



# **POLICIES & PROCEDURES**

## **CITY OF FLINT, MICHIGAN**

### **HARASSMENT AND DISCRIMINATION IN THE WORK PLACE**

**INTRODUCTION:** It is the policy of the City of Flint to provide a work place free of illegal harassment and discrimination. No employee or applicant for employment with the City of Flint shall be subjected to illegal harassment or discrimination in the work place. The City of Flint does not tolerate illegal discrimination or harassment of its employees by any employee, supervisor, or administrator as set forth in federal, state or local laws. Any form of illegal discrimination or harassment on the basis of an employee's race, color, sex, religion, national origin, age, height, weight, marital status, or handicap is a violation of this policy, as well as any applicable laws.

**PURPOSE:** The City of Flint fully recognizes that sexual harassment is a violation of the Civil Rights Act of 1964, Title VII, as amended, as well as the State of Michigan's Elliott-Larsen Civil Rights Act, and constitutes unlawful sex discrimination. The purpose of this policy is to establish clearly and unequivocally that the City of Flint prohibits illegal harassment of its employees, and to establish procedures by which such allegations of harassment may be reported, investigated and resolved. It is the City of Flint's intent in establishing this policy to provide a means of equitably resolving complaints, and to discourage and prohibit illegal harassment or discrimination of any type. In furtherance of this intention, this policy will be amended and updated and dictated by changes in the law and the City of Flint's practical experience in administering this policy.

**DEFINITION:** Sexual harassment shall be defined within this policy as follows:

Unwelcome sexual advances, requests for sexual nature, and other verbal or physical conduct or communication of a sexual nature, constitute sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a term of condition of an individual's employment, (2) submissions to, or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

The term "harassment" also includes, but is not limited to, slurs, jokes, and other verbal, graphic, or physical conduct of an offensive nature relating to an individual's race, color, sex, religion, national origin (including accent), age, height, weight, marital status, or handicap. In order to be considered harassment, the offensive conduct must have the purpose or effect of substantially interfering with a person's employment. Harassment also includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct or communication of an offensive sexual nature.

Supervisory personnel who observe behavior on the part of employees that can be considered discrimination or harassment in violation of this policy are required to take prompt steps to correct the situation, whether or not a formal complaint has been made by the victim of the discrimination or harassment. Management and supervisory personnel are responsible for addressing harassment observed by them or brought to their attention, and a failure to act when required by this policy may be grounds for disciplinary action itself. The City of Flint views the failure to take appropriate action

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to report a complaint or to stop existing discrimination or harassment in the workplace to be potentially as serious an offense as the discrimination or harassment itself. Any supervisory personnel who are unsure if, or how to respond to a situation or complaint should contact the Personnel Director for advice immediately.

Harassment of City of Flint employees by non-employees during the course of an employee's work is not always within the control of the City of Flint, but the City of Flint will take action where practical to protect employees from this type of harassment. An employee who is being harassed by non-employees or who becomes aware that another employee is being harassed by non-employees, should report this harassment to his or her immediate supervisor or directly to the Personnel Director. The Personnel Director will be responsible for investigating all such incidents and appropriate action will be taken by the City of Flint. Appropriate action may include no action on the part of the City of Flint, even in instances where harassment occurs.

### **COMPLAINT PROCEDURE:**

The following procedure may be utilized by City of Flint employees for the processing of complaints relating to harassment. This procedure shall apply only to those complaints directed against a person who at the time of the filing of the complaint is a City of Flint employee. The procedure may be utilized with regard to complaints covering administrators, supervisory personnel and co-employees. While the procedure itself is not directly applicable to complaints involving non-employees of the City of Flint, any harassment from such individuals in the City of Flint work place should be brought to the attention of the employee's supervisor and/or the Human Resources Director.

### **CITY OF FLINT FACT FINDING PROCESS AND ADMINISTRATIVE INVESTIGATION:**

1. An employee, regardless of position, who feels that he or she is being or has been subjected to illegal discrimination or harassment by another person on the basis of their race, color, sex, religion, national origin, age, height, weight, marital status, or handicap is expected to notify the Human Resources Director immediately in writing.
2. If the Human Resources Director is believed to be part of the problem the employee should immediately contact the Chief Legal Officer for advice.
3. The Human Resources Director will need to know the dates and times that the instances of discrimination or harassment have occurred, the identity of the perpetrators, any known witnesses, and the nature of the conduct amounting to the discrimination or harassment. Information received during the complaint process will be treated as confidentially as may be permitted under the circumstances, giving due regard to an employee's right to be apprised of an respond to allegations made against him or her.
4. A request for investigation is made to the EEO Officer, Legal Department, or other investigator as designated by the Human Resources Director.
5. The department head is made aware of the allegation and shares any pertinent information he/she may know about the situation.
6. The department/division head instructs the lower level supervisor to cooperate fully with the

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- investigation.
7. Investigation process begins:
    - a. Statement of employees or others with any possible knowledge of the situation are obtained through interviews.
    - b. The statement may be reduced to writing for signature by the maker of the statement recorded or transcribed at the discretion of the investigator.
    - c. The complainant and the accused employee may be accompanied at the time of the statement by his or her union steward. Other persons may not be allowed at the time the statement is made.
    - d. Any physical and/or documentary evidence is collected or secured.
  8. Upon completion of the investigation, a summary report of the findings is prepared and submitted to the Human Resources Director and Review Committee.
  9. At least five of the following personnel or their designees are convened as a Review Committee to determine whether the complaint is sustained and recommend to the Human Resources Director the level of discipline to be imposed:
    - Chief Legal Officer
    - Labor Relations Specialist
    - EEO Officer
    - Department Head (affected, but not subject to complaint)
    - Human Resources Director
    - Similarly situated person (may be selected in the Human Resource Director's discretion in those instances where the panel as constituted does not include a similarly situated person (i.e. no females or minorities)
    - Department Head or Supervisor may be selected by Personnel Director for benefit of past experience on committee or for training purposes.
  10. The Human Resources Director taking into account the recommendation, finally determines whether, and what amount of disciplinary action is appropriate, and initiates implementation of discipline.
  11. Employee receives discipline from supervisor in accordance with the collective bargaining agreement, if applicable.

Although confidentiality will be maintained to the extent practicable throughout the investigation process, notification to the accused may occur at any step of this investigation process.

At any stage in the process an investigation may be discontinued or held in abeyance due to insufficient, conflicting or insufficient evidence, improper motivation or lack of jurisdiction as determined by the investigator. The Human Resources Director shall have final authority to determine whether an investigation proceeds or is discontinued. If the Human Resources Director is the subject of such investigation, final authority shall rest with the Chief Legal Officer.

### **UNSUBSTANTIATED COMPLAINTS:**

If, as a result of the investigation, it is determined that no violation of the policy has occurred, or that there is insufficient information from which to make a determination whether a violation has occurred:

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1. The complainant and alleged harasser shall be notified of the finding and the reason(s) therefore.
2. The complainant and harasser may be advised that harassment will not be tolerated, and that there will be no retaliation for making a complaint, opposing harassment or discrimination, or participating in an investigation of such complaint.
3. Where applicable, appropriate measures shall be taken to assure that this policy and the City of Flint's commitment to enforcing the policy is reiterated in the workplace.

### **STATEMENT OF POLICY:**

It is the policy of the City Government of Flint to provide a workplace free of illegal harassment and discrimination. No Flint Government employee or applicant for employment with the Flint Government shall be subjected to sexual, ethnic or religious harassment in the workplace.

Sexual Harassment: Includes unwelcome advances, request for sexual favors, and other verbal or physical conduct of sexual nature constitute sexual harassment when: 1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; 2. submissions to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or 3. such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Ethnic, Religious and Other Illegal Harassment: Includes age, height, marital status, verbal or physical conduct or communication relating to an individual's race, color, national origin, religion which will be viewed as harassment, if: 1. it has the purpose or effect of creating an intimidating, hostile or offensive working environment; 2. it has the purpose or effect of unreasonably interfering with an individual's work performance; 3. it otherwise adversely affects an individual's employment opportunities.

Any employee or applicant for employment who feels that he or she has been harassed should report the incident to his/her supervisor, and/or union representative, and/or to the Human Resources Director. Employees who harass other employees or applicants for employment will be discharged, suspended or reprimanded, depending on the nature of the harassment.

It is also the policy of the City Government of Flint to comply with all state and federal laws which prohibits illegal harassment and discrimination in the workplace, including the Elliott-Larson Civil Rights Act and Title VII of the 1964 Civil Rights Act.

For additional details on the City of Flint's policy and written information on filing a complaint and the investigative process, contact the Human Resources Department for an Employee Copy of the City of Flint's policy.

ADOPTED:                      March 27, 1995

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DEPARTMENT: HUMAN RESOURCES/LAW