

**PERSONNEL POLICIES AND GUIDELINES  
CITY OF CLAY CENTER, KANSAS**

**ARTICLE J. SEXUAL HARASSMENT**

**J-1. Purpose.** It is the policy of the City to maintain a work environment free of intimidation, insult, and harassment based upon race, religion, sex, age, national origin or ancestry, or disability. To insure that this policy is strictly adhered to, the City will not tolerate sexual harassment of any of its Employees, and will take immediate disciplinary action if such behavior occurs.

**J-2. Definition.** Sexual harassment is defined as:

- (a) The threat or insinuation, by one Employee or group of Employees, either explicitly or implicitly, that the refusal to submit to sexual advances will adversely affect employment, evaluation, wages, advancement, assigned duties, shifts or any other condition or employment or career development; and
- (b) The subjecting of an Employee, by another Employee, to unsolicited and unwelcome sexual overtures or conduct, either verbal or physical, so as to interfere with one's ability to do their job, thus creating an intimidating, hostile, or offensive working environment.

**J-3. Policy.**

- (a) All Employees must review the policy. No Employee, whether supervisory or non-supervisory, may sexually harass another Employee. Sexual harassment includes, but is not limited to:
  - 1. Unwelcome touching, propositions, advances;
  - 2. Abusive and/or vulgar language or a sexual nature;
  - 3. Suggestive jokes or comments about an Employee's body or clothing;
  - 4. Displaying of sexually graphic or suggestive pictures, photographs, cartoons, etc.
  - 5. Displaying or viewing of electronic suggestive pictures, photographs, cartoons, etc.
- (b) any Employee who believes that he or she is the victim of unwelcome behavior that would constitute sexual harassment shall immediately report all incidents to any Supervisor.
- (c) All Employees will be treated fairly.
- (d) All complaints involving claims of sexual harassment shall be promptly and confidentially investigated.
- (e) Any Employee, supervisory or non-supervisory, found to have engaged in the sexual harassment of another Employee will be disciplined, up to and including discharge.

**J-4. Complaint Procedure.** Any Employee who feels he or she is being subjected to sexual harassment should immediately contact one of the persons listed below with whom the Employee feels the most comfortable.

Complaints may be made orally or in writing to:

- (a) Employee's immediate Supervisor
- (b) Employee's Department Head
- (c) City Clerk
- (d) Committee Chair
- (e) Mayor

The Employee should be prepared to provide the following information:

- (a) Employee's name, Department and position title.
- (b) Name of the person or persons committing the harassment.
- (c) Date(s) and approximate time(s) of the harassment.
- (d) The specific nature of the sexual harassment, how long it has gone on, and any employment action (demotion, failure to promote, dismissal, refusal to hire, transfer, etc.) taken against the Employee as a result of the harassment, or any other threats made against him or her as a result of the harassment.
- (e) Witnesses to the harassment, if any.
- (f) Whether the Employee has previously reported such harassment and, if so, when and to whom.

After receiving a sexual harassment complaint, the person receiving the complaint shall assist the Employee in filing the complaint by documenting the incident in writing. The Employee shall sign the written complaint, attesting to

the accuracy and truthfulness of the incident. All information disclosed in the complaint procedure will be held in strictest confidence and will be disclosed only on a need-to-know basis in order to investigate and resolve the matter.

**J-5. Review of a Sexual Harassment Complaint.** It is the responsibility of the City Clerk to coordinate the investigation of the sexual harassment complaints. If the City Clerk is the subject of the complaint, the Mayor shall coordinate the investigation. The following procedures shall apply to the handling of such complaints:

- (a) The person to whom the complaint is made shall immediately present it to the City Clerk.
- (b) An investigation of the alleged incident shall be promptly started.
- (c) The investigator shall make and keep a written record of the investigation, including notes of verbal responses made to the investigator by the person complaining of sexual harassment, witnesses interviewed during the investigation, the person against whom the complaint of sexual harassment was made, and any other person contacted by the investigator in connection with the investigation.
- (d) The investigator shall notify the Employee accused of the sexual harassment as promptly as possible, of the complaint and the severity of the allegations (immediate notification is not necessary if such notification would jeopardize the investigation).
- (e) The Employee accused of the sexual harassment shall be given appropriate opportunity to refute the allegation and present information and/or witnesses on their behalf.
- (f) Based upon the investigative report, the City Attorney shall determine whether the conduct of the person, against whom a complaint has been made, constitutes sexual harassment. In making that determination, the City Attorney shall look at the record as a whole and the totality of circumstances, including the nature of the conduct in question, the context in which the conduct, if any, occurred. Determination of whether sexual harassment occurred will be made on a case-by-case basis.
- (g) If the City Attorney determines the complaint of sexual harassment is founded, he or she shall recommend to the Employee's Supervisor that immediate and appropriate disciplinary action be taken against the Employee guilty of sexual harassment.
- (h) The disciplinary action shall be consistent with the nature and severity of the offense. This shall include whether a Supervisory relationship exists, and any other factors the City Clerk believes relate to fair and efficient administration of the City, including the effect of the offense on Employee morale, public perception of the offense, and the light in which it casts the City. The disciplinary action may include demotion and/or suspension, dismissal, warning or reprimand. A determination of the level of disciplinary action shall also be made on a case-by-case basis.
- (i) If the City Clerk determines the complaint of sexual harassment is unfounded, he or she shall notify the Employee accused of sexual harassment of the determination and advise that no disciplinary action is warranted.
- (j) The Employee making the complaint shall be notified of the results of the investigation and the discipline, if any, to be administered.
- (k) If the City Clerk determines, after reviewing the investigation report, that the complaint was intentionally falsified by the Employee filing the complaint, the City Clerk shall report such action to the Employee's Supervisor for immediate and appropriate disciplinary action.

**J-6. Appeal of the Decision.** Within ten working days of written notification to the Employee of the City Clerk's decision, the complainant or respondent may make a written request for a final review of the record by the Mayor.

The Mayor, in response to a timely appeal, with either:

- (a) Review the record and provide a final decision within five working days of the receipt of the appeal, or
- (b) Schedule a hearing with the appealing party to hear his or her appeal, within ten days following the receipt of the appeal.
  1. The meeting date can be scheduled at a time, convenient to all parties, with mutual consent (including beyond the ten day period.)
  2. A final decision will be made by the Mayor.
  3. Copies of the decision shall be sent to the complainant and respondent by registered mail, return receipt requested, and a copy will be given to the City Clerk.

**J-7. Records of a Sexual Harassment Complaint.** All records concerning a sexual harassment complaint shall be

confidential and kept in a separate locked file except those affected by Kansas Open Records Act. Access to these records shall be given only with the Mayor's approval to parties who have a direct and relevant need to know.