# TOWN OF DAVIE
# HUMAN RESOURCES DEPARTMENT

# EQUAL EMPLOYMENT OPPORTUNITY
# SOP #20-006

## January 12, 2016

**SUMMARY OF REVISED, DELETED, OR ADDED MATERIAL**

This operating procedure shall replace the Policy enacted September 19, 2012.

| Revision | Date | Responsible Department | Description of Change |
|---|---|---|---|
| 1 | September 19, 2012 | Human Resources | Initial Release |
| 2 | March 4, 2015 | EEO Compliance | Revision |
| 3 | October 7, 2015 | EEO Compliance | Revision |
| 4 | January 12, 2016 | EEO Compliance | Revision |

**APPROVALS:**

EEO Compliance Officer — Date 1/12/16

Town Administrator — Date 1-27-16

## 1-1. POLICY.

The Town of Davie is an equal opportunity employer and promulgates this policy as part of its continuing effort to maintain a work environment free from unlawful discrimination. It is the policy of the Town to prohibit discrimination in hiring, promotion, compensation, discharge, and all terms and conditions of employment on the basis of actual or perceived race, color, religion, sex (including pregnancy), national origin, age, disability, gender identity(inclusive of a person's actual or perceived sex, and includes self-image, appearance behavior or expression, whether or not different from that traditionally associated with legal sex assigned to the person at birth), marital status, military status, political affiliation, genetic predisposition, sexual orientation, or retaliation for reporting same.

No employee, supervisor, manager or person associated with the Town shall engage in any form of harassment, discrimination or inappropriate verbal or physical conduct against another person which is based upon that person's race, color, religion, sex (including pregnancy), national origin, age, disability, genetic information, marital status, political affiliation, or sexual orientation. Nor shall any employee, supervisor, manager or person associated with the Town engage in any form of retaliation against any other employee who filed, assisted, supported, or cooperated in the investigation of any allegation of such prohibited conduct. Such behavior undermines the Town's objective of maintaining an environment free of discrimination and retaliation, and is, therefore, strictly prohibited. All employees are responsible for ensuring that they adhere to the policy set forth in this operating procedure. All managers and supervisors have a duty to ensure that the objectives of this policy are met.

A. Types of Prohibited Conduct:

Decisions based on a individual's protected status (e.g., race, religion, age, etc.) that unlawfully affect employment, inclusive of terms, conditions and privileges of employment within the Town are prohibited by this policy; examples include unlawful decisions, actions and practices that occur in the course of recruitment, testing, hiring, work assignments, salary and benefits, working conditions, performance evaluations, promotions, career advancement or any other application relative to employment.

The Town's EEO Policy prohibits sexual harassment – conduct or language of a sexual nature – and harassment based on gender or any other protected status (such as race, religion, age, etc.). Forms of sexual harassment may include, but are not limited to, the use of vulgar language, abusive acts or language, hostility, physical aggression, intimidation, or unequal treatment.

This policy also prohibits the denial of reasonable accommodations for disabilities, religious beliefs, observances and practices that do not create an undue hardship.

Harassment and/or retaliation against a person who opposes or complains about a prohibited conduct or participates in the complaint or investigation of any prohibited conduct are strictly prohibited.

B. Retaliation by Davie Employees Is Punishable Misconduct

C. Retaliation against employees who file a discrimination complaint or assist in any investigation of a discrimination complaint is strictly prohibited. No employee shall be adversely affected in the terms and conditions of their employment, nor discriminated against for filing a complaint or participating in the investigation of a complaint. Any employee found to have retaliated against an employee shall be subject to disciplinary action, up to and including termination. Reporting to Federal and State Administrative Agencies Allowed

Nothing in Davie's policies or any other Davie contract or agreement shall restrict any Davie employee's ability to report any complaints of discrimination or retaliation to the appropriate Federal or State administrative agencies, or to cooperate with any governmental investigation of such a complaint.

## 1-2. SCOPE.

This operating procedure applies to all employees of the Town, as well as all Executive, Part-Time, Contractual, Seasonal employees, and Volunteers. All Town employees are expected to be respectful of all their co-workers and members of the public, with the understanding their behavior affects all those around them. This policy extends to conduct which occurs at any location reasonably regarded as an extension of the workplace; such as off-site Town-related social events, a Town vehicle, or a facility where Town business is being discussed.

## 1-3. DEFINITIONS

**a.** DISCRIMINATION: Defined as any practice or conduct related to a term or condition of employment that is based upon race, color, religion, sex (including pregnancy), national origin, age, disability, genetic information, marital status, political affiliation, or sexual orientation.

**b.** HARASSMENT: Defined as the act or an instance of disturbing, pestering or troubling repeatedly on the basis of race, color, religion, sex (including pregnancy), national origin, age, disability, genetic information, marital status, political affiliation, or sexual orientation. Harassment as defined here is a form of discrimination.

**c.** SEXUAL HARASSMENT: Sexual harassment may involve individuals of the same or different gender(s) and is defined as unwelcomed sexual advances comments, gestures, contact of a sexual nature, requests for sexual favors or verbal and/or physical harassment of a sexual nature. Any action which involves implicit or explicit sexual behavior to control, influence, or affect the terms and conditions of employment also constitutes sexual harassment. Additionally, sexual harassment can be where conduct of a sexual nature creates an offensive, hostile or intimidating work environment and prevents an individual from effectively performing their duties. Sexual harassment is a form of discrimination on the basis of sex.

**d.** RETALIATION: Defined as the taking of a materially adverse action against an employee for opposing discrimination or participating in an investigation related to discrimination. An action shall be considered materially adverse if it might discourage or prevent another employee from making or supporting a charge of discrimination. Retaliatory behavior includes but is not limited to threats, reprimands, negative evaluations, harassment, refusal to hire, demotion, and discharge.

**e.** DISABILITIES: Discrimination or harassment of a person based on that person's actual or perceived disability, record of disability, or relationship with a person with a disability is strictly prohibited. Disability is defined as a physical, medical, mental or psychological impairment (being regarded as having such) that impacts one or more major life activities. The Town will take the appropriate action to provide reasonable accommodations – for example, physically accessible work space and facilities, modified equipment and devices, changes in workplace policies and procedures – to qualified employees and applicants with disabilities, provided such accommodations do not cause an undue hardship. An undue hardship may exist when an accommodation is rendered unduly costly, extensive, and disruptive to the operation.

**f.** RELIGION: The Town's EEO Policy prohibits adverse employment action based on a person's religion. Discriminatory practices and decisions, harassment, hostility or adverse actions because of a person's religious affiliation is strictly prohibited. The Town (EEO Compliance Officer along with appropriate Department Manager affected) shall reasonably accommodate for religious observances –for example, flexible arrival/departure, voluntary exchanges of shifts or assignments, etc. The Town is not required to provide accommodations that are too costly or would otherwise significantly interfere with the operation.

## 1-4. PROCEDURE.

**a.** REPORTING A COMPLAINT OF DISCRIMINATION OR RETALIATION

1. An applicant or employee who feels that he/she has been subjected to any action, decision, harassment or retaliation in violation of this policy, or who witnesses others being subjected to improper conduct is urged to report the incident to his or her supervisor or directly to the EEO Officer for purposes of this operating procedure. The EEO Officer or Designee is responsible for the investigation of any employment discrimination or retaliation complaints reported in accordance with this operating procedure. Any questions regarding this procedure are to be directed to:

   **Macciano K. Lewis**
   **Deputy Town Administrator - Town of Davie**
   **6591 Orange Drive**
   **Davie, Florida 33314**
   **954-797-2099**
   TODEEOOffice@davie-fl.gov

   In the event a supervisor or manager receives a discrimination or retaliation complaint from an employee, said supervisor or manager must report said complaint to the EEO Officer in writing immediately, but no later than 48 hours and advise the employee (complainant) of same.

2. Upon receipt of a complaint, the EEO Officer or Designee shall promptly and objectively investigate the allegations set forth in the complaint. The investigative process may include the interview of witnesses, including the complainant, and the accused, and/or the review of documents. In the event the EEO Officer or Designee requests to interview employees and/or review documents, Department Directors and supervisors shall cooperate and facilitate compliance with the EEO Officer's or Designee's requests. Interference with the EEO Officer's performance of an investigation shall be grounds for disciplinary action, up to and including termination.

3. In some instances, an EEO investigation may be conducted in conjunction with an Internal Affairs investigation, as there are circumstances under which certain policies/laws, such as a Police or Fire Department employee's Bill of Rights dictate discipline of certain employees. EEO investigations conducted in conjunction with an Internal Affairs investigation must be completed in accordance with the time frames set forth in this operating procedure. Additionally, any concurrent Internal Affairs investigations conducted with an EEO investigation must be completed within the time frames set forth in this operating procedure.

4. The EEO Officer shall complete the investigation and provide the complainant with the results of same within thirty (30) calendar days from the date the complaint is received by the EEO Officer. For a complaint

alleging harassment as a form of discrimination, the EEO Officer shall complete the investigation as soon as possible, but in no event later than forty-five (45) calendar days from the date the complaint is received by the EEO Officer. It is the responsibility of the EEO Office to communicate in writing, electronic or otherwise, to complainant should an investigation exceed the time frames listed above. The EEO Officer will discuss and research appropriate options, such interim relief or actions an individual could take on his or her own during the investigation.

**5.** A complaint of discrimination or retaliation may be withdrawn at any time by the complainant. Prior to ending the investigation, the EEO Officer must determine whether corrective action should be taken to address any inappropriate conduct, and in so doing, it may be determined to continue the investigation or remedy the inappropriate behavior.

**6.** The EEO Officer shall forward the results of the investigation to the Town Administrator along with any recommendations, including recommendations related to discipline, operational changes, etc. The Town Administrator shall review the recommendations and render a decision regarding same within thirty (30) calendar days. The investigation shall be considered active and pending during the consideration of the recommendations by the Town Administrator.

**7.** The EEO Officer will advise all parties in writing of the outcome of the complaint. Any person found to have engaged in conduct or practices in violation of this policy may be subject to discipline, including reprimand, suspension, termination, or any other measure permitted by law or standing collective bargaining agreements.

## 1-5. OTHER RELEVANT INFORMATION

**a.** PREGNANCY: Any employee who is pregnant or may become pregnant shall have equal access to a light duty assignment as that enjoyed by any employee suffering from a non-work related injury. The Town will not subject any employee who is pregnant or may become pregnant to a policy or practice that discriminates on the basis of sex and pregnancy by requiring mandatory light duty or the mandatory use of sick or leave time, including leave without pay, without considering information and documentation related to the individual's ability to perform the essential duties of the employee's position.