

EQUAL EMPLOYMENT OPPORTUNITY

29 CFR Part 1614; ORC 4112, 124.25; OAC 123:1-11-08, 5123-7-01

A. POLICY

1. The Health Department is an Equal Opportunity Employer and shall comply with federal and state equal employment opportunity principles and other related laws. All employees shall be treated in a fair and equitable manner based solely upon merit, fitness and such other occupational qualifications as each individual might possess.
2. The Health Department will not discriminate against applicants or employees on the basis of race, color, religion, sex, pregnancy, age, sexual orientation, national origin, ancestry, disability, veteran status, military status, genetic information, or other unlawful reason except when such a factor constitutes a bona fide occupational qualification.
3. The employment decisions below will be based solely on the individual's qualifications and the requirements of the position:
1. The Galion City Health Department is an Equal Opportunity Employer. No personnel decisions concerning any term or condition of employment shall be unlawfully based upon race, color, religion, sex, national origin, age or disability.
 - a. recruitment/hiring;
 - b. compensation/rates of pay;
 - c. fringe benefits;
 - d. terms and conditions of employment;
 - e. job training;
 - f. performance evaluations;
 - g. job assignment;
 - h. classification;
 - i. promotions/demotions;
 - j. disciplinary actions/discharge;
 - k. references;
 - l. layoffs/returns from layoffs; and
 - m. reasonable accommodations due to disability.
4. Employees shall not discriminate against co-workers or members of the public based on race, color, religion, sex, pregnancy, age, sexual orientation, national origin, ancestry, disability, veteran status, military status, genetic testing or other unlawful reason.
5. The Health Department will not retaliate against any person because that person has opposed any unlawful discriminatory practice or because that person has made a complaint of unlawful discrimination, testified, assisted, or participated in any investigation, proceeding or hearing.

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2.6. The ~~Administrative Secretary to the City Manager~~ Health Commissioner and/or the City of Galion HR is the Employer's EEO/ADA Coordinator. The EEO Coordinator is responsible for providing information regarding anti-discrimination employment laws to employees and others, and for reviewing and resolving complaints involving alleged discrimination not resolved by the Employer.

3.7. The EEO Coordinator shall be responsible for formulating, implementing, coordinating and monitoring all efforts in the area of equal employment opportunity. The Employer and supervisors shall maintain responsibility for their actions in regard to offering equal opportunity to each department employee or job applicant and for attempting to resolve discrimination complaints within their respective departments not personally involving the Employer.

4.8. No inquiry shall be made as to religious, racial or ethnic origin of the applicant, except as necessary to gather equal employment opportunity or other statistics that, when compiled, will not identify any specific individual. Disclosure of this information by the employee is a voluntary action on the applicant's part. No applicant shall be adversely affected in any way for having refused to complete such form.

AMERICANS WITH DISABILITIES ACT

A. POLICY

1. Employment - The Employer supports the intent and purposes of the Americans with Disabilities Act (ADA) and will not discriminate against qualified individuals with disabilities because of the disability of such individual in regard to job application procedures, hiring, advancement, discharge, compensation, job training and other terms, conditions and privileges of employment. Disabilities in the Workplace- The GCHD prohibits discrimination in hiring, promotions, transfers, or any other benefit or privilege of employment, of any qualified individual with a disability that substantially impairs one or more major life activities. To be considered a qualified individual, the employee must satisfy the requisite skills, experience, education and other job-related requirements of the position held or desired and must be able to perform the essential functions of the position, with or without a reasonable accommodation.

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- a. The GCHD will provide reasonable accommodation to a qualified applicant or employee with a disability. Decisions as to whether an accommodation is necessary and/or reasonable shall be made on a case-by-case basis.
- b. An employee who wishes to request an accommodation shall direct such request to the Health Commissioner to investigate and take appropriate action. Employee requests for accommodation should be in writing to avoid confusion; however, verbal requests will be considered.
- c. The Employer and employee will meet in an "interactive process" to discuss whether an accommodation is appropriate and, if applicable, the type of accommodation to be given. The Employer can ask the employee relevant questions that will enable it to make an informed decision about the request. The Employer may also require documentation about the employee's disability and its functional limitations from an appropriate health care or rehabilitation professional. The Employer shall make a reasonable accommodation unless the accommodation would pose an undue hardship to the Employer or is otherwise not required by law.
- d. Any employee who feels that their rights have been violated under this policy should submit a written complaint as set forth in the Unlawful Discrimination and Harassment Policy.

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2. Accessible Features - The Employer shall maintain in operable working order all features of facilities and equipment which are for the use, benefit, aid or service of the public, in a manner which is readily accessible to and usable by persons with disabilities.

3. Accessible Facilities - Each service, program and activity shall be operated in a manner that, when viewed in its entirety, shall be readily accessible to and usable by individuals with disabilities.
4. Accessible Communications - The Employer shall ensure that communications with applicants, participants and members of the public with disabilities are as effective as communications with others.
5. Information - The Employer shall ensure that all interested persons (including those with impaired vision or hearing) can obtain information on the existence and location of accessible services, activities and facilities.
6. Action to achieve accessibility may not be taken when it would result in a fundamental alteration in the nature of a service, program or activity, or cause undue ~~financial and administrative burdens, hardship to the GCHD.~~
7. EEO Coordinator - The Equal Employment Coordinator ~~(see Section 2.01)~~ shall be responsible for:
 - a. Providing information about the ADA to employees and others;
 - b. Receiving and resolving complaints involving non-accessibility of services, programs or facilities and alleged discrimination against disabled individuals.

B. PROCEDURE

1. Complaint/Comment Procedure - ~~The GCHD provides an organized process for handling citizen complaints of discrimination on the basis of disability in public services, programs, or employment provided by GCHD.~~ Complaints, comments or questions regarding:
 - a. Accessibility to any of the Employer's services, programs or facilities; or
 - b. Discrimination against individuals with disabilities; or
 - c. The Employer's compliance with the ADA;

should be filed with the EEO Coordinator in accordance with ~~Section 2.04~~the Unlawful Discrimination and Harassment Policy.

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UNLAWFUL DISCRIMINATION

ORC Chapter 4112, 42 USC §2000(e)

1. The GCHD shall provide employees with workplaces free from unlawful discrimination because of the employee's membership in a protected class such as: race, color, religion, sex, age, national origin, ancestry, disability, veteran status, military status, genetic information, or other unlawful reason.
2. This policy applies to all employees, Board Members and all suppliers, subcontractors, residents, visitors, clients, volunteers, and other individuals who

conduct business on health department property or who receive services from health department personnel. Since an individual's employment may extend beyond the confines of the workplace, conduct that occurs off duty and off premises may also be subject to this policy.

Types of Unlawful Discrimination

Unlawful discrimination occurs when:

1. Employment Action: An individual subject to this policy is treated less favorably in their employment - e.g. terms and conditions of employment, such as hiring, promotions, raises, discipline, benefits, and other job opportunities - because of their membership in a protected class.
2. Hostile Work Environment: An individual is the subject of unwelcome conduct based upon membership in a protected classification such that:
 - a. Enduring the offensive conduct becomes a condition of continued employment; or
 - b. The conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive.
3. Sexual Harassment is a type of sex discrimination and is defined as "unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, used as the basis for employment decisions affecting such individual, or has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating hostile, or offensive work environment."
 - a. Two types of sexual harassment:
 - i. Quid Pro Quo Harassment occurs when there is submission to or rejection of unwelcome sexual conduct either explicitly or implicitly which is used as the basis for employment decisions affecting such individual.
 - ii. Hostile Work Environment is created by unwelcome sexual advances, or other sexually offensive conduct that does not involve a specific reward or punishment, but which unreasonably interferes with an individual's job performance, or creates an intimidating, hostile, abusive, or offensive working environment.

b. Sexual Harassment can include, but is not limited to:

i. Verbal:

- a. Sexual innuendo
- b. Suggestive comments
- c. Threats
- d. Insults
- e. Obscene joke telling
- f. Unwelcome humor and jokes about sex or gender-specific traits.
- g. Sexual proposals
- h. Unwanted and repeated requests for association

ii. Non Verbal:

- a. Making sexual or suggestive or insulting noises
- b. Obscene gestures
- c. Whistling
- d. Leering
- e. Written or electronically transmitted messages and/or letters
- f. Pictures, photographs

iii. Physical:

- a. Touching
- b. Pinching
- c. Squeezing
- d. Patting
- e. Coerced sexual activity
- f. Assault
- g. Repeated brushing against body

c. Sexual Harassment does not include simple teasing, offhand comments, or isolated incidents. Incidents must be so frequent or so severe as to create a hostile or offensive work environment or results in adverse employment decision.

4. Retaliation: An adverse employment action taken against an employee who reports, files a complaint, participates in an investigation, or testifies concerning unlawful discrimination in the workplace.

Employee Responsibilities

a. Discriminatory Acts

- i. Employees shall not initiate, engage in alone, or with others, or encourage another to discriminate against another employee or

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against a supplier, subcontractor, resident, visitor, client, volunteer or other individual doing business with or receiving services from the GCHD due to their membership in a protected class. Employees shall not initiate, engage in alone, or with others, or encourage another to engage in quid pro quo sexual harassment or create a hostile work environment for persons to whom this policy is applicable based on membership in a protected class.

- ii. Employees shall report acts of discrimination and sexual harassment as set forth in the Complaint Procedure.
- iii. Employees shall not make false complaints of discrimination or sexual harassment. Failure to prove unlawful discrimination or harassment does not by itself constitute a "false complaint."

b. Complaint Procedure

- i. Employees subject to unlawful discrimination or sexual harassment by a fellow employee, Supervisor, or other individual otherwise affiliated with the Health District or who have knowledge of discrimination or harassment in their workplace shall immediately report the conduct to their Supervisor or to the next level Supervisor if the offender is the Supervisor.
- ii. Employees may initially notify their Supervisor, Division Director or Health Commissioner verbally or in writing.
- iii. If requested, the employee shall submit a written report of the alleged discriminatory incidents or acts to the person notified within three days following initial disclosure of discrimination or sexual harassment.
- iv. Supervisors and/or Division Directors shall notify the Health Commissioner of alleged discrimination and sexual harassment and assist with and/or conduct investigations. If the allegation is against the Health Commissioner, the Supervisor/Division Director may notify another Division Director, the Board of Health or the City of Galion Law Director to coordinate the investigation.
 - a. Determination of discrimination and sexual harassment shall be made on a case-by-case basis.
 - b. The investigation may include interviews of the employee allegedly harassed, the employee committing the alleged harassment, and any and all witnesses.

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iii. Employees shall cooperate in an investigation.

iv. Information will be kept as confidential as practicable, although confidentiality is not guaranteed. Public records may be subject to disclosure under Ohio Public Records Law.

c. Retaliation

- i. The Health District and its Supervisors and employees shall not retaliate against an individual who:
 - a. Files a complaint, reports harassment, or participates or testifies in an investigation, proceeding, or lawsuit alleging discrimination or harassment;
 - b. Opposes employment practices that he/she reasonably believes discriminate against members of a protected class or subject employees or other persons covered by this policy to harassment; or
 - c. Reports retaliatory conduct to their Supervisor, Division Director or Health Commissioner.
- ii. Disciplinary action for filing a false complaint, or not filing a complaint, is not a retaliatory act.

Penalties/Disciplinary Action

Disciplinary action for violation of this policy may be taken against:

- 1. An employee who engages in unlawful discrimination, sexual harassment, or retaliation, up to and including termination; and
- 2. An employee who has knowledge of but does not report unlawful discrimination, sexual harassment, or retaliation.

If appropriate, the Health District shall notify law enforcement agencies or other licensing bodies.

SEXUAL HARASSMENT

A. POLICY

- 1. The Galion City Health Department absolutely prohibits sexual harassment of employees at all levels by any person, in any form. It is both illegal and against the policy of the Employer for any person, including any supervisor, co-worker, vendor or client of the Galion City Health Department, male or female, to sexually harass an employee. Sexual harassment is a form of misconduct that undermines the integrity of the employment relationship. No employee should be subjected to unsolicited

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~~and unwelcome sexual overtures or conduct, either verbal or physical. The Employer will take preventative and immediate remedial steps to stop sexual harassment from occurring. The Employer will enforce a zero tolerance of sexual harassment which translates into a violation of this policy being a terminable offense.~~

~~B. DEFINITION OF SEXUAL HARASSMENT~~

- ~~1. Pursuant to the definition of sexual harassment provided by the Equal Employment Opportunity Commission, the Employer has identified three (3) situations in which unwelcome sexual advances, requests for sexual favors and other physical, verbal or visual conduct based on sex constitutes sexual harassment.~~

~~Those situations are the following:~~

- ~~a. When submission to the conduct is an explicit or implicit condition of employment;~~
- ~~b. When submission to or rejection of the conduct is used as the basis for an employment decision; or~~
- ~~c. When such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.~~

- ~~2. Paragraphs (a) and (b) above are commonly referred to as "quid pro quo" sexual harassment, in which acquiescence to sexual advances or some type of sexual consideration is required in exchange for a tangible job benefit. Quid pro quo harassment occurs when someone in a supervisory position relies upon his or her apparent or actual authority to extort sexual consideration from an employee. In addition, no one should imply or threaten that an applicant or employee's "cooperation" of a sexual nature (or refusal thereof) will have any effect on the individual's employment, assignment, compensation, advancement, career development or any other condition of employment.~~
- ~~3. Paragraph (c) above is based on a hostile or offensive work environment even where there has been no conditioning of an employment benefit for sexual consideration. This type of sexual harassment may include, but is not limited to, explicit sexual propositions, sexual innuendo, suggestive comments, lewd or explicit sexual remarks, sexually oriented "kidding" or "teasing," "practical jokes," jokes about gender-specific traits, foul or obscene language or gestures, display of foul or obscene printed or visual materials and physical contact such as patting, pinching or brushing against another's body.~~

~~The definition of sexual harassment includes conduct directed by any sex towards any sex.~~

~~C. RESPONSIBILITY~~

- ~~1. The Employer has the responsibility to maintain the job site free of harassment, including but not limited to, sexual harassment. This includes discussing this policy with all employees and assuring them they are not to endure insulting, degrading or exploitative sexual or other harassment-related treatment.~~
- ~~2. It is the policy of the Galion City Health Department to discipline, up to and including discharge, any employee found to have engaged in sexual harassment.~~

~~D. COMPLAINT PROCEDURES~~

- ~~1. Any employee who believes he or she witnessed or has been the subject of sexual harassment should report the alleged harassment immediately. All information disclosed shall be held in strictest confidence to the extent allowed by law, and otherwise will only be revealed on a need-to-know basis in order to investigate and resolve the matter.~~
~~Employees have the right to circumvent the employee chain of command in selecting which person to whom to make a complaint of sexual harassment.~~

~~Step 1: Any employee who believes he or she has been the subject of harassment should report the alleged act immediately to his or her supervisor, department head, the EEO Coordinator, and/or the Health Commissioner.~~

~~Step 2: Regardless to which of the above persons the employee makes a complaint of sexual harassment, the individual alleging sexual harassment will be asked to complete a Complaint form outlining the nature of the complaint. (located in Section 9 of this manual) That employee should be prepared to provide the following information:~~

- ~~a. the employee's name;~~
- ~~b. the name of the person or persons committing the sexual harassment;~~
- ~~c. the specific nature of the sexual harassment, how long it has gone on and any employment action (demotion, failure to promote, dismissal, refusal to hire, transfer, etc.) taken against the employee as a result of the harassment, or any other threats made against the employee as a result of the harassment;~~
- ~~d. potential witnesses to the harassment; and~~
- ~~e. whether the employee has previously reported such harassment and to whom.~~

~~Step 3: Investigation of a complaint will be conducted immediately upon receipt of a complaint of sexual harassment, and normally includes conferring with the parties involved and any named or apparent witnesses. All employees shall be protected from coercion, intimidation, retaliation, interference or discrimination for filing a complaint or assisting in an investigation.~~

~~Step 4: — The Galion City Health Department’s policy is to investigate all such complaints thoroughly and promptly. If the investigation reveals that the complaint is valid, prompt attention and/or disciplinary action (up to and including immediate termination), designed to stop the harassment immediately and to prevent its recurrence, will be taken.~~

~~E. — OBLIGATIONS OF EMPLOYEES~~

- ~~1. Employees are not only encouraged to report instances of sexual harassment; they are obligated to report instances of sexual harassment. Sexual harassment may expose the Employer to liability, and a part of each employee’s job is to reduce the Employer’s exposure to liability.~~
- ~~2. Employees are obligated to cooperate in every investigation of sexual harassment, including but not necessarily limited to, coming forward with evidence, both favorable and unfavorable, to a person accused of sexual harassment, and fully and truthfully making a written report or verbally answering questions when required to do so by an investigator during the course of an investigation of sexual harassment.~~
- ~~3. Employees are obligated to refrain from filing bad faith complaints of sexual harassment. With respect to sexual harassment, the Galion City Health Department recognizes that determining whether a particular action or incident is a purely personal, social relationship without a discriminatory employment effect, requires an investigation of all facts in the matter. Given the nature of this type of discrimination, it is also recognized that false accusations of sexual harassment can have serious effects upon innocent individuals.~~
- ~~4. Disciplinary action may also be taken against any employee who fails to report instances of sexual harassment, or who fails or refuses to cooperate in the investigation of a complaint of sexual harassment or who files a complaint of sexual harassment in bad faith. Also, anyone who knowingly files a complaint of sexual harassment in bad faith will be subject to criminal charges, namely falsification, which is classified as a first degree misdemeanor.~~

~~EQUAL EMPLOYMENT OPPORTUNITY/ ANTI DISCRIMINATION COMPLAINT PROCEDURE~~

~~A. — POLICY~~

- ~~1. Any person may file a complaint if they believe:

 - ~~a. That another person has illegally discriminated against them under any local, state or federal anti discrimination law (including a violation of the ADA or conduct involving sexual harassment).~~~~

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- b. ~~That an Employer program, service or facility is not accessible to disabled individuals.~~

B. ~~PROCEDURE~~

1. ~~All complaints under this section shall be filed on the EEO Complaint Form. This form shall be filed as soon as possible, and no later than ten (10) working days after the date the alleged discrimination occurred. "Working days" are scheduled workdays for employees, business days for non-employees.~~
2. ~~Complaints shall be filed with the EEO Coordinator. The EEO Coordinator shall investigate all complaints and respond to the complainant within ten (10) working days of the filing.~~
3. ~~When reviewing complaints alleging a violation of the ADA, the EEO Coordinator will determine whether the complainant is a "qualified person with a disability," whether the Employer may have discriminated against the complainant and, if so, whether the Employer can "reasonably accommodate" the complainant or otherwise resolve their complaint.~~
4. ~~If an employee files a complaint claiming discrimination under any complaint procedure available to employees of the Galion City Health Department, the supervisor may process the grievance through the steps for that grievance procedure, but must discuss the grievance with the EEO Coordinator for assistance.~~
5. ~~The supervisor should also have the employee fill out the EEO Complaint Form. If an employee files both a grievance through an alternative procedure and an EEO grievance, the Employer will process them through one procedure with assistance from the EEO Coordinator, as described herein.~~
6. ~~Any employee who has been found by the Employer, after appropriate investigation, to have committed an act of illegal discrimination against another employee, job applicant or other person will be subject to appropriate disciplinary action.~~
7. ~~Non-employees found to have committed an act of illegal discrimination against an employee will be dealt with appropriately as allowed by law.~~
8. ~~Any program, service or facility found to be non-accessible to disabled individuals shall be reported to the Employer. The Employer shall advise the City Manager on the appropriate steps to achieve accessibility according to the law.~~