

**PERSONNEL
COMMITTEE**

Monday, September 17, 2018

5:00 PM

McFarland Municipal Center
Conference Room A

AGENDA

1. CALL TO ORDER, ROLL CALL.
2. PUBLIC APPEARANCES.
3. APPROVAL OF MINUTES.
 - a. Discussion and action on the minutes of the August 6, 2018 meeting.
4. BUSINESS.
 - a. Discussion and action to make a recommendation to the Village Board regarding revisions to Section 3.04 (Pay Plan) of the Compensation and Benefits Manual.
 - b. Discussion and recommendation on updates to the personnel policy manual regarding the Village harassment policy.
5. SCHEDULE NEXT MEETING DATE.
 - a. October 1, 2018 at 6:30 p.m.
6. ADJOURNMENT.

This meeting notice constitutes an official meeting of the above referenced group and was posted in accordance with all applicable laws related to Open Meetings Law. It is possible that members of and possibly a quorum of members of other governmental bodies of the municipality may be in attendance at the above stated meeting to gather information. No action will be taken by any governmental body at the above stated meeting other than the governmental body specifically referred to above in this notice. Upon reasonable notice, efforts will be made to accommodate the needs of disabled individuals. For additional information or to request this service, contact the McFarland Municipal Center at (608) 838-3153 or cassandra.suettinger@mcfarland.wi.us.

VILLAGE OF MCFARLAND
Personnel Committee Minutes

Monday, August 6, 2018 - 6:30 PM

1. CALL TO ORDER, ROLL CALL.

Chairperson Czebotar called the regular meeting of the Personnel Committee to order at 6:30 PM in Conference Room A.

Members present: Village President Brad Czebotar, Village Trustee Dan Kolk, Steve Kilpatrick, Chris Spanos, and Ken Machtan.

Members not present: Stephanie Bloechl-Anderson, Trish Howen, and Peter Morehouse.

Staff Present: Police Chief Craig Sherven and Village Administrator Matt Schuenke.

2. PUBLIC APPEARANCES.

None.

3. APPROVAL OF MINUTES.

- a. Discussion and action regarding the minutes of the regular meeting held on May 7, 2018.

Motion by Member Chris Spanos, second by Member Steve Kilpatrick, to approve the minutes of the regular meeting held on May 7, 2018. Motion carries 5 - 0 - 0 by acclamation.

4. BUSINESS.

- a. Discussion and possible action to make a recommendation to the Village Board regarding the Communications and Technology Director position including consideration for the following:

- Position Description
- Status
- Classification
- Permission to fill the Vacancy

Motion by Village President Brad Czebotar, second by Member Chris Spanos, to recommend approval to the Village Board for the revised position description with noted modifications, change in position status, classification for position at Pay Grade 12, and request permission to fill the vacancy for the Communications and Technology Director position. Motion carries 5 - 0 - 0 by acclamation.

- b. Discussion and action to make a recommendation to the Village Board to make a compensation compression adjustment for the Police Sergeants according to Section 3.05(1)(I)(v)(2) Compensation and Benefits Manual.

Motion by Village President Brad Czebotar, second by Ken Machtan, to recommend approval to the Village Board to make a temporary compensation compression adjustment from Pay Grade 16 to 18 for the Police Sergeants according to Section 3.05(1)(I)(v)(2) Compensation and Benefits Manual. Motion carries 5 - 0 - 0 by acclamation.

5. SCHEDULE NEXT MEETING DATE.

- a. September 3, 2018 at 6:30 pm (LABOR DAY)

No meeting will be held on September 3, 2018. A new meeting date will be scheduled in September to avoid conflict with the holiday.

6. ADJOURNMENT.

Motion by Village Trustee Dan Kolk, second by Member Steve Kilpatrick, to adjourn at 8:15 pm.

Pursuant to law, written notice of this meeting was given to the public and posted on the public bulletin boards in accordance with Open Meetings Law.

Respectfully submitted,

Matthew G. Schuenke
Village Administrator



VILLAGE BOARD SUMMARY SHEET

MEETING DATE: Monday, September 17, 2018

SECTION: Business

DEPARTMENT: Administration

CONTACT: Matt Schuenke, Village Administrator

AGENDA ITEM: Discussion and action to make a recommendation to the Village Board regarding revisions to Section 3.04 (Pay Plan) of the Compensation and Benefits Manual.

PREVIOUS ACTION:

The Committee last considered revisions as part of its meeting on May 7, 2018.

ISSUE SUMMARY:

Village Staff has been working on updates to the evaluation process and policy language regarding the pay plan to better define certain aspects of the annual appraisal process. The intent is to provide more guidance and flexibility to those Supervisors who are charged with carrying out the annual program that decides wage adjustments following performance review. The Committee discussed these aspects at a prior meeting and this does take into account the items the Committee supported for revisions. The changes are presented for implementation as follows:

- Compensation and Benefits Manual - The policy regarding the Pay Plan is outlined in Chapter 3 of the manual. These changes are made to revise the title for what was formerly titled Cost of Living Adjustment (COLA). This change is presented for consideration since the Village does not apply COLA in a traditional sense but applies an increase only if a certain level is attained following review. Other changes were made to incorporate a new review level into the process. Exemplary performance awards were also clarified.
- Rating Level Definitions - These have historically been contained within the evaluation tool and are pulled out to depict the changes. The first change was to add the above average rating to provide something between meets and exceeds. The main definition here is that people in this category likely exceed expectations in some places but not all. The exceeds category was to add a provision at the end requiring further justification to reach this level.
- Implementation Schedule - This is revised to be carried forward on an annual basis at the same time each year in order to be aligned with the annual budget process and complete for implementation prior to the first of each year. For three years we have been working to get to this point as the process has historically been done after the first of the year, but



we have been working incrementally to get to this point.

- Evaluation Tool - The annual appraisal is updated to incorporate the additional review level and add a sheet for justification for those that are rated at exceeds expectations. Current policy defines how someone may be rated at this highest level. This justification form is meant to align the rater's comments with what the code requires while also requiring the Administrator to sign off on the request to ensure accountability throughout the process.

As discussed previously, the intent of making these changes is to help the program evolve and improve its effectiveness now that we have experienced it a few years.

FINANCIAL/BUDGET IMPACT:

None.

VILLAGE PLAN REFERENCE:

Chapter 3 within the Compensation and Benefits Manual details the requirements to administer the pay plan for non-represented employees.

ORDINANCE REFERENCE:

None.

BOARD, COMMISSION OR COMMITTEE RECOMMENDATION:

Recommendation is to consider the revisions and make a recommendation to the Village Board for action.

ATTACHMENTS:

1. Chapter 3 - Compensation Plans
2. Rating Level Definitions
3. Performance Appraisal - 2018 SCHEDULE
4. Performance Appraisal - 2018 REVIEW TOOL

CHAPTER 3 - ADMINISTRATION OF COMPENSATION PLANS FOR NON-REPRESENTED EMPLOYEES

3.01 Purpose

This chapter sets forth the policies and practices followed in establishing and administering the compensation plan for non-represented positions. The compensation plans for represented positions are set forth in the respective collective bargaining agreements.

3.02 Compensation Philosophy

- (1) The Village believes that its effectiveness as a service provider is linked to pay levels. How the Village compensates its employees influences the quality of individuals that can be attracted to work within the organization and can affect the quality of employee performance, which in turn determines how well the Village's monetary resources are spent.
- (2) In recognition of the importance of compensation levels to organizational effectiveness, the Village Board has adopted the following compensation philosophy:
 - The Village of McFarland considers employees our most valuable asset. As such, the Village recognizes the importance of the compensation program to developing this asset.
 - The salary and benefits program provided to the employees of the Village is intended to attract, retain, and motivate highly qualified, enthusiastic, productive, and committed employees. The program is designed to assist the Village in providing quality services to the public—the Village's top priority objective. This objective is attained by providing compensation based on internal equity and external competitiveness within its fiscal capabilities and in full compliance with all State and Federal laws and regulations governing pay.
 - The Village's compensation philosophy supports our desire to provide salary advancement opportunities that recognize continued contribution through additional experience, changes in the economy, and changes in the Village's financial conditions.

3.03 Compensation Objectives

- (1) The Village's compensation program is guided by the following objectives:
 - To attract and retain highly qualified, enthusiastic, productive, and committed employees;
 - To maintain and motivate employee performance to help the Village achieve its short-term and long-term goals;
 - To communicate our expectations regarding different rates of pay;
 - To maintain the appropriate level of payroll costs fairly;
 - To recognize the internal worth of jobs and pay accordingly;

- To meet competitive pay levels within our chosen market and within our available resources; and
 - To ensure consistent administration and application of pay policies and ensure that plan administration decisions are not based upon or influenced by an employee's sex, race, color, age, religion, or any other legally protected bases governed by law.
- (2) Accomplishment of these objectives requires a systematic salary management program that ensures the goals of the compensation system are reached in practice and in spirit. The system must provide for internally and externally fair pay and opportunities to be rewarded for performance, contributions, innovation, and creativity. Pay policies and procedures must exist for the fair and consistent application of the tenets of the system.

3.04 Pay Plan

(1) Pay Structure

To facilitate effective administration, a pay structure has been established for all non-represented regular positions.

(2) Pay Ranges

The pay ranges for each position under the compensation plan are designed to reflect the levels of responsibility, training and experience necessary, levels of complexity, working conditions, fiscal and budgeting duties, the impact of end results, and the consequences of error. Each pay range has a 6% differential between levels and a 30% difference between the minimum and maximum of the range. The midpoint of the pay range is intended to be a competitive market rate for similar jobs in similarly sized comparable communities, and it represents 100% proficiency in all the duties required of the position. New hires will be placed within the pay range of the position at a rate equivalent to their current level of proficiency in the required duties, or on other factors including but not limited to level of previous experience, competitive hiring situations, and additional education and knowledge in the field. Please refer to the Pay Ranges matrix for the current approved hourly wage ranges, found in Appendix A of the Compensation and Benefits Manual.

(3) ~~Across the Board Wage Cost-of-Living Adjustments~~

Employees who are rated at or above as Level 2 “Meets Expectations” ~~or “Exceeds Expectations”~~ during the annual Performance Appraisal evaluation process are eligible for an Across the Board Wage Adjustment Cost-of-Living Adjustments as determined by the Village Board in the Annual Budget. The pay ranges for each grade will also be adjusted by the same amount. Employees rated below “Meets

Expectations” will be placed on performance improvement plans and are not eligible for an Across the Board Wage Adjustment. Cost-of-Living Adjustments.

(4) Advancing Through the Pay Ranges

A. *Compensation advances for employees below market rate (midpoint).*

- i. Employees are expected to advance towards the market rate of the pay range by demonstrating increased proficiency in the performance of the duties of the position, primarily based upon the successful achievement of reasonable and attainable goals and objectives established by the Department supervisor and/or Department Head and identified in the annual Performance Appraisal evaluation process.
- ii. Employees who successfully achieve these goals and objectives, or who have performed at an acceptable level but did not achieve some or all of these goals and objectives due to documented and justifiable circumstances, may be eligible to receive, subject to budget parameters or other factors, the Level 2 “Meets Expectations” Across the Board Wage Adjustment. annual cost-of-living adjustment.—Employees who show exemplary performance and achieve a rating at or above of a Level 2 “Meets Expectations”—~~or “Exceeds Expectations”~~ may be eligible to receive, subject to budget parameters or other factors, the Across the Board Wage Adjustment cost-of-living adjustment plus a proficiency-based Grid Point Adjustment as a wage base-builder based upon documented increased proficiency in the performance of the duties and responsibilities of their position.

B. *Compensation advances for employees at or above market rate (midpoint).*

- i. Employees who successfully achieve the goals and objectives as established by the annual Performance Appraisal evaluation process, or who have performed at an acceptable level but did not achieve some or all of these goals and objectives due to documented and justifiable circumstances, may be eligible to receive, subject to budget parameters or other factors, the Level 2 “Meets Expectations” Across the Board Wage Adjustment. annual cost-of-living adjustment.—Employees who show exemplary performance and achieve a rating in excess of Level 2 “Meets Expectations”—~~“Exceeds Expectations”~~ may be eligible to receive, subject to budget parameters or other factors, the Across the Board Wage Adjustment cost-of-living adjustment plus a Merit Pay Adjustment increase as a wage base-builder up to the maximum wage allowed for pay range of the position.

(5) Exceeds Expectations Rating

The following guidelines are to be used to determine the rating of “Exceeds Expectations”:

- Employees who have generally and consistently performed at an above average to high level for sustained periods of time;
- Employees who have had a considerable level of positive impact upon the overall operations of the Village or department;
- Employees who routinely plan, participate in, or conduct programs or services to the community that are beyond those required of the position; or
- Employees who are innovative in the development of new programs, services, procedures, or concepts that create efficiencies or increase effectiveness in the delivery of service to the community and their department.

Department Heads are responsible for providing written documentation for the justification of an “Exceeds Expectations” rating for any employee and a copy of the completed annual performance evaluation to the Administrator.

(6) Exemplary Performance Award

Department Heads will have the ability to recognize employees who have performed at an exemplary level by nominating them for a one-time, non-base builder award. The Village Administrator will have the ability to recognize Department Heads that have performed at an exemplary level by nominating them for a one-time, non-base builder award. Typically, these awards ~~would~~ will be used for the following but not exclusively limited to reasons:

- To recognize completion of special projects or assignments;
- Significant additional duties for a temporary period; or
- Employees earning an “Exceeds Expectations” rating but who are ineligible for a base-building merit pay award due to being at the maximum pay for their position’s range.

(7) Budget Considerations for ~~Wage Adjustments Cost-of-Living Increases, Merit Pay Adjustments, and Exemplary Performance Awards~~

- A. The Village Board, as part of approving the annual budget sets Across the Board Wage Adjustment, Cost-of-Living increases, if any.
- B. The Village Board may allocate a separate amount to be used for Merit Pay Adjustments.
- C. The Village Board may allocate funds for Exemplary Performance Awards. There will be a separate allocation for Department Heads and for non-represented non-department head positions.

- D. The Village Board, based upon budget considerations and on the recommendation of the Village Administrator, will approve a schedule for Across the Board Wage Cost-of-Living Adjustments, Merit Pay Adjustments, and Exemplary Performance Awards for the next calendar year. This schedule may vary from year to year and may be modified or rescinded by the Board at any time.

3.05 Compensation Plan for Management, Supervisory, and Confidential Positions

(1) Compensation Policies

A. *Compensation Upon Promotion*

An employee promoted from one pay range to another, higher pay range is placed at the new range that provides at least a five percent (5%) increase.

B. *Compensation Upon Transfer*

Employees who transfer to a new position within the same pay range as their old position will typically not receive a compensation adjustment.

C. *Compensation Upon Acting Assignment*

- i. Employees who are given an acting assignment to a position in a higher pay range or are assigned on a temporary basis significant duties and responsibilities typically performed by a higher classification, for a planned period of at least 60 days but less than six months, and may receive an adjustment to their base compensation. The amount of the base compensation adjustment will be determined by the Village Administrator and the Village Board.
- ii. In the event an acting assignment lasts more than six months the circumstances will be reviewed by the Department Head and Village Administrator to determine if changes in classification and compensation are appropriate.
- iii. Upon return to the employee's original classification, the employee's pay will revert to their base compensation prior to receiving the interim assignment adjustment, plus any additional annual pay increases and pay structure increases the employee would have received in the original classification.

D. *Compensation Upon Involuntary Demotion*

An employee who is demoted for involuntary reasons unrelated to performance or disciplinary action retains his/her present pay if the base compensation exceeds the new range maximum. As long as an employee's base compensation exceeds the new range maximum, the employee will not be eligible for further base-accumulating pay increases until his/her pay is again within the range for the new position. If the present base compensation is below the new range maximum, the employee will be placed in the new range closest to their current pay.

E. *Compensation Upon Voluntary Demotion*

An employee who requests and is granted a voluntary demotion will receive a decrease in pay, the amount of which is to be determined given the facts and individual circumstance.

F. *Compensation for Retention*

In infrequent circumstances, the Village Administrator may recommend to the Village Board a special wage adjustment for the purpose of retaining an employee deemed to have significant value to the organization.

G. *Pay Range Assignment for New and Reclassified Positions*

- i. When new positions are created or existing positions undergo substantial change, the Village has established a process to review and assign the new/changed position to the pay structure.
- ii. In these situations, the Village will utilize the New Classification/Reclassification Review process to add the new/changed position to the compensation plan and assign it to a pay range contained in the plan. Considerations for range placement will include internal consistency and market considerations.
- iii. The new salary for an employee whose pay range is adjusted as a result of a job reclassification will follow the guidelines established in this policy for promotions.

H. *Positions Requiring a 'Market Adjustment'*

- i. The Village's compensation program has provided a methodology for determining pay rates for employees that recognize not only the worth of positions in the market, but also the worth of jobs internally within the organization.
- ii. A circumstance could develop where a position in the Village's compensation plan should be considered for temporary placement at a higher range of pay than that which is established from our methodology. These are positions that may command higher pay due to unusual market demands which may fluctuate over time.

- iii. Market adjustments should generally be considered in the future under only one or more of the following circumstances:
 - The Village has documented problems recruiting or selecting employees within the assigned pay range (for example, a position is advertised two or more times resulting in few or no qualified applicants who the Village determines could effectively serve in the position).
 - The Village has an unacceptable rate of turnover in the position, and exit interview information indicates rate of pay as a significant issue.
 - Periodic market surveys conducted by the Village show that the midpoint of the pay range is more than 10% less than the average rate of pay shown for the position in the market analysis.
- iv. In situations where the market demands higher pay rates, at the Village's discretion, one of two actions will be available:
 - 1. Adjust the employee's base compensation upward into the existing pay range.
 - 2. Move the position into a higher pay range and adjust the base compensation according to the Compensation Upon Promotion guidelines established in this policy. However, this is to be done temporarily, only while market conditions are still causing the problem.
- v. The Village will utilize the first option whenever possible. However, when the Village utilizes the second option, the appropriate pay range will be determined by the Village (with consultation from a compensation expert in the discretion of the Board), and the position will be placed in a higher range. Further, all documents and communications will be retained to reflect the temporary assignment of the position to a higher pay range. The market conditions should be checked every year, and if conditions change, the position will move back into its initially assigned salary range.
- vi. The Village recognizes that the allowance of market adjustments does disrupt some of the internal equity in its compensation plan because there are jobs that are of higher internal value that may be paid less than a job of lower internal value. This is why the Village intends to utilize market adjustments sparingly.
- vii. All market adjustments must be recommended by the Village Administrator and receive approval by the Village Board. In the event that a position under a market adjustment is reclassified to the

correct pay range established through job evaluation, the policy for Salary Upon Involuntary Demotion will apply in regard to compensation for the affected employee.

I. *Positions Requiring a 'Compression Adjustment'*

- i. Salary compression exists when there is an unacceptable difference in overall compensation between a supervisor and a direct subordinate. Compression could exist under a base salary comparison, under a total gross earnings comparison, or both. In determining whether compression is an issue that should be resolved through a pay increase, the Village will also look at the differences in total compensation (i.e., direct pay and benefits) between the supervisor and subordinate positions.
- ii. Unless the benefit package of the supervisor is determined to compensate for the wage compression, the Village will provide an acceptable base pay differential between an exempt supervisory position and the average gross earnings of the top paid position directly supervised. This differential would generally be a minimum of 7.5% when the supervisor has been in their position for at least one year.
- iii. In determining the average gross earnings of the top paid position directly supervised, the Village recognizes that overtime earnings often fluctuate and can skew an accurate comparison. It may be appropriate, therefore, to factor overtime earnings over a multi-year period or to compensate the supervisor for that overtime earnings component of their subordinate on a periodic lump sum basis rather than through a base compensation adjustment.
- iv. In the event a more highly compensated professional or technical position simply reports to a supervisor for administrative reasons, a compression adjustment may not be warranted.
- v. The compression adjustment should not, in most cases require a pay grade change in order to use a salary within the assigned grade that provides the recommended differential. In situations where the compression analysis requires a higher base salary than would normally be utilized under the compensation plan, at the Village's discretion, one of two actions will be available:
 1. Adjust the employee's pay upward in the range, or

2. Adjust the position up one pay grade temporarily and only while compression conditions are still causing the problem.

- vi. The Village will utilize the first option whenever possible, as long as the current pay grade range allows for sufficient earnings growth consistent with the intent and spirit of the compensation plan. However, when the Village utilizes the second option, all documents and communications are retained to reflect the temporary assignment of the position. The earnings differential situation should be analyzed every year, and if conditions change such that the actual pay grade provides an adequate differential and opportunity for sufficient earnings growth, these positions will move back to their correct grade.
- vii. The Village recognizes that the allowance of compression adjustments does disrupt some of the internal equity in the compensation plan. This is why the Village intends to use compression adjustments sparingly.
- viii. All compression adjustments must be recommended by the Village Administrator and receive approval by the Village Board. In the event that a position under a market adjustment is reclassified to the correct pay range established through job evaluation, the policy for Salary Upon Involuntary Demotion would apply to the affected employee.

J. *Determining Pay for New Hires*

Unless unusual conditions exist, employees should normally be hired between the minimum and midpoint of the pay range for the position with actual wage placement to be based on individual qualifications.

(2) Maintenance of Pay Plan Integrity Over Time

- A. Maintaining the validity and integrity of the pay plan over time is of critical importance. Although it is anticipated that the pay plan will require periodic updating by thorough and systematic reevaluation, the validity of the plan and its usefulness can be extended by
 - Maintaining internal equity; and
 - Maintaining market competitiveness
- B. *Maintaining Market Competitiveness*

In order to maintain the Village's desired pay philosophy of paying at a level competitive with its chosen market, the Village should complete a comprehensive update of its market analysis every three to four years, and more often with market sensitive positions.

- i. The Village Administrator, or his/her designee, under the direction of the Village Board, should complete the market analysis.
- ii. Market information from similar jobs and comparable positions should be used to determine if the compensation plan needs a general adjustment or if the pay ranges should be re-calculated using the regression analysis model used to develop the original plan.
- iii. A full report of findings and recommendations of the market study should be presented by the Village Administrator or his/her designee to the Village Board for consideration.

(3) Policy Exceptions

Compensation decisions that do not meet the above guidelines require the recommendation of the Village Administrator and the approval of the Village Board.

3.06 Compensation Plan for Part-Time Support Positions

The hourly or daily rate of pay for part-time support positions will be determined by the Village Board on an annual basis.

Level 1 – Does Not Meet Expectations

Overall performance is generally below the minimum requirements and expectations for the position. The output and quality of work is inconsistent and below acceptable levels. Job specific knowledge, skills, and abilities do not consistently meet expectations. Close direction and supervision is required, even in routine situations. Frequent coaching is needed to avoid problems and improve performance. Decision making and judgement is inconsistent and questionable.

Level 2 – Meets Expectations

Overall performance meets expectations and is consistently at a level of a well-qualified, experienced, and motivated employee for the performance dimensions of the position. The output and quality of work is favorable. Responsibilities of the job are understood and accepted in a positive manner. Job specific knowledge, skills, and abilities are demonstrated at a consistently high level. Very little direction or supervision is needed, even in unexpected situations. Is self-motivated and able to identify opportunities/challenges and pursues them.

Level 3 – Above Average

Performance at this level meets the criteria in all respects for Level 2 by Meeting Expectations in the performance dimensions for the position. Additionally, performance of the employee is above the average work of their peers that meet expectations. Performance may, at times, exceed expectations for some essential job functions but not all. The output and quality of work is very good meeting the most critical goals/objectives established within their Action Plan. Employee demonstrates some creativity and initiative to complete their tasks with some supervision and direction as might be appropriate.

Level 4 – Exceeds Expectations

Performance at this level meets the criteria in all respects for Level 3 by achieving Above Average ~~meets expectations~~ in the performance dimensions of the position and further exceeding ~~s~~ the already high organizational expectations in many areas. Uses initiative and creativity to solve complex problems and demonstrates superior judgement. Has a substantial positive impact upon overall operations. Goes above and beyond just assigned job responsibilities in a positive manner. Innovative in the development of new programs, services, procedures, or concepts that create efficiencies on the delivery of services to the community. Please see attached Appendix A in order to complete the Exceeds Expectations Justification Worksheet to complete this rating.

Village of McFarland

Individual Performance Appraisal and Wage Adjustments

Implementation Schedule

The Performance Appraisal process is established to evaluate employee performance during the indicated review period. Wage Adjustments are then made based on the results of the appraisal process as applicable with the first of the coming new year and approved within the Annual Budget adopted by the Village Board. The Annual Budget specifically allocates funds across a broad spectrum in order to fund necessary wage adjustments that are allowed by policy set within the Compensation and Benefits Manual. The operations of this process are managed by the Village Administrator as Personnel Officer for the Village with assistance from the Village Clerk/Treasurer regarding record keeping and payroll implementation as is appropriate.

September 25, 2018	Department Head Staff Meeting held to distribute Schedule and Performance Appraisal form. This formally begins the process for Supervisors to formally evaluate the performance of their direct reporting Staff.
October 31, 2018	Supervisors complete Performance Appraisal form for all of their direct reporting Staff. All forms shall be submitted to the Clerk/Treasurer for their Department by this date. All Exceeds Expectation Justification Worksheets should be submitted directly to the Administrator no later than this date.
November 26, 2018	Village Board adopts the Annual Budget allocating funds across a broad spectrum in order to fund necessary Wage Adjustments that are allowed by policy set within the Compensation and Benefits Manual.
November 30, 2018	Administrator shall have completed his review of Performance Appraisals as appropriate and will work with the applicable Department Head as well as Clerk/Treasurer to determine Wage Adjustments.
December 15, 2018	All Employees will be notified regarding changes in compensation through the Wage Adjustment Worksheet which will be determined as a result of the Performance Appraisal process.
January 1, 2019	Effective date for all approved Wage Adjustments as they have been authorized for funding within the Annual Budget.

Village of McFarland

Individual Performance Appraisal and Merit-Based Wage Adjustments

Employee Name:

Job Title:

Department:

Hire Date in Current Position:

Appraisal Date:

Appraisal Period:

Completed By:

Title of Appraiser:

☐ Annual Evaluation

☐ Probationary Evaluation

For Six (6) Month Probationary Hires:

☐ 3 months, ☐ 6 months, ☐ Extended

For Twelve (12) Month Probationary Hires:

☐ 6 months, ☐ 12 months, ☐ Extended

Instructions

The appraisal process provides an opportunity to discuss individual work efforts and results with a primary focus to improve performance. The results of this process will also direct the amount of any wage adjustments earned by the performance of the Employee over the year evaluated. The Employee first completes the Self-Review in its entirety within all four sections and submits it to their Supervisor. The Supervisor shall review the comments provided in the Self-Review by the Employee and complete the Supervisor Review as part of the formal evaluation process. The Supervisor and Employee shall then schedule a time to meet to discuss the comments provided in total as part of the review process by both parties. The Employee and Supervisor sign and date the report upon conclusion of meeting confirming that the Employee has read and understands the Performance Appraisal that was completed. The results of the Performance Appraisal shall be submitted to the Village Administrator in order for a wage adjustment to be determined as earned and applicable.

Section I - Employee Performance Appraisal

The performance of the Employee is evaluated on the basis of specific performance dimensions and key components of the position description.

Section II - Action Plan Review (Prior Year)

The performance of the Employee is evaluated on the basis of progress made in meeting the action plan objectives established for the prior year.

Section III - Action Plan Development (Next Year)

A new action plan is developed in order for the Employee to work on objectives for the upcoming year.

Section IV - Performance Appraisal Summary

The overall performance of the Employee is scored and summarized in narrative form, as measured by Sections I-III.

Section I - Employee Performance Appraisal

Using the rating scale below, check the appropriate box that best describes last year's level of performance for each performance dimension. Please refer to the Sample Criteria for Performance Dimensions for additional descriptors of each dimension. If the dimension is not applicable to the position, mark N/A.

Below Job Responsibilities:
Level 1

Performance is below the minimum requirements of the job for the performance dimension and job responsibilities are not met.

Meets Job Responsibilities:
Level 2

Performance meets the requirements of the job for the performance dimension and job responsibilities are met.

Above Average Job Responsibilities:
Level 3

Performance is consistently above the average work meeting the job responsibilities and at times may exceed expectations with some duties.

Exceeds Job Responsibilities:
Level 4

Performance exceeds the requirements of the job for the performance dimension and significant results above and beyond the expectations of the job are achieved.

	SELF-REVIEW				SUPERVISOR REVIEW				SUPPORTING COMMENTS
SECTION I - PERFORMANCE DIMENSIONS	1	2	3	4	1	2	3	4	
For All Employees:									
Knowledge and Skills Understanding of and proficiency in specific skills necessary to perform job assignments. Includes department and position specific skills.									
Team Work Creates and fosters a positive work environment through interactions with co-workers, supervisors, and the public.									
Productivity Consistently completes assigned work on time and in accordance with organizational and departmental standards.									
Accountability Holds oneself individually responsible and the organization collectively responsible for the quality of service provided to the public.									
Decision Making Exercises sound judgement in reaching and implementing work-related decisions guided by the goal of serving the public effectively and efficiently.									
Innovation Finds new and better ways to enhance the quality of services provided to the public and to improve all aspects of the work of the organization.									
Communication Shares information reliably and is able to clearly and concisely convey ideas in both verbal and written forms.									
Leadership Fosters a collaborative working environment; effectively guides and motivates others in collective pursuit of organizational goals.									
For Supervisors, Managers, and Department Heads:									
Supervision Consistently able to lead employees to high levels of productivity using principles of communication, preparedness, motivation, and accountability.									
Management Ability to prepare and implement plans to achieve organizational priorities, allocate resources effectively, and monitor performance.									

Section II - Action Plan Review (Prior Year)

SECTION II - ACTION PLAN REVIEW

WHAT IS GOING WELL? REVIEW OF PREVIOUS ACTION PLAN.

Employee Self-Review:

Supervisor Review:

Section III - Action Plan Development (Next Year)

SECTION III - ACTION PLAN DEVELOPMENT
<i>AREAS TO FOCUS ON IN THE UPCOMING YEAR (PERFORMANCE, JOB GROWTH, CAREER GROWTH). NEW ACTION PLAN.</i>
<u>Employee Self-Review:</u>

<u>Supervisor Review:</u>

Section IV - Performance Appraisal Summary

SECTION IV - PERFORMANCE APPRAISAL SUMMARY

Assign an appropriate rating level to the performance of the employee using the general definitions describing each rating level below. These are meant as a guide to help the employee and supervisor distinguish the overall level of performance of the employee. The rating is to be based upon the Performance Dimensions and Key Components above.

Level	Definition
Level 1 - Does Not Meet Expectations:	Overall performance is generally below the minimum requirements and expectations for the position. The output and quality of work is inconsistent and below acceptable levels. Job specific knowledge, skills, and abilities do not consistently meet expectations. Close direction and supervision is required, even in routine situations. Frequent coaching is needed to avoid problems and improve performance. Decision making and judgement is inconsistent and questionable.
Level 2 - Meets Expectations:	Overall performance meets expectations and is consistently at a level of a well-qualified, experienced, and motivated employee for the performance dimensions of the position. The output and quality of work is favorable. Responsibilities of the job are understood and accepted in a positive manner. Job specific knowledge, skills, and abilities are demonstrated at a consistently high level. Very little direction or supervision is needed, even in unexpected situations. Is self-motivated and able to identify opportunities/challenges and pursues them.
Level 3 - Above Average:	Performance at this level meets the criteria in all respects for Level 2 by Meeting Expectations in the performance dimensions for the position. Additionally, performance of the employee is above the average work of their peers that meet expectations. Performance may, at times, exceed expectations for some essential job functions but not all. The output and quality of work is very good meeting the most critical goals/objectives established within their Action Plan. Employee demonstrates some creativity and initiative to complete their tasks with some supervision and direction as might be appropriate.
Level 4 - Exceeds Expectations:	Performance at this level meets the criteria in all respects for Level 3 by achieving Above Average in the performance dimensions of the position and further exceeding the already high organizational expectations in many areas. Uses initiative and creativity to solve complex problems and demonstrates superior judgement. Has a substantial positive impact upon overall operations. Goes above and beyond just assigned job responsibilities in a positive manner. Innovative in the development of new programs, services, procedures, or concepts that create efficiencies on the delivery of services to the community. Please see attached Appendix A in order to complete the Exceeds Expectations Justification Worksheet to complete this rating.

Employee Self-Review - Final Rating Determination and Final Comments:

--

Supervisor Review - Final Rating and Final Comments:

--

Signatures: I have participated in a performance appraisal and goal setting discussion with my supervisor. My signature acknowledges that the performance appraisal document has been reviewed with me by my supervisor, and that I discussed the rating and comments contained in this document as provided.

Employee Signature

Supervisor Signature

Date

Date

Appendix A - Exceeds Expectations Justification Worksheet

Level 4 rating within the Employee Performance Appraisal process is noted as the Exceeds Expectations threshold and is the highest rating achievable within the annual evaluation process. Section 3.04(5) of the Compensation and Benefits Manual details the guidelines that have to be met for a rating of Exceeds Expectations to apply following review. By Policy, "Department Heads are responsible for providing written documentation for the justification of an "Exceeds Expectations" rating for any Employee and a copy of the completed annual performance evaluation to the Administrator." This worksheet shall utilize the policy guidelines regarding the achievement of this rating and serve as the written documentation to outline this documentation. Upon completion of this form, the Department Head will sign and submit this worksheet to the Village Administrator for approval with a copy of the Performance Appraisal. The Department Head may not transmit the final review and rating determination until after this worksheet has been approved by the Village Administrator.

Please enter in the justification for each guideline listed in order to make a determination on the rating regarding the year in which the Performance Appraisal is being conducted. These guidelines are established as official policy within Section 3.04(5) of the Compensation and Benefits Manual. The following guidelines are to be used to determine the rating of Level 4 - Exceeds Expectations:

Employees who have generally and consistently performed at an above average level for sustained periods of time...

Employees who have had considerable level of positive impact upon the overall operations of the Village or Department...

Employees who routinely plan, participate in, or conduct programs or services to the Community that are beyond those required of the position...

Employees who are innovative in the development of new programs, services, procedures, or concepts that create efficiencies or increase effectiveness in the delivery of service to the Community and their Department...

Signatures: As the Department Head and/or Supervisor, I have completed the Performance Appraisal for the above named Employee finding their performance to Exceed Expectations as a Level 4 within the annual evaluation process. As such I am submitting the Exceeds Expectations Justification Worksheet as my written documentation to the Village Administrator of this achievement and recognition that I find the Employee's performance to be inline with the guidelines established within Section 3.04(5) of the Compensation and Benefits Manual for Employee's that Exceed Expectations

Department Head/Supervisor

Village Administrator

Date

Date



VILLAGE BOARD SUMMARY SHEET

MEETING DATE: Monday, September 17, 2018

SECTION: Business

DEPARTMENT: Administration

CONTACT: Matt Schuenke, Village Administrator, Cassandra Suettinger, Village Clerk/Treasurer

AGENDA ITEM: Discussion and recommendation on updates to the personnel policy manual regarding the Village harassment policy.

PREVIOUS ACTION:

This topic was last discussed at the Personnel Committee on May 7, 2018.

ISSUE SUMMARY:

Included in your packet is a presentation made at the Chief Executives Workshop put on by the League of Wisconsin Municipalities attended by the Village President. The title of the presentation was "Preventing Harassment in the #MeToo Era" and was prepared by Jill Hall whom is an Labor Attorney with Von Briesen and Roper that represent the Village. This presentation provides some of the background material for the ordinance revision their firm prepared that was reviewed by the Committee several months ago. They continue to advise the validity and benefits of the approach they took with that ordinance draft, and this information is presented for further discussion as we consider which route to pursue with this revision.

FINANCIAL/BUDGET IMPACT:

None.

VILLAGE PLAN REFERENCE:

The current Harassment Policy is contained within the Personnel Policy Manual as Chapter 29.

ORDINANCE REFERENCE:

None.

BOARD, COMMISSION OR COMMITTEE RECOMMENDATION:

Recommendation at this time to review the new material and discuss plan to address revisions.

ATTACHMENTS:

1. 20180912103834212

Preventing Harassment in the #MeToo Era: Leading Cultural Change to Strengthen Your Organization

**Chief Executives Workshop
League of Wisconsin Municipalities**

Presented By:

Jill Pedigo Hall
jhall@vonbriesen.com
608.661.3966

August 16, 2018

von Briesen

von Briesen & Roper, s.c. | Attorneys at Law

vonbriesen.com

Agenda

- What's the "Real Life" Problem in the Current Climate
- How Cultural Change Can Prevent Harassment
- How to Respond to Harassment Complaints

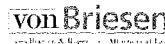


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The "Real Life" Problem in the Current Climate



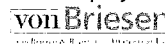


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Facts About Workplace Harassment

- 70% of women have experienced gender harassment
- Half of all women have been sexually harassed
- Workplace harassment = 1/3 of EEOC charges-
Male sexual harassment claims = 16% of charges
- 70% of workers of color experience harassment
- 1/3 of female victims will discuss with family;
1/2 to 3/4 of victims will talk with friends
- 75% of victims never complain to their employer



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#MeToo had been retweeted nearly 2 million times across 85 countries by late October 2017



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What is the Current Climate?

- Public opinion (and community outcry) are not based on legal standards
- Legal definitions for “sexual harassment” have not changed
- Employers in the news may be acting on public outrage (or fear of outrage) or optics regardless of whether conduct is actionable
- Public attention focuses on allegations
- Although complete investigations may have taken place that is not known or reported

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So What’s the “Real Life” Problem?

- Unacceptable and inappropriate behavior is being reported that does not meet the legal or employer policy definition of harassment
- #MeToo posts describe illegal and inappropriate conduct by:
 - The comedian
 - The misinterpretation
 - Good lovin’ gone bad
 - The never-ending pursuit
 - The vindictive co-worker
 - The open secret

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One Snapshot of Work in 2017

2017 *New York Times* survey of 615 men at work revealed:

- 19% told sexual stories or jokes that some might consider offensive
- 16% made remarks that some might consider sexist or offensive
- 7% displayed, used or distributed materials (like videos or cartoons) that some might consider sexist/suggestive
- 1% attempted to draw someone into discussion of sexual matters even though the person did not want to join in
- 4% made gestures or used body language of a sexual nature, which embarrassed or offended someone

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One Snapshot of Work in 2017

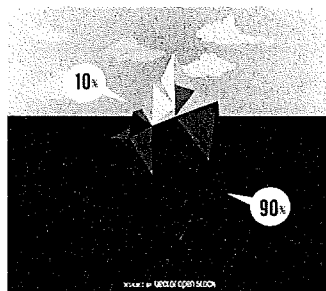
2017 *New York Times* survey of 615 men at work revealed:

- 4% continued to ask someone for dates, drinks or dinner even though he or she said no
- 3% made attempts to establish a romantic sexual relationship with someone despite that person's efforts to discourage it
- 2% touched someone in a way that made him or her feel uncomfortable
- 1% made uninvited attempts to stroke, fondle or kiss someone
- 2% offered or implied rewards if someone engaged in sexual behavior or treated someone badly if he or she didn't

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#MeToo is the tip of the iceberg



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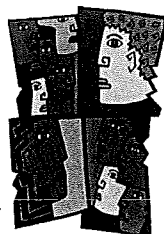
Opportunities Created by #MeToo

- Has raised awareness
- Has encouraged people who feel uncomfortable at work to speak up
- Has encouraged others who witness inappropriate behavior to intervene
- Encourages employers to evaluate their current work environment, reporting procedures, and how cultural expectations are communicated

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PREVENTION BY BUILDING & SUSTAINING A “HARASSMENT RESISTANT” CULTURE



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“Workplace culture has the greatest impact on allowing harassment to flourish, or conversely, in preventing harassment.”

EEOC Select Task Force on the Study of Harassment in the Workplace, Executive Summary and Recommendations, June 2016

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Re-Boot a Culture of Civility

- Evaluate your current organizational culture
- Culture is tangible - conduct and communication
- Assess and eliminate risk
- Create a respectful culture where inappropriate behavior and harassment are not tolerated or considered "harmless" - make it standard operating procedure

"That's just Joe, he doesn't mean anything by it" should have no place

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Leadership Drives Culture

- Management must take a strong and consistent public stand against inappropriate and harassing behavior
- Demonstrate commitment to a diverse, inclusive and respectful workplace (not lip service)
- Hold mid-level managers and front-line supervisors tangibly accountable to prevent and respond to inappropriate behavior or harassment
- Educate leadership on respect, cultural tolerance and legal exposure

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Evaluate Culture

- Leadership should drive a top-down evaluation
- Questions that can and should be asked:
 - Is there a discrepancy between what we say and what we do?
 - Are respectful behaviors practiced at the top? Leadership by example?
 - Is respect publicly and tangibly rewarded?
- Methods are limited only by creativity and funds
 - Examples: Survey, dialogue, employee involvement

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Assess Risk and Reduce Vulnerabilities

- Use the EEOC Checklist for Employers to assess https://www.eeoc.gov/eeoc/task_force/harassment/upload/report.pdf
- Identify existing harassment risk factors - for example:
 - Does your community have a homogenous workforce?
 - Do employees have to fit into pre-set workplace norms?
 - Are some workers vulnerable (young, isolated)?
 - Where are the significant power disparities?

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Employ Additional Tools to Build Harassment Resistance

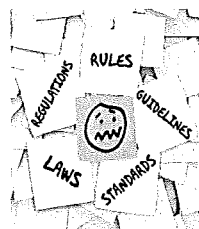
- Have a strong respectful workplace policy
- Train seriously and regularly
- Empower “bystander” involvement
- Set strategies to build and sustain a harassment resistant culture

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Strengthen Your Harassment Policy

- Give explicit leadership commitment
- Actively review at orientation
- Include basic examples of prohibited or other inappropriate conduct
- Provide multiple reporting avenues that are readily accessed and if possible, have gender and racial diversity



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Strengthen Your Harassment Policy

- Include “open door” policy allowing employees to bring concerns to anyone in management
- Hold perpetrators accountable in meaningful and proportional manner
- Include explicit prohibition of retaliation



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Train Seriously and Regularly

- Design to address risk factors present
- In-person and interactive with all employees at all levels
- Management or outside expert
- Weave into other conversations such as service, organization strategy, or citizen engagement
- Conduct separate manager/supervisor training on how to address observed harassment, or uncivil or inappropriate behaviors, how to identify and respond to complaints and issues



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Bystander Empowerment Training

- Consider including bystander training for all levels
- This trains employees to:
 - Talk openly about inappropriate behavior with colleagues
 - Talk with and support targets of inappropriate conduct or harassment
 - Call out inappropriate conduct
 - Disrupt the situation



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Harassment Resistance Strategies

- Increase Workforce Diversity
- Studies have shown:
 - Male-dominant management teams have been found to tolerate, sanction or even expect sexualized treatment of workers
 - Less sexual harassment occurs when employers have women in management

Harvard Business Review, November 15, 2017

- Foster and support inclusion at all levels



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Eliminate Risk From Power Differential

- Ensure business based criteria for employee progression
- Reevaluate effectiveness in recruiting and retaining women
- Apply workplace rules uniformly regardless of rank or value
- Rethink “citizen is always right” mentality in terms of unwelcome conduct and create response strategy where this occurs
- Consider eliminating isolated work roles

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Responding to Complaints

RESPONSE REQUIRED



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Response Demonstrates Culture

- Respond promptly, thoughtfully and thoroughly
- Implement necessary protections and determine how to handle situation
- Be prepared to deal with press, public and political figures
- If needed, create and maintain an investigation plan
- Address confidentiality and privilege up front



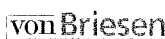
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Investigation Reflects Culture

- Create a "living document" investigation plan
- Gather and preserve evidence
- Conduct a thorough investigation using all resources
- Consider the physical and emotional impacts from the investigation
- Document findings and report conclusions
- Make determination and communicate to involved parties

"A GOAL
WITHOUT
A PLAN
IS JUST
A WISH"



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Prohibit Retaliation

- A culture of anti-retaliation for reporting harassment and other inappropriate behavior is critical
- Continue to monitor situation post-complaint
- Anti-retaliation policy and culture should be reiterated in writing and verbally throughout response and investigation process



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QUESTIONS?



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EEOC HARASSMENT GUIDANCE: UPDATING POLICIES AND TRAINING

In 2015, as a result of the persistence and prevalence of harassment complaints received, the Equal Employment Opportunity Commission (EEOC) embarked on an effort to “reboot workplace harassment prevention efforts.” It created a Select Task Force for this purpose comprised of sixteen members from various backgrounds, including representatives of academia; legal practitioners on both the plaintiff and defense side; employers, employee advocacy groups and organized labor. From April, 2015 through June, 2016, the Select Task Force held a series of meetings (some open to the public), received testimony from more than 30 witnesses and gathered public comments. The goal of the Select Task Force was to provide insight on how to prevent harassment in the workplace.

In June 2016, the agency published the findings, conclusions and recommendations of the Select Task Force in its *Report of the Co-Chairs of the EEOC Select Task Force on the Study of Harassment in the Workplace* in June of 2016 (“*Task Force Report*”). As noted, the Select Task Force did not limit its charge to only looking at the legal definition of workplace harassment, but “rather included the examination of conduct and behaviors which might not be legally actionable, but left unchecked, may set the stage for unlawful harassment.” (*Task Force Report*) Key findings include the following: (1) workplace harassment remains a persistent problem; (2) workplace harassment too often goes unreported; (3) there is a compelling business case for stopping and preventing harassment; (4) leadership and accountability are critical; (5) training must change; (6) new and different approaches to training should be explored; and (7) an “it’s on us” campaign should be furthered to engage those in the workplace to be part of workplace harassment prevention rather than being bystanders. With respect to changes in training, the

findings of the Select Task Force conclude that too much training has focused on simply avoiding legal liability and has been designed as a “one size fits all” program. The *Task Force Report* comments: “We believe effective training can reduce workplace harassment, and recognize that ineffective training can be unhealthful or even counterproductive. However, even effective training can occur in a vacuum – it must be part of a holistic culture of non-harassment that starts at the top. Similarly, one size does *not* fit all: Training must be effective when tailored to the specific workforce and workplace, and to different cohorts of employees. Finally, when trained correctly, middle-managers and first-line supervisors in particular can be an employer’s most valuable resource in preventing and stopping harassment.” (See *Task Force Report*, Executive Summary, p. V.)

Regarding new and different approaches that should be explored, the Select Task Force highlights models of training based upon “bystander intervention training” which has been used to combat sexual violence on school campuses. The training is designed to empower co-workers and gives them tools to intervene when they witness harassing behavior. Further, the Select Task Force suggests “civility training” that focused on promoting respect and civility in the workplace as a means to eliminate unwelcome or offensive behavior.

The *Task Force Report* contains detailed recommendations and a number of tools to assist in defining effective anti-harassment policies, developing training curricula, implementing complaint reporting and investigation procedures, creating an organizational culture in which harassment is not tolerated, ensuring employees are held accountable, and assessing and responding to workplace “risk factors” for harassment.

The following discussion focuses on the recommendations of the Task Force regarding the necessary components of a complaint reporting policy and system, critical response in

handling reported complaints and changes an employer can make to the structure of its compliance training program in order to reduce identified risk factors that may give rise to unlawful harassment in the workplace.

I. Complaint Reporting

A. Designing Proper Reporting Systems

It is essential to have an effective reporting system within any complaint procedure. The Select Task Force emphasizes that an effective policy should make clear that harassment on the basis of any protected category characteristic will not be tolerated and the prohibition should be communicated on a regular basis. It is particularly important to communicate the information about how to file a complaint and how to report harassment that an employee may observe in the workplace.

The Select Task Force recommends that the policy clearly prohibits retaliation and promises protection against retaliation for employees making complaints or providing information, witnesses and others that participate in the investigation. The policy should also carefully outline a complaint process that provides multiple and accessible avenues of complaint, providing assurance that the employer will protect the confidentiality of the harassment complaint to the extent possible. As well, the complaint process must assure that there will be a prompt, thorough and impartial investigation once a report is made. The reporting process should also provide an assurance that the employer will take immediate and appropriate proportionate corrective action when it determines that harassment has occurred. The Select Task Force further recommends that the policy should state that the employer will respond to and prohibit behavior that does not constitute legally actionable harassment but, if allowed to continue, could lead to harassment.

Typically, depending upon the size of the organization, an organization should identify two or more individuals to whom complaints alleging harassment can be directed. If the size and structure of the organization allows, instructing employees that they can direct complaints to both a male and female charged with the responsibility of following up on the complaints is advantageous. Depending upon the nature of the complaint, an individual of one gender may feel most comfortable communicating that complaint to an individual of the same gender. Reporting systems must be flexible and accessible. Requiring an employee to put any complaint in writing before it will be investigated can impose a barrier to an individual that wants to bring forward a complaint. Such requirements should be avoided so that all complaints can be received and investigated.

Overall, in developing a reporting procedure, it is important that any employer representatives listed to receive complaints take any reported complaint seriously and provide an encouraging and supportive environment where individuals feel safe to report harassing behavior to management. It is also important to the investigation process to appoint well-trained objective and neutral investigators that will timely respond and investigate concerns which are brought forward. There should also be systems to ensure that individuals alleged to have engaged in harassment are not “presumed guilty” and are not “punished” until the investigation is completed and there is a determination that harassment has occurred. In addition, this reporting procedure should involve the communication of the determination of the investigation to all parties. Where appropriate, communication of the sanction imposed should take place in a manner that recognizes the privacy interests of those involved.

B. Ensuring Timely Responses

Once a complaint is communicated, an investigation should be launched as soon as possible. It is generally advisable to ensure the completion of a thorough interview with a complaining or charging party within 24 to 48 hours after receiving the complaint, unless circumstances arise that are outside the employer's control. Expediency in handling complaints expresses the seriousness of the complaint and assures the charging party that the employer does not condone such behavior. It also shows that the employer stands behind its investigation process.

At the outset, if the investigation does not begin as soon as possible, it sends a message to employees (including the charging party) that these types of issues are not important and/or that the employer does not stand behind its policy. In addition, evidence of undue delay may serve to show the employer failed to take reasonable corrective action in response to harassment about which it knew or should have known. This may lead to liability for a hostile work environment where an employer was negligent by failing to take action to reasonably prevent harassment from occurring. As part of its responsibility for taking reasonable corrective action to prevent unlawful conduct from continuing, an employer is expected to conduct a prompt and adequate investigation. If an employer opens an investigation into a complaint one day after it is filed, it has clearly acted promptly. See *Crawford v. BNSF Ry. Co.*, 665 F.3d 978, 985 (8th Cir. 2012) (employer exercised reasonable care when it initiated an investigation upon receipt of complaint, placed alleged offender on administrative leave within two days and terminated him within two weeks); *Pantoja v. Dept. of Air Force*, EEOC Appeal No. 01995176, 2001 WL 1526459, at *1 (November 21, 2001) (no liability found where agency immediately investigated allegations and within one day moved alleged harasser to another building). It should be noted that the Seventh

Circuit has found that where an employer waited two months it did not act promptly. *EEOC v. Mgmt. Hospitality of Racine, Inc.*, 666 F.3d 422, 436 (7th Cir. 2012). Timing of the investigation may be fact sensitive and may depend upon other considerations as to the nature and severity of the alleged harassment and the reasons for delay. For example, when allegations include physical touching, an employer that waits two weeks before responding may be deemed to have not acted promptly if there is no reasonable explanation for the delay. *Rockymore v. U.S. Postal Serv.*, EEOC Appeal No. 012010311, 2012 WL 424237, at *5 (Jan. 31, 2012).

II. ANTI-HARASSMENT COMPLIANCE TRAINING: KEY INGREDIENTS

The *Task Force Report* is unequivocal in requiring employers to undertake a holistic harassment prevention effort which includes a strong policy combined with employee and supervisor training on employer's policies, reporting systems and investigation procedures. It identifies three basic components of this system: (1) the structural principles; (2) the content of compliance training for all employees; and (3) the content of compliance training for managers and first-line supervisors. The following discussion summarizes Task Force guidance on required components in these three areas.

A. Structural Principles

The Task Force suggests key structural components that should underlie all anti-harassment training. Most significantly, the harassment prevention effort must be supported at the highest levels of the organization. This can be reflected by statements of those at the highest level of the organization. It may also be demonstrated by participation in, and endorsement before, during and after the compliance training. Efforts should include repeated and reinforced training on a regular basis. Additionally, this training and education should be provided to all employees at every level of the organization.

The repeated trainings should be interactive and conducted in-person by qualified trainers. The Task Force suggests that if live, in-person training is not feasible, the prevention program should be designed to include active engagement by the participants. As well, the training should be routinely evaluated and modified as necessary as the goal for such programmatic training should be the education and understanding of all employees.

B. Content of Compliance Training for all Employees

With respect to the content of the training to be communicated to all employees, the harassment training should describe illegal harassment as prohibited under the policy. In addition, the policy should address how inappropriate conduct might rise to the level of illegal harassment and should prohibit such conduct as violating the policy. Examples should be tailored for the specific workplace and for the specific workforce. This training policy should educate employees about their rights to complain and their responsibilities if they experience or observe conduct that is not acceptable in the workplace. With respect to the reporting procedure, this should be described in simple terms. All employees participating in the training should understand what the reporting procedure is in the event that any harassment is experienced or observed in the workplace. In addition, the content of all compliance training for employees must explain the consequences of the conduct. All employees must understand that there will be consequences for engaging in unacceptable conduct violative of the policies, up to and including discharge from employment.

C. Content of Compliance Training for Managers and First-Line Supervisors

Because the overall goal of compliance training is to prevent harassment from occurring in the workplace, training for managers and first-line supervisors must be tailored to ensure that managers and supervisors know what to do when they observe, or have reported to them,

conduct that may violate the harassment policy. Training should provide easy-to-understand and realistic methods for dealing with any inappropriate conduct or harassment that they observe, that is reported to them, or of which they have knowledge or information. This may include a description of sanctions for failing to use such methods. The policy should state that it is expected that managers and first-line supervisors will act in accord with the policy.

In addition, training for managers and first-line supervisors should provide clear instruction on how to report harassing behavior up the chain of command. Again, to reinforce the importance of making sure the reports are brought forward to the appropriate personnel, the training can include a description of the sanctions for failing to report this type of behavior.

The Task Force also recommends that compliance training for managers and first-line supervisors include situational awareness. Providing examples of expected behavior with respect to managers and supervisors is important as it emphasizes their responsibility to respond. The compliance training should encourage managers and supervisors to assess workforces within their scope of responsibility for risk factors of harassment and to act according to the policy to reduce the risk of employees engaging in behaviors that violate employer policy.

CONCLUSION

Employers seeking to evaluate and “reboot” their policies and procedures are encouraged to review the *Task Force Report* and to consider using the checklists contained within the *Task Force Report* issued in June of 2016. Those checklists are attached.

APPENDIX B

CHECKLISTS FOR EMPLOYERS

Checklist One: Leadership and Accountability

The first step for creating a holistic harassment prevention program is for the leadership of an organization to establish a culture of respect in which harassment is not tolerated. Check the box if the leadership of your organization has taken the following steps:

- ☐ Leadership has allocated sufficient *resources* for a harassment prevention effort
- ☐ Leadership has allocated sufficient *staff time* for a harassment prevention effort
- ☐ Leadership has *assessed* harassment *risk factors* and has taken steps to *minimize* those risks

Based on the commitment of leadership, check the box if your organization has the following components in place:

- ☐ A harassment prevention *policy* that is *easy-to-understand* and that is *regularly communicated* to all employees
- ☐ A harassment reporting *system* that employees *know about* and is *fully resourced* and which accepts reports of harassment experienced and harassment observed
- ☐ *Imposition of discipline* that is prompt, consistent, and proportionate to the severity of the harassment, if harassment is determined to have occurred
- ☐ *Accountability* for mid-level managers and front-line supervisors to prevent and/or respond to workplace harassment
- ☐ Regular *compliance trainings for all employees* so they can recognize prohibited forms of conduct and know how to use the reporting system
- ☐ Regular *compliance trainings for mid-level managers and front-line supervisors* so they know how to prevent and/or respond to workplace harassment

Bonus points if you can check these boxes:

- ☐ The organization conducts *climate surveys* on a regular basis to assess the extent to which harassment is experienced as a problem in the workplace
- ☐ The organization has implemented *metrics* for harassment response and prevention in supervisory employees' performance reviews
- ☐ The organization conducts *workplace civility training* and *bystander intervention training*
- ☐ The organization has *partnered with researchers* to evaluate the organization's holistic workplace harassment prevention effort

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Checklist Two: An Anti-Harassment Policy

An anti-harassment policy is a key component of a holistic harassment prevention effort. Check the box below if your anti-harassment policy contains the following elements:

- ☐ An unequivocal statement that harassment based on *any* protected characteristic will not be tolerated
- ☐ An easy-to-understand description of prohibited conduct, including examples
- ☐ A description of a reporting system – available to employees who experience harassment as well as those who observe harassment – that provides multiple avenues to report, in a manner easily accessible to employees
- ☐ A statement that the reporting system will provide a prompt, thorough, and impartial investigation
- ☐ A statement that the identity of an individual who submits a report, a witness who provides information regarding a report, and the target of the complaint, will be kept confidential to the extent possible consistent with a thorough and impartial investigation
- ☐ A statement that any information gathered as part of an investigation will be kept confidential to the extent possible consistent with a thorough and impartial investigation
- ☐ An assurance that the employer will take immediate and proportionate corrective action if it determines that harassment has occurred
- ☐ An assurance that an individual who submits a report (either of harassment experienced or observed) or a witness who provides information regarding a report will be protected from retaliation from co-workers and supervisors
- ☐ A statement that any employee who retaliates against any individual who submits a report or provides information regarding a report will be disciplined appropriately
- ☐ Is written in clear, simple words, in all languages commonly used by members of the workforce

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Checklist Three: A Harassment Reporting System and Investigations

A reporting system that allows employees to file a report of harassment they have experienced or observed, and a process for undertaking investigations, are essential components of a holistic harassment prevention effort.

Check the box below if your anti-harassment effort contains the following elements:

- ☐ A fully-resourced reporting process that allows the organization to respond promptly and thoroughly to reports of harassment that have been experienced or observed
- ☐ Employer representatives who take reports seriously
- ☐ A supportive environment where individuals feel safe to report harassing behavior to management
- ☐ Well-trained, objective, and neutral investigators
- ☐ Timely responses and investigations
- ☐ Investigators who document all steps taken from the point of first contact and who prepare a written report using guidelines to weigh credibility
- ☐ An investigation that protects the privacy of individuals who file complaints or reports, individuals who provide information during the investigation, and the person(s) alleged to have engaged in harassment, to the greatest extent possible
- ☐ Mechanisms to determine whether individuals who file reports or provide information during an investigation experience retribution, and authority to impose sanctions on those who engage in retaliation
- ☐ During the pendency of an investigation, systems to ensure individuals alleged to have engaged in harassment are not “presumed guilty” and are not “punished” unless and until a complete investigation determines that harassment has occurred
- ☐ A communication of the determination of the investigation to all parties and, where appropriate, a communication of the sanction imposed if harassment was found to have occurred

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Checklist Four: Compliance Training

A holistic harassment prevention effort provides training to employees regarding an employer's policy, reporting systems and investigations. Check the box if your organization's compliance training is based on the following structural principles and includes the following content:

▪ Structural Principles

- ☐ Supported at the highest levels
- ☐ Repeated and reinforced on a regular basis
- ☐ Provided to all employees at every level of the organization
- ☐ Conducted by qualified, live, and interactive trainers
- ☐ If live training is not feasible, designed to include active engagement by participants
- ☐ Routinely evaluated and modified as necessary

▪ Content of Compliance Training for All Employees

- ☐ Describes illegal harassment, and conduct that, if left unchecked, might rise to the level of illegal harassment
- ☐ Includes examples that are tailored to the specific workplace and the specific workforce
- ☐ Educates employees about their rights and responsibilities if they experience conduct that is not acceptable in the workplace
- ☐ Describes, in simple terms, the process for reporting harassment that is experienced or observed
- ☐ Explains the consequences of engaging in conduct unacceptable in the workplace

▪ Content of Compliance Training for Managers and First-line Supervisors

- ☐ Provides easy-to-understand and realistic methods for dealing with harassment that they observe, that is reported to them, or of which they have knowledge or information, including description of sanctions for failing to use such methods
- ☐ Provides clear instructions on how to report harassing behavior up the chain of command, including description of sanctions for failing to report
- ☐ Encourages managers and supervisors to practice "situational awareness" and assess the workforces within their responsibility for risk factors of harassment

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APPENDIX C

CHART OF RISK FACTORS AND RESPONSES

REPORT OF THE CO-CHAIRS OF THE
EEOC SELECT TASK FORCE ON THE STUDY OF HARASSMENT IN THE WORKPLACE

Risk Factor	Risk Factor Indicia	Why This is a Risk Factor for Harassment	Risk Factor-Specific Strategies to Reduce Harassment*
Homogenous workforce	Historic lack of diversity in the workplace Currently only one minority in a work group (e.g., team, department, location)	Employees in the minority can feel isolated and may actually be, or at least appear to be, vulnerable to pressure from others. Employees in the majority might feel threatened by those they perceive as “different” or “other,” or might simply be uncomfortable around others who are not like them.	Increase diversity at all levels of the workforce, with particular attention to work groups with low diversity. Pay attention to relations among and within work groups.
Workplaces where some employees do not conform to workplace norms	“Rough and tumble” or single-sex-dominated workplace cultures Remarks, jokes, or banter that are crude, “raunchy,” or demeaning	Employees may be viewed as weak or susceptible to abuse. Abusive remarks or humor may promote workplace norms that devalue certain types of individuals.	Proactively and intentionally create a culture of civility and respect with the involvement of the highest levels of leadership. Pay attention to relations among and within work groups.
Cultural and language differences in the workplace	Arrival of new employees with different cultures or nationalities Segregation of employees with different cultures or nationalities	Different cultural backgrounds may make employees less aware of laws and workplace norms. Employees who do not speak English may not know their rights and may be more subject to exploitation. Language and linguistic characteristics can play a role in harassment.	Ensure that culturally diverse employees understand laws, workplace norms, and policies. Increase diversity in culturally segregated workforces. Pay attention to relations among and within work groups.

The strategies outlined in Part Three of this report (e.g., exercising leadership, holding people accountable for their actions, developing and enforcing effective policies and procedures, and conducting training) will help address all the risk factors listed in this chart. The strategies outlined in the last column of this chart are designed to address specific risk factors.

REPORT OF THE CO-CHAIRS OF THE
EEOC SELECT TASK FORCE ON THE STUDY OF HARASSMENT IN THE WORKPLACE

Risk Factor	Risk Factor Indicia	Why This is a Risk Factor for Harassment	Risk Factor-Specific Strategies to Reduce Harassment*
Coarsened Social Discourse Outside the Workplace	Increasingly heated discussion of current events occurring outside the workplace	Coarsened social discourse that is happening outside a workplace may make harassment inside the workplace more likely or perceived as more acceptable.	Proactively identify current events—national and local—that are likely to be discussed in the workplace. Remind the workforce of the types of conduct that are unacceptable in the workplace.
Young workforces	Significant number of teenage and young adult employees	Employees in their first or second jobs may be less aware of laws and workplace norms. Young employees may lack the self-confidence to resist unwelcome overtures or challenge conduct that makes them uncomfortable. Young employees may be more susceptible to being taken advantage of by coworkers or superiors, particularly those who may be older and more established in their positions. Young employees may be more likely to engage in harassment because they lack the maturity to understand or care about consequences.	Provide targeted outreach about harassment in high schools and colleges. Provide orientation to all new employees with emphasis on the employer's desire to hear about all complaints of unwelcome conduct. Provide training on how to be a good supervisor when youth are promoted to supervisory positions.

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Risk Factor	Risk Factor Indicia	Why This is a Risk Factor for Harassment	Risk Factor-Specific Strategies to Reduce Harassment*
Workplaces with “high value” employees	Executives or senior managers Employees with high value (actual or perceived) to the employer, <i>e.g.</i>, the “rainmaking” partner or the prized, grant-winning researcher	Management is often reluctant to jeopardize high value employee’s economic value to the employer. High value employees may perceive themselves as exempt from workplace rules or immune from consequences of their misconduct.	Apply workplace rules uniformly, regardless of rank or value to the employer. If a high-value employee is discharged for misconduct, consider publicizing that fact (unless there is a good reason not to).
Workplaces with significant power disparities	Low-ranking employees in organizational hierarchy Employees holding positions usually subject to the direction of others, <i>e.g.</i>, administrative support staff, nurses, janitors, etc. Gendered power disparities (<i>e.g.</i>, most of the low-ranking employees are female)	Supervisors feel emboldened to exploit low-ranking employees. Low-ranking employees are less likely to understand complaint channels (language or education/training insufficiencies). Undocumented workers may be especially vulnerable to exploitation or the fear of retaliation.	Apply workplace rules uniformly, regardless of rank or value to the employer. Pay attention to relations among and within work groups with significant power disparities.
Workplaces that rely on customer service or client satisfaction	Compensation directly tied to customer satisfaction or client service	Fear of losing a sale or tip may compel employees to tolerate inappropriate or harassing behavior.	Be wary of a “customer is always right” mentality in terms of application to unwelcome conduct.

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Risk Factor	Risk Factor Indicia	Why This is a Risk Factor for Harassment	Risk Factor-Specific Strategies to Reduce Harassment*
Workplaces where work is monotonous or tasks are low-intensity	Employees are not actively engaged or “have time on their hands” Repetitive work	Harassing behavior may become a way to vent frustration or avoid boredom.	Consider varying or restructuring job duties or workload to reduce monotony or boredom. Pay attention to relations among and within work groups with monotonous or low-intensity tasks.
Isolated workplaces	Physically isolated workplaces Employees work alone or have few opportunities to interact with others	Harassers have easy access to their targets. There are no witnesses.	Consider restructuring work environments and schedules to eliminate isolated conditions. Ensure that workers in isolated work environments understand complaint procedures. Create opportunities for isolated workers to connect with each other (e.g., in person, on line) to share concerns.

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Risk Factor	Risk Factor Indicia	Why This is a Risk Factor for Harassment	Risk Factor-Specific Strategies to Reduce Harassment*
Workplaces that tolerate or encourage alcohol consumption	Alcohol consumption during and around work hours.	Alcohol reduces social inhibitions and impairs judgment.	Train co-workers to intervene appropriately if they observe alcohol-induced misconduct. Remind managers about their responsibility if they see harassment, including at events where alcohol is consumed. Intervene promptly when customers or clients who have consumed too much alcohol act inappropriately.
Decentralized workplaces	Corporate offices far removed physically and/or organizationally from front-line employees or first-line supervisors	Managers may feel (or may actually be) unaccountable for their behavior and may act outside the bounds of workplace rules. Managers may be unaware of how to address harassment issues and may be reluctant to call headquarters for direction.	Ensure that compliance training reaches all levels of the organization, regardless of how geographically dispersed workplaces may be. Ensure that compliance training for area managers includes their responsibility for sites under their jurisdiction Develop systems for employees in geographically diverse locations to connect and communicate.

The strategies outlined in Part Three of this report (e.g., exercising leadership, holding people accountable for their actions, developing and enforcing effective policies and procedures, and conducting training) will help address all the risk factors listed in this chart. The strategies outlined in the last column of this chart are designed to address specific risk factors.