EQUAL EMPLOYMENT OPPORTUNITY, ANTI-DISCRIMINATION, ANTI-HARASSMENT, AND ANTI-BULLYING POLICY

I. GENERAL

The Fairbanks North Star Borough is an Equal Employment Opportunity employer, committed to the promotion of equal opportunities in all employment actions and the provision of a safe workplace free of discrimination, harassment, and bullying.

II. PURPOSE

To provide equal employment opportunities and a workplace free of discrimination, harassment, and bullying for all employees and applicants in accordance with all state, federal, and local laws and policies.

III. RESPONSIBILITY

A. Department directors shall ensure that their department staff follows the procedure set forth in this policy.

B. Compliance with this policy is the responsibility of each director, manager, supervisor, and others whose duties are related to any employee personnel actions.

C. Information concerning equal employment opportunity and nondiscrimination is available from the EEO/Compliance Officer and/or the Human Resources Department.

D. Human Resources shall maintain this policy.

IV. POLICY

A. Statement of Policy

It is the policy of the Borough to provide equal employment opportunities without regard to race, color, age, religion, sex, sexual orientation, gender identity, national origin, marital status, changes in marital status, pregnancy, parenthood, creed, veteran's status, veteran's disability, physical disability, or mental disability. The Borough intends to provide a safe workplace free of unjust discrimination, harassment, or bullying in all matters related to recruiting, hiring, training, compensation, benefits, promotions, transfers, terminations, and layoffs and recalls, and, treatment on the job.

Harassment includes but is not limited to any verbal, written, or physical conduct relating to race, color, age, religion, sex, sexual orientation, gender identity, national origin, marital status, changes in marital status, pregnancy, parenthood, creed, veteran's status, veteran's disability, or physical or mental disability that is sufficiently severe, pervasive, or persistent that it substantially interferes with or limits an individual's work performance or creates an intimidating, hostile, or
offensive work environment. Examples of prohibited behavior that the FNSB does not tolerate include but are not limited to:

1. Telling ethnic jokes,
2. Using offensive slurs or other derogatory terms denoting a person’s race, age, national origin, religion, gender identity, or disability,
3. Mimicking an individual’s speech, accent or disability,
4. Verbal or physical bullying.

While a single incident of offensive conduct, remarks, or display will generally not create a hostile environment unless it is severe, such behavior is inappropriate and may subject the employee to counseling and/or discipline.

B. Sexual harassment may include but is not limited to the following unwelcome conduct:

1. Submission to such conduct is made, explicitly or implicitly, a term or condition of an individual’s employment;
2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting that individual; 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.

C. Unwelcome sexual advances, requests for sexual favors, and other inappropriate verbal, written, or physical conduct of a sexual nature when made by a Borough employee to another employee or when involving a third party constitutes sexual harassment when:

1. Physical conduct, such as touching or close physical proximity; winking or licking lips; staring, looking, ogling or leering; cornering or blocking in; pinching, grabbing or patting; sexually oriented gestures; offensive sexual horseplay; attempted or actual hugging, fondling, or kissing; coerced sexual intercourse; and rape or attempted rape.
2. Verbal or written harassment or abuse, including sexual propositions or invitations; sexual comments, innuendos, slurs, insults, jokes, threats; offensive, demeaning, or suggestive comments; whistles or catcalls; repeated requests for dinner, drinks or dates that continue after being turned down; pressure for sexual activity; and suggestive or insulting sounds.
3. Display or distribution of sexually suggestive or derogatory objects, photographs, pictures, calendars, magazines, cartoons, posters, drawings or images.

D. Racially based conduct that consists of different treatment of a Borough employee by another employee or when involving a third party constitutes racial harassment when the employee is subject to conduct on the basis of race, color, or national origin, or when 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.

Racial harassment may include but is not limited to the following:

1. Verbal or written racial slurs, epithets, jokes, comments, or words;
2. Remarks to a person that contain racial, derogatory, or demeaning implications;
3. Sabotage of work or projects when associated with other forms of racial harassment;
4. Racially oriented graffiti;
5. Verbal, written, or physical expressions of hatred due to race;
6. Display or distribution of racially oppressive or demeaning objects, pictures, literature, magazines, cartoons, posters, or images;
7. Harassment involving objects or items historically or stereotypically associated with race;
8. Unwelcome physical contact, close physical proximity or looks when associated with other forms of racial harassment.

E. The Borough will also take affirmative action as called for by applicable laws, resolutions, and Executive Orders to ensure that members of minority groups, females, disabled veterans, recently separated veterans, armed forces service medal veterans, and qualified persons with a disability are recruited, introduced into the Borough's workforce, and considered for promotion opportunities.

F. As part of this policy the Borough will not discriminate against an otherwise qualified individual with a physical or mental disability that substantially limits one or more of the individual's major life activities when the individual, with or without reasonable accommodation, can perform the essential functions of the employment position. The Borough recognizes its obligation to provide reasonable accommodation when requested unless there is an undue hardship on the operation of the Borough, the accommodation is unfeasible, or is otherwise not legally required.

G. Discrimination, harassment, and bullying by a Borough employee against another Borough employee constitute employee misconduct. Borough employees have the responsibility to immediately report any discriminatory, harassing, or bullying conduct by a supervisor, co-worker, vendor, or other individual against any Borough employee. Employees may report the incident to their manager/supervisor, the next level of management if the complaint involves their manager/supervisor, the EEO/Compliance Officer, or the Human Resources Director.

H. Directors, managers, and supervisors shall immediately report any observed or alleged discrimination, harassment, or bullying to the EEO/Compliance Officer and/or the Human Resources Director. Immediate, effective, and appropriate action should be taken to remedy any discrimination, harassment, or bullying.
I. This policy is in effect in the workplace, on Borough property, at Borough-sponsored social functions, and at work-related functions attended by employees conducted off Borough property. Off duty harassment or bullying that affects the work environment is also covered by this policy.

V. PROCEDURES

A. Recruitment, Hiring, and Promotion

In order to ensure equal employment opportunity, all Borough recruitment, hiring, and promotion shall be conducted in accordance with Borough Policy No. 65.02.

B. Employment Related Process

1. Pre-employment: The Borough may state the specific duties or physical requirement of the job, request that applicants describe or demonstrate how they will perform the duties, and may ask about non-medical qualifications and skills.

2. Post-offer: The Borough may ask disability related questions and may require medical examinations as long as the requirements apply to all employees entering that job category or as job related and consistent with business necessity.

3. The Borough will maintain the confidentiality of medical information related to a disability and request for accommodation in accordance with applicable laws. Medical information may be disclosed only on a need to know basis.

4. In addressing requests for reasonable accommodation, the Borough will evaluate each request on an individualized basis by participating in an interactive dialogue process with the individual.

C. Complaint Reporting Procedure

This procedure provides specific guidance for handling complaints of employment discrimination, harassment, or bullying. The right to file a complaint of discrimination or harassment is protected by law, and retaliation or adverse action against the complainant or anyone who assists or participates in an investigation, proceeding, or hearing is explicitly prohibited. Every Borough Employee must be aware of his or her role, and all actions should conform to this procedure.

1. Any employee or applicant who believes that they have witnessed or been subjected to discrimination, harassment, or bullying shall promptly report such conduct.

2. Employees and applicants who believe they have witnessed, or have been the subject of, discrimination, harassment, or bullying have the right to file a complaint with their immediate supervisor, manager, director, the Human Resources Director, or the EEO/Compliance Officer. The supervisor, manager, or director, however, must immediately inform the EEO/Compliance Officer and/or Human Resources Director. Complaints shall be filed within a reasonable time period following the al-
leged discriminatory act. Upon receipt of a complaint the EEO/Compliance Officer and Human resources Director will confer to determine whether the complaint alleges behavior that violates this policy. The EEO/Compliance Officer or designee shall investigate complaints alleging violations of this policy.

3. Before conducting a formal investigation the EEO/Compliance Officer will notify individuals of the option to pursue informal resolution. Attempting informal complaint resolution is encouraged but not required.

4. Complainants who do not pursue or are not satisfied with attempted informal resolution may promptly request a formal investigation. The complainant must provide a clear and concise description of the alleged discrimination, harassment, or bullying.

5. The EEO/Compliance Officer will accept oral or written complaints. Alternative means of complaint submission shall be available to individuals with disabilities who request accommodation.

6. As soon as practicable, the EEO/Compliance Officer shall contact the complainant. The EEO/Compliance Officer will also direct the complainant to this policy and any other relevant policies.

7. The EEO/Compliance Officer shall conduct a timely and thorough investigation. Investigations will normally be concluded within 45 days. If an investigation will take longer, the complainant and respondent will receive written notice of the anticipated completion date. The investigation will include the following steps:

   a. Inform the complainant of their rights and responsibilities in the complaint process;
   
   b. Explain the complaint procedures and any other avenues of redress available to the complainant;
   
   c. Maintain a written record of all actions and attempts at resolution.

8. Employees are obligated to cooperate in the investigation. This obligation includes, but is not necessarily limited to:

   a. Coming forward with evidence, both favorable and unfavorable concerning alleged discrimination, harassment, or bullying;
   
   b. Fully and truthfully making a written report under oath upon request;
   
   c. Orally answering questions when required to do so during the course of an investigation.

9. The EEO/Compliance Officer will present written findings, made by a preponderance of the evidence, of investigations and any recommendations to the Borough Mayor or designee for concurrence. If the EEO/Compliance Officer finds by a preponderance of the evidence that this policy has been violated or receives evidence that any other workplace policy has been violated, then the matter may be referred to the Human Resources Department.
10. Upon conclusion of the investigation, the EEO/Compliance Officer will notify the complainant and respondent (if applicable) whether the allegations have been substantiated.

11. Confidentiality will be preserved consistent with applicable laws and the Borough’s duty to investigate and address complaints.

12. A complainant dissatisfied with the EEO/Compliance Officer’s decision may request a review by the Borough Mayor within fifteen (15) calendar days of issuance of the EEO/Compliance Officer’s decision. The Borough Mayor shall review and issue a determination, which is the final review within the Borough.

13. Employees making malicious or bad faith complaints will be subject to disciplinary action.

14. Regardless of whether the complainant pursues resolution through the Borough’s internal complaint process, the complainant has the right to file a complaint with one or all of the following:

   Alaska State Commission for Human Rights
   800 A Street, Suite 204
   Anchorage, Alaska 99501-3669
   1-800-478-4692
   TTY/TDD 1-800-478-3177

   United State Equal Employment Opportunity Commission
   Seattle District Office
   909 First Avenue, Suite 400
   Seattle, Washington 98104-1061
   Voice 1-800-669-4000
   TDD (206) 220-6882

D. Contact Information to pursue a complaint:

1. Fairbanks North Star Borough EEO/Compliance Officer:

   Mr. Noah Klein
   907 Terminal Street
   Fairbanks, AK 99707
   907/459-1309
   Noah.Klein@fnsb.us

2. Fairbanks North Star Borough Human Resources Director:

   Ms. Sallie M. Stuvek
   907 Terminal Street
   P.O. Box 71267
   Fairbanks, AK 99707
   907/459-1207
   sstuvek@fnsb.us
VI. SUPPLEMENTAL INFORMATION

A. References

2. Alaska Statute 18.80.200 et seq.
3. Age Discrimination in Employment Act
9. Executive Order 11246
10. Executive Order 11375
12. Resolution 88-106
13. Resolution 89-105

B. Definitions

1. Discrimination - to treat someone unfavorably in comparison to others because of their protected status as provided by law or Borough policy.

2. Harassment - behavior that is unwelcome and offensive to a reasonable person, and consists of objectionable verbal, written or physical conduct that demeans, belittles, bullies, intimidates or humiliates another person.

3. Bullying - Workplace bullying is repeated abusive conduct that mistreats an employee by threatening, humiliating, or intimidating them, interfering with their ability to get their job done (sabotage) and may include verbal or written abuse.

4. Disabled Individual

   a. Refers to an individual who:

      i. has a documented physical or mental impairment that substantially limits a major life activity; or

      ii. has a documented record of a physical or mental impairment that substantially limits a major life activity; or

      iii. is regarded as having a physical or mental impairment that substantially limits a major life activity.

5. Essential Functions - employment related job tasks that are fundamental elements, not marginal or unnecessary, to the fulfillment of the position’s objectives.

6. Qualified individual with a disability (employment related context) - a person with a disability who satisfies the requisite skill, experience, and
education and other job-related requirements for the job and can perform the essential functions of the job, with or without reasonable accommodation.

7. Reasonable accommodation - modifications or adjustments to a job application process, the work environment, or the way in which a job is customarily performed, or employment policies that enable a qualified individual with a disability to be considered for the position, perform the essential functions of the job, or enjoy benefits and privileges of employment equal to those available to a similarly-situated employee without a disability without creating an undue hardship on the Borough.

8. Undue hardship - significant difficulty or expense incurred by the Borough in the provision of an accommodation.

C. Attachments
   1. Complaint Form
   2. Complaint Flowchart

D. Revision History

Revision notes- This policy merges the former EEO Policy No. 65.09, Anti-harassment Policy No. 65.08, the, and the ADA Policy No. 65.04.

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