



**SUBJECT:** POLICY AGAINST HARASSMENT, DISCRIMINATION, AND RETALIATION

**PURPOSE:** To define and forbid discriminatory, harassing, and/or retaliatory conduct, to prohibit the condoning or perpetuating of such conduct, and to provide an efficient means for reporting and resolving complaints of discrimination, harassment, and/or retaliation against any individual who reports discrimination, harassment, or retaliation, or who participates in an investigation of such reports.

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**GENERAL POLICY:**

Harassment or discrimination against an employee, applicant, intern, volunteer, visitor, or contractor on the basis of race, color, religion or creed (including religious dress and grooming practices), sex, (including pregnancy, child birth, breastfeeding and medical conditions related to pregnancy, child birth or breastfeeding), gender (including gender identity and gender expression), national origin, ancestry, physical or mental disability, genetic information, medical condition, marital status, age (40 or older), military or veteran status, or sexual orientation or any other basis protected by applicable federal, state, or local law, including association with individuals with these protected characteristics or perception that an individual has one or more of these protected characteristics is strictly prohibited. Retaliation against any individual for making a complaint or participating in an investigation related to alleged unlawful conduct is strictly prohibited.

**PROVISIONS:**

1. Harassment or discrimination is strictly prohibited in all terms and conditions of employment, including but not limited to recruiting, hiring, discipline, termination, promotions, transfers, compensation, benefits, training, and leaves of absence.
2. Violations of this policy will be grounds for disciplinary action, up to and including termination.
3. Retaliation includes taking adverse employment action or other negative treatment against an employee because of (1) the employee's report of or opposition to a practice or conduct the employee believes to constitute discrimination, harassment, and/or retaliation or (2) because of the employee's participation in a workplace discrimination, harassment, and/or retaliation investigation, or in any proceeding relating to or arising out of the investigation. Retaliation may also occur between co-workers and need not include an action on the part of a supervisor.

Examples of conduct that constitute activity protected from retaliation may include, but are not limited to, the following:

1. Good faith opposition to or reporting of perceived or actual discrimination, harassment, and/or retaliation; refusing to tolerate or engage in prohibited conduct; or threatening to file a complaint with any federal, state, or administrative agency or court. Protected opposition also includes a complaint or protest made on behalf of another employee or made by the employee's representative. Complaints or oppositions that are intentionally false and/or not made in good faith are not protected.
2. Protected participation such as filing a charge, testifying, assisting, or participating in an internal or administrative investigation, proceeding, or hearing, and/or litigation under federal or state statutes.

Adverse employment actions taken for retaliatory reasons may include, but are not limited to, the following:

1. Unwarranted disciplinary actions, unwarranted negative performance evaluations, undesirable transfers, negative comments, unwarranted criticism, unwarranted exclusion from meetings or events, undesirable change in work duties, or any action that is taken because of the employee's complaint of or opposition to harassment or discrimination, or because of the employee's participation in an employment discrimination or harassment investigation, or in any proceeding relating to or arising out of the investigation.
4. Harassment includes, but is not limited to, verbal, visual, or physical conduct based on an employee's membership or perceived membership in a protected category or association with an individual in a protected category. Harassment can consist of virtually any form or combination of verbal, physical, or visual acts regarding or on the basis of an individual's protected characteristic. It need not be explicit, nor even specifically directed at the individual. Sexual harassment includes unwelcome sexual advances, propositions, or requests for sexual favors or dating, or any verbal, visual, or physical conduct of a sexual or intimate nature. Sexually harassing conduct can occur between people of the same or different gender, and regardless of what positions in the workplace those people occupy. Sexual harassment need not be motivated by sexual desire.

Examples of conduct that can constitute harassment include, but are not limited to, the following:

1. Verbal: Verbal sexual advances or propositions, jokes, epithets, derogatory comments or slurs, commentaries about an individual's body or other suggestive or offensive comments made on the basis of a legally protected category.
2. Physical: Assault, unwanted touching, impeding or blocking movement, interference with normal work movement, massages, sitting on laps, or physical behavior of any type based upon a legally protected category.
3. Visual: Leering, derogatory gestures, inappropriate or offensive posters, notices, bulletins, cartoons, drawings, e-mails, content displayed from a computer or cell phone, or other depictions related to a legally protected category.

Harassment, discrimination and retaliation are prohibited for all individuals.

#### A. SUPERVISOR REPORTING OBLIGATIONS

1. Any supervisor who receives a complaint of discrimination, harassment, and/or retaliation; witnesses discrimination, harassment, and/or retaliation; or has any reason to believe that discrimination, harassment, and/or retaliation may have occurred in the workplace is required to report the conduct immediately to the personnel director or to the agency manager.
2. All supervisors shall be required to undergo two hours of sexual harassment training within six months of hire or promotion to a supervisory position, and every two years thereafter.

A supervisor will be subject to discipline for failing to report conduct that potentially constitutes discrimination, harassment, or retaliation if the supervisor knew or should have known of the conduct in the normal course and scope of their supervisory duties.

#### B. REPORTING DISCRIMINATION, HARASSMENT, OR RETALIATION

1. The City encourages reporting of all actual or perceived incidents of discrimination, harassment, and/or retaliation.
2. If you feel you are the victim of discrimination, harassment, or retaliation, you should immediately report the facts of the incident and the names of the individuals involved to your immediate supervisor or the Human Resources Director. If you do not feel that the matter can be discussed with a supervisor or the Human Resources Director, you should contact the City Manager and arrange for a meeting to discuss your complaint.
3. Employees are reminded that the City protects employees from sexual or other harassment by non-employees, such as volunteers, interns, contractors, vendors, elected officials, or visitors. Any employee who is the victim of harassment by a non-employee or observes this conduct toward another City employee should report such harassment to his or her immediate supervisor or the Human Resources Director, and appropriate action will be taken.

#### C. INVESTIGATIVE/CORRECTIVE ACTION

Upon receipt of a complaint, the City Manager or the City Attorney shall authorize a fair, complete, and timely investigation of the complaint. 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.

1. The person designated to investigate shall immediately report, in writing, the results of any investigation to the City Manager and/or City Attorney. The complainant, the accused, and the department head shall receive a summary of the determination as to whether harassment, discrimination, or retaliation occurred.

2. If any misconduct is found, remedial action will be taken, in accordance with City policy and after consultation with the Human Resources Director.

Individuals have the right to file a complaint with the state Department of Fair Employment and Housing (DFEH) by calling (800) 884-1684 or visiting [www.dfeh.ca.gov](http://www.dfeh.ca.gov) or the federal Equal Employment Opportunity Commission (EEOC) by visiting [www.eeoc.gov](http://www.eeoc.gov).

#### D. DISSEMINATION OF POLICY

1. All employees shall receive a copy of this Policy when they are hired. The Policy may be updated periodically. When updates are made, the policy will be redistributed to all employees.

Original approved 9-28-2009

**FEHA Discrimination and Harassment Prevention and Complaint Policy  
Employee Acknowledgement**

I have received a copy and had an opportunity to read the Discrimination and Harassment Prevention and Complaint policy attached. I understand that I may ask my supervisor or any employee of the Human Resources department any questions I might have concerning this policy. I also understand that it is my responsibility to comply with this policy and any revisions made to it.

**ANTI-HARASSMENT POLICY AGREEMENT**

I, the undersigned, acknowledge receipt of the City of Indio Policy Against Harassment, Discrimination, and Retaliation. I understand that compliance with this policy is mandatory and violation of this policy may result in discipline, up to and including discharge. I also agree to remain apprised of revisions to this policy and to abide by the terms of such revisions.

Employee Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_

\_\_\_\_\_  
Company Representative Date: \_\_\_\_\_