




DISCRIMINATION, SEXUAL HARASSMENT, RETALIATION AND OTHER INAPPROPRIATE BEHAVIOR POLICY

OFFICE OF THE MAYOR

POLICY NUMBER:	413.0	ISSUE DATE: 01/11/18	LAST REVIEW: 01/11/18
SCOPE:	All City Employees	PAGES: 6	LAST REVISION: 01/11/18
ATTACHMENTS:	Discrimination, Sexual Harassment, Retaliation and Other Inappropriate Behavior Policy Incident Form		
REFERENCES:	<i>Title VII of the Civil Rights Act of 1964, As Amended; Age Discrimination Act of 1967; Pregnancy Discrimination Act of 1978; Americans with Disabilities Act of 1990; Florida Civil Rights Act of 1992; Genetic Information Nondiscrimination Act of 2008</i>		
ISSUED BY:	Ashton J. Hayward III, Mayor		
SIGNATURE:			

I. AUTHORITY

Sec. 4.01 (a) (1) and (2) of the Charter authorizes the Mayor to appoint all employees and supervise all departments, as well as enforce the charter, ordinances and all applicable state and federal laws.

II. PURPOSE

The purpose of this policy is to (1) unequivocally establish that the City of Pensacola is committed to providing a workplace free from discrimination in all of its forms, harassment of employees, unlawful retaliation, and other inappropriate behavior, (2) identify a procedure for employees to utilize in order to lodge complaints of conduct which they believe violates the standard of behavior on the job prohibited by various federal and state statutes as well as this policy, (3) create an appropriate and effective process to investigate complaints which are filed, (4) provide vigorous enforcement of this policy by employing disciplinary measures whenever evidence of a violation of this policy is established, and (5) ensure that all employees, supervisors and managers receive frequent, periodic, continuing training in the scope and content of this policy.

III. POLICY

The City of Pensacola is committed to providing a workplace free from discrimination, harassment, retaliation, and related inappropriate behavior. The City will not condone or tolerate any behavior that is discriminatory, harassing, or otherwise inappropriate when such behavior is based on an individual's or group's race, color, national origin, religion, gender, marital status, age, disability, sexual orientation, genetic information, or other characteristic protected by law. Employees shall not engage in conduct

which violates this policy at any time, either toward fellow employees or members of the public with whom an employee comes into contact because of City employment. All managers and supervisors are expected to share and support the City's commitment to equal opportunity treatment under the law and to ensure that this policy is fully implemented and enforced.

IV. DEFINITIONS

1. Discrimination

Discriminatory conduct is generally defined as the treatment of an individual or a group of individuals in a different and usually adverse manner than other similarly situated individuals where the different treatment is based on or related to that individual's or group's race, color, national origin, religion, sex (including pregnancy, gender identity, and sexual orientation), age (over 40), marital status, disability, genetic information, or other category protected by law. Federal and state laws prohibit discrimination of all forms in hiring, employment, compensation, terms, conditions, and privileges of employment, promotion, discipline and discharge.

2. Harassment/Hostile Work Environment

Harassment is unwelcome conduct that is based on race, color, religion, sex, national origin, age, disability or genetic information. Federal and state law regards harassment as unlawful where (1) enduring the offensive conduct becomes a condition of continued employment, or (2) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive. Offensive conduct may include, but is not limited to, offensive jokes, slurs, epithets or name calling, physical assaults or threats, intimidation, ridicule or mockery, insults, offensive objects or pictures, and interference with work performance.

Harassment can occur in a variety of circumstances, and the harasser can be the victim's supervisor, a supervisor from another area, a co-worker, or a non-employee. The victim may not be the target of the harassment, but may be anyone adversely affected or impacted by exposure to or knowledge of the offensive conduct. Unlawful harassment does not require the existence of an adverse economic impact.

The two general types of unlawful harassment in employment are "quid pro quo" ("this for that") harassment and hostile work environment harassment. Quid pro quo harassment generally results in an employment decision based upon the victimized employee's acceptance or rejection of unwelcome sexual advances or requests for sexual favors. This kind of harassment is generally committed by someone who can effectively make or recommend formal employment decisions such as promotion, demotion, compensation, assignment or termination.

Hostile work environment harassment can result from the unwelcome conduct of supervisors, co-workers, contractors, or the public at large with whom the victim interacts on the job, and the unwelcome conduct renders the workplace atmosphere intimidating, hostile or offensive.

3. Retaliation

Retaliation is the act of adversely affecting a person because they have engaged in an activity that the law protects. In an employment setting, retaliation can involve criticizing, isolating, demoting, or terminating an employee because the employee has engaged in a protected activity such as filing a complaint with an outside agency or a lawsuit, or has engaged in constitutionally protected free speech off the job. Anti-discrimination laws prohibit retaliation against individuals for filing a discrimination charge, testifying, or participating in any way in an investigation, proceeding, or lawsuit under these laws. They also provide protection for anyone who has opposed employment practices that they reasonably believe discriminate against others, even if their belief or complaint has later been found to be without merit.

4. Other Inappropriate Behavior

Inappropriate behavior under this policy is any verbal or physical conduct that, although may not meet the legal standards of harassment or discrimination, still denigrates or otherwise shows hostility or aversion toward any individual or group based upon that individual's or group's race, color, religion, gender, national origin, marital or familial status, age, disability, sexual orientation, genetic information, or other immutable characteristic or protected category. An example of a violation of this policy would be an isolated, off-color statement or joke that does not alone establish a pervasive, hostile atmosphere, but which does offend another employee. The City considers such conduct inappropriate and in violation of this policy.

V. COMPLAINT PROCEDURES

- A. Any employee who believes that he or she is adversely affected by an act or acts of discrimination, harassment, retaliation or other inappropriate behavior should file a complaint with his or her supervisor or with the Equal Employment Opportunity Officer whom the City Administrator has appointed to receive, assess and process such complaints. Employees who are aware of such acts that are targeted against others are also encouraged to report such conduct by filing a complaint. Complaints may be filed verbally or in written form.
- B. All supervisors who receive verbal complaints of improper conduct which may violate this policy are required to promptly create an Incident Report which documents the complaint that has been received and includes all pertinent circumstances surrounding the complaint. The Incident Report must be transmitted immediately to the Equal Employment Opportunity Officer. Supervisors and managers who receive written complaints are required to immediately prepare an Incident Report and transmit a copy of the Report and the complaint to the Equal Employment Opportunity Officer.

- C. Employees seeking to file complaints of conduct which violate this policy must be advised that the complaint will be treated as confidentially as may be practically possible while it is being investigated, but they should also be informed that complete confidentiality during this phase may not be possible if the nature of the investigation requires limited disclosure of information. All involved supervisors and managers are advised to keep the complaint and the details of any investigation as confidential as possible, sharing necessary information with others only on a "need to know" basis, excepting only the Equal Employment Opportunity Officer, authorized representatives of the Human Resources office, the City Attorney, and the Mayor or City Administrator or their designees. Under Florida law, records pertaining to equal employment opportunity complaints are not available for disclosure as public records until the investigation of the complaint has been completed.
- D. Every reasonable effort must be made by all involved to investigate and resolve complaints as rapidly as possible. All supervisors and managers are advised that the resolution of these complaints is a top priority and that unwarranted delays in processing and resolving such complaints are not acceptable.

VI. COMPLAINT INVESTIGATIONS

- A. The appropriate and expeditious investigation of complaints depends largely upon the nature of a particular complaint and the attending circumstances surrounding it. Therefore, the investigation protocols described in this policy are provided as guidelines for conducting investigations and they may be tailored to conform to the circumstances of a particular complaint.
- B. All supervisors and department heads/division managers must immediately report the receipt of a complaint of discrimination, sexual harassment/hostile work environment, retaliation or other inappropriate behavior, whether verbal or written, to the Equal Employment Opportunity Officer immediately upon receipt of the complaint.
- C. Depending upon the circumstances of the complaint which has been made, the investigation may be conducted by the Equal Employment Opportunity Officer or other investigators retained for this purpose.
- D. All employees who are questioned during the course of an investigation are obligated to cooperate in a full, forthright and truthful manner. No employee shall face any form of reprisal for making a complaint or for their cooperation with an internal investigation. Employees who either refuse to cooperate in an internal investigation, or who intentionally give false information at any point within an investigation, shall be subject to disciplinary action. Additionally, no employee shall retaliate against any other employee who has made a complaint or who has testified or assisted in an investigation. Employees shall report any suspected retaliation to the Equal Employment Opportunity Officer.

- E. A written report containing findings and recommendations will be prepared at the conclusion of the investigation, with a copy provided to the complainant. Individuals against whom allegations were raised will also be entitled to receive a copy of the report.
- F. Once an investigation has been concluded, it shall be the responsibility of the affected department director/division manager to implement any remedial actions which were determined to be appropriate. Where the department director/division manager has been the subject of the allegation or investigation, the City Administrator may appoint an alternative management official to oversee the implementation of remedial actions. The Equal Employment Opportunity Officer should be contacted by the complainant or other affected parties if, at any point, they have reason to believe that retaliation is taking place or the inappropriate behavior is continuing.
- G. All records created which are exempted by the Florida Public Records Act shall remain exempt from disclosure until a final report has been prepared or as otherwise may be permitted under law.
- H. Nothing contained in this policy should be read or interpreted to prohibit an employee from filing a complaint in any other lawful manner, including with the Florida Commission on Human Relations, the Equal Employment Opportunity Commission, the U.S. Department of Justice or the U.S. Department of Labor, or from filing a private cause of action. In addition, nothing in this policy is intended to supersede or conflict with any applicable laws such as the Police Officers' or Firefighters' Bill of Rights or applicable collective bargaining agreements.

VII. TRAINING

This policy prohibiting acts of discrimination, harassment, retaliation and other inappropriate behavior embraces a core value of the City of Pensacola and is of critical importance to insuring a professional workplace for all employees. Accordingly, all new employees are to receive a thorough course of training on the scope and elements of this policy, and they shall be provided an overview of the federal and state laws that form the framework for the policy. Additionally, the Chief Human Resources Officer shall insure that all city employees receive periodic, cyclical training on this policy.

VIII. RESPONSIBILITY

1. The Human Resources Division is responsible for providing training on this policy to all new-hire employees during orientation.
2. The Human Resources Division shall maintain all personnel and employment records generated due to a complaint or investigation pertaining to this policy.
3. Department Directors/Division Administrators are responsible for ensuring that their employees are familiar with the standards outlined in this policy and the procedures for reporting violations.

IX. REVIEW

This policy shall be reviewed annually by the Human Resources Division for accuracy and updated accordingly. That review shall be reported to the City Administrator for review and approval by December 31 of each year.