



**CITY OF CERRITOS**  
**ANTI-HARASSMENT AND ANTI-DISCRIMINATION POLICY**

Current Version Adoption Date: 04/28/2022 (v.1, Resolution No. 2022-20)

Prior Version Adoption Date: 06/05/2020

Original Policy Adoption Date: 06/05/2020

**1.09.010 PURPOSE OF POLICY**

This Policy shall apply to City Officials and/or City Employees. State and federal law expressly prohibit discrimination and/or harassment of employees or applicants based upon race, religion, creed, color, national origin, ancestry, citizenship, physical or mental disability, legally protected medical condition, military or veteran status, sexual orientation, gender identity or expression, marital status, family care status, sex (including pregnancy, childbirth and related medical conditions), age (40 and over) or any other basis protected by law.

Discrimination and/or harassment is misconduct that can decrease work productivity, decrease morale and cause emotional and physical damage. Incidents of discrimination and/or harassment can result in serious economic implications such as high employment turnover, ineffective use of time during working hours, costly salaries paid for nonproductive work hours, and employee absences due to hearings and meetings related to discrimination and/or harassment complaints.

The purpose of this Policy is to define and forbid discriminatory and/or harassing conduct, fully inform all City employees of their right to be free of unlawful harassment in the workplace, to prohibit the condoning or perpetuating of such conduct, and to provide an efficient means for reporting and resolving complaints of discrimination and/or harassment. The City is committed to providing a work environment that is free from unlawful discrimination and/or harassment. In keeping with this commitment, the City maintains a strict policy prohibiting unlawful discrimination and harassment, including sexual harassment.

This Policy is applicable to all City Officials and City employees, prospective employees, volunteers, independent contractors retained by the City.

**1.09.020 DEFINITIONS**

- A. City Employee: City Employee means a full-time, part-time seasonal and/or temporary employee of the City of Cerritos, or an independent contract or volunteer acting on behalf of the City in an employee-like position.
- B. City Official: City Official means an elected member of the City Council and/or an appointed member of a Commission or Committee of the City of Cerritos.

**1.09.030 STATEMENT OF POLICY**

The City strictly prohibits harassment of a City Employee by a supervisor, management employee or co-worker on the basis of race, religion, creed, color, national origin, ancestry, citizenship, physical or mental disability, legally protected medical condition, military or veteran status, sexual orientation, gender identity or expression, marital status, family care status, sex (including pregnancy, childbirth and related medical conditions), age (40 and over) or any other basis protected by law. The City considers discrimination and/or harassment a serious offense and is firmly committed to the philosophy that every City

Employee has the right to work in an environment free from discriminatory intimidation, ridicule and insult and to be treated with courtesy, dignity and respect. Every City Official and City employee is expected to adhere to a standard of conduct that is respectful to all persons within the work environment.

City Officials and/or City Employees engaging in unlawful discrimination or harassment may be subject to censure, removal from their appointed commission or committee and/or discipline up to and including termination.

#### **1.09.040 PROHIBITED CONDUCT**

The City prohibits the following conduct:

- A. Discrimination: Unlawful discrimination is any action or conduct by which an employee is treated differently or less favorably than other employees similarly situated to them for the sole reason that he or she is a member of a legally protected category, such as race, religion, creed, color, national origin, ancestry, citizenship, physical or mental disability, legally protected medical condition, military veteran status, sexual orientation, gender identity or expression, marital status, family care status, sex (including pregnancy, childbirth and related medical conditions), age (40 and over) and any other basis protected by law. For example, it would be discrimination for an individual to be denied employment or terminated from employment because that individual has a disability.
- B. Harassment: Unlawful harassment is any verbal or physical conduct based on an employee's membership in a protected category, such as race, religion, creed, color, national origin, ancestry, citizenship, physical or mental disability, legally protected medical condition, military veteran status, sexual orientation, gender identity or expression, marital status, family care status, sex (including pregnancy, childbirth and related medical conditions), age (40 and over) and any other basis protected by law, that is sufficiently severe or pervasive so as to affect an employee's work performance negatively and/or alter the conditions of employment and create an intimidating, hostile or otherwise offensive working environment.
- C. Sexual Harassment: Sexual harassment is defined as any action that constitutes an unwelcome sexual advance or request for sexual favors, or any verbal or physical conduct of a sexual nature that is:
  - 1. Related to or conditional to the receipt of City Employee benefits, such as hiring or advancement;
  - 2. Related to or forms the basis for employment decisions affecting the employee; or
  - 3. Sufficiently severe or pervasive so as to affect a City Employee's work performance negatively and/or alter the conditions of employment and create an intimidating, hostile or otherwise offensive working environment. Sexual harassment can involve people of either the same or opposite sex.
- D. Retaliation: Taking adverse employment action against any City Employee for having reported or threatened to report unlawful discrimination or

harassment on the basis of a legally protected category. Retaliation against City Employees for cooperating in an investigation is also prohibited.

#### **1.09.050 TYPES OF UNLAWFUL HARASSMENT**

Types of unlawful harassment or sexual harassment include, but are not limited to:

- A. Verbal Harassment: Epithets, derogatory comments or slurs, jokes, graphic commentaries about an individual's body or other suggestive comments made on the basis of a legally protected category;
- B. Physical Harassment: Assault, impeding or blocking movement, or any physical interference with normal work or movement when directed at an individual, massages, sitting on laps, or unwanted touching of any type based upon a legally protected category;
- C. Visual Forms of Harassment: Leering, derogatory posters, notices, bulletins, cartoons or drawings, video or audio presentations, emails and/or text messages on the basis of a legally protected category; and
- D. Sexual Conduct/Favors: Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature which is conditioned upon an employment benefit, unreasonably interferes with an individual's work performance, or creates an offensive work environment.

#### **1.09.060 REPORTING DISCRIMINATION OR HARASSMENT**

If a City employee believes any comments, gestures or actions of a City Official, co-worker, supervisor, vendor or visitor to be discriminatory, harassing or offensive, they should immediately communicate to that person that such behavior is unwelcome. However, failure to do so does not prevent a City employee from filing a complaint nor does it in any way exonerate the discriminating party or harasser.

A City Employee may report a complaint of discrimination or harassment to Human Resources immediately. In making a report, the City Employee shall provide as much details about the incident as possible, including any names, locations, dates, and other relevant facts.

All complaints will be reported to the Personnel/Risk Manager, who shall immediately arrange for a meeting with the reporting party to discuss situation. If the reporting party does not think that the matter can be discussed with the Personnel/Risk Manager, the matter shall be reported to the City Attorney who shall facilitate a meeting with the reporting party without delay.

Supervisors who observe or are aware of conduct violating this policy are required to inform the Personnel/Risk Manager without delay. If the Personnel/Risk Manager is alleged to be involved in the discrimination or harassment, the supervisor is required to report the complaint to the City Manager without delay. If the City Manager is alleged to be involved in the discrimination or harassment, the supervisor is required to make the report to the City Attorney without delay.

Should the reporting party fear being subjected to unjust treatment or retaliation for reporting a complaint of discrimination or harassment involving the City Manager, Senior Assistant City Manager, Assistant City Manager, City Attorney, Department Directors or the Personnel/Risk Manager, the reporting party and/or supervisor may refer the matter to City Officials as last resort. Upon being informed of any incident or incidents of discrimination or

harassment, City Officials shall be required to report the complaint to the highest ranking City Employee who is not directly involved in the discrimination or harassment complaint, who shall be tasked with facilitating a meeting with the reporting party without delay.

It is recommended that complaints be made no later than 15 working days after the incident. City Employees in need of assistance in filing the complaint will be provided help by the Personnel/Risk Manager or designee, as appropriate.

Complaints should include the following information:

- A. The City employee's name, department and position title;
- B. The name of the person or persons committing the harassment, including their title(s) if known;
- C. The specific nature of the harassment, how long it has gone on, and any employment action (demotion, failure to promote, dismissal, refusal to hire, transfer, etc.) taken against the victim as a result of the harassment (if applicable), or any other threats made against the victim as a result of the harassment;
- D. Witnesses to the harassment; and
- E. Whether the victim previously has reported such harassment and, if so, when and to whom.

Notification to the City is essential. A City Employee may be assured that they will not be penalized in any way for reporting discrimination, sexual harassment or other harassment problems. This would be considered retaliation and it is unlawful for the City to retaliate against City Employees who oppose practices prohibited by state and federal law, file complaints, or otherwise participate in an investigation, proceeding or hearing conducted by the Department of Fair Employment and Housing ("DFEH") or the Equal Employment Opportunity Commission ("EEOC"). Similarly, the City will not tolerate any City Employees who interfere with its own internal investigations and its own internal complaint procedure.

Any City Employee who wishes to make a complaint of discrimination or sexual harassment or other harassment but is uncomfortable disclosing their identity may do so by following the above complaint procedure and filing the complaint anonymously with Personnel/Risk Manager. City Employees should know, however, that anonymity in the complaint procedure may compromise the City's ability to complete a thorough investigation.

#### **1.09.070 RESPONSE TO COMPLAINTS OF DISCRIMINATION OR HARASSMENT**

All complaints of discrimination or harassment that are reported will be investigated immediately, thoroughly, objectively, completely and as confidentially as possible. The City, as part of its investigation, will make every attempt to interview all individuals with information relative to the complaint. The Personnel/Risk Manager, or other responsible party, is responsible for assuring the completion of the investigation consistent with this policy. If necessary, the City may retain the services of an independent third-party investigator by way of the City Attorney's Office to conduct the investigation to ensure an impartial, independent, comprehensive and timely investigation. Should a independent third-party investigator be retained to conduct the investigation, the City Attorney will work in collaboration with the Personnel/Risk Manager to facilitate the completion of the investigation consistent with this Policy. If the Personnel/Risk Manager or an employee of the City's Human Resources Division is alleged to be involved in the discrimination or harassment, the City Attorney will be responsible for overseeing the investigation.

Any investigation related to a complaint under this policy will be conducted with as much confidentiality as possible and with respect for the rights of all individuals involved and consistent with a full, fair and proper investigation. Information related to the investigation will be provided on a "need to know" basis only.

It is important for the reporting party and the alleged harasser to understand that, except as otherwise provided by law, it is a violation of this Policy to discuss any investigation with other City Employees or to conduct their own investigation at any time. City Employees who have any information to assist the City are to contact the person conducting the investigation. Failure to follow this Policy may subject City Employees to discipline, as the confidential nature of the complaint and the investigation is vital in protecting the privacy rights of all parties involved.

The City will make its determination and communicate that determination to the reporting City Employee and to the alleged harasser. The reporting City Employee is not entitled to copies of any notes or other written materials regarding the investigation, as the City considers these confidential documents. If it is determined that the alleged harasser has violated City policies, appropriate corrective action will be taken in accordance with established City disciplinary procedures, up to and including termination.

City Employees who believe that they have been harassed may, within one year of harassment, also file a complaint of discrimination with the DFEH. The DFEH may also investigate and process the complaint. Violators are subject to penalties and remedial measures that may include sanctions, fines, injunctions, reinstatement, back pay and damages. The web address and phone number of the office of the Department of Fair Employment and Housing is as follows: <http://www.dfeh.ca.gov/DFEH/contact/Default.aspx>. Telephone. 1(800) 884-1684.

#### **1.09.080 MANDATORY TRAINING**

All City Officials and City Employees will receive guidance from the City's Human Resources Division on the provisions of this Policy and the City's commitment to provide a workplace free from harassment, discrimination, sexual harassment, and retaliation. In addition, all City Officials, City Employees, and supervisors will be trained in accordance with the requirements of FEHA (Government Code § 12950.1) and implementing regulations.

#### **1.09.090 MALICIOUS COMPLAINT**

While the City vigorously defends the City Employee's right to work in an environment free of harassment and unlawful discrimination, it also recognizes that false accusations of harassment and discrimination can have serious consequences. Accordingly, any City Employee who is found, through the City's investigation, to have knowingly falsely accused another person of harassment or unlawful discrimination will be subject to appropriate disciplinary action, up to and including termination.

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**1.09.0100 APPROVAL OF POLICY**

This Policy was approved by City Council Resolution No. 2022-20 on April 28, 2022 and became effective immediately thereon.

Signed:

Date:



Chuong Vo, Mayor



Signed:

Date:



Art Gallucci, City Manager

