

Town of Breckenridge

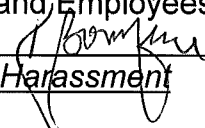
POLICY MEMORANDUM

Contact : Dept Heads and
Human Resources

Phone Number
547-4308/547-3159

Effective Date: December 29, 2004
Updated: February 2, 2011

**Town Policy: *Equal Employment
Opportunity/Unlawful Harassment***

TO: All Managers, Dept. Heads, Supervisors and Employees
FROM: Kate Boniface, Assistant Town Manager 
SUBJECT: Equal Employment Opportunity/Unlawful Harassment

Purpose: This policy memorandum is in accordance with the requirements of the federal, state and local Equal Employment Opportunity Laws, including but not limited to Title VII of the Civil Rights Act of 1964, as amended in 1972, 1978, and the Civil Rights Act of 1991, American's with Disabilities Act of 1990 (ADA), the ADA Amendments Act (ADAAA) of 2009, Age Discrimination in Employment Act of 1967 (ADEA), the Genetic Information Nondiscrimination Act of 2008 (GINA); and the Colorado Fair Employment Practices.

Cancellation: This policy replaces the Equal Employment Opportunity/Unlawful Harassment policy dated December 29, 2004 and the Town's Regular and PT/Seasonal Employee Guidelines prior to January 1, 2011 and any previous policy memos related to Equal Employment Opportunity/Unlawful Harassment practices.

Scope: This policy directive applies to all Town of Breckenridge employees.

The Town's EEO Policy:

The Town of Breckenridge is dedicated to the principles of equal employment opportunity in any term, condition or privilege of employment. The Town does not discriminate against applicants or employees on the basis of age, race, gender, color, religion, national origin, disability, sexual orientation or any other status protected by federal, state or local law.

The prohibition includes unlawful harassment based on any of these protected classes. Unlawful harassment includes verbal or physical conduct which has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment. This policy applies to all employees including managers, supervisors, co-workers, and non-employees such as customers, clients, vendors, consultants, independent contractors, elected officials, and others.

The Town's Genetic Information Nondiscrimination Policy

Title II of the Genetic Information Nondiscrimination Act of 2008 (GINA) protects applicants and employees from discrimination based on genetic information in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment. GINA also restricts employers' acquisition of genetic information and strictly limits disclosure of genetic information.

"Genetic Information" as defined by GINA, includes information about genetic tests of applicants, employees, or their family members; the manifestation of diseases or disorders in family members (family medical history); and request for or receipt of genetic services by applicants, employees or their family member and genetic information of a fetus carried by an applicant, employee or their family member or an embryo lawfully held by an applicant, employee or their family member receiving assistive reproductive services.

The Town is dedicated to ensuring that all employment decisions are in accordance with the policies as stated herein, and to the principles of equal employment opportunity. *To carry out this policy, the Town commits to:*

- Recruiting, hiring, training, transferring and promoting for all jobs without discrimination on any of the bases outlined above.
- Making placement decisions solely on an individual's qualifications for the positions being filled.
- Administering other personnel actions, such as pay, benefits, leave, training, layoffs, reinstatement and other actions without discrimination on any of the bases outlined above.

A. Sexual Harassment:

Sexual Harassment is a form of misconduct that undermines the integrity of the employment relationship. Because sexual harassment raises issues that are to some extent unique in comparison to other forms of harassment, the Town believes it warrants separate emphasis.

The Town strongly opposes sexual harassment and inappropriate sexual conduct. *Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, when:*

- 1) Submission to such conduct is made explicitly or implicitly a term or condition of employment;
- 2) Submission to or rejection of such conduct is used as the basis for a decision affecting an individual's employment; or

- 3) Such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment.

All employees are expected to conduct themselves in a professional and businesslike manner at all times while in the workplace. Inappropriate sexual conduct that could lead to a claim of sexual harassment is expressly prohibited by this policy. Such conduct includes, but is not limited to, sexually implicit or explicit communications as described in section B. below.

B. Unlawful Harassment:

Other forms of harassment outside of sexual harassment are also strongly opposed and are not tolerated. Workplace harassment which may violate this policy includes, but is not limited to:

- 1) Written form such as cartoons, posters, calendars, notes, letters, E-mail;
- 2) Verbal form such as comments, jokes, foul or obscene language, or questions about another's personal or professional life whether based in fact, or not, over-sharing personal information, or repeated unwanted requests for dates;
- 3) Physical gestures and other nonverbal behavior, such as unwelcome touching, grabbing, fondling, kissing, massaging, and brushing up against another's body.

Employees are expected to conduct themselves in a professional and businesslike manner at all times when in the workplace.

C. Retaliation: The Town prohibits retaliation against an employee for filing a complaint under this policy or for assisting in a complaint investigation. Any employee who brings a legitimate complaint or who assists in the investigation of such complaint will not be adversely affected in terms and conditions of employment, nor discriminated against or involuntarily separated because of such action.

If an employee perceives retaliation for making a complaint or participating in an investigation, they should follow the complaint procedure outlined herein. The situation will be promptly investigated.

Complaint Procedure: The Town expects employees to make a timely complaint to enable the Town to promptly investigate and correct any behavior that may be in violation of this policy. If an employee believes there has been a violation of the EEO/Unlawful Harassment Policy based on the protected classes outlined above, the following complaint procedure must be utilized:

Promptly report the incident to any Town supervisor, manager or department head, Human Resources staff member or the Assistant Town Manager/EEO Coordinator.

Investigation Procedure: The Town will promptly investigate complaints and take appropriate corrective action.

After receipt of notification of the complaint, a confidential investigation will immediately be initiated to gather all facts about the complaint. After the investigation has been completed, a determination will be made by the Assistant Town Manager/EEO Coordinator regarding the resolution of the complaint. If the Town determines that an employee's behavior is in violation of this policy and action is warranted, disciplinary action will be taken against the offending employee, up to and including involuntary separation from employment with the Town.

Confidentiality: Complaints will be kept as confidential as practicable, but absolute confidentiality cannot be promised. Participants in an investigation will be advised of confidentiality requirements. Failure to comply with confidentiality requirements before, during or after an investigation may result in disciplinary action, up to and including involuntary separation from employment with the Town.

Duty to Cooperate With Investigation. Employees with knowledge concerning complaints of harassment, discrimination, or the violation of any other Town policy, rule or regulation have a duty to participate in investigations by providing complete, truthful and timely information. Withholding information or failing to cooperate in a good faith manner may result in disciplinary action, up to and including termination.

False Complaints: An employee who files a complaint which the employee knows to be false shall be subject to discipline, up to and including involuntary separation from employment with the Town.

Responsibilities:

a. **Senior Management/Human Resources/Department Heads/Supervisors:** *Town of Breckenridge senior management, human resources staff, department heads, managers, and supervisors are required to:*

- Monitor/manage the workplace, and respond when inappropriate behavior is observed or reported.
- Counsel and discipline employees who engage in inappropriate behavior.
- Receive and report **all** complaints to Human Resources, or the Town's Assistant Town Manager/ EEO Coordinator.
- Document incidents and all management responses to complaints.
- Use appropriate management practices to ensure that retaliation does not occur once a complaint has been made.
- Outline expectations and the Town's policy for conduct on a periodic basis, through employee meetings and contacts.
- Comply with and interpret the Town's policy.
- Demonstrate a commitment to equal employment opportunity principles.
- Acknowledge receipt of the Town's EEO/Unlawful Harassment policy.
- Attend EEO/Unlawful Harassment training every 12 to 18 months.

b. Employees: *Town of Breckenridge employees are required to:*

- Comply with the Town's EEO/Unlawful Harassment Policy.
- Report behavior that appears to violate the policy.
- Demonstrate a commitment to equal employment opportunity principles.
- Acknowledge receipt of the Town's EEO/Unlawful Harassment policy.
- Attend EEO/Unlawful Harassment training every 24 to 30 months.

c. Assistant Town Manager/EEO Coordinator & Human Resources:

The Town's Assistant Town Manager/EEO Coordinator and Human Resources staff is responsible for monitoring and enforcing this policy.

References:

- a. Nepotism Policy
- b. Town Code of Ethics
- c. Workplace Threats and Violence Policy and Guidelines
- d. Town Employee Guidelines
- e. Training Materials

Additional Information: Questions regarding this Policy should first be directed to an employee's supervisor or department head. The Department Head should contact Human Resources for policy clarification.

Town of Breckenridge

EEO/Unlawful Harassment Policy Acknowledgement Form

The undersigned Employee of the Town of Breckenridge ("Town") acknowledges receipt of a copy of the Town's EEO/Unlawful Harassment policy, dated February 2, 2011, and further acknowledges:

1. That the policy is not a contract of employment between the Town and the Employee;
2. That all Town employees are "at will" employees, and that an employee may be disciplined or terminated at any time at the discretion of the Town;
3. That the Employee is responsible for understanding the contents and terms of the policy; and,
4. That the Employee is responsible for complying with the terms outlined in the policy.

PRINT Employee Name

Employee Signature

Date Acknowledged: ____ / ____ / ____

Witness:

Manager/Supervisor/Human Resources Signature