



# CITY OF HOUSTON

## Executive Order

Subject: **Workplace Discrimination and Harassment**

E.O. No:

**1-50**

Effective Date:

**April 6, 2012**

### 1. AUTHORITY

- 1.1 Article VI, Section 7a, City Charter of the City of Houston.

### 2. PURPOSES

- 2.1 To define workplace discrimination and harassment and other prohibited conduct;
- 2.2 To provide a fair and non-discriminatory work environment for all employees; and
- 2.3 To address reporting and investigation of workplace discrimination and harassment.

### 3. OBJECTIVE

- 3.1 To provide a workplace free from discrimination, harassment, and retaliation for reporting discrimination or harassment.
- 3.2 To identify and prohibit inappropriate or offensive slurs, connotations, words, objects or symbols.
- 3.3 To establish a procedure for reporting and addressing allegations of workplace discrimination and harassment.

### 4. SCOPE

- 4.1 This policy governs employee conduct in all City workplaces and vehicles, during business travel, and in any other location where City business is conducted, regardless of whether the property is owned or leased by the City, or whether interacting with City employees or non-employees.
- 4.2 This policy applies to all employees regardless of civil service status, classification, pay grade, length of employment, or full-time or part-time status.
- 4.3 This policy applies to employee conduct regardless of whether it occurs during working hours, during a lunch break, or during an off-duty, work-related social or recreational activity.
- 4.4 This policy applies to every level of municipal government, including employment, contracting, vending, and/or access to City facilities, programs, services, and activities.

Approved:

Date Approved:

04/06/2012

Page 1 of 6

## 5. POLICY

- 5.1 The City of Houston is committed to providing a work environment that is free from discrimination and harassment. Discrimination and harassment based upon a protected characteristic, as defined herein, will not be tolerated.
- 5.2 It is the policy of the City of Houston that no employee shall discriminate against or harass individuals with the protected characteristics defined in Section 6, and no employee shall create an intimidating, disruptive, hostile or offensive work environment by such prohibited conduct. No employee will be adversely affected for bringing complaints of workplace discrimination or harassment, as defined by this policy.

## 6. DEFINITIONS

*Discrimination* – includes, but is not limited to, decisions regarding employment that adversely affect an employee's pay, status, position, or assignment, including opportunities for overtime pay and advancement, and includes decisions regarding recruitment, appointment, compensation, promotion, discipline, demotion, transfers, layoff, recall, termination, and training opportunities.

*Gender identity* – means an individual's innate identification as either male or female, although it may not correspond to the individual's body or gender as assigned at birth.

*Genetic information* - means information about an individual's genetic tests, the genetic tests about an individual's family members, and the manifestation of disease or disorder in family members of an individual. The term does not include the age or sex of any individuals.

*Protected characteristic* – means an individual's sex, race, color, ethnicity, national origin, age, religion, disability, sexual orientation, genetic information, gender identity, pregnancy, or any other legally protected characteristic.

*Sexual harassment* – includes, but is not limited to, unwelcome sexual advances, unwelcome requests for sexual favors, unwelcome verbal comments of a sexual nature, unwelcome physical contact or touching, or unwelcome displays or distribution of sexually-oriented material. Sexual harassment is prohibited regardless of whether the parties are the same sex or the opposite sex or whether one or more parties are transgendered.

*Sexual orientation* – means the actual or perceived status of a person with respect to his or her sexuality.

*Workplace harassment* – includes, but is not limited to, any unwelcome verbal, written, or physical conduct that denigrates or shows hostility or aversion towards a person on the basis of a protected characteristic that:

- (1) has the purpose or effect of creating an intimidating, hostile, or offensive work environment;
- (2) has the purpose or effect of unreasonably interfering with an employee's work performance; or
- (3) affects an employee's employment opportunities or compensation.

## 7. EXAMPLES OF PROHIBITED HARASSMENT

- 7.1 Workplace and sexual harassment, regardless of whether the conduct occurs in person or by electronic communication, includes but is not limited to:

Subject:

Workplace Discrimination and Harassment

E.O. No.:

1-50

Page 2 of 6

- 7.1.1 Offensive and unwelcome name-calling, jokes, slurs, negative stereotyping, threats, staring, giving inappropriate gifts, physical contact such as assault or unwanted touching, visual images, such as derogatory or offensive pictures, cartoons, drawings, posters, screen savers, or gestures, whether in hard copy or electronic form.
- 7.1.2 Insults, critical or mocking comments or remarks, names, epithets, statements about physical characteristics or dress, and symbols or stories that are lewd, menacing, demeaning, derogatory, or objectively offensive.
- 7.1.3 Perpetuating or promoting stereotypes.
- 7.1.4 Submission to unwelcome conduct that is made either explicitly or implicitly a term or condition of an individual's employment.
- 7.1.5 Submission to or rejection of unwelcome conduct by an individual being used as a basis for employment decisions affecting that individual.
- 7.1.6 Unwelcome conduct that has the purpose or effect of interfering with an individual's work performance or creates an intimidating, hostile, or offensive work environment.
- 7.1.7 Unsolicited and unwelcome flirtations, touching of any kind, advances, communications, and/or propositions of a sexual nature.
- 7.1.8 Making an adverse employment decision against an employee who refuses to comply with a request of a sexual nature or making favorable employment decisions because of compliance with requests of a sexual nature.
- 7.1.9 Threatening, either directly or indirectly, to retaliate against an employee who refuses to comply with or submit to a request of a sexual nature.
- 7.1.10 Unwelcome physical contact, including touching, grabbing, pinching, or massaging.
- 7.1.11 Inappropriate display or distribution of materials that ridicule or insult any person on the basis of a protected characteristic, including video images, audio clips, or graffiti.
- 7.1.12 Use of electronic equipment, including computer networks, cell phones, and copy machines, to transmit or display objectively offensive material.
- 7.1.13 Impeding access by any employee or member of the public to a city restroom facility that is consistent with and appropriate to that person's expression of gender identity.

## 8. RETALIATION

- 8.1 Retaliation is conduct or decisions that a reasonable employee would view as materially adverse and whose purpose or effect is to discourage employees from exercising their rights under this policy or under the law. These rights include filing a complaint under this policy, filing a complaint with an external government agency such as the Equal Employment Opportunity Commission (EEOC), assisting another employee in the filing of a complaint, providing information during an investigation or testifying in a proceeding

Subject:

Workplace Discrimination and Harassment

E.O. No.:

1-50

Page 3 of 6

concerning a violation of this policy or the law, or otherwise opposing conduct prohibited by this policy. Retaliation against employees who engage in protected conduct or who assist others in complaints of discrimination or harassment in violation of this policy is expressly prohibited.

## 9. EMPLOYEE AND SUPERVISORY OBLIGATIONS

- 9.1 All employees – Employees who are subjected to conduct in violation of this policy are encouraged to report the conduct at the earliest possible stage, before the conduct becomes severe or pervasive, so that the City can take appropriate action to remedy the offensive conduct. A delay in reporting may impair the City's ability to investigate or to take corrective action. Employees may report prohibited conduct to the Office of Inspector General (OIG), or the Designated Departmental Representatives (DDR) assigned to their department. Employees may report sexual harassment also to the City of Houston's Sexual Harassment Hotline.
- 9.2 All supervisors – Any supervisor or manager who receives a complaint of workplace or sexual harassment or other prohibited conduct or who observes prohibited conduct in his or her department shall take prompt and appropriate action reasonably necessary to ensure compliance with this policy. At a minimum, the supervisor or manager shall as expeditiously as possible make a report to a Designated Department Representative assigned to his or her department. **No supervisor or manager has authority to agree not to transmit a report or to agree to a delay in transmitting a report.** Failure of a supervisor or manager to discharge responsibilities under this paragraph is a violation of this policy and may result in disciplinary action, up to and including termination or indefinite suspension. Supervisors and managers are prohibited from having sexual relationships with subordinates.
- 9.3 All department directors – Directors shall implement this policy by:
- 9.3.1 Rigorously enforcing the standards imposed by this policy;
  - 9.3.2 Developing and disseminating appropriate departmental procedures that communicate to employees that violations of this policy will not be tolerated and will result in corrective action, up to and including termination or indefinite suspension;
  - 9.3.3 Taking appropriate action to ensure that complaints are promptly and fairly investigated;
  - 9.3.4 Imposing corrective action, up to and including termination or indefinite suspension, when violations of this policy are confirmed; and
  - 9.3.5 Ensuring that employees receive periodic training regarding this policy.

## 10. COMPLAINT PROCESS

- 10.1 When an employee believes that he or she has been subjected to conduct prohibited by this policy, the individual is encouraged to inform the alleged offender that the conduct in question is unwelcome or offensive. If this approach is unsuccessful or not feasible, the individual may pursue informal means of resolution.

Subject:

Workplace Discrimination and Harassment

E.O. No.:

1-50

Page 4 of 6

- 10.2 Advice and Information – Any individual may seek advice or information on matters related to this policy without having to lodge a formal complaint. Employees may call the City's Sexual Harassment Hotline (713-837-9030) or contact the Designated Department Representatives (DDRs) assigned to the employee's Department, or contact the Employee Relations Section of the Human Resources Department.
- 10.3 Informal Resolution – Requests for informal resolution may be addressed to a Designated Departmental Representative or to the Employee Relations Section of the Human Resources Department. Each department director shall appoint at least two DDRs who are qualified by training to serve the functions of this policy. Whenever possible, the DDRs should consist of at least one male and one female. Departments that are small or that lack qualified personnel to serve as DDRs may designate one or more DDRs who are assigned to the Human Resources Department. The identity of the DDRs shall be appropriately publicized to employees. DDRs shall maintain a written record of the terms and conditions of the information resolution.
- 10.4 Formal Complaints – A formal complaint may be filed by the employee who has been subjected to the prohibited conduct, by an employee who has observed prohibited conduct, or by a Designated Departmental Representative. The formal complaint process may be used whether the complainant or the accused is a City employee, supervisor, manager, independent contractor, employee of a vendor or contractor, or other third party. Use of the informal resolution process is not a prerequisite to filing a formal complaint. Formal complaints may be presented to any of the following offices:
- 10.4.1 Office of the Inspector General (OIG) - (832) 394-5100, located on the fourth floor of 900 Bagby Street, Houston, Texas; OR
  - 10.4.2 Employee's Designated Departmental Representative (contact information ordinarily will be available on Departmental bulletin boards); OR
  - 10.4.3 City of Houston Sexual Harassment Hotline (operated by the Organizational Development and Employee/Labor Relations Office) - (713) 837-9030.

All complaints received by a DDR or the Sexual Harassment Hotline will be transmitted to the OIG for processing. Employees who initially submit oral complaints will be required to place their complaints in writing.

Employees who are found to have violated this policy shall be subject to corrective action and/or discipline, up to and including termination or indefinite suspension. The department director shall implement disciplinary or corrective action without delay, and the measures taken shall be reasonably calculated to prevent future violations of this policy. If the department director is the subject of the complaint, the report and remedial action will be determined by the Mayor or his or her designee.

In the event that an employee files a complaint against a DDR or other employee who has responsibilities under this policy, or in the event that such employee is a material fact witness in any investigation, the OIG may modify its procedures to ensure that such employee is not involved in the processing of the complaint.

## 11. OTHER REMEDIES; COMPLIANCE AND TRAINING

- 11.1 Reports to external agencies – Employees may seek external review of a harassment complaint or the City's employment practices by filing a complaint with the U.S. Equal

Subject:

Workplace Discrimination and Harassment

E.O. No.:

1-50

Page 5 of 6

Employment Opportunity Commission and/or Texas Workforce Commission. Certain procedural requirements and deadlines may apply. Information regarding these agencies is posted on departmental bulletin boards and is available on the internet.

- 11.2 Training and other resources – All employees shall receive periodic training regarding this policy. The Employee Relations Section of the Human Resources Department shall develop appropriate training programs and shall issue additional guidelines and procedures as necessary to implement this Executive Order.
- 11.3 Compliance – Adherence to this policy is mandatory. Any employee who fails to comply with this policy is subject to disciplinary action up to and including indefinite suspension.

## 12. CONFLICT AND REPEAL

- 12.1 This Order supersedes Executive Order 1-8, Prohibition of Discrimination Based on Sexual Orientation and/or Gender Identity, signed March 25, 2010; Executive Order 1-20, Racial, Ethnic, Gender and Other Slurs, signed March 25, 2010; Executive Order 1-50, Prohibited Workplace Conduct, Including Sexual Harassment, signed September 24, 2010; Mayor's Policy No. 102.00, Affirmative Action/Equal Employment, signed February 7, 1983; and Mayor's Policy No. 114.00, Prohibition of Discrimination in Employment Against Persons With Disabilities, signed December 31, 1991, which shall be of no further force or effect.

Subject:

Workplace Discrimination and Harassment

E.O. No.:

1-50

Page 6 of 6