

All employees, supervisors, and appointing authorities are prohibited from involving themselves or other employees or persons in conduct that constitutes sexual harassment or retaliation as outlined by this policy as well as federal and state law. Violations of this policy will result in corrective administrative and disciplinary action up to and including termination. Furthermore, as indicated by federal and state law, the complainant maintains the right to pursue a claim under state or federal law, regardless of the outcome of the investigation.

It is the intent of the City of Kenner to abide by La. R.S. 42:342.1.

VIII. Policy Procedures:

A. Appointing Authority:

Each Appointing Authority has a responsibility to assist in maintaining a workplace that is free of sexual harassment. This duty includes discussing this policy with all employees and assuring them that they are not to engage in or endure insulting, degrading, or exploitative sexual conduct. Each Appointing Authority also has a responsibility to thoroughly and impartially assist in investigating complaints of workplace harassment and to take, recommend, or carry out appropriate action against any employee who is proven to be in violation of this policy.

B. Employee Responsibility:

Each employee has not only a right, but also a responsibility to report conduct, which he or she believes, may constitute sexual harassment. The city will not condone or authorize any kind of retaliation against any employee who has made a good faith report of conduct which he or she believes may constitutes sexual harassment in violation of this policy.

Any employee who is subjected to prohibited or illegal sexual harassment, as defined in this policy, is requested and encouraged to make a complaint. Such employees are not required to complain first to the person who is doing the harassing.

Employees may complain to your immediate supervisor. If you believe it would be inappropriate to discuss the matter with your supervisor, report it to your Department Head or the Director of Human Resources. Similarly, if any employee observes harassment of another employee, they are requested to report this to one of the persons described above. No reprisal, retaliation, or other adverse action will be taken against any employee for making in good faith a complaint or report of harassment or for assisting in good faith in the investigation of any such complaint or report. Any suspected retaliation or intimidation should be reported immediately to one of the persons described above.

C. Sexual Harassment Investigation Process:

Any Appointing Authority or supervisor who receives a complaint of sexual harassment is to report this complaint to one of the persons described above. If the matter is reported to the Supervisor or Department Head, the Supervisor or Department Head must report it immediately to Human Resources. An Appointing Authority or supervisor who knowingly tolerates or allows harassment to exist or a hostile working environment to occur, and who falls to report or respond appropriately will be subject to disciplinary action up to in including termination of employment.

All complaints will be subject to immediate and appropriate action which includes a prompt investigation of the complaint. The City of Kenner will make every effort to keep such complaints as confidential as possible, although it is understood that an investigation will normally require the involvement of third parties. The Director of Human Resources will conduct the investigation. The investigation will be thorough and it will include gathering relevant evidence, interviewing involved persons and those with information concerning the complaint. The alleged sexual harasser and alleged victim are required to participate in the investigation.

Once the investigation is completed, all of the facts and findings will be reviewed by the Director of Human Resources and the Director will take any appropriate disciplinary measures, if required. The Director of Human Resources will also follow up with the individual who filed the complaint. If the complaint is ruled factual, corrective action will be taken to prevent the incident of harassment from occurring again. The disciplinary action may result in termination, if necessary. In cases that prove to be inconclusive, all parties involved will be reacquainted with the policy prohibiting all forms of harassment at work.

D. Disciplinary Action

If it is determined that inappropriate conduct has been committed by one of our employees, we will take such action as is appropriate under the circumstances. Such action may range from counseling to termination from employment, and may include such other forms of disciplinary action or corrective action as we deem appropriate under the circumstances.

If it is determined that a false sexual harassment complaint was made, there may be disciplinary action taking against the complainant making the false claim.

E. Retaliation Prohibited

The City of Kenner will not condone or authorize any kind of retaliation against any employee who has made a good faith effort to report actions which they believe are in violation of this policy.

IX. ANNUAL SEXUAL HARASSMENT TRAINING

All City employees shall complete the state mandated sexual harassment training annually; furthermore, all directors/supervisors shall also complete the sexual harassment training for supervisors. Failure to do so may result in disciplinary action.