

MIAMI BEACH CITYWIDE PROCEDURE	DATE ISSUED: DECEMBER 2017	Page: 1 Of: 4	SEQUENCE NUMBER: HR.16.04
	DATE UPDATED:		
	SUBJECT: PROHIBITED DISCRIMINATION AND HARASSMENT		
	RESPONSIBLE DEPARTMENT: HUMAN RESOURCES		

## PURPOSE

It is the intent of the City of Miami Beach to ensure a workplace for its employees that is free of any type of discrimination or harassment based on actual or perceived race, color, sex, age, national origin, disability, religion, genetic information, marital status, political affiliation, sexual orientation, gender identity, or familial status. The City complies with Title VII of the Civil Rights Act of 1964 as amended (1991), Title I of the American with Disabilities Act of 1990 as amended (2009), as well as other applicable federal, state, and county laws and regulations prohibiting discrimination and harassment.

Decisions and practices based on an individual's protected status (e.g., race, color, sex or the other categories listed above) that unlawfully affect employment and/or the compensation, terms, conditions or privileges of an individual's employment or potential employment with the City are prohibited by this administrative procedure. This includes unlawful employment decisions, actions, policies or practices regarding job advertisements, recruitment, applications, testing, hiring, job referrals, work assignments, promotions, pay and benefits, working conditions, performance evaluations, transfers, discipline, discharge, constructive discharge, dress code, employment references, reasonable accommodations for disability or for religion, training and apprenticeship opportunities, and any other terms and conditions of employment.

The City of Miami Beach soundly protects its employees from discrimination, harassment, or intimidation of any kind by any supervisor, co-worker, vendor, client, customer, or volunteer. The City expects its employees to display tolerance and inclusion when interacting with people different from themselves. The City will investigate any claims of violation of these principles thoroughly, fairly, and without reprisal. **Discrimination and harassment are considered misconduct and are unacceptable behavior that will not be tolerated. Violations of this administrative procedure will be a cause for disciplinary action up to and including termination.**

## DEFINITIONS

### Harassment:

All employees are entitled to perform their work in an environment free from illegal harassment, either overt or covert, regardless of race, color, sex, age, national origin, disability, religion, genetic information, marital status, political affiliation, sexual orientation, gender identity, or familial status. Any conduct that has the purpose or effect of interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment based on any of the above-mentioned protected criteria is prohibited. Forms of harassment may include, but are not limited to, the use of vulgar language, abusive acts or language, hostility, physical aggression, intimidation, or unequal treatment. Further, no person shall be subjected to any derogatory remarks, epithets, jokes, slurs, cartoons, drawings, symbols, pictures, photographs, publications, internet websites, videos, emails, text messages, demeaning gestures or language relating to above listed protected characteristics.

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### **Sexual Harassment:**

No employee, either male or female, shall be subjected to unsolicited and unwelcome sexual overtures or conduct, either verbal or physical. The federal government has created guidelines which define sexual harassment as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when: (1) submission to the conduct is either an explicit or implicit term or condition of employment; (2) submission to or rejection of the conduct is used as a basis for an employment decision affecting the person rejecting or submitting to the conduct; or (3) the conduct has the purpose or effect of sufficiently interfering with an affected person's work performance or creating an intimidating, hostile, or offensive work environment.

Specifically, it is a violation of this administration procedure for any employee to sexually harass another employee by making acceptance of unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature a condition of an employee's continued employment; making submission to or rejection of such conduct the basis for employment decisions affecting the employee; or creating an intimidating, hostile or offensive environment by such conduct. Examples of inappropriate conduct include: remarks of a sexually suggestive nature, sexual innuendo, propositions, offensive jokes, staring, ogling, leering, whistling, unnecessary touching, patting, hugging, brushing against a person's body or blocking normal movement. These are merely examples of inappropriate conduct; it is not an all-inclusive list.

### **Applicants/employees with disabilities:**

Discrimination against a person based on the person's actual or perceived disability, record of disability or relationship with a person with a disability will not be tolerated by the City. The City will take appropriate action to provide reasonable accommodations to qualified employees and applicants with known disabilities, unless providing such accommodations creates an undue hardship. Employees with disabilities have a responsibility to inform the Human Resources Department regarding their requests for reasonable accommodations to improve their access to employment opportunities.

All questions, comments or complaints regarding access of qualified individuals with disabilities to the application process or employment, or alleged discrimination in employment, based upon a qualified applicant's or employee's disability or relationship or association with a person with a disability should be directed to the Human Resources Director.

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## **DUTY TO REPORT**

All employees of the City of Miami Beach are responsible for ensuring that discrimination, harassment and retaliation do not occur in the workplace. Any employee who believes he or she has been subjected to any action, decision or harassment in violation of this administrative procedure or who observes such conduct, is urged to promptly report the incident(s) to the City's Human Resources Director as described in the reporting procedures below. Supervisors, managers, or human resources personnel who receive EEO complaints, or who otherwise become aware of any improper harassment or discrimination, must notify the Human Resources Director immediately. Any supervisor or manager who has knowledge of such behavior yet takes no action to end it is also subject to disciplinary action.

## **PROCEDURE**

1. Any employee subjected to unlawful discrimination, harassment and/or retaliation should immediately make a complaint to the Human Resources Director. In the event that the complaint involves the Human Resources Director the complaint should be made to the Assistant City Manager who oversees Human Resources.
2. An employee who believes that this administrative procedure has been violated may report the incident orally or in writing. Where the complaint is taken orally, the Human Resources Director shall document the complaint.
3. Investigation: All complaints will be investigated in a fair, thorough and timely manner. Depending on the nature of the complaint, an investigation of a complaint will normally include conferring with the parties involved and any named or apparent witnesses. However, upon completion of the investigation and a determination as to what, if any, remedial actions must be taken, both the complainant and the alleged harasser/discriminator will be informed as to the outcome of the investigation.
4. Remedial Action: If the investigation reveals that the complaint is valid, prompt and appropriate remedial actions will be taken to stop the discrimination or harassment immediately and to prevent its recurrence. When discrimination or harassment is established, appropriate disciplinary action, up to and including termination may be taken.
5. Confidentiality: Every attempt will be made to deal with each complaint in as confidential a manner as possible within the confines of undertaking the investigation. Anyone involved in the investigation of a complaint will be instructed that the investigation is confidential and should not be discussed with co-workers. Workplace gossip or "water cooler talk" about the complaint is strictly prohibited.
6. False Accusations: The City recognizes that false accusations of discrimination and/or harassment can have serious effects on innocent individuals. If any employee

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knowingly makes a false accusation of discrimination or knowingly provides false information in the course of an investigation of a complaint, such conduct may be grounds for discipline. A complaint made in good faith, even if found to be unsubstantiated, will not be considered a false accusation.

7. **Withdrawal of Complaint:** A complaint of discrimination may be withdrawn at any time by the person who filed the complaint. In some instances, the Human Resources Director will find it appropriate to end the investigation when the complaint is withdrawn. However, prior to ending an investigation, the Human Resources Director must determine whether the City should take corrective action to address inappropriate conduct. If the Human Resources Director determines that corrective action is required, it may be necessary for the Human Resources Director to continue the investigation or recommend action to remedy inappropriate behavior.

The City encourages any employee to raise questions he or she may have regarding discrimination and harassment to the City's Human Resources Director.

All employees shall be protected from coercion, intimidation, retaliation, discrimination and/or harassment for filing a complaint of discrimination or harassment; assisting an employee filing such a complaint; being related to or otherwise associated with an employee filing such a complaint; or for assisting in an investigation of a complaint of discrimination or harassment. Any employee engaged in retaliation against a complainant, an employee who assisted or who is related to or otherwise associated with a complainant, or any employee who assisted in an investigation, will face appropriate disciplinary action up to and including termination.

Prepared by:

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Director, Human Resources

Reviewed by:

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Internal Auditor

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Assistant City Manager

Approved by:

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City Manager

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Date

12/18/17