

WEST PALM BEACH POLICE DEPARTMENT

II-24 DISCRIMINATION AND HARASSMENT POLICY

EFFECTIVE: 01/01/2005

CALEA Standards: 26.1.3

CFA Standards: 11.07

I. POLICY: The West Palm Beach Police Department will abide by the City=s Employee Discrimination, Harassment, and Sexual Harassment policy (Appendix A). This policy prohibits sexual and other forms of unlawful harassment in the work place and provides a means by which harassment can be reported, including a means by which it can be reported if the offending party is in the complainant's chain of command.

Delsa R. Bush, Chief of Police

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Revised: 01/01/2005

I.D. # 1491

History: SOP # changed to II-24 on 01/01/2005

Old SOP # 4.050.018

Revision Dates: 07/1993, 08/01/1999, 01/01/2005

Job Title Task Files:

Appendix A

Effective Date
January 28, 2002

Chapter 4
Personnel
Policy 4-2

EQUAL EMPLOYMENT OPPORTUNITY POLICY**AUTHORITY**

The Equal Employment Opportunity Policy is in keeping with Section 3.01(12) of the City Charter and is in accordance with the following local, state and federal laws:

The City of West Palm Beach Equal Opportunity Ordinance, Chapter 34, (Ord. No. 2777-94, § 1, 8-29-94), as amended, prohibits discrimination in employment, housing and public accommodations on the basis of race, color, national origin, religion, sex, sexual orientation, disability, marital status, familial status or age.

The Palm Beach County Code, Article VI, (Palm Beach County's Equal Employment Ordinance), as amended, prohibits discrimination in employment on the basis of race, color, sex, religion, national origin, age, disability or marital status.

The Florida Civil Rights Act of 1992 (FCRA), as amended, prohibits discrimination in employment on the basis of race, color, sex, religion, national origin, age, handicap or marital status.

Title VII of the Civil Rights Act of 1964 (Title VII), as amended, prohibits employment discrimination based on race, color, religion, sex or national origin. Title VII was amended to include the Pregnancy Discrimination Act (PDA), which makes pregnancy discrimination a form of sex discrimination.

The Equal Pay Act of 1963 (EPA), as amended, prohibits sex-based wage discrimination by protecting men and women who perform substantially equal work in the same establishment.

The Age Discrimination in Employment Act of 1967 (ADEA) prohibits discrimination against individuals who are 40 years of age or older.

Title I of the Americans with Disabilities Act of 1990 (ADA) prohibits employment discrimination against qualified individuals with disabilities.

This policy replaces Personnel Policy 4-2, effective July 1993 and General Administration Policy 8-1, Americans with Disabilities Act Grievance Procedure.

POLICY STATEMENT

The City of West Palm Beach, as an equal opportunity employer, is committed to providing equal employment opportunity for all applicants and employees regardless of race, color, religion, sex, national origin, age, disability, familial status, marital status or sexual orientation.

PURPOSE

The purposes of this policy are to:

- Promote a workplace free from unlawful discrimination and harassment.
- Provide information and education to all employees regarding lawful and unlawful employment practices with regard to providing equal employment opportunity and compliance with applicable laws and the relationship with city code, city policies, standard operating procedures, collective bargaining agreements, civil service rules and executive orders.
- Establish employee and applicant complaint procedures to report alleged violations.
- Establish supervisory responsibility for reporting and correcting possible discrimination in the

workplace.

- Provide for an investigative process for allegations of discrimination.
- Provide for prompt and appropriate remedial action, including disciplinary action up to termination of employment for noncompliance with this policy.
- Establish a method for requesting an accommodation, modification or adjustment to a job or the work environment.
- Establish a process to determine an appropriate resolution in a given employment situation.

SCOPE OF APPLICABILITY

These policies and procedures shall apply to all employees, supervisors, managers and elected officials.

DEFINITIONS

For the purpose of this policy, the following definitions will apply:

- A. Complainant:** a person filing a complaint of discrimination, harassment or retaliation.
- B. Disabled Individual:** under the ADA, a person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such impairment or is regarded as having such impairment.
- C. National Origin:** an individual's birthplace, ancestry, culture or linguistic characteristics common to a specific ethnic group.
- D. Pregnancy Discrimination:** discrimination on the basis of pregnancy, childbirth and related medical conditions.
- E. Protected Activity:** Engaging in the process of (a) filing a charge, testifying, assisting or participating in any manner in an investigation, proceeding, or hearing or (b) opposing an unlawful practice.
- F. Protected Class:** members of a group defined by race, color, religion, sex, national origin, age, disability, familial status, marital status or sexual orientation.
- G. Qualified Individual with a Disability:** an individual with a disability is qualified if he or she satisfies skill, experience, education and other job-related requirements of the position held or desired, and who, with or without a reasonable accommodation, can perform the essential functions of the position.
- H. Reasonable Accommodation:** any modification or adjustment to a job or the work environment, schedule or terms and conditions of employment, accomplished without undue hardship to the employer, that will enable a qualified applicant or employee with a disability to enjoy equal employment opportunities.
- I. Religious Accommodation:** any modification or adjustment to a job or the work environment, schedule or terms and conditions of employment that will enable an employee to practice his or her religious beliefs without undue hardship to the employer.
- J. Religious Practices:** practices based on spiritual, moral or ethical beliefs or values as to what is right or wrong which are sincerely held with the strength of traditional religious views.
- K. Retaliation:** adverse treatment of a person (employee or applicant) motivated by the fact that the person engaged in a protected activity.
- L. Sexual Harassment:** unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when submission to or rejection of such conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance or creates an intimidating, hostile or offensive work environment.
- M. Sexual Orientation:** the state of being heterosexual, homosexual or bisexual or having a history of such identification.
- N. Undue Hardship:** an action of the employer requiring significant difficulty or expense when considered in light of a number of factors. Undue hardship is determined on a case-by-case basis.

STANDARDS AND PROCEDURES

- A. Discriminatory Practices Prohibited**

1. All aspects of the employment process, employment by the City or the conduct of business with the City are covered by this policy, including:
 - Job advertisements, recruitment, testing and hiring;
 - Compensation, scheduling, assignment or classification of employees;
 - Transfer, promotion, layoff or recall;
 - Performance evaluation, discipline and termination;
 - Use of City facilities;
 - Language requirements or restrictions;
 - Training and apprenticeship programs; AND
 - Fringe benefits, retirement plans, sick leave, disability leave or other terms of employment.
2. The City will not tolerate sexual harassment (with or without sexual conduct) or harassment based on race, color, religion, national origin, age, disability, marital status, familial status or sexual orientation. The City will not tolerate harassment of individuals based on having engaged in a protected activity. This prohibition includes harassment by anyone conducting business with the City.
3. The City will not tolerate any discriminatory acts against any individual because of marriage to, or association with, an individual who is a member of a protected class.
4. The City will not tolerate conduct that fosters harassment and intimidation. Examples of prohibited conduct are: use of racial or ethnic slurs or offensive, demeaning or derogatory terms related to a person's status in a protected category. Other prohibitions are offensive or demeaning gestures, jokes, stories or references to race, ethnic groups, religious beliefs, sexual orientation and sexual or age-related stereotypes. This includes both verbal presentations and photographic, electronic or printed media.
5. The City will not tolerate retaliation against employees because they oppose discriminatory practices or report alleged discrimination in the workplace, provide information related to such complaints, or participate in an investigation of alleged discrimination. Some of the most common types of retaliation are: denial of promotion, refusal to hire, denial of job benefits, demotion, suspension and discharge. Other types of retaliation include threats, intimidation or exclusion.
6. Supervisors are responsible for promoting a workplace free of discrimination and harassment. Supervisors who have knowledge of potential EEO policy violations are obligated to report the potential violation. Failure of a supervisor to take appropriate action to address violations of the EEO policy will not be tolerated. Supervisors who fail to report possible violations of this policy resulting in a delay in remedial action by the City may be subject to disciplinary action.

B. Complaint Procedure

1. Complaints should be filed by the complainant immediately following the alleged discriminatory act or acquiring knowledge of such act. All complaints must be filed no later than 365 days from the date of the alleged discriminatory act to be considered timely. Filing an internal complaint does not prohibit any employee or applicant from later filing a complaint of discrimination with an external agency provided that such complaint is filed within the time limits provided by law.
2. EEO complaints do not have to be filed within the chain of command of any department, including the Police and Fire Departments. Complaints may be filed directly with the complainant's immediate supervisor or any other high level member of management within their department, or with the Human Resources Department, the City Administrator, Mayor, or a City Commissioner.
3. A centralized internal complaint procedure is coordinated through the Human Resources Department. All EEO complaints are to be promptly reported to the EEO/ADA Compliance Officer by the complainant or any knowledgeable party. Complaints made to a supervisor or manager within any department must be forwarded to the EEO/ADA Compliance Officer in the Human Resources Department within one (1) business day of receipt.

4. A complaint may be filed verbally or in writing. A written complaint may be filed by completing the “City of West Palm Beach Discrimination Complaint Form”, available on Lotus Notes or from the Human Resources Department. A copy of the complaint form is attached as Exhibit 1. A complaint may also be filed by letter specifying allegations of discrimination to any member of management or the Mayor or City Commissioners. When a complaint is submitted verbally either by telephone or in person, the EEO/ADA Compliance Officer will use the information to complete the City of West Palm Beach Discrimination Complaint Form.
5. The complainant should report the following:
 - a. date (s) of the event(s), action(s) or practice(s) giving rise to the complaint;
 - b. a description of the event(s), action(s) or practice(s) giving rise to the complaint;
 - c. name(s) of the alleged violator(s) and witness(es); and
 - d. the basis for coverage under this policy.
6. Contact persons, phone and address:

EEO/ADA Compliance Officer Human Resources Department 1000 45 th Street, Unit 12 City of West Palm Beach, Florida 33407 561-659-8028	City Administrator Office of the Mayor 200 Second Street City of West Palm Beach, 33402 561-659-8024
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7. The EEO/ADA Compliance Officer is responsible for the investigation of internal and external complaints of discrimination. The EEO/ADA Compliance Officer will work under the supervision of the Human Resources Director and in conjunction with other departments such as City Attorney, City Administrator, Risk Management, and others depending on the nature of the investigation.
8. Based on the information provided, a complaint is either investigated by the EEO/ADA Compliance Officer or referred appropriately. When the information is referred, the EEO/ADA Compliance Officer will inform the complainant of the steps that have been taken. In those cases where the EEO/ADA Compliance Officer determines that the complaint is unfounded, the complaint will be dismissed and the complainant will be informed.
9. EEO complaint investigations are exempt from disclosure as public records until a finding is made relating to probable cause, the investigation of the complaint becomes inactive or the complaint or other record is made part of the official record of any hearing or court proceeding. The City will not disclose information about active investigations when covered by this exemption and will request that participants in the investigation maintain confidentiality.

C. Supervisory Responsibility

1. Employees with supervisory responsibilities are expected to be proactive in maintaining a discrimination and harassment free work environment.
2. All supervisors are responsible for reporting instances of alleged discrimination.
3. Supervisors are encouraged to seek advice from the EEO/ADA Compliance Officer concerning any City practice or interpretation of this policy.

D. Reasonable Accommodations

1. Disabled individuals under the ADA may request a reasonable accommodation that will enable a qualified applicant or employee to participate in the application process or to perform the essential job functions. Such requests shall be coordinated through the EEO/ADA Compliance Officer. Supervisors are required to contact the EEO/ADA Compliance Officer in advance of making any type of modification so that an appropriate resolution may be determined based on the given situation.
2. Individuals may request a religious accommodation to enable them to exercise their religious practices.

3. An employee may request a reasonable accommodation orally or in writing from the employee’s supervisor, another supervisor or manager or department director. The request does not have to use the term or terms “reasonable accommodation”, “disability” or “Rehabilitation Act”.
4. Individuals with a disability may request a reasonable accommodation whenever they choose, even if they have not previously disclosed such disability.
5. An applicant may request a reasonable accommodation from the Human Resources Department orally or in writing.
6. To enable the City to keep accurate records regarding requests for accommodation, the staff person accepting an oral request will promptly confirm such request in writing. While the written confirmation should be made as soon as possible following the request, it is not a requirement for the request itself.
7. Supervisors and managers who have any questions or concerns involving a reasonable accommodation or who recognize a potential need for a reasonable accommodation must contact the EEO/ADA Compliance Officer.
8. The Human Resources Director will determine whether a requested accommodation is reasonable or whether it imposes an undue hardship on the City or workplace. Such determination is required before the requested accommodation is granted.

E. Voluntary Mediation of Complaints

1. The City of West Palm Beach is willing to entertain the amicable resolution of any dispute in the workplace and will attempt to voluntarily mediate all internal complaints.
2. The EEO/ADA Compliance Officer and/or the Human Resources Director will make the arrangements for the mediation.
3. A confidentiality agreement shall be signed by all parties participating in the mediation.
4. External complaints are received and handled by the Law Department with the assistance of the EEO/ADA Compliance Officer for investigation and response to the appropriate investigative agency.
5. Settlement agreements are subject to the established procedures of review and approval, including but not limited to: Human Resources Director, Risk Manager, City Attorney and Mayor. Settlement Agreements may also be subject to approval by the City Commission in a public hearing.

F. Policy Dissemination and Training

1. The Human Resources Director shall be responsible for the dissemination of the policy and procedures to all City employees.
2. The Human Resources Department will provide regular training on this policy as deemed necessary.
3. The Human Resources Department will provide written information to distribute or to post at different locations as it pertains to this policy and procedures. Department Directors are required to ensure that the postings and distributions are available and accessible to employees.
4. The City has placed posters at worksites that contain information on individual rights and how to contact external agencies such as the Palm Beach County Office of Equal Opportunity, the U.S. Equal Employment Opportunity Commission, the Florida Commission on Human Relations and the U.S. Department of Labor.

Policy 4-2 is effective on this _____ day of _____, 2002.

Joel T. Daves, Mayor

CITY OF WEST PALM BEACH
HUMAN RESOURCES DEPARTMENT

DISCRIMINATION COMPLAINT FORM

Name _____

Home Address _____

Home Phone _____

Work Phone _____

Social Security Number _____

If Currently or Formerly Employed:

Department _____

Supervisor _____

Position _____

If Applicant:

Position Applied for _____

Date of Application _____

Other: _____

Basis: Race Color Religion Sex National Origin Age Disability

Familial Status Marital Status Citizenship Retaliation Other

Date(s) of Alleged Discrimination: _____

Name of Persons/Department involved in alleged discrimination: _____

Nature of Complaint: _____

I swear or affirm that I have read the above charge and it is true to the best of my knowledge, information and belief.

Complainant's Signature

Date