

SECTION V: SEXUAL/GENDER HARASSMENT

1. GENERAL POLICY. It is the policy of Tremonton City that the work environment is free from behavior or conduct of a sexual/gender based nature which is demeaning, ridiculing, or derisive and results in a hostile, abusive, or unwelcome workplace.
2. MISCONDUCT – CAUSES FOR DISCIPLINARY ACTION.
 - A. Misconduct associated with sexual/gender harassment is prohibited, shall not be tolerated, and is cause for disciplinary action, up to and including termination. Misconduct associated with sexual/gender harassment may occur while an employee is on-duty or off-duty, and includes, but is not limited to the following:
 - (1) Any giving or withholding of tangible job benefits based on the granting of sexual favors (*Quid Pro Quo*).
 - (2) Any sex role stereotyping where a supervisor gives or denies a work assignment on the traditional historic perceptions regarding the types of jobs that specific gender may perform or comments or written material reinforcing traditional historic perceptions regarding gender.
 - (3) Any behavior or conduct of a sexual/gender based nature which is demeaning, ridiculing, or derisive and results in a hostile, abusive, or unwelcome work environment constitutes sexual harassment or creating an environment that demonstrates a demeaning, ridiculing, or derisive attitude toward a specific gender.
 - (4) Any intentional behavior predicated on gender or expressing sexuality which is directed at a specific group or individual. The offensive conduct may be verbal, visual, or physical including unwanted physical touching of a non-criminal nature.
 - (5) Any intentional unwanted touching of the breasts, buttocks, or genitals of another or forcible sexual abuse.
 - (6) Any employee who has knowledge of a sexual/gender harassment situation and fails to report the harassment to their supervisor. Employees, who fail to report, allowing the harassment to persist, become implicated in the sexual/gender harassment.
 - (7) Any deliberate, unwanted, or unwelcome behavior of a sexual/gender based nature, whether verbal, non-verbal, or physical.
 - (8) Any clearly false or bad faith claims made by an accuser regarding sexual or gender harassment.

- (9) Any sexual behavior or activity on City time or with City equipment including, but not limited to, cell phones, email, computers, etc. whether the behavior or activity is consensual or not.

3. CATEGORIES AND LEVELS OF SEXUAL/GENDER HARASSMENT.

A. Two major categories or types of sexual/gender harassment are:

- (1) Creating a hostile or unwelcome work environment.
- (2) Quid Pro Quo, or the granting or conditioning of tangible job benefits for the granting of sexual favors.

B. Four levels of sexual/gender harassment include:

- (1) Level One: Gender role stereotyping.
 - (a) Assignments made or denied solely on the traditional historic perceptions regarding the types of jobs that a specific gender may perform.
 - (b) Comments or written material reinforcing traditional historic perceptions regarding gender.
- (2) Level Two: Gender harassment/discrimination.
 - (a) Intentional or unintentional behavior/conduct of a visual or verbal nature directed at a specific gender which is demeaning, ridiculing, or derisive.
 - (b) Creating an environment that demonstrates a demeaning, ridiculing, or derisive attitude toward a specific gender.
- (3) Level Three: Specific group or individual harassment.
 - (a) Intentional behavior predicated on gender or expressing sexuality which is directed at a specific group or individual.
 - (b) Offensive conduct may be verbal, visual, or physical including unwanted physical touching of a non-criminal nature.
- (4) Level Four: Criminal touching or assault.
 - (a) The intentional unwanted touching of the breasts, buttocks, or genitals of another.

(b) Forcible sexual abuse or sexual assault.

4. PROCEEDINGS. Any employee who is being sexually/gender harassed or who has personal knowledge of sexual/gender harassment shall address the issue either through the informal or formal proceedings described below:

A. Informal Proceedings.

- (1) Employees who are experiencing or have knowledge of an unwelcome or hostile work environment at Level One, Level Two, or Level Three as described above may, if they so desire, choose to address the harassment informally by notifying the offending employee that the behavior is objectionable, that the conduct/behavior is unwelcome, and that future similar behavior shall result in a formal complaint. Employees experiencing or having knowledge of sexual/gender harassment at this level are not required to use the informal process and may file a formal complaint with their supervisor if they so desire.
- (2) This notification may be:
 - (a) Verbally, in person.
 - (b) In writing, signed.
 - (c) Through a supervisor, verbally or in writing the alleged victim or employee having knowledge of sexual/gender harassment may:
 - (1) Ask the supervisor for assistance in determining what to say and how to approach the offending employee.
 - (2) Request the supervisor to accompany the alleged victim or employee having knowledge of sexual/gender harassment when giving the offending employee notice.
 - (3) Ask the supervisor to give notice to the offending employee, accompanied by the alleged victim or employee having knowledge of sexual/gender harassment.
 - (4) Ask the supervisor alone to provide notice to the offending employee.
- (3) Any Level One, Level Two, or Level Three sexual/gender harassment as described above brought to a supervisor's attention through the informal proceedings shall be the subject of an investigation to determine whether any claims asserted in the formal complaint amount to misconduct. If

misconduct is determined, then the supervisor, in accordance with Section VII: Disciplinary Action, shall determine if the misconduct constitutes Class I or Class II disciplinary action and follow the disciplinary process contained in Section VII.

B. Formal Proceedings.

- (1) Employees who are experiencing or employees having knowledge of an unwelcome or hostile work environment which is clearly offensive or at Level Four as described above, or who have been subjected to *Quid Pro Quo* type sexual/gender harassment, shall address that unwelcome behavior/conduct through a formal complaint.
- (2) Each employee pursuing a formal complaint shall complete and submit a Sexual/Gender Harassment Complaint Form (Appendix Number 54) and other documents pertaining to the complaint. The Sexual/Gender Harassment Complaint Form shall contain, at a minimum, the following information:
 - (a) The identity of the alleged victim and, if applicable, the employee having knowledge of the sexual/gender harassment.
 - (b) The identity of the offending employee.
 - (c) The offensive behavior in which the offending employee engaged, and why the behavior constitutes sexual/gender harassment.
 - (d) The frequency of the offensive behavior engaged in by the offending employee.
 - (e) How the alleged victim or employee having knowledge of sexual/gender harassment would like the matter settled or what the alleged victim or employee having knowledge of sexual/gender harassment would like to see happen.
 - (f) Signature of the employee filing the complaint and date filed.
 - (g) The attachment and submission of any evidence that support the claim of sexual/gender harassment.
- (3) The alleged victim or employee having knowledge of sexual/gender harassment shall be allowed a reasonable amount of time during work to prepare a formal complaint.

C. Formal Proceeding Procedures and Process.

- (1) The alleged victim or employee having knowledge of sexual/gender harassment shall submit formal written complaints to his or her Department Head. If the Department Head is the employee engaging in the offensive behavior, the formal complaint shall be submitted to the City Manager or the Mayor. Department Heads shall contact the City Manager or Mayor upon receiving a formal written complaint.
- (2) City Officials who are aware of alleged criminal touching which includes the unwanted and intentional touching of the breasts, buttocks, or genitals or forcible sexual abuse or sexual assault shall contact law enforcement.
- (3) City Officials shall conduct a preliminary investigation into the submitted formal complaint, which may only include interviewing the alleged victim and/or employee having knowledge of sexual/gender harassment.
- (4) In cases when the preliminary investigation supports the claims of misconduct, City officials may prepare an Affidavit that documents the preliminary findings of misconduct as described and submitted by the alleged victim or employee having knowledge of sexual/gender harassment. The alleged victim or employee having knowledge of sexual/gender harassment shall sign an Affidavit attesting that the information contained in the Affidavit is true and correct to the best of his or her knowledge and be signed under penalty of perjury.
- (5) City Officials shall meet and interview the offending employee before finalizing the investigation. As part of meeting with the offending employee, the evidence that has been obtained during the preliminary investigation, including but not limited to, the submitted formal complaint, Affidavit, and other documentation, shall be presented to the offending employee for review and comment.
- (6) After concluding the investigation and if misconduct is determined, City Officials, in accordance with Section VII: Disciplinary Action, shall determine if the misconduct constitutes Class I or Class II disciplinary action and follow the disciplinary process contained in Section VII.
- (7) The alleged victim of alleged sexual/gender harassment or employee having knowledge of sexual/gender harassment shall not be required to confront the offending employee outside of a formal proceeding. The offending employee shall not contact the alleged victim or employee having knowledge of sexual/gender harassment regarding the alleged harassment outside of a formal proceeding.

5. DISCLOSURE AND CONFIDENTIALITY.

- A. Disclosure. In order to process and resolve any informal or formal sexual/gender harassment complaint, the disclosure of the identity of individuals that are claiming the harassment and the information provided by them shall be fully disclosed to the offending employee.
- B. Confidentiality.
 - (1) Those that are involved in processing the sexual/gender harassment complaint shall keep the verbal or written information disclosed private and confidential and shall only be released to others on a need to know basis to address, investigate, or resolve the harassment complaint.
 - (2) Files. Any paper documentation related to any sexual/gender harassment complaint, proceeding, or resolution shall be maintained in accordance with Section X: Record Keeping.

6. RETALIATION OR REPRISAL PROTECTION.

- A. Retaliation or reprisals are prohibited against any employee who opposed a practice forbidden under this policy, or who has filed a complaint, charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing.
 - (1) Retaliatory and reprisal activities shall be considered misconduct. Any employee engaging in prohibited retaliatory activities shall be subject to disciplinary action, up to and including termination. Retaliation may consist of, but is not limited to, any of the following:
 - (a) Open hostility.
 - (b) Exclusion or ostracism.
 - (c) Special or more closely monitored attention to work performance.
 - (d) Assignment to demeaning duties not otherwise performed during the regular course of the employee's duties.
 - (2) Retaliation and reprisal is misconduct and an additional and separate disciplinary offense.