



General Rules

Policy No. 11

Approved: 02/01/94

Revised: 05/01/97; 08/10/05; 07/07/08; and 01/09/23

City Manager's Approval: _____

THE CITY OF POMONA

ADMINISTRATIVE POLICIES AND PROCEDURES

DISCRIMINATION, HARASSMENT, AND RETALIATION PREVENTION

I. PURPOSE

To establish a strong commitment to prohibit and prevent discrimination, harassment, and retaliation in employment; to define those terms; and to set forth a procedure for investigating and resolving internal complaints.

II. APPLICABILITY

This Policy applies to all full-time and part-time employees and City officials.

III. POLICY

The City is committed to providing a workplace free of unlawful harassment, discrimination, and retaliation. In accordance with applicable law, the City prohibits harassment and discrimination based on race (including traits historically associated with race, including, but not limited to, hair texture and protective hairstyles), color, religion, religious creed (including religious dress and religious grooming practices), sex (including pregnancy, perceived pregnancy, childbirth, breastfeeding, or related medical conditions), gender, gender identity (including transgender identity), gender expression (including transgender expression), because an individual has transitioned (to live as the gender with which they identify), is transitioning, or is perceived to be transitioning, sex stereotyping, sexual orientation, national origin, ancestry, citizenship, age (40 years and over), mental disability and physical disability (including HIV and AIDS), legally protected medical condition or information (including genetic information), protected medical leaves (requesting or approved), military and/or veteran status, service, or obligation, reserve status, national guard status, marital status, domestic partner status, status as a victim of domestic violence, sexual assault or stalking, enrollment in a public assistance program, or any other basis protected by local, state or federal laws.

All such harassment and discrimination is unlawful and will not be tolerated, whether it be harassment or discrimination of employees or applicants by managers, supervisors, co-workers, or non-employees with whom the City has a business, service, or professional relationship, such as vendors, contractors, volunteers, and clients.

1. Sexual Harassment

Sexual harassment is defined as unwanted sexual advances, or visual, written, verbal or physical conduct of a sexual nature. Such conduct constitutes sexual harassment when:

DISCRIMINATION, HARASSMENT, AND RETALIATION PREVENTION (Continued):

- (1) submission to the conduct is made either an explicit or implicit term or condition of employment or promotion;
- (2) submission to or rejection of the conduct is used as the basis for an employment decision affecting the individual(s); or
- (3) the unwelcomed comments or conduct unreasonably interferes with an employee's work performance or creates an intimidating, hostile, or offensive work environment.

Sexual harassment can be based on or related to a person's sex, gender, pregnancy, childbirth, breastfeeding, (and related medical conditions), sexual orientation, gender identity, gender expression, or transgender status, including those who are transitioning or have transitioned. Additionally, sexual harassment includes unwelcome conduct of a verbal or physical nature in circumstances when the person and the harasser are of the same sex, gender, sexual orientation, gender identity, gender expression, or transgender status.

Sexual harassment includes many forms of offensive behavior. Furthermore, sexually harassing conduct need not be motivated by sexual desire. The following is a list of violations that include, but are not limited to the following:

- Unwanted sexual advances, propositions, or requests for sexual favors;
- Offering employment benefits in exchange for sexual favors;
- Making or threatening reprisals after a negative response to sexual advances;
- Visual conduct: leering, making sexual gestures, displaying of suggestive objects, posters, photographs, videos, cartoons, or drawings;
- Verbal conduct: making or using derogatory comments, epithets, slurs, jokes, verbal abuse of a sexual nature, graphic verbal commentaries about an individual's body, sexually degrading words used to describe an individual, foul or obscene language, conversation containing sexual comments;
- Written conduct: suggestive or obscene letters, emails, drawings, notes, or invitations;
- Physical conduct: unwanted touching, assault, impeding or blocking movements, and violating someone's "personal space"; and
- Retaliation for reporting harassment or threatening to report harassment.

2. Other Types of Harassment

Harassment can take many forms beyond sexual harassment. Harassment on the basis of race, color, religion, religious creed (including religious dress and religious grooming practices), national origin, ancestry, citizenship, age (40 years and over), mental disability and physical disability

DISCRIMINATION, HARASSMENT, AND RETALIATION PREVENTION (Continued):

(including HIV and AIDS), legally protected medical condition or information (including genetic information), protected medical leaves (requesting or approved), military and/or veteran status, service, or obligation, reserve status, national guard status, marital status, domestic partner status, status as a victim of domestic violence, sexual assault or stalking, enrollment in a public assistance program, or any other basis protected by local, state or federal laws, is also prohibited and will not be tolerated by the City. Such harassment includes but is not limited to the following when based upon an employee's protected status as noted above:

- Verbal conduct such as making or using derogatory comments, epithets, slurs, jokes, or verbal abuse;
- Visual conduct such as gestures and displaying of objects, posters, photographs, videos, cartoons, or drawings;
- Written conduct such as suggestive or obscene letters, emails, drawings, notes, or invitations;
- Physical conduct such as assault, unwanted touching, or blocking normal movement, or violating someone's "personal space"; and
- Retaliation for reporting harassment or threatening to report harassment.

3. Discrimination

Discrimination occurs when an individual (or group of individuals) is treated differently specifically because of the individual's protected classification or perceived protected classification as defined above in this Policy. All such discrimination is unlawful and all employees are prohibited from engaging in this type of conduct. This policy governs all aspects of employment, termination and access to benefits and training.

4. Retaliation

Retaliation is defined as any adverse employment action taken against an applicant, employee, or contractor who has opposed unlawful practices, reported harassment or discrimination, or has participated in the complaint and investigation process.

5. Internal Complaint Procedure

The City's complaint procedure provides for an immediate, thorough, objective and confidential investigation of any claim of unlawful or prohibited harassment, discrimination, and/or retaliation, appropriate disciplinary action against one found to have engaged in prohibited harassment, discrimination, and/or retaliation, and appropriate remedies for any victim of harassment, discrimination and/or retaliation. A claim of harassment may exist even if the employee has not suffered an adverse employment action.

If you believe you have been harassed, discriminated against, and/or retaliated against on the job, or if you are aware of the harassment, discrimination, and/or retaliation of others, you must provide

DISCRIMINATION, HARASSMENT, AND RETALIATION PREVENTION (Continued):

a written or verbal complaint to your immediate supervisor or the Human Resources/ Risk Management Director as soon as possible after the incident. You are not required to complain to any individual who is the one harassing, discriminating and/or retaliating against you, nor do you have to complain directly to your immediate supervisor. . Your complaint should be as detailed as possible, including the names of individuals involved, the names of any witnesses, direct quotations when language is relevant, and any documentary evidence (notes, pictures, cartoons, videos, and etcetera).

The City will maintain confidentiality to the extent possible. Any supervisor or manager who is informed of a complaint of harassment, discrimination, and/or retaliation by an employee, or any other individual, must report said complaint to the Human Resources/ Risk Management Director immediately and must otherwise keep the matter confidential. The Human Resources/ Risk Management Director must also keep the matter confidential and not disclose the matter to any person who does not have legitimate work-related reasons for knowing of the complaint. Any supervisor, manager who fails to comply with this paragraph will be subject to disciplinary action, up to and including termination of employment.

All incidents of prohibited harassment, discrimination, and/or retaliation that are reported will be subject to an impartial, fair, timely and thorough investigation by the Human Resources/ Risk Management Director or designee, provided he or she is qualified to perform the investigation, or an independent third-party investigator, depending on the circumstances. The investigation will provide all parties appropriate due process and will reach reasonable conclusions based on the evidence collected. The City will document the timely, thorough, and objective investigation of the harassment, discrimination, and/or retaliation allegations to ensure reasonable progress is being made in the investigation. The City will inform the employee who initiated the complaint of the progress of the investigation upon request of that employee.

6. Corrective Action

At the conclusion of the timely investigation, if it is determined that prohibited harassment, discrimination, and/or retaliation has occurred, the City will take immediate and effective remedial action commensurate with the circumstances. Corrective action may include but not be limited to: training, referral to counseling, or disciplinary action including but not limited to verbal or written warning, suspension, transfer, demotion, and termination of employment, depending on the circumstances. With regard to acts of harassment by clients or vendors, corrective action will be taken after consultation with the appropriate management personnel.

The employee who initiated the complaint will be notified when the investigation has been completed and will be informed of the general outcome of the investigation (i.e., whether the complaint has been substantiated or unsubstantiated). However, the employee is not entitled to know the corrective action, if any, imposed on the accused harasser as that information is protected by the accused harasser's right to privacy. Appropriate action will be taken to ensure the employee who has been found to have been harassed, discriminated, and/or retaliated against will not be harassed and/or retaliated against in the future, including but not limited to redistribution of this policy, training, transfer, etcetera.

7. External Reporting

In addition to the City's internal complaint procedure, employees may also contact either the Equal

DISCRIMINATION, HARASSMENT, AND RETALIATION PREVENTION (Continued):

Employment Opportunity Commission (EEOC) or the California Department of Fair Employment and Housing (DFEH) to report unlawful harassment, discrimination, and/or retaliation. The DFEH and the EEOC have the authority to conduct investigations of the facts. The deadline for filing complaints with the DFEH is one year from the date of the alleged unlawful conduct. If the DFEH believes that a complaint is valid and settlement efforts fail, the DFEH may file a lawsuit in court. The courts have the authority to award monetary and non-monetary relief in meritorious cases. Employees can contact the nearest DFEH office by contacting (800) 884-1684 or <http://www.dfeh.ca.gov/>. Employees can also pursue the matter through a private lawsuit in civil court after a complaint has been filed with the EEOC or the DFEH and a right-to-sue notice has been issued. For more information, contact the Human Resources/Risk Management Department, or you may contact the nearest EEOC office at (800) 669-4000 or visit <http://www.eeoc.gov/>.

8. Prohibition Against Retaliation

Retaliation against anyone for opposing conduct prohibited by this policy or for filing a complaint with or otherwise participating in an investigation, proceeding or hearing conducted by the City, DFEH, or EEOC is strictly prohibited and may subject the offending person to, among other things, disciplinary action, up to and including, termination of employment.