

CITY OF SALEM POLICY OF NONDISCRIMINATION OR HARASSMENT

POLICY STATEMENT

The City of Salem is committed to providing all employees with a work environment free of discrimination or harassment of any kind. The purpose of this policy statement is to reaffirm our commitment to equal employment opportunity and to provide a harassment free work environment for all employees. Employees include all part-time exempt, seasonal, career status employees, and volunteers working for the City and Housing Authority.

RESPONSIBILITY

Harassment or discriminatory conduct of any kind, whether physical or verbal, committed by supervisors or non-supervisory personnel or agents of the City, is prohibited in the workplace. Prevention of discriminatory activities must be practiced at all times, especially by supervisors. Supervisors and managers have additional responsibility to listen to harassment and/or discrimination complaints and to take corrective actions where appropriate. In those cases where discrimination can be established, disciplinary action up to and including termination may be taken by the City.

Taking retaliatory action against an employee because he or she filed a discrimination or harassment complaint, furnished information or participated in any manner in an investigation, compliance review or hearing is strictly prohibited.

DISCRIMINATION AND HARASSMENT DEFINED

Disparate and unfair treatment of an employee or individual in the terms, conditions and/or privileges of employment because of his or her race, color, sex, sexual orientation, religion, national origin, age, disability, domestic partnership, familial status, gender identity, source of income, veteran status or marital status is discrimination. This includes harassment and intimidation. Harassing behaviors are unwelcome and offensive verbal or physical conduct; can be of a sexual or racial nature, and can include verbal or practical jokes, unwelcome touching, sexual or racial remarks or put downs. This also includes repeated offensive sexual flirtation, advances, propositions, continual or repeated verbal abuse of a sexual, racial or religious nature; graphic verbal commentaries about an individual's body, sexually degrading words used to describe an individual; and the display in the workplace of sexually suggestive objects or pictures.

To treat employees or groups of employees differently because of their race, sex, sexual orientation, age, disability, marital status, domestic partnership, familial status, gender identity, source of income, veteran status or ethnicity can create a hostile or offensive work environment. A hostile or offensive work environment is one in which a pattern of unwelcome or offensive workplace behavior occurs: verbal or physical conduct that demeans or shows hostility or aversion to an individual. This conduct is severe or pervasive and has the purpose or effect of: creating a hostile, intimidating work environment; or unreasonably interferes with work performance; or otherwise adversely affects employment opportunities.

A more specific and detailed definition of what may constitute sexual harassment is attached to this policy statement.

WHAT TO DO IF YOU HAVE A COMPLAINT

This procedure is meant to provide you with the most comfortable means of reporting unlawful discrimination or harassment. If you feel you are the victim of discrimination or harassment, you are encouraged to first discuss the matter with your supervisor or with another management employee in your department with whom you feel comfortable discussing the matter. Perhaps the problem is due to a simple misunderstanding and can be resolved within the work group. However, you may file an internal complaint with any supervisor or manager in the Human Resources Department, and, as stated below, you may also have a representative present with you. The following steps have been established for filing and handling complaints by any employee or agent of the City based on alleged acts of discrimination:

1. Any employee may file a complaint by communication directly with the Human Resources Director, the Human Resources Analysts, Risk Manager, or the Benefits Manager in the Human Resources Department (phone 503-588-6162). These multiple options for presenting a complaint are made available with the intent of giving the employee the opportunity to select a person with whom he/she feels comfortable.

The employee may file the complaint orally by meeting in person with a member of the Human Resources Department staff, or by submitting it to the Human Resources staff in writing in an envelope marked "confidential" to Room 225, 555 Liberty St. SE, Salem, OR 97301. Complaints must be filed within 180 days after the alleged discrimination unless the alleged discrimination is ongoing, in which case the complaint may be filed at any time.

2. The Human Resources Director or designee will proceed with an investigation within 10 days of receipt of the complaint. Consistent with the obligation to take prompt and appropriate remedial action, confidentiality will be maintained as far as is practicable. If it is necessary to make the employee who filed the complaint known to others, the employee will be notified beforehand why it is necessary that he or she be identified.

If the employee wishes to have a representative present at any discussion between the employee and the City's Human Resources Director or designee, the employee's request will be honored and a representative will be given an opportunity to be present. All such discussions will be held in private, away from the employee's work area.

If the incident is isolated and of a less serious nature, the supervisor may attempt to resolve it informally. Even if an incident is resolved informally, the person handling the complaint is required to document the incident and action taken and forward a copy to the Human Resources Director.

3. A written record of the investigation will be made. The written complaint and related investigative materials will be maintained in the Human Resources Department, in a separate confidential file. No notations will be made in the complainant's personnel file. If, after investigation, it is determined that there is merit to the complaint, immediate and appropriate action, including discipline, will be taken. Depending on the seriousness of the misconduct and the offending employee's overall record, corrective action such as retraining or disciplinary action, up to and including termination, may be taken. The City may reasonably insure that employees who file complaints, or who testify, assist, or participate, in any manner, in an investigation or hearing, will be safeguarded against intimidation, coercion, or discrimination of any kind. All such acts against

complainants or other participants are strictly prohibited and should be reported immediately to the City's Human Resources Director or designee(s).

4. If the employee making the complaint of alleged discrimination is dissatisfied with the decision, he or she, or a representative, may elect to file a written complaint with the Oregon State Bureau of Labor and Industries, the Federal Equal Employment Opportunity Commission, or The U.S. Department of Labor Office of Federal Contract Compliance Programs. These alternative complaint avenues are also available if the employee would prefer to use them instead of the internal City procedures described herein.

This procedure is separate and apart from the grievance procedure under the City's Human Resources Rules and under the respective collective bargaining agreements with the American Federation of State, County, and Municipal Employees (AFSCME Local 2067), Professional Communications Employee Association (PCEA), the Salem Police Employees' Union (SPEU), and the International Association of Firefighters (IAFF Local 314).

All employees are required to fully cooperate in carrying out and enforcing this policy of the City. Employees are required to not engage in acts of discrimination, harassment or intimidation on the basis of race, color, religion, sex, sexual orientation, national origin, disability, age, domestic partnership, familial status, gender identity, source of income, veteran status or marital status.

This procedure shall be distributed to all employees and shall be posted on all employee bulletin boards.

Robert G. Wells, City Manager

Constance L. Wiggins, Director
Human Resources

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Revised April 1, 2004

WHAT IS SEXUAL HARASSMENT?

Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, or conduct of a sexual nature (verbal, physical, or visual), that is directed towards an individual because of gender. It can also include conduct that is not sexual in nature but is gender-related. Sexual harassment includes the harassment of the same or of the opposite sex. Unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature constitutes sexual harassment when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; or
2. Submission to, or rejection of such conduct by an individual is used as a 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 offensive work environment.

In 1980, the Equal Employment Opportunity Commission (EEOC) added a new section to its Guidelines on Discrimination Because of Sex dealing specifically with sexual harassment. The Commission's view of sexual harassment includes, but is not limited to, the following considerations:

1. A man as well as a woman may be the victim of sexual harassment, and a woman as well as a man may be the harasser.
2. The harasser does not have to be the victim's supervisor. The harasser may also be an agent of the employer, a supervisory employee who does not supervise the victim, a co-worker, or, in some circumstances, even a non-employee.
3. The victim does not have to be of the opposite sex from the harasser. The crucial fact is whether the harasser treats a member of one sex differently from members of the other sex.
4. The victim does not have to be the person at whom the unwelcome sexual conduct is directed. The victim need only be someone who is placed in an offensive working environment by such conduct.
5. There is no requirement that the victim complain to the harasser, or report the sexual harassment to the supervisor or employer, for the employer to be held responsible for the unlawful conduct when the harassment is committed by the supervisor. The employer will be held responsible for the unlawful conduct of a co-worker or a non-employee if it knew, or should have known, that the act occurred and failed to take appropriate corrective action.
6. A finding of unlawful sexual harassment does not depend on the victim having suffered a concrete economic injury. The harasser's conduct constitutes sexual harassment when it unreasonably interferes with the victim's work or creates a harmful or offensive work environment.

This is by no means an exhaustive list of conduct which is considered sex discrimination and which will not be tolerated in City workplaces. If you are aware of such illegal conduct, it is your responsibility to take affirmative actions to stop it immediately. If it is occurring in an area over which you have no control, you should report the conduct to the Human Resources Department. Following such a report the Human Resources Department will conduct a complete investigation, and recommend to the Department Head whatever appropriate action is necessary to ensure that no discrimination is occurring.