

CITY OF BEVERLY HILLS

ADMINISTRATIVE REGULATION

AR No. 3B.10
First Revision
Effective: 7/2/02

HARASSMENT IN EMPLOYMENT POLICY

- I. Purpose – To define and issue to all employees the City of Beverly Hills’ policy on the prohibition of harassment in employment.
- II. Policy – The City of Beverly Hills is committed to a workplace that is free from all unlawful harassment, including sexual harassment. Harassment of an applicant or employee by a supervisor, management employee or co-worker on the basis of race, religion, creed, color, national origin, ancestry, physical disability, mental disability, legally protected medical condition, marital status, sex (including pregnancy, childbirth or related medical conditions), sexual orientation, veteran status, age (40 and older) or any other basis protected by state or federal law is prohibited and will not be tolerated. Similarly, the City prohibits and will not tolerate the unlawful harassment by its employees of non-employees in connection with any administrative, enforcement, business, service or professional relationship with the City. The City will also seek to protect employees from harassment by non-employees in the workplace.

Disciplinary action up to and including termination will be instituted for behavior described in the following definition of harassment.

- III. Definition – Harassment includes, but is not limited to:
 - A. Verbal Harassment – For example, epithets, derogatory comments, jokes, noises or slurs on the basis of race, religion, creed, color, national origin, ancestry, physical disability, mental disability, legally protected medical condition, marital status, sex, sexual orientation, veteran status, age or any other basis protected by state or federal law.
 - B. Physical Harassment – For example, gestures, assault, impeding or blocking movement, or any physical interference with normal work or movement when directed at an individual on the basis of race, religion, creed, color, national origin, ancestry, physical disability, mental disability, legally protected medical condition, marital status, sex, sexual orientation, veteran status, age or any other basis protected by state or federal law.
 - C. Visual Forms of Harassment – For example, derogatory posters, notices, bulletins, cartoons, pictures or drawings on the basis of race, religion, creed, color, national origin, ancestry, physical disability, mental disability, legally protected medical condition, marital status, sex, sexual orientation, veteran status, age or any other basis protected by state or federal law.

D. Sexual Harassment – Unwelcome sexual advances, requests for sexual favors, and other verbal, physical or visual conduct of a sexual nature that is conditioned upon an employment benefit, unreasonably interferes with an individual’s work performance or creates an intimidating, hostile or offensive work environment. Sexually harassing conduct can be by a person of either the same or opposite sex. In addition to the examples of prohibited harassment noted above, sexual harassment may include, but is not limited to:

1. Sexual innuendo or comments and questions about personal or intimate matters;
2. Unwelcome hugs, kisses, neck rubs, back rubs, patting and touching (including deliberately brushing against someone);
3. Preferential treatment or promises of preferential treatment for submitting to sexual conduct; and
4. Threats of adverse action or adverse action for failure to submit to sexual conduct.

IV. Responsibility and Procedure – An employee who has been harassed on the job shall promptly inform the Director of Human Services, who is responsible for investigating the matter, as provided in this Regulation. Any supervisor, manager or member of the Human Services Office staff who receives a report of harassment or is aware of any incident of harassment shall promptly inform the Director of Human Services. However, employees, including supervisors, managers and the Human Services staff are not required to inform the Director of Human Services if that person is alleged to be responsible for the harassment. Under this circumstance, employees may inform the the City Manager. Employees are never required to complain to an immediate supervisor if the supervisor is the person engaging in harassment. To accommodate the unique nature of harassment complaints, a pre-grievance process is provided for the primary purpose of resolution of a complaint at the earliest possible date. The responsibility and process for this procedure is as follows:

PRE-GRIEVANCE PROCESS

A. Human Services – The Human Services Office will be available to receive harassment complaints. The functions of this office will include but will not be limited to:

1. Counsel the employee and outline the options available.
2. Obtain a factual written statement of the complaint, where possible.
3. Assist in follow-up investigation, interview accused, witnesses and supervisors as appropriate, and recommend disposition of the complaint.

4. Advise the victim and, where appropriate, the accused or other employees of the results of the investigation.

B. Director of Human Services and/or City Manager – The Director of Human Services is responsible for the prompt and thorough investigation of harassment complaints. In certain circumstances, such as where the Director of Human Services is alleged to be responsible for the harassment, responsibility may be transferred to or assumed by the City Manager, as appropriate. The person responsible for the investigation authorizes investigation of the complaint, reviews factual information collected to determine whether the alleged conduct constitutes harassment, giving consideration to the record as a whole and the totality of circumstances, including the nature of the verbal, physical, visual or sexual favor aspect of the conduct and the context in which the alleged incidents occurred. The nature and extent of any investigation may vary depending on the circumstances and available information. Any portion of the investigation may be delegated, but the person responsible for the investigation will retain the responsibility to assure that a prompt and thorough investigation is completed.

C. Confidentiality – Effort will be made to protect the privacy of parties involved in a complaint. The investigation will be handled in as confidential a manner as possible, consistent with a full, fair and proper investigation and the due process rights of those involved. Files pertaining to complaints handled under the pre-grievance process will not be made available to the general public.

D. Retaliation Prohibited – Retaliation against any employee for making a complaint of harassment or cooperating in an investigation is prohibited and may result in disciplinary action up to and including termination.

FORMAL GRIEVANCE PROCESS:

The grievance procedures for the City of Beverly Hills, AR 3B.2, are available for resolution of complaints alleging harassment if the complaint is not adjusted to the satisfaction of the employee in the pre-grievance process.

A. Extension of Time Requirements – Time limit specified in the formal grievance procedures may be extended if pre-grievance procedures for a harassment complaint were initiated within the applicable time limits for filing a formal complaint. In these instances, if the complaint is not adjusted to the satisfaction of the employee, the time limits for filing a formal grievance should begin as of the date of notification of action taken by the Department Head.

If the employee did not initiate pre-grievance procedures within the time limits of the applicable normal grievance procedure, the Director of Human Services or the City Manager may extend the filing deadline for a formal complaint. It should be reemphasized that the City of Beverly Hills wishes to know of any complaint alleging harassment as soon as possible after it occurs.

B. Waiver of Informal Step – Preliminary informal steps to resolve a grievance may, depending on circumstances of the complaint, be waived and the formal grievance initiated at an appropriate higher step in the process.

INFORMING EMPLOYEES

A. Dissemination of Policy – All employees, supervisors and managers shall be sent copies of this Policy and this Policy shall be posted in appropriate places.

B. Violation of Law – Harassment, as defined above, is illegal. It violates Title VII of the Civil Rights Act of 1964, the California Government Code, regulatory guidelines of the Equal Employment Opportunity Commission, and the California Fair Employment and Housing Commission and/or other state and federal laws and regulations.

C. Response to Incidents – Violation of this policy shall generally constitute just and reasonable cause for discipline, up to and including termination.

APPROVED:



City Manager

PREPARED BY:



APRIL MEADOW
Director of Human Services

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