



## City of Santa Clarita POLICY/PROCEDURE

Number III-6.4

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

ORIGINAL ISSUE

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RESPONSIBLE DEPARTMENT: CITY MANAGER'S OFFICE

### STANDARD MANAGEMENT PROCEDURE

#### I. PURPOSE AND POLICY

The City of Santa Clarita is committed to preventing harassment, discrimination, and retaliation, and maintains a strict policy prohibiting all types of harassment or discrimination because of race, color, national origin, ancestry, religion, creed, sex, gender, gender identity, gender expression, genetic characteristics or information, physical or mental disability, medical condition, marital status, sexual orientation, age over 40, pregnancy, childbirth, or related medical conditions, military or veteran status, 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. All such harassment or discrimination is prohibited. This policy applies to all employees involved in the operations of the City, including those not in the competitive service, as well as to applicants for employment, unpaid interns, volunteers, or any participant of another limited duration program to provide unpaid work experience, and prohibits harassment and discrimination by any employee including supervisors and co-workers, and by others doing business with the City. This policy prohibits retaliation by any employee, including supervisors and co-workers. If harassment occurs on the job by someone not employed by the City, the procedures in this policy should be followed as if the harasser were an employee of the City.

#### II. DEFINITIONS

**A. Discrimination:** Discrimination is any action or conduct by which an employee is treated differently or less favorably than other employees similarly situated to him or her for the sole reason that he or she is a member of a Legally Protected Category or Characteristic. Examples of conduct that can constitute discrimination if based on an individual's Legally Protected Category or Characteristic include, but are not limited to the following:

1. Failing or refusing to hire an individual based on their Legally Protected Category or Characteristic.

2. Terminating an individual from employment based on their Legally Protected Category or Characteristic.
3. Singling out or targeting an individual for different or less favorable treatment because of their Legally Protected Category or Characteristic.

**B. Employee:** Any individual under the direction and control of the City under any appointment or contract of hire or apprenticeship, express or implied, oral or written. For purposes of this policy, the term "employee" shall include any individual who is an unpaid intern or volunteer of the City. The inclusion of any individual, including but not limited to unpaid interns and volunteers, in the definition of "employee" for purposes of this policy should not be interpreted to affect the applicability of any other policy or procedure of the City.

**C. Harassment:** Unwelcome verbal, visual, or physical conduct based on membership in a Legally Protected Category or Characteristic that creates an intimidating, offensive, or hostile work environment or that interferes with work performance of any employee. Such conduct constitutes harassment when:

1. Submission to the conduct is made either an explicit or implicit condition of employment, or an unpaid internship or volunteer program;
2. Submission to or rejection of the conduct is used as the basis for an employment decision, or any decision related to an unpaid internship or volunteer program; or
3. The harassment unreasonably interferes with an employee's work performance or creates an intimidating, hostile, or offensive work environment.

Harassing conduct can take many forms and includes, but is not limited to, slurs, jokes, statements, gestures, pictures, computer images, or cartoons regarding an employee's Legally Protected Category or Characteristic. Harassment is prohibited whether it involves a co-worker, subordinate, supervisor or manager, or third parties doing business with or for the City.

**D. Legally Protected Category or Characteristic:** Race, color, national origin, ancestry, religion, creed, sex, gender, gender identity, gender expression, genetic characteristics or information, physical or mental disability, medical condition, marital status, sexual orientation, age over 40, pregnancy, childbirth, or related medical conditions, military or veteran status, or any other basis protected by applicable federal, state, or local law.

**E. Sexual Harassment:** Sexual advances, requests for sexual favors, or visual, verbal, or physical conduct of a sexual nature may all constitute sexual harassment when: (1) submission to such conduct is made a term or condition of employment, an unpaid internship, or volunteer program; or (2) submission to or rejection of such conduct is used as basis for employment decisions, or any decision relating to an unpaid internship or volunteer program, affecting the individual; or (3) such conduct has the purpose or effect of unreasonably interfering with an employee's work performance or creating an intimidating, hostile or offensive working

environment. This definition includes potential forms of offensive behavior. The following is a non-exclusive list of some examples:

1. Unwanted sexual advances.
2. Offering employment benefits in exchange for sexual favors.
3. Making or threatening reprisals after a negative response to sexual advances.
4. Visual conduct, such as leering, making sexual gestures, displaying of sexually explicit jokes, comments about an employee's body or dress.
5. Verbal sexual advances or propositions.
6. Verbal abuse of a sexual nature, graphic verbal commentary about an individual's body, sexually degrading words to describe an individual, suggestive or obscene letters, notes, or invitations.
7. Physical conduct, such as touching, assault, impeding, or blocking movements.
8. Retaliation for reporting harassment or threatening to report harassment.
9. Electronic communications such as email, texts, or internet use that violate this policy.

Sexual harassment can occur between members of the same or opposite sex and need not be motivated by sexual desire or attraction. Sexual harassment can be based on pregnancy, childbirth, or related medical conditions where such conduct unreasonably interferes with the employee's work performance, affect or impact an employee's terms and conditions or privileges of employment or creates an intimidating, hostile or offensive work environment. Sexual harassment on the job is prohibited whether it involves co-worker harassment, harassment by a supervisor or manager, or harassment by third parties doing business with or for the City.

**F. Supervisor:** Any individual having the authority to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees or the responsibility to direct them, or to adjust their grievances, or to effectively recommend such action, if the exercise of that authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

### III. PROCEDURES

#### A. Training and Policy Dissemination:

1. Non-Supervisory Employees: All employees will be given a copy of this policy, and will receive guidance from the Human Resources Division on its provisions and the City's commitment to provide a harassment-free, discrimination-free, and retaliation-

free workplace. Non-Supervisory employees will also receive training once every two years or upon hire, under direction of the City as required by law.

2. Supervisory Employees:

(a) All supervisors will be trained once every two years on matters relating to the prevention, reporting, and investigation of harassment, discrimination, and retaliation. Further, individuals appointed to supervisory positions from a non-supervisory position or as a new employee shall receive training within six months of their hiring or assumption of the supervisory position.

(b) Supervisory training will last for a minimum of two hours.

3. Training Topics and Subjects: Training will be conducted in a classroom or other interactive setting and will, at a minimum, cover the following topics:

(1) Information and practical guidance regarding federal and state statutory laws about sexual harassment, including harassment based on gender identity, gender expression, and sexual orientation;

(2) Information about the correction of sexual harassment and the remedies available to victims of sexual harassment; and

(3) Practical examples aimed at instructing supervisors in the prevention of harassment, discrimination, and retaliation.

(4) Information and practical guidance regarding the prevention of abusive conduct, which is defined as follows: conduct of an employer or employee in the workplace, with malice, that a reasonable person would find hostile, offensive, and unrelated to an employer's legitimate business interests. Abusive conduct may include, but is not limited to, repeated infliction of verbal abuse, such as the use of derogatory remarks, insults, and epithets, verbal or physical conduct that a reasonable person would find threatening, intimidating, or humiliating, or the gratuitous sabotage or undermining of a person's work performance. A single act does not constitute abusive conduct, unless especially severe and egregious.

**B. Preventing Harassment and Discrimination:** The City's complaint procedure provides for an immediate, thorough, and objective investigation of every harassment or discrimination claim, appropriate disciplinary action against one found to have engaged in prohibited harassment or discrimination, and appropriate remedies to any victim of harassment or discrimination.

1. Optional Process: Any employee who believes that he/she is being harassed or discriminated against by another employee or a third party is encouraged to, but is not required to, confront this person and politely, but firmly inform the person of the conduct that he/she finds offensive and request that the person cease this behavior. If the

employee does not wish to confront the person harassing or discriminating against them, or if his/her attempts to do so have failed, the employee should file a complaint with the City.

2. Filing a Complaint: Employees should follow this procedure to notify the City of harassment and/or discrimination. Employees who believe they have been harassed or discriminated on the job, including by persons doing business with or for the City, must provide a written or verbal complaint to any supervisor or to the City's Human Resources Manager as soon as possible.

In addition to being able to report potential harassment or discrimination to any supervisory employee, the following suggested reporting procedures are available when filing a complaint about certain individuals in the City:

- Complaints regarding a person within the employee's direct chain of command may be provided to the Human Resources Manager.
- Complaints regarding the Human Resources Manager or Personnel Officer may be provided to the City Manager.
- Complaints regarding the City Manager or the City Attorney may be submitted to the City Clerk for consideration by the City Council during closed session.
- Complaints regarding a member of the City Council may be reported to the City Manager or the City Attorney.

The complaints should be as detailed as possible, and must include details of the incident(s), name(s) of individuals involved, and the name(s) of any witness(es). The employee should also attach any documentary evidence to the complaint.

Supervisors and managers must immediately refer all harassment or discrimination complaints to the City's Human Resources Manager.

**ALL EMPLOYEES SHOULD NOTE THAT THE FAILURE TO USE THE CITY'S COMPLAINT PROCEDURE MAY HAVE AN ADVERSE EFFECT ON ANY CLAIM UNDER THIS POLICY WHEN SUCH CLAIMS ARE LITIGATED.**

3. Investigation of Complaints: All incidents of harassment and discrimination that are reported must be investigated. The Human Resources Manager, or other appropriate person if the circumstances warrant, will immediately undertake or direct an effective, thorough, and objective investigation of the harassment or discrimination allegations. The investigation will be completed and the determination regarding the harassment or discrimination alleged will be made and communicated to the complaining party and the accused harasser(s).

Employees may be placed on administrative leave during an investigation until the conclusion of a discrimination or harassment investigation.

4. Corrective Action: If the City determines that harassment or discrimination has occurred, the City will take effective remedial action commensurate with the circumstances. Appropriate action will also be taken to deter any future harassment or discrimination. If a complaint of harassment or discrimination is substantiated, appropriate disciplinary action as provided for in the City's Personnel Rules, up to and including termination, will be taken. The City will also take appropriate action to remedy any loss to the employee resulting from the harassment or discrimination.

In light of the City's duty to prevent harassment and discrimination, and in light of the City's desire to have a professional and productive work environment, the City reserves the right to take appropriate corrective action when an employee engages in inappropriate conduct that does not fully rise to the legal standards and definitions set forth in Section II. For example, the City may take appropriate corrective action for inappropriate conduct, even if such conduct was not subjectively unwelcome or offensive to another employee of the City.

**C. Prohibition Against Retaliation:**

1. The City prohibits retaliation against any employee because of his/her opposition to a practice that he/she reasonably believes constitutes employment discrimination or harassment or because of the employee's participation in an employment discrimination or harassment investigation, proceeding or hearing. Any retaliatory adverse action because of such opposition or participation is contrary to this policy and will not be tolerated. Such retaliation may also be unlawful. Any employee who believes that he/she is being retaliated against is encouraged to, but is not required to, confront this person and politely, but firmly inform the person of the conduct that he/she finds offensive and request that the person cease this behavior. If the employee does not wish to confront the person retaliating against them, or if his/her attempts to do so have failed, the employee should file a complaint with the City, as set forth in Section 6.D, below.

2. Examples of Opposition: Opposition to perceived harassment or discrimination includes threatening to file a discrimination complaint with the Equal Employment Opportunity Commission ("EEOC"), the Department of Fair Employment and Housing ("DFEH"), union, or court, or complaining or protesting about alleged employment discrimination or harassment to a manager, union official, co-worker, or other official. Opposition also includes a complaint or protest made on behalf of another employee or made by the employee's representative. A complaint about an employment practice constitutes protected opposition only if the employee communicates to the City a reasonable good faith belief that the practice opposed constitutes employment discrimination or harassment. Opposition in a manner which disrupts the workplace, or

which constitutes an unlawful activity, or engaging in badgering or threatening of employees or supervisors is not protected.

3. Examples of Participation: The City prohibits retaliation against any individual because he/she has filed a charge, testified, assisted or participated in any manner in an investigation, proceeding, hearing or litigation under federal or state employment discrimination or harassment statutes or at other hearings regarding protected employee rights, such as an application for unemployment benefits. The City also prohibits retaliation against somebody closely related to or associated with the employee exercising such rights.

4. Examples of Adverse Actions: For purposes of this policy, an adverse action can include, but is not limited to, the following acts, when the act is taken because of the employee's opposition to harassment or discrimination, or because of the employee's participation in an employment discrimination or harassment investigation, proceeding, or hearing: disciplinary actions, negative performance evaluations, undesirable transfer, undesirable assignments, negative comments, unwarranted criticism, undesirable change in benefits, undesirable change in work schedule, unwarranted exclusion from meetings or events, or undesirable change in work duties.

5. The City's Retaliation Complaint Procedures: The City's complaint procedure provides for an immediate, thorough, and objective investigation of any claim of retaliation because of opposition to alleged discrimination or harassment or participation in a proceeding regarding alleged employment discrimination. If you believe that you have been retaliated against because of your opposition to an employment practice you reasonably believe to be discriminatory or because of your participation in a hearing or proceeding regarding alleged discrimination or harassment, you must provide a written or verbal complaint to a supervisor or to the City's Human Resources Manager as soon as possible.

In addition to being able to report potential retaliation to any supervisor, employees may use the following suggested reporting procedures when filing a complaint about certain individuals in the City.

- Complaints regarding a person within the employee's direct chain of command may be provided to the Human Resources Manager.
- Complaints regarding the Human Resources Manager or Personnel Officer may be provided to the City Manager.
- Complaints regarding the City Manager or the City Attorney may be submitted to the City Clerk for consideration by the City Council during closed session.

- Complaints regarding a member of the City Council may be reported to the City Manager or the City Attorney.

The complaint should be as detailed as possible, and must include details of the incident(s), name(s) of individuals involved, and the name(s) of any witness(es). The complaining party should also attach any documentary evidence to the complaint. Supervisors and managers must immediately refer all retaliation complaints to the City's Human Resources Manager.

All complaints of prohibited retaliation which are reported to the City will be investigated. The City will immediately undertake and direct an effective, thorough, and objective investigation of the retaliation allegations. The investigations will be completed and a determination regarding the alleged retaliation will be made and communicated to the employee who complains and to the person(s) accused of retaliation.

If the City determines that an individual has suffered adverse action in retaliation for opposition to alleged employment discrimination or harassment, or participation in a proceeding related to alleged employment discrimination or harassment, the City will take effective remedial action appropriate to the circumstances. The City will also take action to deter any future retaliation. If a complaint of retaliation is substantiated, appropriate disciplinary action as provided for in the City's Personnel Rules, up to and including termination, will be taken. Whatever action is taken against the person responsible for the retaliation will be communicated to the employee who complained.

#### **D. Anonymity and Confidentiality:**

1. While the City will investigate anonymous complaints, the City strongly discourages anonymous complaints. **EMPLOYEES CHOOSING TO FILE A COMPLAINT ANONYMOUSLY MUST BE AWARE THAT ANONYMITY IN THE COMPLAINT PROCEDURE MAY COMPROMISE THE CITY'S ABILITY TO COMPLETE A THOROUGH INVESTIGATION.** Employees should also be aware that should the City learn of the identity of an anonymous complainant, the City cannot guarantee that his/her identity will remain confidential, if the City determines in its discretion that disclosure is necessary to complete the investigation.
2. The City will take all reasonable steps available to maintain the confidentiality of all complaints of harassment, discrimination, and/or retaliation as well as all information gathered during an investigation. However, the City retains sole discretion to determine whether disclosure of information is necessary to complete the investigation or for other legitimate purposes.
3. In order to protect the integrity of the investigation and the privacy of the individuals involved, all employees involved in the investigation of harassment, discrimination, and/or retaliation complaints as complainant(s), witness(es), or accused may be required



to keep all information related to the investigation confidential. Revealing such information may be grounds for disciplinary action as provided for in the City's Personnel Rules, up to and including termination except as expressly permitted by law, such as in discussion with a legal or employee representative.

**E. Obligation to Cooperate:** All employees involved in a workplace investigation into alleged harassment, discrimination, or retaliation are required to fully and truthfully cooperate with the investigation. Failure to fully and truthfully cooperate with the investigation is grounds for disciplinary action as provided for in the City's Personnel Rules, up to and including termination.

**F. Obligation to Report:**

1. Supervisory Employees: Any supervisor who receives a complaint of harassment, discrimination, or retaliation, who witnesses harassment, discrimination, or retaliation or who has any reason to believe that harassment, discrimination, or retaliation may have occurred in the workplace is required to report the conduct immediately to the Human Resources Manager. Failure to report may result in disciplinary action being taken against the supervisor as provided for in the City's Personnel Rules, up to and including termination.

2. Non-Supervisory Employees: While non-supervisory employees are not required under this policy to report potential harassment, discrimination, or retaliation, they are strongly encouraged to do so. If a non-supervisory employee elects to report potential harassment, discrimination, or retaliation, he/she may submit his/her report to any supervisor or to the Human Resources Manager.

**G. Intentionally False Complaints:** Employees are prohibited from making an intentionally false complaint of harassment, discrimination, and/or retaliation. An intentionally false complaint is a complaint that the employee demonstrably does not believe to be true. Any employee making an intentionally false complaint shall be subjected to disciplinary action as provided for in the City's Personnel Rules, up to and including termination.

**H. Additional Enforcement Information:** In addition to the City's internal complaint procedure, employees should also be aware that the EEOC and the DFEH investigate and prosecute complaints of harassment, discrimination, or retaliation in employment.

1. You can contact the EEOC as follows: Los Angeles District Office, 255 East Temple, 4<sup>th</sup> Floor, Los Angeles, California, 90012; 800-669-4000/800-669-6820 (TTY) or 213-894-1000; [www.eeoc.gov](http://www.eeoc.gov).

2. You can contact the DFEH as follows: 2218 Kausen Drive, Suite 100, Elk Grove, California 95758; 800-884-1684/800-700-2320 (TTY) or 916-478-7251; [www.dfeh.ca.gov](http://www.dfeh.ca.gov).

Employees should feel free, without fear of retaliation, to follow the procedures set forth above if they believe they have been harassed, discriminated or retaliated against as described in this policy.

For more information, contact the City's Human Resources Division.

**IV. EXCEPTIONS**

There are no exceptions to this policy without the express authorization of the City Manager.

**V. AUTHORITY**

By the authority of the City Manager.

A handwritten signature in cursive script, appearing to read "Ken Striplin", written over a horizontal line.

Kenneth W. Striplin  
City Manager