

JUN 17 2008

DATE: May 27, 2008

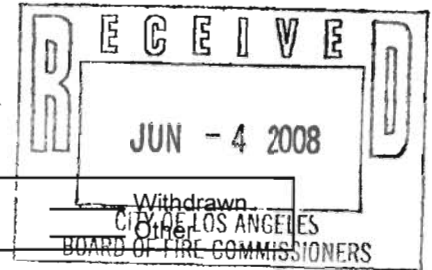
BOARD OF FIRE COMMISSIONERS
FILE NO. 08-043-R2

TO: Board of Fire Commissioners

FROM: Beatrice R. Lopez, Commission Staff

SUBJECT: DISCRIMINATION PREVENTION POLICY HANDBOOK

FINAL ACTION: ☐ Approved ☐ Approved w/Corrections
☐ Denied ☐ Received & Filed



Recommendations

That the Board:

1. Approve the Discrimination Prevention Policy Handbook, commonly known as Book 90.
2. Direct the Fire Chief to ensure that the Discrimination Prevention Policy Handbook is distributed to all Fire Department employees and that it also be posted on the Department's Intranet.
3. Direct the Fire Chief to provide the Board of Fire Commissioners with the changes to the complaint procedures as soon as they are finalized.
4. Direct the Fire Chief to ensure that the revised complaint procedures are distributed to all Fire Department employees and that they be posted on the Department's Intranet.
5. Request that the Fire Chief consider updating the official name of Book 90 to the Discrimination Prevention Policy Handbook

Summary

On April 15, 2008 the Board of Fire Commissioners (BFC) considered the updates to the Discrimination Prevention Policy Handbook (BFC File No. 08-043), commonly known as Book 90. Commission staff then made further revisions as requested by the Board and additional input from the Department. The updated revision was submitted for BFC consideration on May 13, 2008.

At the May 20, 2008 BFC meeting, Commission staff requested additional time to meet with the Department. The meeting resulted in resolution of pending issues and additional revisions for clarification on PSD structure and reporting responsibilities.

This most current revision of the Handbook is submitted for your review and approval. The Handbook was updated to incorporate new City policies as well as changes in legislation, recent court decisions, and transitions responsibility for all complaints including EEO matters to PSD.

Major format revisions were made to the Handbook so that Department employees, supervisors and managers would have a ready reference to the Fire Department's policies, procedures, and guidelines for maintaining a discrimination free workplace. It is designed to provide relevant information to all employees of the Department. At the request of Commission staff, the Office of the City Attorney reviewed the Handbook. Their recommendations were incorporated in the Handbook. The Department's Personnel Services Section, as the responsible entity for

coordinating accommodation requests, provided the updates to the Disability and Reasonable Accommodation Policy and Accommodation Request Procedures.

A major addition to the Discrimination Prevention Policy addresses the hazing policy. In accordance with the Mayor's citywide policy against hazing, the Handbook explains the policy, describes some behaviors that violate City policy and puts employees on notice of their responsibility to comply with this directive.

Another new section in the policy handbook provides basic information about preventing discrimination based on sexual orientation in the workplace. The Mayor's policy directive forms the basis for this addition to Book 90. In it the Mayor directs Departments as follows:

- "...the Policy on Sexual Orientation Discrimination in Employment, Sexual Orientation Discrimination Complaint Procedure and Citywide Discrimination Complaint Procedure (to be issued by the Personnel Department) must be disseminated to all employees and included in departmental personnel manuals and training materials..."
- "Review all of the department's non-discrimination and harassment policies to ensure that all policies are in accordance with current law and that sexual orientation (not sexual preference) is explicitly included as one of the protected bases under State law."

Previous versions of Book 90 complied with the letter of the directive. This revision is an effort to fulfill the spirit of the Mayor's directive.

It should be noted that no significant revisions were made to the Fire Department's complaint and investigation procedures. The Department is currently in the process of staffing the Professional Standards Division and implementing its purpose in accordance with the Audit Implementation Plan. Complaint procedures and workflow tracking are in development and when finalized, they will be incorporated into Book 90.

Besides conforming to the mandates of the City policies, also informing this revision are the audit recommendations to establish an environment that creates a consistent and equitable workplace. This update contains information on current State laws, City policies and how to handle EEO issues. The new supervisory guides provide direction on creating a discrimination free workplace and strategies for handling complaints. Clearly, when Professional Standards Division finalizes its complaint procedures and tracking system process, they will become part of the information essential to all employees. Although the Department plans comprehensive training and distribution of these procedures to all sworn and civilian employees, inclusion in Book 90 is also appropriate to ensure full access for supervisors, employees and managers facing EEO matters.

Changes made since April 15, 2008 are identified in italics or strikethrough and are listed in the following chart:

Requested By	Page Number/Changes
Board	Format revised for clarity and ease in using Handbook: <ul style="list-style-type: none"> • One Table of Contents at beginning of Handbook • Entire document is numbered sequentially • All appendices are grouped at the end of the Handbook • Headers added to various Supervisory Guides that are located in the appendices • Typos corrected • Deletions/Revisions (clarity, duplications, consistency) <ul style="list-style-type: none"> p. 8, Hazing Activities list p. 10, Hazing Activities list p. 18, Fire Department Internal Procedure #2 p. 37, Fifth paragraph p. 38, Fire Department Internal Procedure #2 p. 97, City Procedures
Board	Page 69: <u>Creating A Supportive Work Environment</u> – bottom of page
Department	Page 1: Last paragraph – “color” inserted
Department	Page 2: Top paragraph, last sentence
Department	Page 3: Mid page
Department	Page 12: First and second paragraphs
Department	Page 17: Both bullet points
Department	Page 19: Fire Department Internal Procedure #4
Department	Page 20: Mid page
Department	Page 21: First and second paragraphs
Department	Page 37: Second paragraph, last sentence
Department	Page 38: Fire Department Internal Procedure #4 and Last paragraph
Department	Page 39: Last paragraph
Department	Page 44: First paragraph
Department	Page 45: Second paragraph
Department	Page 48: First paragraph and Bullet point under Injury-On-Duty (IOD) Accommodations

Board report prepared by Beatrice R. Lopez, Commission Office

Attachment

DRAFT TITLE PAGE



DISCRIMINATION PREVENTION POLICY HANDBOOK

(BOOK 90)

Revised May 27, 2008

DRAFT

LAFD DISCRIMINATION PREVENTION POLICY HANDBOOK

TABLE OF CONTENTS

INTRODUCTION.....	v
LAFD DISCRIMINATION PREVENTION POLICY AND COMPLAINT PROCEDURES	
I. DISCRIMINATION PREVENTION POLICY.....	1
A. POLICY STATEMENT.....	1
B. DEFINITIONS.....	2
Discrimination.....	2
Harassment.....	4
Hostile Environment.....	4
Retaliation.....	6
Hazing.....	7
Background.....	7
Definition.....	7
Hazing Activities.....	8
Explanation of Hazing.....	10
Complaint Processing.....	12
C. GENERAL COMPLAINT PROCEDURE.....	12
II. RESPONSIBILITIES AND CONSEQUENCES.....	13
A. OFFICER, MANAGER AND SUPERVISOR.....	13
Responsibilities.....	13
Consequences.....	15
B. EMPLOYEE.....	15
Responsibilities.....	15
Consequences.....	16
III. FILING A DISCRIMINATION COMPLAINT.....	17
A. INTRODUCTION.....	17
B. CONFIDENTIALITY.....	18
C. FIRE DEPARTMENT INTERNAL PROCEDURE.....	18
D. OTHER AVAILABLE CITY PROCEDURES.....	19
Board of Civil Service Commissioners.....	19
The City's Personnel Department – EEO Counselors.....	20
Department on Disability.....	21
Commission on the Status of Women.....	21

DRAFT

LAFD DISCRIMINATION PREVENTION POLICY HANDBOOK

E.	OUTSIDE AGENCIES	21
	State of California Department of Fair Employment and Housing.....	21
	Federal Equal Employment Opportunity Commission.....	22

LAFD SEXUAL HARASSMENT PREVENTION POLICY AND COMPLAINT PROCEDURES

I.	SEXUAL HARASSMENT PREVENTION POLICY	23
A.	POLICY	23
	Compliance.....	24
B.	DEFINITION OF SEXUAL HARASSMENT.....	24
	Types of Sexual Harassment.....	26
	Quid Pro Quo.....	27
	Hostile Work Environment.....	27
C.	SEXUALLY HARASSING BEHAVIORS.....	28
	Verbal Harassment.....	28
	Non-verbal Harassment.....	28
	Physical Harassment.....	28
	Visual Harassment.....	28
	Other Unwelcome Behaviors.....	29
D.	EMPLOYEES AND NON-EMPLOYEES COVERED BY THE PREVENTION POLICY AND COMPLAINT PROCEDURE.....	29
E.	RECOGNIZING SEXUAL HARASSMENT.....	29
F.	RETALIATION.....	31
II.	RESPONSIBILITIES AND CONSEQUENCES.....	33
A.	OFFICER, MANAGER AND SUPERVISOR.....	33
	Responsibilities.....	33
	Consequences.....	35
B.	EMPLOYEE.....	35
	Responsibilities.....	35
	Consequences.....	36
III.	FILING A SEXUAL HARASSMENT COMPLAINT.....	37
A.	INTRODUCTION.....	37
B.	FIRE DEPARTMENT INTERNAL PROCEDURE.....	37
C.	OTHER AVAILABLE CITY PROCEDURES.....	38
	The Personnel Department's Citywide Sexual Harassment Counselor.....	38
	Board of Civil Service Commissioners/City Personnel Department.....	39

DRAFT

LAFD DISCRIMINATION PREVENTION POLICY HANDBOOK

Commission on the Status of Women.....	40
D. OUTSIDE AGENCIES.....	40
State of California Department of Fair Employment and Housing.....	40
Federal Equal Employment Opportunity Commission.....	40
LAFD DISABILITY AND REASONABLE ACCOMMODATION POLICY AND ACCOMMODATION REQUEST PROCEDURES	
I. POLICY.....	41
II. LEGISLATION.....	41
III. DEFINITIONS.....	41
Qualified Individual With A Disability.....	42
Reasonable Accommodation.....	42
Essential Functions.....	42
Undue Hardship.....	42
Interactive Process.....	43
Major Life Activities.....	43
IV. PROCEDURES.....	43
A. ROLE OF THE REASONABLE ACCOMMODATION COORDINATOR.....	43
B. REQUESTING REASONABLE ACCOMMODATION.....	44
Employee Requests.....	44
Supervisor or Commanding Officer Initiated Requests.....	44
C. PROCESSING A REQUEST FOR REASONABLE ACCOMMODATION ASSESSMENT FORM.....	45
Civilian Employee with Temporary Restriction(s).....	45
Sworn Employee with Temporary Restriction(s).....	45
D. EVALUATING A REASONABLE ACCOMMODATION REQUEST.....	45
E. DETERMINING LIMITATIONS AND ACCOMMODATIONS.....	46
Pre-employment (Applicants).....	46
Current Department Employees.....	46
Non-Duty Related Injuries (NIOD) Accommodations.....	47
Injury-On-Duty (IOD) Accommodations.....	48
Injury-On-Duty (IOD) and Workers Compensation.....	49

DRAFT

LAFD DISCRIMINATION PREVENTION POLICY HANDBOOK

F.	CONFIDENTIALITY	49
G.	USE OF MEDICAL INFORMATION.....	50
H.	DOCUMENTATION.....	51
I.	ORDERING SPECIAL EQUIPMENT.....	51
APPENDIX A	.....	53
	SUPERVISORY GUIDE – STRATEGIES FOR PREVENTING HARASSMENT.....	55
APPENDIX B	.....	57
	SUPERVISORY GUIDE – COMPLAINT PROCESSING.....	59
APPENDIX C	.....	65
	SUPERVISORY GUIDE – SEXUAL ORIENTATION DISCRIMINATION PREVENTION.....	67
APPENDIX D	.....	79
	INFORMAL COMPLAINT FACT SHEET.....	81
APPENDIX E	.....	83
	DISCRIMINATION COMPLAINT INTAKE FORM.....	85
APPENDIX F	.....	89
	SUPERVISORY GUIDE – COMPLAINT PROCESSING FOR SEXUAL HARASSMENT COMPLAINTS.....	91
APPENDIX G	.....	97
	CITY POLICIES	
	Executive Directive No. PE-1: Equal Employment Opportunity, Non- Discrimination and Reasonable Accommodations.....	99
	Discrimination Free Workplace Policy.....	107
	Executive Directive No. 8: Zero Tolerance for Hazing of Fellow Employees.....	109
	Executive Directive No. 2001-35: Policy Against Sexual Orientation Discrimination in Employment.....	113
	CITY PROCEDURES	
	Discrimination Complaint Procedure.....	117
	Sexual Harassment Discrimination Complaint Procedure.....	123
	Sexual Orientation Discrimination Complaint Procedure.....	131
	Zero Tolerance for Hazing of Fellow Employees.....	139
	Hazing Complaint Procedure.....	139

DRAFT

LAFD DISCRIMINATION PREVENTION POLICY HANDBOOK

INTRODUCTION

HOW TO USE THIS HANDBOOK

This handbook is provided for your use as a ready reference and a summary of the Fire Department's policies, complaint procedures, and guidelines for maintaining a discrimination free workplace. It is designed to acquaint you with information that is relevant to all employees of the Department. You will find that it is to your advantage to read all the information in the handbook so that you have a complete understanding of the material covered. There are three parts to the handbook, as follows:

1. LAFD Discrimination Prevention Policy and Complaint Procedures
2. LAFD Sexual Harassment Prevention Policy and Complaint Procedures
3. LAFD Disability and Reasonable Accommodation Policy and Accommodation Request Procedures

It is important that all employees read, understand, and follow the provisions of the handbook. This handbook only highlights Department policies, practices, procedures, and benefits you professionally. It should not be construed as a contract or legal document.

The Board of Fire Commissioners reserves the right to amend, supplement, or rescind any provisions of this handbook, as it deems necessary. As revisions are made, updates will be distributed through the Department's routine distribution methods.

LAFD DISCRIMINATION PREVENTION POLICY AND COMPLAINT PROCEDURES DRAFT	I. DISCRIMINATION PREVENTION POLICY A. <u>POLICY STATEMENT</u>
--	---

I. DISCRIMINATION PREVENTION POLICY

A. POLICY STATEMENT

The Department maintains a zero tolerance policy toward discrimination, harassment and retaliation, which means that LAFD may take corrective actions up to and including termination when policy violations occur. The LAFD is dedicated to ensuring the fulfillment of this policy in all aspects of employment. Every employee in the Department is responsible for ensuring that the workplace is free of discrimination, harassment, and retaliation, and is expected to avoid any behavior or conduct that could be interpreted as such. LAFD will strictly enforce this policy because all forms of discrimination based on any of the protected classes are illegal, unprofessional and disrespectful.

The Fire Department is committed to providing a work environment in which all individuals are treated with respect and professionalism. It is the policy of this Department to provide equal employment opportunities to all employees and applicants on the basis of merit and to prevent discrimination, harassment, and retaliation in the workplace. In line with this policy, one of our core values states that “we always treat others as they desire to be treated”. Thus, every Department uniformed and civilian member are to treat one another in ways that mirror the respect we expect for ourselves. Discrimination and harassment have an impact on our ability to carry out our LAFD Vision Statement by negatively effecting our reputation. Consequently, each uniformed and civilian member is expected to monitor your own behavior and refrain from any action that will have a negative impact on others. Managers and supervisors are expected to perform their duties in a manner that fosters a professional and discrimination-free workplace and will be held accountable for maintaining such an environment.

In keeping with this commitment, the Department complies with all local, state and federal laws that give employees the right to work in an environment free from discrimination. Department policies and personnel practices which include, but are not limited to, recruitment, selection, advancements, work assignments, compensation, benefits, training, discipline and terminations have been and will continue to be established and administered without regard to race, *color*, national origin, ancestry, sex, sexual orientation, age, religion, creed, marital status, disability, medical condition, including having or being perceived as having AIDS or the HIV virus, or retaliation for engaging in any protected activity. Furthermore, the Department forbids harassment against any individual based upon his or her membership in a protected class and

LAFD DISCRIMINATION PREVENTION POLICY AND COMPLAINT PROCEDURES DRAFT	I. DISCRIMINATION PREVENTION POLICY A. <u>POLICY STATEMENT (cont.)</u> B. <u>DEFINITIONS</u> <u>Discrimination</u>
---	---

further forbids retaliation against anyone who opposes or reports discrimination or harassment or who participates in any such investigation or proceeding. *A complaint of retaliation may be filed and investigated even if the original allegations were unfounded.*

The Fire Department recognizes that all employees have the right to a workplace free from discrimination, harassment and retaliation. Any questions concerning this policy should be directed to the Fire Commission Office at (213) 978-3837 or (213) 482-6970.

B. DEFINITIONS

Discrimination

Discrimination is treating an individual differently in any employment practice or decision which intentionally or unintentionally results in unequal treatment on the basis of the individual's membership in a protected class, including:

- Race
- Color
- Religion
- National Origin
- Sex (including sexual harassment and gender identity or expression, which includes actual or perceived transgender status)
- Age
- Disability
- Marital Status
- Sexual Orientation
- Creed
- Ancestry
- Medical condition
- HIV/AIDS – acquired or perceived

Note: It is important to note that treatment that may be perceived as “unfair” may not necessarily be unlawful or a violation of the Department’s non-discrimination policies. Certain employment actions may be harsh, insensitive or unjust, but they do not become unlawful under the above laws or violate the Department’s policies unless the unfair treatment is motivated in part because of a person’s protected status.

LAFD DISCRIMINATION PREVENTION POLICY AND COMPLAINT PROCEDURES DRAFT	I. DISCRIMINATION PREVENTION POLICY B. <u>DEFINITIONS</u> <u>Discrimination (cont.)</u>
---	---

Discriminatory practices include, but are not limited to:

- Harassment on the basis of membership in a protected class;
- Retaliation against an individual for filing a charge of discrimination, participating in an investigation, or opposing discriminatory practices;
- Employment decisions based on stereotypes or assumptions about the abilities, traits, or performance of individuals of a certain sex, race, age, religion, or ethnic group, or individuals with disabilities; and
- Denying employment opportunities to a person because of marriage to, or association with, an individual of a particular race, religion, national origin, or an individual with a disability.

Examples of Discrimination

While it is not possible to list all circumstances that may be considered to be ~~impermissible~~ discrimination or harassment, some examples of conduct that may violate the Department's Discrimination Free Workplace Policy include, but are not limited to, the following:

- Making derogatory comments, slurs, jokes, remarks, rumors, or epithets;
- Displaying objects, cartoons, pictures or posters of a derogatory or discriminatory nature;
- Hazing of employees;
- Implying or actually withholding support for appointment, promotion, transfer, or change of assignment; initiating a rejection during probation or adverse action without a justified non-discriminatory business related reason;
- Displaying, transmitting, or forwarding Internet material of a discriminatory and/or offensive nature;
- Engaging in reprisals or threats against anyone who opposes discriminatory, harassing or offensive behavior.

LAFD DISCRIMINATION PREVENTION POLICY AND COMPLAINT PROCEDURES DRAFT	I. DISCRIMINATION PREVENTION POLICY B. <u>DEFINITIONS</u> <u>Harassment</u> <u>Hostile Environment</u>
---	---

Harassment

Harassment based upon membership in a protected class is a form of discrimination and is unlawful. It is generally defined as unsolicited and/or unwelcome verbal or physical conduct directed to an individual based on membership in a protected class when:

1. Submission to such conduct is explicitly or implicitly made a term or condition of employment;
2. Submission to or rejection of this conduct is used as a basis for an employment decision affecting the employee; or
3. Such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment.

Hostile Environment

Some forms of harassment may create a hostile environment in the workplace. A hostile environment is a work atmosphere contaminated by a pattern of offensive and unwelcome conduct directed at an individual's protected class status. A hostile environment is conduct of a verbal or physical nature that is sufficiently severe or pervasive so as to have the purpose or effect of unreasonably interfering with work performance or creating an intimidating, hostile, or offensive working environment. Anyone in the workplace might commit this type of harassment – an elected official, management employee, co-worker, or non-employee, such as a contractor, vendor or guest. The victim can be anyone affected by the conduct, not just the individual at whom the offensive conduct is directed.

Examples of actions that may create hostile environment based on sexual harassment include, but are not limited to:

- Leering, i.e., staring in a sexually suggestive manner
- Making offensive remarks about looks, clothing, body parts
- Touching in a way that may make an employee feel uncomfortable, such as patting, pinching or brushing against another's body
- Telling sexual or lewd jokes, hanging sexual posters, making sexual gestures, etc.
- Sending, forwarding or soliciting sexually suggestive letters, notes, emails, or images

LAFD DISCRIMINATION PREVENTION POLICY AND COMPLAINT PROCEDURES DRAFT	I. DISCRIMINATION PREVENTION POLICY B. <u>DEFINITIONS</u> <u>Hostile Environment (cont.)</u>
---	--

Other actions, which may result in hostile environment harassment include, but are not limited to:

- Use of racially derogatory words, phrases, epithets
- Demonstrations of a racial or ethnic nature such as a use of gestures, pictures or drawings which would offend a particular racial or ethnic group
- Comments about an individual's skin color or other racial/ethnic characteristics
- Making disparaging remarks about an individual's gender that are not sexual in nature
- Negative comments about a person's religious beliefs (or lack of religious beliefs)
- Expressing negative stereotypes regarding someone's birthplace or ancestry
- Negative comments regarding an individual's age when referring to people 40 and over
- Derogatory or intimidating references to a person's mental or physical impairment

In summary, illegal harassment that creates a hostile work environment generally requires several elements, including:

1. The complaining party must be a member of a protected class;
2. S/he was subjected to unwelcome verbal or physical conduct related to his or her membership in that protected class;
3. The unwelcome conduct complained of was based on his or her membership in that protected class;
4. The unwelcome conduct affected a term or condition of employment and/or had the purpose or effect of unreasonably interfering with his or her work performance and/or creating an intimidating, hostile or offensive work environment.

It should be noted that anti-discrimination statutes are not a general civility code. Thus, discrimination laws do not prohibit simple teasing, offhand comments, or isolated incidents that are not extremely serious. Rather, the conduct must be so objectively offensive as to alter the conditions of the individual's employment. The conditions of employment are altered only if the harassment culminates in a significant change in employment status or are sufficiently severe or pervasive to create a hostile work environment as defined above.

Consequently, a situation, in which a supervisor or coworker is being abrasive, aggressive or rude thus affecting workplace morale, may not meet the definition of hostile environment if all the elements listed above are not met. However, this does not mean this behavior should be ignored. Although boorish behavior is not likely to

LAFD DISCRIMINATION PREVENTION POLICY AND COMPLAINT PROCEDURES DRAFT	I. DISCRIMINATION PREVENTION POLICY B. <u>DEFINITIONS</u> <u>Hostile Environment (cont.)</u> <u>Retaliation</u>
---	--

support a hostile environment harassment claim, this conduct may result in Department or personal liability for other workplace or employment claims. Therefore, it is important to eliminate the climate of fear and intimidation from the work environment by supporting professional conduct.

It should also be noted that supervisors and managers are responsible for making personnel decisions in accordance with City personnel policies and procedures. These decisions include: selection of new employees; assignment of work and training opportunities; evaluation of work performance; and management of informal and formal discipline. Thus, implementing a personnel decision based on objective, job related criteria in accordance with City policy and procedure does not constitute harassment or hostile work environment.

Retaliation

Retaliation is an adverse employment action taken as a result of an employee participating in a protected activity. The Department prohibits retaliation against anyone for reporting discriminatory activity or harassment, assisting in making a discrimination complaint, or cooperating in an investigation.

Some examples of conduct, which may violate the Department's retaliation policy include, but are not limited to the following:

- Termination, demotion, disadvantageous transfers or assignments, failure to promote, threats, reprimands, negative evaluations;
- Co-worker hostility or retaliatory harassment, to include intimidation, gossip, rumors, insults, or otherwise offensive conduct that would subject a person to public ridicule or humiliation;
- Any action or combination of actions that is reasonably likely to materially and adversely affect an employee's job performance or opportunity for advancement;
- Other actions affecting employment such as threats, unjustified negative evaluations, unjustified negative references, or increased supervision;
- Any other action that is likely to deter reasonable people from pursuing their rights such as an assault or unfounded civil or criminal charges.

LAFD DISCRIMINATION PREVENTION POLICY AND COMPLAINT PROCEDURES DRAFT	I. DISCRIMINATION PREVENTION POLICY B. <u>DEFINITIONS</u> <u>Retaliation (cont.)</u> <u>Hazing</u>
---	---

Adverse actions do not include negative comments in an otherwise positive or neutral evaluation or negative comments that are justified by an employee's poor work performance or employment history. Employees are not excused from continuing to perform their jobs to standard or follow legitimate workplace rules just because they have filed a complaint or opposed discrimination.

Anyone experiencing or witnessing conduct they believe to be retaliation should immediately follow the complaint procedures described in this Handbook. Complaints of retaliation will be promptly investigated. If retaliation is substantiated, appropriate disciplinary action, up to and including possible dismissal, will be taken.

Hazing

BACKGROUND

Hazing is a form of harassment and is a violation of City Policy. Thus, acts of hazing are inappropriate behavior and not acceptable in the workplace. In keeping with the Department's Discrimination Prevention Policy, LAFD is committed to enforcing a policy of zero tolerance for any acts of hazing. This means LAFD may take corrective actions up to and including termination when violations occur. Hazing is not acceptable professional behavior. Tradition or payback can no longer shield the Department from responsibility for this type of conduct.

It is important for all LAFD employees to comply with this policy, as it is a matter of essential risk management as well as simple decency and respect for each other. Hazing, whether physical, psychological or verbal, on the basis of race, ethnicity, gender, religion, sexual orientation, accent, age, language, or any other legislatively or judicially prohibited grounds, can cause severe legal consequences, including significant monetary liability for the creation of a hostile work environment. Therefore, all employees and supervisors are responsible for taking measures in accordance with the policies and procedures of this Handbook to prevent hazing in the workplace.

DEFINITION

Hazing activities are defined as any action taken or situation created in the workplace, which causes or is likely to cause bodily danger, physical harm, or personal degradation or disgrace resulting in physical or mental harm to another employee. Hazing includes

LAFD DISCRIMINATION PREVENTION POLICY AND COMPLAINT PROCEDURES DRAFT	I. DISCRIMINATION PREVENTION POLICY B. <u>DEFINITIONS</u> <u>Hazing (cont.)</u>
--	---

but is not limited to any form of rite of passage, horseplay, or initiation that involves: engaging in illegal, harmful, demeaning or dangerous acts that are not consistent with City policy and the performance of job-related activities.

Hazing consists of a broad range of behaviors or activities that demonstrate disregard for another person's dignity or well being, or that may place another person in danger of physical or psychological harm. Even when demeaning or embarrassing behaviors do not appear overtly harmful in themselves, as where the participants appear to engage in them willingly, they may constitute hazing if they might cause humiliation or are perceived by non-participants as demeaning or degrading. Hazing also includes soliciting, directing, aiding, or otherwise participating actively or passively in activities such as those described below.

HAZING ACTIVITIES

The determination of whether a particular activity constitutes hazing will depend on the circumstances and context in which that activity occurs. Some examples of conduct that may constitute hazing, when used to mistreat, cause physical discomfort, intimidate, ridicule, frustrate, confuse, embarrass, cause undue stress or humiliate the participant, include but are not limited to the following:

- Creation of excessive fatigue;
- ~~Physical and/or psychological shocks;~~
- Forced, unnecessary exertions;
- Engaging in public stunts or buffoonery;
- Denial of food;
- Degrading or humiliating games and activities;
- Inappropriate application of substances to the body of another;
- Any type of physical activity such as sleep deprivation, exposure to the elements, confinement in a small space, or other activity that creates or results in an unreasonable risk of harm or that adversely affects the mental or physical health or safety of an individual;
- Wearing publicly any apparel which is conspicuous and not normally in good taste;
- Acts of mental and physical abuse, including but not limited to: paddling, slapping, kicking, pushing, yelling, biting, duck-walking, gauntlets, belittling, excessive exercise, beating or physical abuse of any kind;

LAFD DISCRIMINATION PREVENTION POLICY AND COMPLAINT PROCEDURES DRAFT	I. DISCRIMINATION PREVENTION POLICY B. <u>DEFINITIONS</u> <u>Hazing (cont.)</u>
---	---

- Forced consumption of any food or beverage that contributes to or causes physical injury, mental harm or personal degradation;
- Encouraging or forcing use of alcohol, drugs, tobacco, or cigars;
- Stroking or physically touching in an indecent or inappropriate manner;
- Aiding or abetting theft, fraud, embezzlement of funds, destruction of public, personal or private property;
- Being required to wear odd or look-alike apparel that contributes to or causes physical injury, mental harm or personal degradation;
- Personal services that contribute to or cause physical injury, mental harm or personal degradation;
- Requiring that a person do or submit to any act that will alter his or her physical appearance in any significant degree for any substantial period of time (e.g., forcibly removing clothing; branding; tattooing; using makeup, paint, or markers on a person; or shaving the head or body);
- Requiring activities that disrupt a person's normal schedule. A normal schedule includes three reasonably spaced meals per day, the opportunity for sufficient rest at night, time required for study outside of scheduled work, and reasonable time for personal hygiene;
- Requiring a person to engage in physical activity of unusual kind or duration, such as: calisthenics, overly difficult work assignments, activities that may be excessive for a person with physical disabilities, activities that require a person to remain in a fixed position for an extended period of time, be naked, or confining a person in a room that is too hot or too cold, too noisy, or too small;
- Hitting or pretending to hit an individual;
- Performing acts that are or seem to be dangerous;
- Eating spoiled foods, raw onions, or anything a reasonable person would not eat;
- Tying a person to a chair, pole, anchor, tree, or any other object or to another person;
- Causing fatigue through physical or psychological shock;
- Pushing, shoving, tackling, or any other physical abuse not associated with work related activities;
- Throwing anything (food, garbage, water, paint, etc.) at a person or a group of people;
- Exposing oneself indecently or appearing nude or in a way that is considered by a reasonable person to be offensive;
- Verbally addressing probationary members in a demeaning manner;
- Misleading probationary members in an effort to convince them that they will not pass probation or that they will be hurt during probation;

LAFD DISCRIMINATION PREVENTION POLICY AND COMPLAINT PROCEDURES DRAFT	I. DISCRIMINATION PREVENTION POLICY B. <u>DEFINITIONS</u> <u>Hazing (cont.)</u>
---	---

- Defacing personal or public property;
- Stealing any personal or public property;
- Assigning or endorsing pranks;
- Intentionally trashing or soiling any area for the purpose of annoying others or for having others clean the trashed area;
- Never socializing with or ostracizing employee(s)/probationer(s);
- Silence periods;
- Requiring certain employees/probationers to carry items around at all times when others are not required to do so;
- Deprivation of privileges, such as not allowed to wear baseball caps and sunglasses, read the newspaper, drink coffee, or exercise choice in study time;
- Verbal harassments;
- Requiring a person to pretend to actually violate a law;
- ~~Calling individuals demeaning names;~~
- Booing, hissing, or demeaning individuals when they make mistakes;
- Interrogating individuals in an intimidating or threatening manner;
- Deceiving new members in an attempt to convince them that they will not be retained if they do not acquiesce;
- Forcing a person to publicly wear apparel that is abnormal and not normally in good taste or that causes discomfort;
- Requiring a person to appear nude at any time;
- Sleep deprivation;
- Deprivation of study time;
- Calling people "puke" or "maggot" or any other demeaning name;
- Disallowing members to speak;
- Directing employees to wear more or less clothing than the temperature or weather indicates;
- Performing physical exercises (sit-ups, push-ups, runs, etc.) or drills to cause excessive fatigue or injury;
- Conducting activities that do not allow adequate time for study and/or training;
- Requiring a person to perform acts of servitude or perform personal errands for others under the threat of negative repercussions; and
- Any similar activities that violate City, federal, or state laws.

EXPLANATION OF HAZING

It is important to understand why hazing activities are not acceptable in the workplace:

LAFD DISCRIMINATION PREVENTION POLICY AND COMPLAINT PROCEDURES DRAFT	I. DISCRIMINATION PREVENTION POLICY B. <u>DEFINITIONS</u> <u>Hazing (cont.)</u>
--	---

- Hazing is a societal problem. Hazing incidents have been frequently documented in the military, athletic teams, fraternities and sororities, marching bands, religious cults, professional societies and other types of clubs and/or organizations. Reports of hazing in high school are also on the rise. Thus, hazing is not an isolated problem.
- Hazing is an act of power and control over others. It is premeditated victimization and NOT accidental. Hazing is abusive, degrading and often life-threatening. Acts of hazing are not just foolish pranks that sometimes go wrong.
- Even if there is no malicious “intent” safety may still be a factor in traditional activities that are considered to be “all in good fun.” Serious accidents have occurred during hazing incidents. Acts of hazing do not promote the growth and development of work units. Hazing is not acceptable even if there is no malicious intent.
- Hazing is not an effective way to teach respect and develop discipline. Respect must be earned, not taught. Victims of hazing rarely have respect for those who have hazed them. Just like other forms of victimization, hazing breeds mistrust, apathy, and alienation.
- Consent of the victim cannot be used as a defense. Even if someone agrees to participate in a potentially hazardous action, it may not be true consent when considering the pressure and desire to belong to the group. If someone agrees to participate, it may still be considered hazing.
- It is not difficult to decide if an activity is hazing if common sense is used and the following questions are considered:
 - Is alcohol involved?
 - Would anyone in the work unit refuse to participate?
 - Does the activity risk emotional or physical abuse?
 - Is there a risk of injury or a question of safety?
 - Would you have reservations describing this activity to the Fire Chief, Mayor, City Council, your family, supervisors, or management staff?
 - Would you object to the activity being photographed or reported by the media?
- Hazing is a violation of City and Department policy.

LAFD DISCRIMINATION PREVENTION POLICY AND COMPLAINT PROCEDURES DRAFT	I. DISCRIMINATION PREVENTION POLICY B. <u>DEFINITIONS</u> Hazing (cont.) C. <u>GENERAL COMPLAINT PROCEDURE</u>
---	---

COMPLAINT PROCESSING

Anyone experiencing or witnessing conduct they believe to be hazing should immediately follow the complaint procedures described in this Handbook. Complaints of hazing will be promptly investigated. If hazing is substantiated, ~~appropriate disciplinary action, up to and including dismissal, will be taken.~~ employees who engage in such acts, and supervisors who knowingly fail to act to prohibit or prevent them, will receive disciplinary sanction, up to and including termination in accordance with applicable Civil Service and personnel rules.

C. GENERAL COMPLAINT PROCEDURE

An employee who believes he or she has been discriminated against or harassed by a co-worker, supervisor, or agent of the Fire Department is strongly encouraged to promptly report the incident or incidents as well as the names of the individuals involved to his or her supervisor or utilize other resources as described in this Handbook. Supervisors should immediately report any incidents of discrimination or harassment. ~~"through channels" and/or contact the Fire Commission for consultation.~~ Supervisors may also consult with the Fire Commission office for additional information at (213) 978-3837 or (213) 482-6970. Should an investigation be warranted, Professional Standards Division (PSD) will serve as the Department's investigative body for all such claims and shall make recommendations to the Fire Chief if disciplinary action is necessary. The main phone number for PSD is (213) 473-7714.

At a minimum, when an employee complains about discrimination or harassment, the Department, through its supervisory personnel, will:

1. Fully inform the employee of his or her right to complain and request redress for the discrimination or harassment; and, inform the employee of his or her right to utilize any of the various avenues available for filing a complaint, both within and outside of the Department;
2. Promptly conduct a thorough, objective, and complete investigation of the alleged discrimination or harassment. The Department will make a determination about whether any inappropriate conduct occurred; and
3. Take prompt and effective remedial action if discrimination or harassment has occurred. The action shall be commensurate with the severity of the offense and the fact that action was taken will be conveyed to the complainant.

II. RESPONSIBILITIES AND CONSEQUENCES

A. OFFICER, MANAGER AND SUPERVISOR

Responsibilities

All Officers and Managers are responsible for ensuring that their commands are free of discrimination and retaliation by scheduling appropriate training and guidance. Officers and Managers shall ensure that supervisors assigned to their commands strictly and promptly enforce the policy of this Department regarding a discrimination free workplace. Officers and Managers are also responsible to take prompt action to stop any form of retaliation. An Officer and Manager shall ensure that each employee in his/her command is familiar with the contents of this handbook. (The Appendices provide additional information to assist officers, managers and supervisors in carrying out their responsibilities.)

Officers, Managers and Supervisors may create liability (against LAFD, themselves, or both) for acts of discriminatory and harassing conduct between employees in the workplace, if the officers, managers and supervisors know or should have known of the conduct, unless they can show that they took timely and appropriate corrective action. Ignorance of discriminatory activity is not an acceptable defense for inaction of an officer or manager if, through reasonable care, they should have been aware of the conduct.

- Officers, Managers and Supervisors may create liability for discriminatory or harassing acts by non-employees where the officers, managers and supervisors know or should have known of the conduct and fail to take timely and appropriate corrective action.
- Officers, Managers and Supervisors who become aware of discriminatory conduct have the obligation to immediately report the harassment in accordance with the procedures described in this Handbook, even if the occurrence is not directly within their line of supervision or responsibility.
- Officers, Managers and Supervisors who engage in harassing or retaliatory conduct may be held personally liable for such conduct. Officers, managers, supervisors, or employees who engage in discrimination, harassment or retaliation are subject to discipline, up to and including termination of employment.

LAFD DISCRIMINATION PREVENTION POLICY AND COMPLAINT PROCEDURES DRAFT	II. RESPONSIBILITIES AND CONSEQUENCES A. <u>OFFICER, MANAGER, AND SUPERVISOR</u> <u>Responsibilities (cont.)</u>
--	--

Officers, Managers and Supervisors must:

- Provide a discrimination-free work environment, and take proactive steps to communicate to subordinates that discrimination and harassment in the workplace are not tolerated;
- Ensure that all of their subordinate employees are informed of the Department's policy against discrimination and harassment and its discrimination complaint process;
- Ensure that their subordinate employees are not discouraged from filing complaints (formal or informal) so that complaints may be investigated in a thorough manner;
- Set an example by their own behavior and let others know that they support the Department's policy and will take appropriate corrective action if discrimination occurs;
- Ensure that all employees attend scheduled training to make them aware of (1) conduct that is discriminatory, and (2) the consequences of such conduct;
- Immediately report all discrimination complaints in accordance with the procedures established in this handbook even if the complainant does not want you to proceed;
- Take all complaints seriously. Do not shrug off or minimize the complaint, or otherwise discourage employees from filing complaints;
- Monitor the workplace to identify subtle discriminatory conduct;
- Promptly take appropriate action to remedy a discriminatory situation in a manner that will protect the complainant, the accused, and other employees, and to prevent further discriminatory acts or harassment from occurring;
- Protect the employee(s) complaining of discrimination from any form of reprisal or retaliation;
- Ensure that all personnel under their command receive all mandated training and regular refresher training on preventing discrimination in the workplace;
- Ensure personal privacy for everyone assigned to their command to minimize the potential for situations that could lead to sexual harassment or discrimination;

LAFD DISCRIMINATION PREVENTION POLICY
AND COMPLAINT PROCEDURES

DRAFT

II. RESPONSIBILITIES AND CONSEQUENCES
A. OFFICER, MANAGER, AND SUPERVISOR
Responsibilities (cont.)
Consequences
B. EMPLOYEE
Responsibilities

- Discourage retaliation and take all reasonable steps to prevent it, as they would with harassment and discrimination. Recent court rulings have continued to expand liability for retaliation claims filed by current and former employees.

Consequences

Officers, Managers and Supervisors who become aware of the discrimination, harassment or retaliation and do not take immediate and appropriate corrective action will be held accountable. Failure to adhere to the above responsibilities will result in appropriate corrective disciplinary action, up to and including dismissal from City service, regardless of job level or classification. Supervisors and Managers may incur personal liability if found to be engaged in discriminatory behavior and could be required to provide for the cost of their own defense.

B. EMPLOYEE

Responsibilities

Employees must **NOT** engage in any discriminatory activities while at work. Every employee is entitled to work in an environment free from discrimination, harassment or retaliation. An employee who believes that he or she has been subjected to derogatory comments, inappropriate gestures, or actions of a sexual nature by another employee or supervisor is encouraged to communicate to that person that such behavior is offensive or unwelcome. While confronting the alleged harasser is not always possible, the employee should communicate this information to someone who can.¹ Additionally, employees who become aware of conduct that they believe is discrimination or harassment, even if it is not directed toward them, should report the conduct to a supervisor immediately.

According to California law, non-management employees may be held personally liable for harassing a co-worker. This law is applicable not only to sexual harassment, but to any form of harassment based on discrimination covered by the State's Fair Employment and Housing Act.

¹ If a non-supervisory employee receives information about alleged discrimination or sexual harassment in confidence from another peer-level employee, he or she is encouraged but is not required to disclose that information to a supervisor. He or she should support and encourage the employee to address his or her concerns through the various resources available, but a "confidante" is not required to report the alleged discrimination or harassment. (Note: Supervisory-level employees cannot act as confidantes, as they are bound by their responsibility to take prompt and appropriate action.)

LAFD DISCRIMINATION PREVENTION POLICY AND COMPLAINT PROCEDURES DRAFT	II. RESPONSIBILITIES AND CONSEQUENCES B. <u>EMPLOYEE</u> <u>Responsibilities (cont.)</u> <u>Consequences</u>
--	---

If employees believe they have been discriminated against or harassed, they may file a complaint with any of the agencies or officers listed in this handbook. It is the employee's responsibility to contact the agency to determine its filing requirements. Most agencies allow up to a one-year filing period from the date of the most recent alleged harassment. However, some do have shorter filing deadlines.

****NOTE: All Employees are assured that they may make such reports without fear of retaliation by the City, Department Management, or their immediate Supervisor.**

Consequences

An employee found to have engaged in discrimination, harassment, or retaliation will face formal action up to and including dismissal, regardless of job level or classification. Employees do not necessarily need to violate State or federal discrimination laws, regulations, rules, guidelines, or executive orders to be in violation of the Department's policy. All employees will be held accountable for their conduct, and any employee who fails to adhere to the Department's policies will be subject to investigation. If it is determined through the investigation process that a violation of the Department's policy has occurred, the Department will take timely and appropriate action up to and including dismissal.

LAFD DISCRIMINATION PREVENTION POLICY AND COMPLAINT PROCEDURES DRAFT	III. FILING A DISCRIMINATION COMPLAINT A. <u>INTRODUCTION</u>
--	--

III. FILING A DISCRIMINATION COMPLAINT

A. INTRODUCTION

Any employee, who believes his or her rights under federal or state law or City policy have been violated, may file an informal or formal discrimination complaint. All complaints filed with LAFD will be handled in an impartial manner in compliance with federal, state and local laws and departmental policy.

It is important to note the difference between formal and informal complaints.

- An **informal** complaint usually involves behavior that is not severe or pervasive; or when a complainant is seeking clarification or counseling. In these situations, the complainant wants inappropriate behavior stopped or corrected at the lowest possible level, and to put the offender on notice. An informal complaint may be resolved through counseling or mediation and generally does not require a formal investigation complete with findings and disciplinary recommendations. In many cases, an informal complaint may be undertaken and resolved. ~~without submitting a written complaint form (Appendix D).~~ The decision to treat a matter informally is generally guided by the complainant *Professional Standards Division*, but the situation may be so severe that a formal investigation is the only appropriate avenue, for example, in the case of physical assault.
- A **formal** complaint is initiated in writing, and involves a matter that is severe and/or pervasive and requires a formal investigation, with findings that may result in disciplinary action. In addition, a formal complaint is generally filed in cases where an informal complaint has failed to resolve the situation, or the offender has not stopped the inappropriate behavior, despite notice. ~~(Appendix E).~~

It is up to the individual to determine which reporting procedure or agency meets his or her particular needs. Although all employees are encouraged to use the internal procedures available to them, individuals have the right not to file a complaint with the Department. If Department officers, managers or supervisors are aware that discrimination or sexual harassment may be occurring, the Department may initiate a complaint and an investigation can be conducted. Employees shall not be forced to file a complaint. Regardless of who initiates a complaint, cooperation in an investigation is still every employee's responsibility.

LAFD DISCRIMINATION PREVENTION POLICY AND COMPLAINT PROCEDURES DRAFT	III. FILING A DISCRIMINATION COMPLAINT A. <u>INTRODUCTION (cont.)</u> B. <u>CONFIDENTIALITY</u> C. <u>FIRE DEPARTMENT INTERNAL PROCEDURE</u>
--	---

If an employee perceives that an employment action is discriminatory, or inappropriate behavior may be occurring, the alleged discrimination or harassment can be reported to any of the individuals or agencies listed below.

B. CONFIDENTIALITY

Confidentiality concerning complaints or investigations is maintained to the greatest extent possible in order to prevent embarrassment, further discrimination, harassment, or retaliation. However, complete confidentiality cannot be guaranteed. The confidentiality concerns of individuals will be handled as sensitively as possible, and information shall not unnecessarily be disclosed to others. Employees should be aware that the LAFD is required in certain circumstances to take preventive or corrective actions that may be inconsistent with an individual's desire that a report of certain behavior be kept completely confidential. In the event of an administrative or other legal proceeding, all investigative materials may legally be required to be disclosed to others involved in such proceedings.

Confidential or sensitive information obtained by an employee during the course of an official investigation, whether acquired as a witness, complainant, respondent, or representative (to any party in the investigation), shall not be disclosed to others unless required by law.

C. FIRE DEPARTMENT INTERNAL PROCEDURE

Fire Department members are encouraged to use the internal procedure for reporting discrimination or harassment by first pursuing the complaint through any one of the following available internal avenues [Any of the internal procedures is an acceptable alternative that may be considered by any employee]:

1. IMMEDIATE SUPERVISOR: An employee may report discrimination or harassment to his or her immediate supervisor or next level supervisor (if the immediate supervisor is the alleged harasser).
2. F-225 TO FIRE CHIEF AND FIRE COMMISSION: An employee may file a discrimination or harassment complaint in writing (F-225), through channels, to the Fire Chief and file a duplicate concurrently with the Board of Fire Commissioners, if he or she believes that he or she has been unfairly treated (See Appendix E—~~Discrimination Complaint Intake Form B Supervisory Guide - Complaint Processing, Section B. Complainant of this Discrimination Prevention Policy and Complaint Procedure~~ for suggested information to be included on the F-225). It is also

LAFD DISCRIMINATION PREVENTION POLICY AND COMPLAINT PROCEDURES DRAFT	III. FILING A DISCRIMINATION COMPLAINT C. <u>FIRE DEPARTMENT INTERNAL PROCEDURE</u> (cont.) D. <u>OTHER AVAILABLE CITY PROCEDURES</u> <u>Board of Civil Service Commissioners</u>
--	---

permissible to submit a discrimination or harassment complaint directly to the Board of Fire Commissioners.

3. ANY CHIEF OFFICER OR SUPERVISOR: An employee desiring informal counseling or assistance with a discrimination or harassment problem may contact any Chief Officer or supervisor. If the Chief Officer or supervisor agrees that the issue may be addressed informally, he/she may determine the appropriate actions to be taken, if any. If the nature of the problem is such that the matter requires a formal investigation, the employee should be encouraged to use the internal procedures for reporting discrimination and harassment. The Chief Officer or Supervisor is required by City policy to take prompt action to address the complaint.
4. ~~THE FIRE COMMISSION'S EQUAL EMPLOYMENT OPPORTUNITY OFFICE:~~ An employee who believes that he or she has been discriminated against or harassed may contact ~~the Commission's EEO Director Staff~~ at (213) 978-3837 or ~~Assistant Director~~ at (213) 482-6970. ~~The EEO Director and Assistant EEO Director Commission Staff~~ are available to listen to and provide information about any discrimination or harassment issue. Although ~~the Fire Commission's EEO Director and Assistant Director Staff~~ do not conduct investigations, they provide guidance and advise employees about the various procedures available for resolving EEO matters.
5. The Department's EEO Coordinator is located in the Professional Standards Division. An employee may contact the EEO Coordinator at (213) 473-7725. The EEO Coordinator investigates complaints of sexual harassment or discrimination and will counsel employees about sexual harassment and discrimination.

D. OTHER AVAILABLE CITY PROCEDURES

Board of Civil Service Commissioners

The City's Discrimination Complaint Procedure gives City employees and applicants for City employment the right to file a discrimination complaint with the City's Civil Service Commission. The complaint must be based on an action, procedure or practice in selection or employment that specifically affects the individual and is believed to be discriminatory. Sexual harassment is a type of discrimination. Complaints under the City's Discrimination Complaint Procedure must be filed within one year of the most recent alleged act of discrimination, provided that this time may be extended for a

LAFD DISCRIMINATION PREVENTION POLICY AND COMPLAINT PROCEDURES DRAFT	III. FILING A DISCRIMINATION COMPLAINT D. <u>OTHER AVAILABLE CITY PROCEDURES</u> <u>Board of Civil Service Commissioners (cont.)</u> <u>The City's Personnel Department-EEO Counselors</u>
--	---

period of time equivalent to that period during which the complainant first pursued a remedy through his or her departmental discrimination complaint procedure.

Employees of the Personnel Department serve as staff to the Civil Service Commission. City employees who contact the Personnel Department regarding alleged discrimination will be encouraged to first request a review of their complaints under their department's complaint procedure. If the complainant does not receive satisfactory resolution of the complaint or does not believe it can be adequately handled at the department level, he or she may submit a discrimination complaint in writing to the Office of Discrimination Complaint Resolution (ODCR). Personnel Department Equal Employment Opportunity Section (EEOS) staff will continue to investigate discrimination complaints filed with outside agencies against City departments and employees. The ODCR ~~only~~ investigates discrimination complaints filed with the Civil Service Commission. Complaints in writing may be submitted to:

Office of Discrimination Complaint Resolution (ODCR)
700 E. Temple Street, Room 320
Los Angeles, CA 90012
(213) ~~485-8250~~ 473-9123

If an employee wishes to make a complaint in person or to receive assistance, he or she may call either the EEO Section (EEOS) of the Personnel Department at (213) ~~847-9800~~ 473-9100 or the ODCR at (213) ~~485-8250~~ 473-9123 to arrange for an appointment to meet with a member of either unit's investigative staff. The Intranet website is <http://per.ci.la.ca.us/>

The City's Personnel Department – EEO Counselors

The Personnel Department offers specialized counseling from their Department experts, in addition to the generalized assistance described above. The counselors are available to discuss specific areas of concerns with any employee, inform them about relevant policies and complaint procedures, and answer questions an employee may have regarding these particular issues. The counselor can also make preliminary efforts to resolve concerns before a formal complaint is initiated. If an employee is not satisfied with the results of an informal effort to resolve situations, the counselor will inform the employee of the available complaint procedures including the City's Complaint Procedures, Department's procedures, or state or federal regulatory agency procedures.

<p>LAFD DISCRIMINATION PREVENTION POLICY AND COMPLAINT PROCEDURES</p> <p>DRAFT</p>	<p>III. FILING A DISCRIMINATION COMPLAINT D. <u>OTHER AVAILABLE CITY PROCEDURES</u> The City's Personnel Department-EEO Counselors (cont.) <u>Department on Disability</u> <u>Commission on the Status of Women</u> E. <u>OUTSIDE AGENCIES</u> <u>State of California Department of Fair Employment and Housing</u></p>
--	---

The counselors can be contacted through the Personnel Department's EEO Section at (213) ~~847-9800~~ 473-9100. Employees may contact them directly for advice and information in the areas of sexual harassment, sexual orientation, disability and reasonable accommodation.

Department on Disability

The City has established a Department on Disability that is responsible for developing and monitoring the City's Americans with Disabilities Act (ADA) Self-evaluation and Transition Plan, ensuring the City's compliance with ADA for persons with hearing impairments, and providing information and referral services to persons with disabilities throughout the City. The general telephone *numbers* for the Department on *Disability* are (213) 485-6334 (voice) and (213) 485-6655 (TTY). The Internet website is <http://www.lacity.org/dod/>

Commission on the Status of Women

A complaint of sexual harassment or gender discrimination may be filed with the Commission on the Status of Women at (213) 978-0300. The Commission is committed to the elimination of sexual harassment in the workplace and provides support and guidance in this area. The Internet website is <http://www.lacity.org/csw/>

E. OUTSIDE AGENCIES

Employees may file a complaint with a state or federal agency. Employees who do not feel comfortable filing a complaint within the available City processes may choose to file a complaint with:

State of California Department of Fair Employment and Housing

Employees who believe they have been discriminated against, harassed or retaliated against because of activity involving a discrimination complaint have the right to file a discrimination and/or retaliation complaint with the state's regulatory agency. Under state legislation, non-management employees may be held personally liable for harassing a co-worker based on any form of discrimination covered by the State's Fair Employment and Housing Act. Time limits for filing complaints vary. Therefore, employees should check directly with this agency for specific deadlines and requirements.

LAFD DISCRIMINATION PREVENTION POLICY AND COMPLAINT PROCEDURES DRAFT	III. FILING A DISCRIMINATION COMPLAINT E. <u>OUTSIDE AGENCIES</u> <u>State of California Department of Fair Employment and Housing (cont.)</u> <u>Federal Equal Employment Opportunity Commission</u>
--	--

Employees alleging discrimination based on **sexual orientation**, known or perceived, have the right to file a complaint with the Department of Fair Employment and Housing (DFEH). Employees should check directly with this agency for specific deadlines and requirements. The website is <http://www.dfeh.gov>

Complaints of discrimination or retaliation covered by the DFEH may be submitted to:

Department of Fair Employment and Housing (DFEH)
611 West Sixth Street, 15th Floor
Los Angeles, CA 90017
(800) 884-1684 (213) 439-6799

Federal Equal Employment Opportunity Commission

Employees who believe they have been discriminated against, harassed or retaliated against because of participation in a discrimination complaint have the right to file a discrimination and/or retaliation complaint with the federal regulatory agency. Time limits for filing complaints vary. Therefore, employees should check directly with this agency for specific deadlines and requirements. The website is <http://www.eeoc.gov/>

Equal Employment Opportunity Commission (EEOC)
255 E. Temple Street, 4th Floor
Los Angeles, CA 90012
(213) 894-1000 (800) 669-4000

LAFD SEXUAL HARASSMENT PREVENTION POLICY AND COMPLAINT PROCEDURES	I. SEXUAL HARASSMENT PREVENTION POLICY A. <u>POLICY</u>
DRAFT	

I. SEXUAL HARASSMENT PREVENTION POLICY

Sexual harassment is a form of sex discrimination. It is a violation of the City's policy and Federal and State law. Prompt and appropriate action must be taken to deter sexual harassment. Prevention and education are the best tools for the elimination of sexual harassment in the workplace.

A. POLICY

Note: Dissemination of this policy serves as notice to all employees and violations of the policy may serve as a basis for discipline.

The policy of the City of Los Angeles and the Fire Department is that sexual harassment in the workplace is unacceptable and will not be condoned or tolerated. The City of Los Angeles and the Fire Department promote and maintain a working environment free from all forms of discrimination, including sexual harassment, intimidation, retaliation or coercion. LAFD is committed to providing a work environment free from sexual harassment. This means everyone is responsible for the prevention of sexual harassment in the workplace. City policy requires prompt and appropriate corrective action to prevent sexual harassment.

LAFD maintains a zero tolerance policy for discrimination based on sexual harassment. As a result LAFD may take corrective actions, up to and including formal discipline, when policy violations occur, even if they are not so serious as to be unlawful. For example, even though a sexual comment might not rise to the level of creating a hostile work environment under the law, such a comment is nevertheless unacceptable in the workplace, violates the LAFD's zero tolerance policy, and may be subject to a corrective action.

This sexual harassment prevention policy extends to the conduct of all LAFD personnel towards any applicant, employee, or member of the public. In addition, any employee will also be subject to disciplinary action who, while acting in his or her capacity as a LAFD employee, sexually harasses a contractor, vendor, client, customer, visitor or any member of the public.

Similarly, LAFD will not tolerate sexual harassment of its employees, applicants, or contractors, by non-employees, such as third party contractors, vendors, clients and/or customers. LAFD should be immediately alerted to any such conduct so that it can take immediate and appropriate corrective action, and best attempt to prevent further harassment.

LAFD SEXUAL HARASSMENT PREVENTION POLICY
AND COMPLAINT PROCEDURES

DRAFT

I. SEXUAL HARASSMENT PREVENTION POLICY
A. POLICY
Compliance
B. DEFINITION OF SEXUAL HARASSMENT

Compliance

All employees are responsible for preventing sexual harassment by complying with the conduct standards in this policy and by conducting themselves at all times in a professional manner. Management is responsible for setting the tone for a harassment-free work environment and for taking appropriate measures, whether or not a complaint has been received, whenever they witness or learn of behavior which could be perceived as sexual harassment. Employees may also help to prevent harassment by taking the initiative to oppose and report conduct that they believe to be unlawful sexual harassment. Compliance with this policy depends on the efforts of both management and employees of LAFD at all levels.

Moreover, employees are expected to report any sexually harassing behavior, regardless of whether the behavior is directed toward them or towards another employee, citizen, or contractor. Employees may report the conduct as described in Section III: Filing A Sexual Harassment Complaint.

Disciplinary action, including warnings, reprimands, suspensions, or dismissal will be taken against those individuals determined to be in violation of this policy.

B. DEFINITION OF SEXUAL HARASSMENT

Sexual harassment is generally defined as unsolicited, unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature directed to a person of the same or of the opposite sex when:

1. Submission to such conduct is explicitly or implicitly made a term or condition of employment;
2. Submission to or rejection of this conduct is used as a basis for an employment decision affecting the employee; or
3. Such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment.

While it is not possible to list all circumstances that may be considered to be sexual harassment, some examples of conduct that may violate the LAFD's Sexual Harassment Prevention Policy include, but are not limited to, the following:

- Unwelcome sexual advance, whether it involves physical touching or not (this may

DRAFT

include an expression of sexual interest after being informed that the interest is unwelcome or a situation which began as reciprocal attractions, but later ceased to be reciprocal);

- Offering employment benefits in exchange for sexual favors;
- Unwelcome leering, whistling, brushing against the body, sexual gestures, a suggestive comment, staring, sexual flirtation or proposition;
- Displaying a sexually suggestive object in the workplace or telling/showing sexual jokes, stories, drawings, pictures or gestures;
- Making and/or repeating a sexually related rumor about another employee;
- Making an inquiry into an employee's sexual experience(s);
- Reprisal or making a threat after a negative response is made to a sexual advance;
- Physical assault such as rape, sexual battery or an attempt to commit an assault or, intentional physical conduct such as impeding or blocking movement or touching or brushing against another employee's body;
- Making a derogatory comment or joke regarding an individual's sexual orientation or perceived sexual orientation.

It is important to note that:

- Such conduct is actionable if offensive to a reasonable person and the victim was offended;
- A man or woman may be the harasser of a same or opposite sex victim;
- The harasser does not have to be the victim's supervisor;
- The victim does not necessarily have to be the one to whom the remark or conduct is directed, but may be someone in the same room who overhears and is offended by the comment or behavior;
- A consensual relationship may lead to claims by non-involved employees who

LAFD SEXUAL HARASSMENT PREVENTION POLICY AND COMPLAINT PROCEDURES DRAFT	I. SEXUAL HARASSMENT PREVENTION POLICY B. <u>DEFINITION OF SEXUAL HARASSMENT(cont.)</u> <u>Types of Sexual Harassment</u>
---	---

believe that they were disadvantaged when favoritism is shown to a paramour, but is not shown to an employee who did not have a romantic relationship with the employee granting the favors. If such sexual favoritism is widespread, sends a message that employees of a certain sex are sexual playthings, or creates an atmosphere where employees believe they must consent to such relationships as a term or condition of employment, it could be unlawful.

Any employee, who initiates or persists in conduct that is viewed by another as being of a sexual nature, assumes the risk and liability and the possible penalties for such conduct. An employee who violates LAFD's Sexual Harassment Prevention Policy may face a range of disciplinary actions, including dismissal. Furthermore, offending employees, including supervisors and non-supervisors, can be held personally liable for monetary damages (and may be required to pay for their own attorney) if an offended employee files a lawsuit.

Types of Sexual Harassment

There are two types of sexual harassment. They include "quid pro quo" harassment and "hostile work environment" harassment. Quid pro quo harassment occurs when submission to or rejection of unwelcome sexual conduct is used to make an employment decision affecting the complainant, resulting in some tangible injury to the complainant. On the other hand, a hostile work environment claim is based on unwelcome sexual conduct that interferes with an individual's work performance or creates an intimidating, offensive, or hostile work environment. To constitute sexual harassment, these claims do not have to result in economic or serious psychological injury, but they do have to negatively affect an employee's work environment.

The courts have generally agreed that sexual harassment has occurred when incidents in a work environment are severe or pervasive enough to create a hostile work environment. The EEOC considers that a hostile work environment is created by a pattern of offensive conduct. While one incident usually is not sufficient in and of itself to be considered sexual harassment, the nature, frequency, and context of remarks should be considered. A single instance of unwelcome, intentional touching of a person's body may by itself create a hostile work environment. In determining whether or not a hostile work environment exists, courts use a "reasonable victim" or "reasonable person" standard. This standard acknowledges that there are subjective as well as objective elements to a complaint of sexual harassment. Each case must be evaluated based upon the unique set of circumstances alleged.

The following examples are intended to expand upon the above definitions of the various types of sexual harassment. Some behaviors may fall into both types of sexual harassment, but it is most important to understand that the behaviors are inappropriate and should not be tolerated in the work place:

Quid Pro Quo

- Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature. Such behavior is illegal when it is part of a supervisor's decision to hire or fire someone; or, when it is used to make other employment decisions like pay, promotion, or job assignment.
- Engaging in implicit or explicit coercive sexual behavior which is used to control, influence, or affect the career, salary, and/or work environment of another employee; offering favors of employment benefits, such as a promotion, favorable work performance evaluation, favorable assigned duties or shifts, recommendations, reclassifications, etc., in exchange for sexual favors.
- Making reprisals, threats of reprisal, or implied threats of reprisal following a negative response to a sexual overture; for example, either implying or actually withholding support for an appointment, promotion, or change of assignment; suggesting a poor work performance evaluation will be prepared, or suggesting a probationary period will be failed.

Hostile Work Environment

- Unwelcome behavior of a sexual nature that is repeated or egregious and creates an intimidating, hostile, or offensive work environment. While this kind of inappropriate behavior may be committed by accident, it is often committed intentionally; for example, repeated use of inappropriate language or comments of a sexual nature, including innuendoes and references to a person's intimate body parts, that are considered offensive to others in the workplace.
- Unwelcome conduct that has the effect or purpose of interfering with an individual's work environment, unreasonably interferes with an individual's work performance, or makes the work environment intimidating or hostile; for example, a situation that began as a reciprocal attraction between two employees but later ceased to be reciprocal, and one of the employees continues to exhibit or express behavior that is no longer welcomed by the other.

C. SEXUALLY HARASSING BEHAVIORS

The following examples describe some of the sexually harassing behaviors that are inappropriate and may be illegal on the job. They are intended to give all employees more specific information that will help you determine if the behavior could be considered sexually harassing. These examples are only a sample of inappropriate behavior and are not meant to be all-inclusive:

Verbal Harassment

Sexual comments, innuendoes, double entendres, and the use of sexually oriented language whether or not it is directed toward a specific person or group of persons, if any person is offended. Slang, names, or labels, such as "honey", "sweetie", "baby", "babe", "boy", "girl", that others reasonably find offensive; obscene or lewd sexual jokes, comments, or suggestions; negative or offensive comments, jokes, or suggestions about another person's gender; talking about another employee's body, body parts, or sexual characteristics in a negative or embarrassing way; pressure for dates or sexual relations.

Non-verbal Harassment

Suggestive looks, leering, and ogling; calling attention to another employee's body or sexual characteristics in a negative or embarrassing way.

Physical Harassment

Unwelcome physical contact such as brushing against someone's body, impeding or blocking movements, kissing, hugging, touching, "friendly" pats, squeezes, pinches, back rubs, or massages.

Visual Harassment

Displaying nude or sexually oriented pictures, calendars, magazines, movies, cartoons, posters, or photographs, including those that may exhibit family or friends; displaying suggestive objects or other inappropriate paraphernalia, including such items as "gag gifts" at any City or Department related function.

LAFD SEXUAL HARASSMENT PREVENTION POLICY
AND COMPLAINT PROCEDURES

DRAFT

I. SEXUAL HARASSMENT PREVENTION POLICY
C. SEXUALLY HARASSING BEHAVIORS
Other Unwelcome Behaviors
D. EMPLOYEES AND NON-EMPLOYEES
COVERED BY THE PREVENTION POLICY
AND COMPLAINT PROCEDURE
E. RECOGNIZING SEXUAL HARASSMENT

Other Unwelcome Behaviors

- Deliberately ostracizing or excluding another employee because of his or her gender, or sexual orientation.
- Not taking seriously an employee who experiences sexual harassment, laughing at him or her, ignoring him or her or otherwise minimizing his or her issues.
- Blaming the victim of sexual harassment for causing the problem.
- Continuing offensive behavior after a co-worker has indicated that behavior is unwelcome.

D. EMPLOYEES AND NON-EMPLOYEES COVERED BY THE PREVENTION
POLICY AND COMPLAINT PROCEDURE

Employees are individuals occupying a position in the classified civil service, and include interns, personal services contract employees, and also, employees exempt from civil service under the provisions of the City Charter including elected and appointed officials. **Non-employees** may include the public, customers, service providers (i.e., delivery persons, postal workers, repair persons, etc.), vendors, contractors, volunteers and others not considered "employees".

The Sexual Harassment Prevention Policy and Complaint Procedure covers members of the public, volunteers, or employees of a business under contract with the City, who complain of harassment by City employees during the conduct of their employment. The City may also be held liable for non-employees' harassing conduct. It is, therefore, imperative for Supervisors to take immediate and appropriate corrective action whenever they know or should have known of sexual harassment committed by a non-employee against employees, applicants or contract workers. All reasonable steps shall be taken to prevent harassment from occurring. Loss of tangible job benefits shall not be necessary to establish harassment.

E. RECOGNIZING SEXUAL HARASSMENT

There is no typical profile of a sexual harasser. Anyone can be a harasser, regardless of his or her gender, age, sexual orientation, or job position, just as anyone can be the

LAFD SEXUAL HARASSMENT PREVENTION POLICY AND COMPLAINT PROCEDURES DRAFT	I. SEXUAL HARASSMENT PREVENTION POLICY E. <u>RECOGNIZING SEXUAL HARASSMENT (cont.)</u>
--	---

victim of sexual harassment. To help clarify what is or is not appropriate behavior in the workplace, employees might ask these questions about their behavior or about the behavior of others:

- "If someone behaved this way toward my spouse, partner, child or parent, how would I feel about the behavior?"
- "Would I be embarrassed to see my remarks or behavior reported in the newspaper or described to my own family?"

If you answered "yes" to these questions, it is likely that the remarks or behavior are inappropriate in the work place.

Further, to help you recognize sexual harassment, consider the following:

- Is the behavior directed toward persons of one gender only?
- Is the behavior repeated despite objections to harassment? Does it appear deliberate?
- Has the employee who is receiving the attention objected in any way? Is it unsolicited? Does it appear to be unwelcome?

Social behaviors, that are part of the interactions between people but not necessarily needed to get work accomplished, may or may not be appropriate. Some social behaviors are acceptable, and still others may be inappropriate for the work place. Under most circumstances, good manners are not regarded as sexual harassment. Good manners could include social behaviors that are part of society's rules of etiquette, such as:

- Opening doors
- Pulling a chair out
- Allowing "ladies first"

However, an employee or non-employee may carry such good manners to extremes with an employee that annoys, embarrasses, or degrades that employee. This may result in inappropriate on-the-job behavior.

Additionally, employees need not, and realistically cannot, be prohibited from non-work related social interactions, but it should be made clear that social relationships will not be permitted to interfere with work performance or business decisions.

LAFD SEXUAL HARASSMENT PREVENTION POLICY AND COMPLAINT PROCEDURES	I. SEXUAL HARASSMENT PREVENTION POLICY F. <u>RETALIATION</u>
DRAFT	

F. RETALIATION

LAFD maintains a zero tolerance policy for retaliation. The Department prohibits retaliation against anyone who reports discriminatory activity, registers a complaint pursuant to the policy, assists in making a discrimination complaint, or who cooperates in an investigation. Any employee who makes a complaint regarding behavior the employee believes is sexual harassment; assists, testifies, or participates in any sexual harassment investigation or proceeding; or who opposes such conduct in the workplace, will not be adversely affected in the terms and conditions of his or her employment, and will not be discriminated against or discharged for engaging in such activity.

Retaliation is generally defined as harassing language, behavior or conduct, unwarranted punitive action, or acts of discrimination that are directed toward another employee, or such employee's family or friends, in response to an employee bringing a complaint alleging discrimination or harassment; or testifying on behalf of and/or in support of another employee who filed such a complaint; or advising another employee who has complained of discrimination or harassment; or assisting or participating in an investigation, proceeding, or hearing concerning an employee who has complained of discrimination or harassment. It can be as subtle as avoiding a person once you have found out that he or she filed a complaint, or as overt as going out of your way to treat the person who filed the complaint in a spiteful or vengeful way, such as joining other employees in creating or contributing to the hostile work environment of the unit to which the complainant is assigned.

Some examples of conduct that may violate the LAFD's retaliation policy include, but are not limited to, the following:

- Co-worker hostility or retaliatory harassment, to include intimidation, gossip, rumors, insults, or otherwise offensive conduct that would subject a person to public ridicule or humiliation;
- Any action or combination of actions that is reasonably likely to materially and adversely affect an employee's job performance or opportunity for advancement;
- Termination, demotion, disadvantageous transfers or assignments, refusals to promote, threats, reprimands, negative evaluations.

Complaints of retaliation will be promptly investigated. If retaliation is substantiated, appropriate disciplinary action, including possible dismissal, will be taken.

LAFD SEXUAL HARASSMENT PREVENTION POLICY AND COMPLAINT PROCEDURES DRAFT	I. SEXUAL HARASSMENT PREVENTION POLICY F. <u>RETALIATION (cont.)</u>
--	---

Acts of reprisal are unacceptable. Reprisal not only affects the recipient, but also can spread rapidly throughout the organizational unit. Reprisal or retaliation against an individual for lodging a complaint destroys faith in leadership and can damage the human relations climate and morale.

Every employee, whether witness, complainant or alleged harasser, is expected to cooperate fully with every investigation. Confidentiality concerning complaints or investigations is maintained to the greatest extent possible in order to prevent embarrassment, further discrimination or harassment, or retaliation. Confidential or sensitive information obtained by any employee during the course of an official investigation, whether acquired as a witness, complainant, respondent, or representative, shall not be disclosed to others unless required by law. Concerns of individuals regarding confidentiality of information provided by them will be handled as sensitively as possible, and information shall not unnecessarily be disclosed to others. However, employees should be aware that the LAFD is required in certain circumstances to take preventive or corrective actions that may be inconsistent with an individual's desire that a report or certain behavior be kept completely confidential.

The preceding examples are provided to help employees of the Fire Department maintain a work environment free from unwelcome sexual overtures, advances, and coercion. All employees and non-employees are expected to adhere to a standard of conduct that is respectful to all employees within the Department and the public we serve. Each employee must respect each person's individual dignity and right to work free from fear of any harassment, discrimination, or retaliation.

II. RESPONSIBILITIES AND CONSEQUENCES

A. OFFICER, MANAGER AND SUPERVISOR

Responsibilities

Officers, Managers and Supervisors are in key positions to make an impact in terms of correcting inappropriate behavior in the workplace and ensuring that a discrimination free workplace is maintained. Therefore, the law has placed a greater responsibility on officers, managers and supervisors to act when they observe or learn of a potential sexual harassment situation.

It is the responsibility of all LAFD officers, managers and supervisors to ensure that their organizational units are in full compliance with the Department's sexual harassment prevention policy and to take all necessary steps to prevent sexual harassment. This includes setting the tone for a harassment-free work environment by informing new employees, periodically reiterating this policy to all subordinate staff, and ensuring that employees receive all mandated sexual harassment training. Officers, managers and supervisors are responsible for informing employees about how to pursue their rights if harassed, and promptly notifying resources such as Operations Bureau, Professional Standards Division, Fire Commission Office, and the Personnel Department for guidance and assistance in the proper handling of the complaint.

Officers, managers and supervisors who engage in sexual harassment or make submission to sexual favors a term or condition of an individual's employment will be subject to discipline up to and including dismissal if the allegation is substantiated. They also put themselves at risk for monetary damages (and potentially having to pay the full cost of their own defense) if an offended employee pursues the matter in litigation.

Officers, managers and supervisors are responsible for acts of sexual harassment between employees in the workplace if they know or should have known of the conduct, unless they can show that they took timely and appropriate action when they became aware of the situation. Ignorance is not an acceptable defense for inaction of an officer, manager or supervisor if, through reasonable care, they should have been aware of the conduct.

Officers, managers and supervisors may also be responsible for sexual harassment by non-employees where the officer, manager, or supervisor knew or should have known of the conduct, and failed to take timely and appropriate corrective action. In reviewing

<p>LAFD SEXUAL HARASSMENT PREVENTION POLICY AND COMPLAINT PROCEDURES</p> <p>DRAFT</p>	<p>II. RESPONSIBILITIES AND CONSEQUENCES A. <u>OFFICER, MANAGER AND SUPERVISOR</u> <u>Responsibilities (cont.)</u></p>
--	--

these cases, the extent of the officer, manager and supervisor's control, and any other legal responsibility, which they may have with respect to the conduct of such non-employees, will be taken into consideration.

Officers, managers and supervisors are responsible for ensuring the employees' understanding of the Department zero tolerance policy towards sexual harassment. Officers, managers and supervisors must:

- Provide a discrimination-free work environment and take proactive steps to communicate to the subordinates that sexual harassment in the workplace will not be tolerated;
- Ensure that all of their subordinate employees are informed of the Department's policy against sexual harassment and the process for reporting complaints;
- Ensure that their subordinate employees are not discouraged from filing complaints (formal or informal) so that complaints may be properly investigated;
- Set an example by their own behavior and let others know that they support the Department's policy and will take appropriate corrective action if sexual harassment occurs;
- Ensure that all employees attend training to make them aware of (1) conduct that could be construed as sexual harassment and (2) the consequences of such conduct;
- Immediately report and forward all sexual harassment complaints in accordance with this policy and procedure even if the complainant does not want you to proceed;
- Monitor the workplace to identify subtle harassing conduct or behavior;
- Take all complaints seriously. Do not shrug off, minimize the complaint, or otherwise discourage employees from reporting such complaints. Immediately report through your chain of command any sexual harassment complaints you have received, or any sexual harassment you have observed. Professional Standards Division (PSD) will act as the lead for the Department on any allegations of sexual harassment, and directions from them are to be strictly followed. Do not investigate any such allegations unless specifically directed to by PSD. In most cases, PSD will perform the investigation.

LAFD SEXUAL HARASSMENT PREVENTION POLICY AND COMPLAINT PROCEDURES DRAFT	II. RESPONSIBILITIES AND CONSEQUENCES A. OFFICER, MANAGER AND SUPERVISOR <u>Responsibilities (cont.)</u> <u>Consequences</u> B. <u>EMPLOYEE</u> <u>Responsibilities</u>
---	--

- Promptly initiate appropriate action, as directed by PSD and executive level management, to remedy a harassing situation in a manner that will protect the complainant, respondent, and other employees, and to prevent further harassment from occurring; and
- Protect the employee(s) complaining of sexual harassment from any form of reprisals or retaliation.

Consequences

Officers, Managers and Supervisors who become aware of sexual harassment and/or retaliation and do not take immediate and appropriate corrective action will be held accountable. Failure to adhere to the above responsibilities will result in appropriate corrective and/or disciplinary action, up to and including dismissal from City service, regardless of job level or classification.

Note: An Officer, Manager, or Supervisor who commits sexual harassment in the workplace can be held personally liable if they are found guilty of sexual harassment. It may be considered an abuse of their position of authority and may also result in financial consequences affecting their personal assets.

B. EMPLOYEE

Responsibilities

According to California law, non-management employees may be held personally liable for harassing a coworker. This overturns previous civil rights legislation, which only extended personal liability to supervisors in cases of sexual harassment. This law is applicable not only to sexual harassment, but also to any form of harassment based on discrimination covered by the State's Fair Employment and Housing Act.

All employees are responsible for preventing sexual harassment. Every employee is entitled to work in an environment free from sexual harassment or retaliation. An employee who believes that he or she has been subjected to unwelcome comments, gestures, or actions of a sexual nature by another employee, non-employee, or supervisor is encouraged to communicate to that person that such behavior is unwelcome. While confronting the alleged harasser is not always possible, the

LAFD SEXUAL HARASSMENT PREVENTION POLICY AND COMPLAINT PROCEDURES DRAFT	II. RESPONSIBILITIES AND CONSEQUENCES B. <u>EMPLOYEE</u> <u>Responsibilities (cont.)</u> <u>Consequences</u>
--	---

employee should communicate this information to someone who can.* (Note: Supervisors can not act as confidantes, as they are bound by their responsibility to take effective action.) Additionally, employees who become aware of conduct that they believe to be sexual harassment, even if it is not directed toward them, should report the incident to a supervisor immediately.

If an employee believes he or she has been sexually harassed, the employee may file a complaint with any of the agencies or officers listed in this manual. It is the employee's responsibility to contact the agency to determine its filing requirements. However, most allow up to a one-year filing period from the date of the alleged harassment.

****NOTE:** All Employees are assured that they may make such reports without fear of retaliation by the City, Department, Management, or their immediate Supervisor.

In all cases, allegations of sexual harassment will be fully and completely investigated.

Consequences

An employee found to have engaged in discrimination, harassment, or retaliation will face formal action up to and including dismissal, regardless of job level or classification. Employees do not necessarily need to violate state or federal discrimination laws, regulations, rules, guidelines, or executive orders to be in violation of the Department's policy. All employees will be held accountable for their conduct, and any employee who fails to adhere to the Department's policies will be subject to investigation. If it is determined through the investigation process that a violation of the Department's policy has occurred, the Department will take timely and appropriate action up to and including dismissal.

*If a non-supervisory employee receives information about alleged sexual harassment or discrimination in confidence from another Department employee, he or she is not required to disclose that information to a supervisor. He or she should support and encourage the employee to address his or her concerns through the various resources available, but a "confidante" is not required to report the alleged harassment.

III. FILING A SEXUAL HARASSMENT COMPLAINT

A. INTRODUCTION

Every employee is entitled to work in an environment free from sexual harassment and retaliation. If an employee perceives that inappropriate behavior of a sexual nature is occurring by another employee, non-employee, or supervisor and it is offensive, he or she can report the sexual harassment to any of the individuals or agencies listed below.

It is important to note the difference between formal and informal complaints. An informal complaint usually involves a situation in which the complainant wants inappropriate behavior corrected at the lowest possible level and where the behavior is not severe or pervasive; or when the complainant is uncertain about whether the behavior is actually sexual harassment and is seeking clarification or counseling. *The decision to treat a matter informally is generally guided by Professional Standards Division, but the situation may be so severe that a formal investigation is the only appropriate avenue.*

A formal complaint is when the complainant perceives that inappropriate behavior of a sexual nature has occurred and the complainant has been unable to informally resolve the issue, where the inappropriate behavior is egregious, or when the complainant does not feel comfortable confronting the harasser directly for various reasons. It is up to the individual to determine which reporting procedure or agency meets his or her particular needs.

Although all employees are encouraged to utilize the internal procedures available to them, individuals have the right not to file a complaint. If Department managers or supervisors are aware that sexual harassment may be occurring, the Department may initiate a complaint and an investigation can be conducted. Employees shall not be forced to file a complaint. Regardless of who initiates a complaint, cooperation in an investigation is still every employee's responsibility.

B. FIRE DEPARTMENT INTERNAL PROCEDURE

The Fire Department procedure for reporting a sexual harassment complaint is to first pursue the complaint through any one of the following available internal procedures. Pursuing any of the alternatives in Sections A, ~~B~~, or ~~C~~ B, C or D is permissible.

1. IMMEDIATE SUPERVISOR: An employee should report sexual harassment to his or her immediate supervisor or next level supervisor (if the immediate supervisor is the alleged harasser). However, any of the internal procedures is an acceptable

LAFD SEXUAL HARASSMENT PREVENTION POLICY
AND COMPLAINT PROCEDURES

DRAFT

III. FILING A SEXUAL HARASSMENT COMPLAINT

B. FIRE DEPARTMENT INTERNAL PROCEDURE

(cont.)

C. OTHER AVAILABLE CITY PROCEDURES

The Personnel Department's Citywide Sexual
Harassment Counselor

alternative that may be considered by any employee.

2. F-225 TO FIRE CHIEF AND FIRE COMMISSION: An employee may file a sexual harassment complaint in writing, (F-225) THROUGH CHANNELS, to the Fire Chief and file a duplicate concurrently with the Board of Fire Commissioners, if he or she believes that he or she has been unfairly treated (See *Appendix B – Supervisory Guide – Complaint Processing, Section B. Complainant* ~~the Discrimination Complaint Intake Form under Appendix E of the LAFD Discrimination Prevention Policy and Complaint Procedures~~ for suggested information to be included on the F-225).
3. ANY CHIEF OFFICER: An employee desiring informal counseling or assistance with a sexual harassment problem may contact any Chief Officer. If the nature of the problem is such that the individual would rather file a formal complaint, the employee shall go THROUGH CHANNELS and prepare an F-225.
4. THE FIRE COMMISSION'S OFFICE ~~OF EQUAL EMPLOYMENT OPPORTUNITY~~: An employee who believes he or she has been sexually harassed, may contact the Commission's ~~EEO Director Staff~~ at (213) 978-3837 or (213) 482-6970. ~~The EEO Director Commission Staff~~ is available to provide information about sexual harassment issues. Counseling, information and assistance are also provided.
5. The Department's Sexual Harassment Coordinator is located in the Professional Standards Division. An employee may contact the Sexual Harassment Coordinator at (213) 473-7725, if he or she alleges sexual harassment or needs clarification on sexual harassment issues. The Sexual Harassment Coordinator investigates complaints of sexual harassment and will counsel employees about sexual harassment and other forms of discrimination. As the sexual harassment coordinator, this person answers questions about conducting investigations and City policies and complaint procedures.

C. OTHER AVAILABLE CITY PROCEDURES

The Personnel Department's Citywide Sexual Harassment Counselor

An employee who believes he or she was sexually harassed may choose to file a complaint through the Personnel Department's Citywide Sexual Harassment Counselor. The Counselor is available at (213) ~~485-8250~~ 473-9123 to discuss sexual harassment concerns with all employees, fully inform employees about the City's sexual harassment

**LAFD SEXUAL HARASSMENT PREVENTION POLICY
AND COMPLAINT PROCEDURES**

DRAFT

III. FILING A SEXUAL HARASSMENT COMPLAINT
C. OTHER AVAILABLE CITY PROCEDURES
The Personnel Department's Citywide Sexual
Harassment Counselor (cont.)
Board of Civil Service Commissioners/City Personnel
Department

policies and complaint procedure, and answer any questions that the employee may have regarding the City's policy. The Counselor can also make preliminary efforts to resolve concerns before a formal complaint is initiated.

If an employee is not satisfied with the results of an informal effort to resolve concerns about sexual harassment allegations, the Counselor will inform the employee of the existence of some other available complaint procedures including the City's Sexual Harassment Complaint Procedure, the Department procedures, or state or federal regulatory agency procedures.

Board of Civil Service Commissioners/City Personnel Department

The City's Discrimination Complaint Procedure gives City employees and applicants for City employment the right to file a written discrimination complaint with the City's Civil Service Commission. The complaint must deal with an employment action, procedure or practice that specifically affects the individual and is believed to be discriminatory. Sexual harassment is a type of discrimination. Complaints under the City's Discrimination Complaint Procedure must be filed within one year of the most recent alleged act of discrimination. Employees of the Personnel Department serve as staff to the Civil Service Commission.

If an employee does not receive satisfactory resolution of the complaint or does not believe it can be adequately handled at the department level, he or she may submit the complaint, in writing to the:

Office of Discrimination Complaint Resolution (ODCR)
700 E. Temple Street, Room 320
Los Angeles, CA 90012
(213) ~~485-8250~~ 473-9123

If an employee wishes to make a complaint in person or speak to a staff representative, he or she can contact the Personnel Department's Sexual Harassment Counselor to schedule a meeting or discuss the issues, policies, or complaint procedure. The Counselor will be available at (213) ~~485-8250~~ 473-9123 to discuss sexual harassment issues, shall fully inform employees about the City's sexual harassment policies and complaint procedures, and shall answer any questions that the employee may have regarding the City's policy, or the other options available to them. The Personnel Department may also refer employees to an independent unit with expertise in discrimination investigation contracted to handle discrimination complaints.

<p>LAFD SEXUAL HARASSMENT PREVENTION POLICY AND COMPLAINT PROCEDURES</p> <p>DRAFT</p>	<p>III. FILING A SEXUAL HARASSMENT COMPLAINT</p> <p>C. <u>OTHER AVAILABLE CITY PROCEDURES</u> <u>Commission on the Status of Women</u></p> <p>D. <u>OUTSIDE AGENCIES</u> <u>State of California Department of Fair Employment And Housing</u> <u>Federal Equal Employment Opportunity Commission</u></p>
--	--

Commission on the Status of Women

A complaint may be filed with the Commission on the Status of Women at (213) 978-0300. It is committed to the elimination of sexual harassment in the workplace and provides support and guidance in this area.

D. OUTSIDE AGENCIES

Employees have the right to file a sexual harassment complaint with a state or federal agency. Employees who do not feel comfortable filing a complaint within the available City processes may choose to file a complaint with:

State of California Department of Fair Employment and Housing

Employees who have been sexually harassed have the right to file complaints with the state's regulatory agencies. Time limits for filing complaints with regulatory agencies vary, therefore, employees should check directly with this agency for specific deadlines and requirements:

Department of Fair Employment and Housing (DFEH)
611 West Sixth Street, 15th Floor
Los Angeles, CA 90017
(800) 884-1684
TTY (800) 700-2320

Federal Equal Employment Opportunity Commission

Employees who have been sexually harassed have the right to file complaints with federal regulatory agencies. Time limits or filing complaints with federal regulatory agencies vary therefore, employees should check directly with this agency for specific deadlines and requirements:

Equal Employment Opportunity Commission (EEOC)
255 E. Temple Street, 4th Floor
Los Angeles, CA 90012
(213) 894-1000 or (213) 894-1111

LAFD DISABILITY AND REASONABLE ACCOMMODATION POLICY AND ACCOMMODATION REQUEST PROCEDURES DRAFT	I. POLICY II. LEGISLATION III. DEFINITIONS
---	--

I. POLICY

The Los Angeles Fire Department has a responsibility to ensure that its policies and procedures are free from discrimination toward qualified individuals with disabilities. The Fire Department is an equal opportunity employer and our Discrimination Prevention Policy prohibits discrimination based on disability in all employment practices. The Americans with Disabilities Act of 1990 (ADA) and California Fair Employment and Housing Act (FEHA) prohibits discrimination against qualified individuals with disabilities in hiring and in terms and conditions of employment. The Fire Department makes reasonable accommodations to enable qualified employees/applicants with disabilities to perform the essential functions of the job and enjoy the same benefits and privileges equal to those enjoyed by employees without disabilities.

II. LEGISLATION

The Americans with Disabilities Act of 1990 (ADA) and Section 504 of the Federal Rehabilitation Act state that a disability is a physical or mental impairment that substantially limits one or more major life activities, having a record of such an impairment, or being regarded as having such an impairment. Several factors are evaluated under these laws such as the nature and severity of the impairment; the duration or expected duration of the impairment; and the permanent or long term impact or expected permanent or long term impact of the impairment.

State of California (FEHA) disability law gives a broader definition to disability that is applicable to the City of Los Angeles. It states that to be disabled requires a limitation upon a major life activity, not necessarily a "substantial" limitation of a major life activity as required under Federal ADA legislation. Further, an employer may not consider any mitigating measures (medications, assistive devices, or reasonable accommodations) when determining whether an employee or applicant is disabled under the law unless the mitigating measure itself limits the major life activity.

Temporary restrictions are not covered under the ADA and do not require long-term accommodations. Disabilities covered by the ADA are usually permanent or long-term conditions.

III. DEFINITIONS

The following definitions may assist in your understanding and making appropriate assessments regarding reasonable accommodations:

LAFD DISABILITY AND REASONABLE ACCOMMODATION POLICY AND ACCOMMODATION REQUEST PROCEDURES DRAFT	III. DEFINITIONS <u>Qualified Individual With A Disability</u> <u>Reasonable Accommodation</u> <u>Essential Functions</u> <u>Undue Hardship</u>
---	---

Qualified Individual With A Disability

A “qualified individual with a disability” is a person with a disability who meets legitimate skill, experience, education and other job related requirements of a position held or sought and who can perform the essential functions of the position with or without an accommodation.

Reasonable Accommodation

A “reasonable accommodation” is any modification or adjustment to a job, an employment practice, or the work environment that makes it possible for a qualified individual with a disability to experience equal employment opportunity. A reasonable accommodation may include: modifying or acquiring equipment or devices to enable an individual with a disability to perform the job effectively and safely. Job restructuring, flexible or modified work schedules (**mainly provided for civilian employees**), reassignment to a vacant position (**for current employees only**), appropriate adjustment or modification of examination procedures, training materials, providing a qualified reader or interpreter, or other accommodations may be considered reasonable.

A reasonable accommodation does not have to be the exact accommodation requested by the employee, as long as what is offered allows the individual to perform the essential functions of the job.

Essential Functions

“Essential functions” are the basic duties or tasks of the job. If the essential functions or basic duties of a position were deleted or modified, it would cause the job to be re-classified. The employer is not required to remove the essential functions of a job nor create a job to accommodate an employee.

Undue Hardship

“Undue hardship” is an action requiring significant difficulty or expense. When considering whether or not there is an undue hardship, it must be determined on a case-by-case basis. Undue hardship is not necessarily limited to financial cost; it can mean actions that unreasonably disrupt the workplace or fundamentally alter the operation of the business.

**LAFD DISABILITY AND REASONABLE
ACCOMMODATION POLICY AND ACCOMMODATION
REQUEST PROCEDURES**

DRAFT

III. DEFINITIONS

Interactive Process

Major Life Activities

IV. PROCEDURES

A. ROLE OF THE REASONABLE

ACCOMMODATION COORDINATOR

Interactive Process

An “interactive process” is required to ensure that the employer and the employee both provide and receive adequate information on which to base an accommodation request. This should be a mutually responsive process avoiding unnecessary delays.

Major Life Activities

“Major life activities” are defined as including walking, seeing, hearing, speaking, breathing, learning and working. Under this broader definition, working is considered a “major life activity” regardless of whether the limitation, actual or perceived, implicates a single job or a broad class of jobs.

IV. PROCEDURES

This procedure is intended to guide officers and supervisors in assisting qualified applicants and employees with disabilities who request reasonable accommodations, and for employees requesting reasonable accommodations. California law states that it is unlawful for a supervisor or commanding officer to fail to engage in an interactive process with a disabled employee or an applicant who requests an accommodation. Additionally, considering an accommodation request shall be timely, interactive, and done in good faith.

A. ROLE OF THE REASONABLE ACCOMMODATION COORDINATOR

The Fire Department has one Reasonable Accommodation Coordinator who is responsible for coordinating all Department employee requests for accommodation, including both sworn and civilian employees. The Reasonable Accommodation Coordinator is responsible for ensuring that the Department complies with ADA and FEHA laws.

The role of the Reasonable Accommodation Coordinator includes maintaining and preparing documentation regarding accommodation requests, and assisting supervisors and commanding officers in making their evaluations of whether a request can be reasonably accommodated. The Reasonable Accommodation Coordinator shall assist supervisors and commanding officers to ensure that good personnel practices are upheld and that the Department is meeting its legal obligations.

The Reasonable Accommodation Coordinator is assigned to the Fire Department’s Personnel Services Section and may be contacted at (213) 978-3764.

LAFD DISABILITY AND REASONABLE
ACCOMMODATION POLICY AND ACCOMMODATION
REQUEST PROCEDURES

DRAFT

IV. PROCEDURES

B. REQUESTING REASONABLE
ACCOMMODATION

Employee Requests

Supervisor or Commanding Officer Initiated
Requests

B. REQUESTING REASONABLE ACCOMMODATION

The majority of requests are triggered by the receipt of permanent work restrictions by the Reasonable Accommodation Coordinator, however, written requests for reasonable accommodation can be initiated by the employee or when a supervisor becomes aware of information that may require an accommodation. While it is desirable for the request to be in writing, a supervisor or commanding officer should not wait for a formal written request to contact the Reasonable Accommodation Coordinator about the need to address the reasonable accommodation.

Employee Requests

An employee requesting an accommodation due to a disability should simultaneously notify the supervisor or commanding officer and the Reasonable Accommodation Coordinator. Written verification of the limitations from the employee's physician or Workers' Compensation physician should accompany the request. Once the Reasonable Accommodation Coordinator has received the request for reasonable accommodation, the Reasonable Accommodation Coordinator shall forward the pages two, three, and four of the Reasonable Accommodation Assessment Form (RAAF) to the immediate supervisor or commanding officer for further processing. The employee bears the responsibility of providing the Department with written proof of limitations such as a physician's statement.

NOTE: Request for Reasonable Accommodation Forms should be sent via Interdepartmental Mail marked "Confidential" with the Form 180 on the City's Inter-Departmental Memo.

Supervisor or Commanding Officer Initiated Requests

Whenever a supervisor or commanding officer becomes aware of information that may lead to an accommodation request, they should contact the Department's Reasonable Accommodation Coordinator to determine whether a written accommodation request should be submitted. A supervisor or commanding officer should not delay processing a request. Immediately contacting the Reasonable Accommodation Coordinator will ensure that the request is tracked by the Department and may avoid granting accommodations that are inappropriate, unwarranted, or may lead to questionable personnel practices effecting future accommodation requests.

For sworn personnel, it is advisable to also contact the Medical Liaison Unit. In the case of civilian personnel, contact and forward the information to the Reasonable Accommodation Coordinator.

LAFD DISABILITY AND REASONABLE ACCOMMODATION POLICY AND ACCOMMODATION REQUEST PROCEDURES DRAFT	IV. PROCEDURES C. <u>PROCESSING A REQUEST FOR REASONABLE ACCOMMODATION ASSESSMENT FORM</u> Civilian Employee with Temporary Restriction(s) Sworn Employee with Temporary Restrictions(s) D. <u>EVALUATING A REASONABLE ACCOMMODATION REQUEST</u>
---	--

C. PROCESSING A REQUEST FOR REASONABLE ACCOMMODATION
ASSESSMENT FORM

To determine the essential duties of the position and to document the accommodation assessment process, the immediate supervisor or commanding officer will prepare a current job description and job analysis with the assistance of the Reasonable Accommodation Coordinator when necessary. The position description must reflect the current duties of the position.

Civilian Employee with Temporary Restriction(s)

~~When a civilian employee has temporary restrictions, the specified number of weeks or months allowed for an employee to return to full duty should be made. This will help to distinguish between long-term accommodations and temporary or modified duty assignments. The job description, analysis, and recommendation to either approve or disapprove an accommodation should be sent to the Reasonable Accommodation Coordinator via Intradepartmental Mail marked "Confidential" with the Form 180 (NOTE: NOT a Form 225) as the recommendation is strictly confidential and shall be tracked separately from other personnel actions.~~

Civilian employees with temporary restrictions may request to be entered into the Light Duty Program. For information about the Light Duty Program, employees are asked to contact the Reasonable Accommodation Coordinator at (213) 978-3889.

Sworn Employee with Temporary Restriction(s)

Sworn Members with temporary restrictions may request to be entered into the Light Duty program. The Light Duty program for sworn personnel is coordinated through the Risk Management Section. For information about the Light Duty program, employees are asked to contact the Light Duty Program Coordinator at (213) 978-3547.

D. EVALUATING A REASONABLE ACCOMMODATION REQUEST

After the job description is completed and the recommendation from the supervisor or commanding officer is submitted, the Reasonable Accommodation Coordinator will consider the following factors to determine if a specific accommodation is reasonable:

LAFD DISABILITY AND REASONABLE
ACCOMMODATION POLICY AND ACCOMMODATION
REQUEST PROCEDURES

DRAFT

IV. PROCEDURES

D. EVALUATING A REASONABLE
ACCOMMODATION REQUEST (cont.)

E. DETERMINING LIMITATIONS AND
ACCOMMODATIONS

Pre-employment (Applicants)

Current Department Employees

- The essential duties of the position;
- The nature and cost of the accommodation needed;
- The overall financial resources for the department's facility involved in the accommodation, the number of people employed at the facility and the effect of expenses and resources or other impact of the accommodation on the facility's operation. (i.e. if the facility is leased or not owned by the City, it may not be within the Department's financial or other abilities to modify a doorway or alter the structure of a building to accommodate a wheelchair);
- The type of operations of the Department, including the staffing, reporting relationships, and functions of the workforce, geographic distance and administrative or direct ownership of the office or facility.
- The seniority system governing job placement gives employees expectations of consistent, uniform treatment that would be undermined if the employer made an exception, unless "special circumstances" already exist in the seniority system.

E. DETERMINING LIMITATIONS AND ACCOMMODATIONS

Pre-employment (Applicants)

Employees may be found to be medically limited in several ways. Applicants who are determined to be medically limited by a pre-employment medical examination are processed by the Reasonable Accommodation Coordinator. Also, review SECTION G. USE OF MEDICAL INFORMATION for additional information.

Current Department Employees

Upon returning to work after being off for an extended period of time, a current Department employee may be classified as having limitations or work restrictions following an examination by the Medical Services Division (MSD) of the Personnel Department. Any medical limitations or work restrictions mandated as a result of that examination will be issued by MSD directly to the Department.

If an employee develops a disabling condition (e.g. diabetes or hypertension) after initial employment and the employee's personal physician recommends an accommodation, the employee has the responsibility of providing the Department with written proof of

LAFD DISABILITY AND REASONABLE ACCOMMODATION POLICY AND ACCOMMODATION REQUEST PROCEDURES DRAFT	IV. PROCEDURES E. <u>DETERMINING LIMITATIONS AND ACCOMMODATIONS</u> <u>Current Department Employees (cont.)</u> <u>Non-Duty Related Injuries (NIOD) Accommodations</u>
--	--

limitations, such as a physician's statement. The Department shall refer employees to MSD for further evaluation, depending on the nature of the limitations and the requested accommodations. For example, if the request for accommodation involves a flexible work schedule that is easily remedied in the work unit, a referral to MSD may not be necessary. However, a request for special equipment or adjustments to duties that are not clearly identified by the physician's recommendations or that may unreasonably impact the work of the unit should be referred to MSD for clarification. The employee or the employee's physician may be contacted for clarification.

An immediate supervisor does not need to wait for an employee to make a formal request. If an employee develops a disabling condition after initial employment and the supervisor perceives that a reasonable accommodation may be needed, the supervisor may consult with the employee about the possible accommodation needs and contact the Department Reasonable Accommodation Coordinator for advice.

Non-Duty Related Injuries (NIOD) Accommodations

The Reasonable Accommodation Coordinator will make a written recommendation to the employee's immediate supervisor or commanding officer regarding the decision to accommodate an employee's permanent medical restrictions that occurred as a result of a non-duty related injury. Temporary restrictions are not covered under the ADA and do not require long-term accommodations. Employees with temporary restrictions wishing to participate in the Light Duty program may request a temporary or modified assignment in writing by submitting a F-225 through channels to the Commander of Operations.

Only when NIOD injuries are determined to be permanent and stationary should an accommodation request be considered. An interactive dialogue process shall be conducted with the employee, employee's immediate supervisor or representative of the Bureau. If it is recommended to accommodate the employee, the Reasonable Accommodation Coordinator will prepare a F-225 recommending placement of the affected employee to the Commander of Operations. Once the Commander of Operations has approved the F-225, the Reasonable Accommodation Coordinator will e-mail the immediate supervisor and the Bureau Commander of the affected position that the recommendation has been approved. The Bureau Commander and immediate supervisor can e-mail the Reasonable Accommodation Coordinator with any concerns they have regarding the approved recommendation. These concerns shall be presented to the Commander of Operations for consideration. The Reasonable Accommodation Coordinator shall advise the employee of the Department's decision in writing.

LAFD DISABILITY AND REASONABLE ACCOMMODATION POLICY AND ACCOMMODATION REQUEST PROCEDURES DRAFT	IV. PROCEDURES E. <u>DETERMINING LIMITATIONS AND ACCOMMODATIONS</u> <u>Non-Duty Related Injuries (NIOD) Accommodations</u> (cont.) <u>Injury-On-Duty (IOD) Accommodations</u> <u>Injury on Duty (IOD) and Workers' Compensation</u>
---	---

The Reasonable Accommodation Coordinator will assess whether or not the employee can be accommodated by transferring the employee to another job classification pursuant to City Charter Section 1014, reverting to a previously held classification/rank where the employee has status, or referral to the Personnel Department's Placement Officer for placement in a position and civil service classification outside the Department. During this period, the employee may be carried on earned vacation, ~~or sick time accrued by the employee or overtime~~, or be placed on an unpaid leave of absence. If all reasonable avenues have been exhausted, the employee can opt to resign or file for retirement (disability or service).

The Citywide Placement Officer is available to counsel civilian and sworn employees as to available options if they cannot be accommodated within the Department. The Citywide Placement Officer may be reached at (213) 473-0178.

Injury-On-Duty (IOD) Accommodations

Employees injured on duty with permanent medical restrictions imposed by a Workers' Compensation physician and/or Workers' Compensation award will be assessed for accommodation. When efforts to reasonably accommodate an employee are not successful, the same steps shall be taken as indicated in Section IV of this procedure, with the following exception:

- Should the Fire Department determine that it is unable to accommodate the medical restrictions, the employee will be referred for Rehabilitation Services in the Workers' Compensation Division of the City's Personnel Department. However, vocational rehabilitation is not considered an accommodation and does not eliminate the Department's responsibility to continue efforts to reasonably accommodate an employee. ~~The eligibility of Rehabilitation Services is contingent upon the date of injury.~~ *If your injury or illness occurred prior to January 1, 2004, you may qualify for vocational rehabilitation. If your injury or illness occurred after January 1, 2004, you may qualify for a non-transferable voucher payable to a school.*

Although the procedures differ slightly for medical restrictions resulting from IOD versus NIOD injury or illness, the goal of the process will be to accommodate the employee whenever reasonably possible. There should be no difference in the analysis of the injury or illness because it was the result of IOD or NIOD. Should it be determined that the Department cannot accommodate an employee's medical restrictions, the employee will be referred to the Personnel Department's Placement Officer for a citywide

LAFD DISABILITY AND REASONABLE ACCOMMODATION POLICY AND ACCOMMODATION REQUEST PROCEDURES DRAFT	IV. PROCEDURES E. <u>DETERMINING LIMITATIONS AND ACCOMMODATIONS</u> <i>Injury-On-Duty (IOD) Accommodations (cont.)</i> <i>Injury-On-Duty (IOD) and Workers' Compensation</i> F. <u>CONFIDENTIALITY</u>
---	--

placement search. The Department will continue its own internal efforts to accommodate the employee as positions become available.

Injury-On-Duty (IOD) and Workers' Compensation

The Workers' Compensation Division of the Personnel Department or Third Party Administrator will advise the Department on an employee's work restrictions once their condition becomes permanent and stationary. The Reasonable Accommodation Coordinator and the supervisor will collaborate and determine whether the employee's medical limitations can be accommodated.

Workers' Compensation provides certain remedies for industrially injured employees that are not provided to other medically limited employees. For example, Workers' Compensation may fund accommodations, depending on the degree from which the need for the accommodation resulted from an industrial injury. If an employee is limited because of a duty-related injury, but requires accommodation for an unrelated medical condition, Workers' Compensation will not pay for the accommodation.

Nevertheless, the Workers' Compensation Division shall be kept informed of all accommodations provided to employees who have filed Workers' Compensation claims, even if the accommodation is for a separate medical condition unrelated to the industrial injury. This is necessary to prevent duplication of efforts and help control or minimize the overall costs to the City.

F. CONFIDENTIALITY

All information regarding the employee's medical restrictions is strictly confidential. The ADA requires employers to treat any medical information obtained from a disability-related inquiry or medical examination (including medical information from voluntary health or wellness programs), as well as any medical information voluntarily disclosed by an employee, as a confidential medical record. Information may not be released to any person or organization without a release signed by the employee.

All information regarding medical accommodations shall be maintained by the Reasonable Accommodation Coordinator in the Personnel Services Section in the Bureau of Administrative Services and shall not be placed in the employee's Department or City Personnel file. However, in the event that an employee has been transferred or promoted, it is appropriate for the limitations or work restrictions to be reviewed by the receiving division supervisor or officer, or receiving City Department, for

LAFD DISABILITY AND REASONABLE ACCOMMODATION POLICY AND ACCOMMODATION REQUEST PROCEDURES DRAFT	IV. PROCEDURES F. <u>CONFIDENTIALITY (cont.)</u> G. <u>USE OF MEDICAL INFORMATION</u>
---	---

consideration of reasonable accommodation, as long as this review occurs after a job offer has been made. Management bears the responsibility to keep abreast of the work restrictions of which they are aware. However, the employee has the duty to advise the Department of any new or modified restrictions.

G. USE OF MEDICAL INFORMATION

A supervisor or commanding officer shall not inquire whether an employee is an individual with a disability or as to the nature or severity of the disability, unless the inquiry is job-related and consistent with business necessity. Supervisors and Commanding Officers shall only be concerned with work restrictions.

It is unlawful for a supervisor or commanding officer to require a medical, psychological or disability-related examination or to ask any medical, psychological or disability-related questions (such as in an interview) unless:

- a) A job offer has been made to the employee/applicant. Once the offer has been made, you may request the examination or information; however, it must be job-related and justified as a business necessity. For example, "Is there any reason that you may not be able to fulfill all of the physical requirements of this job?"
- b) All entering employees, with or without a disability, in that job classification are subject to the same medical examinations or questions.
- c) The supervisor or commanding officer has reason to believe that an employee that is already on the job may not be able to competently or safely perform their duties due to a disability.

NOTE: If an applicant or employee should disclose medical information, supervisors are required to safeguard an employee's privacy by strictly ensuring all medical information is kept confidential.

If a supervisor or commanding officer has any doubt about requesting an examination or asking questions about an applicant's or employee's disability, actual or perceived, they should contact the Reasonable Accommodation Coordinator for clarification.

LAFD DISABILITY AND REASONABLE ACCOMMODATION POLICY AND ACCOMMODATION REQUEST PROCEDURES DRAFT	IV. PROCEDURES H. <u>DOCUMENTATION</u> I. <u>ORDERING SPECIAL EQUIPMENT</u>
---	---

H. DOCUMENTATION

The Department's Reasonable Accommodation Coordinator shall maintain documentation of accommodations, for both requests that were approved as well as reasonable accommodation requests that were not approved. Documentation is necessary to show that a reasonable accommodation was discussed and considered and to justify the outcome of the assessment.

I. ORDERING SPECIAL EQUIPMENT

If it is determined that a request for an accommodation is reasonable, the Reasonable Accommodation Coordinator will contact the concerned supervisor or officer in order to arrange for providing an accommodation. Accommodations that include worksite modifications, purchase of special equipment or personal services contracts, shall be subject to current budgetary procedures or to the guidelines of the "504" accommodation fund administered by the Department on Disability. The Reasonable Accommodation Coordinator shall be responsible for establishing and maintaining communication about the preparation and forwarding of budgetary requests to the Bureau of Administrative Services and to the Department on Disability.

The equipment shall remain with the employee who has a disability, even if the employee transfers within the Department to another division.

If the employee with a disability leaves the Fire Department employment, please contact the Reasonable Accommodation Coordinator for proper tagging and storage of the equipment.

APPENDIX A

SUPERVISORY GUIDE

STRATEGIES FOR PREVENTING HARASSMENT

DRAFT

SUPERVISORY GUIDE

STRATEGIES FOR PREVENTING HARASSMENT

1. Serve as a role model for others.
 - Identify your own behaviors which may be construed as harassing.
 - Stop those behaviors.
2. Change norms which may allow harassment to occur.
 - Strive for a work climate in your unit where rules, norm and standards enhance productivity and open communications.
 - Distribute and discuss policy; affirm that discriminatory harassment will not be tolerated.
3. Encourage open communication. You can model this by:
 - Communicating openly yourself.
 - Asking, checking out whether behaviors are unwanted or offensive.
 - Questioning “mixed signals” and seeking clarification on them.
 - Challenging your subordinates and your peers to change their behaviors.
 - Communication that you are accessible and responsive to all human relations problems and concerns.
 - Maintain confidentiality until the complaint must be brought to the attention of certain individuals for resolution.
4. Watch for signs and symptoms; check them out.
 - Unexplained employee sensitivity to another employee, supervisor, customer or client.
 - A history of good performance reviews, then a poor one.
 - Unexplained or unusual change in behavior; uncommunicative; solitary; humorless.
5. Be fair, objective, and clear about your expectations with all employees.
 - Avoid the perception of favoritism.
 - Be consistent with rewards and punishments; use the same standard for everyone.
 - Make regular and effective use of job descriptions, performance reviews and ongoing feedback to ensure objectivity.
 - Assure that any assignment you give or appointment you make is based only on job-related criteria.
 - Make information on upcoming examinations and training opportunities available to all employees on an equal basis.

DRAFT

SUPERVISORY GUIDE

STRATEGIES FOR PREVENTING HARASSMENT

- Provide your employees with practical, on-the-job training and, where practical, opportunities to rotate through different assignments.
6. Take immediate action to resolve the issue.
 7. When you receive a complaint, assure the complainant that you will do everything possible to prevent any reprisals that may be attempted against him/her and that you will monitor the situation to assure this. Advise them to notify you if they feel any repercussions resulting from their complaint and follow up to ensure that retaliation is not taking place.
 8. **ONCE YOU HAVE KNOWLEDGE OF (ALLEGED) DISCRIMINATORY HARASSMENT, YOU MUST TAKE IMMEDIATE, APPROPRIATE, CORRECTIVE ACTION** (even if complainant does not want you to proceed), which may take the form of reporting it to the appropriate resources, and proceeding with steps described in the Complaint Procedures of this Manual.

APPENDIX B

SUPERVISORY GUIDE **COMPLAINT PROCESSING**

DRAFT

SUPERVISORY GUIDE

COMPLAINT PROCESSING

INTRODUCTION

This Supervisory Guide provides additional information to assist officers, managers and supervisors in carrying out their responsibilities as described in the LAFD Discrimination Prevention Policy Handbook.

The following information explains the processing of discrimination complaints in general terms. While each case may unfold or develop on its own based on unique circumstances, the basic elements remain the same. If you have a complaint of discrimination based on sexual harassment, it is strongly urged that you refer to the Sexual Harassment Prevention Policy and Complaint Procedure within Book 90 for specific information about these complaints. If you have a complaint of discrimination based on sexual orientation, it is strongly urged that you refer to the Supervisory Guide for Sexual Orientation Discrimination Prevention located in Appendix C of the LAFD Discrimination Prevention Policy and Complaint Procedures within Book 90 for specific information about these complaints.

A. OFFICER, MANAGER AND SUPERVISOR

The questions below are suggestions and intended to be a guideline for collecting relevant information. They are not intended to limit the lines of communication, as good follow-up questions are essential for drawing out and clarifying the information that you obtain. You may want to write down the allegations, verify the accuracy with the complainant, and use this record as future reference. If a supervisor receives a discrimination complaint, the supervisor shall maintain objectivity while addressing the following questions with the complainant:

- Determine if the complainant wants to make a formal complaint or is seeking advice or counseling information only.
- What happened?
- Who is responsible for the alleged discrimination?
- Where did the incident take place?
- When did the incident take place?
- Did anyone else witness the incident?

DRAFT

SUPERVISORY GUIDE

COMPLAINT PROCESSING

- Is this the only incident involving this person, or have there been others?
- Did the complainant indicate to the offender that the conduct was inappropriate or unwelcome? When? How?
- How did the complainant feel at the time? Now?
- Did the complainant tell anyone else about the alleged incident?
- Who else can give me relevant information?
- Did the complainant document or keep any notes about the alleged incident?
- Does the complainant have knowledge of others who have been affected by this person or action?
- Was the complainant's ability to perform work affected?
- What action does the complainant believe will resolve the issues?

Once this information has been discussed:

- Assure the employee that you are taking the matter seriously.
- Repeat information back to complainant for confirmation of the facts.
- If a formal complaint is to be made, do not make promises of confidentiality but do advise that to the extent possible, confidentiality will be maintained.
- Tell the complainant what you intend to do and when you will get back to the complainant.
- Document and date your discussion with the complainant.
- Ensure the employee is not left in a threatening, hostile, or unsafe work environment.

DRAFT

SUPERVISORY GUIDE

COMPLAINT PROCESSING

NOTE: AS A SUPERVISOR, IF YOU HAVE KNOWLEDGE OF (ALLEGED) SEXUAL HARASSMENT, YOU MUST TAKE PROMPT AND APPROPRIATE ACTION. Refer to the Sexual Harassment Prevention Policy and Complaint Procedures or Discrimination Prevention Policy and Complaint Procedures, Appendix C Supervisory Guide - Sexual Orientation Discrimination Prevention within Book 90 for more detailed guidelines on how to process a sexual harassment or sexual orientation discrimination complaint. Some of this information is also applicable to other types of discrimination complaints.

- Urge the complainant to report to you immediately if there is any repetition of the problem behavior or if reprisals occur and assure the complainant that you will do everything possible to prevent any reprisals.
- Do not permit or engage in retaliatory behavior against the complainant or others who may participate in an investigation.

After you have taken the above steps, it is also advisable to:

- Maintain confidentiality to the extent possible and continue to document appropriate facts that may surface during the investigation process. If your investigation cannot proceed without disclosing the complainant's identity, limit the number of persons contacted and require that each one maintain confidentiality. You may consult with the Fire Commission Office at (213) 978-3837 or (213) 482-6970;
- Inform your supervisor and the Professional Standards Division about the situation immediately.

During the processing of a complaint and after a complaint has been resolved, Supervisors must follow up to ensure that the complaining employee or any employees who participated in a discrimination investigation are not subject to retaliation.

B. COMPLAINANT

An employee who believes he or she is the victim of inappropriate behavior or unfair employment practices or actions that may be discriminatory should be prepared to provide an officer/counselor with the following information as it applies to his or her complaint:

- What happened?

DRAFT

SUPERVISORY GUIDE

COMPLAINT PROCESSING

- Who is creating or causing the discrimination?
- Did you indicate to that person the alleged conduct was unwelcome or inappropriate? How?
- Where did the incident(s) take place?
- When did the incident(s) take place?
- How has your ability to perform work been affected?
- Did anyone else witness the incident?
- Was this the only incident involving this person, or were there others?
- What action(s) did you take?
- What were your feelings at the time? Now?
- Did you talk to anyone else about it? When?
- Did you document the incident by recording it in a diary, a memo, or a letter?
- How can the situation be resolved?

All allegations of discrimination or harassment will be thoroughly investigated. All persons named as potential witnesses by the complainant will be contacted during the course of the investigation. Anyone who is alleged to have committed acts of discrimination or harassment will be contacted during the investigation to allow him or her to respond to the allegations.

Any employee who observes an incident of discrimination or harassment shall cooperate in any investigation. ALL MEMBERS ARE ASSURED THAT THEY MAY COOPERATE IN SUCH INVESTIGATION WITHOUT FEAR OF RETALIATION OR REPRISAL BY THE CITY, DEPARTMENT MANAGEMENT, OR THEIR IMMEDIATE SUPERVISOR.

C. ACCUSED

If you are an employee named as the accused in a discrimination or harassment

DRAFT

SUPERVISORY GUIDE

COMPLAINT PROCESSING

complaint, you have the right to have representation during the investigation interview and you should be prepared to cooperate fully during the investigation. Just as the complainant has the right to a fair investigation, so does the accused. Provide the investigation officer/counselor with the following:

- From your perspective, what happened?
- Did the complainant indicate to you that the alleged conduct was unwelcome or inappropriate?
- Reflect upon the allegation(s) identified, and ask yourself from the complainant's perspective: Could my actions have been interpreted differently from the way I meant them? By the complainant or others?
- Where did the incident(s) take place?
- When did the incident(s) take place?
- Did anyone else witness the incident?
- What action(s) did you take?
- What were your feelings at the time? Now?
- Did you talk to anyone else about it?
- Did you document the incident by recording it in a diary, a memo, or a letter?
- Do you have any other information that may be relevant to the investigation?

Persons named as witnesses by the accused also will be interviewed. Once you have been notified that your conduct is being investigated, you are still expected to adhere to a standard of conduct that is respectful to all employees in the department, including the complainant, any witness or supporter. Reprisals or vengeful acts will probably be perceived as retaliation and may result in an independent charge of discrimination.

Employees who have questions about rights and obligations set forth in the LAFD Discrimination Prevention Policy Handbook (Book 90) should contact the Fire Commission at (213) 978-3837 or (213) 482-6970.

APPENDIX C

SUPERVISORY GUIDE

SEXUAL ORIENTATION DISCRIMINATION PREVENTION

DRAFT

SUPERVISORY GUIDE

SEXUAL ORIENTATION DISCRIMINATION PREVENTION

INTRODUCTION

This Supervisory Guide provides additional information to assist officers, managers and supervisors in carrying out their responsibilities as described in the LAFD Discrimination Prevention Policy Handbook. It is important to take prompt and appropriate action to deter sexual orientation discrimination and harassment. Prevention and education are the best tools.

This Guide also explains the processing of a sexual orientation discrimination complaint. While there are basic elements similar to any discrimination complaint, it is important to understand the unique circumstances that may result in sexual orientation discrimination and harassment complaints.

EXPLANATION OF SEXUAL ORIENTATION DISCRIMINATION

Sexual orientation discrimination is a form of sex discrimination. It is a violation of the City's policy and State law. Discrimination is prohibited on the basis of one's actual or perceived sexual orientation, including actual or perceived heterosexual, lesbian, gay, transgender, or bisexual orientation.

Sexual orientation refers to an individual's physical and/or emotional attraction to the same sex and/or opposite sex. This includes homosexual (attraction to individuals of one's own gender), bisexual (attraction to individuals of either gender), or heterosexual (attraction to individuals of the opposite gender).

IMPORTANT: Sexual orientation does not only refer to gay people, it also includes heterosexuals. Sexual orientation refers to all employees working for the City of Los Angeles because we all have a sexual orientation.

Harassment on the basis of actual or perceived sexual orientation is prohibited in the workplace. Sexual orientation harassment includes the creation of or contribution to a hostile, intimidating, threatening, offensive, or abusive environment based on sexual orientation through written, spoken, graphic or demonstrative derogatory terms, slurs, comments, gestures, ridicule, threats, rumors, or jokes regarding sexual orientation. The conduct must be sufficiently severe or pervasive that it unreasonably interferes with the work environment or the individual's job performance or creates an intimidating, hostile, or offensive working environment.

DRAFT

SUPERVISORY GUIDE

SEXUAL ORIENTATION DISCRIMINATION PREVENTION

DEFINITIONS

Sexual orientation: The term used when referring to an individual's physical, spiritual and/or emotional attraction to the same and/or opposite sex, including homosexual, bisexual or heterosexual orientations. Persons with a homosexual orientation are sometimes referred to as **gay** (both men and women) or as **lesbian** (women only).

Discrimination: Any employment practice, which intentionally or unintentionally results in the unequal treatment of an individual or group on the basis other than job-related reasons.

As it relates to sexual orientation, it is differential treatment based on a person's real or perceived sexual orientation.

Homophobia: Conscious prejudice against homosexuals or homosexuality. Apprehension, fear and/or hatred of lesbians and gay men. Typically, this takes the form of conscious harassment and/or discrimination against homosexuals or the subject of homosexuality.

We as humans develop unconscious biases based on human traits or orientations. Biases are one thing, but when people consciously act on them, it is called homophobia.

Coming out: The process of becoming aware of, accepting, and expressing one's sexual identity to oneself and others.

To "come out" and publicly declare and affirm one's gay, lesbian, or bisexual identity can take public expression. It is a life long process. People forge a lesbian, gay or bisexual identity first to themselves, and then may reveal it to others.

Rainbow Flag: A symbol used worldwide since 1978 signifying gay unity and diversity.

LGBT: The acronym for "lesbian, gay, bisexual and transgender."

Transgender: An umbrella term for persons who have a self-image or gender identity not traditionally associated with their biological sex.

Some transgender persons wish to change their anatomy to correspond with their self-perception. Others do not have such a desire. The term refers to the self and not to sex partners. It is independent of sexual orientation. Transgender persons can be heterosexual, homosexual or bisexual.

DRAFT
SUPERVISORY GUIDE

SEXUAL ORIENTATION DISCRIMINATION PREVENTION

Gender expression: Behavior, including clothing that communicates one's status as a man or as a woman.

Cross-dresser: Person who enjoys dressing in clothes considered appropriate only for the other sex. Cross-dressers are sometimes called *transvestites*.

Transition: The process of changing from living as a member of one sex to living as member of the other sex.

Transsexual: Person who has transitioned or desires to transition from one sex to the other, usually includes sex reassignment surgery.

Sex Reassignment Surgery: Surgical transformation of the genital area from the appearance characteristic of one sex to that of the other sex.

Domestic partnership: In general, this is a long-term commitment between two adults (whether gay, lesbian or heterosexual) who reside together, and are financially and emotionally interdependent.

Partner: A term chosen by many lesbians and gay men, and some heterosexuals, to denote the person to whom they are romantically involved. Other terms in use are "significant other," "lover," and "spouse."

Do not use derogatory terminology. Also, do not use "sexual preference" as a synonym for sexual orientation. Also, because the lesbian and gay community is diverse ethnically, racially, economically, socially, politically, culturally, the term gay or lesbian "lifestyle" is inaccurate. These terms are offensive to many people.

Creating a Supportive Work Environment

- ❖ Avoid presumptions about anyone's sexual orientation, heterosexual or homosexual
- ❖ Don't tell or tolerate jokes at the expense of gays and lesbians, ~~just as you wouldn't tolerate jokes about women, people of color, or other ethnic groups; and~~
- ❖ Respect the privacy of ~~gay and lesbian employees~~ *every employee*. ~~gays and lesbians have~~ *Everyone has* control over sharing information about themselves at work

DRAFT

SUPERVISORY GUIDE

SEXUAL ORIENTATION DISCRIMINATION PREVENTION

COMPLAINT PROCESSING

A. OFFICER, MANAGER AND SUPERVISOR

1. When a supervisor or manager receives a sexual orientation discrimination complaint about an employee, it is imperative to maintain objectivity while pursuing the following questions with the complainant:

- Determine if the complainant wants to make a formal complaint or is seeking advice or counseling information only.
- What happened?
- Who is the alleged harasser?
- What did she/he say and/or do?
- Where did the incident take place?
- When did the incident take place?
- Did anyone else witness the incident?
- Is this the only incident, or have there been others?
- What did the complainant do?
- Did the complainant indicate to the alleged harasser that the conduct was unwelcome? When?
- How did the complainant feel at the time? Now?
- Did the complainant tell anyone else about the alleged incident? Who else can give me relevant information?
- Did the complainant document or keep any notes about the alleged incident?
- Does the complainant have knowledge of others who have been affected by this person?

DRAFT

SUPERVISORY GUIDE

SEXUAL ORIENTATION DISCRIMINATION PREVENTION

- Was the complainant's ability to perform work affected?
- What action does the complainant believe will resolve the issues?

When asking these questions, it is important to incorporate the following:

- If the complainant or accused does tell you their sexual orientation, make sure they understand that the case is based on the behaviors involved, and not their sexual orientation.

Ask him/her if he/she wants you to record in the investigation notes what was just said about their sexual orientation.

- Be careful not to hold someone who is gay/lesbian/bisexual to a different standard than his/her heterosexual co-workers.

Example:

Is the comment sexual in nature when someone who is gay/lesbian talks about his/her latest trip with their same sex partner?

If an employee is offended by this and believes they are being harassed by even hearing this, what should you do?

- When investigating claims of sexual orientation harassment, remember it is based on behaviors and not the gender or sexual orientation of the parties.

Examples: Heterosexual men can sexually harass lesbians, and vice versa. Gay men can sexually harass heterosexual women, and vice versa. Heterosexual men can sexually harass gay men, and vice versa. Heterosexual women can sexually harass lesbians, and vice versa.

2. The questions in Section 1 are suggestions and intended to be a guideline for collecting relevant information. They are not intended to limit the lines of communication, as good follow-up questions are essential for drawing out and clarifying the information that you obtained. Once this information has been discussed:

- Assure the employee that you are taking the matter seriously.

DRAFT

SUPERVISORY GUIDE

SEXUAL ORIENTATION DISCRIMINATION PREVENTION

- Repeat information back to complainant for confirmation of the facts.
 - If a formal complaint is to be made, do not make promises of confidentiality but do discuss that to the extent possible, confidentiality will be maintained. A *Supervisor cannot act as a confidante if he or she believes sexual orientation harassment has occurred.*
 - Tell the complainant what you intend to do and when you will get back to the complainant.
 - Document and date your discussion with the complainant.
 - Urge the complainant to report to you immediately if there is any repetition of the problem behavior or if reprisals occur.
3. After you have taken the above steps, it is also advisable to:
- Inform your supervisor and the Department Sexual Orientation Counselor at (213) 473-7725 about the situation immediately after your discussion.
 - Maintain confidentiality to the extent possible and continue to document appropriate facts that may surface while processing the complaint. If you cannot proceed without disclosing the complainant's identity, you should limit the number of persons contacted and require that each one maintain confidentiality. Consult with the Department Sexual Orientation Counselor.
4. After you have met with the complainant, it is advisable to:
- Assure the complainant that you will do everything possible to prevent any reprisals.
 - **SINCE YOU HAVE KNOWLEDGE OF (ALLEGED) SEXUAL ORIENTATION HARASSMENT, YOU MUST TAKE IMMEDIATE AND APPROPRIATE ACTION.** This may take the form of reporting it to your supervisor, the Departmental Sexual Orientation Counselor, and/or proceed with the following steps:
 - a. Arrange to talk to the alleged harasser in private. The accused has a right to representation during an investigation interview. NOTE: Documentation

DRAFT

SUPERVISORY GUIDE

SEXUAL ORIENTATION DISCRIMINATION PREVENTION

required.

- b. Inform the alleged harasser that you have received a complaint about his or her behavior. Be clear that you are responding to an allegation and that you want to hear his or her side of the story. (Be neither accusatory nor dismissive of the seriousness of the complaint. Remain nonjudgmental.)
 - c. Explain the specific nature of the complaint, indicating the precise behavior that has been alleged.
 - d. Ask if the allegations are true. If the employee admits to the allegations:
 - Inform the employee that the behavior is unwelcome and must stop.
 - Remind the employee of the Department's sexual orientation discrimination policy.
 - Advise the employee that further appropriate corrective action may have to be taken, including discipline.
 - Document the conversations and any actions taken.
 - e. If the alleged harasser denies the allegations, advise the employee that a formal investigation will be necessary to properly resolve the complaint.
 - f. Cooperate with department staff investigators when formal investigations are necessary.
5. After investigation and resolution, generally advise the complainant that the investigation is completed and appropriate actions will be taken. Additionally, if necessary, advise the complainant of his or her employee rights and the procedure for pursuing the complaint further if he or she is not satisfied.
 6. If the supervisor receives a complaint against a non-employee, the supervisor shall conduct an investigation as indicated above and consult with the Department Sexual Orientation Counselor. The extent of the City's control and any other legal responsibility, which the City may have with respect to the conduct of the non-employee, shall be considered.

DRAFT

SUPERVISORY GUIDE

SEXUAL ORIENTATION DISCRIMINATION PREVENTION

If the investigation finds that sexual orientation harassment occurred during the scope of work for a non-employee, this information must be forwarded to their employer for corrective action. If the non-employee has no employer affiliation, such as a private citizen, appropriate action should be taken to prevent a reoccurrence. Such action may include modification of assignments to ensure no future contact, provide or add security, etc.

Each case for non-employees must be handled on an individual basis to determine the most effective remedy to stop the sexual orientation harassment.

BASIC LIST OF THINGS TO AVOID

- ❖ Don't assume every case is the same or become over-reliant on this Supervisory Guide.
- ❖ Don't ask or assume the sexual orientation of the complainant or accused. REMEMBER, ACCORDING TO THE LAW, IT IS ACTUAL OR PERCEIVED SEXUAL ORIENTATION.
- ❖ Don't refuse to accept the complaint because you feel nothing happened, that it is not that serious, or that kind of behavior is "no big deal".
- ❖ Don't fail to follow through because, "She or he told me not to do anything". As a supervisor or manager, the City requires you to take timely and effective action to prevent and to stop discriminatory conduct.
- ❖ Don't tell the complainant:
 - Not to let the offensive conduct bother him/her
 - That she/he might have misunderstood what the accused intended
 - That the accused "is just like that," or "just a joker" or "doesn't mean anything by it"
 - That dealing with the complaint may cause embarrassment, hurt his/her career or reputation, cause other harm, or "out" him/her
 - That the complaint will ruin the accused's career, marriage, reputation, etc.
 - One should expect this kind of behavior because of your sexual orientation
- ❖ Don't automatically discount the credibility of the complainant because:
 - Of prior disciplinary problems

DRAFT

SUPERVISORY GUIDE

SEXUAL ORIENTATION DISCRIMINATION PREVENTION

- Complainant is known to be openly gay, lesbian, bisexual or heterosexual
- Complainant delayed reporting
- ❖ Don't tell the complainant that the alleged facts are:
 - Awful
 - The accused should not have done it
 - Accused has done such things before
- ❖ Don't believe any story until you get the other side(s)
- ❖ Don't tell the accused or complainant to stay away from the other party as a substitute for investigating whether the alleged acts occurred

B. COMPLAINANT

An employee who believes he or she is the victim of inappropriate behavior that may be sexual orientation harassment should be prepared to provide an officer/counselor with the following:

- What happened?
- Who is the alleged harasser?
- Did you indicate to the harasser that the alleged conduct was unwelcome?
- Where did the incident(s) take place?
- When did the incident(s) take place?
- How has your ability to perform work been affected?
- Did anyone else witness the incident?
- Was this the only incident, or were there others?
- What action(s) did you take?
- What were your feelings at the time? Now?

DRAFT

SUPERVISORY GUIDE

SEXUAL ORIENTATION DISCRIMINATION PREVENTION

- Did you talk to anyone else about it? When?
- Did you document the incident by recording it in a diary, memo, or letter?
- How can the situation be resolved?

All allegations of sexual orientation harassment will be thoroughly investigated. All persons named as potential witnesses by the complainant will be contacted during the course of the investigation. Anyone who is alleged to have committed acts of sexual orientation harassment will be contacted during the investigation to allow him or her to respond to the allegations.

Any employee who observes an incident of sexual orientation harassment shall cooperate in any investigation. ALL MEMBERS ARE ASSURED THAT THEY MAY COOPERATE IN SUCH INVESTIGATION WITHOUT FEAR OF RETALIATION OR REPRISAL BY THE CITY, DEPARTMENT MANAGEMENT, OR THEIR IMMEDIATE SUPERVISOR.

C. ACCUSED

If you are an employee that is named as the accused harasser in a sexual orientation harassment complaint, you have the right to have representation during the investigation interview and you should be prepared to cooperate fully during the investigation. Just as the complainant has the right to a fair investigation, so does the accused. Provide the investigator with the following:

- From your perspective, what happened?
- Did the complainant indicate to you that the alleged conduct was unwelcome?
- Reflect upon the allegation(s) identified, and ask yourself from the complainant's perspective: Could my actions have been interpreted differently? By the complainant or others?
- Where did the incident(s) take place?
- When did the incident(s) take place?
- Did anyone else witness the incident?

DRAFT

SUPERVISORY GUIDE

SEXUAL ORIENTATION DISCRIMINATION PREVENTION

- What action(s) did you take?
- What were your feelings at the time? Now?
- Did you talk to anyone else about it?
- Did you document the incident by recording it in a diary, memo, or letter?
- Do you have any other information that may be relevant to the investigation?

Persons named as witnesses by the accused harasser also will be interviewed. Once you have been notified that you are the accused harasser, you are still expected to adhere to a standard of conduct that is respectful to all employees in the department, including the complainant, any witness or supporter. Reprisals or vengeful acts will be perceived as retaliation and may result in an additional charge of discrimination.

Employees who have questions about rights and obligations set forth in this manual should contact the Department Sexual Orientation Counselor at (213) 978-3876 or the Personnel Department Citywide Sexual Orientation Coordinator at (213) 485-8250.

APPENDIX D

INFORMAL COMPLAINT FACT SHEET

LOS ANGELES FIRE DEPARTMENT INFORMAL COMPLAINT FACT SHEET

☐ Walk In ☐ Phone In

Date: _____

Complainant Name:			
Home Address:		Work Address (Station or Unit):	
		Battalion or Section:	
Home Phone:	OK to Call:	Work Phone:	OK to Call:
	Yes / No		Yes / No
Class Title:		Supervisor:	
Status: <input type="radio"/> Regular/Fulltime <input type="radio"/> Part Time <input type="radio"/> Exempt <input type="radio"/> Emergency <input type="radio"/> Probation <input type="radio"/> Terminated <input type="radio"/> Limited <input type="radio"/> Candidate for Employment <input type="radio"/> Other: _____			

Taken By:	Referred By:
Person Contacted:	Phone:

APPENDIX E

DISCRIMINATION COMPLAINT INTAKE FORM

[illegible]

Date(s) of Occurrence:

Witness(es) (Optional):

Allegation(s):

E. List any additional witnesses you believe should be interviewed. – Why?

1.

2.

3.

4.

F. Remedy Sought:

ANALYST

COMPLAINANT

DATE FORM COMPLETED

APPENDIX F

SUPERVISORY GUIDE

COMPLAINT PROCESSING FOR SEXUAL HARASSMENT COMPLAINTS

DRAFT

SUPERVISORY GUIDE

COMPLAINT PROCESSING FOR SEXUAL HARASSMENT COMPLAINTS

This Supervisory Guide provides additional information to assist officers, managers and supervisors in carrying out their responsibilities as described in the LAFD Sexual Harassment Prevention Policy and Complaint Procedure which is part of the Discrimination Prevention Policy Handbook (Book 90).

A. OFFICER, MANAGER AND SUPERVISOR

1. When an officer, supervisor or manager receives a sexual harassment complaint about an employee, it is imperative to maintain objectivity while pursuing the following questions with the complainant:
 - Determine if the complainant wants to make a formal complaint or is seeking advice or counseling information only.
 - What happened?
 - Who is the alleged harasser?
 - What did he/she say and/or do?
 - Where did the incident take place?
 - When did the incident take place?
 - Did anyone else witness the incident?
 - Is this the only incident, or have there been others?
 - What did the complainant do?
 - Did the complainant indicate to the alleged harasser that the conduct was unwelcome? When?
 - How did the complainant feel at the time? Now?
 - Did the complainant tell anyone else about the alleged incident? Who else can give me relevant information?
 - Did the complainant document or keep any notes about the alleged incident?
 - Does the complainant have knowledge of others who have been affected by this person?

DRAFT

SUPERVISORY GUIDE

COMPLAINT PROCESSING FOR SEXUAL HARASSMENT COMPLAINTS

- Was the complainant's ability to perform work affected?
 - What action does the complainant believe will resolve the issues?
2. The questions in Section 1 are suggestions and intended to be a guideline for collecting relevant information. They are not intended to limit the lines of communication, as good follow-up questions are essential for drawing out and clarifying the information that you obtained. Once this information has been discussed:
- Assure the employee that you are taking the matter seriously.
 - Repeat information back to complainant for confirmation of the facts.
 - If a formal complaint is to be made, do not make promises of confidentiality but do discuss that to the extent possible, confidentiality will be maintained. *A Supervisor cannot act as a confidante if he or she believes sexual harassment has occurred.*
 - Tell the complainant what you intend to do and when you will get back to the complainant.
 - Document and date your discussion with the complainant.
 - Urge the complainant to report to you immediately if there is any repetition of the problem behavior or if reprisals occur.
3. After you have taken the above steps, it is also advisable to:
- Inform your supervisor and the Department Sexual Harassment Counselor about the situation immediately after your discussion.
 - Maintain confidentiality to the extent possible and continue to document appropriate facts that may surface while processing the complaint. If you cannot proceed without disclosing the complainant's identity, you should limit the number of persons contacted and require that each one maintain confidentiality. Consult with the Department Sexual Harassment Counselor.
4. After you have met with the complainant, it is advisable to:

DRAFT

SUPERVISORY GUIDE

COMPLAINT PROCESSING FOR SEXUAL HARASSMENT COMPLAINTS

- Assure the complainant that you will do everything possible to prevent any reprisals.
- **SINCE YOU HAVE KNOWLEDGE OF (ALLEGED) SEXUAL HARASSMENT, YOU MUST TAKE IMMEDIATE AND APPROPRIATE ACTION.** This may take the form of reporting it to your supervisor, the Departmental Sexual Harassment Counselor, and/or proceed with the following steps:
 - a. Arrange to talk to the alleged harasser in private. The accused has a right to representation during an investigation interview. **NOTE:** Documentation required.
 - b. Inform the alleged harasser that you have received a complaint about his or her behavior. Be clear that you are responding to an allegation and that you want to hear his or her side of the story. (Be neither accusatory nor dismissive of the seriousness of the complaint. Remain nonjudgmental.)
 - c. Explain the specific nature of the complaint, indicating the precise behavior that has been alleged.
 - d. Ask if the allegations are true. If the employee admits to the allegations:
 - Inform the employee that the behavior is unwelcome and must stop.
 - Remind the employee of the Department's sexual harassment policy.
 - Advise the employee that further appropriate corrective action may have to be taken, including discipline.
 - Document the conversations and any actions taken.
 - e. If the alleged harasser denies the allegations, advise the employee that a formal investigation will be necessary to properly resolve the complaint.
 - f. Cooperate with department staff investigators when formal investigations are necessary.
- 5. After investigation and resolution, generally advise the complainant that the investigation is completed and appropriate action will be taken. Additionally, if necessary, advise the complainant of his or her employee rights and the procedure for pursuing the complaint further if he or she is not satisfied.
- 6. If the supervisor receives a complaint against a non-employee, the supervisor

DRAFT

SUPERVISORY GUIDE

COMPLAINT PROCESSING FOR SEXUAL HARASSMENT COMPLAINTS

shall conduct an investigation as indicated above and consult with the Department Sexual Harassment Counselor. The extent of the City's control and any other legal responsibility, which the City may have with respect to the conduct of the non-employee, shall be considered.

If the investigation finds that sexual harassment occurred during the scope of work for a non-employee, this information must be forwarded to their employer for corrective action. If the non-employee has no employer affiliation, such as a private citizen, appropriate action should be taken to prevent a reoccurrence. Such action may include modification of assignments to ensure no future contact, provide or add security, etc.

Each case for non-employees must be handled on an individual basis to determine the most effective remedy to stop the sexual harassment.

B. COMPLAINANT

An employee who believes he or she is the victim of inappropriate behavior that may be sexual harassment should be prepared to provide an officer/counselor with the following:

- What happened?
- Who is the alleged harasser?
- Did you indicate to the harasser that the alleged conduct was unwelcome?
- Where did the incident(s) take place?
- When did the incident(s) take place?
- How has your ability to perform work been affected?
- Did anyone else witness the incident?
- Was this the only incident, or were there others?
- What action(s) did you take?
- What were your feelings at the time? Now?

DRAFT

SUPERVISORY GUIDE

COMPLAINT PROCESSING FOR SEXUAL HARASSMENT COMPLAINTS

- Did you talk to anyone else about it? When?
- Did you document the incident by recording it in a diary, memo, or letter?
- How can the situation be resolved?

All allegations of sexual harassment will be thoroughly investigated. All persons named as potential witnesses by the complainant will be contacted during the course of the investigation. Anyone who is alleged to have committed acts of sexual harassment will be contacted during the investigation to allow him or her to respond to the allegations.

Any employee who observes an incident of sexual harassment shall cooperate in any investigation. ALL MEMBERS ARE ASSURED THAT THEY MAY COOPERATE IN SUCH INVESTIGATION WITHOUT FEAR OF RETALIATION OR REPRISAL BY THE CITY, DEPARTMENT MANAGEMENT, OR THEIR IMMEDIATE SUPERVISOR.

C. ACCUSED

If you are an employee that is named as the accused harasser in a sexual harassment complaint, you have the right to have representation during the investigation interview and you should be prepared to cooperate fully during the investigation. Just as the complainant has the right to a fair investigation, so does the accused. Provide the investigation officer/counselor with the following:

- From your perspective, what happened?
- Did the complainant indicate to you that the alleged conduct was unwelcome?
- Reflect upon the allegation(s) identified, and ask yourself from the complainant's perspective: Could my actions have been interpreted differently? By the complainant or others?
- Where did the incident(s) take place?
- When did the incident(s) take place?
- Did anyone else witness the incident?
- What action(s) did you take?
- What were your feelings at the time? Now?

DRAFT

SUPERVISORY GUIDE

COMPLAINT PROCESSING FOR SEXUAL HARASSMENT COMPLAINTS

- Did you talk to anyone else about it?
- Did you document the incident by recording it in a diary, memo, or letter?
- Do you have any other information that may be relevant to the investigation?

Persons named as witnesses by the accused harasser also will be interviewed. Once you have been notified that you are the accused harasser, you are still expected to adhere to a standard of conduct that is respectful to all employees in the department, including the complainant, any witness or supporter. Reprisals or vengeful acts will be perceived as retaliation and may result in an additional charge of discrimination.

Employees who have questions about rights and obligations set forth in this manual should contact the Department Sexual Harassment Counselor at (213) 978-3876 or the Personnel Department Citywide Sexual Harassment Counselor at (213) 485-8250.

APPENDIX G

CITY POLICIES

Executive Directive No. PE-1: Equal Employment Opportunity, Non-Discrimination and Reasonable Accommodations

Discrimination Free Workplace Policy

Executive Directive No. 8: Zero Tolerance for Hazing of Fellow Employees

Executive Directive No. 2001-35: Policy Against Sexual Orientation Discrimination in Employment

CITY PROCEDURES

Discrimination Complaint Procedure

Sexual Harassment Discrimination Complaint Procedure

Sexual Orientation Discrimination Complaint Procedure

~~Zero Tolerance for Hazing of Fellow Employees~~

Hazing Complaint Procedure



CITY HALL
LOS ANGELES, CALIFORNIA 90012

JAMES K. HAHN
MAYOR

TO: Heads of all City Departments and Bureaus

FROM: James K. Hahn, Mayor *James K. Hahn*

DATE: August 31, 2004

SUBJECT: Revision to Executive Directive No. PE-1 to include expanded definition of discrimination based on sex

As you are aware, the City is committed to promoting and maintaining a work environment free of any form of discrimination based on sex. Assembly Bill 196 signed into law in August 2003 expands the definition of "sex" in the California Fair Employment and Housing Act (FEHA) to include a person's gender identity or expression. Effective January 1, 2004, FEHA prohibits discrimination based on gender or perceived gender, whether or not the person's appearance, identity or behavior conforms to what is traditionally associated with that person's sex at birth, including, but not limited to, their actual or perceived transgender status.

Attached is Executive Directive No. PE-1 (Revised). Please make all necessary updates to your personnel policies and procedures.

Should you have any questions regarding this matter, please contact Ms. Jurutha Brown, Chief of the Equal Opportunity and Employment Development Division, Personnel Department, at (213) 847-9771.

JKH:jl

Attachment





JAMES K. HAHN

MAYOR

EXECUTIVE DIRECTIVE NO. PE-1 (REVISED)

Subject: EQUAL EMPLOYMENT OPPORTUNITY, NON-DISCRIMINATION AND REASONABLE ACCOMMODATIONS

For more than 30 years, our City has been a leader in promoting equal employment opportunity. Consequently, our City employees comprise one of the most diverse workforces in the world. We must continue our efforts to enhance the level of inclusion and diversity this City has come to appreciate, even as we reaffirm support for merit-based human resource management decisions, which value high performance, public service and inclusion, to ensure our continued competitiveness in this 21st Century.

The City of Los Angeles is committed to maintaining a discrimination free workplace for all employees and candidates for employment. City policies and personnel practices, including but not limited to, recruitment, selection, advancements, work assignments, compensation, benefits, training, discipline and terminations, will continue to be established and administered without regard to race, national origin, ancestry, sex, sexual orientation, age, religion, creed, marital status, disability, medical condition, including having or being perceived as having AIDS or the HIV virus, or retaliation for engaging in any protected equal employment opportunity activity.

Sexual harassment is a form of sex discrimination. It includes unwelcome exposure to visual, verbal, or physical conduct of a sexual nature, by either males or females, which may cause an individual's workplace to be intimidating, offensive, or hostile. Unwanted sexual advances, or the offering of employment or related benefits in exchange for sexual favors, or the withholding of such employment or benefits conditioned upon an exchange of sexual favors, is unlawful and will not be tolerated.

The definition of "sex" includes a person's gender identity or expression. This includes a person's identity, appearance, or behavior, whether or not that identity, appearance, or behavior is different from that traditionally associated with the person's sex at birth. Employees who have changed their gender or are planning to change their gender are protected by law. The City prohibits discrimination based on gender-related characteristics, including, but not limited to, their actual or perceived transgender status.



A discrimination free workplace includes providing reasonable accommodation to individuals with disabilities. The City has been proactive in this effort, having created a Department on Disability, a reasonable accommodation fund, special employment programs and a Placement Officer position in the Personnel Department. The City of Los Angeles is one employer for purposes of reasonable accommodation, and it is imperative that we have a consistent, credible process for reviewing and acting on requests for reasonable accommodation.

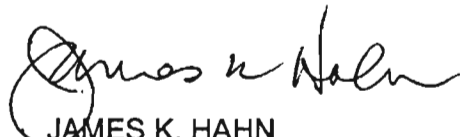
The City has zero tolerance for discrimination, harassment and retaliation; therefore, I expect the City's leadership and all employees to comply with all Federal, State and local equal employment opportunity laws and policies.

All General Managers, Heads of Departments/Offices and Commissions of City Government are directed to ensure that workplaces throughout the City are committed to equal employment opportunity and the maintenance of environments free of discrimination.

The Personnel Department shall monitor compliance of City departments with this Executive Directive.

Each Department Head shall immediately carry out the responsibilities listed on the Attachment of this Executive Directive.

Executed this *20th* day of *August*, 2004


JAMES K. HAHN
Mayor

JKH:wtf:39200

Attachment

Supercedes Executive Directive Nos. 1, dated October 15, 1980; 27, dated October 15, 1980; 1-D, dated December 10, 1990; 1-A, dated September 22, 1992 (Bradley Series); and 2001-34, dated February 8, 2001 (Riordan Series); and PE-1 dated May 14, 2002.

**ATTACHMENT EXECUTIVE DIRECTIVE NO. PE-1
EQUAL EMPLOYMENT OPPORTUNITY, NON-DISCRIMINATION AND
REASONABLE ACCOMMODATIONS**

I. BACKGROUND

A. Equal Employment Opportunity

The Mayor is ultimately responsible for the management and administrative control of departmental activities and will vigorously enforce all Federal, State and City equal employment opportunity laws, policies and directives. The Personnel Department will be the lead agency for equal employment opportunity policy development, implementation and monitoring and complaint resolution, specifically as it relates to investigating and resolving complaints of discrimination. Further, the Personnel Department will periodically review operating department activities and report equal employment opportunity compliance and diversity management innovations, as well as patterns and trends that indicate areas of concern. Department management is expected to fully support these monitoring activities.

B. Non-Discrimination

Any City employee or employment candidate who believes the City's policy of equal employment opportunity and non-discrimination has been violated is strongly encouraged, and must not be prohibited from reporting the alleged policy violation. Further, employees and employment candidates can be assured that the necessary steps will be taken promptly to address all reported violations.

City employees and employment candidates who believe they have experienced illegal discrimination are strongly encouraged to file discrimination complaints under the City discrimination complaint procedure entitled, "Citywide Discrimination Complaint Procedure" or the "Sexual Orientation Discrimination Complaint Procedure". Said procedures shall be issued by the Personnel Department. Complaint investigations will be handled in accordance with these procedures; and departments must cooperate with complaint investigators to ensure prompt and appropriate action is taken to address the complaint. This includes accommodating investigators' requests to meet with complainants and witnesses during working hours. Further, departments are to ensure individuals filing complaints of discrimination are advised of all of their legal options to file with applicable Federal and State enforcement agencies and are not retaliated against.

Sexual harassment is a form of sex discrimination. It includes unwelcome exposure to visual, verbal, or physical conduct of a sexual nature, by either males or females, which may cause an individual's workplace to be intimidating, offensive, or hostile. Verbal harassment may include derogatory comments, epithets, jokes, or slurs of a sexual

nature. Visual harassment may include sexual gestures, inappropriate display of sexually explicit objects or pictures, cartoons or posters. Physical harassment may include any unwelcome touching or bodily contact. Finally, unwanted sexual advances, or the offering of employment or related benefits in exchange for sexual favors, or the withholding of such employment or benefits conditioned upon an exchange of sexual favors, is unlawful and will not be tolerated.

In January 2004, the definition of "sex" in the California Fair and Employment and Housing Act (FEHA), was expanded to include a person's gender identity or expression. The City also prohibits discrimination based on gender-related characteristics, or identity, appearance or behavior different from that traditionally associated with the person's sex at birth, including, but not limited to, their actual or perceived transgender status. Transgender status includes employees who have changed or plan to change their gender. An applicant's or employee's gender identity is a protected class like any other protected class under FEHA. City employees are required to comply with reasonable workplace appearance, grooming, and dress standards consistent with department policies and procedures, but employees have the right to dress consistent with their gender identity.

C. Reasonable Accommodations of Persons with Disabilities

In January, 2001, the California Fair Employment and Housing Act was amended to expand both the definition of a disability and the types of physical and mental conditions that can be considered disabilities. The amendment also clarified the requirement that employers engage in timely, interactive and good faith efforts to respond to requests for reasonable accommodations from individuals. Reasonable accommodation takes varied forms. It may be modification or adjustment of non-essential job functions or the way duties usually are performed. Most accommodations can be accomplished with little or no cost.

The City of Los Angeles is one employer for purposes of reasonable accommodation, and it is imperative that we have a credible process for reviewing and acting on requests for reasonable accommodation. Ideally, each department will be able to accommodate its own employees. However, if a department has made an exhaustive effort to accommodate an employee and has documented that a reasonable accommodation is not feasible, the department may refer the individual to the Personnel Department's Citywide Placement Officer. The Placement Officer will continue to work with the department to identify other options within the department, and may also begin a Citywide search for suitable vacancies in other departments. The Personnel Department will be responsible for reporting to the Mayor and City Council on departmental efforts of providing reasonable accommodations. Departments will be required to report to the Personnel Department the status of each request for reasonable accommodation on a monthly basis. This information will be due on the tenth working day of each month.

II. RESPONSIBILITIES OF DEPARTMENT HEADS

A. Each Department Head shall be responsible for carrying out the following actions within 90 days of issuance of this directive:

1. Designate a departmental Equal Employment Opportunity Counselor/Coordinator and Reasonable Accommodations Counselor/Coordinator to counsel employees, investigate, resolve and/or address complaints of discrimination, serve as a resource and provide internal expertise to management and disabled individuals regarding the reasonable accommodation process. Such designation and any subsequent change in designation shall be made in writing and a copy provided to the Personnel Department's Equal Employment Opportunity Section.
2. Distribute this Executive Directive to all departmental employees and executive officers for each currently executed personal services contract and letter of agreement.
3. Include this Executive Directive and all revised equal employment opportunity, reasonable accommodation and non-discrimination policies and procedures in the appropriate department operating and training manuals.
4. Post the City's Equal Employment Opportunity poster and this Executive Directive on employment-related bulletin boards.
5. Ensure that workplaces throughout the City are committed to equal employment opportunity and the maintenance of environments free of discrimination by:
 - Disseminating to all employees a statement of your commitment to equal employment opportunity and providing them with the most current copies of the City's equal employment opportunity policies and the City's discrimination complaint procedures;
 - Informing employees of the name and telephone number of the departmental Equal Employment Opportunity Counselor/Coordinator and the Reasonable Accommodations Counselor/Coordinator;
 - Providing easy access to the department, City, State and Federal compliance agency discrimination complaint investigation processes without fear of retaliation;
 - Taking all steps necessary to prevent any and all forms of illegal discrimination, harassment and retaliation.
6. Evaluate equal employment opportunity policies annually to ensure they are up to date.

7. Review departmental operations and actions to implement appropriate equal employment opportunity policies and eliminate barriers to effective equal employment opportunities on a regular basis.
8. Ensure departmental staff assigned as the Equal Employment Opportunity Counselor/Coordinator and Reasonable Accommodations Counselor/Coordinator have been sufficiently trained to effectively perform their duties and responsibilities.
9. Take immediate action to address, remedy and resolve complaints alleging discrimination, including but not limited to prompt, objective and thorough investigations of complaints. Ensure departmental personnel responding to complaints adhere to the City's discrimination complaint procedures and sound personnel practices.
10. Take prompt and appropriate action in response to acts of illegal discrimination and/or violations of the Federal, State and City equal employment opportunity laws, policies and regulations, including disciplinary actions to address violations and inappropriate behaviors.
11. Ensure employees who file discrimination complaints, participate in investigations, and/or oppose real or perceived discriminatory acts are not retaliated against by management or co-workers.
12. Ensure that the Personnel Department is notified, as instructed, of discrimination complaints filed and resolved within the Department.
13. Inform employees of the procedure for requesting a reasonable accommodation.
14. Require department staff to engage in a timely, interactive and good faith effort when presented with a request for an accommodation by an employee or job applicant. This process must be fully documented using the "Reasonable Accommodation Assessment Form" provided by the Personnel Department.
15. Submit a monthly report to the Personnel Department on the status of each request for reasonable accommodation received during the preceding month. This report will be due on the tenth working day of each month.
16. Instruct all department human resources personnel and line managers to fully cooperate with the Personnel Department in identifying vacant positions.
17. Fully cooperate with the Personnel Department and other Department heads in accepting transfers of employees with disabilities into positions which will afford them a reasonable accommodation.

III. RESPONSIBILITIES OF THE PERSONNEL DEPARTMENT

A. The Personnel Department will be responsible for administering the City's equal employment opportunity programs including, but not limited to:

1. Develop, revise and disseminate policies, protocols and guidelines as necessary to comply with equal employment opportunity law, disability related laws and City policies and diversity strategies.
2. Assign adequate staff resources within the Personnel Department to assist departments with compliance with equal employment opportunity laws, disability related laws and City policies and procedures.
3. Initiate programs to achieve equal employment opportunity standards and goals.
4. Provide technical assistance, information and training to departmental human resource management personnel.
5. Monitor City hiring activities and turnover rates to identify and investigate any patterns that indicate areas of concern.
6. Review, investigate, resolve and respond to complaints of discrimination filed against the City with the Civil Service Commission and/or enforcement compliance agencies.
7. Review ethnic, gender and disabled representation to determine progress toward achieving parity with the labor force.
8. Monitor and report to the Mayor on the effectiveness of the City's program of equal employment opportunity.
9. Review discrimination complaints filed Citywide to identify trends, issues and training needs and provide information to the Mayor's Office on appropriate alternatives to address disputed discrimination complaints.
10. Monitor compliance of City departments in providing reasonable accommodations.
11. Report to the Mayor and City Council on a quarterly basis by the twentieth working day following the end of the quarter on the status of reasonable accommodations of disabled employees and job applicants.
12. Provide the Placement Officer with sufficient resources to effectively work with City departments to place disabled employees.

**CITY OF LOS ANGELES
DISCRIMINATION FREE WORKPLACE POLICY
RESOLUTION**



WHEREAS, existing Federal, State, and City laws prohibit discrimination in employment; and

WHEREAS, such laws have established a National, State, and City policy of prohibiting discrimination in the workplace; and

WHEREAS, one of the stated purposes of the Affirmative Action Program of the City of Los Angeles is to ensure that the City does not discriminate in employment on the basis of race, color, religion, national origin, sex (with or without sexually harassing conduct), age, disability, marital status, sexual orientation¹, creed, ancestry, medical condition (cancer), Acquired Immune Deficiency Syndrome (AIDS) - acquired or perceived, or retaliation for having filed a discrimination complaint or participating in a protected activity²; and

WHEREAS, the City recognizes that all employees have a right to a workplace free from discriminatory actions, language, or images;

NOW, THEREFORE, BE IT RESOLVED THAT:

1. All employees and non-employees³ are responsible to **NOT** engage in any discriminatory activities while in the workplace, including, but not limited to: jokes of a racial, ethnic, or sexual nature; cartoons or images that derogatorily depict or describe differences associated with gender, religious groups, nationalities, sexual orientation, or the disabled; slang words or derogatory terms that describe ethnic groups, sexes, sexual orientation, or races; imitating accents associated with specific ethnic groups or nationalities; or, labeling employees with specific characteristics based on their race, ethnicity, sex, disability, religion, or sexual orientation. Employees who are found to be participating in this type of activity at work will be disciplined for violating City affirmative action/equal employment opportunity policies.
2. Supervisors and employees who function in a supervisory capacity⁴ who either participate in any of the above-mentioned discriminatory activities, or who knowingly allow verbal or visual discrimination to occur in the workplace

¹ Original resolution uses "preference(s)." This version, updated in July 1998, has replaced preference(s) with "orientation" throughout.

² Protected activity includes, but is not limited to opposition to prohibited discrimination or participation in the statutory complaint process.

³ Harassment by anyone in the workplace is prohibited, and an employer cannot claim lack of knowledge as a defense to such harassment if it did not make clear to employees that they can bring such misconduct to the attention of management and that such complaints will be addressed.

⁴ An individual qualifies as an employee's "supervisor" if the individual has authority to undertake or recommend tangible employment decisions affecting the employee, or has the authority to direct the employee's daily work activities.

and do not take action to eliminate the activity, will be disciplined for failing to

carry out their supervisory responsibilities and for violating City affirmative action/equal employment opportunity policies.

3. It shall be the responsibility of all department and bureau heads to ensure that:
 - a. Management acknowledges and accepts as a top priority its responsibility to eliminate discriminatory language and images from the workplace.
 - b. All employees are informed of their rights to a discrimination free work environment, and the appropriate steps that employees can take if they believe that these rights have been violated.
 - c. All complaints of discriminatory activities in the workplace that come to the attention of management are investigated promptly and appropriate corrective action is taken, including disciplinary action where necessary.
4. The following summary of the Policies of the Personnel Department is incorporated into this Resolution. Specifically, Policy 33 applies to disciplinary actions that can be assessed against employees (of all levels) for inappropriate actions, or inactions, as they relate to eliminating discriminatory activities in the workplace. The appropriate discipline from the range shown below would depend on the maliciousness of the offense, the frequency of its occurrence, and any extenuating or exacerbating circumstances.

<u>OFFENSE</u>	<u>RANGE OF DISCIPLINARY ACTION</u>
▶ Making derogatory racial, ethnic, or sexual remarks in the presence of the public or other employees while on duty.	Oral Warning to Discharge
▶ Failure, after counseling, to assume or carry out affirmative action responsibilities specified in the City's and department's Affirmative Action Program.	Written Notice to Discharge
▶ Failure to hire eligibles, or to promote, train, or apply disciplinary actions equally to employees regardless of race, national origin, sex, age, religion, sexual orientation, disability, or any other protected basis.	1 Day Suspension to Discharge

NOTE: *The City's Affirmative Action Program requires all supervisors to maintain a work environment that is free from harassment of any kind, and to take corrective action when necessary.*



ANTONIO R. VILLARAIGOSA
MAYOR

EXECUTIVE DIRECTIVE NO. 8

Issue Date: November 20, 2006

Subject: Zero Tolerance for Hazing of Fellow Employees

Acts of hazing, recently under increased scrutiny and criticism in school settings among minors and college-aged adults where such acts have long occurred, are also wholly inappropriate and utterly unacceptable in the workplace. Hazing, whether in the form of physical violation or sustained verbal harassment, must not be tolerated in the City workforce.

The City must follow a strict policy of zero tolerance for any acts of hazing. Employees who engage in such acts, and supervisors who knowingly fail to act to prohibit or prevent them, should receive disciplinary sanction, up to and including termination of employment, consistent with applicable Civil Service and personnel rules. The time has come to declare unequivocally that hazing is not acceptable adult behavior. Tradition or payback can no longer shield such activity from elimination.

This is a matter of necessary risk management, as well as simple decency. Hazing, whether physical, psychological or verbal, on the basis of race, ethnicity, gender, religion, sexual orientation, accent, age, language, or any other legislatively or judicially prohibited grounds, can subject the City to severe legal consequences, including significant monetary liability for the creation of a hostile work environment. As stewards of the City's resources, we cannot permit such an unwarranted threat to those resources to continue.

We are one City workforce, serving one community, and behavior that divides us has no place in any public workplace. Accordingly, I direct that all City departments take the following actions, and that the proprietary departments institute similar policies as soon as possible:

Post a Policy of Zero Tolerance for Hazing

The Personnel Department will provide a notice stating a policy of zero tolerance for hazing. I direct each Department Head to post that statement **no later than January 5, 2007**, indicating that hazing has no place and will not be tolerated in the workplace. The statement should indicate that management will investigate all allegations of hazing, and take appropriate action, consistent with Civil Service and personnel rules, to discipline all participants in hazing.

The statement should also indicate that employees are expected to report hazing to management in a timely manner. The statement should also state that supervisors will be held accountable for taking all actions necessary to prevent hazing and to discipline participants in hazing. This statement should be posted in all areas where notices to employees are posted. Each department should report its compliance with this posting requirement to the Personnel Department and to the Counsel to the Mayor.

Adopt Procedures to Investigate Allegations of Hazing and to Discipline Participants

I further direct each Department Head to work with the Personnel Department and your own department's human resources staff, to devise and adopt a procedure to investigate allegations of hazing and to initiate appropriate discipline, consistent with applicable Civil Service and personnel rules, against all participants in acts of hazing. This procedure should be adopted by the Department Head and any Commission or Board with supervisory authority by **no later than March 31, 2007**. Once adopted, a copy of the procedure should be sent to the Personnel Department and to the Counsel to the Mayor.

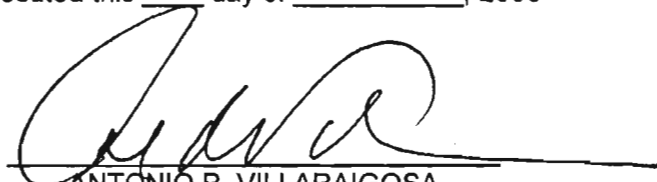
Report on Incidents of Hazing and Steps to Prevent Recurrence

No "explanation" for any pattern of hazing is acceptable. Transparency and the discussion and reform that follow in its wake are critical tools against the perpetuation of hazing. Accordingly, I direct each Department Head to make a thorough and realistic report, along with a plan to prevent recurrence of any identified pattern of hazing, to any board or commission advising or overseeing the department, to the City Administrative Officer, to the Personnel Department, and to the Counsel to the Mayor, **no later than April 30, 2007**.

Summary of Required Action:

1. Each Department Head must post the policy of zero tolerance for hazing by January 5, 2007, with a report of compliance to the Personnel Department and to the Counsel to the Mayor.
2. Each Department Head must adopt procedures to investigate allegations of hazing and to initiate discipline against participants in hazing by March 31, 2007, with a copy to the Personnel Department and to the Counsel to the Mayor.
3. Each Department Head must complete a report and a plan to prevent recurrence of any pattern of hazing by April 30, 2007, to the appropriate board or commission, to the City Administrative Officer, to the Personnel Department, and to the Counsel to the Mayor.

Executed this 20th day of Nov, 2006



ANTONIO R. VILLARAIGOSA
Mayor



LOS ANGELES, CALIFORNIA 90012
(213) 847-2469

OFFICE OF THE MAYOR

RICHARD J. RIORDAN
MAYOR

EXECUTIVE DIRECTIVE NO. 2001-35

February 8, 2001

**TO: ALL DEPARTMENTS, COMMISSIONS, APPOINTED OFFICERS
AND EMPLOYEES OF CITY GOVERNMENT**

**SUBJECT: POLICY AGAINST SEXUAL ORIENTATION DISCRIMINATION
IN EMPLOYMENT**

The policy of the City of Los Angeles has been, and will continue to be, to promote and maintain an environment free from sexual orientation¹ discrimination. Discrimination and harassment on the basis of sexual orientation is illegal, as well as harmful to those in work environments affected by offensive, intolerant and hostile behaviors. Sexual orientation discrimination inhibits optimal performance, demeans esteem, creates contention and diminishes productivity. The City is committed to ensuring merit-based human resource management decisions that value high performance, public service excellence and inclusion; and therefore reiterates its policy of equal employment opportunity and non-discrimination.

In 1979, the City of Los Angeles adopted Ordinance No. 152,458 (Municipal Code 49.70) which established and defined the City's intent to promote and maintain a working environment free from discrimination on the basis of sexual orientation. Specifically, the ordinance protects gays, lesbians, bisexuals, and heterosexuals from discrimination in employment, housing, business establishments, City facilities and services, and education. Additionally, effective January 1, 2000, sexual orientation was included in the State

¹ Sexual orientation refers to whether a person is romantically or sexually attracted to other adults of a different sex (as is true for those who are heterosexual), the same sex (as is true for those who are lesbian or gay) or both (as is true for those who are bisexual). Discrimination is prohibited on the basis of one's actual or perceived sexual orientation, so that even if one is erroneously presumed to be gay or lesbian by a wrongdoer, the wrongdoer can still be liable for sexual orientation discrimination.

Fair Employment and Housing Act as one of the bases on which complaints of employment discrimination can be filed.

Discrimination in the workplace on the basis of an individual's sexual orientation (or presumed sexual orientation) is unacceptable and will not be tolerated. An appointing authority shall not consider an applicant's or employee's known or presumed sexual orientation in any pre-employment or employment action or decision, including but not limited to background checking, testing, hiring, assigning, training, transferring, upgrading, promoting, compensating, disciplining and discharging. City policy shall prohibit, as a form of discrimination, the creation of or contribution to a hostile, intimidating, threatening, offensive or abusive work environment on the basis of an individual's known or presumed sexual orientation. This includes written, spoken, graphic or demonstrative derogatory terms, slurs, comments, gestures, ridicule, threats, rumors, or jokes with respect to an individual's known or presumed sexual orientation.

Further, it is City policy that prompt and appropriate action be taken to deter and punish sexual orientation discrimination and harassment. Therefore, it shall be the responsibility of all Department managers to take necessary steps, including appropriate disciplinary action, to ensure and maintain a working environment free from sexual orientation discrimination and harassment.

Additionally, all reported allegations of sexual orientation discrimination will be fully documented and completely investigated. City policy prohibits retaliation by the City or any department or employee based on reporting a claim of discrimination on the basis of sexual orientation or for supporting such a complaint (as a witness or otherwise) or for opposing such discrimination. Therefore, no City employee may intimidate, penalize, or take action against an individual for filing a complaint of discrimination on the basis of sexual orientation nor engaging in any other protected activity.

Employees who believe that this policy has been violated may and are encouraged to contact either: the EEO Counselor of his/her Department; the City's Sexual Orientation Counselor in the Personnel Department; or, the Personnel Department's Office of Discrimination Complaint Resolution. For information or to file a complaint of discrimination on the basis of sexual orientation, the Personnel Department may be contacted at (213) 847-9800. Investigations will be conducted in accordance with the Sexual Orientation Discrimination Complaint Procedure and/or Citywide Discrimination Complaint Procedure. To the extent possible, the City will provide confidentiality with respect to the filing and investigation of complaints of discrimination based upon sexual orientation.

The Mayor is ultimately responsible for the management and administrative control of departmental activities and will continue to foster a positive and productive working environment for all employees and vigorously enforce all Federal, State and City equal employment opportunity and non-discrimination laws, directives and policies. The Personnel Department shall continue to be the lead agency for equal employment opportunity policy and complaint resolution, specifically as it relates to monitoring policy compliance and investigating and

resolving complaints of discrimination. The Personnel Department will also provide additional guidance to departments for compliance with this directive and other non-discrimination laws, policies and procedures and recommended training.

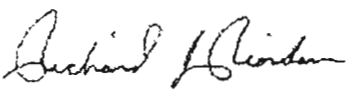
It shall continue to be the City's policy and practice that every good faith effort be made to eliminate any discriminatory practice. To this end, all heads of departments are directed to cooperate with the Personnel Department in complying with the responsibilities included herein. Further, the Policy on Sexual Orientation Discrimination in Employment, Sexual Orientation Discrimination Complaint Procedure and Citywide Discrimination Complaint Procedure (to be issued by the Personnel Department) must be disseminated to all employees and included in departmental personnel manuals and training materials. The Personnel Department may revise and update this policy on an as-needed basis.

Responsibilities of Chief Administrative Officers relating to the City's Policy on Sexual Orientation Discrimination in Employment

Each Chief Administrative Officer shall be responsible for carrying out the following actions within 90 days of the issuance of this Directive:

1. Designate a departmental Equal Employment Opportunity Counselor/Coordinator, to counsel employees, investigate, resolve and/or address complaints of sexual orientation discrimination. Such designation and any subsequent change in designation shall be made in writing and a copy provided to the Personnel Department's Equal Employment Opportunity Section.
2. Distribute this Executive Directive to all departmental employees and executive officer for each currently executed personal services contract and letter of agreement.
3. Review all of the department's non-discrimination and harassment policies to ensure that all policies are in accordance with current law and that sexual orientation (not sexual preference) is explicitly included as one of the protected bases under State law. Ensure that those policy documents that exclude sexual orientation as a covered basis under State law or refer to the Division of Labor are destroyed and replaced with language advising employees that the proper state agency with which to file such a complaint is the California Department of Fair Employment and Housing. Include this Executive Directive and all revised equal employment opportunity and non-discrimination policies and procedures in the appropriate department operating and training manuals. Copies of the department's revised policies are to be forwarded to the Personnel Department for review.

4. Adhere to the Personnel Department's Citywide Discrimination Complaint Procedure and the Sexual Orientation Discrimination Complaint Procedure as the departmental policy and distribute the departmental policy and complaint procedures to all employees.
5. Review departmental documents that discuss the City's benefit and leave policies and MOUs to ensure that they comport with the Los Angeles Administrative Code sections governing domestic partners, and revise and redistribute any that are not in compliance.
6. Post the City's equal employment opportunity poster and this Executive Directive on employment-related bulletin boards.
7. Adopt a written policy welcoming the attendance of employees' domestic partners and significant others to department-sponsored social events open to employees' spouses.



Richard J. Riordan
Mayor

Supersedes Executive Directive No. 4 (Riordan Series), dated September 8, 1994.

CITY OF LOS ANGELES

DISCRIMINATION COMPLAINT PROCEDURE

I. Employee and Candidate Rights

Employees of the City and candidates for City employment have the right to file a complaint in writing on any action, procedure, or practice in selection or employment they believe to be discriminatory on the basis of race, color, religion, national origin, sex, age, disability, marital status, sexual orientation, creed, ancestry, medical condition (cancer), Acquired Immune Deficiency Syndrome (AIDS) – acquired or perceived, or retaliation for having filed a discrimination complaint. Said complaint must be filed with the Los Angeles City Board of Civil Service Commissioners within one year of the alleged act of discrimination, provided that this time limit may be extended for a period of time equivalent to that period during which a person has first pursued a remedy through a departmental discrimination complaint procedure. A person filing a complaint shall have the right of representation by any designated person or organization.

This procedure shall be available to all employees except those who have utilized another City grievance or appeal procedure for the same or closely related issues. If an employee files a complaint under this procedure and subsequently files a complaint on the same matter under another City procedure, the processing of the complaint under this discrimination complaint procedure shall be terminated.

Although complaints must be prepared and filed on an employee's own time, department managers and supervisors should make every effort to allow the complainant and other employees time, with pay, to meet with Personnel Department staff when the meeting is at the request of Personnel Department staff assigned to investigate the complaint.

Nothing in this procedure shall restrict the right to file a complaint with any State or Federal agency responsible for the enforcement of anti-discrimination legislation.

II. Departmental Complaint Procedure

Each department shall make every effort to acquaint department employees with its own procedure for reviewing and responding to complaints by its employees in which there are allegations of discrimination. City employees who contact the Personnel Department regarding alleged discrimination shall be encouraged to first request a review of their complaints under their department's complaint procedure.

III. Board of Civil Service Commissioners' Complaint Procedure

If the complainant does not receive satisfactory resolution of the complaint or does not believe it can be adequately handled at the department level, he or she may submit the complaint, in writing, to the:

Office of Discrimination Complaint Resolution (ODCR)
700 E. Temple Street, Room 320
Los Angeles, CA 90012
(213) 473-9123

If the complainant wishes to file the complaint in person and receive assistance, he or she should call the ODCR at (213) 473-9123 to arrange for an appointment to meet with a member the investigating staff.

A written complaint should include:

1. The name, address, and telephone number of the complainant.
2. The basis of the alleged discrimination: race, color, religion, national origin, sex, age, disability, marital status, sexual orientation, creed, ancestry, medical condition (cancer), Acquired Immune Deficiency Syndrome (AIDS) – acquired or perceived, or retaliation for having filed a discrimination complaint.
3. The discriminatory practice(s), procedure(s), or incident(s) which has occurred.
4. The names of any persons thought to be responsible for the discrimination.
5. The name, address, and telephone number of the complainant's representative, if any.
6. A statement of what remedy the complainant is seeking as a result of the complaint.

The following procedure will guide staff in investigating and attempting to resolve discrimination complaints.

1. If the complainant is a probationary employee whose termination is being considered but has not been filed with the Board of Civil Service Commissioners, investigating staff will request the appointing authority to place the complainant on a personal leave of absence until the discrimination complaint is resolved, withdrawn, or considered by the Board of Civil Service Commissioners.
2. Investigating staff will discuss the complaint with the complainant and concerned department(s) and will initially attempt to resolve the complaint informally.

3. If the complaint is not resolved following the above discussion, a thorough investigation will be conducted and a report of findings and recommendations prepared for the Board of Civil Service Commissioners within one hundred and twenty (120) days of the termination of informal efforts.

4. The time limit in this subsection may be extended with the mutual consent of the concerned parties or on the approval of the Board of Civil Service Commissioners upon receipt of a status report from staff.

5. The Executive Director of the ODCR shall have the authority to administratively close a complaint, thereby precluding further consideration of the complaint, for any of the following reasons:

a. failure by the complainant to cooperate with staff conducting the investigation;

b. inability to reach the complainant after repeated efforts by the staff conducting the investigation;

c. no assertion that the alleged acts occurred based on one or more of the fourteen discriminatory bases;

d. failure by the complainant to respond within 15 calendar days to a written offer by the concerned department which would afford relief for the harm alleged by the complainant;

e. lack of jurisdiction by the Board of Civil Service Commissioners over the complaint;

f. the complainant has filed a grievance or appeal under another City procedure regarding the same or similar issues;

g. the complainant has filed a complaint with an outside agency (e.g., EEOC, DOL, DOJ, DFEH) or has filed a lawsuit against the City (or City department) regarding the same or similar issues;

h. a reasonable remedy has been provided, or has been offered and rejected;

i. there is a conflict of interest on the part of the Personnel Department and investigating division;

j. failure to establish a nexus between the alleged act and discrimination based upon one of the fourteen categories.

6. The administrative closure of a complaint by the Executive Director of the ODCR may be appealed to the Board of Civil Service Commissioners only where the complainant can provide clear evidence refuting the reason for closure.

7. Complaints that are not resolved informally, are not withdrawn, or are not closed administratively, will be heard by the Board of Civil Service Commissioners. The basis for the hearing will be the report and recommendations of the General Manager and the Executive Director of the ODCR.

IV. Consideration of Complaints by the Board

The Board of Civil Service Commissioners will review the written complaint and the report and recommendations prepared by investigating staff. The complainant shall be given a copy of that report at least five (5) days prior to its scheduled consideration by the Board. If the complainant has designated a representative in the complaint, a copy of the report will also be given to that representative.

In those instances in which the Board has jurisdiction to invoke the appropriate remedy, the Board may take any or all of the following actions:

1. Request additional information;
2. Make a finding on the charge(s) of discrimination;
3. Order a remedy within the Board's jurisdiction; or
4. Recommend actions which the Personnel Department or concerned department(s) may take to correct discriminatory practices, prevent the occurrence of potentially discriminatory practices, change or eliminate other poor personnel practices related to the complaint, or enhance affirmative action efforts.

In those instances in which the Board believes that it is not in the public interest for it to review a discrimination complaint, because of a conflict of interest or the appearance of a conflict of interest, the Board shall take either or both of the following actions:

1. Request the City Attorney to review the matter and render a written opinion on the questions of the Board's possible conflict of interest in the matter in an expeditious manner.
2. Determine that a conflict of interest or the appearance of a conflict of interest does exist and submit the matter to the Board of Referred Powers, which shall have the authority to act on behalf of the Board of Civil Service Commissioners on that particular discrimination complaint.

V. Discrimination Complaints Against Department Heads and Public Officials

There is a special procedure for filing a complaint of discrimination against elected and appointed officials. Contact the Personnel Department Equal Employment

Opportunity Section at (213) 473-9100 should you need detailed information on this procedure.

To file with the State and/or Federal compliance agencies, contact:

**California Department of
Fair Employment & Housing (DFEH)
611 W. 6th Street, 15th Floor
Los Angeles, CA 90012
(800) 884-1684**

**Federal Equal Employment Opportunity
Commission (EEOC)
255 East Temple Street, 4th Floor
Los Angeles, CA 90012
(800) 669-4000**

SEXUAL HARASSMENT DISCRIMINATION COMPLAINT PROCEDURE

The policy of the City of Los Angeles is to promote and maintain a working environment free of sexual harassment, intimidation, and coercion. Sexual harassment is a form of sex discrimination and is a violation of official City policy and Federal and State law. Acts constituting sexual harassment are not necessarily limited to acts by a male toward a female but can be committed by and against persons of both sexes.

Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature when:

1. Submission to such conduct is either explicitly or implicitly made 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 interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

As used in this procedure, "employee" is any individual occupying a position in the classified civil service, and also includes interns, contract employees (personal services contracts), and employees exempted under provisions of the City Charter, including elected and appointed officials. Also covered by this procedure are members of the public, volunteers, or employees of a business under contract with the City, who claim harassment by City employees during the conduct of their employment.

Employees and applicants are also protected from sexual harassment by non-employees. The City may be liable for non-employee sexual harassment, where the employer, or its agents or supervisors, knows or should have been known of the conduct and fails to take immediate and appropriate corrective action.

Consistent with this definition, it is sexual harassment for any employee or non-employee to use implicit or explicit sexual behavior, of a verbal, visual or physical nature, to affect the work environment, job or performance of any employee. Further, supervisory level employees who condone the sexually harassing conduct of another employee or applicant, when the supervisor is aware or should have been aware of such conduct and does not take appropriate steps to eliminate it, will be held liable and subject to disciplinary action.

City policy and State and Federal law require that prompt and appropriate action be taken to deter and punish sexual harassment.

Department managers have been instructed to take all necessary steps, including appropriate disciplinary action, to ensure and maintain a working environment free of sexual harassment, intimidation, and coercion. Appropriate disciplinary action for substantiated allegations of sexual harassment will be administered in accordance with Policy 33 (Disciplinary Action) of the Policies of the Personnel Department. For

example, the severest disciplinary action, up to and including discharge, will be taken in the case of proven instances of implicit and/or explicit, coercive pressure for sexual favors committed by supervisory employees, which affect the terms and conditions of a subordinate's employment. Contractors and subcontractors are also fully liable for compliance with this Procedure and substantiated claims of sexual harassment could result in termination of a contract and/or subcontract.

Each Department manager has designated a Sexual Harassment Counselor for his or her Department and will disseminate, and post in prominent locations, the name and phone number of the designated Counselor to all employees. A complaint of sexual harassment must be filed within one year of the alleged act of harassment. Otherwise, the complaint may be considered untimely. In all cases, allegations of sexual harassment will be fully and completely investigated. The employee or applicant making a sexual harassment complaint can choose whether the complaint will be investigated by the employee's Department Sexual Harassment Counselor, by the Personnel Department's Sexual Harassment Counselor, or by the State and/or Federal compliance agencies. If during a City administrative investigation the investigator determines, based upon discussions with the complainant, that the issues are related to the complainant's "sex" rather than being "sexual" in nature, the investigation will continue under the procedures outlined in the City's Discrimination Complaint Procedure.

Employee Rights and Responsibilities

Every employee is entitled to work in an environment free from sexual harassment or coercion. An employee who perceives comments, gestures, visual displays, or physical actions of a sexual nature by another employee, non-employee or supervisor be offensive is to encourage to immediately and clearly communicate to that person that such sexual behavior is unwelcome. The purpose of immediately communicating to a harasser that the behavior is unwelcome is to stop the harassment before it becomes more serious. Such notice will also go to support a claim that the harassment did occur. Failure to notify the harasser that the behavior is unwelcome does not prevent the filing of a complaint of sexual harassment.

The following Sexual Harassment Complaint Procedure has been developed specifically for use by employees and applicants who believe that they have been sexually harassed, and who wish their complaint to be investigated by their individual department or the Personnel Department.

Under City policy and procedures, any employee or applicant who believes he or she has been sexually harassed has the following rights and responsibilities:

1. The complainant is encouraged to report the sexual harassment to any or all of the following individuals; a supervisor, the Department's Sexual Harassment Counselor, or the Personnel Department's Sexual harassment Counselor. The complainant may also seek assistance from the Commission on the Status of Women. Such immediate reporting is important because the sooner the allegations can be investigated, the sooner appropriate steps can be taken to

end the harassment. ALL EMPLOYEES AND APPLICANTS ARE ASSURED THAT THEY MAY MAKE SUCH REPORTS WITHOUT FEAR OF RETALIATION BY THE CITY, DEPARTMENT MANAGEMENT, THEIR IMMEDIATE SUPERVISOR, OR ANY OTHER EMPLOYEE.

2. The complainant has the right to a confidential conference with the person whom the sexual harassment complaint is made. The complainant has the option to be represented during the conference and any subsequent investigation by a union representative, an attorney, or another individual of the complainant's choice.
3. Each complaint of sexual harassment will be fully and completely investigated by the Department's Sexual Harassment Counselor or by the Personnel Department's Sexual Harassment Counselor, unless it is determined that the complainant has also filed a grievance or utilized another internal City administrative procedure, raising the same or similar sexual harassment issues, in which case the complaint will be administratively closed.
4. All investigations will be handled with discretion, sensitivity and due concern for the dignity of those involved. Every reasonable effort will be made to restrict information on the specifics of the complaint to those who are participating in the investigation; the complainant, the alleged harasser, witnesses, and department management, unless and until complaint findings are presented in a public hearing, such as before the Board of Civil Service Commissioners. All persons contacted or interviewed during the investigation will be requested not to discuss the subject matter of the investigation in order to protect the privacy of all those participating in the investigation.
5. All investigations will be as extensive as required, based upon the nature of the allegations. All persons named as potential witnesses by the complainant will be contacted during the course of the investigation, and those witnesses who have information relevant to the issues of the complaint will be interviewed. Any employee or non-employee who is alleged to have committed acts of sexual harassment will be contacted during the investigation, be informed of the allegations being made against him or her, be given the opportunity to respond to the allegations, and be given the opportunity to identify witnesses. Any accused employee has the option to be represented during the investigation by a union representative, attorney, or other individual of his or her choice.
6. Any employee who observes what he or she believes to be sexually harassing verbal, visual, or physical behavior occurring should report such behavior to a supervisor, and/or a Sexual Harassment Counselor. ALL EMPLOYEES ARE ASSURED THAT THEY MAY MAKE SUCH REPORTS WITHOUT FEAR OF RETALIATION BY THE CITY, DEPARTMENT MANAGEMENT, THEIR IMMEDIATE SUPERVISOR, OR ANY OTHER EMPLOYEE. ANY ACTION BELIEVED TO BE RETALIATORY SHOULD BE IMMEDIATELY REPORTED.
7. Any employee who observes an incident of sexual harassment should cooperate in any investigation. ALL EMPLOYEES ARE ASSURED THAT THEY MAY COOPERATE IN SUCH INVESTIGATION WITHOUT FEAR OF RETALIATION

BY THE CITY, DEPARTMENT MANAGEMENT, THEIR IMMEDIATE SUPERVISOR, OR ANY OTHER EMPLOYEE. ANY ACTION BELIEVED TO BE RETALIATORY SHOULD BE IMMEDIATELY REPORTED TO THE PERSON COONDUCTING THE INVESTIGATION.

8. All employees who initiate or participate in the investigation of a complaint are protected from retaliation by the City, Department management, supervisors or any other employee. Employees found to have committed acts of retaliation will be subject to disciplinary action in accordance with the provisions of Policy 33 (Disciplinary Action). Retaliation will be considered a serious act of misconduct, with appropriate discipline indicated in the Policy up to and including discharge. Because of their increased responsibility for enforcing the City's policies against sexual harassment, supervisors will be held to a higher standard and can expect the most severe disciplinary measures for proven acts of retaliation.
9. The complainant may expect a timely resolution of complaints. Complainants will be kept apprised of the status of their complaints on a regular basis by the individual investigating the complaint. Complainants may also request information of the status of their complaint from the City Sexual Harassment Coordinator. Additionally, complainants will be notified if the time to file with outside agency appears likely to run out before the internal investigation is completed.

Responsibilities of the Department Sexual Harassment Counselor

Each City department manager must designate a Sexual Harassment Counselor and ensure that all department employees are made aware of the name and phone number of the designated Counselor. An employee or applicant who believes he or she has been sexually harassed may choose to file a complaint with the Department Sexual Harassment Counselor. Each Department Sexual Harassment Counselor has the following responsibilities:

1. Upon receipt of a sexual harassment complaint, the Counselor shall meet with the complainant as soon as mutually convenient. The Counselor shall inform the complainant that he or she may have a representative at the meeting. The Counselor shall fully inform the complainant about the City's sexual harassment policies and complaint procedures, and shall answer any questions that the complainant may have regarding the City policy. The Counselor shall also inform the complainant about the other available options, such as filing with the Personnel Department's Sexual Harassment Counselor, and State and Federal compliance agencies. The complainant shall also be informed that under the City Procedure, complaints may be considered untimely if the action(s) occurred more than one year prior to the filing of the complaint; allegations brought to State or Federal compliance agencies may have different filing time limitations which should be confirmed by the complainant with the agencies. The complainant will be notified if the time to file with outside agency appears likely to run out before the internal investigation is completed.

2. The Counselor shall listen to the complainant's allegations and discuss the complained actions with the discretion, sensitivity and due concern for the dignity of those involved. The complainant shall be asked what remedies he or she feels would resolve the complaint. The Counselor shall inform the complainant that while every reasonable effort will be made to protect the confidentiality and privacy of the individuals involved, the conduct of an investigation requires that the alleged harasser be informed of the allegations, and that witnesses be interviewed.
3. The Counselor shall fully record and document the complaint and the requested remedies.
4. The Counselor shall conduct a complete and timely investigation into the complaint, including conducting interviews with witnesses and the alleged harasser(s). If the alleged harasser is the General Manager of the complainant's department, the advice of the City Attorney may be requested.
5. If the complaint is against a non-employee, the Counselor shall conduct an investigation as indicated above. The extent of the City's control and any other legal responsibility which the City may have with respect to the conduct of the non-employee shall be considered.

If the investigation finds that sexual harassment occurred during the scope of work for a non-employee, this information must be forwarded to their employer for corrective action. If the non-employee has no employer affiliation, such as a private citizen, appropriate action should be taken to prevent a recurrence. Such action may include modification of assignments to ensure no future contact, provide or add security, etc.

Each case for non-employees must be handled on an individual basis to determine the most effective remedy to stop the sexual harassment.

6. Upon completion of the investigation, the Counselor shall draft a report on the investigation, which shall include findings on whether the allegations have been substantiated. Copies of the report shall be provided to the management of the Department and the complainant. Where appropriate disciplinary actions have been taken, the complainant may be so informed without disclosing the specific nature of the actions. If the alleged harasser is the General Manager of the complainant's department, the advice of the City Attorney may be requested.
7. If the complainant is not satisfied with the way the sexual harassment complaint has been resolved, the Counselor shall again fully inform the complainant of his or her additional rights under the law, including filing under the City's Discrimination Complainant Procedure or with State or Federal compliance agencies.

8. The Counselor shall maintain all documentation of the complaint and the investigation, information concerning the resolution of the complaint, and whether the complainant was satisfied with the department's efforts, in accordance with the City's Records Retention Program. The documentation shall be made available to the Personnel Department, if requested, for further investigative or auditing purposes.

Responsibilities of the Personnel Department's Sexual Harassment Counselor

An employee who has been sexually harassed may chose to file a complaint with the Personnel Department's Sexual Harassment Counselor. The Personnel Department's Sexual Harassment Counselor has the following responsibilities:

1. The Counselor will be available at (213) 473-9123 to discuss sexual harassment issues with complainants, shall fully inform employees about the City's sexual harassment policies and complaint procedures, and shall answer any questions that the complainant may have regarding the City's policy, or the other options available to them. Complainants will be notified if the time to file with an outside agency appears likely to run out before the internal investigation is completed.
2. The Counselor shall listen to the complainant's allegations and discuss the complained of actions with discretion, sensitivity and due concern for the dignity of those involved. The complainant will be asked if the department has been informed of the allegations, if an investigation was conducted by the department and the result of that investigation. The complainant will be asked if he or she wishes the Counselor to:
 - a. pursue an informal investigation and, where appropriate, seek a resolution to the complaint without a formal investigative report; or,
 - b. open a formal investigation into the allegations.
3. If the complainant requests an informal attempt at a resolution, the Counselor shall, where appropriate, make preliminary efforts to resolve the complaint with the assistance of the department's Sexual Harassment Counselor. The actions taken by the Counselor and the department will be documented, and the complainant will be informed of the outcome of the informal investigation.
4. If the complainant is not satisfied with the results of the informal investigation he or she may file a formal complaint utilizing the City's Discrimination Complaint Procedure. At the time of the filing of a formal complaint, the complainant shall also be informed of the other options available, including filing the complaint with the State or Federal compliance agencies.
5. Investigative procedures and protections for the complainant, the alleged harasser, and witnesses previously noted in this Procedure under Employee Rights and Responsibilities and Responsibilities of the Department Sexual Harassment Counselor shall apply to the conduct of the investigation by the

Personnel Department's Sexual Harassment Counselor or other staff analysts. The report of the investigation of the complainant's allegations(s), including the investigator's findings and recommendations shall be presented to the Board of Civil Service Commissioners in accordance with the City's Discrimination Complaint Procedure, unless the Counselor is able to resolve the complaint to the complainant's satisfaction prior to the scheduled hearing before the Commission.

The City's Discrimination Complaint Procedure

The City's Discrimination Complaint Procedure gives employees and applicants the right to file a written complaint with the City's Civil Service Commission. The complaint must deal with a City action, procedure or practice in hiring or employment which the employee or applicant believes to be discriminatory. Sexual harassment is a form of sex discrimination. Complaints filed in accordance with the City's Discrimination Complaint Procedure must be filed within one year of the alleged act of discrimination.

State and Federal Compliance Agencies

Employees or applicants who believe they have been sexually harassed have the right to file a complaint with State and/or Federal compliance agencies and/or in State or Federal court. However, time limits for filing complaints with compliance agencies vary and complainants should check directly with those agencies for specific information.

The State and Federal compliance agencies may be contacted at the following addresses:

STATE	FEDERAL
Department of Fair Employment and Housing 611 West Sixth Street, Suite #1500 Los Angeles, CA 90017 (800) 884-1684 TTY (800) 700-2320	Equal Employment Opportunity Commission 255 E. Temple Street, Fourth Floor Los Angeles, CA 90012 (800) 669-4000

CITY OF LOS ANGELES
SEXUAL ORIENTATION DISCRIMINATION COMPLAINT PROCEDURE

The policy of the City of Los Angeles has been, and will continue to be to promote and maintain an environment free from sexual orientation discrimination. Discrimination is prohibited on the basis of one's actual or perceived sexual orientation, including actual or perceived heterosexual, lesbian, gay, or bisexual orientation. Discrimination and harassment on the basis of sexual orientation is illegal. Therefore, it is an unlawful employment practice for the City to fail or refuse to hire, to segregate, to fail to provide training, to discharge any individual, or otherwise to discriminate against any individual with respect to compensation, terms, conditions or privileges or employment on the basis (in whole or part) of such individual's known or presumed sexual orientation.

For example, a supervisor should not say in an employee's evaluation that the employee has difficulty getting along with others in the workplace, if the reason why that employee does not get along with co-workers is their discriminatory attitudes or ostracism based on the employee's sexual orientation. Such an evaluation could be considered to be an evaluation of an employee's work performance based upon the employee's actual or perceived sexual orientation, which is impermissible. The rationale for prohibiting such an evaluation is that it would be unfair to penalize an employee in relation to an evaluation that was based upon the bigotry of others.

Similarly, a manager selecting employees to conduct outreach to high school students may not exclude a lesbian employee from consideration on the grounds that the manager feels that, because she is a lesbian, she would poorly represent the City. Again, such conduct could be considered to be a job assignment that is based in part upon the employee's sexual orientation, which is prohibited. The rationale for prohibiting such differential job assignments is that the lesbian employee loses an opportunity to gain experiences that could enhance her career and also may feel stigmatized.

Harassment in the workplace of a city employee on the basis of actual or perceived sexual orientation is also prohibited. Sexual Orientation harassment includes the creation of or contribution to a hostile, intimidating, threatening, offensive, or abusive environment for lesbian or gay City employee, through written, spoken, graphic or demonstrative derogatory terms, slurs, comments, gestures, ridicule, threats, rumors, or jokes respecting sexual orientation. The conduct must be sufficiently severe or pervasive that it unreasonably interferes with the work environment or the individual's job performance or creates an intimidating, hostile, or offensive working environment.

Further, City policy prohibits retaliation by the City or any department or employee based on reporting a claim of discrimination or harassment on the basis of sexual orientation. This means that no City employee may intimidate, penalize, or take action against an individual for filing a complaint of discrimination based on sexual orientation, or for supporting such a complaint (as a witness or otherwise) or for opposing such discrimination.

The policy of the City requires that prompt and appropriate action be taken to deter and punish sexual orientation discrimination. Therefore, persons believing that they are victims of sexual orientation discrimination are strongly encouraged to report any and all incidents.

FILING A COMPLAINT

An employee making a sexual orientation discrimination complaint can choose to file the complaint with the employee's department EEO Counselor, the City's Sexual Orientation Counselor, and/or with an external non discrimination enforcement agency. Complaints filed about pre-employment or employment actions or actions directly related to Personnel Department functions should be directed to the City's Sexual Orientation Counselor.

Complaints filed internal to the City must be filed within one (1) year from the date of the last act alleged to be discrimination. Otherwise, the complaint may be considered untimely.

Although complaints must be prepared and filed on an employee's own time, department managers and supervisors should allow the employee filing the complaint, and all other employees who are interviewed as part of the investigation to be interviewed while on city time when requested by staff conducting the discrimination investigation. A person filing a sexual orientation discrimination complaint shall have the right of representation by any designated person or organization.

WHERE TO FILE

City employees and employment candidates have the following options for filing a sexual orientation discrimination complaint. Complaints may be filed with:

1. The Personnel Section of a City Department Accused of Discriminatory and/or Harassing Practices

A person wishing to file a complaint with a City department should obtain the name, address and telephone number of the department's Sexual Orientation or Equal Employment Opportunity (EEO) Counselor. Contact the Counselor to discuss the complaint and if necessary, arrange to meet with the Counselor to file a formal complaint. If information for the department Counselor cannot be obtained, contact the Personnel Department Equal Employment Opportunity Section at (213) 473-9100.

2. The City's Sexual Orientation Counselor

A person wishing to file a complaint directly with the City's Sexual Orientation Counselor about pre-employment or employment actions should contact the Counselor at the address or phone number below. Also complaints about actions directly related to Personnel Department functions should be directed to the City's Sexual Orientation Counselor.

Los Angeles City Personnel Department
Office of Discrimination Complaint Resolution
700 E. Temple Street, Room 320, Los Angeles, CA 90012
Phone: (213) 473-9123 Fax: (213) 473-9110

Information concerning the City's non-discrimination policies, complaint procedures and filing options, as well as filing deadlines will be provided.

3. The City's Civil Service Commission

A person wishing to file a complaint through the City's centralized discrimination resolution and investigation entity may write or contact.

Los Angeles City Personnel Department
Office of Discrimination Complaint Resolution
700 E. Temple Street, Room 320
Los Angeles, CA 90012
(213) 473-9123

Los Angeles City Personnel Department
Equal Employment Opportunity Section
700 E. Temple Street, Room 380
Los Angeles, CA 90012
(213) 473-9100

Information concerning the City's non-discrimination policies, complaint procedures and filing options, as well as filing deadlines will be provided.

4. A Governmental Non-Discrimination Enforcement Agency

Sexual orientation discrimination complaints can also be filed with the California Department of Fair Employment and Housing (DFEH), at 611 W. 6th Street, 15th Floor, Los Angeles, CA 90012. DFEH may also be contacted at (800) 884-1684. Persons considering filing complaints of discrimination with DFEH should verify the filing criteria, including deadlines for filing. The period of time the City investigation takes will not extend the agency filing period.

DISCRIMINATION COMPLAINTS AGAINST DEPARTMENT HEADS AND PUBLIC OFFICIALS

There is a special procedure for filing a complaint of discrimination against elected and appointed officials. Contact the Personnel Department Office of Discrimination Complaint Resolution at (213) 473-9123 or Equal Employment Opportunity Section at (213) 473-9100 if the alleged discrimination based on sexual orientation involves the direct action(s) and/or behavior(s) of a head of a department, a member of a City Board of Commissioners or an elected official. A discrimination complaint counselor, at either number, will provide detailed information on this procedure.

Nothing in this procedure shall restrict a person's right to file a complaint with an applicable Federal or State agency responsible for the enforcement of anti-discrimination legislation.

EMPLOYEE RIGHTS AND RESPONSIBILITIES

Every employee is entitled to work in an environment free from sexual orientation discrimination. An employee who perceives comments, gestures or actions which offend against an individual's sexual orientation made by another employee or supervisor should immediately and clearly communicate to that person that such behavior is offensive.

An employee who believes he or she has been discriminated against due to his/her sexual orientation should take the following steps:

1. The employee should **immediately** report the sexual orientation discrimination complaint to her or his supervisor, or to the department's EEO Counselor, or to the City's Sexual Orientation Counselor in the Personnel Department's Office of Discrimination Complaint Resolution. All employees are assured that they may make such reports without fear of retaliation by the City, department management or their immediate supervisor.

2. The employee has the right to a confidential conference with the person to whom the sexual orientation complaint is made. Additionally, the person filing the complaint has the right of representation by any designated person or organization, e.g., a union representative, an attorney or another individual of the complainant's choice.
3. If an employee chooses to initiate a complaint of sexual orientation discrimination, the employee's department EEO Counselor or the City's Sexual Orientation Counselor should make preliminary efforts to resolve the complaint, and if not resolved, will conduct a complete investigation. All efforts to resolve the complaint will be fully documented.
4. All investigations, whether conducted by the department EEO Counselor or the City's Sexual Orientation Counselor, will be handled with discretion, sensitivity and due concern for the dignity of those involved, and will be conducted consistent with the procedures indicated in this document. As in any discrimination complaint investigation, information will be kept confidential to the extent possible.
5. All investigations will be thorough. All persons named as potential witnesses by the employee will be contacted as required during the course of the investigation. Anyone who is alleged to have committed acts of sexual orientation discrimination will be contacted during the investigation and allowed to make a statement¹.
6. Any employee who witnesses an incident of sexual orientation discrimination shall cooperate in any investigation. All employees are assured that they may cooperate in such an investigation without fear of retaliation or reprisal by the City, department management, their immediate supervisor or any other City employee.
7. Employees may expect a timely resolution of all complaints.

RESPONSIBILITIES OF THE DEPARMTENT EEO COUNSELOR

Each City department manager must designate an EEO Counselor and ensure that all department employees are made aware of the name and phone number of the designated Counselor. An employee who believes he or she has been discriminated against based on sexual orientation may choose to file a complaint with the department EEO Counselor. Each department EEO Counselor has the following responsibilities with regard to a sexual orientation complaint:

1. Upon receipt of a sexual orientation discrimination complaint, the Counselor shall meet with the complaining employee at the employee's earliest convenience. The Counselor shall fully inform the employee about the City's sexual orientation policies and discrimination complaint procedures and shall answer questions that the employee may have regarding the City's policy.
2. The Counselor shall listen to the employee's complaint and discuss the complaint with discretion, sensitivity and due concern for the dignity of those involved. The Counselor shall ask the complaining employee what remedy s/he seeks.

3. The Counselor shall fully record and document the complaint, including the complainant's proposed resolution to the alleged violation(s).
4. The Counselor shall conduct a complete and timely investigation into the complaint, including conducting interviews as appropriate with witnesses and others who may be involved. The investigation will be conducted consistent with the procedures included in this document. The Counselor shall document all informal resolution efforts.
5. The Counselor will periodically communicate to the complainant the status of the investigation.
6. Upon completion of the investigation, the Counselor shall prepare a report of the results of the investigation. The Counselor shall inform complainants if disciplinary action is taken against the accused employee, although not the specific nature of the action. No information provided to the complaining employee shall compromise any confidentiality or privacy protection afforded to the accused employee under the law or City policy. The Sexual Orientation Counselor should contact the Office of the City Attorney if there are questions in this area.
7. If the employee is not satisfied with the way the sexual orientation discrimination complaint has been resolved, the Counselor shall fully inform the employee of his or her additional rights under the law. These rights include using the Citywide Discrimination Complaint Procedure and filing a complaint with the State Department of Fair Employment and Housing (DFEH) and/or court.

RESPONSIBILITIES OF THE CITY'S SEXUAL ORIENTATION COUNSELOR

An employee or employment applicant who believes he or she has been discriminated against based on sexual orientation may choose to file a complaint with the City's Sexual Orientation Counselor. The City's Sexual Orientation Counselor has the following responsibilities:

1. The Counselor will be available at (213) 473-9123 to discuss sexual orientation discrimination complaints with employees and fully inform employees about the City's sexual orientation policies and discrimination complaint procedures and shall answer questions that the employee may have regarding the City's policy.
2. The Counselor shall listen to the employee's complaint and discuss the complaint with discretion, sensitivity and due concern for the dignity of the people involved and will conduct the investigation consistent with the procedures included in this document.
3. The Counselor shall fully record and document the complaint, including the complainant's proposed resolution to the alleged violation(s).
4. The Counselor shall make preliminary efforts to resolve the complaint. The Sexual Orientation Counselor will investigate complaints according to the provisions of the section entitled "Employee Rights and Responsibilities" and "Responsibilities of the EEOC Counselor."

5. If the employee is not satisfied with the results of the preliminary efforts, he or she may file a formal complaint using the City's Discrimination Complaint Procedure. All efforts to resolve the complaint will be fully documented.

RESPONSIBILITIES OF CITY MANAGEMENT

It is the responsibility of City Management to take necessary steps to prevent sexual orientation discrimination, and, when a complaint is made, has been investigated, and found to exist, to remedy any sexual orientation discrimination that is discovered.

It is the responsibility of the Personnel Department to ensure that the operating departments are in compliance with the Sexual Orientation Discrimination Complaint Procedures, and to monitor said compliance on a regular basis.

In addition, all operating departments are to comply with the Mayor's Directive, No. 2001-35, issued February 8, 2001, and to place said directive in Operating Department manuals, policies and training materials.

City Department EEO counselors should be reminded that all sexual orientation discrimination complaints filed within their operating departments must be handled consistent with the procedures set forth in this Sexual Orientation Discrimination Complaint Procedure.

All Operating Departments are directed to evaluate, and if necessary, revise and redistribute their internal sexual orientation discrimination complaint procedures to eliminate any provisions that permit the operating department to close the complaint without investigation if the complainant files with an outside agency or other City process, or which allow the operating department to terminate an investigation, regardless of the evidence, for reasons such as failure to cooperate with the investigation and refusing to accept the offered remedy. To the extent it is possible without the cooperation of the complaining party to continue the investigation, the investigation should be completed so that any discovery of improper conduct or behavior can be dealt with and remedied.

All operating departments are to ensure that sexual orientation harassment is expressly included in departmental sexual harassment and sexual orientation discrimination policies. However, those policies should expressly state and explain that sexual orientation harassment is *not* the same as sexual harassment. Employees should be instructed that, while sexual harassment is based upon a person's gender, sexual orientation harassment is based upon a person's sexual orientation, or on another's perception of that person's sexual orientation. City departments are to review and update their policies in this regard.

THE CITY'S DISCRIMINATION COMPLAINT PROCEDURE

The City's Discrimination Complaint Procedure gives City employees and candidates for City employment the right to file a written complaint with the City's Civil Service Commission. The complaint must deal with a City action, procedure or practice in hiring or employment which the employee or prospective employee believes to be discriminatory. Complaints alleging sexual orientation discrimination are covered by the Citywide Discrimination Complaint Procedure. Complaints made under the City's Discrimination Complaint Procedure must be filed within one year of the alleged act of discrimination.

OTHER DISCRIMINATION COMPLAINT OPTIONS

Employees who believe that they have been discriminated against based on the individual's sexual orientation also have the right to file a discrimination complaint with the California Department of Fair Employment and Housing (DFEH). See Page 2 of this procedure, for contact information. An employee/employment candidate should check directly with the DFEH regarding filing deadlines.

DISTRIBUTION OF COMPLAINT PROCEDURE

This Sexual Orientation Discrimination Complaint Procedure shall be distributed to all employees, and will be provided to all applicants for City employment. In addition, all new employees will receive the Complaint Procedure as part of the orientation process. Moreover, this policy should be incorporated into and added to each operating department's personnel rules, work rules, or manuals, or otherwise distributed in a manner that ensures that all employees receive it. In addition, the Sexual Orientation Discrimination Complaint Procedure should be posted on all department employment-related bulletin boards. Further, all operating departments should post the City's equal employment opportunity poster on each department's employment-related bulletin board.

In adapting this procedure, all operating departments should eliminate any of its prior procedure that required the complaining party to file separate documents with a series of different City officials in order for the complaint to warrant continued review, or that otherwise deviate from this policy. All internal procedures should be reviewed and approved by the Personnel Department.



Hazing Complaint Procedure City of Los Angeles

On November 20, 2006, Mayor Antonio R. Villaraigosa issued his Executive Directive No. 8 (see Attachment A) establishing the City of Los Angeles' zero tolerance for hazing of fellow employees. Hazing is a form of harassment, a violation of official City policy and subject to investigation. The City's Policy regarding Zero Tolerance for Hazing is attached (see Attachment B). All allegations of hazing in the workplace shall be investigated in accordance with the procedures outlined in this document.

As used in this procedure, "employee" is any individual occupying a position in the classified civil service, and also includes interns, contract employees, volunteers, and employees exempted under provisions of the City Charter, including elected and appointed officials.

What is a hazing offense? Hazing activities are defined as any action taken or situation created in the workplace, which, causes or is likely to cause, bodily danger or physical harm, or personal degradation or disgrace resulting in physical or mental harm to another. Hazing includes but is not limited to any form of rite of passage or horseplay that involves: engaging in illegal, harmful, demeaning or dangerous acts that are not consistent with City policy and the performance of job-related activities.

Hazing consists of a broad range of behaviors that may place another person in danger of physical or psychological harm or activities that demonstrate disregard for another person's dignity or well being. Even when demeaning or embarrassing behaviors do not appear overtly harmful in themselves, as where the participants appear to engage in them willingly, they may constitute hazing if they might cause humiliation or be perceived by non-participants as demeaning or degrading. The determination of whether a particular activity constitutes hazing will depend on the circumstances and context in which that activity occurs. Some examples of conduct that may constitute hazing, when used to mistreat, intimidate or humiliate the participant, include but are not limited to the following: creation of excessive fatigue; physical and/or psychological shocks; forced, unnecessary exertions; engaging in public stunts or buffoonery; degrading or humiliating games and activities; inappropriate application of substances to the body of another; and any similar activities that violate City of Los Angeles, federal, or state laws.

Department managers have been instructed to take all necessary steps, including appropriate disciplinary action, to ensure and maintain a discrimination free work environment and to send and implement the message that hazing is not acceptable adult behavior. Appropriate disciplinary action for substantiated allegations of hazing will be administered in accordance with Policy 33 (Disciplinary Action) of the Policies of the Personnel Department.

A complaint of hazing must be filed within one year of the alleged act of harassment. Otherwise, the complaint may be considered untimely. In all cases, allegations of hazing will be fully and completely investigated. The employee making the hazing complaint can choose whether to approach a departmental supervisor, the employee's Department EEO Coordinator, or the Personnel Department, Office of Discrimination Complaint Resolution (ODCR).

Employee Rights and Responsibilities

The City of Los Angeles is committed to maintaining a discrimination-free workplace for all employees. An employee who perceives to have been the subject of hazing is encouraged to immediately and clearly communicate to that person that such behavior is unwelcome.

The following Hazing Complaint Procedure has been developed specifically for use by employees who believe that they have been subjected to act(s) of hazing.

Under City policy and procedures, any employee who believes he or she has been subjected to hazing has the following rights and responsibilities:

1. The complainant is encouraged to report the hazing to any or all of the following individuals: a supervisor, the Department's EEO Coordinator, or the Personnel Department's Office of Discrimination Complaint Resolution. Such immediate reporting is important because the sooner the allegations can be investigated, the sooner appropriate steps can be taken to end the hazing/harassment. **All employees are assured that they may make such reports without fear of retaliation by the City, Department, Management, their immediate supervisor, or any other employee. Such retaliation is absolutely prohibited.**
2. The complainant has the right to a confidential conference with the person to whom the hazing complaint is made. The complainant has the option to be represented during the conference and any subsequent investigation by a union representative, an attorney, or another individual of the complainant's choice.
3. Each complaint of hazing will be fully and completely investigated by the Department's EEO Coordinator or by the Personnel Department's Office of Discrimination Complaint Resolution, unless it is determined that the complainant has also filed a grievance or utilized another internal City administrative procedure, raising the same or similar hazing issues, in which case the complaint will be administratively closed so that the other procedure may be pursued.
4. All investigations will be handled with discretion, sensitivity, and due concern for the dignity of those involved. Every reasonable effort will be made to restrict information on the specifics of the complaint to those who are participating in the investigation, the complainant, the alleged harasser, witnesses, and department management, unless and until complaint findings are presented in a public hearing, such as before the Board of Civil Service Commissioners. All persons contacted or interviewed during the investigation will be requested not to discuss the subject matter of the investigation in order to protect the privacy of all those participating in the investigation.
5. All investigations will be as extensive as required, based upon the nature of the allegations. All persons named as potential witnesses by the complainant will be contacted during the course of the investigation, and those witnesses who have information relevant to the issues of the complaint will be interviewed. Any employee or non-employee who is alleged to have committed an act of hazing will be contacted during the investigation, be informed of the allegations being made against him or her, be given the opportunity to respond to the allegations, and be given the opportunity to

identify witnesses. Any accused employee has the option to be represented during the investigation by a union representative, an attorney, or other individual of his or her choice.

6. Any employee who observes what he or she believes to be hazing, whether physical, psychological or verbal should report such behavior to a supervisor, and/or EEO Coordinator. ALL EMPLOYEES ARE ASSURED THAT THEY MAKE SUCH REPORTS WITHOUT FEAR OF RETALIATION BY THE CITY, DEPARTMENT MANAGEMENT, THEIR IMMEDIATE SUPERVISOR, OR ANY OTHER EMPLOYEE. ANY ACTION BELIEVED TO BE RETALIATORY SHOULD BE IMMEDIATELY REPORTED.
7. Any employee who observes an incident of hazing should cooperate in the investigation. ALL EMPLOYEES ARE ASSURED THAT THEY MAY COOPERATE IN SUCH INVESTIGATION WITHOUT FEAR OF RETALIATION BY THE CITY, DEPARTMENT MANAGEMENT, THEIR IMMEDIATE SUPERVISOR, OR ANY OTHER EMPLOYEE. ANY ACTION BELIEVED TO BE RETALIATORY SHOULD BE IMMEDIATELY REPORTED TO THE PERSON CONDUCTING THE INVESTIGATION.
8. All employees who initiate or participate in the investigation of a complaint are protected from retaliation by the City, Department management, supervisors or any other employee. Employees found to have committed acts of retaliation will be subjected to disciplinary action in accordance with the provisions of Policy 33 (Disciplinary Action). Retaliation will be considered a serious act of misconduct, with appropriate discipline indicated in the Policy up to and including discharge. Because of their increased responsibility for enforcing the City's policies against hazing, supervisors will be held to a higher standard and can expect the most severe disciplinary measures for any proven act of retaliation.
9. The complainant may expect a timely resolution of complaints. The individual investigating the complaint will keep complainants apprised of the status of their complaint on a regular basis.

Responsibilities of the Department EEO Coordinator

EEO Coordinators responsible for investigating EEO complaints will now also investigate hazing complaints. An employee who believes he or she has been subject to hazing may choose to file a complaint with the Department EEO Coordinator. Each EEO Coordinator has the following responsibilities:

1. Upon receipt of a hazing complaint, the Coordinator shall meet with the complainant as soon as mutually convenient. The Coordinator shall inform the complainant that he or she may have a representative at the meeting. The Coordinator shall fully inform the complainant about the City's Zero Tolerance for Hazing of Fellow Employees policies and complaint procedures, and shall answer any questions that the complainant may have regarding the City policy. The Coordinator shall also inform the complainant about the other available options, such as filing with the Personnel Department's Office of Discrimination Complaint Resolution, and/or State and Federal compliance agencies as appropriate.

2. The Coordinator shall listen to the complainant's allegations and discuss the complained of actions with discretion, sensitivity, and due concern for the dignity of those involved. The complainant shall be asked what remedies he or she feels would resolve the complaint. The Coordinator shall inform the complainant that while every reasonable effort will be made to protect the confidentiality and privacy of the individuals involved, the conduct of an investigation requires that the alleged harasser be informed of the allegations, and that witnesses be interviewed.
3. The Coordinator shall fully record and document the complaint and the requested remedies.
4. The Coordinator shall conduct a complete and timely investigation into the complaint, including conducting interviews with witnesses and the alleged harasser(s). If the alleged harasser is the General Manager of the complainant's department, the advice of the City Attorney may be requested.
5. If the complaint is against a non-employee, the Coordinator shall conduct an investigation as indicated above. The extent of the City's control and any other legal responsibility that the city may have with respect to the conduct of the non-employee, shall be considered.
6. Upon completion of the investigation, the Coordinator shall draft a report on the investigation, which shall include findings on whether the allegations have been substantiated. Copies of the report shall be provided to the management of the Department. Where appropriate disciplinary actions have been taken, the complainant may be so informed without disclosing the specific nature of the actions. If the alleged harasser is the General Manager or another high-ranking supervisor of the complainant's department, the advice of the City Attorney may be requested.
7. If the complainant is not satisfied with the way the hazing complaint has been resolved, the Coordinator shall again fully inform the complainant of his or her additional rights under the law, including filing under the City's Discrimination Complaint Procedure or with State or Federal compliance agencies.
8. The Coordinator shall maintain all documentation of the complaint and the investigation, information concerning the resolution of the complaint, and whether the complainant was satisfied with the department's efforts, in accordance with the City's Records Retention Program. The documentation shall be made available to the Personnel Department, if requested, for further investigative or auditing purposes.

Responsibilities of the Personnel Department, Office of Discrimination Complaint Resolution

An employee who has been a victim of hazing may chose to file a complaint with the Personnel Department's Office of Discrimination Complaint Resolution. The Personnel Department's Coordinator has the following responsibilities:

1. The Coordinator will be available at (213) 485-8250 to discuss hazing issues with complainants, shall fully inform complainants about the City's hazing policies and

complaint procedures, and shall answer any questions that the complainant may have regarding the City's policy, or the other options available to them.

2. The Coordinator shall listen to the complainant's allegations and discuss the complained of actions with discretion, sensitivity, and due concern for the dignity of those involved. The complainant will be asked if the department has been informed of the allegations, if an investigation was conducted by the department, and the result of any such investigation. The complainant will be asked if he or she wishes the Coordinator to:
 - a. Pursue an informal investigation, and, where appropriate, seek a resolution to the complaint without a formal investigative report; or,
 - b. Open a formal investigation into the allegations.
3. If the complainant requests an informal attempt at resolution, the Coordinator shall, where appropriate, make preliminary efforts to resolve the complaint with the assistance of the department's EEO Coordinator. The actions taken by the Coordinator and the department will be documented, and the complainant will be informed of the outcome of the informal investigation.
4. If the complainant is not satisfied with the results of the informal investigation or resolution, he or she may file a formal complaint under the City's Discrimination Complaint Procedure. At the time of the filing of a formal complaint, the complainant shall also be informed of the other options available, including filing the complaint with the State or Federal compliance agencies.
5. Investigative procedures and protections for the complainant, the alleged harasser, and witnesses previously noted in this Procedure under **Employee Rights and Responsibilities** and **Responsibilities of the Department EEO Coordinator** shall apply to the conduct of an investigation by the Personnel Department's Office of Discrimination Complaint Resolution or other staff analysts. The report of the investigation of the complainant's allegation(s), including the investigator's findings and recommendations shall be presented to the Board of Civil Service Commissioners in accordance with the City's Discrimination Complaint Procedure, unless the Coordinator is able to resolve the complaint to the complainant's satisfaction prior to the scheduled hearing before the Commission.

The City's Hazing Complaint Procedure

The City's Hazing Complaint Procedure gives employees the right to file a written complaint with the City's Civil Service Commission. Complaints filed in accordance with the City's - Hazing Complaint Procedure must be filed within one year of the alleged act of hazing. The Civil Service Commission can be reached at the following address:

CITY OF LOS ANGELES CIVIL SERVICE COMMISSION

700 East Temple Street, Room 320
Los Angeles, CA 90012
(213) 485-8250

State and Federal Compliance Agencies

Employees who believe they have been victims of employment discrimination have the right to file a complaint with State and/or Federal compliance agencies and/or in State or Federal court. Every person is protected against unlawful discrimination in employment practices based upon membership in one or more protected groups. Examples of California State and/or U.S. Federal EEO law protections against discrimination in employment practices include race, color, religion, national origin, sex, age, disability, marital status, sexual orientation, creed, ancestry, medical condition, HIV/AIDS – acquired or perceived, and retaliation for having filed a discrimination complaint or participating in a protected activity. Time limits for filing complaints with compliance agencies vary, and complainants should check directly with those agencies for specific information.

The State and Federal compliance agencies may be contacted at the following addresses:

STATE	FEDERAL
Department of Fair Employment and Housing 611 West Sixth Street, Suite #1500 Los Angeles, CA 90017 1-800-884-1684 TTY (800) 700-2320	Equal Employment Opportunity Commission 255 East Temple Street, Fourth Floor Los Angeles, CA 90012 (213) 894-1000 or (213) 894-1111

Attachment A – Mayor Antonio R. Villaraigosa Executive Directive No. 8

Attachment B – City of Los Angeles Policy – Zero Tolerance for Hazing of Fellow Employees

Issued by the Personnel Department, EEO and Development Division – March 2007



ANTONIO R. VILLARAIGOSA
MAYOR

EXECUTIVE DIRECTIVE NO. 8

Issue Date: November 20, 2006

Subject: Zero Tolerance for Hazing of Fellow Employees

Acts of hazing, recently under increased scrutiny and criticism in school settings among minors and college-aged adults where such acts have long occurred, are also wholly inappropriate and utterly unacceptable in the workplace. Hazing, whether in the form of physical violation or sustained verbal harassment, must not be tolerated in the City workforce.

The City must follow a strict policy of zero tolerance for any acts of hazing. Employees who engage in such acts, and supervisors who knowingly fail to act to prohibit or prevent them, should receive disciplinary sanction, up to and including termination of employment, consistent with applicable Civil Service and personnel rules. The time has come to declare unequivocally that hazing is not acceptable adult behavior. Tradition or payback can no longer shield such activity from elimination.

This is a matter of necessary risk management, as well as simple decency. Hazing, whether physical, psychological or verbal, on the basis of race, ethnicity, gender, religion, sexual orientation, accent, age, language, or any other legislatively or judicially prohibited grounds, can subject the City to severe legal consequences, including significant monetary liability for the creation of a hostile work environment. As stewards of the City's resources, we cannot permit such an unwarranted threat to those resources to continue.

We are one City workforce, serving one community, and behavior that divides us has no place in any public workplace. Accordingly, I direct that all City departments take the following actions, and that the proprietary departments institute similar policies as soon as possible:

Post a Policy of Zero Tolerance for Hazing

The Personnel Department will provide a notice stating a policy of zero tolerance for hazing. I direct each Department Head to post that statement **no later than January 5, 2007**, indicating that hazing has no place and will not be tolerated in the workplace. The statement should indicate that management will investigate all allegations of hazing, and take appropriate action, consistent with Civil Service and personnel rules, to discipline all participants in hazing.

The statement should also indicate that employees are expected to report hazing to management in a timely manner. The statement should also state that supervisors will be held accountable for taking all actions necessary to prevent hazing and to discipline participants in hazing. This statement should be posted in all areas where notices to employees are posted. Each department should report its compliance with this posting requirement to the Personnel Department and to the Counsel to the Mayor.

Adopt Procedures to Investigate Allegations of Hazing and to Discipline Participants

I further direct each Department Head to work with the Personnel Department and your own department's human resources staff, to devise and adopt a procedure to investigate allegations of hazing and to initiate appropriate discipline, consistent with applicable Civil Service and personnel rules, against all participants in acts of hazing. This procedure should be adopted by the Department Head and any Commission or Board with supervisory authority by **no later than March 31, 2007**. Once adopted, a copy of the procedure should be sent to the Personnel Department and to the Counsel to the Mayor.

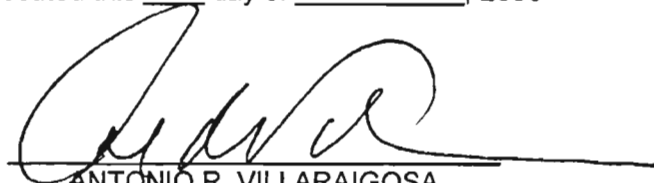
Report on Incidents of Hazing and Steps to Prevent Recurrence

No "explanation" for any pattern of hazing is acceptable. Transparency and the discussion and reform that follow in its wake are critical tools against the perpetuation of hazing. Accordingly, I direct each Department Head to make a thorough and realistic report, along with a plan to prevent recurrence of any identified pattern of hazing, to any board or commission advising or overseeing the department, to the City Administrative Officer, to the Personnel Department, and to the Counsel to the Mayor, **no later than April 30, 2007**.

Summary of Required Action:

1. Each Department Head must post the policy of zero tolerance for hazing by January 5, 2007, with a report of compliance to the Personnel Department and to the Counsel to the Mayor.
2. Each Department Head must adopt procedures to investigate allegations of hazing and to initiate discipline against participants in hazing by March 31, 2007, with a copy to the Personnel Department and to the Counsel to the Mayor.
3. Each Department Head must complete a report and a plan to prevent recurrence of any pattern of hazing by April 30, 2007, to the appropriate board or commission, to the City Administrative Officer, to the Personnel Department, and to the Counsel to the Mayor.

Executed this 20th day of Nov, 2006



ANTONIO R. VILLARAIGOSA
Mayor



City of Los Angeles Zero Tolerance for Hazing of Fellow Employees

The City of Los Angeles is committed to providing and maintaining a discrimination free work environment for all of our employees and equally committed to ensuring that all of our employment policies and practices are administered in a manner which does not violate employees' or the public's rights under the law.

On November 20, 2006, Mayor Antonio R. Villaraigosa issued his Executive Directive No. 8 establishing the City of Los Angeles' zero tolerance for hazing of fellow employees. **Employees who engage in hazing acts, and supervisors who knowingly fail to act to prohibit, prevent, or investigate them, will be subject to appropriate disciplinary action, up to and including termination of employment, consistent with applicable Civil Service and personnel rules.**

Hazing is a form of harassment, a violation of official City policy and subject to investigation. Hazing activities are defined as any action taken or situation created in the workplace, which, causes or is likely to cause, bodily danger or physical harm, personal degradation or disgrace resulting in physical or mental harm to others. Hazing includes but is not limited to any form of rite of passage or horseplay that involves: engaging in illegal, harmful, demeaning or dangerous acts which are not consistent with City policy and performing appropriate job related activities.

Hazing, whether physical, psychological or verbal, can subject the City to severe legal consequences, including significant monetary liability for the creation of a hostile work environment. Hazing will not be tolerated in the workplace.

All employees are responsible for maintaining a work environment which is free from any form of discrimination, harassment, including sexual harassment and hazing. Employees are instructed to promptly report any hazing incidents to management. The City will not tolerate retaliation against any employee who reports hazing incidents.

Supervisors will be held accountable for reporting hazing incidents to the Department Personnel Director and taking all necessary actions to prevent hazing, eliminate hazing in the workplace and to disciplining employees engaged in hazing incidents. Management will investigate all allegations of hazing, and take appropriate action, consistent with Civil Service and personnel rules, to discipline all participants in hazing.

If you believe that you have been a victim of hazing, you should first contact the Equal Employment Opportunity Coordinator in your department to seek timely resolution to this problem. Additionally, you may contact the Personnel Department's Office of Discrimination Complaint Resolution at (213) 485-8250 for further assistance.