

Equal Employment Opportunity, Anti-Harassment and Non-Discrimination

POLICY STATEMENT

The policies and expectations set forth below apply to all employees, as well as volunteers, interns and public officials of the City of Lake Oswego who shall be referred to as "covered individuals." All employees will be given a copy of this Policy during their hiring orientation.

The City of Lake Oswego is committed to equal employment opportunity as a way to recruit, hire and retain the most qualified employees from all sectors of the community. Moreover, it is the intent of the City to actively support and comply with local, state and federal equal employment opportunity laws.

Accordingly, personnel actions are administered without regard to an individual's race, color, religion, national origin, age, sex, marital status, political affiliation, veteran's status, physical or mental disability, sexual orientation, gender identity or any other status or activity in accordance with applicable law.

The City of Lake Oswego also believes that all employees have the right to work in an environment where employees can achieve their full potential free from discrimination or harassment based on race, color, religion, national origin, age, sex, marital status, political affiliation, veteran's status, physical or mental disability, sexual orientation, gender identity, genetic information or any other status or activity protected by applicable laws.

The City is committed to equal opportunity in all of its employment practices. It is also the City's policy that employees and other covered individuals should work in an environment where individual dignity is respected. For that reason, the City expects all employees and other covered individuals to act in a professional manner with concern for their co-

workers and others who are subject to this Policy. It is the responsibility of all employees, volunteers, interns and public officials to understand and comply with this policy. Supervisors and managers have the additional responsibility to support the City's commitment to equal employment opportunity and to enforce our policy. Any employee who engages in discriminatory, harassing, retaliatory or other inappropriate, unprofessional and disrespectful behavior is subject to disciplinary action up to and including termination. Actions will also be taken to address violations made by volunteers, interns, public officials and others who violate these policies as the City deems appropriate.

GUIDELINES

1. *Harassment*

For purposes of this policy, harassment includes verbal, visual, electronic, or physical conduct related to an individual's race, color, religion, national origin, age, sex, marital status, political affiliation, veteran's status, physical or mental disability, sexual orientation, gender identity, genetic information or any other status or activity protected by applicable laws, and that has the purpose or effect of:

- Creating an intimidating, hostile or offensive working environment; or
- Unreasonably interfering with an individual's work or otherwise adversely affecting an individual's work performance.

In addition, supervisors and managers are strictly prohibited from conditioning employment, internship or volunteer status, or making employment decisions based on an employee's or covered individual's tolerance or resistance to prohibited harassment. This type of conduct is considered a very serious offense.

2. *Inappropriate Conduct*

It is the City's policy to have a work environment where we treat each other respectfully and professionally. Unprofessional or disrespectful behavior, even if not illegal, interferes with that policy and will not be tolerated. The City reserves the right to respond to inappropriate behavior even where no one has complained or indicated they have been offended.

3. *Examples of Prohibited Harassment*

Harassment based on sex, race, religion, age, ethnicity, disability, sexual orientation, gender identity, marital status, veteran's status or other legally protected status or activity, like other forms of discrimination, is also prohibited under law.

Sexual, gender-based and sexual-orientation harassment may include the following on or off-duty conduct:

- Unwelcome sexual advances, innuendoes and/or request for dates;
- Unwelcome touching, impeding or blocking movements, or brushing against the body;
- Sexual epithets, teasing, jokes, sexual horseplay, written or oral references to sexual conduct;
- Displaying or viewing sexually suggestive objects, pictures, cartoons;
- Leering, whistling, sexual gestures, suggestive or insulting comments about a person's body;
- Talking about one's sex life, or the sex life of others;
- Making derogatory comments about a person's sexual orientation or gender identity to that person or to others;
- Intentionally misgendering another employee by not using the employee's preferred pronoun when speaking to them or about them to others;
- Using the City's computers or other communication systems including cell phones or other electronic devices to access, send, store or receive offensive material of a sexual nature; or
- Engaging in any other verbal, graphic, electronic, or physical conduct of a sexual, sexual orientation, or gender-based nature that creates an offensive or hostile work environment or interferes with

another employee's work performance.

Racial, ethnic, age, religious, disability-related or other prohibited harassment may include the following on or off-duty conduct:

- Making racial slurs or derogatory comments about a person's racial background or physical characteristics that are associated with race (such as natural hair, hair texture, hair type and protective hairstyles);
- Telling racial or ethnic jokes;
- Making offensive comments about a person's physical or mental limitations;
- Mimicking someone who has physical or mental limitations;
- Forcing or sharing your religious beliefs in a way that makes others uncomfortable;
- Making derogatory age-based comments;
- Using the City's computers or other communication systems including cell phones or other electronic devices to send, receive, store or access material of a racial, religious, or ethnic nature;
- Displaying cartoons, symbols, printed material or other objects which are racially or ethnically offensive;
- Criticizing or making fun of another person's religious beliefs;
- Engaging in any other verbal, graphic or physical conduct relating to race, ethnicity, religion, age, disability or other legally protected status or activity that creates an offensive work environment or interferes with another employee's work performance.

The City has no interest in regulating an employee's purely private life. However, off-duty conduct of this

nature, including an employee's off-duty online and social networking conduct, is prohibited by this policy when that conduct would tend to create a hostile or offensive working environment or interfere with another employee's work performance.

All employees and covered individuals should assume that conduct of the nature described above will be offensive and are expected to refrain from engaging in such conduct. It is not a defense that others did not appear to be offended or participated in the conduct. Nor is it a defense that the other employee failed to object to the offending employee before reporting the conduct. Employees who are offended by this type of conduct are not required to inform the offending employee that their conduct is objectionable before reporting violations.

Employees with harassment-related concerns are, however, encouraged to address it as soon as possible by discussing it with the person whose behavior is disturbing, if they feel comfortable doing so. But, if the employee does not wish to do this for any reason or has attempted to do this and the behavior has not stopped, the employee should immediately follow the reporting procedure in Section 6 Reporting Complaints.

4. *Harassment by Non-Employees*

Harassment of employees by members of the public, vendors, suppliers, volunteers, interns, public officials and other non-employees that creates an offensive work environment or interferes with an employee's work performance also will not be tolerated and should be promptly reported using the procedure in Section 6 Reporting Complaints.

5. *Other Prohibited Conduct*

In addition to prohibited unwelcome conduct of a sexual, racial, ethnic, or other nature covered by the employment discrimination statutes, the City expects employees to treat each other respectfully and professionally. Disrespectful and unprofessional behavior will not be tolerated. This type of behavior includes any type of verbal, nonverbal, or physical bullying. Examples of prohibited conduct included:

- Yelling or shouting at another employee in

public or private;

- Intimidating another person through use of body or physical presence;
- Persistently singling out an employee or “bad mouthing” that employee to others;
- Engaging in outbursts or fits of temper;
- Engaging in name calling or the use of insulting or hurtful terms to describe an employee;
- Using threatening or intimidating gestures;
- Humiliating, ridiculing, belittling, or demeaning another;
- Any other conduct which is demeaning of another employee or person you come into contact with through employment with the City.

Violations of this prohibited conduct will not be tolerated and should be promptly reported using the procedure in Section 6 Reporting Complaints.

6. *Reporting Complaints*

If an employee or other covered individual believes that they or anyone else has been subjected to: discrimination, harassment, retaliation, or other conduct prohibited by this Policy, and the problem has not been resolved through voluntary, informal discussions they should immediately:

- Notify the Department Director, Human Resources Director, or the City Manager;
- If the complaint involves conduct by the City Attorney or the Municipal Court Judge, notify the Human Resources Director or the City Manager;
- If the complaint involves the Human Resources Director, notify the City Manager; or,
- If the complaint involves the City Manager, notify the City Attorney.

Please note that although the City encourages employees and other covered individuals to report what they believe to be violations of this Policy as soon as possible; we do not place any time limits on the ability of anyone to report violations to us. However, our ability to resolve this kind of problem is dependent on your cooperation in reporting incidents that create an offensive work environment.

When any of the individuals listed above receives a complaint of harassment, discrimination or retaliation, they will document what has been reported to them. Additionally, all Department Directors who receive such complaints are required to promptly contact Human Resources for guidance and support.

Sworn members of the Lake Oswego Police Department who believe they have witnessed conduct in violation of this Policy are required to report the incident as soon as practicable, but not later than seventy-two (72) hours of witnessing the misconduct or violation, to a direct supervisor, chain of command, or the Department of Public Safety Standards and Training (DPSST)(ORS 181A.681).

All other employees and covered individuals who believe they have been subjected to or witnessed conduct in violation of this Policy are also advised to document those incidents.

All employees and other individuals covered by this Policy should also be aware that they have the right make complaints to and seek remedies through the Oregon Bureau of Labor and Industries' complaint resolution process or by filing claims in court as well as to pursue their rights under other available laws, whether civil or criminal. The City does not provide any employee with legal advice. However, please note that time limits may apply to restrict an individual's right to pursue civil and criminal complaints. For example, claims made with the Oregon Bureau of Labor and Industries for alleging discrimination or harassment under Oregon law based on race, color, religion, disability, uniformed/military service, sex, sexual orientation, gender identity, national origin, marital status or age (18 or older), because of the status of anyone

the employee associates with, or because of an individual's expunged juvenile record, must generally be filed within 5 years from the date of the alleged unlawful practice. This same statute of limitations applies to such claims filed in court when no Bureau of Labor and Industries claim has been filed. However, other types of discrimination complaints are subject to a shorter (1 year) statute of limitations and different statutes of limitations apply under federal law (generally claims must be filed within 180 days with the federal EEOC or within 300 days if state or local law prohibits the same conduct). The statute of limitations for criminal complaints vary based on the nature and degree of the conduct. Please also be aware that Oregon law requires individuals bringing claims against a public officer, employee or agent of a public body or the City to first provide a notice of claims (often referred to as a Tort Claims Notice). Tort Claims Notices must generally be provided within 180 days of the alleged loss or injury. For employees and others whose legal rights are determined to have been violated remedies, such as back pay, counseling or medical costs; attorney fees, pain and suffering, and punitive damages may be available.

7. *Investigation of Complaints*

The City takes all complaints seriously and investigates as promptly as possible so that appropriate corrective action can be taken. When a complaint is made to an individual designated to receive complaints, that individual will provide a copy of this Policy to the employee or covered person who complains. They will also document the complaint they received.

Complaints of harassment, discrimination and other violations of this Policy will be treated with as much confidentiality as the City deems practical, while still allowing for a thorough investigation, compliance with legal obligations and appropriate resolution of the problem.

When a complaint is brought forward, employees and other covered individuals have a responsibility to cooperate with the investigation. The City's ability to resolve these kinds of problems is dependent on their

cooperation in reporting and investigating incidents.

Generally, after a complaint is investigated, the parties to the complaint (i.e., the person who made the complaint and the person accused) are informed of the City's conclusion.

The City may determine that the alleged conduct occurred, that it did not occur, or that it is not possible to tell what really happened. If the City determines that an employee has violated this Policy, appropriate disciplinary action up to and including discharge will be taken. Action will also be taken to address violations made by volunteers, interns, public officials and others who violate this Policy as the City determines is appropriate. In addition, other corrective action, such as individualized training and other steps, may be taken as the City deems appropriate.

When the process is completed, Human Resources will maintain all records of complaints and investigations for a minimum of five years from the date the investigation was completed (or in the event disciplinary or corrective action was taken, from the date of issuance of such action) *or* for the minimum retention period set forth in Chapter 192 of the Oregon Revised Statutes, and any other applicable law or regulation, whichever is longer.

8. ***No Retaliation***

It is critically important that all employees and other covered individuals feel free to come forward with complaints or concerns about inappropriate conduct, regardless of whether the conduct was directed toward them or another. Retaliation against any employee or covered individual for making a complaint, providing information concerning a complaint or testifying in a legal proceeding is strictly prohibited.

"Retaliation" is broadly construed and includes any adverse action against an employee for opposing harassment or discrimination. It may include any on-duty or off-duty conduct, whether related to employment or not, that would tend to discourage an employee from making a complaint of discrimination or harassment or testifying, assisting or participating

in an investigation or legal proceeding. Retaliation can take many forms and examples include giving rude or “cold shoulder” treatment toward an employee, changing or interfering with an employee’s job duties, treating an employee differently than their peers, spreading rumors, making false claims or criticizing an employee under circumstances where the content or timing of the criticism indicates that retaliation was a factor or taking adverse action against another person because they are connected to the employee.

Employees and other covered individuals who feel they have been retaliated against should bring their concerns or complaints to any of the individuals listed under Section 6, Reporting Complaints.

If the City determines that an employee has engaged in retaliation, appropriate disciplinary action up to and including discharge will be taken.

For employees and other covered individuals who are determined to be victims of harassment, discrimination or retaliation, the City will conduct follow-up contacts to ensure that no reoccurrence of discrimination or harassment and no retaliation has occurred. These follow-up contacts will begin no later than one month after the investigation has been completed and will continue every three months following the first contact through the calendar year following the reporting of the offensive conduct. Victims will be informed that these follow-up contacts will occur unless and until they request in writing that the follow-up contacts stop. Follow up contacts will not be made if a victim makes that request in writing.

Also, the City may conduct follow-up with others who reported harassment or discrimination or assisted in investigations, regardless of whether or not the City determines that a Policy violation has occurred.

9. *Pregnancy & Disability
Accommodation*

The City also complies with pregnancy disability accommodation laws, and the ability for employees to take time away from their work to express breast milk. If employees require workplace modifications or other assistance to accommodate a pregnancy (including but not limited to pregnancy, childbirth or a related medical condition) or a disability, they should

contact their manager, the Department Director and/or the Human Resources Director. Managers and Department Directors are required to promptly inform the Human Resources Director of the request for accommodation to seek guidance regarding the appropriate response.

Reasonable accommodations may include acquisition or modification of equipment or devices, schedule modifications, and other job modifications that are intended to enable a pregnant or disabled employee to perform their essential job duties. When employees advise us of a condition that they believe requires accommodation, the City will work with that employee to confirm job limitations and discuss the matter with the employee to determine what, if any, reasonable accommodations can be made to enable them to perform their job duties in a safe and satisfactory manner. All employees are expected to cooperate with this process, including our requests for medical confirmation of their condition and the nature and extent of any limitations on their ability to perform their job duties.

The City does not create positions that do not exist to accommodate employees. However, if, even after any required reasonable accommodation, an employee is unable to perform their essential job duties, we then explore opportunities to place such pregnant or disabled employees in other existing and available positions that are, with or without reasonable accommodation, suited to their skills and limitations.

If you have been provided an accommodation that you feel is not effective for any reason, you should promptly notify Human Resources.

10. *Resources*

Covered individuals who want more information about their legal rights may contact the Oregon Bureau of Labor and Industries (<https://www.oregon.gov/boli>), local law enforcement, or an attorney of their choosing. The Oregon State Bar provides a referral service through which employees may be connected with attorneys. Information regarding this service can be

found at: <https://www.osbar.org/public/ris/>.

Employees who believe they need counseling or other support services are encouraged to use the City's Employee Assistance Program (EAP). Additional information on the EAP can be provided by contacting the Human Resources Department. The Oregon Health Authority or the Oregon Board of Licensed Professional Counselors and Therapists may also have additional information to help connect employees and covered individuals with counseling and other support services. More information can be found on the websites for these agencies at:

<https://www.oregon.gov/oha/pages/index.aspx>

and

<https://www.oregon.gov/oblpc/Pages/Websites.aspx>.

**11. Disclosure &
Other Rights**

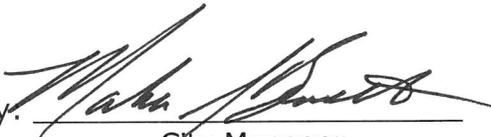
Victims of violations of this Policy may disclose information about incidents of harassment, discrimination and/or retaliation which involve them. The City will not require or coerce any employee or covered individual to enter into any non-disclosure (confidentiality) or non-disparagement (e.g. no "bad-mouthing" or criticism) agreement that has the purpose or effect of preventing them from discussing alleged discrimination, harassment (including sexual assault) and/or retaliation. This includes prohibitions against disclosing or criticizing conduct that occurs between employees, irrespective of supervisory status and between employees and other covered individuals in the workplace or at a work-related event coordinated by the City. It also includes any conduct that occurs between an employee/covered individual off City property.

Employees and other covered individuals may, however, voluntarily request to enter into an agreement (e.g. separation, severance or settlement agreements) containing such confidentiality, non-disparagement and no-rehire provisions consistent with applicable law. An employee or covered individual who enters into such an agreement also has the option to revoke the agreement within seven days after it is signed

when required by applicable law.

12. *Related Information*

- > Personnel Policy No. 1-6: Appropriate Workplace Conduct
- > Personnel Policy No. 2-5: Corrective Action
- > ORS Chapter 12: Public Records

Approved by:  
City Manager HR Director

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