



City of Riverside, California
Human Resources Policy and Procedure Manual

Approved:

Monde Street
Human Resources Director

Belinda J. Graham
City Manager

Number: III-6 Effective Date: 06/13

SUBJECT: **HARASSMENT FREE WORKPLACE**

PURPOSE:

To establish a policy regarding discriminatory and/or sexual harassment in City employment, and to set forth procedural guidelines for resolution of complaints of harassment.

This policy applies to all phases of the employment relationship, including recruitment, testing, hiring, upgrading, promotion/demotion, transfer, layoff, termination, rates of pay, benefits and selection for training.

This policy applies to all officers and employees of the City, including, but not limited to, full-time and part-time employees, per diem employees, temporary employees and persons working under contract for the City.

DEFINITIONS:

Harassment - May consist of offensive verbal, physical or visual conduct when such conduct is based on or related to an individual on the basis of race, color, ancestry, religious creed, disability, medical condition, age (over 40), marital status, sexual orientation or any other protected classification under applicable law and:

- a. Submission to the offensive conduct is an explicit or implicit term or condition of employment;
- b. Submission to or rejection of the offensive conduct forms the basis for an employment decision affecting the employee; or
- c. The offensive conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creates an intimidating, hostile or offensive working environment.

Examples - Examples of what may constitute prohibited harassment include, but are not limited to, the following:

- a. Kidding or joking about sex or membership in one of the protected classifications;
- b. Hugs, pats and similar physical contact;
- c. Assault, impeding or blocking movement, or any physical interference with

normal work or movement;

- d. Cartoons, posters and other materials that are derogatory, offensive, inappropriate and refer to sex or membership in one of the protected classifications;
- e. Threat intended to induce sexual favors;
- f. Continued suggestions or invitations to social events outside the workplace after being told such suggestions are unwelcome;
- g. Degrading words or offensive terms of a sexual nature or based on the individual's membership in one of the protected classifications; and/or
- h. Prolonged staring or leering at a person.

POLICY:

1. Procedure

Any employee who believes that he or she has been the victim of sexual or other prohibited harassment by co-workers, supervisors, clients or customers, visitors, vendors or others should immediately notify his or her supervisor, or, in the alternative, the Human Resources Department, depending on which individual the employee feels most comfortable in contacting.

Additionally, supervisors who observe or otherwise become aware of harassment that violates this policy have a duty to take steps to investigate and remedy such harassment and prevent its recurrence.

Any employee who believes that he or she has been the victim of sexual or other prohibited harassment by co-workers, supervisors, clients or customers, visitors, vendors or others may file a complaint with the California Department of Fair Employment and Housing ("DFEH") or the Equal Employment Opportunity Commission ("EEOC"). The phone numbers for these agencies are located in the phone book under government agencies.

2. Investigation

Upon the filing of a complaint with the City, the complainant will be provided with a copy of this policy and a complaint form. The Human Resources Department is the department designated by the City to investigate complaints of harassment. The Human Resources Director may, however, delegate the investigation at his/her discretion. In the event the harassment complaint is against the Human Resources Director, an investigator shall be appointed by the City Manager.

Charges filed with either the California Department of Fair Employment and Housing or the Equal Employment Opportunity Commission are investigated by that agency; however, the Human Resources Department may also conduct a separate investigation.

3. Internal Documentation Procedure

The investigator shall make and keep a written record of the investigation, including notes of verbal responses made to the investigator by the person complaining of harassment, witnesses interviewed during the investigation, the person against whom the complaint of harassment was made and any other person contacted by the investigator in connection with the investigation. The investigator's notes shall be made at the time the verbal interview is in progress. Any other documentary evidence shall be retained as part of the record of the investigation. Upon completion of the investigation, the results shall be given to the the Human Resources Director. A copy of the completed investigation will be given to the City Attorney. The complainant will be provided written notification that an investigation has been conducted, and, if necessary, appropriate action will be taken to remedy the situation.

Based on the report and any other relevant information, the investigator from Human Resources shall, within a reasonable period of time, determine whether the conduct of the person against whom a complaint has been made constitutes harassment. In making that determination, the investigator shall look at the record as a whole and at the totality of circumstances, including the nature of the conduct in question; the context in which the conduct, if any, occurred; and the conduct of the person complaining of harassment. The determination of whether harassment occurred will be made on a case-by-case basis by the investigator.

4. Confidentiality

All records and information relating to the investigation of any alleged harassment and resulting disciplinary action shall be confidential, except to the extend disclosure is required by law, as part of the investigatory or disciplinary process, or as otherwise reasonably necessary.

5. Remedies

If the Human Resources Department has determined that the complaint of harassment is founded, the Human Resources Director shall take immediate and appropriate disciplinary action consistent with the requirements of law any personnel rules and regulations pertaining to employee discipline. Other steps may be taken reasonably necessary to prevent recurrence of the harassment and to remedy the complainant's loss, if any.

Disciplinary action shall be consistent with the nature and severity of the offense, the rank of the harassing party, and any other factors relating to the fair and efficient administration of the City's operations.

In the event a complaint is filed with the Department of Fair Employment and Housing or the Equal Employment Opportunity Commission, and they find that the complaint has merit, either the Department of Fair Employment and Housing or the Equal Employment Opportunity Commission will attempt to negotiate a settlement between the parties. If not settled, the Department of Fair Employment and Housing may issue a determination on the merits of the case.

Where a case is not settled and the Department of Fair Employment and Housing finds a violation to exist, they may prosecute the charging party's case before the Fair Employment and Housing Commission. Legal remedies available through this Commission for a successful claim by an applicant, employee or former employee

include possible reinstatement to a former job; award of a job applied for, back pay; front pay; attorney's fees; and appropriate circumstances, actual damages and/or administrative fines.

In the alternative, the Commission may grant the employee permission to withdraw the case and pursue a private lawsuit seeking similar remedies.

6. Retaliation

Retaliation against anyone for opposing conduct prohibited by this policy of for filing a complaint with or otherwise participating in an investigation, proceeding or hearing conducted by the City, the Department of Fair Employment and Housing or the Equal Employment Opportunity Commission is strictly prohibited by the City and state regulations. It may subject the offending person to, among other things, disciplinary action, up to and including, termination of employment.

7. Employee Obligation

Employees are not only encouraged to report instances of harassment; they are obligated to report instances of harassment.

Employees are obligated to cooperate in every investigation of harassment, including, but not necessarily limited to:

- a. Coming forward with evidence, both favorable and unfavorable to a person accused of harassment; and
- b. Fully and truthfully making a written report or verbally answering questions when required to do so during the course of a City investigation of alleged harassment.

Knowingly, falsely accusing someone of harassment or otherwise knowingly giving false or misleading information in an investigation of harassment shall be grounds for disciplinary action, up to and including, termination of employment.

PROCEDURE:

Responsibility	Action
Employee	1. Notifies supervisor and/or Human Resources Department of complaint.
Supervisor	2. Notifies Human Resources Department of complaint.
Human Resources Staff	3. Obtains factual written statement of the complaint and presents it to the Human Resources Director.
Human Resources Director	4. Assigns Human Resources staff to conduct investigation of complaint, or approves an investigation.

Human Resources Staff/Investigator

5. Conducts investigation by interviewing complainant, accused, witnesses and supervisor as appropriate.

Human Resources Staff

6. Makes recommendations to Human Resources Director as to disposition of complaint.

Human Resources Director

7. Reviews factual information collected and recommendations made.
8. Takes and/or authorizes appropriate and timely action.