



CITY HALL  
LOS ANGELES, CALIFORNIA 90012

JAMES K. HAHN  
MAYOR

TO: Heads of all City Departments and Bureaus

FROM: James K. Hahn, Mayor *James K. Hahn*

DATE: August 31, 2004

SUBJECT: Revision to Executive Directive No. PE-1 to include expanded definition of discrimination based on sex

As you are aware, the City is committed to promoting and maintaining a work environment free of any form of discrimination based on sex. Assembly Bill 196 signed into law in August 2003 expands the definition of "sex" in the California Fair Employment and Housing Act (FEHA) to include a person's gender identity or expression. Effective January 1, 2004, FEHA prohibits discrimination based on gender or perceived gender, whether or not the person's appearance, identity or behavior conforms to what is traditionally associated with that person's sex at birth, including, but not limited to, their actual or perceived transgender status.

Attached is Executive Directive No. PE-1 (Revised). Please make all necessary updates to your personnel policies and procedures.

Should you have any questions regarding this matter, please contact Ms. Jurutha Brown, Chief of the Equal Opportunity and Employment Development Division, Personnel Department, at (213) 847-9771.

JKH:jl

Attachment





**JAMES K. HAHN**  
MAYOR

## **EXECUTIVE DIRECTIVE NO. PE-1 (REVISED)**

**Subject: EQUAL EMPLOYMENT OPPORTUNITY, NON-DISCRIMINATION AND REASONABLE ACCOMMODATIONS**

For more than 30 years, our City has been a leader in promoting equal employment opportunity. Consequently, our City employees comprise one of the most diverse workforces in the world. We must continue our efforts to enhance the level of inclusion and diversity this City has come to appreciate, even as we reaffirm support for merit-based human resource management decisions, which value high performance, public service and inclusion, to ensure our continued competitiveness in this 21<sup>st</sup> Century.

The City of Los Angeles is committed to maintaining a discrimination free workplace for all employees and candidates for employment. City policies and personnel practices, including but not limited to, recruitment, selection, advancements, work assignments, compensation, benefits, training, discipline and terminations, will continue to be established and administered without regard to race, national origin, ancestry, sex, sexual orientation, age, religion, creed, marital status, disability, medical condition, including having or being perceived as having AIDS or the HIV virus, or retaliation for engaging in any protected equal employment opportunity activity.

Sexual harassment is a form of sex discrimination. It includes unwelcome exposure to visual, verbal, or physical conduct of a sexual nature, by either males or females, which may cause an individual's workplace to be intimidating, offensive, or hostile. Unwanted sexual advances, or the offering of employment or related benefits in exchange for sexual favors, or the withholding of such employment or benefits conditioned upon an exchange of sexual favors, is unlawful and will not be tolerated.

The definition of "sex" includes a person's gender identity or expression. This includes a person's identity, appearance, or behavior, whether or not that identity, appearance, or behavior is different from that traditionally associated with the person's sex at birth. Employees who have changed their gender or are planning to change their gender are protected by law. The City prohibits discrimination based on gender-related characteristics, including, but not limited to, their actual or perceived transgender status.

A discrimination free workplace includes providing reasonable accommodation to individuals with disabilities. The City has been proactive in this effort, having created a Department on Disability, a reasonable accommodation fund, special employment programs and a Placement Officer position in the Personnel Department. The City of Los Angeles is one employer for purposes of reasonable accommodation, and it is imperative that we have a consistent, credible process for reviewing and acting on requests for reasonable accommodation.

The City has zero tolerance for discrimination, harassment and retaliation; therefore, I expect the City's leadership and all employees to comply with all Federal, State and local equal employment opportunity laws and policies.

All General Managers, Heads of Departments/Offices and Commissions of City Government are directed to ensure that workplaces throughout the City are committed to equal employment opportunity and the maintenance of environments free of discrimination.

The Personnel Department shall monitor compliance of City departments with this Executive Directive.

Each Department Head shall immediately carry out the responsibilities listed on the Attachment of this Executive Directive.

Executed this *20<sup>th</sup>* day of *August*, 2004

  
JAMES K. HAHN  
Mayor

*JKH:wtf:39200*

#### Attachment

Supersedes Executive Directive Nos. 1, dated October 15, 1980; 27, dated October 15, 1980; 1-D, dated December 10, 1990; 1-A, dated September 22, 1992 (Bradley Series); and 2001-34, dated February 8, 2001 (Riordan Series); and PE-1 dated May 14, 2002.

**ATTACHMENT EXECUTIVE DIRECTIVE NO. PE-1  
EQUAL EMPLOYMENT OPPORTUNITY, NON-DISCRIMINATION AND  
REASONABLE ACCOMMODATIONS**

**I. BACKGROUND**

**A. Equal Employment Opportunity**

The Mayor is ultimately responsible for the management and administrative control of departmental activities and will vigorously enforce all Federal, State and City equal employment opportunity laws, policies and directives. The Personnel Department will be the lead agency for equal employment opportunity policy development, implementation and monitoring and complaint resolution, specifically as it relates to investigating and resolving complaints of discrimination. Further, the Personnel Department will periodically review operating department activities and report equal employment opportunity compliance and diversity management innovations, as well as patterns and trends that indicate areas of concern. Department management is expected to fully support these monitoring activities.

**B. Non-Discrimination**

Any City employee or employment candidate who believes the City's policy of equal employment opportunity and non-discrimination has been violated is strongly encouraged, and must not be prohibited from reporting the alleged policy violation. Further, employees and employment candidates can be assured that the necessary steps will be taken promptly to address all reported violations.

City employees and employment candidates who believe they have experienced illegal discrimination are strongly encouraged to file discrimination complaints under the City discrimination complaint procedure entitled, "Citywide Discrimination Complaint Procedure" or the "Sexual Orientation Discrimination Complaint Procedure". Said procedures shall be issued by the Personnel Department. Complaint investigations will be handled in accordance with these procedures; and departments must cooperate with complaint investigators to ensure prompt and appropriate action is taken to address the complaint. This includes accommodating investigators' requests to meet with complainants and witnesses during working hours. Further, departments are to ensure individuals filing complaints of discrimination are advised of all of their legal options to file with applicable Federal and State enforcement agencies and are not retaliated against.

Sexual harassment is a form of sex discrimination. It includes unwelcome exposure to visual, verbal, or physical conduct of a sexual nature, by either males or females, which may cause an individual's workplace to be intimidating, offensive, or hostile. Verbal harassment may include derogatory comments, epithets, jokes, or slurs of a sexual

nature. Visual harassment may include sexual gestures, inappropriate display of sexually explicit objects or pictures, cartoons or posters. Physical harassment may include any unwelcome touching or bodily contact. Finally, unwanted sexual advances, or the offering of employment or related benefits in exchange for sexual favors, or the withholding of such employment or benefits conditioned upon an exchange of sexual favors, is unlawful and will not be tolerated.

In January 2004, the definition of "sex" in the California Fair and Employment and Housing Act (FEHA), was expanded to include a person's gender identity or expression. The City also prohibits discrimination based on gender-related characteristics, or identity, appearance or behavior different from that traditionally associated with the person's sex at birth, including, but not limited to, their actual or perceived transgender status. Transgender status includes employees who have changed or plan to change their gender. An applicant's or employee's gender identity is a protected class like any other protected class under FEHA. City employees are required to comply with reasonable workplace appearance, grooming, and dress standards consistent with department policies and procedures, but employees have the right to dress consistent with their gender identity.

### **C. Reasonable Accommodations of Persons with Disabilities**

In January, 2001, the California Fair Employment and Housing Act was amended to expand both the definition of a disability and the types of physical and mental conditions that can be considered disabilities. The amendment also clarified the requirement that employers engage in timely, interactive and good faith efforts to respond to requests for reasonable accommodations from individuals. Reasonable accommodation takes varied forms. It may be modification or adjustment of non-essential job functions or the way duties usually are performed. Most accommodations can be accomplished with little or no cost.

The City of Los Angeles is one employer for purposes of reasonable accommodation, and it is imperative that we have a credible process for reviewing and acting on requests for reasonable accommodation. Ideally, each department will be able to accommodate its own employees. However, if a department has made an exhaustive effort to accommodate an employee and has documented that a reasonable accommodation is not feasible, the department may refer the individual to the Personnel Department's Citywide Placement Officer. The Placement Officer will continue to work with the department to identify other options within the department, and may also begin a Citywide search for suitable vacancies in other departments. The Personnel Department will be responsible for reporting to the Mayor and City Council on departmental efforts of providing reasonable accommodations. Departments will be required to report to the Personnel Department the status of each request for reasonable accommodation on a monthly basis. This information will be due on the tenth working day of each month.

## **II. RESPONSIBILITIES OF DEPARTMENT HEADS**

### **A. Each Department Head shall be responsible for carrying out the following actions within 90 days of issuance of this directive:**

1. Designate a departmental Equal Employment Opportunity Counselor/Coordinator and Reasonable Accommodations Counselor/Coordinator to counsel employees, investigate, resolve and/or address complaints of discrimination, serve as a resource and provide internal expertise to management and disabled individuals regarding the reasonable accommodation process. 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.
2. Distribute this Executive Directive to all departmental employees and executive officers for each currently executed personal services contract and letter of agreement.
3. Include this Executive Directive and all revised equal employment opportunity, reasonable accommodation and non-discrimination policies and procedures in the appropriate department operating and training manuals.
4. Post the City's Equal Employment Opportunity poster and this Executive Directive on employment-related bulletin boards.
5. Ensure that workplaces throughout the City are committed to equal employment opportunity and the maintenance of environments free of discrimination by:
  - Disseminating to all employees a statement of your commitment to equal employment opportunity and providing them with the most current copies of the City's equal employment opportunity policies and the City's discrimination complaint procedures;
  - Informing employees of the name and telephone number of the departmental Equal Employment Opportunity Counselor/Coordinator and the Reasonable Accommodations Counselor/Coordinator;
  - Providing easy access to the department, City, State and Federal compliance agency discrimination complaint investigation processes without fear of retaliation;
  - Taking all steps necessary to prevent any and all forms of illegal discrimination, harassment and retaliation.
6. Evaluate equal employment opportunity policies annually to ensure they are up to date.

7. Review departmental operations and actions to implement appropriate equal employment opportunity policies and eliminate barriers to effective equal employment opportunities on a regular basis.
8. Ensure departmental staff assigned as the Equal Employment Opportunity Counselor/Coordinator and Reasonable Accommodations Counselor/Coordinator have been sufficiently trained to effectively perform their duties and responsibilities.
9. Take immediate action to address, remedy and resolve complaints alleging discrimination, including but not limited to prompt, objective and thorough investigations of complaints. Ensure departmental personnel responding to complaints adhere to the City's discrimination complaint procedures and sound personnel practices.
10. Take prompt and appropriate action in response to acts of illegal discrimination and/or violations of the Federal, State and City equal employment opportunity laws, policies and regulations, including disciplinary actions to address violations and inappropriate behaviors.
11. Ensure employees who file discrimination complaints, participate in investigations, and/or oppose real or perceived discriminatory acts are not retaliated against by management or co-workers.
12. Ensure that the Personnel Department is notified, as instructed, of discrimination complaints filed and resolved within the Department.
13. Inform employees of the procedure for requesting a reasonable accommodation.
14. Require department staff to engage in a timely, interactive and good faith effort when presented with a request for an accommodation by an employee or job applicant. This process must be fully documented using the "Reasonable Accommodation Assessment Form" provided by the Personnel Department.
15. Submit a monthly report to the Personnel Department on the status of each request for reasonable accommodation received during the preceding month. This report will be due on the tenth working day of each month.
16. Instruct all department human resources personnel and line managers to fully cooperate with the Personnel Department in identifying vacant positions.
17. Fully cooperate with the Personnel Department and other Department heads in accepting transfers of employees with disabilities into positions which will afford them a reasonable accommodation.

### **III. RESPONSIBILITIES OF THE PERSONNEL DEPARTMENT**

#### **A. The Personnel Department will be responsible for administering the City's equal employment opportunity programs including, but not limited to:**

1. Develop, revise and disseminate policies, protocols and guidelines as necessary to comply with equal employment opportunity law, disability related laws and City policies and diversity strategies.
2. Assign adequate staff resources within the Personnel Department to assist departments with compliance with equal employment opportunity laws, disability related laws and City policies and procedures.
3. Initiate programs to achieve equal employment opportunity standards and goals.
4. Provide technical assistance, information and training to departmental human resource management personnel.
5. Monitor City hiring activities and turnover rates to identify and investigate any patterns that indicate areas of concern.
6. Review, investigate, resolve and respond to complaints of discrimination filed against the City with the Civil Service Commission and/or enforcement compliance agencies.
7. Review ethnic, gender and disabled representation to determine progress toward achieving parity with the labor force.
8. Monitor and report to the Mayor on the effectiveness of the City's program of equal employment opportunity.
9. Review discrimination complaints filed Citywide to identify trends, issues and training needs and provide information to the Mayor's Office on appropriate alternatives to address disputed discrimination complaints.
10. Monitor compliance of City departments in providing reasonable accommodations.
11. Report to the Mayor and City Council on a quarterly basis by the twentieth working day following the end of the quarter on the status of reasonable accommodations of disabled employees and job applicants.
12. Provide the Placement Officer with sufficient resources to effectively work with City departments to place disabled employees.