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20 U.S.C. § 1703
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38 U.S.C. § 4211
42 U.S.C. § 2000
42 U.S.C. § 12101

SEXUAL [GENDER] HARASSMENT REPORTING

I. INTRODUCTION

The City of Boise prohibits and does not tolerate sexual harassment both on and off the worksite or location and during or outside of work hours. This includes harassment based on a person's gender or sexual orientation. Sexual harassment violates an individual's fundamental rights and personal dignity.

The city considers sexual harassment in all its forms to be a serious offense. All workers at every level, will be subject to discipline, up to and including termination of employment for any violation of this regulation.

This regulation applies to all City of Boise employees and volunteers.

II. SEXUAL HARASSMENT DEFINED

Sexual harassment is unwelcome conduct of a sexual nature that is persistent or offensive and interferes with an employee's job performance or creates an intimidating, hostile or offensive work environment. Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when, for example:

- A. submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment,
- B. submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, 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.

Sexual harassment can be physical and psychological in nature. An aggregation of incidents can constitute sexual harassment even if one of the incidents considered on its own would not be harassing.

III. PROHIBITED CONDUCT

Though sexual harassment encompasses a wide range of conduct, some examples of specifically prohibited conduct include the following:

- A. Physical assaults of a sexual nature, such as rape, sexual battery, molestation or attempts to commit these assaults, and intentional physical conduct that is sexual in nature, such as touching, pinching, patting, grabbing, brushing against another employee's body or poking another employee's body.
- B. Unwelcome sexual advances, propositions or other sexual comments, such as sexually oriented gestures, noises, remarks, jokes, or comments about a person's sexuality or sexual experience.
- C. Preferential treatment or promises of preferential treatment to an employee for submitting to sexual conduct, including soliciting or attempting to solicit any employee to engage in sexual activity for compensation or reward.
- D. Subjecting, or threats of subjecting, an employee to unwelcome sexual attention or conduct or intentionally making performance of the employee's job more difficult because of that employee's sex.
- E. Sexual or discriminatory displays or publications anywhere in [Company Name]'s workplace by the [Company Name] employees.
- F. Retaliation for sexual harassment complaints.

Employees are prohibited from harassing other employees, customers, and vendors whether the incidents of harassment occur on city premises and whether or not the incidents occur during working hours.

Sexual harassment can involve males or females being harassed by members of either sex. Although sexual harassment may involve a person in a greater position of authority as the harasser, individuals in positions of lesser or equal authority also can be held accountable for engaging in prohibited harassment. In a few cases, third parties, such as customers or suppliers, may be involved in or recipients of sexual harassment.

IV. STOPPING SEXUAL HARASSMENT

Employees can often stop or prevent sexual harassment by immediately and directly expressing their disapproval to the individual about their sexually oriented attention or conduct.

In many cases, a supervisor's warning to an alleged harasser, combined with appropriate follow-up supervision and monitoring of the employee's behavior is sufficient to prevent or stop sexual harassment.

V. EMPLOYEE, DEPARTMENT, AND HR RESPONSIBILITIES

Employees

If an employee believes they have been subject to sexual harassment, they may immediately inform the harasser the conduct is unwelcome and needs to stop. If the unwelcome sexual attention, does not cease, or if the employee is unable to or uncomfortable with addressing the alleged harasser directly, they shall immediately report the issue to their supervisor, manager, or Human Resources and abide by the reporting process outlined in the city's Equal Employment Opportunity Regulation 1.03a. Note: Management must be made aware of the situation so it can conduct a timely and impartial investigation and take appropriate action to remediate or prevent the prohibited conduct from continuing.

Department Supervisors/Managers

All employees are required to immediately notify their supervisor, manager, or Human Resources regarding any known or alleged incidents of sexual harassment or inappropriate sexual conduct.

Supervisors, managers, and Human Resources shall deal expeditiously and fairly with allegations of sexual harassment within their departments whether a written or formal complaint is submitted. Supervisors shall:

1. Take all complaints or concerns of alleged or possible harassment seriously no matter how minor or who is involved.
2. Report all incidents to HR immediately so a timely investigation can occur.
3. Take any appropriate action to prevent retaliation or prohibited conduct from recurring during and after any investigations or complaints.

Supervisors and managers who knowingly allow or tolerate sexual harassment, including failure to report such misconduct to HR will be in violation of this regulation and subject to discipline, up to and including termination of employment.

Human Resources

Human Resources is responsible for the following:

1. Ensuring that both the individual filing the complaint (complainant) and the accused individual (respondent) are aware of the seriousness of a sexual harassment complaint.
2. Explaining or providing a copy of the city's sexual harassment regulation and investigation procedures to both parties.
3. Exploring informal means of resolving sexual harassment complaints.
4. Notifying the police if criminal activities are alleged.
5. Arranging for an investigation of the alleged harassment.
6. Ensuring a written report summarizing the results of the investigation is completed and making recommendations to the department leadership.

7. Notifying the complainant and the respondent of the investigation conclusion and findings.

The HR director in consultation with Legal, will determine if an in-house investigation will be conducted or if a third party will be contracted to complete the investigation. All complaints involving senior management at the vice-president level or above will be handled by an external third party.