

SHHA Sexual Harassment Policy

Excerpted from SHHA Policies and Guidelines for Board and Committee Members, dated December 2020

Section 10.5 Sexual Harassment

Sexual harassment of anyone, as well as retaliation against anyone who has reported sexual harassment, is unacceptable and will not be tolerated by the Sandia Heights Homeowners Association (SHHA). Harassment on the basis of sex is a violation of Title VII of the Civil Rights Act of 1964 and of the New Mexico Human Rights Act. An action can also be brought for sexual harassment under New Mexico common law. This policy applies to all members of the SHHA's Board of Directors, committee members, temporary workers, employees, contract employees, and independent contractors.

SEXUAL HARASSMENT IS BEHAVIOR OF A SEXUAL NATURE THAT IS UNWELCOME AND HAS THE PURPOSE OR EFFECT OF UNREASONABLY INTERFERING WITH WORK PERFORMANCE OR CREATES AN INTIMIDATING OR OFFENSIVE WORK ENVIRONMENT.

The Equal Employment Opportunity Commission (EEOC) has published guidelines relating specifically to sexual harassment. There are two kinds of sexual harassment, *quid pro quo*, and hostile environment.

Quid pro quo is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when (1) submission to such conduct is made, either explicitly or implicitly, a term of condition of an individual's employment; or (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual.

The essence of a hostile environment claim is that an individual has been required to endure a work environment that, while not necessarily causing any direct economic harm, caused psychological or emotional harm or otherwise unreasonably interferes with an individual's work performance or creates an intimidating, hostile, or offensive working environment.

A hostile environment case has four elements: (1) the complainant was offended by the unwelcome sexual conduct; (2) the offensive conduct was based on gender; (3) the offensive conduct was severe and pervasive; and (4) the employer [Association] knew or should have known of the offensive conduct and filed to take remedial action.

The EEOC guidelines also state that it is unlawful for employees to receive employment benefits solely because of submission to sexual advances where other qualified individuals are denied such benefits.

Sexual harassment includes offensive sexual flirtations, advances or propositions, verbal abuse of a sexual nature, graphic or degrading comments about an individual or his/her appearance, the display of sexually suggestive objects or pictures (e.g., calendars, posters, etc.), leers or whistles, or any other offensive or abusive physical contact. Such contact can be verbal, in person, through use of electronic communications, or other means of written communication.

Computer downloading, i.e., on office computer equipment from unauthorized web sites, and/or displaying or disseminating materials, which may be considered by some to be obscene, racist, sexist, or otherwise offensive, may legally constitute harassment by creating a hostile work environment.

Computer downloading or viewing of materials of a sexual, pornographic, racist, sexist or otherwise offensive nature is strictly prohibited. All such materials and actions are subject to SHHA's harassment

policy. Violations of this policy are grounds for disciplinary action up to and including termination and removal from the Board or a committee.

If anyone feels that he/she is being harassed on the basis of sex or that employment/association decisions are being made on the basis of sex, he/she should contact the designated sexual harassment monitor(s) (the Monitor) immediately. The Vice-President is the designated Monitor, unless the President needs to be notified instead. If the person feels apprehensive about reporting the incident to the Monitor, he/she should report the incident to any member of the Board with whom the person feels comfortable. All discussions and investigations regarding charges of sexual harassment will be treated as confidentially as is appropriate under the circumstances.

Anyone who engages in sexual harassment is subject to disciplinary action up to and including termination or removal from the Board or a committee; however, as to employees, temporary workers, and contract employees, this in no way affects the at-will nature of employees' status under SHHA's right to discharge an employee or worker without notice for any reason at all.

Reporting/Investigating Sexual Harassment. The following procedures explain the steps one should take if he/she believes he/she is being sexually harassed, and the steps SHHA will take in the investigation of alleged sexual harassment. SHHA will investigate all allegations of sexual harassment. All investigations will be conducted as confidentially as is appropriate under the circumstances, and limited to the parties and witnesses involved and management, on a need-to-know basis.

10.5.1 Actions of Person Who Feels He/She Is Being Harassed (Steps 1 & 2):

1. Confront the person(s) responsible for the harassment. State your feelings about the action(s) and inform the person(s) to stop the harassment immediately. If you feel apprehensive about confronting the person(s), contact the Monitor. If you feel apprehensive about contacting the Monitor, you should contact any member of the Board with whom you feel comfortable.
2. If the harassment continues, report the incident to the Monitor or any member of the Board with whom you feel comfortable.

10.5.2 Board Actions (Steps 3-5):

3. Any Board member who receives a complaint of sexual harassment will:
 - a. Take appropriate actions to limit contact between the reporting person and the alleged harasser.
 - b. Notify the Monitor or the President of the Board if he/she indicates that they do not want the Monitor contacted.
4. An investigation that is as fair and complete as is reasonably possible will be conducted immediately. It may include interviews with persons who may have relevant knowledge. All persons involved in the investigation of a complaint of sexual harassment will maintain confidentiality during and after the investigation. No person or entity will be involved in or informed of the investigation unless necessary.
5. At the conclusion of the investigation, the person who made the complaint will be informed that the investigation has been completed and may be informed of the results of the investigation. The Monitor will keep in contact with the person who made the complaint to ensure that the harassment, if substantiated, has stopped and that no retaliation has occurred.