

## COUNCIL POLICY 3-6-3

DISTRIBUTION: City Manager, All Departments

SUBJECT: **Sexual Harassment and General Harassment Policy**

PURPOSE: The City of Muskogee is committed to providing a work environment in which all people are treated with respect and dignity.

BACKGROUND: Any type of harassment, including sexual harassment, or other behavior which could create a hostile or uncomfortable working environment, is strictly prohibited. This includes “protected individual or group” harassment based on race, color, genetic information, creed, ethnicity, religion, age, sex, marital status, political affiliation, national origin, ancestry, disability, which may constitute a violation of Federal Law as involves the City of Muskogee and/or an individual manager, supervisor or employee if substantiated by and dependent upon certain facts and circumstances.

### POLICY/ PROCEDURES:

#### A. Definitions of Prohibited Behavior:

1. “*Harassment*” means engaging in conversation, comments, or behavior that is known or might reasonably be known to be unwelcome, unwanted, offensive, intimidating, hostile, or inappropriate, and which adversely affects the working environment, employment or the work performance of the employee directly involved or another employee witnessing the inappropriate behavior(s).

Protected individuals and groups and those in affiliation with same are protected under Federal and State statutes from unlawful harassment (see background). Harassment as defined under this policy shall include “protected individual or group harassment”. This policy also includes a prohibition against harassment based on status of Union membership or non-membership as well as sexual orientation. Harassing and/or possibly unlawful actions may include but are not limited to those items listed in subsection 3 below.

2. “*Sexual Harassment*” is a narrower scope of harassment that means engaging in a course of conduct of a gender-related or sexual nature that is known or might reasonably be known to be unwelcome/unwanted, offensive, intimidating, hostile, or inappropriate to another employee or employees. Depending on its severity, one action may be enough to constitute sexual harassment. Sexual harassment may include conduct directed at members of the same sex, as well as, the opposite sex.
3. *Harassment and/or Sexual Harassment* may include, but is not limited to:

- a. demeaning gestures, remarks, innuendo's and jokes
- b. slurs, taunting, or innuendo based on protected group membership, or sexual orientation
- c. unwanted or otherwise offensive physical contact
- d. leering, making inappropriate sounds, unwanted attention or stalking
- e. inappropriate slurs or comments about clothing, physical characteristics or other protected group membership, sexual orientation, Union membership status and/or activities
- f. unwanted questions or comments about one's private life, sexual orientation, marital or family status
- g. any display or apparent use of sexually oriented material and/or offensive pictures, cartoons, or other such graffiti, printed materials, emails, electronic messaging and websites
- h. solicitation or other inappropriate inducement
- i. implied or expressed promise of reward or benefit in return for sexual favors
- j. shunning or exclusionary actions related to a protected group member or in regard to sexual, Union or gender related matter
- k. implied or expressed threat or act of reprisal if sexual or other inappropriate favors are not given and/or verbal, physical or sexual assault.

B. Employee Responsibility

1. Any employee who believes he or she is being or has been the subject of sexual and/or any other type of harassment must immediately report the incident(s) either verbally or in writing in accordance with the procedures in this section:
  - a. Complaints of harassment should be made to one of the following:
    - i. the employee's immediate exempt supervisor;
    - ii. any exempt supervisor in the employee's chain of command;
    - iii. a department manager or department head;
    - iv. the Human Resources Director or designee;
    - v. the City Attorney or his designee;
    - vi. the City Manager.
  - b. The employee may bypass the immediate supervisor or anyone else in the supervisory chain of command if the employee is uncomfortable in making the report to that person and/or if the complaint somehow involves that person.
2. Any employee who witnesses such harassment or becomes aware that another employee has been subjected to prohibited harassment shall immediately report the conduct to one of the people listed above.
3. Employees have the right to report any harassing conduct without fear of retaliation of any kind or form. However, employees who file false and/or

malicious allegations of any type of harassment will be subject to disciplinary action up to and including termination.

4. To minimize harassment allegations and complaints, employees are encouraged to proactively communicate and notify the offending party that the conduct is unwelcome and offensive at the earliest time possible. Often this notification will terminate the offensive behavior; such notification is encouraged but not required. However, this pro-active communication is not a policy requirement if an individual feels uncomfortable or threatened by providing such notice.

C. Supervisor and Manager Responsibility

1. Any supervisor or manager who witnesses, receives a complaint, or in any other way learns of potential sexual and/or other harassment, must immediately report it to the Human Resources Director, Assistant HR Director and the City Manager. Ignoring such conduct or complaint is not acceptable and may subject the supervisor or manager to disciplinary action and/or individual liability.
  - a. It is the responsibility of managers and supervisors to read, understand and implement this policy and assure that their employees have received and signed the acknowledgement. It is also the responsibility of managers and supervisors to assure that their employees comply with the provisions of this policy to the best of the manager's or supervisor's knowledge and ability.
  - b. It is the responsibility of managers and supervisors to assure employees that sexual and/or other harassment of any type will not be tolerated in the work place and to take immediate action if they become aware of such harassment.
  - c. If an employee provides a manager with notification of a Harassment or Sexual Harassment complaint, the manager or supervisor shall immediately advise the Human Resources Director or Assistant HR Director as well as the City Manager in writing.
  - d. If a complaint has not been made, but a manager, supervisor or employee is aware of circumstances where harassment may be occurring, regardless of whether the harassment is in that employee's department or in another department; it is the responsibility of the manager, supervisor or employee to advise the Human Resources Director or Assistant HR Director as well as the City Manager of the matter in writing.
  - e. It is the responsibility of managers and supervisors to counsel employees to be sensitive to others and to avoid making comments that may embarrass co-workers, even if such comments do not rise to the level of harassment.

- f. Failure of any manager, supervisor or employee to take action as required by this policy will be grounds for discipline up to and including termination.

D. Human Resource Department Responsibility

1. After receiving a complaint or an allegation of sexual and/or other harassment, the Human Resources Director or designee shall contact the complainant and conduct a prompt, fair and thorough investigation. The investigation shall include a review of the context, frequency, and circumstances of the alleged harassment and interviews with witnesses or others who may have knowledge of the circumstances of the alleged harassment.
2. The complainant, alleged offender and other witnesses shall be interviewed and asked to sign an affidavit concerning their knowledge of the alleged harassment. All employees shall cooperate with such investigations and be truthful in their statements. Failure to cooperate and/or making of false statements shall constitute grounds for discipline up to and including termination.
3. All parties shall be advised that the investigation is confidential and that confidentiality must be maintained outside of the investigation.
4. The Human Resources Director or designee shall discuss the findings of the investigation with the department head and/or manager and discuss possible appropriate follow-up and/or disciplinary action for the offenders, if necessary.
5. At the conclusion of the investigation, the Human Resources Director or designee shall meet with the complainant; explain the findings of the investigation and any actions taken to eliminate the harassment. Normally a complainant shall receive the City investigatory findings and action determinations within thirty to forty five (30 to 45) working days. Any necessary deviation from this time frame shall be communicated to the complainant.
6. If allegations of harassment are substantiated after the investigation, the department manager shall take appropriate disciplinary action steps against the offending employee(s) after consulting with the Human Resources Department.

E. Confidentiality

1. Information concerning the allegation(s) and or result(s) of the investigation shall be limited to the complainant, the alleged offender, witnesses and those managers or supervisors who have a legitimate need to know or who must receive information in order to facilitate the investigation.
2. All complaints filed, investigations conducted and disciplinary action recommended and/or taken shall be handled in a confidential manner to the extent that is reasonably possible so that neither of the parties involved nor the City will suffer unnecessary embarrassment, intimidation or other undesired consequences.

F. Retaliation

Any form of retaliation against employees who report sexual and/or any other type of harassment or who participates in internal or external investigations of harassment is strictly forbidden. All employees are strongly urged to report all instances of retaliation to one of the individuals listed above. No person will be adversely affected in employment with the City as a result of reporting complaints of harassment.

G. Dissemination

All employees, including new employees, shall acknowledge in writing, receipt of this policy, an acknowledgement that the employee understands the policy and an agreement that the employee will utilize the complaint procedures contained in the policy, if the need arises.

REFERENCES: Civil Rights Act


RESCISSION: This policy rescinds and supersedes Council Policy 3-6-3 dated May 1, 2003.

EFFECTIVE: January 1, 2010

RESPONSIBLE DEPARTMENT: HUMAN RESOURCES



(seal)  
ATTEST:

  
PAMELA S. BUSH, City Clerk

  
JOHN TYLER HAMMONS, MAYOR

APPROVED as to form and legality this 11<sup>th</sup> day of December, 2009.

  
John H. Vincent  
City Attorney

## Policy Receipt Acknowledgement

I have read and been informed about the content, requirements, and expectations of the City of Muskogee's Sexual Harassment and General Harassment Policy. I have received a copy of the policy and agree to abide by the policy guidelines as a condition of my employment and my continuing employment with the City of Muskogee.

I understand that if I have questions, at any time, regarding this policy, I will consult with my immediate supervisor or the Human Resources Department.

Please read this policy carefully to ensure that you understand the policy before signing this document.

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Employee Name

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Employee Signature

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Date