

CITY OF NIAGARA FALLS
POLICY AGAINST DISCRIMINATION AND HARASSMENT

Section 178.01 **INTRODUCTION**

The City of Niagara Falls recognizes the right of all persons to equal opportunities and recognizes that all employees have the right to work in an environment free from discrimination and harassment. In this regard, it is the City's responsibility and practice to protect and safeguard the rights and opportunities of any person who might seek or obtain employment with the City. Solely for the purposes of this policy, the term "employee" shall also include a volunteer.

Section 178.02 **POLICY STATEMENT**

The City shall not tolerate employment discrimination. The City's policy is to provide equal employment opportunity without regard to age, race, creed, color, national origin, sex, sexual orientation, gender identity or expression, religion, disability, predisposing genetic characteristics, marital status, military status, or domestic violence victim status. All employment decisions shall be non-discriminatory, including decisions regarding hiring, promotions, terminations, and other terms and conditions of employment. The City also prohibits the discriminatory harassment of its employees or officers in any form. The City will take all steps necessary to prevent and stop the occurrence of any illegal discrimination or harassment in the workplace. Specifically:

(a) No person employed by the City shall discriminate against any other person in employment, potential employment, or the terms and conditions of employment based on age, race, creed, color, national origin, sex, sexual orientation, gender identity or expression, religion, disability, predisposing genetic characteristics, marital status, military status, or domestic violence victim status.

(b) No person employed by the City shall be subjected to workplace harassment, as set forth in Section 178.03.

(c) No person employed by the City shall be subjected to retaliation on the ground that he or she complained about prohibited discrimination or harassment or testified, provided information, or otherwise assisted in any investigation of alleged prohibited conduct as set forth in Section 178.04.

(d) This policy applies to all City officers and employees and all individuals who serve as contractors to the City. This Policy may also apply to the conduct of individuals who are not officers, employees or contractors of the City over whom the City exercises sufficient control. This policy applies to any City facility and all work-related settings and locations where City employees are assigned to work.

(e) The City and this discrimination and harassment policy prohibit conduct that is illegal under State or federal law.

(f) Conduct which may not rise to the level of a violation of law may nonetheless violate this Policy.

Section 178.03 PROHIBITION AGAINST WORKPLACE HARASSMENT

In accordance with Section 178.02, workplace harassment shall be prohibited. Specifically:

(a) **DISCRIMINATORY HARASSMENT**

It shall be prohibited for an employee of the City to engage in harassment of another employee based on age, race, creed, color, national origin, sex, sexual orientation, gender identity or expression, religion, disability, predisposing genetic characteristics, marital status, military status, or domestic violence victim status.

(1) Prohibited conduct includes verbal, nonverbal or physical conduct that denigrates or shows hostility towards an individual or group because of their age, race, creed, color, national origin, sex, sexual orientation, gender identity or expression, religion, disability, predisposing genetic characteristics, marital status, military status, or domestic violence victim status when such conduct:

- a. has the purpose or effect of unreasonably interfering with the individual's terms, conditions, and/or privileges of employment; or
- b. has the purpose or effect of creating an intimidating, hostile, or offensive working environment; or
- c. otherwise adversely affects an individual's employment benefits, conditions, or opportunities.

(2) Specific forms of behavior that the City would consider discriminatory harassment include, but are not limited to, epithets, slurs, negative stereotyping, or threatening, intimidating or hostile speech or acts, or written or graphic material displayed or circulated in the workplace, that denigrates or shows hostility towards an individual or group because of their age, race, creed, color, national origin, sex, sexual orientation, gender identity or expression, religion, disability, predisposing genetic characteristics, marital status, military status, or domestic violence victim status.

(3) Conduct which may not rise to the level of a violation of law may nonetheless violate this policy.

(b) **SEXUAL HARASSMENT**

It shall be prohibited for an employee of the City to engage in sexual harassment of another employee of the City.

(1) Prohibited conduct includes sexual advances that are not welcome, requests for sexual favors, and other verbal, nonverbal or physical conduct of a sexual nature when:

a. Submission to such conduct is made, either explicitly or implicitly, a term or condition of an individual's work; or

b. Submission to, or rejection of, such conduct by an individual is used as the basis for workplace decisions such as promotion, transfer, or termination; or

c. 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.

(2) Sexual harassment refers to behavior of a sexual nature that an individual does not welcome; that is personally offensive; that fails to respect the rights of others; that lowers morale and that, therefore, has the purpose or effect of interfering with an individual's work performance and effectiveness; or that creates an intimidating, hostile, or offensive working environment. Specific forms of behavior that the City would consider sexual harassment include, but are not limited to, the following:

a. Sexual Advances: Demands, direct or indirect, for sexual favors as a condition of employment, for favorable employment decisions, or for any other reason.

b. Verbal Harassment: Hostile or abusive verbal language related to a person's sex, including sexual innuendos; epithets; slurs; suggestive, derogatory, or insulting comments or sounds; staring; whistling; jokes of a sexual nature, even when not directed toward a specific individual; conversations with obvious sexual overtones, even when not directed toward a specific individual; sexual propositions; and threats.

c. Non-Verbal Harassment: Abusive written language; showing, displaying or circulating, including by the use of email, pornographic or sexually explicit jokes, objects or pictures; graphic commentaries; leering; or obscene gestures in the workplace that unreasonably interfere with an individual's work performance or creates an intimidating, hostile, or offensive working environment.

d. Physical Harassment: Any physical contact which is not welcome, including touching, kissing, embracing, petting, pinching, coerced sexual intercourse, assault, or persistent brushing up against a person's body.

(3) A victim of sexual harassment does not have to be the opposite sex of the harasser. The harasser does not have to be the victim's immediate supervisor. The harasser could be

an agent of a supervisor, another supervisor, a co-worker, or even someone not on the payroll of the City who might have occasion to appear at a work site or enter a City building or facility. A victim of discriminatory or sexual harassment does not necessarily have to be the person harassed but could be anyone affected by the offensive conduct directed at another person or not directed at any specific person.

(4) Conduct which may not rise to the level of a violation of law may nonetheless violate this policy.

Section 178.04 PROHIBITION AGAINST RETALIATION

It shall be prohibited for an employee of the City to engage in retaliation against an individual on the ground that the individual complained about prohibited discrimination or harassment or testified, provided information, or otherwise assisted in any investigation of alleged prohibited conduct as defined by law or this Policy.

Retaliation occurs when an employee suffers an adverse employment action, such as a demotion, discharge, or significant change in work assignment, or when other action is taken that might discourage a reasonable worker from opposing a discriminatory practice or making or supporting a charge of discrimination. Intimidation, coercion, threats, reprisals, or discrimination against any person for complaining about discrimination or harassment, as described in this Policy, is also prohibited. Any such retaliatory conduct is illegal and will result in disciplinary action against the retaliator.