

CITY OF STEVENS POINT

PERSONNEL COMMITTEE AGENDA

Monday, November 14, 2016 – 6:00 p.m.

Lincoln Center – 1519 Water Street

[A quorum of the City Council may attend this meeting]

Discussion and action on:

1. Amendment to Administrative Policy 1.07 - Harassment
2. Adjournment

Any person who has special needs while attending this meeting or needs agenda materials for this meeting should contact the City Clerk as soon as possible to ensure a reasonable accommodation can be made. The City Clerk can be reached by telephone at (715) 346-1569, or by mail at 1515 Strongs Avenue, Stevens Point, WI 54481.

Copies of ordinances, resolutions, reports and minutes of the committee meetings are on file at the office of the City Clerk for inspection during normal business hours from 7:30 a.m. to 4:00 p.m.

**** CITY OF STEVENS POINT ****
ADMINISTRATIVE POLICY

Policy Title: Harassment

Policy No. 1.07

Date of Issuance: December 18, 1989

Revision Date: June 17, 2013

Policy Statement

This defines the harassment policy of the City of Stevens Point.

- I. Purpose: The purpose of this policy is to maintain a healthy work environment in which all individuals are treated with respect and dignity and to provide procedures for reporting, investigating and resolving complaints of harassment, discrimination and retaliation.

- II. Policy: It is the policy of the City of Stevens Point that all employees have the right to work in an environment free of all forms of harassment and retaliation. The City will not tolerate, condone, or allow harassment or retaliation by any employee or other non-employees who conducts business with the City. The City considers harassment, discrimination and retaliation of others to be forms of serious employee misconduct. Therefore, the City shall take direct and immediate action to prevent such behavior, and to remedy all reported instances of harassment, discrimination and retaliation. A violation of this City policy can lead to discipline up to and including termination, with repeated violations, even if “minor,” resulting in greater levels of discipline as appropriate.

- III. Prohibited Activity & Responsibility
 - a. Sexual Harassment

Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when:

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

 - b. Harassment

Harassment is any verbal, written, visual or physical act that creates a hostile,

intimidating or offensive work environment or interferes with an individual's job performance.

1. No employee shall either explicitly or implicitly ridicule, mock, deride or belittle any person, including non-employee members of the public.
2. Employees shall not make offensive or derogatory comments to any person, including non-employee members of the public, either directly or indirectly, based on age, gender identity and/or gender expression, ancestry, arrest & conviction record, color, creed, disability, genetic testing, marital status, military service, national origin, pregnancy or childbirth, race, religion, sex (including sexual harassment), sexual orientation, use or nonuse of lawful products of the employer's premises during non-working hours, and declining to attend a meeting or participate in any communication about religious or political matters. Such harassment is a prohibited form of discrimination under state and federal employment law and/or is also considered misconduct subject to disciplinary action by the City.

c. Retaliation

1. Retaliation against any employee or applicant for filing a harassment or discrimination complaint, for assisting, testifying or participating in the investigation of such a complaint, or for requesting a protected leave of absence or reasonable accommodation, is illegal and is prohibited by the City and by federal statutes.
2. Retaliation can occur from a variety of sources, including co-workers, supervisors or elected officials.
3. Generally, any materially adverse action taken against an employee or applicant because of protected conduct is prohibited. The scope of retaliation goes beyond workplace-related or employment-related actions and includes conduct that would dissuade a reasonable worker from making or supporting a charge of discrimination. The significance of any given act of retaliation may depend upon the particular circumstances, but must be considered "materially adverse", thus separating significant from trivial harms that normally will not deter discrimination victims from filing a complaint. Examples of conduct that may be considered materially adverse retaliation include:

Discharge

Demotion or not promoting

Reduction in pay

Reassignment of job duties

Giving a less distinguished job title

Filing false criminal charges against an employee

Significantly diminishing an employee's responsibilities

Unwarranted negative performance evaluations (impacting promotional opportunities and/or salary increases)

Increased scrutiny of employee's work

Refusing to restore lost leave time

Isolation or shunning an employee

4. Complaint Procedure: Any employee who believes that he or she is being retaliated against shall report the incident(s) as soon as possible to their supervisor so that steps may be taken to protect the employee. Where doing so is not practical, the employee may instead file a complaint with another supervisor, Human Resources, the City Attorney or Mayor.
 5. Retaliation is a form of employee misconduct. Any evidence of retaliation shall be considered a separate violation of this policy and is subject to discipline up to and including termination.
 6. Monitoring to ensure that retaliation does not occur is the responsibility of the Mayor, department head and supervisors.
- d. Covered Individuals
Individuals covered under this policy include employees and applicants for employment, volunteers, elected officials and appointed boards and commissions.
- e. Supervisory Responsibilities
1. Each supervisor shall be responsible for preventing prohibited activities as defined above by:
Monitoring the work environment on a daily basis for signs that harassment or retaliation may be occurring;
Training and counseling all employees on what constitutes harassment, sexual harassment and retaliation, on the types of behavior prohibited by the City's policy and procedures for reporting and resolving complaints of harassment or retaliation.
Stopping any observed conduct that may be considered harassment or retaliation, and taking appropriate steps to intervene, whether or not the involved employees are within his/her line of supervision; and
Taking immediate action to prevent retaliation towards the complaining party or witnesses and to eliminate the hostile work environment where there has been a complaint of harassment, pending an investigation. If a situation requires separation of the parties, care should be taken to avoid actions that appear to punish the complainant. Transfer or reassignment of any of the parties involved should be voluntary if possible and, if non-voluntary, should be temporary pending the outcome of the investigation.
- f. Employee Responsibilities
1. Each employee of this agency is responsible for assisting in the prevention of harassment and retaliation through the following acts:
Refraining from participation in, or encouragement of actions that could be perceived as harassment or retaliation.
Reporting acts of harassment or retaliation to a supervisor; and
Encouraging any employee who confides that he or she is being harassed, discriminated or retaliated against to report these acts to a supervisor.
 2. Failure of any employee to carry out the above responsibilities may be

considered in any performance evaluation or promotional decisions and may be grounds for discipline.

g. Complaint Procedures

1. Any employee encountering harassment or retaliation is encouraged but not required to inform the person that his or her actions are unwelcome and offensive. This initial contact can be either verbal or in writing. The employee is to document all incidents of harassment and retaliation in order to provide the fullest basis for investigation.

2. Any employee who has unsuccessfully attempted to terminate the harassment or retaliation by means of Section 1 and who believes that he or she is being harassed shall report the incident(s) as soon as possible to their supervisor so that steps may be taken to protect the employee from further harassment or retaliation, and so that appropriate investigative and disciplinary measures may be initiated. Where doing so is not practical, the employee may instead file a complaint with another supervisor, Human Resources, the City Attorney or Mayor.

The supervisor or other person to whom a complaint is given shall meet with the employee and document the incident(s) complained of, the person(s) performing or participating in the harassment or retaliation, any witnesses to the incident(s) and the date(s) on which it occurred.

3. An employee should utilize the City's internal reporting procedure first. However, if after utilizing this procedure the complainant does not feel the complaint has been adequately addressed, the employee may file a complaint with either or both of the following:

a. State of Wisconsin – Equal Rights Division
201 East Washington Avenue
Madison, WI 53703
Phone: 608-266-6860

b. Equal Employment Opportunity Commission
210 Martin Luther King Boulevard
Madison, WI 53703
Phone: 608-266-4910

4. The internal investigation authority (Mayor, department head, supervisor) shall be responsible for investigating any complaint alleging harassment, discrimination or retaliation.

a. The internal investigative authority shall immediately notify the Mayor and the City Attorney if the complaint contains evidence of criminal activity, such as battery, rape or attempted rape.

b. The investigation shall include a determination as to whether other employees are being harassed or retaliated against by the person, and whether other City employees participated in or encouraged the harassment or retaliation.

c. The internal investigative authority shall inform the parties involved of the outcome

- of the investigation.
- d. A file of harassment, discrimination and retaliation complaints shall be maintained in a secure location. The Mayor shall be provided with an annual summary of these complaints.
 5. There shall be no retaliation against any employee for filing a harassment or discrimination complaint, or for assisting, testifying or participating in the investigation of such a complaint.
 6. The complaining party's confidentiality will be maintained throughout the investigatory process to the extent practical and appropriate under the circumstances.
 7. Employees accused of harassment and/or retaliation may file a grievance/appeal in accordance with City procedures when they disagree with the investigation or disposition of a harassment or retaliation claim.

IV. DEFINITIONS

- a. Harassment on any basis (race, sex, age, disability etc.) exists whenever: Submission to harassing conduct is made, either explicitly or implicitly, a term or condition of an individual's employment; submission to or rejection of such conduct is used as the basis for an employment decision affecting an individual; the conduct interferes with an employee's work or creates an intimidating, hostile, or offensive work environment. Such conduct is prohibited under this policy and §111.31-111.39 Wis. Stats.
- b. Non-Verbal: Sexually suggestive or offensive objects or pictures, inappropriate usage of voicemail, e-mail, the internet or other such sources as a means to express or obtain sexual material, comments etc., printed or written materials including offensive cartoons, suggestive or offensive sounds, whistling, catcalls or obscene gestures. Any material which inappropriately raises the issues of sex or discrimination. Treating an employee differently than other employees when they have refused an offer of sexual relations.
- c. Other Forms of Harassment: Persistent and unwelcome conduct or actions on the basis of disability, sex, arrests or conviction record, marital status, sexual orientation, membership in the military reserve, or use or nonuse of lawful products away from work is prohibited under this policy and s.111.31-111.39, Wis. Stats.
- d. Physical: Unsolicited or unwelcome physical contact of a sexual nature, which may include touching, hugging, massages, kissing, pinching, patting, or regularly brushing against the body of another person.
- e. Retaliation (addressed under Title VII of the Civil Rights Act of 1964): It shall be an unlawful employment practice for an employer to discriminate against any of his employees or applicants for employment, for an employment agency, or joint labor management committee controlling apprenticeship or other training or retraining, including on the job training programs, to discriminate against any individual, or for a labor organization to discriminate against any member thereof or applicant for membership, because he/she has opposed any practice made an unlawful employment practice by this subchapter, or because he has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this subchapter.
- f. Unwelcome: Sexual conduct is unwelcome whenever the person subjected to it considers it unwelcome. The conduct may be unwelcome even though the victim voluntarily

engages in it to avoid adverse treatment.

- g. Verbal Harassment: Sexual innuendoes, degrading or suggestive comments, repeated pressure for dates, jokes of a sexual nature, unwelcome sexual flirtations, degrading words used to describe an individual, obscene and/or graphic descriptions of an individual's body or threats that job, wages, assignments, promotions or working conditions could be affected if the individual does not agree to a suggested sexual relationship.

Have you discussed this complaint with anyone else [If so, please indicate to whom and date discussed]?

Do you know of any documents that may be relevant to this matter [Please attach]?

How would you like this matter resolved? _____

The foregoing information is true and correct to the best of my knowledge.

Signature: _____

Date: _____

Intake Signature: _____

Date: _____

~~The most productive and satisfying work environment is one in which is accomplished in a spirit of mutual trust and respect. Harassment is a form of discrimination that is offensive, impairs morale, and 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 discrimination and harassing~~

~~conduct, including sexual harassment. Harassment on the basis of an employee's race, color, creed, ancestry, national origin, age (40 and over), disability, sex, arrest or conviction record, marital status, sexual orientation, membership in the military reserve or use of or nonuse of lawful products away from work is expressly prohibited under this policy. Harassment on any of these bases is also illegal under Section 111.31-111.39, Wisconsin Statutes.~~

~~This policy will be issued to all current employees and during probation of new employees.~~

~~Definitions~~

~~In general, harassment means persistent and unwelcome conduct or actions on any of the bases underlined above. Sexual harassment is one type of harassment and includes unwelcome sexual advances, unwelcome physical contact of a sexual nature or unwelcome verbal or physical conduct of a sexual nature.~~

~~Unwelcome verbal or physical conduct of a sexual nature includes, but is not limited to:~~

- ~~• The repeated making of unsolicited, inappropriate gestures or comments;~~
- ~~• The display of offensive sexually graphic materials not necessary for work.~~

~~Harassment on any basis (race, sex, age, disability, etc.) exists whenever:~~

- ~~• Submission to harassing conduct is made, either explicitly or implicitly, a term or condition of an individual's employment.~~
- ~~• Submission to or rejection of such conduct is used as the basis for an employment decision affecting an individual.~~
- ~~• The conduct interferes with an employee's work or creates an intimidating, hostile or offensive work environment.~~

~~Recognizing Harassment~~

~~Harassment may be subtle, manipulative and is not always evident. It does not refer to occasional compliments of a socially acceptable nature. It refers to behavior that is not welcome and is personally offensive. All forms of gender harassment are covered. Men can be sexually harassed; men can harass men;~~

~~Women can harass other women. Offenders can be managers, supervisors, co-workers, and non-employees such as clients or vendors.~~

~~Some examples:~~

Verbal:

Jokes, insults and innuendoes (based on race, sex, age, disability, etc.), degrading sexual remarks, referring to someone as a “stud”, “hunk” or “babe”; whistling, cat calls; comments on a person’s body or sex life, or pressures for sexual favors.

Non-Verbal:

Gestures, staring, touching, hugging, patting, blocking a person’s movement, standing too close, brushing against a person’s body, or display of sexually suggestive or degrading pictures, racist or other derogatory cartoons or drawings.

Grievance Procedure

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. If the employee believes that the supervisor is the harasser, the supervisor’s supervisor should be notified. If an employee is uncomfortable discussing harassment with his or her supervisor, the employee should contact the Human Resources Department. Information on your right to file a state or federal harassment complaint is also contained below.

Upon notification of a harassment complaint, a confidential and impartial investigation will be promptly commenced 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 of the complaint will be notified of the findings and their options.

Non-retaliation

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. Such retaliation is also illegal under Section 111.322(2m), Wisconsin Statutes.

Disciplinary Action

The City of Stevens Point views harassment and retaliation to be among the most serious breaches of work place behavior. Consequently, appropriate disciplinary or corrective action, ranging from a warning to termination can be expected.

For more information on filing complaints:

State of Wisconsin
Department of Workforce Development
Equal Rights Division
Civil Rights Bureau

~~201 East Washington Avenue
Room A300
P.O. Box 8928
Madison, WI 53708~~

~~Telephone Number: (608)266-6860
TTY Number: (608)264-8752~~