

CITY OF CHICO
Administrative Procedure and Policy Manual

Subject:		Number: 13-39
HARASSMENT/DISCRIMINATION		Effective Date: March 16, 2010
Department(s) Affected: All Departments		Supersedes: 13-39 Dated 03/01/99, 3/1/00
Authority: Section 2.12.010 of the Chico Municipal Code	File Reference:	
	Approved:	

I. PURPOSE

The City of Chico (City) hereby establishes a strong commitment to prohibit and prevent discriminatory harassment and provide a procedure for: (a) educating employees regarding harassment; (b) the reporting and investigation of incidents of allegations of harassment; and (c) disciplinary action for offending employees.

II. POLICY

The City hereby establishes a zero-tolerance policy of harassment on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation in the workplace. The California Fair Employment and Housing Act defines harassment because of sex as including sexual harassment, gender harassment, and harassment based on pregnancy, childbirth, or related medical conditions. The City will make reasonable and good-faith efforts to provide an employment and business environment free of harassment, as prohibited by state and federal law.

This policy applies to all terms and conditions of employment, including, but not limited to, hiring, placement, promotion, disciplinary action, layoff, recall, transfer, leave of absence, compensation, and training. Within the work environment harassment is prohibited between supervisors and employees, between employees, and between employees and non-employees.

It shall be a violation of this policy for anyone who is authorized to recommend or take personnel actions affecting an employee, or who is otherwise authorized to transact business or perform other services on behalf of the City, to engage in harassment as defined below. Disciplinary action, up to and including termination, will be instituted for harassment as defined below.

Any retaliation against a person for filing a harassment charge or making a harassment complaint is prohibited. Employees found to be retaliating against another employee shall be subject to disciplinary action up to and including termination.

III. DEFINITION OF HARASSMENT

A. Harassment may include, but is not limited to:

1. Speech: epithets, derogatory comments or slurs, and lewd propositioning on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation. This may include inappropriate sex-oriented comments on appearance, including dress or physical features, or race-oriented stories or jokes.
2. Physical Acts: impeding or blocking movement, touching, assault, or any physical interference with normal work or movement when directed at an individual on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation. This includes pinching, grabbing, patting, propositioning, leering, or making explicit or implied job threats or promises in return for submission to physical acts.
3. Visual insults: gestures, leering, or display of derogatory posters, cartoons, pictures, or drawings, related to race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation.

4. Unwanted sexual advances: requests for sexual favors and other acts of sexual nature, where submission is made a term or condition of employment, where submission to or rejection of the conduct is used as the basis for employment decisions, or where the conduct is intended to or actually does unreasonably interfere with an individual's work performance or create intimidating, hostile, or offensive working environment.

B. Specific Examples

For the purpose of further clarification, harassment includes, but is not limited to:

1. Making unsolicited written, verbal, physical, and/or visual contact with race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation overtones. Written contacts include, but are not limited to, suggestive or obscene letters, notes, invitations, emails, or text messages.
2. Continuing to express sexual interest after being informed that the interest is unwelcome. Reciprocal attraction is not considered sexual harassment.
3. Making reprisals, threats of reprisal, or implied threats of reprisal following a negative response to harassment. This includes, but is not limited to, implying or actually withholding support for an appointment, promotion, or change of assignment; suggesting that a poor performance report will be prepared, or suggesting probation will be failed.
4. Engaging in implicit or explicit coercive harassing behavior which is used to control, influence, or affect the career, salary, and/or work environment of another employee.
5. Offering favors or employment benefits, such as promotions, favorable performance evaluations, favorable assignments, favorable duties or shifts, recommendations, reclassifications, or the like in exchange for sexual favors.
6. Retaliation for reporting harassment.

IV. PROCEDURE

A. Complaint Procedure

1. If the employee is comfortable doing so, an employee who feels subjected to harassing behavior in the workplace may let the offending person know how such behavior affected the employee. In many cases the offending person is not aware that such behavior causes problems for others. Many problems can be handled at this level. While this can be an effective response to the situation, there is no requirement that an employee discuss the issue with the offending person, especially if the employee has any uncertainty about how the message will be received by the offending employee.
2. Any employee who feels subjected to harassment should immediately report such incident to the immediate supervisor. In the event that the immediate supervisor is the offending individual, or if the employee does not feel that the immediate supervisor can or will respond appropriately, the report involved may be made to the next level of supervision or to any City supervisor or manager with whom the employee is comfortable.
3. The supervisor to whom the incident is reported shall ascertain the facts surrounding the allegation of harassment and shall take whatever immediate steps are necessary to prevent further harassment of the complainant. In the event that the supervisor who receives the complaint has any questions regarding how the investigation should be conducted, or who should conduct the investigation, the supervisor shall contact the Human Resources and Risk Management Director for guidance. The supervisor who investigates the allegation shall review the facts and determinations of the investigation with the Department Head and/or the Human Resources and Risk Management Director prior to concluding and completing the record of the investigation.

4. A record of the supervisor's investigation and information from the complainant shall be CONFIDENTIALLY routed to all affected Department Heads within five working days after the complaint is made. The Department Heads shall review all information presented, determine which Department Head will be responsible for further action if more than one Department Head is involved, seek out more information if necessary, and determine if the complaint is justified and if disciplinary action against the offending employee is appropriate. If disciplinary action is initiated, it will proceed as provided for in Section 2R.72.150 of the Personnel and Employee Representation Rules.
5. Any employee or supervisor who observes or is made aware of any act of harassment, the existence of a hostile work environment, or any act of retaliation against an employee who has made a claim of harassment has an obligation to either resolve or report that act to a supervisor, Department Head or the Human Resources and Risk Management Director so that the matter can be investigated and/or resolved. Such report shall be investigated and responded to in the same manner as a complaint brought forward by an affected employee.
6. The complainant will receive a written response from the Department Head which describes the result of the investigation and the conclusions of the Department Head and what steps were taken to prevent recurrence of the problem.
7. If the complainant is dissatisfied with the response received from the Department Head, the complainant may request in writing a review by the Human Resources and Risk Management Director of the allegation and all supporting evidence.
8. The Human Resources and Risk Management Director shall review all information available related to the incident and will determine if appropriate action was taken. The Human Resources and Risk Management Director shall notify the complainant in writing of the final decision regarding the incident.
9. If the complainant is not satisfied with the results of the investigation process, the complainant may file a written grievance as provided for in Section 2R.72.240 of the Personnel and Employee Representation Rules. The grievance will be initiated at the third level of review as defined in paragraphs 5.b.(4) and 5.c.(1) of Section 2R.72.240.A. of the Chico Municipal Code by submission of a written grievance to the Assistant City Manager within five working days after receipt of the opinion of the Human Resources and Risk Management Director.
10. If there is a finding, at any point in the review process, that harassment has occurred, the Department Head will re-contact the complainant in six weeks and again at three months after final action is taken on any harassment complaint. This contact will allow the Department Head to determine if the conduct that constitutes harassment has ceased and that the complainant has not been subjected to retaliation for reporting the harassment. Appropriate action shall be taken by the Department Head to resolve any continuing problems. A memorandum regarding the outcome of this follow-up will be sent to the Human Resources and Risk Management Director for the offending employee's file with a copy going to the complainant.

B. Confidentiality

Complaints regarding harassment are considered a personnel matter. Due to the sensitive nature of such matters and the impact that allegations of harassment, whether true or false, may have on the individuals involved should the information become public or common knowledge, it is imperative that all parties involved in this process maintain the highest possible level of confidentiality. This will also serve to encourage employees who have been harassed to report the offending individuals without fear of embarrassment or humiliation.

C. Distribution of Administrative Procedure and Policy

1. All City employees shall receive a copy of this Administrative Procedure and Policy when they are hired and annually thereafter.
2. Each supervisor who completes a final probationary or an annual performance report for employee(s) shall discuss the City's policy regarding harassment, and review the current Administrative Procedure and Policy relating to harassment with their employees at the time the evaluation is completed. Such review and discussion shall be documented on the performance report form.

D. Additional Legal Remedies

Additional legal remedies are available through the California Department of Fair Employment and Housing (DFEH) and the Federal Equal Employment Opportunity Commission (EEOC). Harassment in employment violates the provisions of the Fair Employment and Housing Act, specifically California Government Code section 12940, Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, and the Americans with Disabilities Act of 1990.

Employees or job applicants who believe that they have been harassed may, within one year of the date that the harassment occurred, file a complaint of discrimination with the following:

California Department of Fair Employment and Housing
Sacramento Regional Office
2218 Kausen Drive Suite 100
Elk Grove, California 95758
1-800-884-1684
<http://www.dfeh.ca.gov>

Federal Equal Employment Opportunity Commission
San Francisco Regional Office
350 The Embarcadero Suite 500
San Francisco, California 94105-1260
1-800-669-4000
<http://www.eeoc.gov>

Both DFEH and EEOC have specific information about their respective complaint processes and legal remedies available via the toll-free numbers as well as the websites as set forth above.

Employees are protected against retaliation for opposing practices prohibited by law, filing a complaint of harassment, or otherwise participating in an investigation, proceeding, or hearing conducted by the DFEH or EEOC.