

## SEXUAL HARASSMENT DISCRIMINATION COMPLAINT PROCEDURE

The policy of the City of Los Angeles is to promote and maintain a working environment free of sexual harassment, intimidation, and coercion. Sexual harassment is a form of sex discrimination and is a violation of official City policy and Federal and State law. Acts constituting sexual harassment are not necessarily limited to acts by a male toward a female but can be committed by and against persons of both sexes.

Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature when:

1. Submission to such conduct is either explicitly or implicitly made a term or condition of an individual's employment;
2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
3. Such conduct has the purpose or effect of interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

As used in this procedure, "employee" is any individual occupying a position in the classified civil service, and also includes interns, contract employees (personal services contracts), and employees exempted under provisions of the City Charter, including elected and appointed officials. Also covered by this procedure are members of the public, volunteers, or employees of a business under contract with the City, who claim harassment by City employees during the conduct of their employment.

Employees and applicants are also protected from sexual harassment by non-employees. The City may be liable for non-employee sexual harassment, where the employer, or its agents or supervisors, knows or should have been aware of the conduct and fails to take immediate and appropriate corrective action.

Consistent with this definition, it is sexual harassment for any employee or non-employee to use implicit or explicit sexual behavior, of a verbal, visual or physical nature, to affect the work environment, job or performance of any employee. Further, supervisory level employees who condone the sexually harassing conduct of another employee or applicant, when the supervisor is aware or should have been aware of such conduct and does not take appropriate steps to eliminate it, will be held liable and subject to disciplinary action.

City policy and State and Federal law require that prompt and appropriate action be taken to deter and punish sexual harassment.

Department managers have been instructed to take all necessary steps, including appropriate disciplinary action, to ensure and maintain a working environment free of sexual harassment, intimidation, and coercion. Appropriate disciplinary action for substantiated allegations of sexual harassment will be administered in accordance with Policy 33 (Disciplinary Action) of the Policies of the Personnel Department. For

example, the severest disciplinary action, up to and including discharge, will be taken in the case of proven instances of implicit and/or explicit, coercive pressure for sexual favors committed by supervisory employees, which affect the terms and conditions of a subordinate's employment. Contractors and subcontractors are also fully liable for compliance with this Procedure and substantiated claims of sexual harassment could result in termination of a contract and/or subcontract.

Each Department manager has designated a Sexual Harassment Counselor for his or her Department and will disseminate, and post in prominent locations, the name and phone number of the designated Counselor to all employees. A complaint of sexual harassment must be filed within one year of the alleged act of harassment. Otherwise, the complaint may be considered untimely. In all cases, allegations of sexual harassment will be fully and completely investigated. The employee or applicant making a sexual harassment complaint can choose whether the complaint will be investigated by the employee's Department Sexual Harassment Counselor, by the Personnel Department's Sexual Harassment Counselor, or by the State and/or Federal compliance agencies. If during a City administrative investigation the investigator determines, based upon discussions with the complainant, that the issues are related to the complainant's "sex" rather than being "sexual" in nature, the investigation will continue under the procedures outlined in the City's Discrimination Complaint Procedure.

## **Employee Rights and Responsibilities**

Every employee is entitled to work in an environment free from sexual harassment or coercion. An employee who perceives comments, gestures, visual displays, or physical actions of a sexual nature by another employee, non-employee or supervisor to be offensive is encouraged to immediately and clearly communicate to that person that such sexual behavior is unwelcome. The purpose of immediately communicating to a harasser that the behavior is unwelcome is to stop the harassment before it becomes more serious. Such notice will also go to support a claim that the harassment did occur. Failure to notify the harasser that the behavior is unwelcome does not prevent the filing of a complaint of sexual harassment.

The following Sexual Harassment Complaint Procedure has been developed specifically for use by employees and applicants who believe that they have been sexually harassed, and who wish their complaint to be investigated by their individual department or the Personnel Department.

Under City policy and procedures, any employee or applicant who believes he or she has been sexually harassed has the following rights and responsibilities:

1. The complainant is encouraged to report the sexual harassment to any or all of the following individuals; a supervisor, the Department's Sexual Harassment Counselor, or the Personnel Department's Sexual Harassment Counselor. The complainant may also seek assistance from the Commission on the Status of Women. Such immediate reporting is important because the sooner the allegations can be investigated, the sooner appropriate steps can be taken to

end the harassment. ALL EMPLOYEES AND APPLICANTS ARE ASSURED THAT THEY MAY MAKE SUCH REPORTS WITHOUT FEAR OF RETALIATION BY THE CITY, DEPARTMENT MANAGEMENT, THEIR IMMEDIATE SUPERVISOR, OR ANY OTHER EMPLOYEE.

2. The complainant has the right to a confidential conference with the person whom the sexual harassment complaint is made. The complainant has the option to be represented during the conference and any subsequent investigation by a union representative, an attorney, or another individual of the complainant's choice.
3. Each complaint of sexual harassment will be fully and completely investigated by the Department's Sexual Harassment Counselor or by the Personnel Department's Sexual Harassment Counselor, unless it is determined that the complainant has also filed a grievance or utilized another internal City administrative procedure, raising the same or similar sexual harassment issues, in which case the complaint will be administratively closed.
4. All investigations will be handled with discretion, sensitivity and due concern for the dignity of those involved. Every reasonable effort will be made to restrict information on the specifics of the complaint to those who are participating in the investigation; the complainant, the alleged harasser, witnesses, and department management, unless and until complaint findings are presented in a public hearing, such as before the Board of Civil Service Commissioners. All persons contacted or interviewed during the investigation will be requested not to discuss the subject matter of the investigation in order to protect the privacy of all those participating in the investigation.
5. All investigations will be as extensive as required, based upon the nature of the allegations. All persons named as potential witnesses by the complainant will be contacted during the course of the investigation, and those witnesses who have information relevant to the issues of the complaint will be interviewed. Any employee or non-employee who is alleged to have committed acts of sexual harassment will be contacted during the investigation, be informed of the allegations being made against him or her, be given the opportunity to respond to the allegations, and be given the opportunity to identify witnesses. Any accused employee has the option to be represented during the investigation by a union representative, attorney, or other individual of his or her choice.
6. Any employee who observes what he or she believes to be sexually harassing verbal, visual, or physical behavior occurring should report such behavior to a supervisor, and/or a Sexual Harassment Counselor. ALL EMPLOYEES ARE ASSURED THAT THEY MAY MAKE SUCH REPORTS WITHOUT FEAR OF RETALIATION BY THE CITY, DEPARTMENT MANAGEMENT, THEIR IMMEDIATE SUPERVISOR, OR ANY OTHER EMPLOYEE. ANY ACTION BELIEVED TO BE RETALIATORY SHOULD BE IMMEDIATELY REPORTED.
7. Any employee who observes an incident of sexual harassment should cooperate in any investigation. ALL EMPLOYEES ARE ASSURED THAT THEY MAY

COOPERATE IN SUCH INVESTIGATION WITHOUT FEAR OF RETALIATION BY THE CITY, DEPARTMENT MANAGEMENT, THEIR IMMEDIATE SUPERVISOR, OR ANY OTHER EMPLOYEE. ANY ACTION BELIEVED TO BE RETALIATORY SHOULD BE IMMEDIATELY REPORTED TO THE PERSON CONDUCTING THE INVESTIGATION.

8. All employees who initiate or participate in the investigation of a complaint are protected from retaliation by the City, Department management, supervisors or any other employee. Employees found to have committed acts of retaliation will be subject to disciplinary action in accordance with the provisions of Policy 33 (Disciplinary Action). Retaliation will be considered a serious act of misconduct, with appropriate discipline indicated in the Policy up to and including discharge. Because of their increased responsibility for enforcing the City's policies against sexual harassment, supervisors will be held to a higher standard and can expect the most severe disciplinary measures for proven acts of retaliation.
9. The complainant may expect a timely resolution of complaints. Complainants will be kept apprised of the status of their complaints on a regular basis by the individual investigating the complaint. Complainants may also request information of the status of their complaint from the City Sexual Harassment Coordinator. Additionally, complainants will be notified if the time to file with outside agency appears likely to run out before the internal investigation is completed.

### **Responsibilities of the Department Sexual Harassment Counselor**

Each City department manager must designate a Sexual Harassment Counselor and ensure that all department employees are made aware of the name and phone number of the designated Counselor. An employee or applicant who believes he or she has been sexually harassed may choose to file a complaint with the Department Sexual Harassment Counselor. Each Department Sexual Harassment Counselor has the following responsibilities:

1. Upon receipt of a sexual harassment complaint, the Counselor shall meet with the complainant as soon as mutually convenient. The Counselor shall inform the complainant that he or she may have a representative at the meeting. The Counselor shall fully inform the complainant about the City's sexual harassment policies and complaint procedures, and shall answer any questions that the complainant may have regarding the City policy. The Counselor shall also inform the complainant about the other available options, such as filing with the Personnel Department's Sexual Harassment Counselor, and State and Federal compliance agencies. The complainant shall also be informed that under the City Procedure, complaints may be considered untimely if the action(s) occurred more than one year prior to the filing of the complaint; allegations brought to State or Federal compliance agencies may have different filing time limitations which should be confirmed by the complainant with the agencies. The

complainant will be notified if the time to file with an outside agency appears likely to run out before the internal investigation is completed.

2. The Counselor shall listen to the complainant's allegations and discuss the complaint with discretion, sensitivity and due concern for the dignity of those involved. The complainant shall be asked what remedies he or she feels would resolve the complaint. The Counselor shall inform the complainant that while every reasonable effort will be made to protect the confidentiality and privacy of the individuals involved, the conduct of an investigation requires that the alleged harasser be informed of the allegations, and that witnesses be interviewed.
3. The Counselor shall fully record and document the complaint and the requested remedies.
4. The Counselor shall conduct a complete and timely investigation into the complaint, including conducting interviews with witnesses and the alleged harasser(s). If the alleged harasser is the General Manager of the complainant's department, the advice of the City Attorney may be requested.
5. If the complaint is against a non-employee, the Counselor shall conduct an investigation as indicated above. The extent of the City's control and any other legal responsibility which the City may have with respect to the conduct of the non-employee shall be considered.

If the investigation finds that sexual harassment occurred during the scope of work for a non-employee, this information must be forwarded to their employer for corrective action. If the non-employee has no employer affiliation, such as a private citizen, appropriate action should be taken to prevent a recurrence. Such action may include modification of assignments to ensure no future contact, provide or add security, etc.

Each case for non-employees must be handled on an individual basis to determine the most effective remedy to stop the sexual harassment.

6. Upon completion of the investigation, the Counselor shall draft a report on the investigation, which shall include findings on whether the allegations have been substantiated. Copies of the report shall be provided to the management of the Department and the complainant. Where appropriate disciplinary actions have been taken, the complainant may be so informed without disclosing the specific nature of the actions. If the alleged harasser is the General Manager of the complainant's department, the advice of the City Attorney may be requested.
7. If the complainant is not satisfied with the way the sexual harassment complaint has been resolved, the Counselor shall again fully inform the complainant of his or her additional rights under the law, including filing under the City's Discrimination Complainant Procedure or with State or Federal compliance agencies.

8. The Counselor shall maintain all documentation of the complaint and the investigation, information concerning the resolution of the complaint, and whether the complainant was satisfied with the department's efforts, in accordance with the City's Records Retention Program. The documentation shall be made available to the Personnel Department, if requested, for further investigative or auditing purposes.

### **Responsibilities of the Personnel Department's Sexual Harassment Counselor**

An employee who has been sexually harassed may choose to file a complaint with the Personnel Department's Sexual Harassment Counselor. The Personnel Department's Sexual Harassment Counselor has the following responsibilities:

1. The Counselor will be available at (213) 473-9123 to discuss sexual harassment issues with complainants, shall fully inform employees about the City's sexual harassment policies and complaint procedures, and shall answer any questions that the complainant may have regarding the City's policy, or the other options available to them. Complainants will be notified if the time to file with an outside agency appears likely to run out before the internal investigation is completed.
2. The Counselor shall listen to the complainant's allegations and discuss the complaint with discretion, sensitivity and due concern for the dignity of those involved. The complainant will be asked if the department has been informed of the allegations, if an investigation was conducted by the department and the result of that investigation. The complainant will be asked if he or she wishes the Counselor to:
  - a. pursue an informal investigation and, where appropriate, seek a resolution to the complaint without a formal investigative report; or,
  - b. open a formal investigation into the allegations.
3. If the complainant requests an informal attempt at a resolution, the Counselor shall, where appropriate, make preliminary efforts to resolve the complaint with the assistance of the department's Sexual Harassment Counselor. The actions taken by the Counselor and the department will be documented, and the complainant will be informed of the outcome of the informal investigation.
4. If the complainant is not satisfied with the results of the informal investigation he or she may file a formal complaint utilizing the City's Discrimination Complaint Procedure. At the time of the filing of a formal complaint, the complainant shall also be informed of the other options available, including filing the complaint with the State or Federal compliance agencies.
5. Investigative procedures and protections for the complainant, the alleged harasser, and witnesses previously noted in this Procedure under Employee Rights and Responsibilities and Responsibilities of the Department Sexual Harassment Counselor shall apply to the conduct of the investigation by the

Personnel Department's Sexual Harassment Counselor or other staff analysts. The report of the investigation of the complainant's allegation(s), including the investigator's findings and recommendations shall be presented to the Board of Civil Service Commissioners in accordance with the City's Discrimination Complaint Procedure, unless the Counselor is able to resolve the complaint to the complainant's satisfaction prior to the scheduled hearing before the Commission.

### **The City's Discrimination Complaint Procedure**

The City's Discrimination Complaint Procedure gives employees and applicants the right to file a written complaint with the City's Civil Service Commission. The complaint must deal with a City action, procedure or practice in hiring or employment which the employee or applicant believes to be discriminatory. Sexual harassment is a form of sex discrimination. Complaints filed in accordance with the City's Discrimination Complaint Procedure must be filed within one year of the alleged act of discrimination.

### **State and Federal Compliance Agencies**

Employees or applicants who believe they have been sexually harassed have the right to file a complaint with State and/or Federal compliance agencies and/or in State or Federal court. However, time limits for filing complaints with compliance agencies vary and complainants should check directly with those agencies for specific information.

The State and Federal compliance agencies may be contacted at the following addresses:

<b>STATE</b>	<b>FEDERAL</b>
<b>Department of Fair Employment and Housing 1055 W. Seventh St., Suite 1400 Los Angeles, CA 90017 (800) 884-1684 TTY (800) 700-2320</b>	<b>Equal Employment Opportunity Commission 255 E. Temple Street, Fourth Floor Los Angeles, CA 90012 (800) 669-4000</b>