

EQUAL EMPLOYMENT OPPORTUNITY POLICY

City of Kansas City, Missouri

A) POLICY

1. The City is committed to providing a workplace environment for its employees and citizens free from discrimination and harassment. Inappropriate conduct affecting City employees or committed by City employees on the basis of race, sex (including pregnancy), national origin, religion, age, disability, marital status, genetic information, sexual orientation, or gender identity, is prohibited and will not be tolerated in the City workplace.
2. Retaliation against any person because he or she has made a report, testified, assisted or participated in any matter in an investigation under this policy or opposed any practice prohibited by this Policy is prohibited and will not be tolerated in the City workplace.
3. Inappropriate sexual activity in the workplace, even between consenting adults, is prohibited and will not be tolerated in the City workplace.
4. This Policy is designed to correct and prevent inappropriate conduct that could be perceived as inappropriate sexual activity as well as discrimination, harassment or retaliation based on one or more protected categories listed in Section A (1). As such, this Policy will be strictly enforced.

B) OBJECTIVES

The City expects its employees to conduct themselves in a professional and unbiased manner at all times while at work. It is the objective of the City:

1. To provide employees with a working environment free from discrimination and harassment.
2. To provide employees with a work environment free from hostility based on an employee's race, sex (including pregnancy), national origin, religion, age, disability, marital status, genetic information, sexual orientation, or gender identity.
3. To prevent employees from treating other persons negatively because of race, sex (including pregnancy), national origin, religion, age, disability, marital status, genetic information, sexual orientation, or gender identity.
4. To prevent retaliation against any employee.
5. To encourage prompt reporting of inappropriate conduct and to resolve complaints promptly, confidentially and at the lowest management level possible.

C) DEFINITIONS

1. The term “**Age**” as used in this Policy means the age of 40 years or older.
2. The term “**Discrimination**” as used in this Policy means: unfair treatment of a person because of that person’s race, sex (including pregnancy), national origin, religion, age, disability, marital status, genetic information, sexual orientation, or gender identity.
3. The term “**Harassment**” as used in this Policy means: inappropriate workplace conduct (that may include ridicule, denigration, and/or physical abuse of a person) that is based on race, sex (including pregnancy), national origin, religion, age, disability, marital status, genetic information, sexual orientation, or gender identity.
4. The term “**Hostile Work Environment**” as used in this Policy means: an environment difficult to work in because of unwelcome inappropriate conduct based on race, sex (including pregnancy), national origin, religion, age, disability, marital status, genetic information, sexual orientation, or gender identity that are intimidating or unreasonably interferes with the employee’s ability to perform his/her duties.
5. The term “**Inappropriate Conduct**” as used in this Policy means: comments or actions that are not work related and constitute or may lead to discrimination, harassment, retaliation or a hostile work environment as defined in this policy.
6. The term “**Inappropriate Sexual Activity**” as used in this Policy means: conduct between individuals that may include, but is not limited to groping, fondling, and sexual intercourse, even between consenting adults.
7. The term “**Investigating Officer**” as used in this Policy means: an employee of the Labor & Employee Relations division of the Human Resources Department or an employee of another division/department that has been assigned by the Labor & Employee Relations division to conduct an EEO investigation.
8. The term “**Retaliation**” as used in this Policy means:
 - a. Inappropriate actions taken against an employee because he or she has reported inappropriate conduct or participated in a resulting investigation or otherwise opposed inappropriate conduct prohibited by this Policy.
 - b. Any form of discrimination against an employee because he or she has made a report of alleged harassment or discrimination, has testified, assisted or participated in any manner in an investigation of a report of discrimination or harassment, or has opposed any practice prohibited by this Policy.
 - c. Examples of retaliation may include, but are not limited to:
 1. Failure to hire or promote, or withholding pay increases;

2. Poor performance reports or evaluations without appropriate work-related supporting documentation;
 3. Onerous or undesirable work assignments not in proportion to other similarly situated employees;
 4. Withdrawing friendly courtesies;
 5. Refusal to grant leave or overtime opportunities;
 6. Spreading rumors;
 7. Demotion, discharge, abolishing position, further harassment or discrimination.
9. The term “**Genetic Information**” as used in this policy means:
- a. Information about an individual’s genetic tests, the genetic tests of family members of such individual, and the manifestation of a disease or disorder in family members of such individual.
 - b. Inclusion of genetic services and participation in genetic research. Such term includes, with respect to any individual, any request for, or receipt of, genetic services, or participation in clinical research which includes genetic services, by such individual or any family member of such individual.
 - c. The term “genetic information” shall not include information about the sex or age of any individual.

D) PROHIBITED BEHAVIORS

The following types of behaviors are never acceptable in the work environment, even if no employees are offended by the behavior or if the behavior was not intended to be harmful. These behaviors include but are not limited to:

1. Conditioning favorable treatment upon acceptance of sexual advances, or treating unfavorably because of rejection of sexual advances;
2. Epithets, insults, threats, slurs and sexual innuendo;
3. Inappropriate or insulting jokes, pictures, cartoons, electronic media based on race, sex, national origin, religion, disability, age, sexual orientation or gender identity;
4. Inappropriate comments regarding a person’s race, sex, national origin, religion, disability, age or sexual orientation, or gender identity;

5. Inappropriate sexual comments;
6. Hazing;
7. Suggestive or insulting noises, staring, leering, whistling, or making obscene gestures;
8. Propositions or pressure to engage in sexual activity;
9. Sexual assault or coercing sexual intercourse;
10. Touching, groping, pinching, cornering, massaging or brushing someone;
11. Inappropriate comments concerning appearance;
12. Speculating, joking about, ridiculing, and/or mocking a person's sexual orientation or gender identity;
13. Sexual or insulting communications, public postings, including electronic media, phone calls and written documents;
14. Displaying, viewing, possessing or bringing to the workplace magazines, books, videos, TV programs, music, pictures, or items of a sexual nature;
15. Inappropriate conduct between City employees through the internet, social media networks, texting, or blogging which negatively impacts the work environment, whether or not occurring off-duty, this includes harassing phone calls or other means of communication;
16. Inappropriate sexual activity on City property or during an employee's work time between consenting adults that includes but is not limited to groping, fondling and sexual intercourse;
17. Unnecessary comments regarding any accommodation that has been made by the City to allow a person with a disability to work;
18. Any inappropriate conduct directed toward a person because of the person's race, sex, national origin, religion, age, disability, marital status, genetic information, sexual orientation, or gender identity.

E) REPORTING PROCEDURE

1. If any employee has been a victim of or observed conduct that he or she believes may violate this Policy, he or she should clearly tell the harasser that such conduct is offensive and to stop the conduct.

2. If any employee has been a victim of or observed conduct that he or she believes may violate this Policy, he or she should and is encouraged to report the conduct as soon as possible to any or all of the following:
 - a. The immediate supervisor or the first level supervisor who is not involved in the alleged harassment; or
 - b. The Labor & Employee Relations division of the Human Resources Department at EEO@kcmo.org or 513-1960.
3. All management or supervisory personnel who observe or have received a report of a violation of this Policy shall within 24 hours report such to:
 - a. The respective department's HR Liaison;
 - b. The manager or supervisor's next level of authority; or
 - c. The Labor & Employee Relations division of the Human Resources Department at EEO@kcmo.org or 513-1960.
4. All management and supervisory personnel are under an affirmative duty to report and take appropriate action on conduct that may violate this Policy even if the complainant desires confidentiality and desires that no formal complaint or report be filed. Supervisory and management personnel may be disciplined for failure to report conduct that may violate this Policy.
5. Any employee who reports conduct which he or she believes violates this Policy shall provide specific facts about the conduct including:
 - a. Who committed the conduct;
 - b. What was the specific conduct;
 - c. When and where did the conduct occur;
 - d. Identification of any witnesses and what they witnessed;
 - e. Did the conduct occur more than once;
 - f. What was the victim's response to the conduct;
 - g. Did the victim or any other employee tell the alleged harasser to stop the offensive conduct?
6. Employees are encouraged to report inappropriate conduct to the department's HR Liaison, the employee's supervisor or manager, or the Labor & Employee Relations

division of the Human Resources Department so the City can take immediate corrective action.

F) VIOLATION OF THE POLICY AND OTHER POLICIES OR WORKPLACE STANDARDS

1. It is not unusual for employee conduct to violate more than one City policy or workplace standard. For example, an employee who reports to work under the influence of alcohol and makes an inappropriate sexual comment to another employee while under the influence is violating both the drug and alcohol policy and the Policy. An employee who makes a physical threat against another employee to coerce them into sexual activity would violate both the violence in the workplace policy and the Policy. Nothing in this Policy shall prevent a department from disciplining an employee for violating a separate policy while the Human Resources Department is investigating an alleged violation of the Policy.
2. If a department takes disciplinary action against an employee who is being investigated for an alleged violation of this Policy, that department shall keep the Investigating Officer informed of its actions, and the department and the Labor & Employee Relations division will cooperate in their investigations to achieve the best and most just results.

G) INVESTIGATION OF ALLEGED HARASSMENT

1. When a report of alleged inappropriate conduct prohibited by this Policy (“Report”) is received by the Labor & Employee Relations division, the Human Resources Department Director and the department director (or the City Manager if the allegations are directed against a department director) shall immediately be notified and an investigation shall be conducted as soon as possible.
2. Upon receipt of a Report, the Labor & Employee Relations division shall determine whether any intermediate steps should be taken to prevent the alleged conduct from continuing, pending completion of the investigation. In making such determination, the rights of the alleged victim and the rights of the employee alleged to have violated the Policy shall both be taken into consideration.
3. Labor & Employee Relations division will initially conduct a limited inquiry into the complaint to determine if the complaint warrants further investigation. If the limited inquiry finds the complaint to be invalid or outside the scope of the Policy, then the complaint will be dismissed. If further investigation is required, an Investigating Officer will be assigned to the case.
4. The investigation shall include, but not necessarily be limited to, interviewing individuals who are believed to have knowledge of the matter being alleged and reviewing any relevant documents.

5. Employees named in Reports will be given sufficient information about the allegation to provide them a reasonable opportunity to respond before any corrective action or discipline is imposed.
6. Employees named in Reports should not be assumed to have violated this Policy unless and until the Final Report states that they have done so. However, employees named in Reports will be counseled on appropriate conduct and reminded of expectations of conduct in the workplace.
7. All employees shall cooperate in any investigation or may be subject to disciplinary action up to and including termination for failure to cooperate in a lawful City investigation.
8. Any employee found to have filed a false report under this Policy shall be subject to disciplinary action up to and including termination.

H) CONFIDENTIALITY

1. All Reports, investigations and Final Reports shall be disseminated or discussed only with persons having a need or right to know that outweighs the privacy rights of the individual involved.
2. Employees involved in any investigation, whether as complainant, respondent, witness or investigator, shall keep all discussions or communications confidential. Employees who violate this section may be subject to discipline regardless of the outcome of the original investigation.

I) FINAL REPORT OF INVESTIGATION

1. The Investigating Officer shall issue a written report of his or her investigation which shall include the facts ascertained in the investigation (“Final Report”).
2. The Investigating Officer shall provide a summary of the Final Report to a Investigation Review Committee consisting of the Human Resources Department Director, a representative from the Law Department, and an Assistant City Manager. The Investigation Review Committee will determine whether a violation of this Policy has occurred and recommend discipline or other action.

J) CORRECTIVE OR DISCIPLINARY ACTION

1. If the Investigation Review Committee determines that there is insufficient evidence that a violation of this Policy occurred, the Investigating Officer will inform the parties and the matter is concluded.

2. If the Investigation Review Committee determines that a violation of this Policy occurred, the committee shall recommend the appropriate corrective or disciplinary action to resolve the inappropriate conduct, including but not limited to:
 - a. Counseling and training;
 - b. Transfer or reassignment;
 - c. Reprimand, suspension, demotion, or termination;
 - d. Consideration of the finding in the applicable performance evaluation.
3. If the department director is in agreement with the stated recommendations from the Investigation Review Committee, the department shall begin the appropriate process to implement those recommendations within 30 days of receipt of the Final Report, unless otherwise noted in the Final Report or by approval of the Human Resources Department. If the department director disagrees with the stated recommendations, they shall contact the Human Resources Department Director to discuss available options. The department director shall not render corrective or disciplinary measures that would conflict with the disciplinary committee recommendation without City Manager's approval.
4. If corrective action or disciplinary action is to be taken against any employee, the applicable provisions of the Human Resources Department Rules and Policy Manual and/or any Collective Bargaining Agreement shall be followed, including the right to a predetermination hearing for disciplinary actions of suspension, involuntary demotion, or termination and the employee's right to grieve or appeal other disciplinary action.
5. If the Final Report finds a violation of this Policy that does not result in termination, the employee will be required to receive additional training on the Policy, including ways to correct conduct. The employee will also be informed that further instances of harassment or retaliation may result in further discipline up to and including termination.
6. Failure to follow any provision of this Policy shall result in disciplinary action up to and including termination.

K) MODIFICATIONS OF POLICY

The City reserves the right to change or modify this Policy at any time. This Policy is not intended to constitute, in whole or in part, any contract of employment between the City and any person.

L) STATE AND FEDERAL LAW

Harassment and discrimination in the workplace may be a violation of state or federal law and may be reported to the U.S. Equal Employment Opportunity Commission or the Missouri Commission on Human Rights. In the event an employee files with either of these agencies after bringing a complaint to the Labor & Employee Relations division, the City will continue its

investigation of the complaint. If the employee files a complaint with either outside agency, instead of following the reporting procedures outlined in this Policy, the City will defer to the Federal or State agency to handle the complaint.

This Policy, while modeled after state and federal laws, is not meant as a replacement for those laws. Therefore, no finding of violation of this Policy should be considered a finding by the City that any state or federal law has also been violated.