

Stowe Police Department

General Order: 1.08 Illegal Harassment, Sexual Harassment, Sexual Discrimination	Related General Orders: Town of Stowe Sexual Harassment Policy
This policy is for internal use only and does not enlarge an employee's civil liability in any way. The policy should not be construed as creating a higher duty of care, in an evidentiary sense, with respect to third party civil claims against employees. A violation of this policy, if proven, can only form the basis of a complaint by this department for non-judicial administrative action in accordance with the laws governing employee discipline.	
Applicable Vermont Statutes:	
Issued By: Donald B. Hull, Chief of Police	
Date Implemented: 06/11/2012	Date Revised:

I. PURPOSE:

1. The purpose of this policy is to prohibit illegal harassment, sexual harassment and discrimination within Stowe Police Department. The policy also provides for the reporting and Department response to all forms of harassment or discrimination.
2. To comply with state (23 VSA 495h) and federal law by adopting a written anti-harassment policy. Also, to convey to the employees in writing that it is against the policies of the Town, and illegal under state and federal law, for any employee, male or female, to sexually harass another employee.

II. POLICY:

1. It is the policy of this Department to prohibit illegal harassment, sexual harassment or sexual discrimination in any form and to provide employees with a mechanism for reporting and resolving allegations of illegal harassment, sexual harassment and discrimination.

III. DEFINITIONS:

Illegal Harassment - Is considered a form of discrimination and is defined as any conduct directed toward another because of that person's race, color, religion, age, gender, sexual orientation, national origin, ancestry, disability, or veteran status, or any other basis that is inappropriate or offensive as determined by using a reasonable person standard. The "reasonable person" standard considers whether a reasonable person would find the behavior or conduct in question offensive.

Sexual Harassment - Unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct when:

- submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or
- such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment.

IV. CONDUCT:

1. TWO TYPES OF HARASSMENT:

A. **Quid Pro Quo Harassment:** A circumstance by which an employee is afforded a favorable employment action in exchange for a sexual favor.

a. **Examples:**

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

B. **Hostile Work Environment:** A circumstance by which an employee is confronted with an environment involving sexually explicit language, photos, or conduct.

a. **Examples:**

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

2. SEXUAL HARASSMENT PROGRESSION:

A. Non-Physical

- a. **Pressure for Dates**
- b. **Sexual Jokes**

- c. Teasing
- d. Remarks
- E Questions
- f. Suggestive Looks/Gestures/Leering

B. Physical/Non-Physical Intimidation:

- a. Sexual Favors
- b. Pinching
- c. Touching
- d. Phone Calls
- e. Blocking
- f. Cornering
- g. Sending Materials of Sexual Nature

C. Physical/Bodily Harm:

- a. Sexual Assault
- b. Attempted Sexual Assault

3. SEXUAL DISCRIMINATION:

- A. The disparate treatment of an employee with respect to work benefits, conditions, assignments, promotions, etc. based upon the gender of the employees unless such disparate treatment is necessary based upon some bona-fide occupational qualification i.e. undercover assignment where a male is necessary due to the nature of the infiltration.

4. PROHIBITED CONDUCT:

- A. This Department will not tolerate any form of illegal harassment, including any behavior on the part of employees, clients, customers, vendors, etc., that impairs an employee's ability to perform his/her duties. Examples of illegal harassment include, but are not limited to:

- Verbal conduct such as epithets, derogatory comments, slurs, or unwanted sexual advances, invitations, or sexually degrading or suggestive words or comments made in person, in writing, via telephone or via electronic means.
- Visual conduct such as derogatory posters, notices, photographs, cartoons, drawings, gestures, leering, or displaying sexually suggestive objects or pictures.
- Physical conduct such as unwanted touching, impeding or blocking normal movement, or interfering with work or movement.

- Threats or demands, either direct or veiled, to submit to sexual requests in order to keep a job or avoid some job-related loss, and offers of job benefits in return for sexual favors.
- Retaliation for opposing, reporting, or threatening to report harassment, assisting another employee in filing an illegal harassment complaint, or for participating in a harassment investigation, proceeding, or hearing.

V. PROCEDURE:

1. Supervisors and all employees have an obligation to provide a work- environment free of all harassment. This includes taking steps to ensure that the agency is in a position to control prohibited harassment whether it is done by supervisors, co-workers or non-employees (such as vendors working with the agency or supplying services).
2. All employees within the Department have an obligation to promptly report violations of this policy. This would include illegal harassment, sexual harassment, sexual discrimination or indicators of a hostile, offensive work environment that the employee experiences, witnesses, or otherwise has knowledge of.
3. The Department shall promptly investigate all complaints regarding harassment or discrimination regardless of their origin.
4. Complaints should be made to an employee's immediate supervisor. If the immediate supervisor is involved in the allegation or the employee is uncomfortable with making a report to their immediate supervisor, they may by-pass the chain of command and report it directly to the Chief of Police. Alternate reporting options include, the human resource manager, or Town Manager or those resources identified in Section 8 of this General Order.
5. Once an allegation is made steps should be taken to separate the involved employees while an investigation into the allegations is conducted. The separation should be undertaken in an equitable manner which is non-punitive in nature. In no case will the complaining employee be forced to change assignments against their choice. The supervisor is required to immediately stop any conduct which might continue or aggravate the allegation(s).
6. The alleged victim of the illegal harassment, sexual harassment shall be kept informed of the progress of the investigation.
7. At the conclusion of the investigation, the alleged victim and the accused employee should be informed of the conclusions reached by the investigation. Where evidence is established to sustain a violation of this policy, immediate disciplinary action shall be taken against the offending employee, up to and including termination from employment with this agency.

8. If the complainant is dissatisfied with the employer's action, or is otherwise interested in doing so, he/she may file a complaint by writing or calling the following state or federal agencies:
 - A. Vermont Attorney General's Office, Civil Rights Unit, 109 State Street, Montpelier, VT 05609; tel; (802) 828-3171 (voice/TDD): Complaints should be filed within 300 days of the adverse action.
 - B. Equal Employment Opportunity Commission, 1 Congress Street, Boston, MA 02114, tel: (617) 565-3200 (voice), (617) 565-3204 (TDD). Complaints should be filed within 300 days of the adverse action.
 - C. Each of these agencies can conduct impartial investigations, facilitate conciliation; and, if it finds that there is probable cause or reasonable grounds to believe sexual harassment occurred, it may take the case to court. Although employees are encouraged to file their complaint of sexual harassment through this employer's complaint procedure, an employee is not required to do so before filing a charge with these agencies.
9. No employee shall be retaliated against for reporting allegations of illegal harassment, sexual harassment or discrimination.
10. Any substantiated instance of sexual harassment as described herein, any act of retaliation, or any failure to cooperate in the investigation or resolution of a sexual harassment complaint may result in disciplinary action consistent with any applicable collective bargaining agreement, statute, Department policy or Town policy.
11. The Department shall conduct training regarding illegal harassment, sexual harassment and sexual discrimination for all employees that includes review of this General Order.
12. In the event an employee accuses the Town Manager of this type of conduct, a complaint shall be submitted to a Selectboard Member. The Town Attorney shall conduct an investigation and issue a report with a summary of findings to the entire Selectboard.
13. In the event an investigation leads to the conclusion that the accusation is unsubstantiated or does not constitute behavior which is inappropriate, no disciplinary action shall be taken.
14. In the event an investigation leads to the conclusion that the accusation is blatantly false and malicious, the accuser may be disciplined consistent with any applicable collective bargaining agreement, statute, Department policy or Town policy.

VI. DISCIPLINE:

Any violation of this policy may be grounds for disciplinary action consistent with any applicable collective bargaining agreement, statute, Department policy or Town policy.

**TOWN OF STOWE, VT
SELECTBOARD
SEXUAL HARASSMENT POLICY**

Section 1. Purpose – To comply with state (23 VSA 495h) and federal law by adopting a written anti-harassment policy. Also, to convey to the employees in writing that it is against the policies of the Town, and illegal under state and federal law, for any employee, male or female, to sexually harass another employee.

Section 2. Conduct – The Town is committed to providing a workplace free from sexual harassment. It is a violation of this policy for an employee to engage in sexual harassment. Sexual harassment is a form of sex discrimination; it means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- (1) Submission to or rejection of a request for a sexual favor is used as the basis for employment decisions affecting the person who did the submitting or rejecting;
- (2) Submission to a request for sexual favors is made either explicitly or implicitly a condition of the individual's continued employment;
- (3) Unwelcome sexual advance and other verbal or physical conduct of a sexual nature interferes with an individual's work performance or creates an intimidating, hostile or offensive work environment;
- (4) An individual repeatedly makes inappropriate remarks about someone's clothing, body or sexual activities or engages in repeated leering or ogling; or
- (5) An individual engages in unwelcome and offensive touching, patting, or pinching of another person's body parts, or any type of assault of a sexual nature.

Section 3. Training - Each Department Head has an affirmative duty to maintain his/her workplace free of sexual harassment and intimidation. Therefore, it is the responsibility of the Department Head to discuss this Policy with their employees and assure them that they can work in security and dignity, and are not required to endure insulting, degrading, or exploitive sexual treatment. It is also the responsibility of any department head to immediately report to the Town Manager or Human Resource Coordinator any complaints they receive from their employees concerning sexual harassment.

Section 4. Complaints: Any employee or volunteer, who is the victim of sexual harassment or abuse, should report the matter to the Town Manager. If the complainant is dissatisfied with the employer's action, or is otherwise interested in doing so, he/she may file a complaint by writing or calling the following state or federal agencies:

- (1) Vermont Attorney General's Office, Civil Rights Unit, 109 State Street, Montpelier, VT 05609; tel; (802) 828-3171 (voice/TDD): Complaints should be filed within 300 days of the adverse action.

- (2) Equal Employment Opportunity Commission, 1 Congress Street, Boston, MA 02114, tel: (617) 565-3200 (voice), (617) 565-3204 (TDD). Complaints should be filed within 300 days of the adverse action.
- (3) Each of these agencies can conduct impartial investigations, facilitate conciliation; and, if it finds that there is probable cause or reasonable grounds to believe sexual harassment occurred, it may take the case to court. Although employees are encouraged to file their complaint of sexual harassment through this employer's complaint procedure, an employee is not required to do so before filing a charge with these agencies.

E. Retaliating or discriminating against an employee for complaining about sexual harassment is prohibited.

F. Any substantiated instance of sexual harassment as described herein, any act of retaliation, or any failure to cooperate in the investigation or resolution of a sexual harassment complaint may result in disciplinary action consistent with any applicable collective bargaining agreement, statute or Town policy.

G. In the event an employee accuses the Town Manager of this type of conduct, a complaint shall be submitted to a Selectboard Member. The Town Attorney shall conduct an investigation and issue a report with a summary of findings to the entire Selectboard.

H. In the event an investigation leads to the conclusion that the accusation is unsubstantiated or does not constitute behavior which is inappropriate, no disciplinary action shall be taken.

I. In the event an investigation leads to the conclusion that the accusation is blatantly false and malicious, the accuser may be disciplined consistent with any applicable collective bargaining agreement, statute or Town policy.

Adopted by the Selectboard on September 26, 2011.