



City of Palm Springs Administrative Policy Discrimination, Harassment and Retaliation

Policy Statement

The City is committed to providing a workplace free of discrimination, harassment and retaliation based on an employee's race, religion, creed, color, national origin, ancestry, veteran status, physical disability, mental disability, medical condition, genetic information, HIV/Aids related conditions, pregnancy, use of leave under FMLA and/or CFRA, marital and domestic partner status, family and parental status, age, sex, gender, gender identity, gender expression, sexual orientation, or any other basis protected by applicable federal, state or local law (hereinafter referred to as "Protected Characteristic"). The City will not tolerate discrimination harassment or retaliation against employees by managers, supervisors or co-workers. Further, the City will not tolerate discrimination, harassment or retaliation against employees by non-employees with whom the City's employees have a business, service or professional relationship.

Any employee that is found to have committed or participated in prohibited discrimination, harassment and/or retaliation will be subject to appropriate discipline, up to and including termination. Further, where such conduct occurs, appropriate action may also be taken to deter any future discrimination, harassment and/or retaliation.

Statement of Equal Employment Opportunity and Non-Discrimination

The City is an equal opportunity employer and will not discriminate against any qualified employee or applicant for employment based on any employee's or applicant's Protected Characteristic. Equal employment opportunity will be extended to all persons in all aspects of the employer-employee relationship, including recruitment, hiring, training, promotion, transfer, discipline, layoff, recall and termination.

Prohibited employment discrimination is any adverse employment action respecting the compensation, terms, conditions, or privileges of employment taken against any applicant or employee based on any applicant's or employee's Protected Characteristic.

Discrimination Examples

Prohibited discrimination can take many forms and includes, but is not limited to, the following:

- 1) Basing an employment decision as to a job applicant or employee (e.g., decision to hire, promote, transfer, terminate, etc.) on that applicant's or employee's Protected Characteristic;
- 2) Treating an applicant or employee differently with regard to any aspect of employment based upon a Protected Characteristic;
- 3) Engaging in prohibited harassment, as more specifically defined below; or
- 4) Engaging in prohibited retaliation by taking adverse employment action (e.g., demotion, transfer, discipline, termination) against an employee based on the employee opposing discrimination in the workplace, assisting, supporting, or associating with a member of a

protected group who complains about discrimination, or assisting in an investigation of discrimination.

Prohibited Harassment

Prohibited harassment is unwanted verbal, visual, or physical conduct based upon a Protected Characteristic wherein: (1) submission to the conduct is made either an explicit or implicit condition of employment; (2) submission to or rejection of the conduct is used as the basis for an employment decision; or (3) the harassment unreasonably interferes with an employee's work performance or creates an intimidating, hostile, or offensive work environment.

Harassment Examples

Prohibited harassment may include, but is not limited to, the following unwanted conduct: offensive jokes, slurs, statements, gestures, pictures, drawings, computer images, cartoons, assault, and/or impeding or blocking another's movement or otherwise physically interfering with normal work based upon an employee's Protected Characteristic.

Prohibited Sexual Harassment

Sexual harassment is a form of prohibited harassment that the City affords particular attention through a specialized complaint procedure set forth in Rule 17 of the City's Personnel Rules. In the event provisions of this Policy contradict those set forth in Rule 17, the terms and procedures of Rule 17 shall govern.

Sexually harassing conduct includes all of the prohibited actions set forth at Section 17.3.1 above, as well as other unwelcome conduct such as unwanted sexual advances, requests for sexual favors or visual, verbal or physical conduct of a sexual nature when: (1) submission to such conduct is made a term or condition of employment; or (2) submission to or rejection of such conduct is used as a basis for employment decisions affecting the individual; or (3) such conduct has the purpose or effect of unreasonably interfering with an employee's work performance or creating an intimidating, hostile, or offensive working environment. Sexual harassment can occur between members of the same or opposite sex.

Employees are hereby informed that no supervisor, manager, or officer of the City, or other person or entity doing business with the City, is authorized to condition the receipt or denial of any benefit, compensation, or other term or condition of employment on an employee's consent to any sexual demand. To the contrary, all employees are instructed that they must refuse such demands and report them promptly either to their immediate supervisor or the Personnel Officer. Any employee who is found to have obtained any benefit from the City because he or she submitted to an unreported sexual demand may be disciplined appropriately, and may further be subject to reimbursing the City for the value of any benefits received. Any employee making such a demand may also subject to appropriate discipline.

Sexual Harassment Examples

Sexual harassment can take many forms and includes, but is not limited to:

- 1) Unwanted sexual advances;
- 2) Offering employment benefits in exchange for sexual favors;
- 3) Making or threatening reprisals after a negative response to sexual advances;

- 4) Unwanted visual conduct such as leering, making sexual gestures, displaying of sexually explicit jokes;
- 5) Unwanted verbal sexual advances or propositions;
- 6) Unwanted verbal abuse of a sexual nature, graphic verbal commentary about an individual's body or dress, sexually degrading words to describe an individual, suggestive or obscene letters, notes or invitations; and
- 7) Unwanted physical conduct such as touching, assault, impeding or blocking movements.

Prohibited Retaliation

The City prohibits retaliation against any employee because of (1) the employee's opposition to a practice the employee reasonably believes to constitute employment discrimination, harassment or retaliation or (2) because of the employee's participation in an employment discrimination, harassment or retaliation investigation, proceeding, or hearing.

Examples of Protected Opposition

A complaint about an employment practice constitutes protected opposition only if the employee communicates to the City a reasonable good faith belief that the practice opposed constitutes discrimination, harassment and/or retaliation. Protected opposition to perceived discrimination, harassment or retaliation includes, but is not limited to, threatening to file a discrimination, harassment and/or retaliation complaint with any federal or state agency, union or court, or complaining or protesting about alleged discrimination, harassment and/or retaliation to a supervisor, manager, the Personnel Officer, union official, co-worker or other official. Protected opposition also includes a complaint or protest made on behalf of another employee or made by the employee's representative.

Opposition not made in good faith, or made in a manner which disrupts the workplace, or which constitutes an unlawful activity, or which includes badgering or threatening of employees or supervisors is not protected.

Examples of Protected Participation

Protected participation includes, but is not limited to, filing a charge, testifying, assisting, or participating in any manner in an investigation, proceeding, hearing or litigation under federal or state discrimination, harassment or retaliation statutes or at other hearings regarding protected employee rights, such as unemployment compensation proceedings. The City also prohibits retaliation against persons closely related to or associated with the employee exercising such rights.

Procedures for Reporting and Investigating Complaints of Discrimination, Harassment and Retaliation

Any incident of discrimination, harassment or retaliation by City personnel or any other person, should be reported to the employee's immediate supervisor and/or to the Personnel Officer immediately. The complaint should include details of the incident(s), names of individuals involved, and the names of any witnesses. An employee is not required to complain first to his or her supervisor if that person is involved in the reported conduct. Instead, the employee may report the incident to the supervisor of the employee's immediate supervisor or to the Personnel Officer.

All complaints are to be made in good faith with a reasonable belief in their accuracy and a reasonable and good faith belief that prohibited discrimination, harassment or retaliation has occurred.

The procedures herein apply to the prohibited types of discrimination, harassment and retaliation based on an employee's Protected Characteristic. Employees should feel free, without fear of retaliation, to follow the procedures set forth herein or in Rule 17 of the City's Personnel Rules if they believe in good faith that they have been discriminated against, harassed or retaliated against.

Any employee that fails to cooperate with any discrimination, harassment or retaliation investigation may be subject to appropriate discipline, up to and including termination.

Supervisor's Responsibility

Supervisors and managers must immediately refer all discrimination, harassment and retaliation complaints to the Personnel Officer. If the Personnel Officer is involved in the reported conduct, the complaint should instead be referred to the City Attorney.

Personnel Officer's Responsibility

The Personnel Officer shall have every reported complaint of discrimination, harassment and retaliation investigated, promptly and in a confidential manner, but confidentiality is neither promised nor assured due to the need to thoroughly investigate such claims, including talking to potential witnesses.

City Manager's Responsibility

The City Manager or the City Manager's delegate, who shall not be a party to any portion of the complaint, may conduct an informal hearing for the purpose of further investigation of the complaint or shall render a final and binding decision regarding the matter.

Employee Failure to Follow Procedure

All employees should note that their failure to follow the City's complaint reporting procedure may result in the defeat of any claim of discrimination, harassment or retaliation, if litigated.

Additional Enforcement Information

Discrimination, harassment and/or retaliation because of an employee's Protected Characteristic are illegal. In addition to notifying the City about discrimination, harassment and/or retaliation pursuant to the City's complaint and investigation procedure, affected employees may also direct their complaints to the federal Equal Employment Opportunity Commission ("EEOC") and the California Department of Fair Employment and Housing ("DFEH"), which have authority to conduct investigations and prosecute complaints of discrimination, harassment or retaliation in employment. Time limits for filing complaints with the EEOC and the DFEH vary and those agencies should be contacted directly for specific information. The addresses and telephone numbers (as of the date of this policy) are:

EEOC Los Angeles District Office
255 E. Temple, 4th Floor
Los Angeles, CA 90012
Telephone: (213) 894-1000
TTY: (213) 894-1121

DFEH San Bernardino District Office
1845 S. Business Center Drive, Suite 127
San Bernardino, CA 92408-3426
Telephone: (909) 383-4373
TTY: (800) 700-2320