

CHAPTER 11 DISCRIMINATION AND HARASSMENT PREVENTION POLICY

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21100 Purpose and Scope.

- A. To reinforce the City of Carson's commitment to equal employment opportunity and a work environment free of discrimination and harassment, including sexual harassment. This policy is designed to attempt to prevent discrimination or harassment from occurring, and if it does occur, to stop any further discrimination or harassment and correct any effects of discrimination or harassment.
- B. This policy and procedure will apply to all personnel that are employed by the City of Carson, those persons who volunteer or serve as unpaid interns for the City of Carson, any "special employees" as defined by law, any elected or appointed officials, and any persons providing services pursuant to a contract as described in Government Code Section 12940(j)(1).
- C. This policy is also intended to apply to non-employees to the extent that they are discriminated against or harassed by City of Carson employees, any persons serving on the City Council, a City board or a commission, special employees, or any persons providing services pursuant to a contract with the City as described in Government Code Section 12940(j)(1).
- D. It shall be deemed a violation of this policy to engage in the conduct described herein even if it does not rise to the level of legally actionable harassment or discrimination. (Ord. 16-1581, § 2)

21101 Discrimination and Harassment.

- A. Under this policy, "discrimination" includes, but is not limited to:

1. Any practice, process or action in the workplace which works against equality of opportunity and against the ability of each person to be employed and to advance on the basis of merit without regard to the following protected categories/status:

- a. Age (forty (40) and over);
- b. Ancestry;
- c. Color;
- d. Religious creed (including religious dress and grooming practices);
- e. Denial of family and medical care leave;
- f. Disability (mental and physical) including HIV and AIDS;
- g. Marital status;
- h. Medical condition (cancer and genetic characteristics);
- i. Genetic information;
- j. Military and veteran status;
- k. National origin (including language use restrictions);
- l. Race;
- m. Sex (which includes pregnancy, childbirth, breastfeeding and medical conditions related to pregnancy, childbirth or breastfeeding);
- n. Gender, gender identity, and gender expression;
- o. Sexual orientation;
- p. Any other basis protected by Federal and/or State law.

2. Basing an employment decision affecting a job applicant or employee (e.g., decision to hire, promote, transfer, terminate, etc.) on one's protected status.

3. Treating an applicant or employee differently with regard to any aspect of employment because of his or her protected status.

4. Taking adverse employment action (e.g., demotion, transfer, discipline, termination) against an employee based on the employee opposing discrimination and/or harassment in the workplace, assisting, supporting, or associating with a member of a protected category/status who complains about discrimination and/or harassment, or assisting in an investigation of discrimination and/or harassment.

- B. Under this policy, "harassment" is defined by the existence of the following elements:

1. Conduct that is based on a protected category/status;

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2. Conduct that is unwelcome;

3. Workplace harm that creates a hostile work environment or results in a tangible employment action (quid pro quo).

C. Even if conduct does not constitute a hostile work environment, it still may be misconduct that is cause for discipline. Examples of actions that may lead to workplace harassment complaints based on a hostile work environment and which are prohibited include, but are not limited to, the following:

1. Visual harassment, such as posters, photographs, letters, notes, email, cartoons, or drawings related to the person's protected category/status.
2. Verbal harassment, such as epithets, derogatory comments/statements, vulgar, racist or other discriminatory jokes, or slurs based upon a person's protected category/status.
3. Physical harassment, such as assault, blocking or impeding access or other physical interference, sabotaging work or imposing demeaning work tasks based upon a person's protected category/status. (Ord. 16-1581, § 2)

21102 Sexual Harassment.

A. Sexual harassment includes harassment based on sex or of a sexual nature, gender harassment, and harassment based on pregnancy, childbirth, or related medical conditions.

B. The definition of sexual harassment includes many forms of offensive behavior, including harassment of a person of the same gender as the harasser.

C. Sexual harassment can take the form of, but is not limited to:

1. Unwanted sexual advances.
2. Offering employment benefits in exchange for sexual favors.
3. Making or threatening reprisals after a negative response to sexual advances.
4. Visual conduct, including leering, making sexual gestures, displaying of suggestive objects or pictures, cartoons or posters.
5. Verbal conduct, including making or using derogatory comments, epithets, slurs, and jokes.
6. Verbal abuse of a sexual nature, graphic verbal commentaries about an individual's body, sexually degrading words used to describe an individual, suggestive or obscene letters, notes or invitations.
7. Physical conduct, including touching, assault, impeding or blocking movements.

D. Sexual harassment can occur in a variety of circumstances, including but not limited to the following:

1. The victim as well as the harasser may be a woman or a man. The victim does not have to be of the opposite sex.
2. The harasser can be the victim's supervisor, a supervisor in another area, a manager, a co-worker, or a non-employee.
3. The victim does not have to be the person harassed but could be anyone affected by the offensive conduct.
4. Unlawful sexual harassment may occur without economic injury to or termination of the victim.

E. "Hostile work environment" cases are a type of sexual harassment that can result from various forms of conduct, including, but not limited to, the following:

1. Visual harassment: leering/staring, making sexual gestures, inappropriate gifts, and displaying suggestive or pornographic objects, pictures, magazines, cartoons, posters, letters, notes, or emails.
2. Verbal harassment: making or using derogatory comments, epithets, slurs and jokes. Comments about body parts or physical appearance, innuendo, unwanted sexual advances, unfulfilled threats of employment benefits/detriments in exchange for favors, pressure for dates, discussion of a sexual nature, questioning a person's sexual practice or history, and sexually degrading words used to describe an individual.
3. Physical conduct: touching, assault, impeding or blocking movements.

F. "Quid pro quo ('this for that') harassment" cases are another type of sexual harassment. "Quid pro quo" harassment can occur when submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting that individual, such as a promotion, raise, hiring, or performance appraisal. This kind of sexual harassment can only be perpetrated by a supervisor, manager or other person who has the authority to affect the employee's terms and conditions of employment.

G. Examples of actions that may lead to sexual harassment complaints and which must be avoided include, but are not limited to, those listed below:

1. Unwanted sexual advances or pressure for dates or sexual favors.
2. Making implicit or explicit offers of employment benefits in exchange for sexual favors.
3. Making implicit or explicit threats of retaliation for negative responses to sexual advances.
4. Leering, sexual looks or sexual gestures with hands or through body movements.
5. Unwanted touching, including hugging, kissing, patting or stroking.
6. Pinching, grabbing, assaulting, impeding or blocking movements.

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7. Sexually suggestive objects or pictures, cartoons or posters in the workplace or on computer systems (including email and the Internet).
8. Graphic verbal commentaries about an individual's body.
9. Sexually degrading words used to describe an individual, including inappropriate sex oriented comments about appearance, including dress or physical features.
10. Lewd propositioning.
11. Unwanted written communications, telephone calls, or personal gifts.
12. Sexual teasing, jokes, remarks or questions.
13. Referring to an adult as a "girl," "hunk," "doll," "babe," or "honey" or whistling at someone.
14. Sexual innuendos or stories.
15. Asking about sexual fantasies, preferences or history.
16. Questions about sexual life.
17. Sexual comments about a person's clothing, anatomy or looks.
18. Telling lies or spreading rumors about a person's personal sex life.
19. Giving massages, touching a person's clothing, hair or body.

H. Even if conduct does not constitute sexual harassment, it may still be misconduct that is cause for discipline.

I. Employers must take all reasonable steps to prevent discrimination and harassment from occurring. To that end, the City has prepared this policy, distributed a brochure on sexual harassment, and posted in the workplace a poster made available by the Department of Fair Employment and Housing. The City further provides training and education to managers and supervisors regarding sexual harassment as required by law. (Ord. 16-1581, § 2)

21103 Procedure.

A. Complaints of Discrimination or Harassment.

1. If any City employee, volunteer, intern, or applicant believes that he or she has been subjected to discrimination or harassment, including sexual harassment, he or she has the right to report the incident to any manager or supervisor, and the right to file a complaint with the Department of Human Resources. The Director of Human Resources or his or her designee shall interview the individual filing a complaint and the individual may be accompanied by a person of his or her choice, as long as that person is not an involved party or a witness. Other individuals will be interviewed as necessary. If the complaint is against the Director of Human Resources, then the complaint should be filed with the City Attorney's office.
2. Complaints of acts of discrimination or harassment, including sexual harassment, that are in violation of the City's discrimination and harassment prevention policy will be accepted in writing or orally, and any anonymous complaint will be taken seriously and investigated. Anyone who has observed or been the target of discrimination or harassment, including sexual harassment, should report it to the Director of Human Resources.
3. Additionally, individuals can also file complaints with the Equal Employment Opportunity Commission within three hundred (300) days and with the Department of Fair Employment and Housing within three hundred sixty-five (365) days of the most recent alleged event of discrimination or harassment, including sexual harassment.

B. Investigation.

1. When the Department of Human Resources receives a complaint, the allegations will be promptly investigated in a fair and expeditious manner. The investigation will be conducted in such a way as to maintain confidentiality to the extent practicable, but confidentiality is neither guaranteed nor likely if discipline is ultimately determined necessary because any employee being so disciplined has the right to a full copy of the investigation report upon which the discipline is based.
2. If it is determined that a violation of this policy has occurred, the City will act promptly to correct the offending conduct, and where it is appropriate, disciplinary action will be imposed.

C. Disciplinary Action.

1. If it is determined that a violation of this policy has been committed by a City employee, the City will take such action as is appropriate under the circumstances. Such action may range from counseling to termination from employment, and may include such other forms of disciplinary action as is appropriate under the circumstances.
2. If it is determined that a violation of this policy has been committed by a non-City employee, the City will take such action as is appropriate under the circumstances. Such action may range from notifying the non-City employee's employer, filing a complaint with said employer, or other such reasonable action designed to stop the offending conduct.

D. Duties of Supervisors and Managers.

1. Inform all employees of City policy and their rights and recourse for activities which come under the discrimination and harassment prevention policy.
2. Immediately take action when informed of any alleged violations of the discrimination and harassment prevention policy by informing the Director of Human Resources and seek consultation regarding any remedial or investigative response needed to immediately stop continued alleged violations.

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3. Recognize that managers and supervisors should report to the Department of Human Resources any instances of discrimination or harassment, including sexual harassment, of which they are aware, and instances of discrimination or harassment, including sexual harassment, of which they should be aware in the normal course and scope of their management responsibility.
4. Recognize that managers and supervisors should report to the Department of Human Resources any instances of discrimination or harassment, including sexual harassment, of which they are aware, and instances of harassment of which they should be aware in the normal course and scope of their management responsibility even if the employee being subject to alleged discrimination or harassment, including sexual harassment, asks that it not be reported or that no action be taken. (Ord. 16-1581, § 2)

21104 Exceptions.

None. (Ord. 16-1581, § 2)

The Carson Municipal Code is current through Ordinance 18-1817, passed October 2, 2018.

Disclaimer: The City Clerk's Office has the official version of the Carson Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above

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