



Bullying, Harassment, Discrimination, and Retaliation Prevention Policy

Kenai Peninsula Borough

1. Policy Statement and Objective

The Kenai Peninsula Borough (Borough) is committed to a work environment in which all individuals are treated with respect, civility and dignity. Each individual has the right to work in a professional atmosphere that prohibits discriminatory practices, including harassment, unlawful discrimination and retaliation. Therefore, the Borough expects that all interactions among employees, elected officials, volunteers and the public we serve will be business-like and free of such practices. All Borough employees and Borough officials, as defined below, at all levels of the Borough must avoid harassing, unlawfully discriminating and retaliatory behavior at work, and report concerns promptly. The Borough is committed to comply with all anti-discrimination laws including Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act (ADA), the Age Discrimination Act (ADEA), the Pregnancy Discrimination Act (PDA), and Alaska Statute 18.80.220 Unlawful Employment Practices, as now enacted or may be amended in the future.

2. Scope

All Borough employees and Borough officials are covered by this policy. "Borough employees" as used in this policy include but are not limited to all full time, part time, and temporary Borough employees and Borough service area employees, volunteers for the Borough and its service areas, and all Borough and service area directors, and supervisors. "Borough officials" includes the mayor, all assembly members, service area board members, planning commission members, advisory planning commission members, and members of all other elected or appointed Borough boards, committees, task forces, commissions and the like. It is the responsibility of everyone within this scope to report concerns of harassment, unlawful discrimination and retaliation and, upon request of the investigating party, to participate in any investigation.

3. Policy

The Borough has developed this policy to ensure that all employees work in an environment free from harassment, unlawful discrimination, and retaliation. As such, every reasonable effort will be made to ensure that all Borough employees are familiar with this policy and are aware that any complaint in violation of this policy will be investigated and resolved appropriately.

The law and the policies of the KPB prohibit disparate treatment on the basis of sex or any other protected class, with regard to terms, conditions, compensation, privileges and perquisites of employment. This policy's prohibition of harassment, unlawful discrimination and retaliation in our workplace is intended to complement and further those laws and policies. Below are details regarding unlawful discrimination, harassment, sexual

harassment, and retaliation, which are followed by reporting and investigation procedures.

a. Unlawful Discrimination

In accordance with Federal civil rights law, laws of the State of Alaska, and local laws and policies, the Borough, its officials, contractors, and employees, are prohibited from discriminating based on race, color, national origin, religion, sex, disability, age, marital status, family/parental status, other non-merit based factors, any other characteristic protected by law, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by the Borough. These prohibitions include unlawfully discriminating with regard to hiring, promoting, terminations, and compensation.

Borough employees having complaints or allegations of discrimination under the Americans with Disabilities Act (ADA) should address those by contacting their immediate supervisor or Human Resources.

It is the policy of the Borough to ensure employment opportunity without unlawful discrimination or harassment on the basis of any protected class defined by law. The Borough prohibits any such discrimination or harassment.

b. Bullying and Harassment

Harassment is strictly prohibited. Under this policy, harassment includes verbal, written or physical conduct that denigrates or shows hostility, aggression, or aversion toward an individual. This may or may not be because of his or her race, color, religion, sex, sexual orientation, gender identity or expression, national origin, age, disability, marital status, citizenship, genetic information, or any other characteristic protected by law, and that Harassment: a) has the purpose or effect of creating an intimidating, hostile or offensive work environment, b) has the purpose or effect of unreasonably interfering with an individual's work performance, or c) otherwise adversely affects an individual's employment opportunities.

Harassing conduct includes, but is not limited to, epithets, slurs, or negative stereotyping or gestures; threatening, intimidating or hostile acts; denigrating jokes; and written or graphic material that denigrates or shows hostility or aversion toward an individual or group, and hazing, gestures, comments, threats or actions toward an individual which cause or threaten to cause bodily harm, reasonable fear for personal safety or personal degradation. This includes written or graphic material that is placed on walls or elsewhere on the employer's premises or circulated in the workplace, on company time or using company equipment by e-mail, phone messages, text messages, social networking sites or other means.

Bullying is often a form of harassment. Like harassment, bullying is strictly prohibited. For purposes of this policy, the term "bullying" is defined as an offensive, intimidating, malicious or insulting behavior or act that undermines, humiliates, denigrates or injures the recipient(s) and that has the effect of substantially interfering with a person's work performance or creates an intimidating, hostile or offensive work environment. Bullying can undermine the legitimate interests of the Borough and employees engaging in these behaviors will be held accountable. Bullying includes behavior that demeans, diminishes, defames or belittles a person which may be accomplished by way of gossip, rumors, lies, derogatory comments, and antisocial or aggressive behavior. Bullying may also include

behavior that humiliates, intimidates, or interferes with work, such as sabotage, pranks or other similar activities. Bullying can be committed through a singular act, an omission to act, or a pattern of unwelcome behaviors that occur over a period of time. Bullying may be engaged in through gestures or written, verbal, graphic or physical act (including electronically transmitted acts — i.e., the internet, telephone, cell phone or text). This policy is not meant to provide an exhaustive description of everything that “bullying” may encompass. Demonstration of appropriate behavior, treating others with civility and respect, and refusing to tolerate harassment or bullying is expected of supervisors and managers, to provide positive examples for employee behavior. Notwithstanding, bullying and harassing behavior does not include: (i) expressing a difference of opinion; (ii) offering constructive feedback, guidance, or advice about work-related behavior; or (iii) reasonable action taken by an employer or supervisor relating to the management and direction of workers or the place of employment.

c. Sexual Harassment

Sexual harassment in the workplace is a form of employment discrimination and is illegal under federal, state and local laws. For the purposes of this policy, “sexual harassment” is defined, as in the Equal Employment Opportunity Commission Guidelines, 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 may include a range of subtle and not-so-subtle behaviors and may involve individuals of the same or different gender. Depending on the circumstances, these behaviors may include unwanted sexual advances or requests for sexual favors; sexual jokes and innuendo; verbal abuse of a sexual nature; commentary about an individual's body, sexual prowess or sexual deficiencies; leering, whistling or touching; insulting or obscene comments or gestures; display in the workplace of sexually suggestive objects or pictures; and other physical, verbal or visual conduct of a sexual nature.

d. Retaliation

Retaliation against an individual for reporting what, in good faith, they believe to be harassment or discrimination, or for participating in an investigation of a claim of harassment or discrimination, is a violation of this policy and, like harassment or discrimination itself, will be subject to disciplinary action. Acts of retaliation should be reported immediately and will be promptly investigated and addressed.

4. Reporting an Incident

The Borough encourages reporting of all perceived incidents of discrimination, harassment or retaliation, regardless of the offender's identity or position so that rapid and constructive action can be taken. An employee who has a concern of harassment by anyone at work, including any supervisors, elected officials, coworkers, volunteers or visitors, is urged to report such conduct so that the Borough may investigate and resolve the concern. An employee shall bring such matters to the direct attention of their

supervisor, department head, Human Resources Director or directly to the Borough Attorney.

Incidents of unlawful discrimination, harassment, or retaliation where discrimination is a factor, must be reported within 180 days of the alleged act. There is no fixed reporting period established to report harassment, sexual harassment or retaliation where discrimination is not a factor. However, early reporting and intervention have proven to be the most effective methods of resolving actual or perceived incidents. Borough employees who believe that they have been the victim of or witness to such conduct should therefore, as soon as possible, bring such matters to the direct attention of their supervisor, department head, or Human Resources Director.

The Borough also encourages Borough employees who believe they are experiencing conduct that violates this policy, and who feel safe to do so, to promptly advise the offender that his or her behavior is unwelcome and to request that it stop. The Borough recognizes that an individual may prefer to pursue the matter through our formal complaint procedures, instead of or in addition to these actions. At their discretion, an employee may file complaints through US EEOC; the Alaska Civil Rights Commission; pursuant to the [KPB Protection for Whistleblowers Ordinance](#), or others.

5. The Investigation Process

Every supervisor, department head or official who receives a complaint of potential discrimination, harassment or retaliation shall refer the matter immediately to the Human Resources Director for investigation. If the complaint is against the Human Resources Director, the referral should be made to the Borough Attorney. All referrals should be made in writing, however can be made in person or by phone when necessary. Any reported allegations of harassment, discrimination or retaliation will be investigated promptly. Upon receipt of the complaint, the Human Resources Director or, as applicable, the Borough Attorney shall investigate the complaint. The Borough Attorney may refer the investigation to another attorney in the legal department or outside counsel hired pursuant to KPB 5.28.260(B). The party investigating the complaint may elect to refer the matter to law enforcement to investigate the claim.

The Borough shall maintain the confidentiality of investigations of alleged violations of this policy to the fullest extent possible, however, it is not always possible to address allegations without identifying those involved.

The investigation may include individual interviews with the parties involved and, where necessary, with individuals who may have observed the alleged conduct or may have other relevant knowledge.

The Borough may also elect to investigate anonymous complaints where it has a reasonable belief that there has been a violation of this policy and that the safety and well-being of Borough employees would be served by such action.

6. Actions

Misconduct constituting bullying, harassment, discrimination, or retaliation will be addressed promptly and appropriately. Actions may include, but are not limited to,

training, verbal counseling, disciplinary action, or termination as the Borough believes appropriate under the circumstances. In every case, state, federal and local law - and where applicable, the requirements of the current collective bargaining agreement, will be followed during this process. However, depending on the circumstances, Complainants may not be made aware of actions taken against another employee as a result of an investigation.

False and malicious complaints of harassment, discrimination or retaliation (as opposed to complaints that, even if erroneous, are made in good faith) may be the subject of appropriate disciplinary action to the extent allowed by law.

Adopted by: *Charlie* Dated: 5/13/2019
Charlie Pierce, Mayor

POLICY RECORD

Administered by: Mayor's Office / Human Resources

Approved by: Assembly: Resolution # Ord #
 Mayor Department Director

Date Approved: 05/13/19

Effective: 5/13/19, and will remain in effect until revised and/or replaced

Supersedes: Sexual Harassment Prevention Policy, approved 03/31/14

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