

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 December 7, 2020, Item A-6.

Direction:

Department Directors, Office Heads, Division Managers.

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 any verbal or physical conduct, whether committed while on or off duty, of a sexual nature or with sexual overtones, unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when 1) submission to such conduct is made either explicitly or implicitly 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 unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

Examples of sexual harassment include, but are not limited to, lewd or sexually suggestive comments; off-color language or jokes of a sexual nature; slurs and other verbal, graphic or physical conduct relating to an individual's sex; lewd or sexually suggestive text messages or messages or posts on social media; or any display of sexually explicit pictures, greeting cards, articles, books, magazines, photos or cartoons.

- 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 or Orlando Fire Department may alternatively file their complaint with the internal investigative unit for the Department.

- 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. Employees who believe that they have been subjected to sexual harassment must timely report the conduct to the Human Resources Division/Labor Relations Section. Employees in the Orlando Police Department or Orlando Fire Department may alternatively file their complaint with the internal investigative unit for the Department.
- 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.
- c. Abusive or Disrespectful Conduct
- i. Employees who believe they are being subjected to abusive or disrespectful conduct in the workplace are 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 or Orlando Fire Department may alternatively file their complaint with the internal investigative unit for their Department.
 - 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 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. 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 or Orlando Fire Department may alternatively file their complaint with the internal investigative unit for the Department.

f. Managerial and Supervisory Responsibilities

- i. It is the duty of every manager and supervisor to monitor their workforce and to take action to prevent any type of conduct prohibited by this policy. Any manager or supervisor observing or otherwise made aware of prohibited conduct must report the conduct to the Human Resources Division/Labor Relations Section, investigate that conduct, and take appropriate disciplinary action pursuant to section g. 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.

Date:

This policy effective December 7, 2020.
