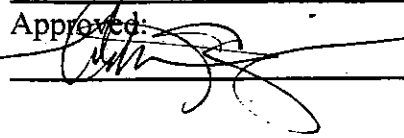

ADMINISTRATIVE MANUAL
TOWN OF LOS GATOS

Subject:	Page:	Section Number:
ANTI-HARASSMENT POLICY	1 of 6	II-E
Approved: 	Effective Date:	Revised Date:
	10/26/1987	10/27/2003

I. PURPOSE

The Town is committed to providing a work environment free of discriminatory harassment. This Policy defines harassment and sets forth a procedure for the investigation and resolution of complaints of such harassment by or against any Town employee, applicant or person providing services pursuant to a contract with the Town.

II. POLICY

Discriminatory harassment violates this Policy and will not be tolerated. Discriminatory harassment of or by an applicant or employee or person providing services pursuant to a contract is harassment based on actual or perceived race, religious creed, sex, national origin, ancestry, disability, medical condition, marital status, age or sexual orientation. It is also improper to retaliate against any individual for making a complaint of harassment or for participating in a harassment investigation. Retaliation constitutes a violation of this Policy.

This Policy applies to all terms and conditions of employment, including but not limited to hiring, placement, promotion, disciplinary action, layoff, recall, transfer, leave of absence, training opportunities and compensation.

Employees who violate this Policy are subject to discipline, up to and including termination.

A. DEFINITION OF DISCRIMINATORY HARASSMENT

Discriminatory harassment can consist of virtually any form or combination of verbal, physical, visual or environmental conduct. It need not be explicit, nor even specifically directed at the victim.

By definition, sexual harassment is not within the course and scope of an individual's employment with the Town.

The prohibition against sex harassment includes a prohibition against sexual harassment, gender harassment, and harassment based on pregnancy, childbirth or related medical conditions.

Discriminatory harassment includes, but is not limited to the following types of misconduct:

Verbal:

Inappropriate or offensive remarks, slurs, jokes or innuendoes based on actual or perceived sex, religious creed, national origin, ancestry, disability, medical condition, marital status, age or sexual orientation. This may include, but is not limited to the following: Inappropriate comments regarding an individual's body, physical appearance, attire, sexual prowess, marital status, pregnancy or sexual orientation; and unwelcome flirting or propositions, demands for sexual favors, verbal abuse, threats or intimidation, or patronizing or ridiculing statements that convey derogatory attitudes about a particular gender, religious creed, national origin, ancestry, disability, medical condition, marital status, age or sexual orientation.

Physical:

Inappropriate or offensive touching, assault, or physical interference with free movement when directed at an individual on the basis of actual or perceived sex, religious creed, national origin, ancestry, disability, medical condition, marital status, age or sexual orientation. This may include, but is not limited to, kissing, patting, lingering or intimate touches, grabbing, massaging, pinching, leering, staring, unnecessarily brushing against or blocking another person, whistling or sexual gestures.

Visual or Written:

The display or circulation of offensive or derogatory visual or written material related to sex, religious creed, national origin, ancestry, disability, medical condition, marital status, age or sexual orientation. This may include, but is not limited to, posters, cartoons, drawings, graffiti, reading materials, computer graphics or electronic media transmissions.

Environmental:

A work environment that is permeated with sexually-oriented talk or innuendo, insults or abuse related to sex, religious creed, national origin, ancestry, disability, medical condition, marital status, age or sexual orientation not relevant to the subject matter of the job. A hostile environment can arise from an unwarranted focus on sexual topics or sexually suggestive statements or from an unwarranted focus on an individual's sex, religious creed, national origin, ancestry, disability, medical condition, marital status, age or sexual orientation. An environment may be hostile if unwelcome sexual behavior is directed specifically at an individual or if the individual merely witnesses unlawful harassment in his or her immediate surroundings. An environment may also be hostile if unwelcome behavior focusing on an individual's sex, religious creed, national origin, ancestry, disability, medical condition, marital status, age or sexual orientation is directed specifically at an individual or if the individual merely witnesses the unlawful harassment in his or her immediate surroundings.

The determination of whether an environment is hostile is based on the totality of the circumstances, including such factors as the frequency of the conduct, the severity of the conduct, whether the conduct is humiliating or physically threatening, and whether the conduct unreasonably interferes with an individual's work.

Romantic or sexual relationships between supervisors and subordinate employees are discouraged. There is an inherent imbalance of power and potential for exploitation in such relationships. The relationship may create an appearance of impropriety and lead to charges of favoritism by other employees. A welcome sexual relationship may change, with the result that sexual conduct that was once welcome becomes unwelcome and harassing.

B. PROHIBITED CONDUCT AND BEHAVIOR

No one employed by the Town may condition continued employment in the Town or any employee benefit, including promotion or job assignment, on acquiescence to any of the behavior defined above.

No one employed by the Town may create a hostile or offensive work environment for or retaliate against any employee, applicant, or person providing services for the Town pursuant to a contract, that has opposed a practice prohibited by this Policy or has filed a complaint, testified, assisted or participated in any manner in an investigation, proceeding or hearing conducted by an authorized investigator.

No one employed by the Town shall assist any individual in doing any act which constitutes harassment against any employee, applicant or person providing services for the Town pursuant to a contract.

No Town employee shall tamper with or destroy evidence relevant to an investigation of alleged harassment.

No Town employee shall be appointed or promoted to a position in any department in which such employee's relative already holds a position when such employment would result in any of the following:

- a. A supervisor-subordinate relationship;
- b. The employees having job duties which require performance of shared duties on the same or related work assignment;
- c. Both employees having the same immediate supervisor.

A full description of the Town's Nepotism Policy is available in the Personnel Rules and Regulations.

C. OBLIGATIONS OF TOWN MANAGEMENT

A copy of this Policy shall be provided to all Town employees and be displayed in prominent locations throughout Town offices.

A copy of the information sheet on sexual harassment prepared by the Department of Fair Employment and Housing is available to all Town employees upon request.

The Human Resources Director will make available upon request information from the Department of Fair Employment and Housing and the Equal Employment Opportunity Commission about filing claims of sexual harassment with these entities.

A copy of this Policy shall appear in any publication which sets forth the comprehensive rules, regulations, procedures and standards of conduct for employees. This Policy shall be included in the Town's Administrative Policies. This Policy will also be provided to all new hires as part of the new employee orientation process.

Any supervisor or manager who receives a complaint of alleged discrimination must report the complaint to the Human Resources Director or, if the Human Resources Director is the alleged harasser, to the City Manager.

Town employees shall receive periodic training on this Policy.

D. OBLIGATIONS OF ALL EMPLOYEES

All employees shall report any conduct believed to fit the definition of harassment, and which they believe they are the victim of, to their immediate supervisor or to the Human Resources Director or his/her designee. This includes conduct of non-employees, such as sales representatives or service vendors or harassing conduct toward such contractors.

All employees shall report to their immediate supervisor or the Human Resources Director or his/her designee any instances of harassment which they have directly observed. This employee obligation exists whether or not the alleged harassment is reported by the employee who is the object of the harassment.

In the event that the Human Resources Director is considered the perpetrator of the alleged harassment, employees shall report such allegedly harassing conduct to the Town Manager or his/her designee.

All employees shall cooperate with any investigation of any alleged act of harassment conducted by the Town or its agents. Complainants will be encouraged to provide specific written allegations to facilitate the investigation.

E. COMPLAINT AND INVESTIGATION PROCEDURES

Any employee, job applicant, or person providing services to the City pursuant to a contract who believes he/she has been harassed shall immediately report any evidence of harassment, or complaints regarding harassment made to them, to one of the following:

- (1) Immediate supervisor
- (2) Any supervisor or manager within or outside the department
- (3) Human Resources Director or his/her designee

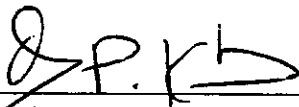
Under no circumstances shall a Town employee who believes that he or she has been the victim of harassment be required to first report that harassment to a supervisor or other authority figure if that person or authority figure is the perpetrator of the alleged harassment.

Any supervisor or manager who receives a complaint regarding harassment shall immediately report it to the Human Resources Director. Once the Human Resources Director has received the complaint, the following actions shall occur:

- (1) The Human Resources Director shall authorize the investigation or conduct the investigation of any incident of alleged harassment that is reported.
- (2) The investigation shall be conducted in a prompt and thorough manner and in a way which ensures, to the extent feasible, the privacy of the parties involved.
- (3) The person designated to investigate shall immediately report in writing the findings of fact to the Human Resources Director.
- (4) The Human Resources Director will review the information gathered in the investigation to determine whether the alleged conduct constitutes harassment. The Human Resources Director will give consideration to all factual information, including the nature of the conduct and the context in which the alleged incidents occurred. The Human Resources Director will determine whether the Policy has been violated and communicate his/her conclusion to the complainant, the alleged harasser, the alleged harasser's supervisor, and any management employees involved in the reporting process.
- (5) Disciplinary action shall be decided in accordance with Town policy and after consultation with the Human Resources Director. If disciplinary action is taken, the complainant may be notified that action has been taken but will not be informed of the level of discipline.
- (6) When necessary, the Human Resources Director and the complainant's supervisor will take reasonable steps to protect the complainant from further harassment and from any retaliation that results from communicating the complaint.

All individuals are required to maintain confidentiality to the extent possible in communicating or investigating any claims of alleged harassment. In addition, all individuals with knowledge of a claim of alleged harassment or who are in any way involved in the investigation into such a claim are required to maintain the same level of confidentiality. The Town will share information regarding an investigation of alleged harassment on a need-to-know basis only.

APPROVED AS TO FORM:



Town Attorney

**Acknowledgment of Receipt and Understanding
Town of Los Gatos
Administrative Policy: Anti-Harassment**

I hereby acknowledge that I have received, read and understand the
Town's Administrative Policy titled: Anti-Harassment.

Employee Name (Print)

Employee Signature

Date

