

## City of Yuba City

Applies to City-Wide	Supersedes N/A	Effective Date: 01/2005 Revision Date: 8/2011
Manual Standard Operating Procedures	Source Human Resources	Key Subject Policy
Title <b>Harassment, Discrimination and Retaliation Prevention Policy</b>		
Approved 		

### PURPOSE

It shall be the policy and intent of the City to provide all employees, members of the public, applicants, vendor or suppliers an environment that is free from any form of harassment, discrimination or retaliation as defined in this policy. This policy prohibits harassment or discrimination on the basis of any of the following protected classifications, including, but not limited to an individual's race, religion, color, sex, gender, sexual orientation (including heterosexuality, homosexuality, and bisexuality), national origin, ancestry, citizenship status, uniformed service member status, marital status, pregnancy, age, medical condition (cancer and genetic characteristics), and physical or disability (mental and physical) including HIV and AIDS, denial of Family and Medical Care leave, and any other federal, state or locally protected category. It shall also be the policy of the City to provide a procedure to its employees for the investigation of alleged harassment, discrimination, and retaliation in violation of this policy.

### POLICY

The City has zero tolerance for any conduct that violates this policy. Such conduct is a violation of federal, state or local law (since there are differences in federal, state and local laws). Conduct need not rise to the level of a violation of law in order to violate this policy. Instead, a single act can violate this policy and provide grounds for discipline or other appropriate sanctions. If you are in doubt as to whether any particular conduct may violate this policy, do not engage in the conduct, and seek guidance from a supervisor or the Human Resources Department.

Harassment, discrimination, or retaliation, as defined in this policy, can occur by or between non-employees such as vendors or suppliers, members of the public, employees, or elected officials. Anyone who experiences such conduct, or who observes such conduct should report to his or her supervisor, another supervisor or manager or to Human Resources.

Harassment of employees in connection with their work by non-employees may also be a violation of this policy. Any employee, who experiences harassment by a non-employee, or who observes harassment of any employee by a non-employee should report such harassment to his or her supervisor, another supervisor or manager, or to Human Resources. Appropriate action will be taken against violation of this policy by any non-employee.

Harassment of members of the public or employees of vendors, or suppliers by our employees is also strictly prohibited. Such harassment includes sexual advances, verbal or physical conduct of a sexual nature, sexual comments and gender-based insults. Any such harassment will subject an employee to disciplinary action, up to and including immediate discharge.

Those who feel that this policy has been violated are encouraged to complain to the City Manager, supervisor (or if the employee does not feel that the matter can be discussed with their supervisor, with another supervisor or the Human Resources Department). All complaints will be investigated as promptly as possible and corrective action taken as warranted. The complaint will be kept as confidential on a “need to know” basis.

Anyone who violates this policy is subject to disciplinary action up to, and including termination or other appropriate sanctions. Additionally, anyone violating this policy may be held personally liable in a civil action for unlawful harassment of a coworker, supervisor, or any third party you come into contact with while performing your job duties.

## **DEFINITIONS OF TERMS**

A. Protected Classifications: This policy prohibits harassment or discrimination because of an individual’s protected classification. “Protected Classification” includes race, religion, religious creed, color, sex, gender, sexual orientation (including heterosexuality, homosexuality, and bisexuality), national origin, ancestry, citizenship status, uniformed service member status, marital status, pregnancy, age, medical condition (cancer and genetic characteristics), and disability (mental and physical) including HIV and AIDS, denial of Family and Medical Care Leave, and any other federal, state or locally protected category.

B. Policy Coverage: This policy prohibits City officials, officers, employees or contractors from harassing or discriminating against applicants, officers, officials, employees, or contractors because: 1) of an individual’s protected classification; 2) of the perception than an individual has a protected classification; or 3) the individual associates with a person who has or is perceived to have a protected classification.

C. Discrimination: This policy prohibits treating individuals differently because of the individual’s protected classification as defined in this policy.

D. Harassment includes, but is not limited to the following examples of behavior that is taken because of an individual’s protected classification:

**Verbal Harassment** – verbal sexual advances, propositions or requests including verbal abuse of a sexual nature, graphic verbal commentaries about an individual’s body, sexually degrading words used to describe an individual, suggestive or obscene letters, notes or invitations. For example, epithets, derogatory comments, jokes , slurs and other offensive remarks, jokes, e-mails, other verbal, graphic or physical conduct, including graphic verbal commentaries about an individual’s body that identify a person on the basis of his or her protected classification. Verbal harassment includes nicknames comments on appearance – including dress or physical features or dress consistent with gender identification – or stories that tend to disparage those with a protected classification.

**Physical Harassment** – physical conduct. For example, assault, impeding, touching or blocking movement, grabbing, patting, propositioning, leering, making express or implied job-related threats in return for submission of physical acts, mimicking, taunting, or any physical interference with normal work or movement when directed at an individual.

**Visual Forms of Harassment** – visually offensive conduct, such as leering, making sexual gestures, displaying of sexually suggestive objects or pictures, cartoons, or posters. For example, derogatory posters, notices, bulletins, sexually suggestive objects, leering, cartoons, obscene letters, e-mails, gestures or drawing on the basis of protected classification.

**Sexual Harassment** – unwanted sexual advances, employment benefit offer in exchange for sexual favors; employment detriment threatened for failure to engage in sexual activity. For example, unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature which is conditioned upon an employment benefit (such as a raise or promotion or assistance with one’s career), or threatening an employment detriment (such as termination, demotion, or disciplinary action) for an employee’s failure to engage in sexual activity. Sexual harassment can also include visual conduct, such as leering, making sexual gestures, displaying of sexually suggestive objects or pictures, cartoons or poster, verbal sexual advances, propositions or requests, verbal abuse of a sexual nature, graphic verbal commentaries about an individual’s body, sexually degrading words used to describe an individual, suggestive or obscene letters, notes or invitations.

E. Retaliation: Any adverse conduct taken because an applicant, employee, or contractor has reported harassment or discrimination, or has participated in the complaint and investigation process described herein, is prohibited. “Adverse conduct” includes: taking sides because an individual has reported harassment or discrimination, spreading rumors about a complaint, shunning and avoiding an individual who reports harassment or discrimination, or real or implied threats of intimidation to prevent an individual from reporting harassment or discrimination. The following individuals are protected from retaliation: those who make good faith reports of harassment or discrimination, and those who associate with an individual who is involved in reporting harassment or discrimination or who participates in the complaint or investigation process.

F. Confidentiality: Every possible effort will be made to assure the confidentiality of complaints made under this policy. Complete confidentiality cannot occur, however, due to the need to fully investigate and the duty to take effective remedial action. As a result, confidentiality will be maintained to the extent possible. An individual who is interviewed during the course of an investigation is prohibited from discussing the substance of the interview, except as otherwise directed by a supervisor or the Human Resources Director. Any individual who discusses the content of an investigatory interview will be subject to discipline or other appropriate sanction. The City will not disclose a completed investigation report except as it deems necessary to support a disciplinary action, to take remedial action, to defend itself in adversarial proceedings, or to comply with the law or court order.

## **RESPONSIBILITIES AND PROCEDURES**

### **Employee Responsibilities:**

Notification of the problem is essential to resolution; therefore, it is the employee's responsibility to bring these kinds of problems to the City's attention so that steps can be taken to correct the problem. There is no intent by this agency to regulate or control any relationship or social interactions of employees which are freely entered into by both parties. The following are suggestions for all employees to help establish and maintain a professional working environment, while at the same time preventing harassment, discrimination, or retaliation from occurring:

1. Set an example of acceptable conduct by not participating in or provoking behavior that is offensive.
2. Harassment, discrimination, or retaliation should be reported as quickly as possible regardless of whether the employee, or a coworker, is the target of the conduct.
3. If an employee feels he or she is being harassed, discriminated or retaliated against, the employee should report the incident immediately to his/her supervisor. If he/she does not feel the matter can be discussed with the supervisor, the employee should notify another supervisor, Human Resources department or the City Manager to discuss the complaint.
4. Maintain the confidentiality of complaints by not discussing the fact of a complaint with others who have no need to know and by not discussing the substance of an investigatory interview, except as otherwise directed by a supervisor or the Human Resources Director. Any individual who discusses the content of an investigatory interview will be subject to discipline.
5. The City prohibits employees from hindering an internal investigation or internal complaint procedure. Fully cooperating with the City's investigation into potential policy violations.
6. Reporting potential violations of this policy is essential to the City. Resolving a problem cannot begin unless the City knows about it. Therefore it is the employee's responsibility to bring those kinds of problems to the attention of the City as soon as possible so that any necessary steps can be taken to correct the problem.
7. Harassment of employees in connection with their work by non-employees may also be a violation of this policy and any employee who experiences harassment by a non-employee or observes harassment of an employee by a non-employee should report the incident so that appropriate action can be taken.
8. Harassment, discrimination, or retaliation, as defined in this policy, is considered serious misconduct, and if it is determined that an incident has occurred, appropriate sanctions or disciplinary action up to and including termination shall be taken based upon the severity and/or frequency of the offense.

## **Management and Supervisory Responsibilities:**

### **In addition to the responsibilities listed above, managers and supervisors are responsible for the following:**

1. All department directors are responsible for the implementation of this policy, modeling behavior consistent with this policy, and for assuring that all employees have knowledge and understanding of the policy.
2. All supervisory personnel are required to take positive steps to eliminate any form of harassment, discrimination or retaliation that they observe or is brought to their attention.
3. Report all claims of and/or incidents of harassment, discrimination, or retaliation to an appropriate management official as soon as possible.
4. There is no retaliation against an employee for reporting a harassment complaint. There will be no retaliation by the City, its managers and/or coworkers. No department director, supervisor or other employee may take reprisal action through any act of intimidation, restraint, coercion or discrimination against any employee who alleges harassment, discrimination or retaliation.
5. The manager or supervisor receiving a complaint must do so in a fair and serious manner and document the steps taken to resolve the complaint.
6. Monitor the work environment and take appropriate action to stop potential violations, such as removing inappropriate pictures or correcting inappropriate language.
7. Following up with those who have complained to ensure that the behavior has stopped and that there are no reprisals.
8. Informing those who complain of his or her option to contact the EEOC or DFEH regarding potential policy violations.

## **COMPLAINT PROCEDURES**

An applicant, employee, officer, official, or contractor who feels he or she has been harassed, discriminated against or retaliated against in violation of this policy in connection with their work should report the conduct immediately and according to the following procedure so that the complaint can be resolved quickly and fairly.

All employees involved in the complaint process may be represented by a person of their choosing (at their own expense).

## **Complaint Steps**

### **1. Protest or Object to the Conduct**

An individual who believes that a violation of this policy has occurred may prefer to address the issue directly with the individual(s) involved. Firmly telling the offending person(s) to stop may improve the situation. However, anyone uncomfortable with this approach or unable to alleviate the problem with this method is encouraged to proceed to the next step.

Using the informal complaint procedure is not comfortable for everyone or appropriate for every situation. Protesting or objecting to the conduct with the individual(s) involved is not a prerequisite to filing a formal or an informal complaint.

### **2. Seek Assistance, Advice or Consultation**

If an individual who believes that a violation of the policy has occurred prefers not to confront the offending person, he or she need not do so. Instead, the City strongly encourages that individual to informally report the conduct to any supervisor, department head, the City Manager, or to the Director of Human Resources. The individual may also obtain the assistance of, advice from, or consultation with a supervisor, manager, Department Head, Human Resources Director, or Employee Assistance Program representative. Complaints that are brought to the attention of supervisory or management representatives of the City through the informal complaint procedure shall be taken seriously, investigated to the extent the City deems necessary, and addressed promptly.

### **3. File a Formal Written Complaint**

If previously outlined efforts do not resolve the problem within a reasonable time frame, the individual may proceed with the formal complaint process.

An individual who believes that a violation of this Policy has occurred and either has not resolved the problem or does not feel comfortable utilizing the informal complaint process may report the incident(s) to any supervisor, Department Head, or the Human Resources Director in writing. Individuals are encouraged to use the Confidential Complaint Form for this purpose.

### **4. Receiving and Investigating Complaints**

The Human Resources Director and Department Head (unless either party is named in the complaint) will be responsible for coordinating the actions of all individuals involved in the receipt, investigation and resolution of formal complaints. A Department Head who receives a complaint will consult with Human Resources as soon as possible thereafter. The Human Resources Director or the Department Head may utilize the services of management or supervisory employees, attorneys, consultants, investigators, or other specialists as appropriate.

The Human Resources Director or Department Head may take interim action to diffuse volatile circumstances, such as placing the alleged perpetrator on paid administrative leave or temporarily transferring the perpetrator. No interim action should be taken to change the complaining party's working conditions unless the complaining party voluntarily consents to the change.

The investigator will review the complaint allegations in an objective manner and to the extent that the City deems necessary. The investigation will normally include interviews with the reporting individual, the accused, and any other person who is believed to have relevant knowledge concerning the allegations. The investigator will remind all witnesses to maintain the confidentiality of the content of the interview, and that retaliation against those who report alleged harassment or who participate in this Complaint Procedure is prohibited.

The City takes a proactive approach to potential policy violations and will conduct an investigation if its officers, supervisors, or managers become aware that harassment may be occurring, regardless of whether the recipient or third party reports a potential violation.

**5. Remedial and Disciplinary Action:**

If the investigation concludes that harassment, discrimination, or retaliation in violation of this policy has occurred, the City will notify the offended and offending parties of the general conclusion(s) of the investigation and take effective remedial action that is designed to end the violation(s). Any employee or officer determined to be responsible for violating this policy will be subject to appropriate disciplinary action, up to and including termination. Disciplinary action may also be taken against any official, supervisor or manager who condones or ignores potential violations of this policy or who otherwise fails to take appropriate action to enforce this policy. Any official or contractor found to be responsible for violating this Policy will be subject to appropriate sanctions.

**6. Option to Report to Outside Administrative Agencies:**

Applicants, employees, officers, officials and contractors have the option to report harassment, discrimination or retaliation to the U.S. Equal Employment Opportunity Commission (EEOC) or the California Department of Fair Employment and Housing (DFEH). These governmental agencies offer legal remedies and a complaint process. The nearest offices are listed in the government section of the telephone book or employees can check the posters that are located on City bulletin boards for office locations and telephone numbers.



