

CITY OF BALDWIN PARK

DISCRIMINATORY HARASSMENT IN THE WORKPLACE

I. OBJECTIVES

- A. To establish City policy regarding sexual harassment and/or any other forms of discriminatory harassment.
- B. To establish a uniform procedure for preventing, reporting and investigating complaints of discriminatory harassment.

II. INTRODUCTION

Every employee of the City of Baldwin Park will ensure that the workplace is a harassment free environment. The "line employee", as well as the Department Directors, has as much responsibility in preventing discriminatory workplace harassment, but supervisors and managers will be especially vigilant of those conditions that cause harassment.

Discriminatory harassment violates this Policy, and will not be tolerated. Discriminatory harassment of an applicant or employee, volunteer, agent or person providing services pursuant to a contract, is harassment based on actual or perceived race, religious creed, sex, national origin, ancestry, disability, medical condition, marital status, age or sexual orientation (protected class). It is also improper to retaliate against any individual for making a complaint of discriminatory harassment or for participating in a harassment investigation. Retaliation constitutes a violation of this Policy.

This policy applies to all terms and conditions of employment, including but not limited to hiring, placement, promotion, disciplinary action, layoff, recall, transfer, leave of absence, training opportunities and compensation. Employees who violate this Policy may be subject to disciplinary action up to and including termination.

An employee who perceives comments, gestures, or actions of a harassing nature by another employee or supervisor to be offensive, is encouraged to make it known directly, or indirectly, to that person that such behavior is unwelcome. However, there is no requirement that the victim of the harassment confront the harasser.

The purpose of the workplace harassment policy will be to clearly establish the City of Baldwin Park's commitment to provide an environment free from discriminatory harassment.

III. DEFINITIONS

The following defines and describes harassment. The definition of harassment is not limited to the descriptions provided.

- A. VERBAL HARASSMENT: Derogatory comments, epithets, slurs based on one's protected class, propositioning or otherwise offensive words or comments, directed against an individual (or group) of a protected class; name calling, vulgar comments, sexually explicit jokes, comments about an employee's anatomy and/or dress, sexually oriented noises or remarks, questions about a person's sexual practices, verbal abuse, or verbal commentaries about a person's body.

- B. PHYSICAL HARASSMENT: Assault, impeding or blocking movement, leering, or any physical interference with normal work movement, when directed at an individual (or group) of a protected class; touching, hitting, pushing, pinching, patting, grabbing, brushing against or poking another person's body, hazing or initiation that involves sexual or ethnic components, such as requiring an employee to wear sexually suggestive or demeaning clothing.

- C. VISUAL HARASSMENT: Derogatory, prejudicial, stereotypical or otherwise offensive posters, photographs, cartoons, notes, bulletins, drawings, computer graphics, electronic media transmissions, or pictures directed against an individual (or group) of a protected class; sexual pictures, writings, objects; obscene letters or invitations; staring at an employee's anatomy; leering, sexually oriented gestures, unwanted love letters or notes.

- D. SEXUAL HARASSMENT: Unwanted sexual advances, unwelcome visual, verbal or physical conduct of a sexual nature, or requests for sexual favors, when (1) submission to that conduct is made either explicitly or implicitly a term or condition of an individual's employment; (2) an employment decision is based on an individual's acceptance or rejection of that conduct; or (3) that conduct interferes with an individual's work performance or creates an intimidating, hostile or offensive working environment. In addition to the types of conduct described above in paragraphs A – C, sexual harassment includes:
 - 1. Unwelcome verbal or written sexual advances, propositions, or other sexual comments, such as preferential treatment or promises of preferential treatment to an employee for submitting to sexual conduct, including soliciting or attempting to solicit any employee to engage in sexual activity for compensation or reward; and subjecting, or threats of subjecting, an employee to unwelcome sexual attention or conduct or intentionally making performance of the employee's job more difficult because of the employee's sex; and

 - 2. Retaliation for sexual harassment complaints, such as disciplining, changing work assignments of, providing inaccurate work information to, or refusing to cooperate or discuss work related matters with any employee because that employee has complained about or resisted harassment, discrimination or retaliation; and intentionally lying about, falsely denying, exerting pressure, or

otherwise attempting to cover up conduct such as that described in any item above.

IV. ZERO TOLERANCE POLICY

The City of Baldwin Park is committed to providing an environment where respect for the individual is encouraged and safeguarded, free from discriminatory harassment. Harassment **WILL NOT BE TOLERATED!**

Where violations of this policy are found to occur, the Department Directors, managers, and supervisors are required to take appropriate corrective action in accordance with the Baldwin Park Personnel Rules and Regulations.

Employees found participating in any form of job based harassment, or retaliating against another employee shall be subject to disciplinary action up to and including termination.

V. HARASSMENT COMPLAINT PROCEDURE

A. Informal Resolution by Employees

All employees are responsible for assisting the City in taking all reasonable steps necessary to prevent unlawful harassment from occurring. To that end:

1. If the employee feels comfortable doing so, he or she should tell the offending person that the behavior or conduct is unwelcome, offensive or inappropriate, and that the person must cease such behavior or conduct. Such communication often results in ending the behavior or conduct.

B. Complaint by Employee.

1. If the employee does not want to tell the person to stop the offensive conduct, or if after doing so the conduct does not immediately cease, the employee should complain to his or her supervisor, any other supervisor or the Personnel/Risk Manager. ALL EMPLOYEES ARE ASSURED THAT THEY CAN MAKE SUCH REPORTS WITHOUT FEAR OR RETALIATION BY THE DEPARTMENT, THE CITY, MANAGEMENT, OR THEIR SUPERVISOR.
2. If an employee, including a supervisor, witness's unlawful harassment of another employee, the employee should inform his or her supervisor, any other supervisor, or the Personnel/Risk Manager.
3. Employees are encouraged to discuss alleged incidents of unlawful harassment with or seek advice from their supervisor, any other supervisor, or the Personnel/Risk Manager, so that the department can investigate such allegations and, when warranted, take prompt remedial action.

4. Any supervisor who is informed of alleged discriminatory harassment must immediately report it to the Personnel/Risk Manager or Chief Executive Officer. All supervisors and managers are required to maintain confidentiality to the extent possible in communicating or investigating any claims of alleged discrimination or harassment.
5. If the alleged harasser is the Personnel/Risk Manager, the supervisor must immediately report to the Chief Executive Officer.

C. Investigative/Corrective Action Procedure:

Every complaint will be investigated. Investigations of complaints shall be prompt and impartial, and will be investigated by the Personnel /Risk Manager, or a representative appointed by the City's Chief Executive Officer. If a harassment complaint involves the City's Chief Executive Officer, an outside investigator shall be appointed to conduct the investigation. The investigation shall include, but not be limited to:

1. A review of the complaint and all pertinent documentary and testimonial evidence.
2. Interviews of the complainant, the alleged harasser, and other persons with relevant evidence. Interviews of peace officers shall be conducted in accordance with applicable law. ALL EMPLOYEES ARE ASSURED THAT THEY MAY COOPERATE IN THE INVESTIGATION OF COMPLAINTS WITHOUT FEAR OF RETALIATION OR REPRISAL BY THE DEPARTMENT, THE CITY, MANAGEMENT, THEIR SUPERVISOR, OR ANY OTHER EMPLOYEE.
3. Preparation of a written report containing findings and conclusions. The Personnel/Risk Manager or Chief Executive Officer will determine whether the policy has been violated and communicate the conclusion to the complainant, the alleged harasser and the department head if appropriate.
4. In the case of harassment by employees, when warranted by the facts, disciplinary action will be taken against the harasser, which may include termination. Disciplinary action will be commensurate with the severity of the offense and shall take into account that harassment by high-ranking employees has a greater adverse impact on the fair and efficient administration of the Department's operations. When warranted, remedial action for the benefit of the complaining party shall also be considered. In connection with harassment by non-employees, the Personnel/Risk Manager shall make recommendations for corrective action to the Chief Executive Officer.

5. Investigations of alleged harassment will be handled with discretion, sensitivity, and due concern for the dignity of those involved. To the extent possible, all complaints and related information will remain confidential, except as to those individuals who require information in order to investigate, evaluate, or take action in response to the complaint.

D. Department Responsibilities

1. Individual supervisors are responsible to report and/or handle sexual harassment incidents where the supervisor knows, or should have known, of the incident by nature of his or her supervisory position.
2. When a complaint is made, the supervisor must follow through by verbally warning the alleged harasser and documenting the warning taking action to assure that the harassment does not continue.
3. Any supervisor who fails to take corrective action can and will be disciplined by the department.
4. It is the responsibility of all supervisors to establish and maintain a working environment which is free from discriminatory intimidation, ridicule and insult.

E. Disciplinary Action

1. If it is determined that the complaint of harassment is founded, appropriate disciplinary action consistent with the requirements of law and the Baldwin Park Personnel Rules and Regulations pertaining to employee discipline will be taken. When progressive discipline is provided for, each instance of misconduct in violation of the Workplace Harassment Policy will move the employee up the scale of discipline, even if the exact nature of the misconduct differs. Severe harassment may result in immediate termination regardless of prior status on the progressive discipline scale. Other steps may be taken to the extent reasonably necessary to prevent recurrence of the harassment and to remedy the complainant's loss, if any. A written record of each disciplinary action taken pursuant to this Policy will be placed in the offending employee's personnel file
2. Disciplinary action shall be consistent with the nature and severity of the offense, the rank of the harasser, and any other factors relating to the fair and efficient administration of the City's operations.

F. False Complaints

Knowingly, falsely accusing someone of harassment or otherwise knowingly giving false information in an investigation of harassment, shall be grounds for disciplinary action, up to and including termination.

G. Other Sources

1. Any employee who believes that he or she has been the victim of sexual or other prohibited harassment by co-workers, supervisors, visitors, vendors, or others, may file a complaint with the California Department of Fair Employment and Housing (DFEH). Employees may contact the DFEH at 322 West First Street, Suite 2126, Los Angeles, CA 90012-3112. The telephone number for DFEH is 1(800) 884-1684.
2. In the event a complaint is filed with the DFEH, and the DFEH finds that complaint has merit, the DFEH will attempt to negotiate a settlement between the parties. If not settled, the DFEH may issue a determination on the merits of the case.

Where a case is not settled and the DFEH finds a violation to exist, it can prosecute the charging party's case before the Fair Employment and Housing Commission (FEHC). Legal remedies available through the DFEH and FEHC for a successful claim by an applicant, employee, or former employee include possible reinstatement to a former job, award of a job applied for, back pay, front pay, attorney's fees, and under appropriate circumstances, actual damages and/or administrative fines.

In the alternative, the DFEH may grant the employee permission to withdraw the case and pursue a private lawsuit seeking similar remedies.

CITY OF BALDWIN PARK

DISCRIMINATORY HARASSMENT IN THE WORKPLACE POLICY

PRINT NAME: _____

POSITION TITLE: _____

DEPARTMENT: _____

By my signature, I acknowledge that I have received the City of Baldwin Park's Discriminatory Harassment in the Workplace Policy.

Signature

Date

cc: Personnel File