

808.26: Harassment

Objective:

To establish a reporting and investigation procedure for complaints of harassment made by or against City employees.

Authority:

This policy amended by City Council August 23, 2021, Item A-6.

Direction:

Human Resources Division Manager, who, as an appointed official, serves at the pleasure of the Mayor, and receives direction through the Chief Administration Officer (CAO) or Designee.

Functions:

1. Definitions

The following words, for the purpose of this procedure, shall mean:

- a. City – is the City of Orlando Government
- b. Employee – Is any person who is on the payroll of the City of Orlando.
- c. Harassment – Is any verbal or physical conduct, whether committed while on or off duty, that denigrates or shows

hostility or aversion toward an individual because of his/her race, color, religion, gender, gender identity, national origin, age, sexual orientation, disability, pregnancy, or genetic information or that of his/her relatives, friends, or associates and that for a reasonable person:

- i. Has the purpose or effect of creating an intimidating, hostile, or offensive work environment;
- ii. Has the purpose or effect of unreasonably interfering with an individual's work performance; or
- iii. Otherwise adversely affects an individual's employment opportunities.

Examples of harassment include, but are not limited to, epithets, slurs, negative stereotyping or threatening, intimidating, or hostile acts, that relate to race, color, religion, gender, gender identity, national origin, age, sexual orientation, disability, pregnancy, or genetic information, or any display of written or graphic material that denigrates or shows hostility or aversion toward an individual or group because of the same.

- d. Sexual Harassment is a type of employment discrimination. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitutes sexual harassment when submission to or rejection of this conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile, or offensive work environment.

While people may sometimes make comments or jokes without intending harm or realizing that their conduct is offensive to someone else, those actions can be unwanted and can create

a level of discomfort and stress that interferes with the ability of employees to perform their duties. Preventing a hostile work environment requires awareness by everyone in the City of the impact that these actions may have on others.

Sexual harassment may include a range of subtle and not-so-subtle behaviors and may involve individuals of the same or different genders. While it is not possible to list all circumstances that may constitute sexual harassment, a partial list of unwelcome behavior that may be considered sexual harassment includes:

- i. Making subtle or direct advances or propositions for sexual favors;
- ii. Using sexual language or epithets;
- iii. Making inappropriate comments about an individual's body or dress;
- iv. Making comments about an individual's sexual prowess or deficiencies;
- v. Making sexual jokes;
- vi. Engaging in flirtation or making sexual innuendoes;
- vii. Touching, which may include brushing against the body, squeezing, hugging, massaging, or patting;
- viii. Uttering sexually suggestive insults or obscene comments;
- ix. Making sexual gestures;
- x. Coercing sexual acts;

- xi. Displaying sexually revealing or derogatory pictures, posters, or cartoons;
- xii. Circulating, whether in print or in electronic form, literature, games, or communications (for example, articles, magazines, social media, or emails) of a sexual nature;
- xiii. Asking questions about sexual activities;
- xiv. Suggesting or demanding sexual favors in exchange for promotions, continued employment, or promises of the same; and
- xv. Sexually assaulting someone.

A perpetrator of sexual harassment can be a superior, a subordinate, a coworker or anyone in the workplace including an independent contractor, contract worker, vendor, client, customer, or visitor.

- e. Abusive or Disrespectful Conduct is conduct or speech that is abusive or demeaning to an individual in a manner that is inappropriate in the workplace.

2. Policy

The City strongly disapproves of and does not tolerate harassment, sexual harassment or abusive or disrespectful conduct, whether made verbally, in writing, electronically, via social media or any other means. All employees must avoid offensive, disrespectful or unprofessional behavior and are responsible for assuring that the workplace is free from such behavior at all times. The City shall discipline any employee who commits such conduct. Complaints of such behavior will be promptly and carefully investigated and all

employees are assured that they will be free from any and all reprisal or retaliation from filing such complaints.

3. Complaint Procedures

a. Harassment:

- i. Employees who believe they are being subjected to harassment must report the conduct to their immediate supervisor or to the Human Resources Division/Labor Relations Section. If the complaint is concerning a superior, the employee may alternatively report the conduct to the next person up in his/her chain of command. Employees in the Orlando Police Department may alternatively file their complaint with the Internal Affairs Section for the Police Department. Employees of the Orlando Fire Department who wish to file a complaint against any OFD Firefighter, including all civil service ranks, or appointed officials of the OFD, may also file their complaint with the OFD Professional Standards Officer located in the Orlando Police Department's Internal Affairs Section.
- ii. An investigation of the complaint will be conducted by the appropriate supervisor or as otherwise assigned, who shall notify the Human Resources Division/Labor Relations Section of the investigation. To the extent possible and as permitted by law, the investigation will otherwise remain confidential until concluded.
- iii. If the validity of the complaint cannot be determined, management will ensure that all parties are reacquainted with the City policy on harassment.

b. Sexual Harassment

- i. The City strongly encourages employees to promptly report any complaints of sexual harassment so that it can take prompt and constructive action. Early reporting and intervention are the most effective methods of addressing Policy violations. Employees who believe that they have been subjected to sexual harassment may report the conduct to the Human Resources Division/Labor Relations Section. Employees in the Orlando Police Department may alternatively file their complaint with the Internal Affairs Section for the Police Department. Employees of the Orlando Fire Department who wish to file a complaint against any OFD Firefighter, including all civil service ranks, or appointed officials of the OFD, may also file their complaint with the OFD Professional Standards Officer located in the Orlando Police Department's Internal Affairs Section.
- ii. The Human Resources Division/Labor Relations Section investigation will include interviews with all relevant witnesses including the complainant, the accused and other potential witnesses.
- iii. To the extent possible and as permitted by law, the investigation will remain confidential until concluded.
- iv. Any employee interviewed during the course of an investigation may be accompanied to the interview by a union representative, attorney, or fellow employee.
- v. The Human Resources Division/Labor Relations Section will review its findings with the complainant at the conclusion of its investigation. The investigative report will be submitted to Department Director or Chief Administrative Officer (CAO) or designee for review and appropriate action, up to and including termination, if discipline is deemed to be necessary. If the validity of the

complaint cannot be determined, immediate and appropriate action will be taken to assure that all parties are reacquainted with this sexual harassment policy.

- vi. If the validity of the complaint cannot be determined, immediate and appropriate action will be taken to assure that all parties are reacquainted with this sexual harassment policy.
- vii. This procedure is in no way intended to prevent an aggrieved employee from pursuing a claim through local, State, or Federal agencies. Please see contact information in the Appendix.

c. Abusive or Disrespectful Conduct

- i. Employees who believe they are being subjected to abusive or disrespectful conduct in the workplace must report the conduct to their immediate supervisor or to the Human Resources Division/Labor Relations Section. If the complaint is concerning the superior, the employee may alternatively report to the next person up in his/her chain of command. Employees in the Orlando Police Department may alternatively file their complaint with the Internal Affairs Section for the Police Department. Employees of the Orlando Fire Department who wish to file a complaint against any OFD Firefighter, including all civil service ranks, or appointed officials of the OFD, may also file their complaint with the OFD Professional Standards Officer located in the Orlando Police Department's Internal Affairs Section.
- ii. An investigation of the complaint will be conducted by the appropriate supervisor or as otherwise assigned who shall notify the Human Resources Division/Labor Relations Section of the investigation.

d. Referral to Services

- i. Employees who file complaints under this policy shall be advised about the availability of the Employee Assistance Program (EAP) and other appropriate resources.

e. Retaliation Prohibited

- i. Retaliation against any employee for filing a harassment or discrimination complaint, or for assisting, testifying, cooperating or participating in the investigation of such a complaint is strictly prohibited. Moreover, this Policy strictly prohibits retaliation against an individual who has engaged in protected activity such as opposing any practice made unlawful by Title VII, filing a charge with the Equal Employment Opportunity Commission or the Florida Commission on Human Relations; or testifying, assisting, or participating in any manner in an investigation, proceeding, or hearing under Title VII. Retaliation will be treated with the same strict discipline as the City treats prohibited harassment or discrimination.
- ii. Retaliation should be reported in the same manner as harassment and will be handled in a similar fashion.
- iii. The City, by and through its officials, agents, employees, and all other persons in active concert or participation with the City, shall not threaten to retaliate against, or retaliate against, or take any action that might deter a reasonable person from asserting rights protected by equal employment opportunity laws because that person has engaged in protected activity such as opposing any practice made unlawful by Title VII of the Civil Rights Act of 1964, as amended (“Title VII”); filing a charge with the Equal Employment Opportunity Commission or the

Florida Commission on Human Relations; or testifying, or assisting or participating in any manner in an investigation, proceeding, or hearing under Title VII.

- iv. Any employee who believes that they have been a victim of retaliation must report the conduct to the Human Resources Division/Labor Relations Section. Employees in the Orlando Police Department may alternatively file their complaint with the Internal Affairs Section for the Police Department. Employees of the Orlando Fire Department who wish to file a complaint against any OFD Firefighter, including all civil service ranks, or appointed officials of the OFD, may also file their complaint with the OFD Professional Standards Officer located in the Orlando Police Department's Internal Affairs Section.

f. Managerial and Supervisory Responsibilities

- i. All managers and supervisors have a duty to monitor their workforce and to take action to prevent any type of conduct that may violate this Policy. All managers and supervisors, regardless of whether the conduct is committed by managers or employees, must immediately and without exception report the conduct to the Human Resources Division/Labor Relations Section, even if the apparent victim does not wish to make a complaint or asks that the information be kept confidential. The failure of a manager or supervisor to monitor, take appropriate action, or report a potential violation of this policy may be grounds for disciplinary action against the manager or supervisor, including, but not limited to, notation in the manager's performance appraisal, verbal warning, written warning, suspension, demotion, or termination.

- ii. It is further the duty of every employee to cooperate in the investigation of any alleged violation of this policy.

- g. Disciplinary Action

- i. Disciplinary action, if warranted, will be taken for any violation of this policy, in accordance with Policy and Procedure 808.20 and applicable collective bargaining agreements.

Forms:

None.

Committee Responsibilities:

None.

Reference:

Section 703(a)(1) of Title VII of the Civil Rights Act of 1964; Equal Pay Act of 1963; the Age Discrimination in Employment Act of 1967; Title I of the Americans with Disabilities Act of 1990; 42 U.S.C. '2000e-(a)(1); Title II of the Genetic Information Nondiscrimination Act of 2008; Executive Order 11246 as amended by Executive Order 11375. Procedure adopted by City Council July 20, 1981, Item 11; amended April 6, 1992, Item 2(II); amended June 21, 1993, Item 2-P; amended January 10, 1994, Item 8-K; amended July 17, 2000, Item 3-FF; amended September 11, 2000, Item 7X; amended September 15, 2003; re-formatted only April 2004; amended May 10, 2010, Item A-2; amended July 28, 2014, Item A-1; amended November 12, 2018, Item A-5; amended September 21, 2020, Item A-2; amended December 7, 2020, Item A-6; amended August 23, 2021, Item A-6.

Date:

This policy effective August 23, 2021.

Appendix

Legal Protections and External Remedies

Discrimination and harassment are not only prohibited by City policy but are also prohibited by federal and state law. Aside from the internal process at the City, which is outlined above, covered individuals may also choose to pursue legal remedies with the following governmental agencies at any time. However, note that these entities and laws have time limits within to file complaints.

A. Florida Commission on Human Relations (FCHR)

The Florida Civil Rights Act (FCRA) applies to employers in Florida with regard to discrimination and harassment and protects employees. A complaint may be filed either with the FCRA or the Equal Employment Opportunity Commission. Complaints may be filed no later than 365 days after the prohibited personnel action (e.g., termination of employment). There is no cost to file a complaint.

Complaining internally to the City does not extend your time to file with FCHR. The complaint must be filed within one year from the date of the most recent incident of alleged discrimination or harassment.

FCHR's main office contact information is:

Phone: (850) 488-7082

Toll-Free: 1-800-342-8170

Email address: fchrinfo@fchr.myflorida.com

Website: <http://fchr.myflorida.com>

To file a complaint online: <https://fchr.myflorida.com/employment-taq-form>

B. United States Equal Employment Opportunity Commission (EEOC)

The EEOC enforces federal anti-discrimination laws, including Title VII of the Civil Rights Act of 1964 (codified as 42 U.S.C. § 2000e et seq.). An individual can file a complaint with the EEOC anytime within 300 days from the day the discrimination took place. There is no cost to file a complaint with the EEOC. The EEOC will investigate the complaint and determine whether there is reasonable cause to believe that discrimination has occurred.

If an individual believes that they have been discriminated against at work, they can file a “Charge of Discrimination.” The EEOC has district, area, and field offices where complaints can be filed. Contact the EEOC by calling 1-800-669- 4000 (1-800-669-6820 (TTY)), visiting its website at www.eeoc.gov or emailing info@eeoc.gov.

C. Contact Local Law Enforcement

If the harassment involves physical touching, coerced physical confinement, or coerced sex acts, the conduct may constitute a crime. An individual should contact the appropriate local law enforcement agency (e.g., sheriff’s office or local police department).