

ANTONIO R. VILLARAIGOSA
MAYOR

EXECUTIVE DIRECTIVE NO. 12

Issue Date: June 6, 2008

To: All Departments, Commissions, Appointed Officers and Employees of City Government

Subject: Policy against Discrimination in Employment based on Sexual Orientation, Gender Identity or Gender Expression

The policy of the City of Los Angeles has been, and will continue to be, to promote and maintain an environment free from discrimination based on known or perceived sexual orientation,¹ gender identity or gender expression. Discrimination and harassment on these bases are illegal, as well as harmful to those in work environments affected by offensive, intolerant and hostile behaviors. Discrimination based on known or perceived sexual orientation, gender identity or gender expression inhibits optimal performance, demeans esteem, creates contention and diminishes productivity. The City is committed to ensuring merit-based human resource management decisions that value high performance, public service excellence and inclusion; and therefore reiterates its policy of equal employment opportunity and non-discrimination.

In 1979, the City of Los Angeles adopted Ordinance No. 152,458 (Municipal Code 49.70) which established and defined the City's intent to promote and maintain a working environment free from discrimination on the basis of sexual orientation, gender identity or gender expression. Specifically, the ordinance protects gay men, lesbians,

¹ Sexual orientation refers to whether a person is romantically or sexually attracted to other adults of a different sex (as is true for those who are heterosexual), the same sex (as is true for those who are lesbian or gay) or both (as is true for those who are bisexual). Discrimination is prohibited on the basis of one's actual or perceived sexual orientation, so that even if one's actual sexual orientation is misperceived by a wrongdoer, the wrongdoer can still be liable for sexual orientation discrimination.

bisexuals, and heterosexuals, as well as those "having or projecting a self-image not associated with one's biological maleness or one's biological femaleness" from discrimination in employment, housing, business establishments, City facilities and services, and education. Additionally, effective January 1, 2000, sexual orientation was included in the State Fair Employment and Housing Act as one of the bases on which complaints of employment discrimination can be filed. Effective January 1, 2004, a prohibition on discrimination or harassment on the basis of gender identity was added to the same act.

Discrimination by any City employee in any City employment practice on the basis of an individual's sexual orientation, gender identity or gender expression (or perceived sexual orientation, gender identity or gender expression) is unacceptable and will not be tolerated. No City officer or employee shall consider an applicant's or employee's known or perceived sexual orientation, gender identity or gender expression in any pre-employment or employment action or decision, including but not limited to background checking, testing, hiring, assigning, training, transferring, upgrading, promoting, compensating, disciplining and discharging. Nor shall any City officer or employee classify or otherwise treat a City employee differently because of the employee's known or perceived sexual orientation, gender identity or gender expression. City policy shall prohibit, as a form of discrimination, the creation of or contribution to a hostile, intimidating, threatening, offensive or abusive work environment on the basis of an individual's known or perceived sexual orientation, gender identity or gender expression. This includes written, spoken, graphic or demonstrative derogatory terms, slurs, comments, gestures, ridicule, threats, rumors, or jokes with respect to an individual's known or perceived sexual orientation, gender identity or gender expression. The following are examples of discrimination that are prohibited:

1. Inquiring into a job applicant's relationship with a roommate;
2. Denying training to a gay, lesbian, bisexual, or transgender employee for a position that involves working with children based on the view that the employee's sexual orientation, gender identity or gender expression makes him or her inappropriate for the position; and
3. Imposing greater supervision or discipline on an employee based on the employee's known or perceived sexual orientation, gender identity or gender expression.

It is against City policy to discriminate against or harass an individual because of his or her known or perceived gender identity or gender expression. This policy prohibits discrimination based on a perception that the employee's or applicant's gender, identity, appearance, behavior, or expression is different from that traditionally associated with the person's "biological sex."

Further, it is City policy that prompt and appropriate action be taken to deter and punish discrimination and harassment based on an employee's known or perceived sexual orientation, gender identity or gender expression. Therefore, it shall be the responsibility of each Department manager to take all steps reasonably necessary to remedy violations, including providing counseling to employees who are found to have suffered harassment or discrimination, and to prevent future violations of this policy, including taking appropriate disciplinary action, to ensure and maintain a working environment free from discrimination and harassment based on known or perceived sexual orientation, gender identity or gender expression. If discrimination recurs in a Department, the Department manager may take steps that are additional to those that were taken in response to earlier instances of such violations and should do so if it appears necessary to ensure that there is no further recurrence of such violations.

Additionally, all reported allegations of discrimination based on known or perceived sexual orientation, gender identity or gender expression will promptly be fully documented and promptly, adequately and completely investigated. City policy prohibits retaliation by the City or any department or employee based on reporting a claim of discrimination on the basis of known or perceived sexual orientation, gender identity or gender expression or for supporting such a complaint (as a witness or otherwise) or for opposing such discrimination. Therefore, no City employee may intimidate, penalize, or take action against an individual for filing a complaint of discrimination on the basis of known or perceived sexual orientation, gender identity or gender expression nor engaging in any other protected activity. Nor may any employee take any action to discourage the making of a complaint of discrimination or harassment on the basis of known or perceived sexual orientation, gender identity or gender expression.

Employees who believe that this policy has been violated may and are strongly encouraged to report policy violation(s) by contacting either: the EEO Counselor of his/her Department; the City's Sexual Orientation Counselor in the Personnel Department; or, the Personnel Department's Office of Discrimination Complaint Resolution. For information or to file a complaint of discrimination on the basis of sexual orientation, the Personnel Department may be contacted at (213) 847-9800. Investigations will be conducted in accordance with the Sexual Orientation Discrimination Complaint Procedure and/or Citywide Discrimination Complaint Procedure. To the maximum extent allowed by law, but limited by its duty to conduct a prompt and thorough investigation and the practical consequences thereof, the City will provide confidentiality with respect to the filing and investigation of complaints of discrimination based upon known or perceived sexual orientation, gender identity or gender expression.

The Mayor is ultimately responsible for the management and administrative control of departmental activities and will continue to foster a positive and productive working environment for all employees and vigorously enforce all Federal, State and City equal employment opportunity and non-discrimination laws, directives and policies. The

Personnel Department shall continue to be the lead agency for equal employment opportunity policy and complaint resolution, specifically as it relates to monitoring policy compliance and investigating and resolving complaints of discrimination. The Personnel Department will also provide additional guidance to departments for compliance with this directive and other non-discrimination laws, policies and procedures and recommended training.

It shall continue to be the City's policy and practice that every good faith effort be made to eliminate any discriminatory practice. To this end, all heads of departments are directed to cooperate with the Personnel Department in complying with the responsibilities included herein.

Further, the Policy Against Employment Discrimination Based on Sexual Orientation, Gender Identity or Gender Expression, the Sexual Orientation Discrimination Complaint Procedure and the Citywide Discrimination Complaint Procedure (to be issued by the Personnel Department) must be disseminated to all employees and included in departmental personnel manuals and training materials. The Personnel Department may revise and update this policy on an as-needed basis.

Responsibilities of General Managers and Executive Directors Relating to the City's Policy on Employment Discrimination Based on Sexual Orientation, Gender Identity or Gender Expression

Each General Manager and Executive Director shall be responsible for carrying out the following actions within 90 days of the issuance of this Directive unless otherwise indicated:

1. Designate a departmental Equal Employment Opportunity Counselor to counsel employees with regard to discrimination based on known or perceived sexual orientation, gender identity or gender expression and to investigate, resolve and/or address complaints of discrimination based on known or perceived sexual orientation, gender identity or gender expression. Such designation and any subsequent change in designation shall be made in writing and a copy provided to the Personnel Department's Equal Employment Opportunity Section and to the Office of the Counsel to the Mayor. This designation and reporting responsibility shall be completed within 60 days of the issuance of this Directive.
2. Distribute this Executive Directive to all departmental employees and executive officers via email with a return receipt requested (these receipts shall be forwarded to the Personnel Department by each department), or by internal mail for those employees for whom email distribution is not available.

3. Review all of the department's non-discrimination and harassment policies to ensure that all policies are in accordance with current law and that sexual orientation (not "sexual preference"), gender identity and gender expression is explicitly included as one of the protected bases under relevant State law. Ensure that those policy documents that exclude sexual orientation, gender identity or gender expression as covered bases under relevant State law or refer to the Division of Labor are destroyed and replaced with language advising employees that the proper state agency with which to file such a complaint is the California Department of Fair Employment and Housing. Include this Executive Directive and all revised equal employment opportunity and non-discrimination policies and procedures in the appropriate department operating and training manuals. A report that the Department has complied with this responsibility, as well as copies of the department's revised policies are to be forwarded to the Personnel Department for review within the timeframe set forth above and to the Office of the Counsel to the Mayor after that review.
4. Adhere to the Personnel Department's Citywide Discrimination Complaint Procedure and the Sexual Orientation Discrimination Complaint Procedure as the departmental policy and distribute the departmental policy and complaint procedures to all employees in the same manner described in paragraph 2 above. Report to the Personnel Department, when, how and to whom this distribution was made in the same manner as is set forth in Paragraph 2 above.
5. Review departmental documents that discuss the City's benefit and leave policies and MOUs to ensure that they comport with the Los Angeles Administrative Code sections governing domestic partners, and revise and redistribute any that are not in compliance. Report completion of this responsibility to the Personnel Department and to the Office of the Counsel to the Mayor.
6. Post the City's equal employment opportunity poster and this Executive Directive on employment-related bulletin boards. Report completion of this responsibility to the Personnel Department and to the Office of the Counsel to the Mayor.
7. Adopt a written policy welcoming the attendance of employees' spouses, domestic partners and significant others to department-sponsored social events open to employees' spouses. Provide a copy of this policy to the Personnel Department and to the Office of the Counsel to the Mayor.

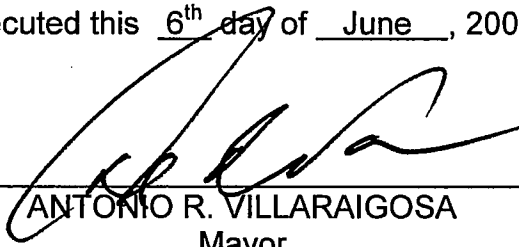
Responsibilities of the Head of the City's Personnel Department Relating to the City's Policy on Employment Discrimination Based on Sexual Orientation, Gender Identity or Gender Expression

The Head of the City's Personnel Department shall be responsible for carrying out the following actions within 180 days of the issuance of this Directive:

1. Ensure that all City departments have timely complied with all the responsibilities set forth above, including but not limited to all distribution and reporting procedures set forth above, and notify the Mayor's Office of any department which has failed to do so. To the extent that any department is not in compliance, the Mayor shall issue an order to comply forthwith.

The City's Personnel Department shall also re-distribute the Directive and the City's complaint procedures to each Department which shall in turn distribute the policy to all employees via email with a return receipt requested (these receipts shall be forwarded to the Personnel Department by each department), or by internal mail for those employees for whom email distribution is not available. This shall be done on an annual basis for at least three years after the initial distribution of these City policies.

Executed this 6th day of June, 2008



ANTONIO R. VILLARAIGOSA
Mayor

Supersedes Riordan Series Executive Directive No. 4 dated September 8, 1994, and No. 2001-35 dated February 8, 2001.