

SUBJECT: HARASSMENT FREE WORKPLACE

PURPOSE:

To establish uniform guidelines to support and preserve the right of employees to be free from unlawful discrimination, harassment, and retaliation in the workplace, and to set forth procedural guidelines for resolution of complaints of unlawful discrimination, harassment, and retaliation.

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

This policy applies to all employees of the City of Riverside, including, but not limited to, full-time and part-time employees, per diem employees, temporary employees, interns, visitors, volunteers, board and commission members, elected officials, prospective employees, and persons working under contract for the City.

DEFINITIONS:

Discrimination – The disparate or adverse treatment of a person based on the person's legally protected status, whether actual or perceived, including race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, or sexual orientation, veteran status, citizenship status, use of family medical leave, military leave or any other legally protected classification under state or federal law.

Harassment – Can be a form of discrimination if it is unwelcome and is sufficiently severe or pervasive and objectively offensive so as to substantially interfere with terms, conditions, or privileges of employment. May consist of unwelcome verbal, physical or visual conduct based on a person's legally protected status, whether actual or perceived, including race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, or sexual orientation, veteran status, citizenship status, use of family medical leave, military leave or any other legally protected classification under state or federal law. Harassment may occur regardless of whether the behavior was intended to harass. Harassers may be supervisors, managers, co-workers, contractors, or elected officials.

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

- a. Generalized gender-based remarks and comments;
- b. Unwanted physical contact, such as intentional touching or grabbing against another's body;
- c. Speech, such as lewd propositioning, epithets, stereotypical or derogatory comments, slurs, threats, offensive or degrading remarks, verbal abuse, or other behavior such as insulting, teasing, degrading or ridiculing another person or group.

- d. Assault, impeding or blocking movement, or any physical interference with normal work or movement;
- e. Visual contact, such as leering or staring at another's body, gesturing, displaying sexually suggestive objects, cartoons, posters, pictures, and other materials that are derogatory, offensive, inappropriate and refer to sex or membership in one of the protected classifications;
- f. Explicit or implicit suggestions of sex in return for a favorable employment action such as hiring, compensation, promotion, or retention;
- g. Continued suggestions or invitations to social events outside the workplace after being told such suggestions are unwelcome; 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. Suggesting or complying that failure to accept a request for a date or engage in sexual acts would result in an adverse employment consequence with respect to any employment practice such as performance evaluation, or promotional opportunity; or
- i. 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.
- j. Profane or disrespectful language;
- k. Hostile and rude behavior and speech directed at a co-worker;
- l. Derogatory or sarcastic remarks and comments about a co-worker's appearance or job performance;
- m. Angry outbursts or yelling, using a threatening tone towards another;
- n. Name calling;
- o. Throwing anything at or toward a co-worker;
- p. Comments that undermine a co-worker's trust and confidence;
- q. Retaliation against any person who has reported disruptive behavior;

Retaliation - Taking an adverse employment action(s) against an employee, intern or volunteer in response to or in an attempt to prevent an individual from engaging in protected activities, including but not limited opposing unlawful discrimination and/or harassment, filing a discrimination or harassment complaint, reporting discrimination or harassment, or participating in a discrimination or harassment investigation or lawsuit. Adverse employment actions may include, but are not necessarily limited to, denial of a promotion, refusal to hire, and/or imposition of discipline.

COMPLAINT INVESTIGATION:

1. Reporting Procedures

The City of Riverside encourages employees to report discrimination, harassment, and/or retaliation, regardless of the identity of the alleged offender or before it becomes severe or pervasive so that steps may be taken to stop the offending behavior before it rises to the level of unlawful behavior.

An employee who believes that they have been the victim of sexual or other prohibited harassment by co-workers, supervisors, clients or customers, visitors, vendors or others should immediately notify their 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 responsibility to take the appropriate steps to investigate and remedy such harassment and prevent its recurrence, and/or notify the Human Resources Department.

Any employee who believes that they have been the victim of sexual or other prohibited harassment/discrimination by co-workers, supervisors, clients or customers, visitors, vendors or others may file a complaint with the California Civil Rights Department ("CRD") or the Equal Employment Opportunity Commission ("EEOC").

2. Investigation

Upon receiving notification or becoming aware of a discrimination/harassment complaint, 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/discrimination. The Human Resources Director may, however, delegate the investigation at their discretion. In the event the complaint is against the Human Resources Director; an investigator shall be appointed by the City Manager.

Charges filed with either the California Civil Rights Department ("CRD") or the Equal Employment Opportunity Commission ("EEOC") are investigated by that agency; however, the Human Resources Department may also conduct a separate investigation.

At the discretion of the City Manager or designee, employees may be placed on paid administrative leave while an investigation into harassment or other forms of misconduct is conducted.

The investigation shall, at minimum, include interviews of the complainant, the accused harasser, and any witnesses/persons believed to have relevant knowledge or information concerning the complaint. A written record of all factual information gathered through the investigation, including notes of verbal responses made to the investigator, shall be reviewed to determine whether the alleged conduct constitutes discrimination and/or harassment. Any other documentary evidence shall be retained as part of the record of the investigation. The totality of the circumstance, including the nature of the conduct in question; the context in which the conduct, if any, occurred; and the conduct of the person complaining about harassment will be

considered. Upon completion of the investigation, the results shall be given to the Human Resources Director or designee. 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.

3. Confidentiality

All complaints and investigations shall be handled, to the extent possible, in a manner that will protect the privacy interests of those involved. To the extent practical and appropriate under the circumstances, confidentiality shall be maintained throughout the investigative process. During the course of an investigation, it may be necessary to discuss the claims with the person (s) against whom the complaint was filed and other people who may have relevant knowledge or who have a legitimate need to know about the matter. In order to protect the integrity of the investigation, minimize the risk of retaliation against the individuals participating in the investigative process, and protect the important privacy interests of all concerned, the investigator shall request that all persons interviewed, including witnesses, not discuss any aspects of the investigation with others, unless there is a legitimate business reason to disclose such information.

4. Remedies

If it is determined through the investigation that harassment and/or discrimination occurred, the Human Resources Director or designee shall take immediate and appropriate disciplinary action consistent with the requirements of the 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 California Civil Rights Department or the Equal Employment Opportunity Commission, and they find that the complaint has merit, either the California Civil Rights Department or the Equal Employment Opportunity Commission will attempt to negotiate a settlement between the parties. If not settled, they may issue a determination on the merits of the case.

Where a case is not settled and the California Civil Rights finds a violation to exist, they may prosecute the charging party's case before the Fair Employment and Housing Act. 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.

5. Retaliation for Reporting

This policy prohibits retaliation against anyone who files a complaint, participates in an investigation, or reports observing discrimination, workplace harassment, workplace intimidation, sexual assault, or sexual harassment. Anyone who believes

they have been retaliated against because they filed a complaint, participated in an investigation, or reported observing discrimination, workplace harassment or sexual harassment, should report this behavior to the employee's supervisor, another manager, or the Human Resources Department immediately. Employees who violate this policy by retaliating against others may be subject to disciplinary action, up to and including, termination of employment.

6. Employee Obligation

Employees are expected to conduct themselves appropriately while at work and during work-related functions and refrain from any acts of discrimination, harassment based on a person's protected class or retaliation for engaging in a protected activity. Employees are not only encouraged to report instances of harassment; they are obligated to report instances of harassment and formalize by submitting their complaint on the Harassment Complaint Form. This form ensures that there is a formal, documented process for addressing allegations of harassment. This formalization of the complaint process helps ensure that allegations of harassment are addressed seriously and fairly, and that the City complies with legal and ethical obligations to maintain a harassment-free workplace.

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.

The City will not tolerate intentionally false accusations of discrimination, harassment, and/or retaliation. The filing of intentional false claims or otherwise knowingly giving false or misleading information in an investigation shall be grounds for disciplinary action, up to and including, termination of employment.

7.Training: All non-management or non-supervisory employees shall attend Harassment Prevention training within the first six (6) months of hire and every four (4) years thereafter. All supervisory and management employees shall attend management Harassment Prevention training within the first six (6) months of hire/promotion, and every two (2) years thereafter.