

CITY OF BERKELEY HARASSMENT PREVENTION POLICY

Introduction

The City of Berkeley (City) prohibits harassment on the basis of sex, race, age, religion, color, national origin, ancestry, physical disability, mental disability, medical condition (associated with cancer, a history of cancer, or genetic characteristics), HIV/AIDS status, genetic information, marital status, pregnancy, sexual orientation, gender, gender identity, gender expression, military and veteran status, and any other classifications protected by state or federal law.

All employees (as well as applicants, unpaid interns or volunteers, and persons providing services pursuant to a contract) are guaranteed the right to a work place free of hostility and intimidation based on any of the above-referenced protected classifications. The City will neither tolerate nor condone harassment of employees by managers, supervisors, co-workers, elected/appointed officials, or persons with whom the City has a business, service, or professional relationship.

The City prohibits discrimination based on the above-referenced protected categories and provides reasonable accommodations for qualified employees and applicants that require them (see the [City's Equal Employment Opportunity Policy](#)).

The City prohibits retaliation, defined below, against an individual who reports, files a complaint of, or otherwise opposes conduct he or she reasonably believes to be unlawful harassment, retaliation, or assists in the investigation of a complaint.

Zero Tolerance

The City has a policy of *zero tolerance* toward harassment. Any employee found to have engaged in conduct in violation of this policy will be subject to appropriate disciplinary action, up to and including termination. An employee may be subject to discipline for engaging in harassing conduct that does not meet the definition of harassment under the law, but that, if repeated or allowed to continue, might meet that definition. Furthermore, the City will take all appropriate action to address violations of this policy by nonemployees.

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Harassment Prohibited

For purposes of this policy, Harassment is defined as the unwelcome visual, verbal, written or physical conduct engaged in on account of a person's actual or perceived membership in a protected classification, or due to his or her association with a person who has or is perceived as having any of those characteristics, and that:

- has the purpose or effect of creating an intimidating, hostile or offensive work environment;
- has the purpose or effect of unreasonably interfering with an individual's work performance; or,
- otherwise adversely affects an individual's employment opportunities.

Harassing conduct includes, but is not limited to, the following:

- Physical conduct such as assault, unwanted touching or blocking normal movement;
- Verbal conduct such as threats, epithets, slurs, denigrating jokes, or negative stereotyping; threatening, intimidating or hostile acts. This may include inappropriate sex-oriented comments on appearance, dress or physical features, inappropriate comments of a sexual nature, propositioning, making race-oriented stories and jokes;
- Visual conduct such as written or graphic material that denigrates or shows hostility or aversion toward an individual or group that is placed on walls or elsewhere on the City's premises or circulated in the workplace, on City time or using City equipment by e-mail, text messages, social networking sites or other means;
- Any pervasive conduct in the workplace, with malice, that a reasonable person would find hostile, offensive, humiliating and unrelated to the City's legitimate business interests.

This list is illustrative only, and not exhaustive. No form of harassment will be tolerated.

Sexual Harassment Prohibited

The City is committed to providing a workplace free from all unlawful harassment of any kind, including sexual harassment. For purposes of this policy, Sexual Harassment is defined as any unsolicited and unwelcome sexual advance, request for sexual favors and other verbal or physical conduct of a sexual nature or directed at an individual because of his or her sex when:

- Submission to such conduct is made explicitly or implicitly as a term or condition of employment;

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- Submission to, or rejection of such conduct by an employee or applicant is used as a basis for employment decisions affecting the employee or applicant; or
- Such conduct has the purpose or effect of unreasonably interfering with an employee's work performance or creating an intimidating, hostile, or otherwise offensive working environment.

Examples of behavior which may, in accord with State and federal laws, constitute sexual harassment, include, but are not limited to, the following:

- Acts from male to female, female to male and between individuals of the same sex which are sexual in nature and unwelcome;
- Requests for sexual favors or unwanted sexual advances;
- Offering employment benefits in exchange for sexual favors;
- Making or threatening reprisals after a negative response to sexual advances;
- Verbal harassment (e.g., graphic comments, derogatory comments, sexually suggestive or obscene jokes, telephone calls or messages);
- Physical harassment (e.g., assault, impeding or blocking movement, gestures, or any physical interference with normal work or movements); or
- Visual forms of harassment (e.g., leering, derogatory or sexually explicit emails, text messages, posters, letters, poems, graffiti, cartoons, computer screen savers, or drawings).

Complaint Procedures

Any employee, applicant, elected/appointed official, contract worker, intern or volunteer, who believes he or she has been harassed or retaliated against in violation of this policy are encouraged to promptly report the incident and the individuals involved. Because complaints of harassment, and retaliation are most effectively addressed at the earliest possible stage, the City of Berkeley encourages early reporting of concerns or complaints.

While there is no time limit for reporting, reports should be brought forward as soon as possible; an incident may be reported even if significant time has elapsed, but prompt reporting will better enable the City to respond, investigate if necessary, provide an appropriate remedy, and impose discipline if appropriate.

For information or to file a complaint, contact any of the following:

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- The City’s Human Resources Director, located at the Department of Human Resources, 2180 Milvia Street, 1st Floor, 510-981-6800;
- The City’s Equal Employment Opportunity (EEO) Officer, located at the Department of Human Resources, 2180 Milvia Street, 1st Floor, 510-981-6811;
- The City’s Employee Relations Manager, located at the Department of Human Resources, 2180 Milvia Street, 1st Floor, 510-981-6821;
- For Berkeley Public Library employees, the Library’s Human Resources Analyst, located at the Berkeley Public Library, Administration - 2090 Kittredge St., 510-981-6105;
- The employee’s supervisor, or the next level above the direct supervisor in the same Department;
or,
- The City Manager, Deputy City Manager, Department Directors, Deputy Directors or other managers.

Responding to a Complaint

The City’s harassment policy is enforced by the City Manager, all Department Heads, and supervisors. All complaints are kept confidential (to the extent possible); responded to timely; investigated (if necessary) by qualified personnel in a timely and impartial manner; documented and tracked. The City will take appropriate remedial action, up to and including termination for any substantiated violations of this policy.

Supervisor Responsibilities

If a complaint is made to a supervisor, or if a supervisor observes, or becomes aware of potential harassment, or retaliation, the supervisor must immediately report it to the City’s Equal Employment Opportunity (EEO) Officer or Human Resources personnel. The EEO Officer is available to provide guidance, training and assistance as required. Any supervisor who receives a complaint of harassment, or retaliation and fails to report it may be subject to disciplinary action.

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Mandatory Training of Supervisors

All supervisory employees are required to receive at least two hours of classroom or other effective interactive training and education regarding sexual harassment at least once every two years. All new supervisory employees are required to receive such training within six months of their assumption of a supervisory position.

Retaliation Prohibited

Retaliation against an individual who reports, files a complaint, testifies, assists, or participates in any manner in an investigation of a harassment complaint, or otherwise opposes conduct he or she reasonably believes to be unlawful harassment, is prohibited.

For purposes of this policy, Retaliation refers to taking a materially adverse action against an employee on the above-listed grounds. A materially adverse action includes, but is not limited to, the denial of promotion, refusal to hire, denial of job benefits, demotion, suspension, and discharge. Adverse actions may also include threats, reprisals and adverse treatment that in the circumstances could dissuade or intimidate a reasonable person from raising a concern about a workplace condition or activity.

Outside Agencies

The U.S. Equal Employment Opportunity Commission (EEOC) and the California Department of Fair Employment and Housing (DFEH) also investigate and prosecute employment harassment, and retaliation complaints. Employees who believe that they have been discriminated against, harassed, or retaliated against may file a complaint with either of these agencies using the following contact information:

- **EEOC:** (800) 669-4000 or TTY (800) 669-6820; or online at www.eeoc.gov
- **DFEH:** (800) 884-1684 or TTY (800) 700-2320; or online at www.dfeh.ca.gov

Remedies available through these agencies include hiring or reinstatement, back pay or promotion, fines or damages for emotional distress, and changes in the policies or practices of the employer. There are time limits for filing complaints with the DFEH and EEOC. Employees are advised to contact the DFEH or EEOC directly to obtain information on the time limits for filing complaints with these agencies.

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If you have any questions or need information regarding your protections under pertinent laws regarding harassment or your rights regarding complaint filing with the above compliance agencies, you may contact the **City's EEO Officer for assistance at (510) 981-6811.**

Dee Williams-Ridley, City Manager
February 23, 2018