



Minnesota Association of Townships

Not Just for Big Townships: Harassment in the Workplace

1 Not Just for Big Townships

Harassment in the Workplace and Providing Government Services
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Spring Short Courses 2020

2 Importance of the issue

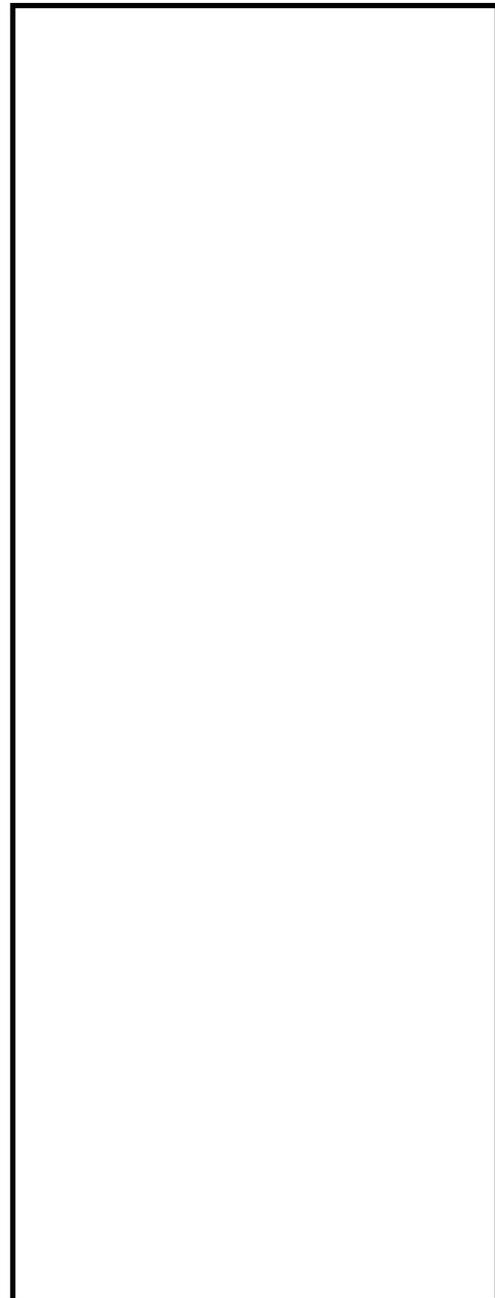
- ▶ More recognized, less tolerated
- ▶ Impractical to teach separately to all townships.
- ▶ But we don't have employees - - - It doesn't matter!
Harassment in provision of government services means all townships must know these issues.
- ▶ You probably have a personal reason to create better workplaces.

3 There are a few laws ...

- ▶ Art. I, Sec 7 of the Minnesota Constitution
- ▶ Minnesota Human Rights Act – MSA Ch 363A

Federal Laws

- ▶ Due Process provisions of the 5th and 14th Amendments
- ▶ Civil Rights Act of 1964
- ▶ Age Discrimination Act of 1967 (ADEA)
- ▶ Americans with Disabilities Act (ADA) & 2008 Amendments
- ▶ Equal Pay Act of 1963
- ▶ Civil Rights Act of 1991
- ▶ Pregnancy Discrimination Act of 1978



4 No Discrimination or Harassment based on:

- ▶ Race
- ▶ National Origin
- ▶ Age
- ▶ Gender
- ▶ Sexual Orientation
- ▶ Religion
- ▶ Marital Status
- ▶ Pregnancy

5 Harassment Defined

- ▶ Unwelcome conduct or environment that is severe and pervasive such that it interferes with the job based on a protected characteristic.

6 Unwelcome Conduct

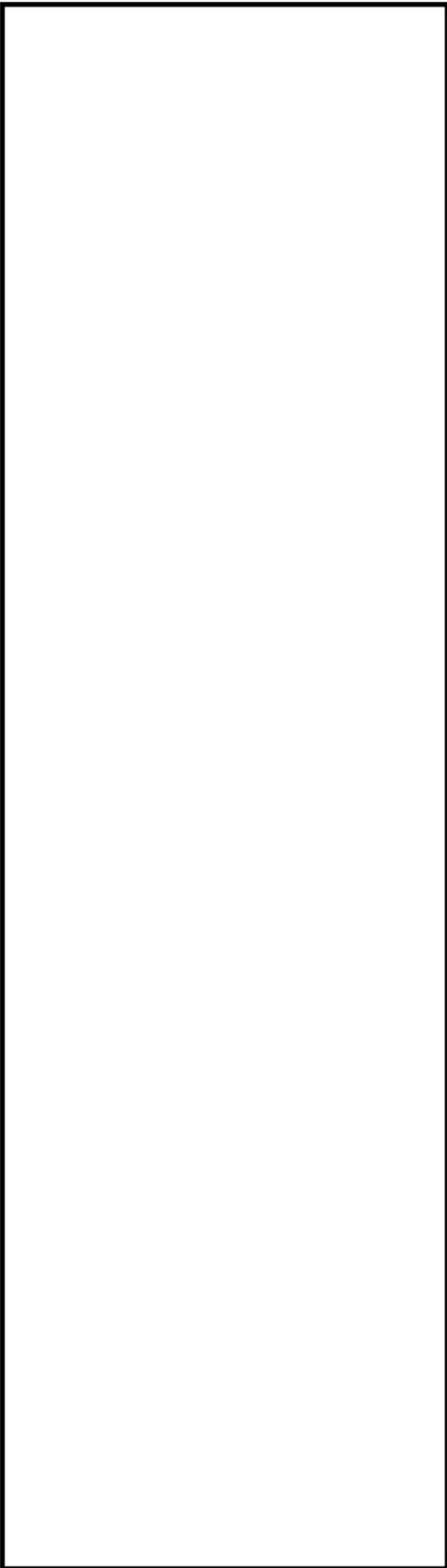
- ▶ Unwanted conduct that interferes with a person's job, creates an unpleasant environment, or affects the person's dignity.
 - ▶ Protected Categories
- ▶ No Bullying
- ▶ No Gossip
- ▶ No Unkindness or Disrespect
- ▶ No Exclusion or Isolation

7 Severe & Pervasive

- ▶ Based on frequency and nature
- ▶ Totality of circumstances
- ▶ Interfere with work performance?
- ▶ Intimidating, hostile, or offensive work environment?
- ▶ One sexual proposition or slur is not severe or pervasive
 - ▶ Exceptions for rape, sexual assault, etc



8 Example of Severe & Pervasive



9 Reasonable Person Standard

- ▶ To be actionable conduct, the conduct must be:
 - ▶ Subjectively harassing: Victim must view the conduct as unwelcome harassment that creates a hostile environment
 - ▶ Objectively harassing: A 'reasonable person' in the victim's position must view the conduct as severe or pervasive enough to create an objectively hostile or abusive work environment.

10 Societal Change

11 #MeToo Movement

- ▶ Raising Awareness
- ▶ Paying Attention
- ▶ Questioning & Challenging: Was this conduct ever okay?
- ▶ Accountability
- ▶ Respect is a Job Requirement

12 Sexual Harassment

- ▶ Inappropriate Images & Video
- ▶ Suggestive letters, notes, emails, jokes
- ▶ Making inappropriate sexual gestures
- ▶ Inappropriate touching

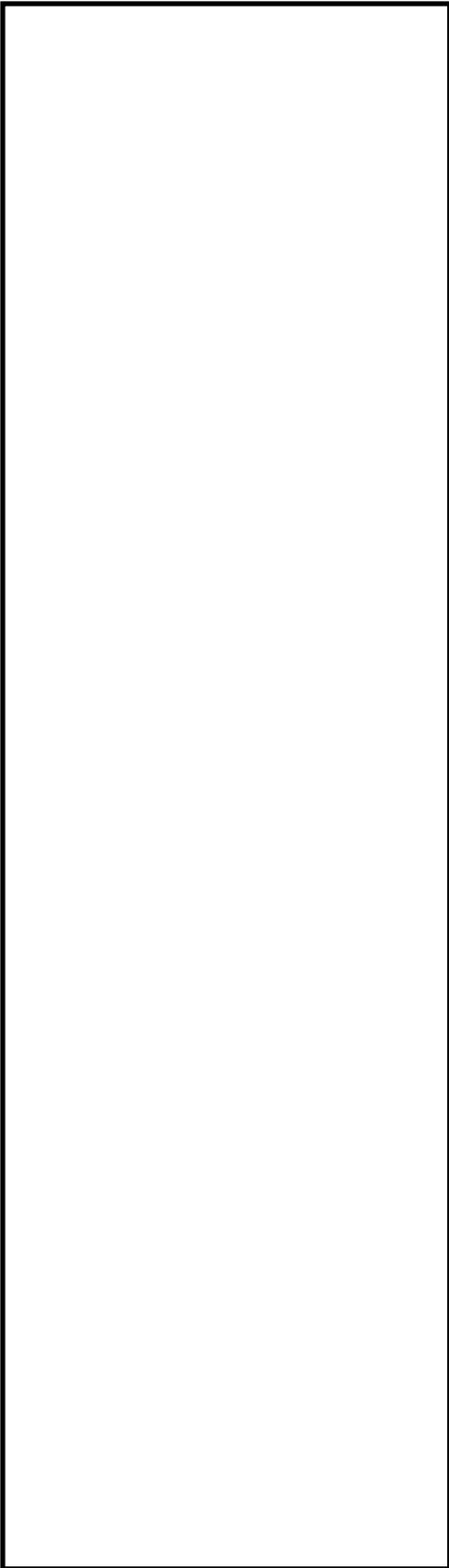
13 Non-Sexual Harassment

- ▶ Racist names, phrases, nicknames, jokes
- ▶ Negative Comments about religious beliefs
- ▶ Sharing inappropriate images, videos, emails, letters, etc.
- ▶ Offensive clothing
- ▶ Sabotaging Someone's Work
- ▶ Offensive Messages
- ▶ Gossip

14 Bullying

15 Bullying

- ▶ Staring
- ▶ Micro-aggressions
- ▶ Criticism - Arbitrary / Unfair / Frequent
- ▶ Intimidation
- ▶ Micromanaging
- ▶ Humiliation



16 Bothering

- ▶ Unfriendliness / Ignoring
- ▶ Irritation
- ▶ Pouting
- ▶ Assertiveness
- ▶ Claiming Credit
- ▶ Over-taking
- ▶ Interrupting
- ▶ Disrupting

17 Good Morning America Video

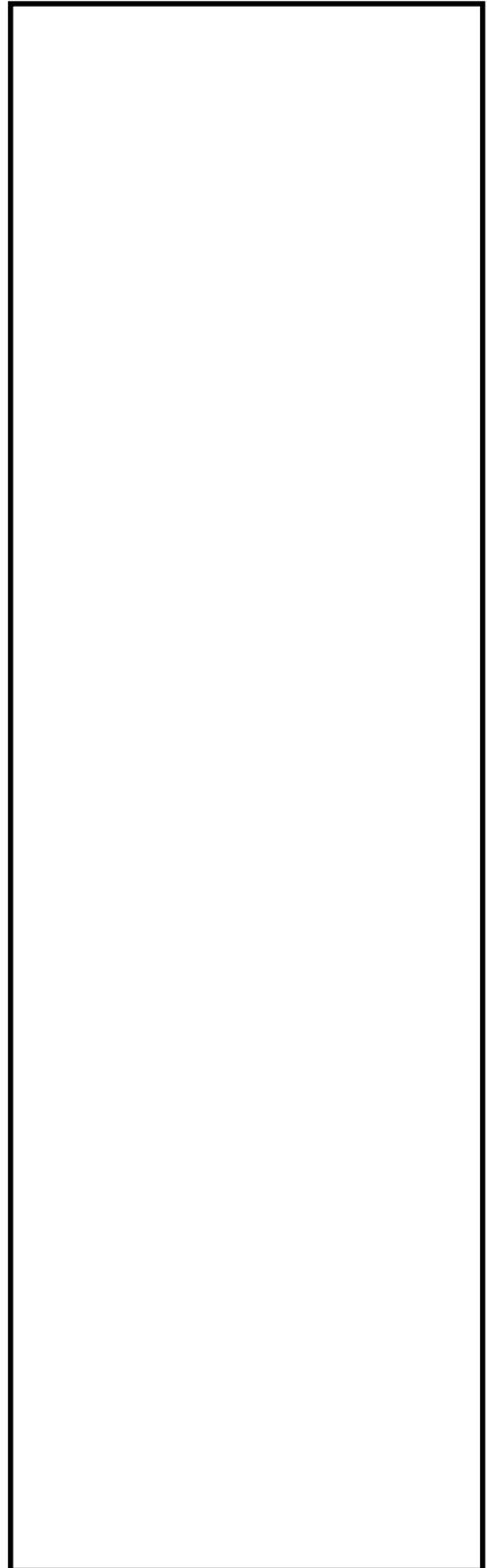
18 Warning Signs of Harassment

- ▶ Complaint is made
- ▶ Telling a joke or comment that is not appreciated / no response
- ▶ Asked not to make the comment again
- ▶ Negative Facial expression / sighing
- ▶ Head down
- ▶ Walks away
- ▶ No laughter
- ▶ Unequal participation in the exchange
- ▶ Unequal power
- ▶ Would you want the conduct in the public?

19 Symptoms of Harassment

Physical

- ▶ Feeling Sick
- ▶ Sweating, Shaking
- ▶ Disturbed Sleep
- ▶ Palpitations
- ▶ Loss of Energy
- ▶ Stomach problems
- ▶ Headaches
- ▶ Loss of sexual desire
- ▶ Minor aches & pains



20 **Not Harassment**

- ▶ Teasing not based on a protected class
- ▶ Off-hand Comments
- ▶ Minor Isolated incidents
- ▶ Consensual relationships or interactions

21 **Board's Duties**

- ▶ Make the workplace free of unlawful discrimination, harassment, and retaliation
 - ▶ Inform all employees, elected officials of policies
- ▶ Promptly investigate complaints
- ▶ When discrimination, harassment, or retaliation is found, take prompt and proper action to prevent the conduct from reoccurring.

22 **Policy**

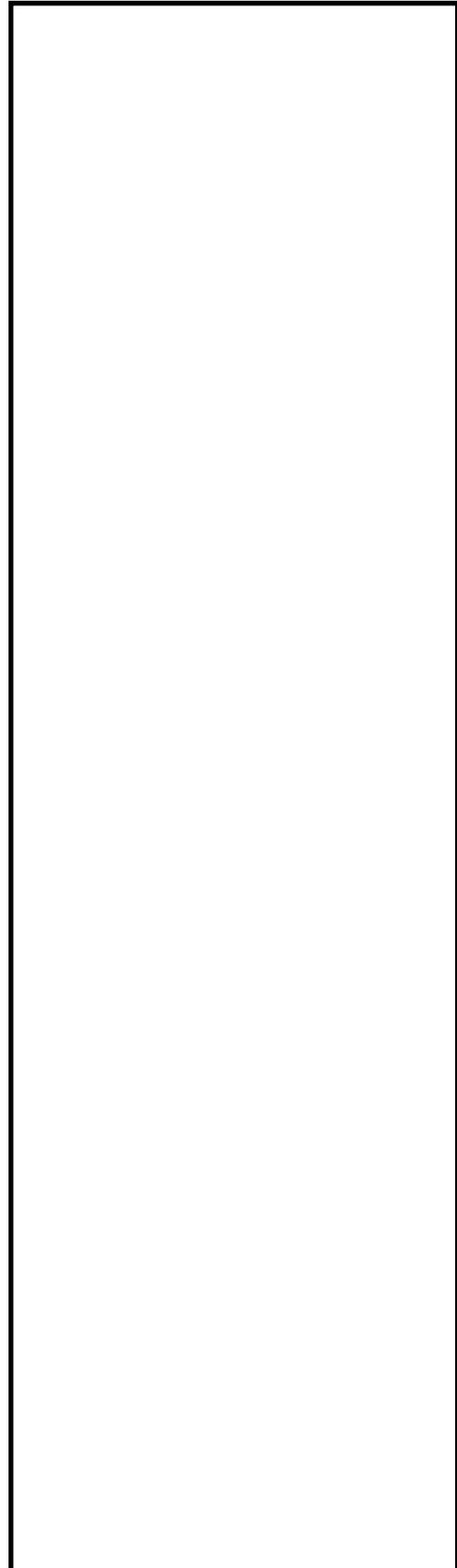
- ▶ Get a Written Anti-Harassment policy
 - ▶ Plain language; translated as needed
 - ▶ Define illegal harassment
 - ▶ Have complaint process; no artificial hurdles to use
 - ▶ Inform all relevant parties of the policy
 - ▶ Train Supervisors on their duties under the policy
 - ▶ Use the policy as written
 - ▶ Use procedure
 - ▶ Confront alleged harassers
 - ▶ Impose Discipline as appropriate
 - ▶ Treat All Complaints as Serious & Investigate
 - ▶ Once adopted, employee has a duty to use the process in the policy
- Having a Policy is a first step to relieve Liability

23 **You Got a Complaint, What Now?**

- ▶ Treat All Complaints as Serious & Investigate
- ▶ Take immediate corrective and preventative measures
 - ▶ Separate the victim from the accused person(s) – No retaliatory effect
- ▶ Open file for all information on the matter
- ▶ Assign investigator – Attorney is the best option here
- ▶ Decide if action was harassment
 - ▶ If so, Harasser must be appropriately disciplined
- ▶ Victim Must be made Whole
- ▶ Monitor for Retaliation – official, unofficial

24 **Common Corrective Actions**

- ▶ Oral or written warning or reprimand
- ▶ Transfer or reassignment
- ▶ Demotion
- ▶ Suspension or discharge



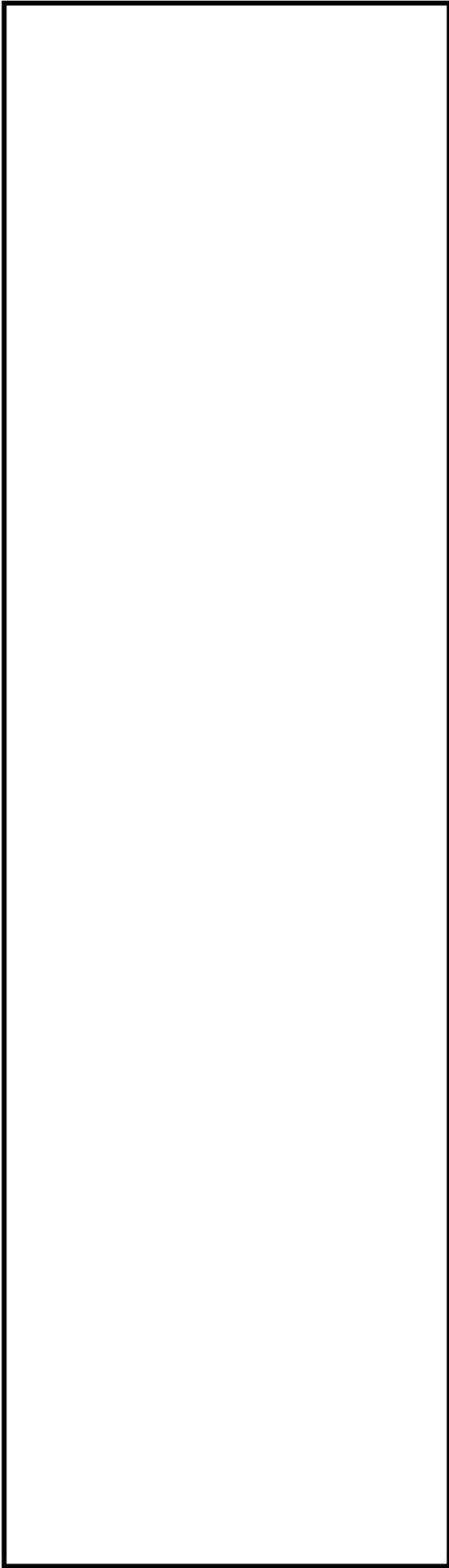
- ▶ Training or counseling harasser
- ▶ Monitor the harasser
- ▶ Expunge negative evaluations
- ▶ Apology from the harasser
- ▶ Restoration of leave
- ▶ Reinstatement
- ▶ Compensation for loss – yes, may mean money

25 **Don't Do These Things**

- ▶ Question intent of the victim
 - ▶ Are you just looking for money
- ▶ Blame the victim
 - ▶ You need to learn to handle that kind of thing – what's your problem
 - ▶ No one else complained
 - ▶ Your too sensitive
- ▶ Suggest it was asked for
 - ▶ You're too sexy / dress too provocative
- ▶ Suggest any negative consequence for the accused
 - ▶ This will hurt the accuser's career
- ▶ Say Boys will be boys / girls will be girls
- ▶ Say That's just what he / she does with everyone ...
- ▶ Tell the victim to Get over it
- ▶

26 **Simple Rules to Manage by**

- ▶ Create a G-Rated Workplace
- ▶ Good Management is not harassment – some people are not good managers
- ▶ Think before speaking
- ▶ Rethink your Expectations
 - ▶ Diversity will be present
 - ▶ Others will not share your opinions & values
 - ▶ You're not always right
 - ▶ Friendliness does not mean sexual interest
- ▶ Platinum Rule: Treat others the way they want to be treated.



Resolution # _____

_____ Township
of _____ County, Minnesota

Resolution Adopting Discrimination and Harassment Policy

Whereas, Title VII of the Civil Rights Act of 1964, the Minnesota Human Rights Act, and other related employment laws prohibit unlawful discrimination and harassment in employment and provision of government services;

Whereas, the Township is committed to promoting a workplace free of unlawful discrimination and harassment;

Whereas, the Township supports those subjected to illegal discrimination and harassment in reporting such conduct;

Whereas, the discrimination and harassment interfere with the efficient and productive administration of the Township's activities, increase the cost of the Township's activities, and undermine trust in local government;

Whereas, the Township believes the use of a policy describing prohibited discrimination and harassment will help prevent illegal discrimination and harassment, support those subject to illegal conduct in reporting such conduct, and ensure the problem is addressed properly,

Now. Therefore, Be It Resolved, that the Town Board of _____ Township, _____ County, Minnesota, adopts the attached Discrimination and Harassment Policy.

Adopted this _____ day of _____, 20____.

By the _____ Town Board

Attested to by

Town Chair

Town Clerk

Township of _____

Discrimination and Harassment Prevention Policy

The Township of _____ is committed to creating and maintaining a workplace and Township public services free of harassment and discrimination. Such harassment violates Title VII of the Civil Rights Act of 1964, the Minnesota Human Rights Act, and other related employment laws. The Township expects all officers, employees, and volunteers to work towards this goal and does not tolerate harassment of any kind.

This policy statement is intended to: (1) make all officers, employees, and volunteers aware of harassment in the workplace; (2) express the Township's strong disapproval of unlawful harassment; (3) prevent harassment of any kind; (4) to advise against this behavior; (5) protect those who may be subjected to unlawful harassment; and (6) to inform them of their rights and obligations.

I. Applicability

Maintaining a work environment free from harassment is a shared responsibility. This policy is applicable to all Township officers, employees, and volunteers in the workplace and in the provision of the Township's services and activities.

II. Penalties

A violation of this policy may be grounds for immediate discipline, up to and including discharge, or other appropriate action. Sanctions, if any, will be determined on a case-by-case basis, after a review of relevant information.

III. Anti-Discrimination and Harassment Policy

No person shall be discriminated against or harassed in the terms and conditions of employment, or access to and participation in services of the Township based on any protected class status. Protected classes include race, sex, color, creed, religion, age, national origin, disability, marital status, status with regard to public assistance, sexual orientation, gender identity, gender expression, familial status, or membership or activity in a local commission. Discrimination or harassment means verbal or physical conduct that is directed at a person because of his or her protected class, and that is sufficiently severe and pervasive to create a hostile work environment.

IV. Sexual Harassment Policy

No officer, employee, or volunteer of the Township, male or female, may engage in the following conduct towards another employee:

1. Making unwelcome sexual advances or requests for sexual favors or other verbal or physical conduct of a sexual nature a condition of an employee's obtaining employment or continuing employment;
2. Making submission to or rejection of such conduct the basis for employment decisions affecting an employee;
3. Creating an intimidating, hostile or offensive working environment or otherwise substantially interfering with an individual's employment by such conduct; or

4. Retaliating against an employee for complaining about such conduct.

A. Examples

To provide employees with a better understanding of what constitutes sexual harassment, the definition, based on Minnesota Statute § 363.01, subdivision 41, is provided: sexual harassment includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact, or other verbal or physical conduct or communication of a sexual nature, when:

- Submitting to the conduct is made either explicitly or implicitly a term or condition of an individual's employment; or
- Submitting to or rejecting the conduct is used as the basis for an employment decision affecting an individual's employment; or
- Such conduct has the purpose or result of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment.

Some examples of conduct that is prohibited by this policy are listed below. These are not the only examples. If you have a question about whether conduct is permissible under this Policy, you should discuss it with your manager or the Board of Supervisors.

1. Engaging in unwelcome sexual flirtations, propositions, and invitations to social events;
2. Engaging in offensive physical contact or physical closeness;
3. Using offensive words of a sexual nature describing body parts or the sexual act, telling "suggestive" jokes or stories, and conversations about sexual exploits, sexual preferences, and desires;
4. Displaying in the workplace sexually suggestive objects, pictures, cartoons, pornographic magazines, or representations of any action or subject which is sexual in nature and which can be perceived as offensive;
5. Sabotaging an employee's character, reputation, work efforts, or property because of sex;
6. Making direct and indirect suggestions that an employee's job security, job assignment, conditions of employment, or opportunities for advancement depend in any way on the granting of sexual favors or relations.

The Township recognizes that consensual relationships sometimes exist between employees which are, or have the potential of becoming, sexual in nature. The Township strongly discourages such relationships, particularly those between a supervisor and subordinate and those in which differences in age, background, or other characteristics of the two individuals compromise the ability of either one to make an informed decision about participating in the relationship.

V. Complaints Relating to Discrimination or Harassment

An employee who believes he or she has been subject to discrimination or harassment, or an employee who believes another employee has been subjected to discrimination or harassment, shall immediately report their concerns to his or her manager, or a member of the Board of Supervisors. In addition, the employee may make his or her concerns known by telling the person engaging in sexually harassing conduct or communications that the conduct or communication is offensive, against this policy and the law, and must stop.

The use of this reporting process is not a dispute resolution process as used in Minn. Stat. § 363A.28, and does not suspend the statute of limitations period under any law for bringing a civil action or making a claim any administrative agency.

VI. Retaliation

No retaliation will occur because an employee has in good faith reported an incident of suspected discrimination or harassment, nor against any employee who participated in an investigation, or exercises his or her rights for reasonable accommodation. Retaliation includes any form of discrimination of harassment, discipline, intimidation or bullying, reprisal, denial of promotion, denial or removal of job benefits, removal of supervisory duties, transfer or reassignment of duties, negative performance reviews, and other detrimental treatment.

The Township, however, recognizes that false accusations of harassment can have a serious impact and asks that such reports not be made lightly or in circumstances which do not demonstrate good faith.

VII. Determination of Whether Discrimination, Harassment, or Retaliation Occurred

All complaints of discrimination, harassment, and retaliation will be examined impartially, and after an investigation of the allegations, the Township will determine the final disposition. The investigation may include interviews with the employee making the charges, the accused employee, and appropriate witnesses. All determinations are made on an individual basis.