

RESOLUTION NO. 2018-45

RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF ROCKLIN
RESCINDING RESOLUTION NUMBERS 89-103 AND 92-220 AND APPROVING
THE POLICY PROHIBITING DISCRIMINATION, HARASSMENT,
ABUSIVE CONDUCT, AND RETALIATION

The City Council of the City of Rocklin does resolve as follows:

Section 1. Resolution Nos. 89-103 and 92-220 are hereby rescinded.

Section 2. The Policy Prohibiting Discrimination, Harassment, Abusive Conduct, and Retaliation in the form attached hereto as Exhibit A and incorporated herein is hereby approved.

PASSED AND ADOPTED this 13th day of March, 2018, by the following vote:

AYES: Councilmembers: Yuill, Broadway, Gayaldo, Patterson
NOES: Councilmembers: None
ABSENT: Councilmembers: Janda
ABSTAIN: Councilmembers: None



Kenneth Broadway, Mayor

ATTEST:



Mona Forster, Deputy City Clerk

Exhibit A

Policy Prohibiting Discrimination, Harassment, Abusive Conduct, and Retaliation



**City of Rocklin
Legislative Policy No. # 7**

**Policy Prohibiting Discrimination, Harassment, Abusive
Conduct, and Retaliation**

PURPOSE:

The purpose of this policy is to establish a strong commitment to prohibit and prevent discrimination, harassment, abusive conduct, and retaliation in employment; to define those terms; put on record that the City will not tolerate any such actions; and to set forth a procedure for investigating and resolving internal complaints.

POLICY:

The City of Rocklin has zero tolerance for any conduct that violates this policy. Employees of the City of Rocklin should report any incidents of discrimination, harassment, abusive conduct, or retaliation to their supervisor or manager. The conduct need not rise to the level of a violation of law to violate this policy. A single act can violate this policy and provide grounds for disciplinary action, up to and including termination.

Discrimination, harassment, abusive conduct, and retaliation against an applicant, unpaid intern, volunteer, or employee by a supervisor, management employee, elected or appointed official, co-worker, member of the public, or contractor on the basis of race, religious creed, color, sex (including gender, gender identity, gender expression, transgender, pregnancy, and breastfeeding), national origin, ancestry, citizenship status, disability (mental and physical, including HIV and AIDS), medical condition, genetic characteristics or information, marital status, age, sexual orientation (including homosexuality, bisexuality, or heterosexuality), and military or veteran status, will not be tolerated.

This policy applies to all terms and conditions of employment, including, but not limited to, hiring, placement, promotion, disciplinary action, layoff, transfer, leave of absence, compensation, and training. Any retaliation against a person for filing a complaint or participating in the complaint resolution process is prohibited. Individuals found to be retaliating in violation of this policy will be subject to appropriate disciplinary action, up to and including termination.

DEFINITIONS:

- A. **Policy Coverage:** This policy prohibits the employer, elected or appointed officials, officers, employees, or contractors from discriminating, harassing, exhibiting abusive conduct, or retaliating against applicants, unpaid interns, volunteers, employees by a supervisor, management employee, elected or appointed official, co-worker, member of the public, or contractors because of: 1) an individual's protected classification; 2) the perception that an individual has a protected classification; or 3) the individual associates with a person who has or is perceived to have a protected classification.
- B. **Protected Classification:** This Policy prohibits discrimination, harassment, abusive conduct, and retaliation because of an individual's protected classification. "Protected Classification" includes race, religious creed (including religious dress and grooming practices), color, sex (including gender, gender identity, gender expression, transgender, pregnancy, and breastfeeding), national origin, ancestry, citizenship status, disability (mental and physical, including HIV and AIDS), medical condition (including denial of family and medical leave care), genetic characteristics or information, marital status, age, sexual orientation (including homosexuality, bisexuality, or heterosexuality), and military or veteran status.
- C. **Abusive Conduct:** Conduct by an employer or employee in the workplace or on social media with malice that a reasonable person would find hostile, offensive, and unrelated to an employer's legitimate business interest. Abusive conduct may include repeated infliction of verbal abuse, such as the use of derogatory remarks, insults, epithets, or verbal or physical conduct that a reasonable person would find threatening, intimidating, or humiliating, or the deliberate sabotaging or undermining of a person's work performance. A single act shall not constitute abusive conduct, unless especially severe and egregious.
- D. **Discrimination:** Basing an employment decision because of the individual's protected classification as defined in this policy; treating an applicant or employee differently with regard to any aspect of employment because of his or her protected classification; engaging in harassment on the basis of a protected classification that has the purpose or effect of unreasonably interfering with an individual's work performance or that creates an intimidating, offensive, or hostile environment; failing to provide reasonable accommodation to an employee or applicant with a disability unless doing so creates an undue hardship or direct threat to the employee and/or others.
- E. **Harassment:** May include, but is not limited to, the following types of actions that are taken because of a person's protected classification. Note that harassment is not limited to actions that an employer's employees take. Under certain circumstances, harassment can also include actions taken by those who are not employees, such as elected officials, appointed officials, persons providing services under contracts, or members of the public.

1. Speech, such as epithets, derogatory comments or slurs, and propositioning on the basis of a protected classification. This might include inappropriate comments on appearance, including dress or physical features, or dress consistent with gender identification, or race-oriented stories and jokes.
 2. Physical Acts, such as assault, impeding or blocking movement, offensive touching, or any physical interference with normal work or movement. This includes pinching, grabbing, patting, propositioning, leering, or making explicit or implied job threats or promises in return for submission to physical acts.
 3. Visual Acts, such as derogatory posters, cartoons, emails, pictures, or drawings related to a protected classification.
 4. Unwanted sexual advances, request for sexual favors and other acts of a sexual nature, where submission is made a term or condition of employment, where submission to or rejection of the conduct is used as the basis for employment decisions, or where the conduct is intended to or actually does unreasonably interfere with an individual's work performance or create an intimidating, hostile, or offensive working environment.
- F. Guidelines for Identifying Harassment: To help clarify what constitutes harassment in violation of this policy, use the following guidelines:
1. Harassment includes any conduct which would be unwelcome to an individual of the recipient's same protected classification and which is taken because of the recipient's protected classification.
 2. It is no defense that the recipient consents or does not object to the conduct at issue. A recipient may not protest for many legitimate reasons, including the need to avoid being insubordinate or to avoid being ostracized.
 3. Simply because no one has complained about a joke, gesture, picture, physical contact, or comment does not mean that the conduct is welcome. Harassment can evolve over time. The fact that no one is complaining now does not preclude anyone from complaining if the conduct is repeated in the future.
 4. Even visual, verbal, or physical conduct between two individuals who appear to welcome the conduct can constitute harassment of a third individual who observes the conduct or learns about the conduct later. Conduct can constitute harassment even if it is not explicitly or specifically directed at an individual.
 5. Conduct can constitute harassment in violation of this policy even if the individual engaging in the conduct has no intention to harass. Even well-intentioned conduct can violate this policy if the conduct is directed at, or implicates a protected

classification, and if an individual of the recipient's same protected classification would find it offensive (e.g., gifts, over attention, endearing nicknames).

- G. Retaliation: Any adverse conduct taken because an applicant, employee, or contractor has reported discrimination, harassment, abusive conduct, or has participated in the complaint and investigation process described herein, is prohibited. "Adverse conduct" includes but is not limited to: taking disciplinary action, extending a probationary period, denying a promotion, or altering work schedules or work assignments because of a report of discrimination, harassment or abusive conduct or in an effort to prevent a report of discrimination, harassment or abusive conduct; spreading rumors about a complainant, or shunning and avoiding an individual who reports discrimination, harassment, or abusive conduct, or real or implied threats of intimidation because of a report, or to prevent an individual from reporting discrimination, harassment, or abusive conduct. The following individuals are protected from retaliation: those who make good faith reports of discrimination, harassment or abusive conduct, those who associate with an individual who is involved in reporting discrimination, harassment, or abusive conduct, and those who participate in the complaint or investigation process.

COMPLAINT PROCEDURE:

- A. An employee, job applicant, unpaid intern, volunteer, or contractor who believes he or she has been discriminated against, harassed, experienced abusive conduct, or retaliated against may make a complaint verbally or in writing with any of the following:
- Immediate supervisor;
 - Any supervisor or manager within or outside of the department;
 - Department head; or
 - Human Resources Manager.
- B. Employees are encouraged but not required to tell the individual engaging in discriminatory, harassing, or abusive conduct that their behavior is unwelcome and/or offensive, and request that it stop immediately.
- C. Any supervisor or department head who receives a harassment discrimination, abusive conduct, or retaliation complaint should notify the Human Resources Manager immediately.
- D. Upon receiving notification of the complaint, the Human Resources Manager shall:
1. Provide the complainant with a response indicating that the complaint has been received and that a fair and thorough investigation will be conducted.
 2. Conduct or oversee with a fair and thorough investigation of the complaint. The investigation will afford all parties with appropriate due process and include interviews with: 1) the complainant; 2) the respondent; and 3) other persons who have relevant knowledge concerning the allegations in the complaint.

3. Review the factual information gathered through the investigation to reach a reasonable conclusion as to whether the alleged conduct constitutes discrimination, harassment, abusive conduct, or retaliation giving consideration to all factual information, the totality of the circumstances, including the nature of the conduct, and the context in which the alleged incidents occurred.
 4. Report a summary of the determination as to whether discrimination, harassment, abusive conduct, and/or retaliation occurred to appropriate persons, including the complainant, the respondent, the supervisor, and the department head. If discipline is imposed, the level of discipline will not be communicated to the complainant.
 5. If conduct in violation of this policy occurred, take or recommend to the appointing authority prompt and effective remedial action. The remedial action will be commensurate with the severity of the offense.
 6. Take reasonable steps to protect the complainant from further harassment, discrimination, or abusive conduct.
 7. Take reasonable steps to protect the complainant from retaliation as a result of communicating the complaint.
- E. The employer takes a proactive approach to potential policy violations and will conduct an investigation if its officers, supervisors, or managers become aware that discrimination, harassment, abusive conduct, or retaliation may be occurring, regardless of whether the recipient or third party reports a potential violation.
- F. Option to report to outside administrative agencies: An individual is not required to file an internal report, and has the option to report discrimination, harassment, abusive conduct, or retaliation to the U.S. Equal Employment Opportunity Commission (EEOC) or the California Department of Fair Employment and Housing (DFEH). These administrative agencies offer legal remedies and a complaint process. Employees can check the labor law posters on the City of Rocklin employer bulletin boards for more information and telephone numbers for the EEOC and DFEH.

CONFIDENTIALITY:

Every possible effort will be made to ensure 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. An individual who is interviewed during the course of an investigation is prohibited from discussing the substance of the interview, except as otherwise directed by a supervisor or the Human Resources Manager. Any individual who discusses the content of an investigatory interview may be subject to discipline or other appropriate sanction. The employer will not disclose a completed investigation report except as it deems necessary to support a

disciplinary or remedial action, to defend itself in adversarial proceedings, or to comply with the law or a court order.

RESPONSIBILITIES:

Managers and Supervisors are responsible for:

- Informing employees of this policy.
- Modeling appropriate behavior.
- Taking all steps necessary to prevent discrimination, harassment, abusive conduct and retaliation from occurring.
- Receiving complaints in a fair and serious manner, and documenting steps taken to resolve complaints.
- Monitoring the work environment and taking immediate appropriate action to stop potential violations, such as removing inappropriate pictures or correcting inappropriate language.
- Following up with those who have complained to ensure that the behavior has stopped and that there are no reprisals.
- Informing those who complain of discrimination, harassment, abusive conduct, or retaliation of his or her option to contact the EEOC or DFEH regarding alleged policy violations.
- Assisting, advising, or consulting with employees and the Human Resources Manager regarding this policy and complaint procedure.
- Assisting in the investigation of complaints involving employee(s) in their departments.
- Implementing appropriate disciplinary and remedial actions.
- Reporting potential violations of this policy of which he or she becomes aware, regardless of whether a complaint has been submitted, to the Human Resources Manager or the department head.
- Participating in periodic training and assisting with scheduling employees for training.

Each employee, contractor, unpaid intern, and volunteer is responsible for:

- Treating all employees, contractors, unpaid interns, and volunteers with respect and consideration.
- Modeling appropriate behavior.
- Participating in periodic training.
- Fully cooperating with the employer's investigations by responding fully and truthfully to all questions posed during the investigation.
- Maintaining the confidentiality of any investigation that the employer conducts by not disclosing the substance of any investigatory interview, except as directed by the department head or Human Resources Manager.
- Reporting any act he or she believes in good faith constitutes discrimination, harassment, abusive conduct, or retaliation as defined in this policy, to either his or her immediate supervisor, department head, or Human Resources Manager.

DISSEMINATION OF POLICY:

All employees shall receive a copy of this policy when they are hired during their new employee orientation with Human Resources. The policy may be updated from time to time and redistributed with a form for the employee to sign and return acknowledging that the employee received, read, and understands this policy. The policy will also be posted on the City of Rocklin's website under the "Policies" section on the Human Resources page.