



**Prevention of Harassment, Abusive Conduct,
Discrimination and Retaliation**

Administrative
Regulation No. 2.05

Effective Date: 4/6/2021
Revised/Superseded:

DocuSigned by:

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Approved by City Manager: _____

1. Overview of Purpose and Scope of this Regulation.

- 1.1. The City has zero tolerance for any conduct that violates this Regulation. Harassment, discrimination, and retaliation are inconsistent with the City's expectations of all City Workers, and incompatible with a professional work environment, regardless of whether the conduct is intended to offend, and regardless of the participants' consent or perceived consent to the conduct.
- 1.2. Any and all people who work for City, (referred to hereinafter as "workers," including employees, managers, supervisors, agents, volunteers, unpaid interns, contractors and representatives of independent contractors of the City) must at all times treat all other workers, applicants, and members of the public, with respect and dignity in accordance with this Administrative Regulation for the Prevention of Harassment, Abusive Conduct, Discrimination, and Retaliation (hereinafter, this "Regulation"). Harassment, discrimination based on a protected characteristic, and retaliation constitute a violation of this regulation, are demeaning and harmful to both the victim and the City and will not be tolerated.
- 1.3. The City is committed to providing an atmosphere free of harassment, abusive conduct and discrimination based on protected characteristics and retaliation. The protected characteristics against which discrimination is prohibited includes the following: race, religion, creed, color, national origin or ancestry, physical or mental disability, medical condition, genetic characteristics or information, pregnancy (including childbirth, breastfeeding and/or related medical conditions), marital status, gender or gender identity, gender expression, sex, age (over 40), sexual orientation, citizenship status, uniformed service member (military) or veteran status, family care or medical leave status, or any other characteristic protected by law ("protected characteristics").
- 1.4. The City will not tolerate harassment, discrimination or retaliation against its workers, applicants, or members of the public by any workers, or by any person with whom the City has a business, service, or professional relationship (including members of the public). The City

strictly prohibits harassment, abusive conduct, discrimination or retaliation against any member of the public by any worker. Conduct that violates local, state, or federal law related to the prevention of harassment, discrimination, or retaliation also constitutes a violation of this Regulation (for example, see California Government Code Section 12923). However, conduct need not violate local, state, or federal law to violate this Regulation. A single act which violates this regulation may be sufficient to result in discipline of a City worker up to and including termination of employment.

- 1.5. The City does not discriminate against anyone in treatment, hiring, training, assignment, compensation, promotional opportunities, employee benefits, recall from layoff, discharge and discipline, or any other term and condition of employment on any basis protected by law. The Protected Status against which discrimination is prohibited includes the following but are not limited to race, religion, sex, age, national origin or ancestry, citizenship, color, sexual orientation, gender identity, gender expression, marital status, parental status, veteran's status, physical or mental disability or any other basis prohibited by law.
- 1.6. This Regulation does not restrict nor inhibit any supervisor from exercising their responsibility to direct, evaluate, critique and discipline employees in a nondiscriminatory manner.
- 1.7. This Regulation is an implementation of the City Manager's authority derived from the City Municipal Code, resolutions of the City Council, and other minute order direction from the City Council. Therefore, the City Municipal Code, Council resolutions, and Council minute order direction, shall take precedence over any inconsistent provisions of the administrative policies.

2. Definitions.

- 2.1. The words, terms and phrases, when used in this Regulation, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

3. Harassment Prohibited.

- 3.1. Any form or acts of harassment (including oral or written harassment, abusive conduct, physical harassment, visual harassment, or sexual harassment) violates this Regulation and is strictly prohibited.
- 3.2. Harassment which violates this Regulation includes conduct that has the purpose or reasonably predictable effect of either: (a) unreasonably interfering with or adversely affecting an individual's work performance,

assigned duties or any other conditions of employment or career development; or (b) creating an intimidating, hostile, threatening or offensive working environment, as a result of an individual's protected characteristics or the perception of having a protected characteristic(s). This Regulation prohibits harassment and abusive conduct in any form, including, but not limited to:

- 3.2.1. Oral or Written harassment, such as jokes, epithets, slurs, negative stereotyping, and unwelcome remarks about an individual's body, color, physical characteristics, or appearance, questions about a person's sexual practices, or gossiping about sexual relations.
- 3.2.2. Abusive Conduct including bullying as defined by Section 7, below.
- 3.2.3. Physical harassment, such as physical interference with normal work, impeding or blocking movement, assault, unwelcome physical contact, leering at a person's body, and threatening, intimidating, or hostile acts.
- 3.2.4. Visual harassment, such as offensive or obscene photographs, calendars, posters, cards, cartoons, e-mails, text messages, drawings, and gestures, display of sexually suggestive or lewd objects, unwelcome notes or letters, and any other written or graphic material that denigrates or shows hostility or aversion toward an individual that is placed or displayed on walls, bulletin boards, computers or elsewhere made visible on City premises or circulated in the workplace.
- 3.2.5. Sexual harassment, as defined by Section 6, below.

4. Discrimination Prohibited.

- 4.1. Any form of employment decision, action or discrimination based on or motivated by any protected characteristic (as defined by Section 1.2 above) violates this Regulation and is strictly prohibited.
- 4.2. Conduct which violates this Regulation includes discrimination based on a protected characteristic which causes negative impact in any aspect of employment including hiring, firing, assignment, promotion, layoff, training, or any other terms and conditions of employment.

5. Retaliation Prohibited.

- 5.1. Retaliation against a City worker for reporting violations of this Regulation in good faith, or for participating in an investigatory process violates this Regulation and is strictly prohibited.

5.2. Retaliation is an adverse action taken by an employer or employee because they have, in good faith, provided a report or complaint against a reporting party, or because a person has acted as a witness to certain conduct, participates in an investigatory process, associates with a reporting party or has exercised or attempted to exercise their rights provided by the law or this Regulation.

6. Sexual Harassment.

6.1. Sexual harassment, which includes any uninvited, unwelcome or offensive sexual advances, requests for sexual favors, or other visual, verbal, or physical conduct of a sexual nature when: (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting that individual; or (3) 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, and the harassing act needs not be directed to the victim.

6.1.1. Sexual harassment may include a range of behaviors and may involve individuals of the same or different gender. Sexually harassing conduct need not be motivated by sexual desire and may include nonsexual conduct toward the victim's gender, or toward the victim's nonconformity with gender stereotypes.

6.1.2. Examples of sexual harassment may include, but are not limited to:

- a. Physical conduct including unwelcome touching, intentionally blocking normal movement, pinching, patting, or coerced sexual conduct;
- b. Verbal conduct including making derogatory comments, sexually explicit jokes, slurs, sexual innuendo and insults, or comments about an individual's body or dress;
- c. Visual conduct including leering or displaying sexually oriented posters, photography, cartoons, drawings, emails, or gestures;
- d. Offering employment benefits in exchange for sexual favors; and
- e. Taking or threatening reprisals after a negative response to sexual advances.

7. Abusive Conduct including Bullying.

7.1. Abusive conduct (including bullying) which includes conduct, regardless of whether or not it is because of an individual's protected

characteristic(s), which is directed at a worker, with malice, that a reasonable person would find hostile, offensive, and unrelated to the City's legitimate business interests is strictly prohibited. Abusive conduct may include repeated infliction of verbal abuse, such as the use of derogatory remarks, insults, and epithets, verbal or physical conduct that a reasonable person would find threatening, intimidating, or humiliating, or the gratuitous sabotage or undermining of a person's work performance. A single act generally does not constitute abusive conduct, unless especially severe and egregious. In addition, bullying is the repeated mistreatment of a worker who is targeted by one or more employees with a malicious mix of humiliation, intimidation, and sabotage of performance.

8. Procedures regarding all complaints of potential harassment, abusive conduct, discrimination or retaliation.

8.1. Employee, Unpaid Interns, Volunteers or Contractors.

8.1.1. Self Help Option:

Any worker may inform a fellow worker when the other worker's conduct is offensive or unwelcome and ask that the conduct be stopped. However, workers are not required or expected to handle these situations on their own. This should only be done if the employee/intern/volunteer/contractor feels safe and comfortable with this approach. If a worker does not feel safe or comfortable handling a situation directly with another worker, the worker may seek the option listed below.

8.1.2. Departmental/City Complaint:

Any worker who believes that s/he or another person has been or is being harassed or discriminated or retaliated against in violation of this Regulation shall immediately report this violation to his or her supervisor, the applicable Department Head, Human Resources or any City supervisor with whom the worker feels comfortable speaking.

9. Supervisor Responsibility.

9.1. This section applies to all supervisors, lead workers, managers, and professional employees ("supervisors").

9.1.1. Each "supervisor" (which includes supervisor, lead workers, managers, and some professional City employees with program/project lead duties) are charged with the responsibility of taking steps to prevent harassment (including abusive conduct), discrimination and retaliation from occurring in the

workplace. Failure to take appropriate action to prevent and/or correct harassment, discrimination or retaliation shall be deemed a violation of this Regulation and may result in disciplinary action up to and including termination of employment.

- 9.1.2.** Each supervisor, lead worker, manager, or professional staff shall model appropriate behavior, and shall strive to maintain a work environment free of harassment (including abusive conduct), discrimination or retaliation. Supervisors shall be familiar with this Regulation, be available to discuss this Regulation with workers that they supervise and shall reinforce that workers should not endure conduct which violates this Regulation.
- 9.1.3.** If a supervisor observes or becomes aware of any incidents which may constitute a violation of this Regulation, they shall take immediate action to stop it from occurring, and to prevent it from recurring.
- 9.1.4.** If a supervisor observes, or a worker reports, incidents which may constitute a violation of this Regulation to a supervisor, the supervisor shall immediately report the allegations to their Department Director and Human Resources and shall document the report in writing.

10. Investigation.

- 10.1.** The City will investigate complaints of harassment, discrimination, abusive conduct or retaliation, in a prompt, objective, and thorough manner.
- 10.2.** Human Resources shall investigate, or direct an investigation into, allegations of incidents which may constitute a violation of this Regulation. Unless doing so would compromise the investigation, Human Resources will inform the department director of the affected department(s) that allegation(s) has/have been filed and are being investigated.
- 10.3.** The City does not wish to interfere with a represented worker's rights to meet and confer with their representatives about working conditions of employment. The City is, however, interested in protecting the integrity of investigative processes and worker privacy rights. Therefore, workers may be requested to keep matters related to the investigation confidential and on a need-to-know basis while the investigation is pending. Workers have the right to representation.

10.4. The City will not disclose a completed investigation report outside members of management with a legitimate need to know, except as it deems necessary to support disciplinary action, to take remedial action, to defend itself in adversarial proceedings, or as otherwise required by law.

11. Resolution.

11.1. After investigation, the City's Human Resources Manager will communicate the findings (i.e., sustained, not sustained, or inconclusive) to the complainant, the respondent, and members of management with a legitimate need for this information.

11.2. If there is a finding that harassment, discrimination or retaliation in violation of this Regulation or applicable laws has occurred, the City will take action to end any such conduct, and prevent its recurrence, including by imposing discipline it deems appropriate.

12. Discipline.

12.1. Any Worker found to have violated this Regulation is subject to discipline up to and including termination. Specific disciplinary action taken will depend upon the circumstances.

13. Harassment Involving the Public.

13.1. The City strictly prohibits harassment, abusive conduct, discourteous treatment or discrimination against any member of the public by any worker.

13.2. City Workers are not expected to endure harassment by members of the public. If an employee feels that s/he is being subjected to harassment by a member of the public, the employee should report such harassment in the same fashion set forth above, for investigation and appropriate action. City Workers will not be retaliated against for making a good faith report of harassment by a member of the public.

