

PERSONNEL POLICY 91-3

SUBJECT: Workplace Harassment

PURPOSE: To establish a policy with regard to workplace harassment.

APPLICABILITY: This policy applies equally to all City employees including full-time, part-time, temporary, probationary and seasonal.

REFERENCES: A. Title VII of the Civil Rights Act of 1964
B. 42 USC Section 1983

POLICY STATEMENT: Workplace harassment will not be tolerated in the work place since such actions have the purpose or effect of interfering with an individual's work performance or create an intimidating, hostile or offensive work environment. It is the City's policy to provide an environment free from unlawful discrimination. All forms of harassment/discrimination related to race, color, religion, sex, national origin, disability, or other protected classes as well as retaliation for engaging in protected activity, are violations of this policy.

DEFINITIONS:

A. Workplace Harassment

Any unwelcome verbal, written, or physical conduct that either degrades or shows hostility or aversion towards a person because of that person's race, color, national origin, age (over 40), sex, pregnancy, religion, creed, disability, or veteran's status that (1) has the purpose or effect of creating an intimidating, hostile, or offensive work environment; (2) has the purpose or effect of unreasonably interfering with an employee's work performance; or (3) affects an employee's employment opportunities or compensation.

To aid employees in identifying prohibited behavior, the following specific examples of workplace harassment are provided. These examples are not exhaustive; they illustrate, however, the types of conduct that violate this policy:

- Unwelcome touching or near-touching, which can encompass leaning over, cornering, hugging, or pinching; sexual innuendos, teasing and other sexual talk such as jokes, personal inquiries, persistent unwanted courting and sexist put-downs;
- Slurs and jokes about a class of persons, such as persons who are disabled or a racial group;
- Distributing via e-mail epithets, slurs, jokes or remarks that are derogatory or demeaning to a class of persons or a particular person or that promote stereotypes of a class of persons;
- Display of explicit or offensive calendars, posters, pictures, drawings or cartoons that are sexually suggestive or that reflect disparagingly upon a class of persons or a particular person;
- Derogatory remarks about a person's national origin, race, language, religion, or accent.

B. Hostile environment

Hostile environment harassment occurs when a victim is subjected to unwelcome and severe or pervasive comments based on race, color, national origin, age (over 40), sex, pregnancy, religion, creed, disability, veteran's status or any other category protected by civil rights laws. A hostile work environment may also be created by innuendoes, touching, or other conduct that creates an intimidating or offensive workplace.

C. Sexual Harassment

Any unwelcome sexual advance, request for sexual favors, or verbal, written, or physical conduct of a sexual nature by a manager, supervisor, co-worker, or non-employee (third party). There are two types of illegal sexual harassment. Managerial harassment occurs when a manager or a supervisor gives or withholds a work-related benefit in exchange for sexual favors from the victim or takes an adverse action against an employee for refusing a request for sexual favors. In some circumstances, threatening to take such actions may also be a violation of this policy. Certain actions may also create a hostile work environment. (See the definition for "hostile work environment" above.)

D. Retaliation

Retaliation is overt or covert acts of reprisal, interference, restraint, penalty, discrimination, intimidation, or harassment against an individual or individuals exercising rights under this policy.

E. Third Parties

Third parties are individuals who are not City employees but who have business interactions with City employees. Such individuals include, but are not limited to, customers, such as applicants for city employment or services, vendors, contractors, or volunteers.

IMPLEMENTATION:

A. HOW TO REPORT HARASSMENT INCIDENTS

If an employee, applicant for employment, or third party believes he/she has been subject to harassing conduct that violates this policy, he/she must report those incidents as soon as possible after the event occurs to Department Head and/or Human Resources.

Employees shall file a grievance in accordance with established grievance policy.

Individuals who wish to file a complaint are encouraged to submit the complaint in writing to include a description of the incident(s) as well as the date(s), time(s), place(s) and any witnesses. The form at Appendix A may be used and attached to grievance.

B. HOW TO REPORT RETALIATION INCIDENTS

If an employee, applicant for employment, or third party believes he/she has been subjected to retaliation for engaging in protected conduct under this policy, he/she must report those incidents as soon as possible after the event occurs. The form at Appendix A may also be used to report any cases of retaliation.

Any employee, applicant for employment, or third party who makes complaints of workplace harassment or provides information related to such complaints will be protected against retaliation. If retaliation occurs, the employee, applicant for employment, or third party should report the retaliation in the same manner as he/she would report a workplace harassment complaint.

C. HOW COMPLAINTS ARE INVESTIGATED AND RESOLVED

The City will conduct a thorough and neutral investigation of all reported complaints of workplace harassment or retaliation as soon as practicable. Generally, an investigation will include an interview with the complainant to determine if the conduct in issue violates this policy (Appendix B). If the City determines that the conduct falls within the terms of this policy, the City will interview the alleged offender and any other witnesses who have direct knowledge of the circumstances of the allegations.

The City retains the sole discretion to determine whether a violation of this policy has occurred and to determine what level, if any, of disciplinary action is warranted.

D. HOW CONFIDENTIALITY IS TREATED

To the extent permitted by law, the City will try to maintain the confidentiality of each party involved in a workplace harassment investigation, complaint or charge, provided it does not interfere with the City's ability to investigate the allegations or to take corrective action. However, state law may prevent the city from maintaining confidentiality of investigations. Therefore, the City does not guarantee confidentiality.

E. DIRECTIVE TO SUPERVISORY PERSONNEL

Supervisory personnel who receive a complaint alleging workplace harassment or learn by any means of conduct that may violate this policy must immediately report any such event to the City's Human Resources Director.

F. CORRECTIVE ACTION FOR VIOLATION OF THIS POLICY

Any employee who engages in conduct that violates this policy or who encourages such conduct by others will be subject to corrective action. Such corrective action includes, but is not limited to, mandatory participation in counseling, training, disciplinary action, up to and including termination, and/or changes in job duties or location.

Supervisory personnel who allow workplace harassment or retaliation to continue or fail to take appropriate action upon learning of such conduct will be subject to corrective action. Such corrective action includes, but is not limited to, mandatory participation in counseling, training, disciplinary action, up to and including termination, and/or changes in job duties or location.

G. SEXUAL HARASSMENT SPECIFICS

1. Standard grievance procedures do not apply in the cases of sexual harassment because the personnel in the chain of command may be the perpetrators. Employees who feel they have been sexually harassed are afforded the opportunity to speak to anyone with whom they feel comfortable. That person then has the responsibility to report the harassment to proper authorities. All cases of alleged sexual harassment will be reported immediately to the Human Resources Department.
2. The Human Resources Director will investigate the allegations or cause an investigation to be conducted, and will make such recommendations as are appropriate to the applicable Department Head and/or Senior Work Site Supervisor. No employee will be prosecuted or retaliated against in any manner for having reported an incident of sexual harassment.
3. The forms at Appendix A through C will be utilized in the Sexual Harassment complaint/investigative process.

OFFICIAL DOCUMENT
APPROVED BY CITY COUNCIL JUNE 6, 1991
EFFECTIVE DATE: JULY 1, 1991
REVISED: DECEMBER 6, 2007

WILLIAM R. MCNUTT, HR DIRECTOR

Complainant's Initials: _____

Date: _____

MM/DD/YYYY

STATEMENT

(Attach additional pages as needed. Number, sign, and date each additional page.)

1. Include specific details such as "who, what, when, and where" for each alleged event of your complaint.

2. List name(s) of all known witnesses and provide, in your own words, a summary of what the witness(es) may testify about the alleged event.

3. List name(s) of all individuals to whom you reported the alleged event and the date(s) you reported the alleged event.

Name, job title, location, and telephone number of any witness to any incident described by complainant.

PRIOR ACTION REGARDING THESE HARASSMENT ALLEGATIONS

Prior to bringing this complaint, has the complainant described the harassment to anyone, to include the supervisor personnel or co-workers employed by (employer name)?

_____ Yes _____ No

If yes, list the following: Name, job title, work location, and telephone number of any persons to whom the complainant described the incident; the date or approximate date the complainant brought the incident to the other employee's attention. Describe any action taken to investigate or resolve the harassment.

POSSIBLE PRIOR INCIDENTS INVOLVING OTHER EMPLOYEES

Does the complainant know of any other employee who has experienced similar sexual harassment and/or any other type harassment in the same department or by the same individual?

_____ Yes _____ No

If yes, provide the name, job title, work location, and telephone number of each such employee; and a description of the harassment, to the best of the complainant's knowledge.

If applicable, has the complainant filed claim with any other city, state, or federal agency?

_____ Yes _____ No

If yes, what agency?

*I hereby certify under penalty of perjury that the above statements are true and correct to best of my knowledge.

*Complainant's Signature: _____ Date: _____

Witness: _____ Date: _____

Appendix C

HARASSMENT MEDIATION RESOLUTION FORM

Respondent Acknowledgment

Although my signature on this document does not constitute an admission of guilt, I do acknowledge that the complainant perceived my actions as being offensive. My signature on this form is my agreement that I will cease-and-desist the actions that are perceived as being offensive.

Signature of Respondent Date

I am satisfied my complaint has been acknowledged and that actions taken by the respondent are satisfactory to me.

Signature of Complainant Date