

EM SUBMISSION NO.: EMA1792015

PRESENTED: 4-20-15

ADOPTED: 4-22-15

BY THE EMERGENCY MANAGER:

**RESOLUTION APPROVING THE CITY OF FLINT STATEMENT OF POLICY:
HARASSMENT AND DISCRIMINATION IN THE WORK PLACE**

The City of Flint, to provide a work place free of unlawful harassment and discrimination, has developed the attached Statement of Policy: Harassment and Discrimination in the Work Place; and

No current or future employee of the City of Flint shall be subjected to unlawful harassment or discrimination in the work place; and

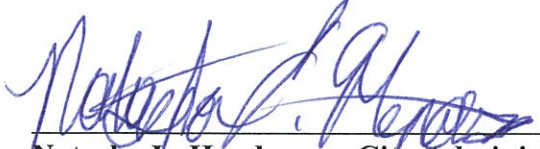
Any form of unlawful discrimination or harassment on the basis of an employee's actual or perceived race, color, religion, national origin, sex, age, height, weight, marital status, physical or mental disability, family status, sexual orientation, or gender identity is a violation of this Statement of Policy.

IT IS RESOLVED that the Emergency Manager hereby approves the attached City of Flint Statement of Policy: Harassment and Discrimination in the Work Place, which shall be effective immediately upon execution.

APPROVED AS TO FORM:



Peter M. Bade, City Attorney



Natasha L. Henderson, City Administrator

EM DISPOSITION:

ENACT _____ FAIL _____

DATED 4-22-15



Gerald Ambrose, Emergency Manager



POLICIES & PROCEDURES

CITY OF FLINT, MICHIGAN

STATEMENT OF POLICY: HARASSMENT AND DISCRIMINATION IN THE WORK PLACE

I. INTRODUCTION:

It is the policy of the City of Flint (herein the “City”) to provide a work place free of unlawful harassment and discrimination. No employee or applicant for employment with the City shall be subjected to unlawful harassment or discrimination in the work place. The City does not tolerate unlawful discrimination or harassment, as set forth in federal, state or local laws, of its employees by: any employee, supervisor, or administrator. Any form of unlawful discrimination or harassment on the basis of an employee’s actual or perceived race, color, religion, national origin, sex, age, height, weight, marital status, physical or mental disability, family status, sexual orientation, or gender identity is a violation of this policy.

II. PURPOSE:

The City acknowledges that harassment and/or discrimination in the workplace is a violation of state and federal law, including but not limited to: Title VII of the Civil Rights Act of 1964, the American’s with Disabilities Act, the State of Michigan’s Elliott-Larsen Civil Rights Act of 1976, and the Persons with Disabilities Civil Rights Act of 1976. The purpose of this policy is to establish clearly and unequivocally that the City prohibits harassment of its employees, and to establish procedures by which such allegations of harassment may be reported, investigated and resolved.

It is the City’s intent, in establishing this policy, to provide a means of equitably resolving complaints, and to discourage and prohibit unlawful 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’s practical experience in administering this policy.

III. DEFINITIONS:

As used in this policy, the following words and phrases have the following meanings:

- A. “Discrimination.” To make a decision, offer to make a decision, or refrain from making a decision, to engage in harassment, or in any way cause inequitable treatment to an individual based in whole or in part of the actual or perceived race, color, religion, national origin, sex, age, height, weight, marital status, physical or mental disability, family status, sexual orientation, or gender identity, of another person.
- B. “Harassment” includes, but is not limited to, slurs, jokes, and other verbal, graphic, or physical conduct of an offensive nature relating to an individual’s actual or perceived race, color, religion, national origin, sex, age, height, weight, marital status, physical or mental

disability, family status, sexual orientation, or gender identity. In order to be considered harassment, the offensive conduct must have the purpose or effect of substantially interfering with a person's employment.

1. "Sexual harassment" shall be further defined within this policy as follows: Unwelcome sexual advances, requests of a sexual nature, and/or other verbal or physical conduct or communication of a sexual nature when:
 - a) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
 - b) submissions to, or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or,
 - c) 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.

IV. SUPERVISORY PERSONNEL AND RESPONSIBILITIES:

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. The City views the failure to take appropriate action 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. Failure to act when required by this policy may be grounds for disciplinary action itself. Any supervisory personnel who are unsure if, or how, to respond to a situation or complaint should contact the Director of Human Resources and Labor Relations (herein "Director of HR/LR") for advice immediately.

V. CONDUCT BY NONEMPLOYEES:

Harassment of City employees by non-employees during the course of an employee's work is not always within the City's control. However, the City 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 Director of HR/LR. The Director of HR/LR will be responsible for investigating all such incidents and appropriate action will be taken by the City. Appropriate action may include no action on the part of the City, even in instances where harassment occurs.

VI. COMPLAINT PROCEDURE:

The following procedure may be utilized by City employees for the processing of complaints relating to harassment and/or discrimination. 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 employee, administrator, or supervisor. While the procedure itself is not directly applicable to complaints involving non-employees, any harassment by such individuals in the City work place should be brought to the attention of the employee's supervisor and/or the Director of HR/LR.

A. 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 unlawful discrimination or harassment by another person on the basis of their actual or perceived race, color, religion, national origin, sex, age, height, weight, marital status, physical or mental disability, family status, sexual orientation, or gender identity is expected to report the unlawful harassment or discrimination to the Director of HR/LR immediately in the form of a written complaint.
 - a) If the Director of HR/LR is believed to be part of the problem, the employee should immediately contact the Legal Department for advice.
 - b) The written complaint should include:
 - i. the dates and times that the instances of discrimination and/or harassment occurred;
 - ii. the identity of the perpetrators;
 - iii. the names of any known witnesses; and,
 - iv. the nature of the conduct amounting to discrimination and/or harassment.
2. The employee's written complaint and subsequently received information will be treated as confidentially as may be permitted under the circumstances, giving due regard to:
 - a) the alleged employee perpetrator's right to be apprised of and respond to allegations made against him or her, and;
 - b) the City's need to share information between departments, or other third parties, as a result of the initiation of the complaint. Third parties are included but not limited to an Employee's union or legal counsel.
3. Upon receipt of the written complaint the Human Resources investigation begins. The investigation is conducted by the Director of HR/LR or their designee:
 - a) The employee's department head is made aware of the allegation and shares any pertinent information he/she may know about the situation and instructs lower level supervisor and employees to cooperate fully with the investigation.
 - b) Statement of employees or others with any possible knowledge of the situation/incident are obtained through interviews. 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.
4. Upon completion of the investigation, a summary report of the findings is prepared and submitted to the Director of HR/LR.
5. The Director of HR/LR will review the investigation to ascertain whether the complaint made is accurate and reliable; and to determine whether discipline is appropriate and the level of discipline to be imposed. In reaching these determinations the Director of HR/LR should consult with the Legal Department for guidance. The Director of HR/LR will then implement discipline.
6. Employee receives discipline from supervisor or the Director of HR/LR in accordance with the collective bargaining agreement, if applicable.
 - a) 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.
7. Note: 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 Director of HR/LR shall have final authority to determine whether an investigation proceeds or is discontinued. If the Director of HR/LR is the subject of such investigation, final authority shall rest with the Chief Legal Officer.

VII. 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:

1. The complainant shall be notified of the finding and the reason(s) therefore.
2. If the alleged harasser was made aware of the complaint during the investigation process, he/she will be notified of the determination that no violation of the policy has occurred.
3. 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.
4. Where applicable, appropriate measures shall be taken to assure that this policy and the City's commitment to enforcing the policy is reiterated in the workplace.

ADOPTED:

RESOLUTION#:

Updated 12.2.14

DEPARTMENT: HUMAN RESOURCES/LAW

APPROVAL: _____

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