Town of Babylon Industrial Development Agency
Personnel Policy

Employment at Will

This description of policies should not be construed as a contract of employment or a statement that these policies will not change. Continued employment of an individual shall be at the will of the Agency, subject only to the applicable laws forbidding discrimination.

Work Day

Normal work hours are 9:00 a.m. to 4:30 p.m. Monday-Friday. Employees shall receive one break a day not to exceed fifteen (15) minutes in duration. A one-half (1/2) hour lunch will be provided to all employees of the Agency. Agency employees shall work a thirty five (35) hour workweek.

Holidays

The Agency observes the following as paid holidays. When they fall on Saturday, they will be taken on the preceding workday. When they fall on Sunday, they will be taken on the following workday.

New Year's Day
Martin Luther King Jr.'s Day
Abraham Lincoln's Birthday
George Washington's Birthday
Memorial Day
Juneteenth
Independence Day
Labor Day
Columbus Day
Election Day
Veteran's Day
Thanksgiving Day
Day After Thanksgiving
Christmas Eve
Christmas Day
New Year's Eve

If a holiday(s) falls within the vacation period of an employee, the employee will not be charged for a vacation day(s) within his/her vacation period.

Time Recording

All employees are responsible for the correct recording of time worked.

Each employee is responsible for the correct entry on his or her time sheet. Each employee will immediately record what time he or she arrived at work and when he or she left work. Failure to enter accurate work time, in and out, can lead to disciplinary action up to and including termination.

All employees shall submit their timesheets to the proper supervisor in a timely manner. After being reviewed and countersigned by the supervisor, the timesheet will be inserted into the employee's personnel folder. Timesheets found in Exhibit A shall be used to record time and accruals.

The Chief Executive Officer shall submit his or her timesheet to the Chief Financial Officer in a timely manner. The Chief Financial Officer shall countersign the timesheet and submit it to the Chairperson of the Board of Directors who shall also countersign at the next available meeting of the Board of Directors.

Any employee found guilty of falsifying time recording will be subject to disciplinary action, including termination of employment and claw back of pay.

Attendance & Work Schedule

The Town of Babylon Industrial Development Agency (the "Agency") establishes an alternative work schedule (an "AWS") program that allows employees to elect, by written request, into either the use of flexible schedules or compressed schedules. In both cases the employee is expected to work 70 hours during the biweekly pay period (basic work requirement).

I. In the case of flexible schedules set:

(1) designated hours and days during which an employee on such a schedule must be present for work; and
(2) designated hours during which an employee on such a schedule may elect the time of such employee's arrival at and departure from work, solely for such purpose or, if and to the extent permitted, for the purpose of accumulating 50 to reduce the length of the workweek or another workday.

II. In the case of compressed schedules allow for programs which use a 4-day workweek or other compressed schedule.

III. An election by an Agency employee into an AWS shall be subject to limitations generally prescribed to ensure that the duties and requirements of the employee's position are fulfilled.

If the Chief Executive Officer (the "CEO") of the Agency determines that any duties of an employee within the Agency who is participating in the program is being substantially disrupted in carrying out his/her functions or is incurring additional costs because of such participation, the CEO may—

(1) restrict the employees' choice of arrival and departure time,

(2) restrict the use of credit hours, or

(3) exclude from such program any employee or group of employees.

IV. Special Procedures for Time Accounting

1. The Agency shall establish a time accounting method that provides the CEO with affirmative or personal knowledge of each employee's entitlement to pay by showing the number of hours of duty, attendance, and the nature and length of absences.
2. When the CEO cannot approve from personal knowledge the entitlement to pay for an employee on an alternative work schedule, the following shall ensure adequate controls
   a. Sign-in/sign-out sheets. Each employee is required to enter his or her name, time of arrival and departure, and other exceptions to the normal workday.
   b. Work output assessment. The CEO shall determine the reasonableness of the work output for the time spent.

V. Credit Hours

Those hours within an alternative work schedule that an employee elects to work in excess of his or her basic work requirement so as to vary the length of a workweek or workday.

Credit hours can be applied to a future basic work requirement to meet the 70 hour bi-weekly requirement. Credit hours do not have to be

officially ordered an approved in advance by the CEO. Accumulated credit hours are to be recorded on the employee's time sheet

An employee may not be paid overtime, weekend, holiday, night, or other premium pay for credit hours. Credit hours may not be used in lieu of sick time, vacation time, or personal days, and vice versa.

The maximum number of yearly-accumulated credit hours will be capped at 35 hours. When an employee is no longer employed by the Agency, the employee will not be paid for accumulated credit hours. The accumulated credit hours will not be used in determining any benefit from the New York State Employee Retirement System.

VI. Telework

Employees with the express consent of the CEO shall be allowed to telework. In a written request employees shall list scheduled work times as well as the locations from which they will telework. The CEO has the authority to call or visit such locations during the employee's scheduled work time. The Agency shall not incur any cost for such telework.

If the CEO assigns an employee telework

1) In the case of special situations
2) To improve Continuity of Operations to help ensure that essential Agency functions continue during emergency situations;
3) To promote management effectiveness to target reductions in management costs and environmental impact and transit costs

The employee is responsible to account for his/her time as required in section IV and excess hours can be used as described in Section V.

VII. Miscellaneous

In the case of an Agency closure or dismissal the employee will be credited with the intended hours to be worked that day. AWS may necessitate changes in payroll procedures; the Chief Financial Officer (the "CFO") will address such changes as they may occur. Any questions regarding the AWS policy should be addressed to the CFO. The CEO may amend the AWS policy at anytime. A determination in

regard to this policy must be submitted to the CEO in writing. The CEO's decision may be appealed to the Board.

Sick Leave

Agency employees shall be granted twelve (12) days of sick leave at the beginning of the year. Employees who commence employment after the first shall receive pro-rated sick leave time for that year.

In order that absence, because of personal illness may be charged to accumulated sick leave, it must be reported by the employee, to the Chief Executive Officer, on the first working day of such absence. If the employee is absent for 7 consecutive calendar days, it will be the employee's responsibility to present prior to the next pay period, documentation from a physician of the employee's choice which certifies as to the employee's continued disability. Sick leave time may be rolled over until the employee has accrued twenty-five (25) days. Sick leave shall be for the employee's preventative care or for mental or physical illness, injury or health condition.

Sick leave may be taken in either a half or full work day increment.

Personal Leave

Agency employees shall receive five personal leave days per year. The five days shall be made available on January 1st of each year. Employees who commence employment after the first shall receive pro-rated personal leave time for that year. Personal leave time does not roll over.

Personal leave may be used for religious observances, extreme emergency, pressing personal obligations, and inclement weather conditions. Approval for personal leave must be requested in advance from the Chief Executive Officer, whenever possible.

Personal leave may be taken in either a half or full work day increment.

Vacation

Agency Employees will receive fifteen vacation days per year. Employees who commence employment after the first shall receive pro-rated vacation days for that year. Vacation time may be rolled over to the next calendar year not to exceed five (5) vacation days. Such rollover shall be at the sole discretion of the Chief Executive Officer. Roll over time must be used by May 31st of the following calendar year rollover over into it.

Requests for vacation leave in excess of three (3) working days shall be submitted to the Chief Executive Officer at least one calendar month prior to the beginning date of the vacation. Request will be approved according to the workload of the Agency. Conflicts in scheduling of annual leave will be resolved by the Chief Executive Officer.

Vacation leave may be taken in either a half or full work day increment.

Dental Insurance
Provided to Agency employees cost free.

Vision Insurance
Provided to Agency employees cost free.

Health Insurance

A. Eligibility
    1) Agency employees who have five years of service with the Agency and retire shall have his or her health insurance premiums fully paid by the Agency covering eligible dependents as defined under the insurance policy in existence at the time of retirement. All Agency employees who commence employment with the Agency on or after January 1, 2009 and have 10 years of employment with the Agency and retire shall have his or her health insurance premiums fully paid by the Agency covering eligible dependents as defined under the insurance policy in existence at the time of retirement.
    2) All Agency employees who commence employment with the Agency on or after January 1, 2009, shall be required to pay 25% of the premium of the plan they choose and continue to do so for a period of 10 years. At the completion of his or her 10th year, such employee's health insurance shall be fully paid by the Agency
    3) All employees who were in continuous employment with the Agency prior to January 1, 2004, shall be provided health insurance, free of cost, from his or her date of hire with the Agency.

B. In addition, an employee who is absent from work due to an extended illness shall have his/her health insurance paid for by the

Agency up to one year. Such coverage may be extended upon approval of the Agency's Board of Directors.

Longevity

Agency employees shall be eligible to receive longevity payments in the amounts prescribed below provided they have total service with the Agency from his or her date of hire for the following periods of time:

5 years……$300.00
10 years……$800.00
15 years……$1,000.00
20 years……$2,500.00

A break in service of more than one year shall require a new period for determining the date of hire. Longevity payments shall be made in the first week of December or nearest payroll to it and each year thereafter during the same period. In addition eligibility is predicated upon an employee reaching his or her anniversary date in the year that they reach his or her fifth, tenth, fifteenth and twentieth year of service.

Child Care Leave/Ordinary Leave of Absence

The Agency's CEO shall grant agency employees up to one year of childcare or ordinary leave of absence without pay upon approval of the Chief Executive Officer and adoption by the Board of Directors. Prior to an Agency employee being granted such leave, they must first use all accruals held in his or her accounts. That is vacation and personal leave must first be used prior to ordinary leave being taken and vacation, sick and personal leave must first be used prior to childcare leave being taken.

Funeral Leave

Agency employees shall be entitled to funeral leave with pay, not to exceed five workdays to arrange for and attend the funeral, or sit Shiva, of a member of his or her immediate family. Upon demonstration of need, an Agency employee may be granted four additional funeral days. The same number of days shall be granted to an Agency employee if he or she is the only living relative of the deceased.

Disability Plan

Agency employees will be provided with a long and short term disability plan which shall cover them for illness incurred that are not job related. There will be two types of coverage defined as follows

Short Term Disability: The interim period of time not covered by long term disability when the employees required accruals expire and for such time the employee would not otherwise derive income. The Agency will provide the same benefits (up to ninety (90) days) as the long term coverage for this interim period through its plan.

Long Term Disability: The coverage which the plan provides after an employee has been absent due to illness for a period of ninety (90) days from the time the employee's required accruals expire.

An employee becomes eligible to receive disability only after such employee utilizes all accruals in his or her account or fifteen (15) days of accrued leave, whichever is less.

Tuition Reimbursement

All Agency employees with at least six months of service shall be eligible for tuition reimbursement for a job-related course. Eligible employees shall submit their request for tuition reimbursement, prior to matriculation, to the CEO.

Tuition for job-related course shall be reimbursed to the eligible employee as follows:

1) One Hundred Percent (100%) for a grade of A
2) Eighty Percent (80%) for a grade of B
3) Sixty Percent (60%) for a grade of C
4) Fifty Percent (50%) for a grade of D
5) If a course is pass or fail, the employee shall receive reimbursement for seventy five percent (75%) upon passing or zero percent (0%) if the employee fails.

Attendance at Conventions

The CEO of the Agency has the power to approve attendance at conventions and conferences that further promote the mission of the Agency. Written authorization from the CEO shall be sufficient to authorize payment for expenses allowable under law upon presentation of proper claims to the Chief Financial Officer.

Mileage Reimbursement

The Agency shall provide mileage to Agency employee at the rate set by the Internal Revenue Service. Employees shall receive reimbursement under the following conditions:

1) Mileage will be granted from the Agency office to the work assignment location(s) the employee is traveling to and return mileage to the Agency Office
2) If an Agency employee is starting from their residence and directly traveling to the first work assignment on Agency business, mileage will be awarded from the residence. This is also the case in reverse at the end of workday.
3) In addition to a mileage allowance, the Agency will pay any tolls and parking of the employee while on official Agency business.

Gifts

No Agency employee shall accept gifts exceeding seventy five dollars ($75) in value in a calendar year. No Agency employee shall accept any gifts from a bidder or proposer on an Agency Contract.

Any Agency employee, who receives a gift in excess of the limitations in this section, must either return the gift or donate it to a charity within thirty (30) days after receipt. Agency employees should keep a log of all gifts received and the value, source, and disposition of gifts.

Confidential Information

Agency employees shall maintain the confidentiality of any confidential information relating to contracts, procurement, litigation strategy, personnel files, employee medical information, or other proprietary information to which they have access through their employment with the Agency. Such confidentiality shall be maintained during and after such employment with the Agency. Agency employees shall not use confidential information for any purpose other then in the performance of their job for the benefit of the Agency. Confidential information shall only be disclosed to authorized persons.

Use of Agency Assets

Agency employees shall not use any Agency assets for personal gain or any other purpose other than Agency business. Agency assets include, but are

not limited to, time, facilities, equipment, stationary, records, mailing lists, supplies, prestige or influence.

Agency telephones, computers, e-mail and Internet access are provided for the purpose of conducting Agency business. Subject to the restrictions in this section and if permitted by the Chief Executive Officer, some occasional and limited personal use is allowed so long as it does not interfere with the performance of the employee's Agency duties and does not result in additional expense to the Agency. However, Agency telephones, computers, e-mail and Internet access shall not be used for chain emails, religious or political advocacy, excessive personal communication, personal financial gain, to seek outside employment, for any purpose that would reasonably be viewed as abusive, harassing, hostile or intimidating to Agency clients or employees, to access entertainment or sexually explicit sites, or for any use otherwise prohibited by law. The Agency reserves the right to monitor and review all records of usage by Agency employees of any Agency assets. No use of Agency telephones, computers, email or Internet access, or use of any other Agency asset, shall be private to the employee, and no Agency employee shall be given any basis for an expectation of privacy in any such use.

Political Activity

Members and employees of the Agency may be engaged as private individuals in political activity. However, they must be extremely cautious to keep those activities separate from the affairs of the Agency to avoid misrepresentation or public confusion between private behavior and public actions on the part of the Agency. Members and employees are advised to express such personal opinions with prudence as they may likely be afforded special significance in terms of public influence. When speaking in public, members and employees should strive to separate a discussion of issues from an assertion favoring or opposing candidates for office. Members and employees are not authorized to employ the name or image of the Agency for campaign purposes.

No member or employee may represent the opinion of the Agency or offer public comment on an issue that may be construed to represent the opinion of the Agency without the prior knowledge and consent of the Agency. Members and employees may make comments that represent personal opinions on public issues, but they must be qualified as personal comments and not representative of the viewpoint of the Agency.

Agency funds for advertising or promotional materials shall not depict elected government officials in either print or electronic media.

Equal Employment Opportunity
The Agency provides equal employment opportunities (EEO) to all employees and applicants for employment without regard to race, color, religion, sex national origin, age, disability or genetics. In addition to federal law requirements, the Agency complies with applicable state and local laws governing nondiscrimination in employment in every location in which the Agency has facilities. This policy applies to all terms and conditions of employment, including recruiting, hiring, placement, promotion, termination, layoff, recall, transfer, leaves of absence, compensation and training.

The Agency expressly prohibits any form of workplace harassment based on race, color, religion, gender, sexual orientation, gender identity or expression, national origin, age, genetic information, disability, or veteran status. Improper interference with the ability of the Agency's employees to perform their job duties may result in discipline up to and including discharge.

Any employee or potential employee who believes the Agency has not followed this policy should immediately report such to the Chairperson of the Board of Directors.

Sexual Harassment
See Schedule A.

Family and Medical Leave Act (FMLA)
See Schedule B.

Resignation
In the event of resignation an employee of the Agency shall give three weeks notice.

Termination
The Agency reserves the right to terminate employees immediately. Upon termination, the key to the office should be turned in to the Chief Executive

Officer along with a written status report on all current projects including present files and work material.

Any employee who is terminated, except those terminated due to gross malfeasance, may appeal the decision to the Board by writing a letter to the Chairperson. The Board's decision shall be final.

Amendments to Personnel Policy
The Agency's CEO shall have the power to amend this policy at any time.

Workplace Safety & Security
The unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited at the Agency

To ensure the accuracy and fairness of our testing program, all testing will be conducted according to Substance Abuse and Mental Health Services Administration (SAMHSA) guidelines where applicable and will include a screening test; a confirmation test; the opportunity for a split sample; review by a Medical Review Officer, including the opportunity for employees who test positive to provide a legitimate medical explanation, such as a physician's prescription, for the positive result; and a documented chain of custody.

All drug-testing information will be maintained in separate confidential records.

Each employee, as a condition of employment, will be required to participate in pre-employment, periodic, post-accident and reasonable suspicion testing upon selection or request of management.

The substances that will be tested for are: Amphetamines, Cannabinoids (THC), Cocaine, Opiates, Phencyclidine (PCP), Barbiturates, Benzodiazepines, Methaqualone, Methadone and Propoxyphene.

Testing for the presence of the metabolites of drugs will be conducted by the analysis of urine, blood, hair, saliva and sweat.

Any employee who tests positive will be immediately removed from duty, suspended without pay for a period of 30 days, referred to a substance abuse professional for assessment and recommendations, required to successfully

complete recommended rehabilitation including continuing care, required to pass a Return-to-Duty test and sign a Return-to-Work Agreement, subject to ongoing, unannounced, follow-up testing for a period of five years and terminated immediately if he/she tests positive a second time or violates the Return-to-Work Agreement.

An employee will be subject to the same consequences of a positive test if he/she refuses the screening or the test, adulterates or dilutes the specimen, substitutes the specimen with that from another person or sends an imposter, will not sign the required forms or refuses to cooperate in the testing process in such a way that prevents completion of the test.

The Agency may conduct criminal record checks as part of the application or licensing process. This search may include appropriate court records relating to the applicant's county of residence for evidence of felony and/or misdemeanor convictions and potentially searches of the New York criminal offender record information (CORI) database, and/or other state-by-state or national criminal databases followed by verifying county searches. Where a criminal record check is part of a general background check for employment, volunteer work, or licensing purposes, the following practices and procedures will generally be followed.

1) Criminal record checks will be conducted in accordance with applicable law. Applicants or employees will be notified if a criminal record check will be conducted and will be asked to complete a Disclosure and Authorization form in accordance with the Fair Credit Reporting Act (FCRA) and/or CORI request form authorizing the Agency to conduct a criminal record search. If requested, the applicant or employee will be provided with a copy of this criminal background check policy.

2) Agency personnel with responsibility for reviewing CORI reports in the decision-making process will be familiar with the educational materials made available by the Department of Criminal Justice Information Services (DCJIS).

3) Unless otherwise provided by law, a criminal record will not automatically disqualify an applicant or employee. Rather, determinations of suitability based on criminal record checks will be

made consistent with this policy and any applicable law or regulations.

4) If a criminal record is received, the authorized individual will closely compare the record provided with the information on the Disclosure and Authorization Form or CORI request form, and any other identifying information provided by the applicant or employee, to ensure the record relates to the applicant or employee.

5) If the Agency is inclined to make an adverse decision based on the results of the criminal background check, the applicant or employee will be notified immediately. The applicant or employee will be provided with a copy of the criminal record, the Agency's criminal background policy, and the FCRA Summary of Rights, and will be advised of the part(s) of the record that make the individual unsuitable for the position or license. The Agency will provide the applicant or employee with an opportunity to dispute the accuracy and relevance of the criminal record.

6) Applicants or employees challenging the accuracy of a criminal record shall be provided a copy of DCJIS' Information Concerning the Process in Correcting a Criminal Record. If the criminal record provided does not exactly match the identification information provided by the applicant or employee, the Agency will make a determination based on a comparison of the criminal record and documents provided by the applicant or employee. In the event that criminal record information is obtained through the CORI database, the Agency may contact DCJIS and request a detailed search consistent with DCJIS policy.

7) If the Agency reasonably believes the record belongs to the applicant or employee and is accurate, then the Agency will determine the applicant or employee's suitability for the position or license at issue. Unless otherwise provided by law, factors considered in determining suitability may include, but not be limited to the following:

a) Relevance of the crime to the position sought;
b) The nature of the work to be performed;
c) Time since the conviction;
d) Age of the candidate at the time of the offense;
e) Seriousness and specific circumstances of the offense;

f) The number of offenses;
g) Whether the applicant has pending charges;
h) Any relevant evidence of rehabilitation or lack thereof;i) Any other relevant information, including information submitted by the candidate or requested by the hiring authority

1) The Agency will notify the applicant or employee of the decision and the basis of the decision in a timely manner.

Professional Conduct & Dress Code

It is the policy and expectation of the Agency that all employees and members will conduct themselves in a professional manner in all of their interactions with clients, members of the public, Town employees, and each other. The employee is expected to promote excellence, integrity and altruism in all of his or her activities; to assure that all persons are treated with respect, dignity and courtesy; and to promote constructive communication and collaborative teamwork.

The Agency permits a business casual dress code, except during specified and announced periods by the Chief Executive Officer. Employees who must leave work to change clothes for business reasons will use personal time or vacation time to do so. When meeting clients, business dress guidelines must be observed, unless the client has specifically requested otherwise.

Disabled Employees

The Agency is committed to complying with all provisions of the laws applicable to disabled employees. It is the Agency's policy to be non-discriminatory with any qualified employee with regard to any term, condition, or privilege of employment because of such individual's disability so long as the employee can perform the essential functions of the job with or without reasonable accommodation. Consistent with the policy of non-discrimination, the Agency will provide reasonable accommodation to a qualified individual with a disability, as defined by law, provided that such accommodation does not constitute an undue hardship on the Agency.

Residency Requirement

There shall be no residency requirements set by the Agency as a condition of employment. Employees are encouraged to maintain a commitment of

involvement with the community in which they work and with the government that employs them.

Personnel Records

Personnel files shall be maintained in the offices of the Agency for each employee. These records are considered highly confidential. Each current employee has a right to review his or her record in the presence of the Chief Financial Officer. The Chief Executive Officer and Board Members shall also have access to these records, when authorized by the Chief Financial Officer. Current employees have a right to attach a written statement disputing documents placed in their personnel file.

Dual Employment

An Agency employee may not engage in outside employment, including self employment, which conflicts with his or her duties or responsibilities of the Agency or which otherwise adversely, affects his or her job performance. All Agency employees are prohibited from any pecuniary relationship with any clients of the Agency or any bidders or contract awardees of the Agency. All employees presently engged in planning to engage in such outside employment must inform the Chief Executive Officer in writing. The Agency reserves the right in its sole discretion to determine whether dual employment is in violation of this policy.

Expenses

All requests for reimbursements for expenses incurred while on Agency business must be submitted to the Chief Financial Officer. All receipts for incurred expenses must be submitted with a single form stating the total. The Chief Financial Officer must approve all forms, for the exception of the expenses incurred by the Chief Executive Officer whose form must be countersigned by the Chairperson of the Board. Employees must submit expenses no later than two months following their incurring that expense to receive reimbursement.

Employees are not to utilize their personal funds to make significant purchases for the Agency without the approval of the CEO. In the case of minor purchase (under $1,000), the employee, may with the approval of the Chief Executive, utilize their personal funds and receive reimbursement for same. Such situations include but are not limited to: 1)meals 2)parking 3)professional certification. Reimbursements for such expenses must submitted in the same manner as described above.

Retirement Benefits

The Agency and all employees are members of the New York State and Local Retirement System (NYSLRS). Enrollment in the program is compulsory for full-time employees. Each individual employee's retirement benefit is based on factors such as tier, retirement plan, service credit, final average salary (FAS) and age at retirement as set by NYSLRS. The Agency shall meet all its retirement obligations.

In addition to NYSLRS the Agency and its employees are eligible for the New York State Deferred Compensation Plan (NYSDCP) a voluntary 457(b) retirement savings plan. Contributions and benefits are set by NYSDCP.

New York State Worker's Compensation

Agency employees are covered under New York State Worker's Compensation Insurance. Should an employee sustain a work-related injury, he or she must immediately notify the Chief Executive Officer and the Chief Financial Officer.

Jury Duty

The Agency will grant leave for permanent employees called for jury duty and will pay the employee his or her regular salary less any compensation received for the jury service. The maximum amount of leave to be granted for jury duty shall be five (5) days. If additional time is needed the Agency's Board of Directors must approve.

Unemployment Insurance

The Agency provides unemployment insurance coverage for its employees.

Salary Deductions

The Agency shall make the following automatic salary deductions as required by state and federal law:

1) Federal Income Tax
2) New York State Income Tax
3) FICA/Medicaid

The Agency shall make the employer contribution as required by state and federal law.

Voluntary deductions will be made with the employee's written consent. Court ordered garnishments will be made automatically.

Schedule A

Purpose and Goals

The Town of Babylon IDA is committed to maintaining a workplace free from harassment and discrimination. Sexual harassment is a form of workplace discrimination that subjects an employee to inferior conditions of employment due to their gender, gender identity, gender expression (perceived or actual), and/or sexual orientation. Sexual harassment is often viewed simply as a form of gender-based discrimination, but the Town of Babylon IDA recognizes that discrimination can be related to or affected by other identities beyond gender. Under the New York State Human Rights Law, it is illegal to discriminate based on sex, sexual orientation, gender identity or expression, age, race, creed, color, national origin, military status, disability, pre-disposing genetic characteristics, familial status, marital status, criminal history, or status as a victim of domestic violence. Our different identities impact our understanding of the world and how others perceive us. For example, an individual's race, ability, or immigration status may impact their experience with gender discrimination in the workplace. While this policy is focused on sexual harassment and gender discrimination, the methods for reporting and investigating discrimination based on other protected identities are the same. The purpose of this policy is to teach employees to recognize discrimination, including discrimination due to an individual's intersecting identities, and provide the tools to take action when it occurs. All employees, managers, and supervisors are required to work in a manner designed to prevent sexual harassment and discrimination in the workplace. This policy is one component of The Town of Babylon IDA commitment to a discrimination-free work environment.

Goals of this Policy:

Sexual harassment and discrimination are against the law. After reading this policy, employees will understand their right to a workplace free from harassment. Employees will also learn what harassment and discrimination look like, what actions they can take to prevent and report harassment, and how they are protected from retaliation after taking action. The policy will also explain the investigation process into any claims of harassment. Employees are encouraged to report sexual harassment or discrimination by filing a complaint internally with The Town of Babylon IDA. Employees can also file a complaint with a government agency or in court under federal, state, or local antidiscrimination laws. To file an employment complaint with the New York State Division of Human Rights, please visit https://dhr.ny.gov/complaint. To file a complaint with the United States Equal Employment Opportunity Commission, please visit https://www.eeoc.gov/filing-charge-discrimination.

Sexual Harassment and Discrimination Prevention Policy:

1. The Town of Babylon IDA policy applies to all employees, applicants for employment, and interns, whether paid or unpaid. The policy also applies to additional covered individuals. It applies to anyone who is (or is employed by) a contractor, subcontractor, vendor, consultant, or anyone providing services in our workplace. These individuals include persons commonly referred to as independent contractors, gig workers, and temporary workers. Also included are persons providing equipment repair, cleaning services, or any other services through a contract with The Town of Babylon IDA. For the remainder of this policy, we will use the term "covered individual" to refer to these individuals who are not direct employees of the company.

2. Sexual harassment is unacceptable. Any employee or covered individual who engages in sexual harassment, discrimination, or retaliation will be subject to action, including appropriate discipline for employees. In New York, harassment does not need to be severe or pervasive to be illegal. Employees and covered individuals should not feel discouraged from reporting harassment because they do not believe it is bad enough, or conversely because they do not want to see a colleague fired over less severe behavior. Just as harassment can happen in different degrees, potential discipline for engaging in sexual harassment will depend on the degree of harassment and might include education and counseling. It may lead to suspension or termination when appropriate.

3. Retaliation is prohibited. Any employee or covered individual that reports an incident of sexual harassment or discrimination, provides information, or otherwise assists in any investigation of a sexual harassment or discrimination complaint is protected from retaliation. No one should fear reporting sexual harassment if they believe it has occurred. So long as a person reasonably believes that they have witnessed or experienced such behavior, they are protected from retaliation. Any employee of The Town of Babylon IDA who retaliates against anyone involved in a sexual harassment or discrimination investigation will face disciplinary action, up to and including termination. All employees and covered individuals working in the workplace who believe they have been subject to such retaliation should inform the Chief Executive Officer, Chairperson of the Board of Directors or Executive Assistant. All employees and covered individuals who believe they have been a target of such retaliation may also seek relief from government agencies, as explained below in the section on Legal Protections.

4. Discrimination of any kind, including sexual harassment, is a violation of our policies, is unlawful, and may subject to The Town of Babylon IDA to liability for the harm experienced by targets of discrimination. Harassers may also be individually subject to liability and employers or supervisors who fail to report or act on harassment may be liable for aiding and abetting such behavior. Employees at every level who engage in harassment or discrimination, including managers and supervisors who engage in harassment or discrimination or who allow such behavior to continue, will be penalized for such misconduct.

5. The Town of Babylon IDA will conduct a prompt and thorough investigation that is fair to all parties. An investigation will happen whenever management receives a complaint about discrimination or sexual harassment, or when it otherwise knows of possible discrimination or sexual harassment occurring. The Town of Babylon IDA will keep the investigation confidential to the extent possible. If an investigation ends with the finding that discrimination or sexual harassment occurred, The Town of Babylon IDA will act as required. In addition to any required discipline, The Town of Babylon IDA will also take steps to ensure a safe work environment for the employee(s) who experienced the discrimination or harassment. All employees, including managers and supervisors, are required to cooperate with any internal investigation of discrimination or sexual harassment.

6. All employees and covered individuals are encouraged to report any harassment or behaviors that violate this policy. All employees will have access to a complaint form to report harassment and file complaints. Use of this form is not required. For anyone who would rather make a complaint verbally, or by email, these complaints will be treated with equal priority. An employee or covered individual who prefers not to report harassment to their manager or employer may instead report harassment to the New York State Division of Human Rights and/or the United States Equal Employment Opportunity Commission. Complaints may be made to both the employer and a government agency.

Managers and supervisors are **required** to report any complaint that they receive, or any harassment that they observe or become aware of, to the Chief Executive Officer, Chairperson of the Board of Directors or Executive Assistant.

7. This policy applies to all employees and covered individuals, such as contractors, subcontractors, vendors, consultants, or anyone providing services in the workplace, and all must follow and uphold this policy. This policy must be provided to all employees in person or digitally through email upon hiring and will be posted prominently in all work locations. For those offices operating remotely, in addition to sending the policy through email.

What Is Sexual Harassment?

Sexual harassment is a form of gender-based discrimination that is unlawful under federal, state, and (where applicable) local law. Sexual harassment includes harassment on the basis of sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity, and the status of being transgender. Sexual harassment is not limited to sexual contact, touching, or expressions of a sexually suggestive nature. Sexual harassment includes all forms of gender discrimination including gender role stereotyping and treating employees differently because of their gender.

Understanding gender diversity is essential to recognizing sexual harassment because discrimination based on sex stereotypes, gender expression and perceived identity are all forms of sexual harassment. The gender spectrum is nuanced, but the three most common ways people identify are cisgender, transgender, and non-binary. A cisgender person is someone whose gender aligns with the sex they were assigned at birth. Generally, this gender will align with the binary of male or female. A transgender person is someone whose gender is different than the sex they were assigned at birth. A non-binary person does not identify exclusively as a man or a woman. They might identify as both, somewhere in between, or completely outside the gender binary. Some may identify as transgender, but not all do. Respecting an individual's gender identity is a necessary first step in establishing a safe workplace.

Sexual harassment is unlawful when it subjects an individual to inferior terms, conditions, or privileges of employment. Harassment does not need to be severe or pervasive to be illegal. It can be any harassing behavior that rises above petty slights or trivial inconveniences. Every instance of harassment is unique to those experiencing it, and there is no single boundary between petty slights and harassing behavior. However, the Human Rights Law specifies that whether harassing conduct is considered petty or trivial is to be viewed from the standpoint of a reasonable victim of discrimination with the same protected characteristics. Generally, any behavior in which an employee or covered individual is treated worse because of their gender (perceived or actual), sexual orientation, or gender expression is considered a violation of The Town of Babylon IDA policy. The intent of the behavior, for example, making a joke, does not neutralize a harassment claim. Not intending to harass is not a defense. The impact of the behavior on a person is what counts. Sexual harassment includes any unwelcome conduct which is either directed at an individual because of that individual's gender identity or expression (perceived or actual), or is of a sexual nature when:

- The purpose or effect of this behavior unreasonably interferes with an individual's work performance or creates an intimidating, hostile or offensive work environment. The impacted person does not need to be the intended target of the sexual harassment;

- Employment depends implicitly or explicitly on accepting such unwelcome behavior; or

- Decisions regarding an individual's employment are based on an individual's acceptance to or rejection of such behavior. Such decisions can include what shifts and how many hours an employee might work, project assignments, as well as salary and promotion decisions.

There are two main types of sexual harassment:

- Behaviors that contribute to a **hostile work environment** include, but are not limited to, words, signs, jokes, pranks, intimidation, or physical violence which are of a sexual nature, or which are directed at an individual because of that individual's sex, gender identity, or gender expression. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory, or discriminatory statements which an employee finds offensive or objectionable, causes an employee discomfort or humiliation, or interferes with the employee's job performance.

- Sexual harassment also occurs when a person in authority tries to trade job benefits for sexual favors. This can include hiring, promotion, continued employment or any other terms, conditions, or privileges of employment. This is also called **quid pro quo** harassment.

Any employee or covered individual who feels harassed is encouraged to report the behavior so that any violation of this policy can be corrected promptly. Any harassing conduct, even a single incident, can be discrimination and is covered by this policy.

Examples of Sexual Harassment

The following describes some of the types of acts that may be unlawful sexual harassment and that are strictly prohibited. **This list is just a sample of behaviors and should not be considered exhaustive**. Any employee who believes they have experienced sexual harassment, even if it does not appear on this list, should feel encouraged to report it:

- Physical acts of a sexual nature, such as:
    - Touching, pinching, patting, kissing, hugging, grabbing, brushing against another employee's body, or poking another employee's body; or
    - Rape, sexual battery, molestation, or attempts to commit these assaults, which may be considered criminal conduct outside the scope of this policy (please contact local law enforcement if you wish to pursue criminal charges).

- Unwanted sexual comments, advances, or propositions, such as:
    - Requests for sexual favors accompanied by implied or overt threats concerning the target's job performance evaluation, a promotion, or other job benefits;
        - This can include sexual advances/pressure placed on a service industry employee by customers or clients, especially those industries where hospitality and tips are essential to the customer/employee relationship;
    - Subtle or obvious pressure for unwelcome sexual activities; or
    - Repeated requests for dates or romantic gestures, including gift-giving.

- Sexually oriented gestures, noises, remarks or jokes, or questions and comments about a person's sexuality, sexual experience, or romantic history which create a hostile work environment. This is not limited to interactions in person. Remarks made over virtual platforms and in messaging apps when employees are working remotely can create a similarly hostile work environment.

- Sex stereotyping, which occurs when someone's conduct or personality traits are judged based on other people's ideas or perceptions about how individuals of a particular sex should act or look:
    - Remarks regarding an employee's gender expression, such as wearing a garment typically associated with a different gender identity; or
    - Asking employees to take on traditionally gendered roles, such as asking a woman to serve meeting refreshments when it is not part of, or appropriate to, her job duties.

- Sexual or discriminatory displays or publications anywhere in the workplace, such as:
    - Displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials, or other materials that are sexually demeaning or pornographic. This includes such sexual displays on workplace computers or cell phones and sharing such displays while in the workplace;
    - This also extends to the virtual or remote workspace and can include having such materials visible in the background of one's home during a virtual meeting.

- Hostile actions taken against an individual because of that individual's sex, sexual orientation, gender identity, or gender expression, such as:
    - Interfering with, destroying, or damaging a person's workstation, tools or equipment, or otherwise interfering with the individual's ability to perform the job;
    - Sabotaging an individual's work;
    - Bullying, yelling, or name-calling;
    - Intentional misuse of an individual's preferred pronouns; or
    - Creating different expectations for individuals based on their perceived identities:
        - Dress codes that place more emphasis on women's attire;
        - Leaving parents/caregivers out of meetings.

Who Can be a Target of Sexual Harassment?

Sexual harassment can occur between any individuals, regardless of their sex or gender. Harassment does not have to be between members of the opposite sex or gender. New York Law protects employees and all covered individuals described earlier in the policy. **Harassers can be anyone in the workplace**. A supervisor, a supervisee, or a coworker can all be harassers. Anyone else in the workplace can also be harassers including an independent contractor, contract worker, vendor, client, customer, patient, constituent, or visitor.

Sexual harassment does not happen in a vacuum and discrimination experienced by an employee can be impacted by biases and identities beyond an individual's gender. For example:

- Placing different demands or expectations on black women employees than white women employees can be both racial and gender discrimination;
- An individual's immigration status may lead to perceptions of vulnerability and increased concerns around illegal retaliation for reporting sexual harassment; or
- Past experiences as a survivor of domestic or sexual violence may lead an individual to feel re-traumatized by someone's behaviors in the workplace.

Individuals bring personal history with them to the workplace that might impact how they interact with certain behavior. It is especially important for all employees to be aware of how words or actions might impact someone with a different experience than their own in the interest of creating a safe and equitable workplace.

Where Can Sexual Harassment Occur?

Unlawful sexual harassment is not limited to the physical workplace itself. It can occur while employees are traveling for business or at employer or industry sponsored events or parties. Calls, texts, emails, and social media usage by employees or covered individuals can constitute unlawful workplace harassment, even if they occur away from the workplace premises, on personal devices, or during non-work hours.

Sexual harassment can occur when employees are working remotely from home as well. Any behaviors outlined above that leave an employee feeling uncomfortable, humiliated, or unable to meet their job requirements constitute harassment even if the employee or covered individual is at home when the harassment occurs. Harassment can happen on virtual meeting platforms, in messaging apps, and after working hours between personal cell phones.

Retaliation

Retaliation is unlawful and is any action by an employer or supervisor that punishes an individual upon learning of a harassment claim, that seeks to discourage a worker or covered individual from making a formal complaint or supporting a sexual harassment or discrimination claim, or that punishes those who have come forward. These actions need not be job-related or occur in the workplace to constitute unlawful retaliation. For example, threats of physical violence outside of work hours or disparaging someone on social media would be covered as retaliation under this policy.

Examples of retaliation may include, but are not limited to:

- Demotion, termination, denying accommodations, reduced hours, or the assignment of less desirable shifts;
- Publicly releasing personnel files;
- Refusing to provide a reference or providing an unwarranted negative reference;
- Labeling an employee as “difficult” and excluding them from projects to avoid “drama”;
- Undermining an individual’s immigration status; or
- Reducing work responsibilities, passing over for a promotion, or moving an individual’s desk to a less desirable office location.

Such retaliation is unlawful under federal, state, and (where applicable) local law. The New York State Human Rights Law protects any individual who has engaged in “protected activity.” Protected activity occurs when a person has:

- Made a complaint of sexual harassment or discrimination, either internally or with any government agency;
- Testified or assisted in a proceeding involving sexual harassment or discrimination under the Human Rights Law or any other anti-discrimination law;
- Opposed sexual harassment or discrimination by making a verbal or informal complaint to management, or by simply informing a supervisor or manager of suspected harassment;
- Reported that another employee has been sexually harassed or discriminated against; or
- Encouraged a fellow employee to report harassment.

Even if the alleged harassment does not turn out to rise to the level of a violation of law, the individual is protected from retaliation if the person had a good faith belief that the practices were unlawful. However,

the retaliation provision is not intended to protect persons making intentionally false charges of harassment.

Reporting Sexual Harassment

Everyone must work toward preventing sexual harassment, but leadership matters. Supervisors and managers have a special responsibility to make sure employees feel safe at work and that workplaces are free from harassment and discrimination. Any employee or covered individual is encouraged to report harassing or discriminatory behavior to the Chief Executive Officer, Chairperson of the Board of Directors or Executive Assistant. Anyone who witnesses or becomes aware of potential instances of sexual harassment should report such behavior to the Chief Executive Officer, Chairperson of the Board of Directors or Executive Assistant. If the Chief Executive Officer is involved in the harassing activity, the violation should be reported to the Chairperson of the Board of Directors.

Reports of sexual harassment may be made verbally or in writing. A written complaint form is attached to this policy if an employee would like to use it, but the complaint form is not required. Employees who are reporting sexual harassment on behalf of other employees may use the complaint form and should note that it is on another employee's behalf. A verbal or otherwise written complaint (such as an email) on behalf of oneself or another employee is also acceptable.

Employees and covered individuals who believe they have been a target of sexual harassment may at any time seek assistance in additional available forums, as explained below in the section on Legal Protections.

Supervisory Responsibilities

Supervisors have a responsibility to prevent sexual harassment and discrimination. Supervisors who receive a complaint or information about suspected sexual harassment, observe what may be sexually harassing or discriminatory behavior, or for any reason suspect that sexual harassment or discrimination is occurring, are required to report such suspected sexual harassment to the Chief Executive Officer, Chairperson of the Board of Directors or Executive Assistant should not be passive and wait for an employee to make a claim of harassment. If they observe such behavior, they must act.

Supervisors can be disciplined if they engage in sexually harassing or discriminatory behavior themselves. Supervisors can also be disciplined for failing to report suspected sexual harassment or allowing sexual harassment to continue after they know about it.

Supervisors will also be subject to discipline for engaging in any retaliation.

While supervisors have a responsibility to report harassment and discrimination, supervisors must be mindful of the impact that harassment and a subsequent investigation has on victims. Being identified as a possible victim of harassment and questioned about harassment and discrimination can be intimidating, uncomfortable and re-traumatizing for individuals. Supervisors must accommodate the needs of individuals who have experienced harassment to ensure the workplace is safe, supportive, and free from retaliation for them during and after any investigation.

Bystander Intervention

Any employee witnessing harassment as a bystander is encouraged to report it. A supervisor that is a bystander to harassment is **required** to report it. There are five standard methods of bystander intervention that can be used when anyone witnesses harassment or discrimination and wants to help.

1. A bystander can interrupt the harassment by engaging with the individual being harassed and distracting them from the harassing behavior;
2. A bystander who feels unsafe interrupting on their own can ask a third party to help intervene in the harassment;
3. A bystander can record or take notes on the harassment incident to benefit a future investigation;
4. A bystander might check in with the person who has been harassed after the incident, see how they are feeling and let them know the behavior was not ok; and
5. If a bystander feels safe, they can confront the harassers and name the behavior as inappropriate. When confronting harassment, physically assaulting an individual is never an appropriate response.

Though not exhaustive, and dependent on the circumstances, the guidelines above can serve as a brief guide of how to react when witnessing harassment in the workplace. Any employee witnessing harassment as a bystander is encouraged to report it. A supervisor that is a bystander to harassment is required to report it.

Complaints and Investigations of Sexual Harassment

All complaints or information about sexual harassment will be investigated, whether that information was reported in verbal or written form. An investigation of any complaint, information, or knowledge of suspected sexual harassment will be prompt, thorough, and started and completed as soon as possible. The investigation will be kept confidential to the extent possible. All individuals involved, including those making a harassment claim, witnesses, and alleged harassers deserve a fair and impartial investigation.

Any employee may be required to cooperate as needed in an investigation of suspected sexual harassment. The Town of Babylon IDA will take disciplinary action against anyone engaging in retaliation against employees who file complaints, support another's complaint, or participate in harassment investigations.

The Town of Babylon IDA recognizes that participating in a harassment investigation can be uncomfortable and has the potential to retraumatize an employee. Those receiving claims and leading investigations will handle complaints and questions with sensitivity toward those participating.

While the process may vary from case to case, investigations will be done in accordance with the following steps. Upon receipt of a complaint, the Chief Executive Officer, Chairperson of the Board of Directors or Executive Assistant.

1. Will conduct a prompt review of the allegations, assess the appropriate scope of the investigation, and take any interim actions (for example, instructing the individual(s) about whom the complaint was made to refrain from communications with the individual(s) who reported the harassment), as appropriate. If complaint is verbal, request that the individual completes the complaint form in writing. If the person reporting prefers not to fill out the form, [the Chief Executive Officer, Chairperson of the Board of Directors or Executive Assistant] will prepare a complaint form or equivalent documentation based on the verbal reporting;

2. Will take steps to obtain, review, and preserve documents sufficient to assess the allegations, including documents, emails or phone records that may be relevant to the investigation. [the Chief Executive Officer, Chairperson of the Board of Directors or Executive Assistant] will consider and implement appropriate document request, review, and preservation measures, including for electronic communications;

3. Will seek to interview all parties involved, including any relevant witnesses;

4. Will create a written documentation of the investigation (such as a letter, memo or email), which contains the following:
    a. A list of all documents reviewed, along with a detailed summary of relevant documents;
    b. A list of names of those interviewed, along with a detailed summary of their statements;
    c. A timeline of events;
    d. A summary of any prior relevant incidents disclosed in the investigation, reported or unreported; and
    e. The basis for the decision and final resolution of the complaint, together with any corrective action(s).

5. Will keep the written documentation and associated documents in a secure and confidential location;

6. Will promptly notify the individual(s) who reported the harassment and the individual(s) about whom the complaint was made that the investigation has been completed and implement any corrective actions identified in the written document; and

7. Will inform the individual(s) who reported of the right to file a complaint or charge externally as outlined in the next section.

Legal Protections and External Remedies

Sexual harassment is not only prohibited by The Town of Babylon IDA, but it is also prohibited by state, federal, and, where applicable, local law.

The internal process outlined in the policy above is one way for employees to report sexual harassment. Employees and covered individuals may also choose to pursue legal remedies with the following governmental entities. While a private attorney is not required to file a complaint with a governmental agency, you may also seek the legal advice of an attorney.

New York State Division of Human Rights:

The New York State Human Rights Law (HRL), N.Y. Executive Law, art. 15, § 290 *et seq.*, applies to all employers in New York State and protects employees and covered individuals, regardless of immigration status. A complaint alleging violation of the Human Rights Law may be filed either with the New York State Division of Human Rights (DHR) or in New York State Supreme Court.

Complaints of sexual harassment filed with DHR may be submitted any time **within three years** of the harassment. If an individual does not file a complaint with DHR, they can bring a lawsuit directly in state court under the Human Rights Law, **within three years** of the alleged sexual harassment. An individual may not file with DHR if they have already filed a HRL complaint in state court.

Complaining internally to The Town of Babylon IDA does not extend your time to file with DHR or in court. The three years are counted from the date of the most recent incident of harassment.

You do not need an attorney to file a complaint with DHR, and there is no cost to file with DHR.

DHR will investigate your complaint and determine whether there is probable cause to believe that sexual harassment has occurred. Probable cause cases receive a public hearing before an administrative law judge. If sexual harassment is found at the hearing, DHR has the power to award relief. Relief varies but it may include requiring your employer to take action to stop the harassment, or repair the damage caused by the harassment, including paying of monetary damages, punitive damages, attorney's fees, and civil fines.

DHR's main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, New York 10458. You may call (718) 741-8400 or visit: www.dhr.ny.gov.

Go to dhr.ny.gov/complaint for more information about filing a complaint with DHR. The website has a digital complaint process that can be completed on your computer or mobile device from start to finish. The website has a complaint form that can be downloaded, filled out, and mailed to DHR as well as a form that can be submitted online. The website also contains contact information for DHR's regional offices across New York State.

Call the DHR sexual harassment hotline at **1(800) HARASS3** for more information about filing a sexual harassment complaint. This hotline can also provide you with a referral to a volunteer attorney experienced in sexual harassment matters who can provide you with limited free assistance and counsel over the phone.

The United States Equal Employment Opportunity Commission:

The United States Equal Employment Opportunity Commission (EEOC) enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act, 42 U.S.C. § 2000e *et seq.* An individual can file a complaint with the EEOC anytime within 300 days from the most recent incident of harassment. There is no cost to file a complaint with the EEOC. The EEOC will investigate the complaint and determine whether there is reasonable cause to believe that discrimination has occurred. If the EEOC determines that the law may have been violated, the EEOC will try to reach a voluntary settlement with the employer. If the EEOC cannot reach a settlement, the EEOC (or the Department of Justice in certain cases) will decide whether to file a lawsuit. The EEOC will issue a Notice of Right to Sue permitting workers to file a lawsuit in federal court if the EEOC closes the charge, is unable to determine if federal employment discrimination laws may have been violated, or believes that unlawful discrimination occurred by does not file a lawsuit.

Individuals may obtain relief in mediation, settlement or conciliation. In addition, federal courts may award remedies if discrimination is found to have occurred. In general, private employers must have at least 15 employees to come within the jurisdiction of the EEOC.

An employee alleging discrimination at work can file a “Charge of Discrimination.” The EEOC has district, area, and field offices where complaints can be filed. Contact the EEOC by calling 1-800-669-4000 (TTY: 1-800-669-6820), visiting their website at www.eeoc.gov or via email at info@eeoc.gov.

If an individual filed an administrative complaint with the New York State Division of Human Rights, DHR will automatically file the complaint with the EEOC to preserve the right to proceed in federal court.

Local Protections

Many localities enforce laws protecting individuals from sexual harassment and discrimination. An individual should contact the county, city or town in which they live to find out if such a law exists. For example, employees who work in New York City may file complaints of sexual harassment or discrimination with the New York City Commission on Human Rights. Contact their main office at Law Enforcement Bureau of the NYC Commission on Human Rights, 22 Reade Street, 1st Floor, New York, New York; call 311 or (212) 306-7450; or visit www.nyc.gov/html/cchr/html/home/home.shtml.

Contact the Local Police Department

If the harassment involves unwanted physical touching, coerced physical confinement, or coerced sex acts, the conduct may constitute a crime. Those wishing to pursue criminal charges are encouraged to contact their local police department.

Conclusion

The policy outlined above is aimed at providing employees at The Town of Babylon IDA and covered individuals an understanding of their right to a discrimination and harassment free workplace. All employees should feel safe at work. Though the focus of this policy is on sexual harassment and gender discrimination, the New York State Human Rights law protects against discrimination in several protected classes including sex, sexual orientation, gender identity or expression, age, race, creed, color, national origin, military status, disability, pre-disposing genetic characteristics, familial status, marital status, criminal history, or domestic violence survivor status. The prevention policies outlined above should be considered applicable to all protected classes.

Schedule B

Family and Medical Leave Act (FMLA)

The Agency will comply with the Family and Medical Leave Act implementing Regulations as revised effective February 2013. The Agency posts the mandatory FMLA Notice and upon hire provides all new employees with notices required by the U.S. Department of Labor (DOL) on Employee Rights and Responsibilities under the Family and Medical Leave Act.

The function of this policy is to provide employees with a general description of their FMLA rights. In the event of any conflict between this policy and the applicable law, employees will be afforded all rights required by law.

If you have any questions, concerns, or disputes with this policy, you must contact the Chief Executive Officer in writing.

A. General Provisions

Under this policy, The Agency will grant up to 12 weeks (or up to 26 weeks of military caregiver leave to care for a covered servicemember with a serious injury or illness) during a 12-month period to eligible employees. The leave may be paid, unpaid or a combination of paid and unpaid leave, depending on the circumstances of the leave and as specified in this policy.

B. Eligibility

To qualify to take family or medical leave under this policy, the employee must meet all of the following conditions:

1) The employee must have worked for the Agency for 12 months or 52 weeks. The 12 months or 52 weeks need not have been consecutive. Separate periods of employment will be counted, provided that the break in service does not exceed seven years. Separate periods of employment will be counted if the break in service exceeds seven years due to National Guard or Reserve military service obligations or when there is a written agreement, including a collective bargaining agreement, stating the employer's intention to rehire the employee after the service break. For eligibility purposes, an employee will be considered to have been employed for an entire week even if the employee was on the payroll for only part of a week or if the employee is on leave during the week.

2) The employee must have worked at least 1,250 hours during the 12-month period immediately before the date when the leave is requested to commence. The principles established under the Fair Labor Standards Act (FLSA) determine the number of hours worked by an employee. The FLSA does not include time spent on paid or unpaid leave as hours worked. Consequently, these hours of leave should not be counted in determining the 1,250 hours eligibility test for an employee under FMLA.

C. Type of Leave Covered

To qualify as FMLA leave under this policy, the employee must be taking leave for one of the reasons listed below:

1) The birth of a child and in order to care for that child.
2) The placement of a child for adoption or foster care and to care for the newly placed child.
3) To care for a **spouse, child or parent with a serious health condition (described below).
4) The serious health condition (described below) of the employee.An employee may take leave because of a serious health condition that makes the employee unable to perform the functions of the employee's position.

   A serious health condition is defined as a condition that requires inpatient care at a hospital, hospice or residential medical care facility, including any period of incapacity or any subsequent treatment in connection with such inpatient care or a condition that requires continuing care by a licensed health care provider.

   This policy covers illnesses of a serious and long-term nature, resulting in recurring or lengthy absences. Generally, a chronic or long-term health condition that would result in a period of three consecutive days of incapacity with the first visit to the health care provider within seven days of the onset of the incapacity and a second visit within 30 days of the incapacity would be considered a serious health condition. For chronic conditions requiring periodic health care visits for treatment, such visits must take place at least twice a year.

Employees with questions about what illnesses are covered under this FMLA policy or under the Agency's sick leave policy are encouraged to consult with the Human Resource Manager.

If an employee takes paid sick leave for a condition that progresses into a serious health condition and the employee requests unpaid leave as provided under this policy, the Agency may designate all or some portion of related leave taken as leave under this policy, to the extent that the earlier leave meets the necessary qualifications.

5) Qualifying exigency leave for families of members of the National Guard or Reserves or of a regular component of the Armed Forces when the covered military member is on covered active duty or called to covered active duty.

An employee whose spouse, son, daughter or parent either has been notified of an impending call or order to covered active military duty or who is already on covered active duty may take up to 12 weeks of leave for reasons related to or affected by the family member's call-up or service. The qualifying exigency must be one of the following:

a. short-notice deployment.
b. military events and activities, 3) child care and school activities,
c. financial and legal arrangements, 5) counseling, 6) rest and recuperation, (7) post-deployment activities and 8) additional activities that arise out of active duty, provided that the employer and employee agree, including agreement on timing and duration of the leave.

Eligible employees are entitled to FMLA leave to care for a current member of the Armed Forces, including a member of the National Guard or Reserves, or a member of the Armed Forces, the National Guard or Reserves who is on the temporary disability retired list, who has a serious injury or illness incurred in the line of duty on active duty for which he or she is undergoing medical treatment, recuperation, or therapy; or otherwise in outpatient status; or otherwise on the temporary disability retired list. Eligible employees may not take leave under this provision to care for former members of the Armed Forces, former members of the National Guard and Reserves, and members on the permanent disability retired list.

In order to care for a covered servicemember, an eligible employee must be the spouse, son, daughter, or parent, or next of kin of a covered servicemember.

a) A “son or daughter of a covered servicemember” means the covered servicemember's biological, adopted, or foster child, stepchild, legal ward, or a child for whom the covered servicemember stood in loco parentis, and who is of any age.

b) A “parent of a covered servicemember” means a covered servicemember's biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the covered servicemember. This term does not include parents “in law.”

c) Under the FMLA, a “spouse” means a husband or wife as defined under the law in the state where the employee resides.

d) The “next of kin of a covered servicemember” is the nearest blood relative, other than the covered servicemember's spouse, parent, son, or daughter, in the following order of priority: blood relatives who have been granted legal custody of the servicemember by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered servicemember has specifically designated in writing another blood relative as his or her nearest blood relative for purposes of military caregiver leave under the FMLA. When no such designation is made, and there are multiple family members with the same level of relationship to the covered servicemember, all such family members shall be considered the covered servicemember's next of kin and may take FMLA leave to provide care to the covered servicemember, either consecutively or simultaneously. When such designation has been made, the designated individual shall be deemed to be the covered servicemember's only next of kin. For example, if a covered servicemember has three siblings and has not designated a blood relative to provide care, all three siblings would be considered the covered servicemember's next of kin. Alternatively, where a covered servicemember has a sibling(s) and designates a cousin as his or her next of kin for FMLA purposes, then only the designated cousin is eligible as the covered servicemember's next of kin. An employer is permitted to require an employee to provide confirmation of covered family relationship to the covered servicemember pursuant to § 825.122(j).

“Covered active duty” means:

(a) “Covered active duty” for members of a regular component of the Armed Forces means duty during deployment of the member with the Armed Forces to a foreign country.

(b) “Covered active duty” for members of the reserve components of the Armed Forces (members of the U.S. National Guard and Reserves) means duty during deployment of the member with the Armed Forces to a foreign

country under a call or order to active duty in a contingency operation as defined in section 101(a)(13)(B) of title 10, United States Code. (a) in the case of a member of a regular component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country; and

The leave may commence as soon as the individual receives the call-up notice. (Son or daughter for this type of FMLA leave is defined the same as for child for other types of FMLA leave except that the person does not have to be a minor.) This type of leave would be counted toward the employee's 12-week maximum of FMLA leave in a 12-month period.

6) Military caregiver leave (also known as covered servicemember leave) to care for an injured or ill servicemember or veteran.
An employee whose son, daughter, parent or next of kin is a covered servicemember may take up to 26 weeks in a single 12-month period to take care of leave to care for that servicemember.
Next of kin is defined as the closest blood relative of the injured or recovering servicemember.

The term "covered servicemember" means:
(a) a member of the Armed Forces (including a member of the National Guard or Reserves) who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness; or
(b) a veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during the period of 5 years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.

The term "serious injury or illness means:
(a) in the case of a member of the Armed Forces (including a member of the National Guard or Reserves), means an injury or illness that was incurred by the member in line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in line of duty on active duty in the Armed Forces) and that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating; and

(b) in the case of a veteran who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during a period when the person was a covered servicemember, means a qualifying (as defined by the Secretary of Labor) injury or illness incurred by a covered servicemember in the line of duty on active duty that may render the servicemember medically unfit to perform the duties of his or her office, grade, rank or rating.
(c) Outpatient status, with respect to a covered servicemember, means the status of a member of the Armed Forces assigned to either a military medical treatment facility as an outpatient; or a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.

D. Amount of Leave

An eligible employee can take up to 12 weeks for the FMLA circumstances (1) through (5) above under this policy during any 12-month period. The Agency will measure the 12-month period as a rolling 12-month period measured backward from the date an employee uses any leave under this policy. Each time an employee takes leave, the Agency will compute the amount of leave the employee has taken under this policy in the last 12 months and subtract it from the 12 weeks of available leave, and the balance remaining is the amount the employee is entitled to take at that time.
An eligible employee can take up to 26 weeks for the FMLA circumstance (6) above (military caregiver leave) during a single 12-month period. For this military caregiver leave, the Agency will measure the 12-month period as a rolling 12-month period measured forward. FMLA leave already taken for other FMLA circumstances will be deducted from the total of 26 weeks available.

If a husband and wife both work for the Agency and each wishes to take leave for the birth of a child, adoption or placement of a child in foster care, or to care for a parent (but not a parent "in-law") with a serious health condition, the husband and wife may only take a combined total of 12 weeks of leave. If a husband and wife both work for the Agency and each wishes to take leave to care for a covered injured or ill servicemember, the husband and wife may only take a combined total of 26 weeks of leave.

E. Employee Status and Benefits During Leave

While an employee is on leave, the Agency will continue the employee's health benefits during the leave period at the same level and under the same conditions as if the employee had continued to work.

If the employee chooses not to return to work for reasons other than a continued serious health condition of the employee or the employee's family member or a circumstance beyond the employee's control, the Agency will require the employee to reimburse the Agency the amount it paid for the employee's health insurance premium during the leave period.

Under current Agency policy, the employee pays a portion of the health care premium. While on paid leave, the employer will continue to make payroll deductions to collect the employee's share of the premium. While on unpaid leave, the employee must continue to make this payment, either in person or by mail. The Chief Financial Officer must receive the payment on the 1st day of each month. If the payment is more than 30 days late, the employee's health care coverage may be dropped for the duration of the leave. The employer will provide 15 days' notification prior to the employee's loss of coverage.

If the employee contributes to a life insurance or disability plan, the employer will continue making payroll deductions while the employee is on paid leave. While the employee is on unpaid leave, the employee may request continuation of such benefits and pay his or her portion of the premiums, or the employer may elect to maintain such benefits during the leave and pay the employee's share of the premium payments. If the employee does not continue these payments, the employer may discontinue coverage during the leave. If the employer maintains coverage, the employer may recover the costs incurred for paying the employee's share of any premiums, whether or not the employee returns to work.

F. Employee Status After Leave

An employee who takes leave under this policy may be asked to provide a fitness for duty (FFD) clearance from the health care provider. This requirement will be included in the employer’s response to the FMLA request. Generally, an employee who takes FMLA leave will be able to return to the same position or a position with equivalent status, pay, benefits and other employment terms. The position will be the same or one which is virtually identical in terms of pay, benefits and working conditions. The Agency may choose to exempt certain key employees from this requirement and not return them to the same or similar position.

G. Use of Paid and Unpaid Leave

An employee who is taking FMLA leave because of the employee's own serious health condition or the serious health condition of a family member must use all paid vacation, personal or sick leave prior to being eligible for unpaid leave. Sick leave may be run concurrently with FMLA leave if the reason for the FMLA leave is covered by the established sick leave policy.
Disability leave for the birth of the child and for an employee's serious health condition, including workers' compensation leave (to the extent that it qualifies), will be designated as FMLA leave and will run concurrently with FMLA. For example, if an employer provides six weeks of pregnancy disability leave, the six weeks will be designated as FMLA leave and counted toward the employee's 12-week entitlement. The employee may then be required to substitute accrued (or earned) paid leave as appropriate before being eligible for unpaid leave for what remains of the 12-week entitlement. An employee who is taking leave for the adoption or foster care of a child must use all paid vacation, personal or family leave prior to being eligible for unpaid leave.

An employee who is using military FMLA leave for a qualifying exigency must use all paid vacation and personal leave prior to being eligible for unpaid leave. An employee using FMLA military caregiver leave must also use all paid vacation, personal leave or sick leave (as long as the reason for the absence is covered by the Agency’s sick leave policy) prior to being eligible for unpaid leave.

H. Intermittent Leave or a Reduced Work Schedule

The employee may take FMLA leave in 12 consecutive weeks, may use the leave intermittently (take a day periodically when needed over the year) or, under certain circumstances, may use the leave to reduce the workweek or workday, resulting in a reduced hour schedule. In all cases, the leave may not exceed a total of 12 workweeks (or 26 workweeks to care for an injured or ill servicemember over a 12-month period).

The Agency may temporarily transfer an employee to an available alternative position with equivalent pay and benefits if the alternative position would better accommodate the intermittent or reduced schedule, in instances of when leave for the employee or employee's family member is foreseeable and for planned medical treatment, including recovery from a serious health condition or to care for a child after birth, or placement for adoption or foster care.

For the birth, adoption or foster care of a child, the Agency and the employee must mutually agree to the schedule before the employee may take the leave intermittently or work a reduced hour schedule. Leave for birth, adoption or foster care of a child must be taken within one year of the birth or placement of the child.

If the employee is taking leave for a serious health condition or because of the serious health condition of a family member, the employee should try to reach agreement with the Agency before taking intermittent leave or working a reduced hour schedule. If this is not possible, then the employee must prove that the use of the leave is medically necessary.

I. Certification for the Employee's Serious Health Condition

The Agency will require certification for the employee's serious health condition. The employee must respond to such a request within 15 days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave. Medical certification will be provided using the DOL Certification of Health Care Provider for Employee's Serious Health Condition.

The Agency may directly contact the employee's health care provider for verification or clarification purposes using a health care professional, an HR professional, leave administrator or management official. The Agency will not use the employee's direct supervisor for this contact. Before the Agency makes this direct contact with the health care provider, the employee will be a given an opportunity to resolve any deficiencies in the medical certification. In compliance with HIPAA Medical Privacy Rules, the Agency will obtain the employee's permission for clarification of individually identifiable health information.

The Agency has the right to ask for a second opinion if it has reason to doubt the certification. The Agency will pay for the employee to get a certification from a second doctor, which the Agency will select. The Agency may deny FMLA leave to an employee who refuses to release relevant medical records to the health care provider designated to provide a second or third opinion. If necessary to resolve a conflict between the original certification and the second opinion, the Agency will require the opinion of a third doctor. The Agency and the employee will mutually select the third doctor, and the Agency will pay for the opinion. This third opinion will be considered final. The employee will be provisionally entitled to leave and benefits under the FMLA pending the second and/or third opinion.

J. Certification for the Family Member's Serious Health Condition

The Agency will require certification for the family member's serious health condition. The employee must respond to such a request within 15 days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave. Medical certification will be provided using the DOL Certification of Health Care Provider for Family Member's Serious Health Condition.

The Agency may directly contact the employee's family member's health care provider for verification or clarification purposes using a health care professional, an HR professional, leave administrator or management official. The Agency will not use the employee's direct supervisor for this contact. Before the Agency makes this direct contact with the health care provider, the employee will be a given an opportunity to resolve any deficiencies in the medical certification. In compliance with HIPAA Medical Privacy Rules, the Agency will obtain the employee's family member's permission for clarification of individually identifiable health information.

The Agency has the right to ask for a second opinion if it has reason to doubt the certification. The Agency will pay for the employee's family member to get a certification from a second doctor, which the Agency will select. The Agency may deny FMLA leave to an employee whose family member refuses to release relevant medical records to the health care provider designated to provide a second or third opinion. If necessary to resolve a conflict between the original certification and the second opinion, the Agency will require the opinion of a third doctor. The Agency and the employee will mutually select the third doctor, and the Agency will pay for the opinion. This third opinion will be considered final. The employee will be provisionally entitled to leave and benefits under the FMLA pending the second and/or third opinion.

K. Certification of Qualifying Exigency for Military Family Leave

The Agency will require certification of the qualifying exigency for military family leave. The employee must respond to such a request within 15 days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave. This certification will be provided using the DOL Certification of Qualifying Exigency for Military Family Leave.

L. Certification for Serious Injury or Illness of Covered Servicemember for

Military Family Leave

The Agency will require certification for the serious injury or illness of the covered servicemember. The employee must respond to such a request within 15 days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave. This certification will be provided using the DOL Certification for Serious Injury or Illness of Covered Servicemember .

M. Recertification

The Agency may request recertification for the serious health condition of the employee or the employee's family member no more frequently than every 30 days and only when circumstances have changed significantly, or if the employer receives information casting doubt on the reason given for the absence, or if the employee seeks an extension of his or her leave. Otherwise, the Agency may request recertification for the serious health condition of the employee or the employee's family member every six months in connection with an FMLA absence. The Agency may provide the employee's health care provider with the employee's attendance records and ask whether need for leave is consistent with the employee's serious health condition.

N. Procedure for Requesting FMLA Leave

All employees requesting FMLA leave must provide verbal or written notice of the need for the leave to the HR manager. Within five business days after the employee has provided this notice, the HR manager will complete and provide the employee with the DOL Notice of Eligibility and Rights.

When the need for the leave is foreseeable, the employee must provide the employer with at least 30 days' notice. When an employee becomes aware of a need for FMLA leave less than 30 days in advance, the employee must provide notice of the need for the leave either the same day or the next business day. When the need for FMLA leave is not foreseeable, the employee must comply with the Agency's usual and customary notice and procedural requirements for requesting leave, absent unusual circumstances.

O. Designation of FMLA Leave

Within five business days after the employee has submitted the appropriate certification form, the HR manager will complete and provide the employee with a written response to the employee's request for FMLA leave using the DOL Designation Notice.

P. Intent to Return to Work From FMLA Leave

On a basis that does not discriminate against employees on FMLA leave, the Agency may require an employee on FMLA leave to report periodically on the employee's status and intent to return to work.