

# PERSONNEL POLICY AND PROCEDURE

<b>SECTION: EMPLOYEE RESPONSIBILITIES/ CONDUCT</b>			<b>SUBJECT: HARASSMENT AND DISCRIMINATION</b>		
			<b>INDEX NO: 500-01</b>		
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## 1.0 PURPOSE

This policy is adopted for the purpose of providing a work environment free from harassment and discrimination and for resolving disputes between City employees arising out of harassment in the workplace. This policy is not intended to create a right of action or entitlement to damages or any expansion of legal remedies now provided by either state or federal law.

It is critical that all employees treat each other with dignity and respect. It is the responsibility of each and every employee, supervisor, manager, and department director to make sure that there is no inappropriate behavior occurring in the workplace. Behavior that violates this policy will not be tolerated.

## 2.0 ORGANIZATIONS AFFECTED

All departments/divisions

## 3.0 REFERENCES

Title VII of the Civil Rights Act of 1964  
 Title I and Title V of the Americans with Disabilities Act of 1990  
 Civil Rights Act of 1991  
 RCW 49.60 Washington Law Against Discrimination  
 RCW 42.56 Public Records Act

## 4.0 POLICY

**4.1** The City is committed to providing a work environment that is free of harassment and discrimination. In keeping with this commitment, the City maintains a strict policy prohibiting all forms of unlawful harassment or discrimination. Any person who commits such a violation may be subject to personal liability as well as discipline by the City.

This policy applies to all employees and agents, including supervisors and non-supervisory employees. This policy also prohibits such discrimination or harassment of employees by vendors, independent contractors, and others doing business with the City.

- a. **Harassment.** The City will not tolerate unlawful harassment in any form, including sexual harassment and harassment based on age, sex, marital

status, sexual orientation, race, creed, color, national origin, veteran status or disability or any other characteristic protected by state or federal law.

- b. **Discrimination.** It is the City's policy to employ, retain, promote, terminate, and otherwise treat all employees and job applicants on the basis of merit, qualifications and competence. This policy shall be applied without regard to any qualified individual's age, sex, marital status, sexual orientation, race, creed, color, national origin, or disability or any other characteristic protected by state or federal law. This policy against discrimination 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.
- c. **Retaliation.** Employees who report violations of this policy will not be subjected to any form of retaliation. Any employee who engages in any form of retaliatory conduct will be subject to disciplinary action up to and including termination.
- d. **Confidentiality.** All complaints will be investigated confidentially to the extent possible, but confidentiality cannot be guaranteed.
- e. **False Complaints.** Making a false complaint or report of a violation of this policy is prohibited. If the investigation shows that an employee deliberately made a false complaint of harassment or discrimination or knowingly provided false information, the individual who provided the false information will be subject to disciplinary action up to and including termination.

**4.2 Management Expectations.** Management personnel (directors, managers, and supervisors) are expected to enforce this policy and maintain a productive, non-hostile and non-discriminatory work environment. Members of management must take immediate action to stop and prevent discrimination or harassment where they know or have reason to know that it is occurring. Tacit approval of discrimination and/or harassment by, for example, laughing and treating a situation as a joke, failing to take action, or advising an employee not to complain, is prohibited.

- a. Management is responsible for ensuring that notes, comments, posters, and other materials on walls, bulletin boards, or elsewhere in the workplace that are derogatory or show hostility toward an individual or group based on their protected class are removed. Management is expected to educate employees about the impropriety of these items as well as inappropriateness of jokes, slurs, or other negative verbal comments that violate this rule. Management is also responsible for educating employees that use of City owned equipment, including vehicles and electronic devices such as computers, telephones, photocopiers, or faxes for any of these purposes is prohibited.
- b. If management receives a complaint from a City employee, an applicant, a

member of the public, or a contractor about discrimination, harassment, or retaliation at a City worksite, they should contact the Human Resources Director or designee as soon as possible, but no later than two business days after receiving the complaint.

- c. Management is expected to contact the Human Resources Department even if the person making the complaint requested that it be kept confidential. Management must inform an individual making a complaint that strict confidentiality may not be feasible.
- d. Any member of management who is aware of harassment or discrimination and condones it by action or inaction will be subject to disciplinary action.

**4.3 Employee Responsibilities.** Employees shall not engage in discrimination, harassment, or retaliatory conduct in violation of this policy. If an employee believes that he/she has been or is being discriminated against or harassed, or experienced retaliatory conduct prohibited by this policy, or has witnessed such activity, the employee needs to take action immediately according to the below procedures. It is the responsibility of each employee to immediately report any violation or suspected violation of this policy to one or more of the individuals identified below.

## 5.0 DEFINITIONS

**5.01 “Discrimination”** means any act or failure to act (whether by itself or as a part of a practice), the effect of which is to adversely affect or adversely differentiate against individuals or group of individuals, by reasons of their protected status, such as age, sex, marital status, sexual orientation, race, creed, color, national origin, veteran status or disability or any other characteristic protected by state or federal law, unless based upon a bona fide occupational qualification.

**5.02 “Harassment”** is a form of discrimination and is unwelcome verbal or physical conduct relating to an individual on the basis of their protected status. To constitute harassment, the conduct must be sufficiently severe or pervasive so as to alter the terms or conditions of employment. Such conduct can take many forms and may include but is not limited to the following behaviors:

- a. **Verbal Harassment** – Epithets, derogatory comments, slurs, propositioning, unwelcome sexual advances, or otherwise offensive words or comments whether made in general, directed to an individual, or to a group of people regardless of whether the behavior was intended to harass. This includes but is not limited to inappropriate sexually oriented comments on appearance, including dress or physical features, sexual rumors, code words, and race-oriented stories.
- b. **Physical Harassment** – Assault, impeding or blocking movement, leering, or the physical interference with normal work, privacy, or movement

when directed at an individual. This includes but is not limited to pinching, patting, grabbing, or other unwanted, uninvited physical contact or making explicit or implied threats or promises in return for submission to physical acts.

- c. **Visual Forms of Harassment** – Derogatory, prejudicial, stereotypical, or otherwise offensive posters, photographs, cartoons, emails, clothing, body markings, notes, bulletins, drawings, or pictures. This applies to both posted material and material maintained in or on City equipment on personal property in the workplace.
- d. **Sexual Harassment** – Any act that is sexual in nature and is made explicitly or implicitly a term or condition of employment; is used as the basis of an employment decision; unreasonably interferes with an individual's work performance; or creates an intimidating, hostile or offensive work environment.

**5.03 “Retaliation”** means to take adverse action or credible threat of an adverse action against an individual because he/she has exercised his/her rights protected under the law by complaining in good faith about discrimination, harassment, and/or retaliation, or assisted or participated in an investigation of such allegations.

**5.04 “Sexual Orientation”** means heterosexuality, homosexuality, bisexuality, and gender expression or identity. As used in this definition, “gender expression or identity” means having or being perceived as having a gender identity, self-image, appearance, behavior, or expression, whether or not that gender identify, self-image, appearance, behavior, or expression is different from that traditionally associated with the sex assigned to that person at birth.

## 6.0 PROCEDURE

**6.01 Reports of Violation of Policy:** Any employee who believes he or she has been harassed or discriminated against by a coworker, supervisor or agent of the City of Lakewood should promptly report the facts of the incident or incidents and the names of the individuals involved to his or her supervisor or, in the alternative, to the Human Resources Department. It is the responsibility of each employee to immediately report any violation or suspected violation of this policy to one or more of the individuals identified above. Employees should feel free to report valid claims without fear of retaliation of any kind.

Supervisors should immediately report any incidents of harassment or discrimination to the Human Resources Department. The Human Resources Department will review all such claims and recommend appropriate corrective action, including disciplinary action when it is warranted.

**6.02 Complaint Procedure:**

- a. **Informal Complaint Procedure.** Prompt, appropriate, direct action must be taken to stop incidents of harassment or discrimination. In some situations, a person may not realize that his or her behavior is unwelcome and/or offensive. Therefore, an offended employee is encouraged to clearly tell the offending individual that the behavior is unwelcome, offensive or inappropriate and request that the conduct stop. If the offended employee is reluctant to make such a statement to the offending individual and/or the offending conduct continues, the offended employee shall inform a non-involved supervisor, manager, or the Human Resources Department of the incident or incidents. Supervisors shall immediately advise and consult with the Human Resources Department when an informal complaint has been received. If the offended individual or alleged offending individual is not satisfied with the resolution of the matter, then a formal written complaint must be filed by one of them.
- b. **Formal Complaint Procedure.** Employees who file a formal written complaint shall follow the formal complaint procedure set out below:
  - (i) A formal written complaint shall be filed with the Human Resources Director who shall then contact the appropriate department head. The department head and the Human Resources Director shall then determine the scope of the investigation.
  - (ii) A formal written complaint shall be a signed account of what occurred, including a description of the incident(s) and the names of all persons who were present. The formal complaint shall be filed promptly but in no event later than one (1) year after the alleged incident.
  - (iii) If the formal complaint is against the Human Resources Director, then it shall be filed with the City Manager who shall then determine the scope of the investigation.
  - (iv) If the formal complaint is against a department head, then the Human Resources Director and the City Manager shall determine the scope of the investigation.
  - (v) Once the investigation is completed, the Human Resources Director and the department head (or in those cases where by necessity, the City Manager) shall inform the offended individual and offending individual of the conclusion reached as a result of the investigation.
  - (vi) Any disciplinary action taken as a result of the investigation shall be in accordance with Discipline Policies 900-01 through 900-03 or the applicable collective bargaining agreement. Due to the privacy rights of the offending employee, the offended individual may not be advised of the specific discipline imposed. However,

all employees should be advised that the City will comply with all current and future laws regarding public disclosure.

Any employees who have any questions concerning this policy should feel free to contact the Human Resources Department.

**APPENDIX A**



**Employee Acknowledgement of Receipt of  
Harassment and Discrimination Policy**

This acknowledges that I have received my copy of the City of Lakewood Harassment and Discrimination Policy (“Policy”) and that I have read the Policy and understand my rights and obligations under the Policy.

I understand that this Policy represents only current policies, procedures, rights and obligations and does not create a contract of employment. Regardless of what the Policy states or provides, the City retains the right to add, change or delete provisions of the Policy and all other working terms and conditions.

My signature below further signifies that I have read this Policy and that I accept and will abide by all of its provisions.

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Print Full Name

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Signature

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Date

*Retain in Personnel File*