

## 4-02 HARASSMENT, DISCRIMINATION, & RETALIATION

1. **General Policy** – The City is committed to providing a work environment that is free of harassment or any other type of discrimination with regard, to race; color; religion; sex; pregnancy, childbirth, or pregnancy-related conditions; age; national origin; disability; sexual orientation; gender identity, or any harassment or discrimination by or to any employee or retaliation against any employee protected under this policy.

Misconduct identified in this policy is unacceptable behavior and is prohibited. The City will make reasonable efforts to prevent the conduct identified in this policy and will promptly investigate all complaints of violation of this policy. An employee's violation of this policy, whether legally constituting sexual harassment, discrimination, or retaliation, will result in disciplinary action up to and including termination.

2. **Prohibited Conduct** – The City prohibits conduct that includes, but is not limited to:

- Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:
  - Submission to such conduct is made either explicitly or implicitly a term of the condition of an individual's employment;
  - Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting that individual; or
  - Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.
- Other inappropriate conduct, such as:
  - Derogatory comments, insults, suggestive remarks, or jokes involving sexual activity, or a person's race, color, religion, sex, pregnancy, childbirth, pregnancy-related;
  - Conditions, age, national origin, disability, sexual orientation, gender identity, or any other legally protected status;
  - Display of photographs, drawings, cartoons, written material, objects, or use of electronic communication devices that would offend a reasonable person;
  - Inappropriate physical contact, such as patting or pinching;
  - Intentionally brushing against another person's body;
  - Stating, implying, or joking that an individual's job performance is attributable to that person's race, color, religion, sex, pregnancy, childbirth, or pregnancy-related condition, age, national origin, disability, sexual orientation, gender identity, or any other legally protected status;
  - Giving of unsolicited or inappropriate gifts of a personal and private nature;

- Sexual assault of any kind;
- Pervasive, unwelcome, demeaning, ridiculing, derisive, or coercive conduct towards another person based on race, color, religion, sex, pregnancy, childbirth, or pregnancy-related condition, age, national origin, disability, sexual orientation, gender identity, or any other legally protected status that:
  - creates an intimidating, hostile, or offensive work environment;
  - unreasonably interferes with a person's work performance; or
  - otherwise adversely and unreasonably affects an employee's employment.
- Retaliation against any employee for reporting, filing a complaint, or assisting the City in its investigation of a complaint under this policy, even if such underlying complaint is determined to be unfounded. Retaliation may be deemed a separate violation of this policy and may subject the perpetrator to disciplinary action. Examples of retaliation include:
  - taking disciplinary action in bad faith;
  - unwarrantedly changing the terms of an employee's employment;
  - spreading rumors about the employee;
  - encouraging hostility toward that employee from a co-worker; or escalating the harassment;
  - disclosing confidential information with regards to an investigation being conducted under this policy, including disclosing that there is an investigation and/or any details of an investigation with any City employee except those conducting the investigation.

### **3. *Personal Employee Relationships -***

- Each City employee in a non-spousal romantic, dating, and/or sexual relationship with another City employee must promptly notify the City Manager upon beginning or ending such relationship or if the relationship results in marriage.
- Supervisors are prohibited from having a romantic, dating, and/or sexual relationship with a subordinate employee who they supervise in the chain-of-command.

### **4. *Employee Obligations -***

- Employees are obligated to comply with this policy and avoid any prohibited conduct.
- Employees are obligated to report violations of this policy.

- Employees are obligated to fully cooperate in any investigation of an alleged violation of this policy, including the obligation to provide truthful and complete evidence and testimony in any investigation or proceeding.
- Employees are obligated to refrain from making any bad faith or known false complaints of violation of this policy.
- Employees are obligated to avoid retaliation against any person who files a complaint, or who participates or provides evidence or testimony in any investigation or proceeding under this policy.

**5. Reporting Violations of this Policy**—All employees are required to report all incidents that they reasonably believe to be violations of the City’s Harassment, Discrimination, & Retaliation Policy. These reports shall be made when the employee first believes they or someone else has been harassed, subjected to inappropriate conduct, discriminated against, or retaliated against. Employees must make such report with one of the following: a supervisor, City Manager, Mayor or member of the Council, or the City Attorney.

- Any supervisor or manager who reasonably becomes aware of potential discrimination, harassment, or retaliation shall immediately advise the City Manager and/or the City Attorney. Any supervisor who knew or should have known of a potential offense and did not report the matter shall be subject to disciplinary action.

**6. Investigation** - The City shall investigate all complaints, regardless of whether they are written or verbal, as expeditiously and professionally as possible. Confidentiality of the complaint will be maintained to the extent it is practical but cannot be guaranteed.

- The City Manager and the City Attorney will coordinate the investigation.
- The assigned investigator(s) will ensure that the allegations and findings are documented.
- The assigned investigator(s) are responsible for moving the investigation forward, ensuring adequate documentation, and making recommendations.
- Disciplinary action placed in any personnel file will not include the name of any victim.
- Records of an investigation determined to be unfounded will not be placed in any individual’s personnel file but will be retained as an investigative file. Access will be limited to the City Manager and the City Attorney.
- Appeals about the conclusions of the investigation will be handled as follows:
- Disciplinary actions arising from the investigation will be handled consistent with the Employee Discipline section in this chapter and may be appealed in accordance with that section.
- An employee may appeal the conclusion of an investigation. However, the basis of an appeal is limited to the employee’s concerns with the adequacy of the investigation,

such as the investigators' failure to interview a key witness or consider a crucial piece of evidence. An employee cannot appeal based solely on his/her disagreement with the outcome of the investigation.

- An appeal will begin directly at Step Three of the Employee Grievance Procedure (Appeal to City Manager).

#### Maintaining Complaint Files:

- Information related to any sexual harassment complaint, proceeding, or resolution shall be maintained in a separate and confidential sexual harassment complaint file. This information shall not be placed or maintained in an employee's personnel file.
- Information contained in the sexual harassment complaint files shall be released only to other agencies or individuals who have a legal and legitimate reason to the files pursuant to a court order, GRAMA, or upon the advice of the City Attorney and upon written notice to the victim.
- Participants in any sexual/gender harassment proceeding/investigation shall treat all information related to that proceeding/investigation as confidential.