

SEXUAL HARASSMENT PREVENTION POLICY

Introduction

The Village of Croton-on-Hudson (“Village”) is committed to maintaining a work environment free from sexual harassment, which is one form of employment discrimination. This Policy is one component of the Village’s commitment to a discrimination-free work environment.

Policy:

1. This Policy applies to all employees, elected and/or appointed officials, and applicants for employment. It also applies to individuals who are not employees of the Village but are employees of contractors, subcontractors, vendors, consultants, volunteers and other persons who provide services in the Village’s workplace, such as interns and temporary employees.
2. Sexual harassment is not tolerated by the Village and is prohibited by this Policy. This Policy prohibits not only behavior that constitutes unlawful harassment, but also other inappropriate or unprofessional behavior that may reasonably be considered offensive or otherwise inappropriate. Employees and other individuals covered under this Policy will be subject to disciplinary or other corrective action for any violations of this Policy. Where applicable, such discipline shall be in accordance with any statutory rights and/or collective bargaining agreement protections to which the individual may be entitled.
3. No person covered by this Policy shall be subject to adverse employment action because they make a good faith report of an incident of sexual harassment, or provide information, or otherwise assist in any investigation of a sexual harassment complaint. Any person covered by this Policy, who retaliates against anyone involved in a sexual harassment investigation, is in violation of this Policy and subject to remedial or disciplinary action.
4. The Village will conduct a prompt, thorough, impartial, and appropriate investigation, consistent with this Policy, in response to any complaint about sexual harassment. The Village may also investigate other circumstances of inappropriate conduct occurring in its workplace or affecting the terms and conditions of employment for its employees or other individuals working in its workplace. The Village will take appropriate corrective action whenever sexual harassment or other inappropriate conduct is found to have occurred. All employees, including but not limited to department heads and supervisors, are required to cooperate with any internal investigation of sexual harassment conducted by the Village.

What Is “Sexual Harassment”?

Sexual harassment is a form of sex discrimination and is unlawful under federal, state, and local law. Sexual harassment includes harassment on the basis of sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity, and the status of being transgender.

Sexual harassment includes unwelcome conduct which is of a sexual nature or which is directed at an individual because of that individual's actual, self-identified or perceived sex, sexual orientation, gender expression, gender identity or transgender status when:

- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating a hostile work environment, even if the complaining individual is not the intended target of the sexual harassment;
- Such conduct is made either explicitly or implicitly a term or condition of employment;
- Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual's employment; or
- Such conduct has the purpose or effect of treating an individual unequally or less well than others with regard to a term or condition of employment.

A sexually harassing hostile work environment can consist of unwelcome advances, threats, derogatory comments, signs, jokes, pranks, intimidation, physical contact, violence, or other conduct which is of a sexual nature, or which is directed at an individual because of that individual's sex, where the conduct is more than what a reasonable person would consider a petty slight or trivial inconvenience and alters the terms of employment for the individual subject to the harassment. It makes no difference if the individual engaging in such conduct is "just joking" or "teasing" or "playful."

Sexual harassment can also occur when a person in authority tries to trade job benefits for sexual favors. This can include hiring, promotion, continued employment or any other terms, conditions or privileges of employment. This is also called "quid pro quo" harassment.

Examples of Sexual Harassment

The following is a non-exhaustive list of some of the types of acts that may constitute sexual harassment:

- Physical acts of a sexual nature, such as:
 - Touching, pinching, patting, kissing, hugging, grabbing, brushing against another person's body or poking another person's body;
 - Rape, sexual battery, molestation or attempts to commit these assaults.
- Unwanted sexual advances or propositions.
- Sexually-oriented gestures, noises, remarks, jokes, or comments about a person's sexuality or sexual experience, including those which occur outside of the physical workplace or in a remote work setting.
- Written conduct such as authoring threatening, derogatory or offensive letters, e-mails, text messages, or social media posts.
- Sexual or discriminatory displays or publications anywhere in the workplace, such as:
 - Displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials or other materials that are sexually demeaning or pornographic. This includes sexual displays on Village or personal computers, tablets, cell phones or any other devices in the workplace.

- Sex stereotyping, which occurs when conduct or personality traits are considered inappropriate simply because they may not conform to other people's ideas or perceptions about how individuals of a particular sex should act or look.
- Intentional misuse of an individual's preferred pronouns.
- Hostile actions taken against an individual because of that individual's sex, sexual orientation, gender identity, or the status of being transgender.

Who can be a target of sexual harassment?

Sexual harassment can occur between any individuals, regardless of their sex or gender. New York Law protects employees, paid or unpaid interns, and non-employees including contractors, subcontractors, vendors, consultants, independent contractors and those employed by companies contracting to provide services in the workplace. Harassers can be a superior, a subordinate, an elected and/or appointed official, a coworker or anyone else in the workplace, including an independent contractor, contract worker, vendor, or visitor.

Where can sexual harassment occur?

Unlawful sexual harassment is not limited to the physical workplace itself. It can occur while employees are working remotely or interacting through virtual means, traveling for business, at employer-sponsored events, or other occasions outside of work, *i.e.*, not in the workplace. Calls, texts, emails, and social media usage containing inappropriate messages, language, pictures, videos or graphics may also constitute or contribute to unlawful workplace harassment, even if they occur away from the workplace, on personal devices, or during non-work hours.

What is "Retaliation"?

Retaliation includes any conduct, whether or not in the workplace or employment-related, which might deter a reasonable person from making or supporting a charge of discrimination or harassment and is directed at someone who engages in protected activity. Protected activity includes opposing a discriminatory practice, making a good faith report of a suspected violation of this Policy, filing a harassment complaint, participating in an investigation or proceeding of such a report or complaint, or encouraging a fellow employee to make a report. Even if the alleged harassment does not turn out to rise to the level of a violation of law, the individual is protected from retaliation if the person had a good faith belief that the practices were unlawful. However, the retaliation provision is not intended to protect persons making intentionally false charges of harassment. Anyone who engages in retaliation prohibited by this Policy will be subject to remedial or disciplinary action in accordance with any statutory rights and/or collective bargaining protections to which the individual may be entitled.

Reporting Sexual Harassment

Preventing sexual harassment is everyone's responsibility.

The Village cannot prevent or remedy sexual harassment unless it knows about it. Any employee or other person covered by this Policy, who has been subjected to behavior that may

constitute sexual harassment is encouraged to report such behavior to a supervisor, department head or Village Clerk Paula DiSanto. Anyone who witnesses or becomes aware of potential instances of sexual harassment should report such behavior to a supervisor, department head or Village Clerk Paula DiSanto. If possible, the employee or witness should tell the alleged harasser that his/her actions are not welcome and must stop immediately.

If an employee makes a report to his/her supervisor or department head and believes the supervisor or department head is not taking appropriate action, the employee should report this inaction to the Village Clerk. If an employee believes that his/her supervisor or department head violated this Policy, then the employee should report the matter to a higher-level department head, or to Village Clerk Paula DiSanto.

Reports of sexual harassment may be made verbally or in writing. A form for submission of a written complaint is attached to hereto as Appendix "A" and all individuals are encouraged to use this complaint form, but using the form is not required. Regardless of whether being made verbally or in writing, a report of sexual harassment should be as detailed as possible and include the names of the individual(s) involved, any witness(es) to the harassment, direct quotes and/or evidence (*e.g.*, notes, e-mails, digital recordings, etc.) of the harassment. Individuals who report sexual harassment on behalf of another person should state clearly that the complaint is being made on another person's behalf.

Bystander Intervention

Any employee witnessing harassment as a bystander is encouraged to report it. A supervisor or department head that is a bystander to harassment is **required** to report it. Generally, there are five standard methods of bystander intervention that can be used when anyone witnesses harassment or discrimination and wants to help, including:

1. Interrupt the harassment by engaging with the individual being harassed and distracting them from the harassing behavior;
2. If a bystander feels unsafe interrupting on their own, they can ask a third party to intervene or assist in interrupting the harassing behavior;
3. Record or take notes of the potentially harassing behavior;
4. Check-in with the person who has been harassed after the incident to see how they are feeling and let them know the behavior/actions were unacceptable and that it should be reported; and/or
5. If a bystander feels safe, confront the harasser(s) and tell them their behavior is inappropriate. When confronting harassment, physically assaulting an individual is never an appropriate response.

Supervisory Responsibilities

Any supervisor or department head who receives a complaint or information about suspected sexual harassment, or observes conduct that may be sexually harassing behavior or otherwise learns of such conduct, **is required to take appropriate steps to address the conduct and to report such suspected sexual harassment to Village Clerk Paula DiSanto.**

In addition to being subject to discipline if they engaged in sexually harassing conduct or retaliation themselves, supervisors and department heads will be subject to discipline for failing to report suspected sexual harassment or otherwise knowingly allowing sexual harassment to continue.

Investigation of Sexual Harassment

All reports, complaints or other information about suspected sexual harassment will be investigated, whether that information was reported in verbal or written form. Investigations will be conducted in a timely and thorough manner commensurate with the nature of the complaint, and will be confidential to the extent possible.

In conducting an appropriate and impartial investigation, the Village's procedures will include these protections: the Village will provide appropriate notice of the allegations to anyone who is the subject of a harassment complaint and an opportunity to provide a response to the allegations. Complainants and witnesses will be provided with an appropriate opportunity to present relevant information including documents relevant to the investigation. The Village may adapt and modify the investigatory procedure, in its discretion, based on the nature of the complaint and the conduct at issue.

All employees and other individuals covered under this Policy may be required to cooperate, as needed, in an investigation of suspected sexual harassment. Employees and other individuals who participate in any investigation are protected from retaliation.

All persons involved in the reporting and investigation of harassment are obligated to keep the information pertaining to the investigation confidential to the maximum extent possible, to protect the privacy of those involved in the investigation and to allow the Village to conduct an objective and appropriate investigation.

If the Village determines that this Policy has been violated, it will take effective remedial action commensurate with the circumstances. Any employee who has been found by the Village to have harassed another employee in violation of this Policy will be subject to corrective action, up to and including termination where appropriate. Any appropriate disciplinary action will be taken in accordance with applicable law and/or the terms of any applicable collective bargaining agreement. If it is concluded that a non-employee has subjected an employee or other person protected by this Policy to conduct in violation of this Policy, prompt and effective action will be taken to stop the harassment and deter any future harassment.

The Village will notify the individual who was subject to the reported conduct and the person who filed the complaint of the conclusion of its investigation, and will follow up with that individual as appropriate under the circumstances.

Legal Protections and External Remedies

Sexual harassment is not only prohibited by the Village, but is also prohibited by state, federal, and local law. In addition to the procedures described in this Policy, individuals may choose to pursue legal remedies with the following governmental entities:

The New York State Division of Human Rights (DHR) enforces the Human Rights Law (HRL), codified as N.Y. Executive Law, art. 15, § 290 *et seq.*, which prohibits sexual harassment in employment in New York State, and protects employees, and other individuals working in an employer's workplace. A sexual harassment complaint alleging a violation of the Human Rights Law may be filed either with the DHR, or in New York State Supreme Court, subject to a three-year statute of limitations.

If unlawful discrimination is found after a hearing, the DHR or the court may award relief, which may include requiring the employer to take action to stop the harassment, to redress the damage caused, including reversing an unlawful employment action, and paying monetary damages, attorneys' fees, and civil fines. The DHR can be contacted by: calling 1 (888) 392-3644; visiting its website at www.dhr.ny.gov; or by calling the DHR's confidential and toll-free sexual harassment hotline at 1-800-HARASS-3 (1-800-427-2773), which is available Monday through Friday, 9:00 a.m. to 5:00 p.m.

The U.S. Equal Employment Opportunity Commission (EEOC) enforces federal anti-discrimination laws, including Title VII of the 1964 Civil Rights Act (codified as 42 U.S.C. § 2000e *et. seq.*). An employee must file a complaint with the EEOC within 300 days from the conduct giving rise to the complaint. The EEOC investigates complaints, and may pursue a claim in federal court on behalf of the complaining party, or issue a Right to Sue Letter that allows an individual to pursue their claims in federal court. Federal courts may award remedies if discrimination is found to have occurred. The EEOC can be contacted by calling 1-800-669-4000 (1-800-669-6820 (TTY)), or at their website: www.eeoc.gov or via email at info@eeoc.gov. If an individual files an administrative complaint with the DHR, the DHR may file the complaint with the EEOC to preserve the individual's right to proceed in federal court.

Local Protections

Many localities enforce laws protecting individuals from sexual harassment and discrimination. For example, the Westchester County Human Rights Law, which is enforced by the Westchester County Commission on Human Rights (<https://humanrights.westchestergov.com>), may provide protections to individuals who work within Westchester County and award relief if unlawful discrimination is found to have occurred.

If the harassment involves physical touching, coerced physical confinement or coerced sex acts, the conduct may constitute a crime, and it may be appropriate to report such conduct to the local police department.

Other Types of Harassment

The Village also prohibits discrimination or harassment on the basis of race, color, creed, ethnicity, disability, religion, national origin, military status, age, arrest record, veteran status, marital status, familial status, domestic violence victim status, criminal history, citizenship, predisposing genetic characteristics, genetic information, or any other category protected by federal, state or local law. For more information, see the Village's Unlawful Harassment Policy.

Questions

If you have any questions about this Policy, please contact Village Clerk Paula DiSanto.

UNLAWFUL HARASSMENT POLICY

It is the policy of the Village that all employees, administrators, officers, elected officials and applicants, as well as everyone with whom the Village does business (e.g., outside vendors, consultants, contractors), should be able to enjoy a work environment free from discrimination based on race, color, creed, age, disability, religion, national origin, citizenship, pregnancy, genetic predisposition or carrier status, marital or familial status, military or veteran status, status as a victim of domestic violence/sex offenses/stalking, or any other basis protected by Federal, State or local law, rule or regulation. Unlawful discrimination or harassment of any kind which violates the law will not be tolerated.

The Village is committed to providing a work environment free from all forms of unlawful harassment.

This Policy includes, but is not limited to, inappropriate forms of behavior as described below (Section I, Harassment). All individuals covered by this Policy shall refrain from prohibited conduct whenever acting on behalf of the Village. Making a knowingly false complaint of prohibited harassment, as opposed to complaint which, even if erroneous, is made in good faith, may be the subject of appropriate disciplinary action, up to and including termination, in accordance with applicable law and/or the terms of any applicable collective bargaining agreement.

I. Harassment

Harassment on the basis of any protected characteristic protected by law is strictly prohibited (e.g., harassment on the basis of race, color or national origin, religion, age, creed, disability, marital or partnership status, citizenship, pregnancy, veteran or military status, genetic predisposition or carrier status, status as a victim of domestic violence/sex offenses/stalking, or any other status or category protected by Federal, State, or local law). Prohibited harassment on the basis of other protected classes, includes behavior similar to sexual harassment. It does not matter if the harassment was intended to be “just joking” or “teasing” or “playful.” Harassment is defined as unwelcome visual, verbal or physical conduct that is directed at an individual because of one or more of that individual’s protected characteristics when:

- Such conduct has the purpose or effect of interfering unreasonably with the individual’s work performance or creating an intimidating, hostile, or offensive work environment that is, or would be offensive to a person of reasonable sensitivity and sensibilities; or
- Such conduct has the purpose or effect of treating an individual unequally or less well than others with regard to a term or condition of employment.

The Village is committed to providing a work environment free from all forms of prohibited harassment and intimidation. Harassing conduct includes, but is not limited to:

- Abusive and/or demeaning/offensive language related to a protected class, including innuendos, slurs, suggestive, derogatory or insulting comments or sounds, threats, and jokes based on the covered individual's protected status. The abusive language and/or actions need not be directed specifically at a covered individual, but such utterances and/or actions may be offensive to a covered individual present;
- Visual conduct such as derogatory posters, photographs, cartoons, drawings, gestures, or computer or television broadcasts, internet images, or phone images;
- Verbal conduct such as ethnic or religious jokes, or derogatory comments, slurs, innuendoes, epithets or threats (including those uttered over radio television/movies or internet broadcasts);
- Written conduct such as derogatory letters, notes, e-mails, text messages, invitations social media posts/messages/transmissions (*e.g.*, Facebook, Twitter, MySpace, Pinterest, LinkedIn, etc.) or instant messages;
- Physical conduct such as touching, blocking movements or assault; and/or
- Retaliation for reporting harassment or threatening to report harassment.

It is unlawful for members of the same protected group/class to harass each other, and for members of one protected group/class to harass members of another protected group/class. Harassment based on any protected characteristic set forth above is unlawful regardless of whether it involved: co-worker harassment; harassment by a supervisor, member of management or other Village administrator, officer or Elected Officer; or harassment by persons doing business with or for the Village (*e.g.*, contractors, subcontractors, vendors, consultants, or any other individuals providing services pursuant to a contract in the workplace).

II. Complaint Procedure

The Village's complaint procedure provides for immediate, thorough and objective investigation of any claim of harassment; appropriate disciplinary action against one found to have engaged in prohibited harassment; and appropriate remedies for any victim of harassment. A claim of harassment may exist even if the employee has not lost a job or economic benefit.

Every employee, supervisor, manager or Village official is responsible for maintaining a workplace free from prohibited harassment. Accordingly, any such person who believes the actions or words of a co-worker, supervisor, manager, administrator, officer, Elected Officer, or individual with whom the Village is doing business constitute unwelcome harassment must take the following actions:

- If possible, tell the harasser that his/her actions are not welcome and must stop.
- Promptly report the incident and/or the harassing action(s), word(s) or conduct to your Supervisor or Department Head. If you feel uncomfortable speaking to these

individuals, please speak to the Village Manager or the Mayor. This may be done either verbally or in writing. It is strongly encouraged that employees file a written complaint. (A copy of the written complaint form is included at the end of this handbook at Appendix “B” and can also be obtained from the Village Manager.) The complaint should be as detailed as possible and include the names of individuals involved, when and where the harassment occurred, the names of witnesses, direct quotes and/or evidence (*i.e.*, notes, e-mails, voicemails, text messages, pictures, recordings etc.).

When a complaint is filed, the Village will commence a timely and thorough investigation. All incidents of harassment will be expeditiously investigated and handled as discreetly as possible. Supervisors and managerial personnel must take timely and appropriate corrective action when instances of sexual harassment or other forms of prohibited harassment come to their attention. The Village is committed to investigating any case of alleged or suspected harassment, even if the victim makes no complaint or does not want the matter pursued. The accused shall be afforded an opportunity to present his/her version of events in the presence of a union representative or attorney where required by law. All individuals are hereby directed and required to cooperate with the Village in fulfilling its investigative function. All complaints of harassment and the investigation of complaint(s) are confidential to the maximum extent reasonably possible consistent with law and the Village’s obligation to conduct a thorough investigation.

If the investigation is conclusive, and unlawful harassment is found to have occurred, corrective action will be taken in a timely manner and appropriate measures will be taken to deter any future harassment. Appropriate disciplinary action, which may include termination, will be taken in accordance with applicable law and/or the terms of any applicable collective bargaining agreement. Once a determination has been made, it will be communicated to the employee who complained, the victim of the harassment (if the victim is not the individual who made the complaint) as well as to the accused harasser.

III. Retaliation

Retaliation of any kind against an employee who makes a good-faith report of harassment or who participates in an investigation into a harassment complaint is strictly prohibited. Retaliation, direct or indirect, against any employee for complaining in good faith of unlawful harassment or participating with an investigation into unlawful harassment will be grounds for discipline, up to and including termination in accordance with applicable law and/or the terms of any applicable collective bargaining agreement. Follow-up interview(s) with the complainant and/or the victim of the harassment (if the victim is not the individual who made the complaint) may be conducted, if appropriate, to ensure that the harassment has not resumed and that no retaliatory action has been taken.

IV. Sexual Harassment

This Policy only prohibits harassment on the basis of the non-sex based characteristics protected by law (*e.g.*, race, color, creed, age, disability, religion, national origin, citizenship, pregnancy, genetic predisposition or carrier status, marital or familial status, military or veteran

status, status as a victim of domestic violence/sex offenses/stalking). However, harassment on the basis of sex, gender and sexual orientation is strictly prohibited as provided for in the Sexual Harassment Prevention Policy, which is found on Page 10 of this Handbook. Complaints about potential sexual harassment should be made in accordance with the complaint procedure set forth in the Sexual Harassment Prevention Policy. Any complaints made to the Village about potential sexual harassment will be investigated in accordance with the Sexual Harassment Prevention Policy.

V. Questions

Should you have any questions about this Unlawful Harassment Policy, please contact the Village Manager or if the Village Manager is the alleged harasser, the Village Clerk.