

**MAIDENCREEK TOWNSHIP
BERKS COUNTY, PENNSYLVANIA
RESOLUTION NO. 15 – 2023**

A RESOLUTION ADOPTING THE TOWNSHIP'S
WORKPLACE HARASSMENT POLICY.

WHEREAS the Board of Supervisors of Maiden creek Township recognizes the need to prohibit discrimination, harassment, and retaliation in the workplace, which requires implementation of a policy and procedures that address the same;

NOW, THEREFORE the Board of Supervisors of Maiden creek Township adopts the Township's Workplace Harassment Policy, a true and correct copy of which is attached hereto as Exhibit "A." The Policy shall become effective immediately upon adoption of this Resolution and shall supersede all Township policies that are inconsistent with the Policy:

Section 1 - Delegation of Authority

The Township Manager is directed to immediately implement the Policy, furnish the Policy to all Township personnel, and document their respective receipt of the policy.

RESOLVED and ADOPTED by the Board of Supervisors of the Township of Maiden creek in lawful session duly assembled, this twelfth day of January 2023 A.D.

Board of Township Supervisors
Maiden creek Township
Berks County, Pennsylvania



Supervisor Heidi E. Fiedler



Supervisor David K. Franke

Attestation:


Township Secretary Christina L. Hafer



Supervisor Joshua G. Meck

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WORKPLACE HARASSMENT

PURPOSE: To convey to all personnel the policy of Maiden Creek Township with regard to the intolerance of any form of workplace harassment and the penalties for engaging in such prohibited activity. To promote a comfortable work environment for all employees, free of any form of harassment and retaliation from reporting such conduct.

STATEMENT OF POLICY

It is the policy of Maiden Creek Township that discrimination and harassment of employees, applicants for employment, or individuals conducting business with or receiving services from the Township is strictly prohibited and will not be tolerated. This policy covers all employees of the Township and non-employees (e.g., customers, contractors, vendors, and elected officials) to the extent that the Township has control over such individuals and their conduct. Furthermore, it is the responsibility of all Township Supervisors, department heads, managers, etc., to ensure that the work environment is free from discrimination and harassment.

Federal and state law prohibit employment discrimination on the basis of race, color, sex, sexual orientation, gender identity, disability, pregnancy status, national origin, age, and genetic information. The Township will not tolerate harassment based upon any protected characteristic, and employees can expect that other types of harassment will be handled in a manner similar to this policy.

Sexual harassment, according to the Federal Equal Employment Opportunity Commission (EEOC), consists of unwelcome sexual advances, request for sexual favors and/or other verbal or physical acts of sexual or sex based nature where (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; (2) an employment decision is based on an individual's acceptance or rejection of such conduct; or, (3) such conduct interferes with an individual's work performance or creates an intimidating, hostile or offensive work environment. Prohibited sexual harassment may include actions by members of the opposite sex of an employee as well as members of an employee's same sex.

It is also unlawful to retaliate or take reprisal in any way against anyone who has reported discrimination or sexual harassment or who has articulated any concern about sexual harassment or discrimination, whether that concern relates to harassment of or discrimination against the individual raising the concern or against another individual. Examples of conduct that would be considered sexual harassment or related retaliation are set forth in the Statement of Prohibited Conduct which follows. These examples are provided to illustrate the kind of conduct prescribed by this policy; the list is not exhaustive.

Sexual harassment is unlawful and such prohibited conduct exposes not only the Township, but individuals involved in such conduct, to significant liability under the law. Employees at all times should treat other employees respectfully and with dignity. Accordingly, the Township is committed to vigorously enforcing its harassment policy at all levels. Moreover, this policy is not designed or intended to limit the Township's power to discipline or take remedial action for workplace conduct which it deems unacceptable, regardless of whether that conduct satisfies the definition of sexual harassment.

STATEMENT OF PROHIBITED CONDUCT

Maidencreek Township considers the following conduct to represent some of the types of acts which violate the harassment policy:

A. Physical assaults of a sexual nature, such as:

1. Rape, sexual battery, molestation or attempts to commit these assaults.
2. Intentional physical conduct is sexual in nature, such as touching, pinching, patting, grabbing, brushing against another employee's body, or poking another employee's body.

B. Unwanted sexual advances, propositions, or other sexual comments such as:

1. Sexually oriented gestures, noises, remarks, jokes or comments about a person's sexuality or sexual experience directed at or made in the presence of any employee who indicates or has indicated in any way, that such conduct in his or her presence is unwelcome.
2. "Sexting" or electronically sending messages with sexual content, including images or videos, the use of sexually explicit language, harassment, cyber stalking and threats via forms of electronic communication (including email/text/picture/video messages, online postings, blogs, instant messages and social network websites like Facebook and Twitter).
3. Preferential treatment or promise of preferential treatment to an employee for submitting to sexual conduct, including soliciting or attempting to solicit any employee to engage in sexual activity for compensation or reward.
4. Threats of, or subjecting an employee to, unwelcome sexual attention or conduct or intentionally making performance of the employee's job more difficult because of that employee's sex.

C. Sexual or discriminatory displays of publications in the workplace, such as:

1. Displaying pictures, objects, calendars, graffiti, posters, promotional materials, reading materials, or other materials that are sexually suggestive, sexually demeaning, or pornographic.

A picture will be presumed to be sexually suggestive if it depicts a person of either sex who is not fully clothed or in clothes that are not suited to or ordinarily accepted for the accomplishment of routine work at the Township and who had posed for the obvious purpose of displaying or drawing attention to his or her body.

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2. Displaying signs or other materials purporting to segregate an employee by sex in any area of the work place, other than restrooms and similar semiprivate lockers/changing rooms.

D. Discrimination

1. Derogatory remarks, slurs, or actions motivated by an employee's race, color, religion, national origin, creed, ancestry, disability, age, sex, pregnancy, veteran's status, marital or family status, sexual orientation or gender identity, genetic information or other status protected from discrimination.
2. Display or circulation of offensive printed or visual material (including through email or the Internet) of offensive physical actions motivated by an employee's race, color, religion, national origin, creed, ancestry, disability, age, sex, pregnancy, veteran status, marital or family status, sexual orientation or gender identity, genetic information or other status protected from discrimination.

E. Retaliation for ~~sexual~~ harassment complaints, such as:

1. Disciplining, changing work assignments of, providing inaccurate work information to, or refusing to cooperate or discuss work related matters with any employee because that employee had complained about, or resisted harassment, discrimination or retaliation.
2. Intentionally pressuring, falsely denying, lying about or otherwise covering up or attempting to cover up conduct.

Examples of Retaliation include, but are not limited to, the following:

An employee with a history of complaints learned that her manager placed information about the prior complaints in her personnel file and communicated the employee's reporting history when contacted as a reference. This information is not necessary and manager's conduct was retaliatory in providing it.

Removing the "perk" of using a government vehicle from an employee who filed a complaint, while other employees retained the privilege, can be considered retaliation.

Withholding a promotion for an employee who files a complaint can be retaliation.

Demoting an employee who files a complaint can be retaliation.

F. Other Acts

1. Berating colleagues, subordinates, residents, or any other persons interacted with.

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2. Failing to report observed conduct of another employee or non-employee (e.g.: customers, contractors, vendors, and elected officials) that violates this policy.
3. Failing to cooperate in an investigation by the Township of a complaint of harassment, discrimination, or retaliation.

The above is not to be construed as an all-inclusive list of prohibited acts under this policy. Sexual harassment is unlawful and hurts other employees. Any of the prohibited conduct described above is sexual harassment of any one at whom it is directed or who is otherwise subjected to it. Each incident of harassment, moreover, contributes to a general atmosphere in which all persons who share the victim's sex suffer the consequences. Sexually oriented acts or sex-based conduct have no legitimate business purpose; accordingly, the employee who engages in such conduct should be and will be made to bear full responsibility for such unlawful conduct. Additionally, care should be taken in informal business situations, including events sponsored by the Township, and/or conferences, conventions, seminars, training sessions, and all other business activities. Employees are prohibited from harassing other employees, whether the incidents of harassment occur on or off the Township's premises and whether the incidents occur during normal work hours.

PENALTIES FOR MISCONDUCT

Harassment is a serious violation and, if proven, any employee's commission of acts of sexual harassment, or retaliation against a sexual harassment complaint, will result in appropriate discipline, up to and including termination, depending upon the nature and severity of the misconduct. In all cases, the Township will do what is necessary to meet its legal obligation to remediate the unlawful conduct.

A written record of each action taken pursuant to this policy will be placed in the offending employee's personnel file. The record will reflect the conduct, or alleged conduct, and the warning given, or other discipline imposed.

PROCEDURES FOR MAKING, INVESTIGATING AND RESOLVING SEXUAL HARASSMENT AND RETALIATION COMPLAINTS

A. Reporting Complaints.

All complaints should be presented to an employee's immediate supervisor or with the Township Manager or his/her designee immediately after the occurrence of the incident. All complaints of acts of sexual harassment and retaliation that are in violation of the Harassment Policy will be taken seriously and investigated and will be accepted in writing or orally. Anonymous complaints will also be accepted, and will be taken equally seriously, and will be investigated. A complaint need not be limited to someone who was the target of harassment or retaliation, and anyone who has observed sexual harassment or retaliation must report it through appropriate channels.

In the event that it would be inappropriate to report such concerns to an employee's immediate supervisor, the report may be made directly to the Township Manager or his/her

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designee. In the event that it would be inappropriate to report such concerns to the Township Manager or his/her designee, the report may be made to the Township Solicitor. In the event that it would be inappropriate to report such concerns to the Township Solicitor, the report may be made directly to the Board of Supervisors.

In the event the alleged harasser is a member of the Board of Supervisors, the complainant may file the complaint with the other members of the Board, the Manager and/or the Solicitor.

A workplace supervisor must address an observed incident of sexual harassment or a complaint with equal seriousness, promptly report it to the Manager, take all necessary steps to eliminate the harassment, and observe strict confidentiality. This also applies to cases where an employee tells a supervisor about behavior considered sexual harassment but does not want to make a formal complaint. Supervisors must assure that no retaliation will result against an employee making a sexual harassment complaint.

B. Investigating Complaints

The investigation of each complaint will be kept confidential, though it must be recognized that some disclosure may be necessary for the purposes of investigation or corrective action, or in the course of related legal action. In all cases, the investigation will be conducted in a discreet and impartial manner. The identity of the complainant will be disclosed only to those individuals who have an immediate need to know, which may include the person to whom a report was made, the alleged target of harassment or retaliation, the alleged harasser or retaliator, any witness to the incident, and any labor counsel or third-party investigator assigned to conduct an investigation. All parties contacted in the course of an investigation will be advised that all parties involved in a charge are entitled to respect and that any retaliation or reprisal against an individual who is an alleged target of harassment or retaliation, who has made a complaint or who has provided evidence in connection with a complaint, is a separate actionable offense and subject to discipline under this policy.

Following receipt of a harassment complaint or observance of an incident of harassment, if the complaint was received or the incident was observed by an individual other than the Township Manager, then the individual receiving the complaint or observing the incident should report it to the Township Manager. In the event that it would be inappropriate to report the complaint or observed incident to the Township Manager, the individual receiving the complaint or observing the incident may report it directly to the Township Solicitor.

The Township Manager, upon receipt of a complaint or notification of the existence of a complaint or observed incident of harassment, must then contact either the Township Solicitor or labor counsel for guidance, and must notify the Board of Supervisors during an executive session of the existence of a harassment complaint or observed incident of

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harassment. If the report has been made initially to the Township Solicitor, the Township Solicitor should make this notification to the Board of Supervisors.

The names of the complainant and the accused will be kept confidential and will not be shared at this executive session. During this executive session, the Board of Supervisors will determine whether the Township Solicitor, outside labor counsel, or another third-party investigator will conduct the investigation. After this determination has been made, the investigation will commence. In no event will any elected officials be involved in the investigation unless any individual elected official is personally involved in the underlying conduct to be investigated, in which case, he/she shall not be permitted to act as an adjudicator of the matter, should any disciplinary or other action be required to be taken with respect to the parties involved.

Following completion of the investigation, the Board of Supervisors will determine what action, if any, should be taken with regard to the complaint. Such action may include discipline, up to and including termination, depending upon the nature and severity of the misconduct.

C. Cooperation

An effective harassment policy requires the support and example of personnel in positions of authority. Each supervisor and department head, as well as the Township Manager and any other individual with authority in employment matters, has a responsibility to maintain a workplace free of sexual harassment. This duty includes discussing this policy with all employees and assuring them that they need not endure, and must not tolerate, discriminatory, insulting, degrading or exploitative treatment.

Township agents or employees who engage in sexual harassment or retaliation or who fail to cooperate with Township-sponsored investigations of sexual harassment or retaliation may be severely disciplined by suspension or dismissal. By the same token, employees and officials who refuse to implement remedial measures, or who obstruct the remedial efforts of other Township employees, and/or retaliate against sexual harassment complainants or witnesses, may be immediately disciplined up to and including suspension or termination, depending upon the nature and severity of the misconduct.

FALSE AND FRIVOLOUS COMPLAINTS

All complaints or reports of sexual harassment will be assumed to have been made in good faith. Sometimes, charges made in good faith cannot be proven. However, if an investigation reveals that an accuser has knowingly filed a false or frivolous complaint of sexual harassment or is using a sexual harassment complaint to accomplish some end other than stopping sexual harassment, the Township will consider this to be a disciplinary offense and shall be subject to appropriate discipline.

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ACKNOWLEDGEMENT OF POLICY AND TRAINING

New employees will be provided with the policy at the time of hire and will be required to sign the Acknowledgement of Receipt of the Township's Harassment Policy set forth below. All employees and Township officials shall be required to attend sexual harassment training sessions facilitated by the Township. These training sessions will occur at a frequency determined by the Board of Supervisors, but no more than three (3) years should pass between sessions. The dates for these mandatory training sessions will be communicated to employees and Township officials in advance of their occurrence.

RESOLVED AND ADOPTED by the Board of Supervisors of the Township of Maiden creek this ____ day of _____ 2022.

ATTEST:

Hunter L. Ahrens
Township Manager

David K. Franke
Chairman

HARRASSMENT POLICY

I hereby acknowledge that the Township's Harassment Policy was given to me by the Township of Maiden creek and that I have read over them and understand the contents herein. Any questions that I had were fully explained to me at this time.

EMPLOYEE'S SIGNATURE

DATE

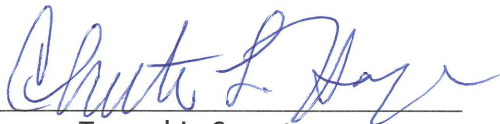
WITNESS

DATE

Certificate of Resolution

I hereby certify that the Resolution No. 15-2023, which was for the purpose "adopting the township's workplace harassment policy," is a true and accurate copy of the Resolution which was resolved and adopted on the third day of January 2023 A.D. and contains the appendices necessary which truly and accurately reflect those documents which the Board of Supervisors understood to accompany Resolution No. 15-2023.

We the Undersigned Hereby Attest
to this:



Township Secretary

Christina L. Hafer



Township Manager

Hunter L. Ahrens

January 13, 2023

Date