

City of Los Alamitos

Administrative Regulation

Regulation:	4.3	
Title:	Policy Against Employee Harassment	
Authority:	City Manager	
Date:	May 2, 2005	City Manager
Revised:		

- 1. Purpose:** The purpose of this regulation is to provide guidance and direction for the handling of any issue within the scope of employee harassment.
- 2. Application:** This Administrative Regulation is applicable to all employees of the City of Los Alamitos.
- 3. Regulation:** The City of Los Alamitos strongly disapproves of any form of unlawful discrimination against its employees. This includes discriminatory harassment of City employees. It can result in high turnover, absenteeism, low morale, and an uncomfortable work environment. In some cases, employee harassment may constitute a criminal offense.

A. Policy Statement

The City strictly prohibits unlawful harassment. This includes harassment on the basis of sex, sexual orientation, race, color, ancestry, national origin, religion, physical or mental disability, medical condition, age (over 40), marital status, gender identity, or any other protected class under applicable law.

B. Application

1. This policy applies to all phases of the employment relationship, including, but not limited to, recruitment, testing, hiring, upgrading, promotion/demotion, transfer, layoff, termination, rates of pay, benefits, and selection for training.
2. This policy applies to all officers and employees of the City, including, but not limited to, full-time and part-time employees, seasonal employees, temporary employees, casual employees, and persons working under contract for the City.

C. Harassment Defined

1. Harassment may consist of offensive verbal, physical, or visual conduct when such conduct is based on or related to an individual's sex and/or membership in one of the above-described protected classifications, and:

2. Submission to the offensive conduct is an explicit or implicit term or condition of employment;
3. Submission to or rejection of the offensive conduct forms the basis for an employment decision affecting the employee; or
4. The offensive conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creates an intimidating, hostile, or offensive working environment.
5. Examples of what may constitute prohibited harassment include, but are not limited to, the following:
 - a. Kidding or joking about sex or membership in one of the protected classifications;
 - b. Hugs, pats, and similar physical contact;
 - c. Assault, impeding or blocking movement, or any physical interference with normal work or movement;
 - d. Cartoons, posters, and other materials referring to sex or membership in one of the protected classifications;
 - e. Threats intended to induce sexual favors;
 - f. Continued suggestions or invitations to social events outside the workplace after being told such suggestions are unwelcome;
 - g. Degrading words or offensive terms of a sexual nature or based on the individual's membership in one of the protected classifications;
 - h. Prolonged staring or leering at a person;
 - i. Similar conduct directed at an individual on the basis of race, color, national origin, ancestry, religion, physical or mental disability, medical condition, age (over 40), marital status, sexual orientation, gender identity, or any other protected classification under applicable law.

D. Reporting Procedures

1. Internal Reporting Procedure
 - a. Any employee who believes that he or she has been the victim of sexual or other prohibited harassment by co-workers, supervisors, clients or customers, visitors, vendors, or others should immediately notify his or her supervisor or, in the alternative, the Director of Administrative Services, depending on

which individual the employee feels most comfortable in contacting.

b. Additionally, supervisors who observe or otherwise become aware of harassment that violates this policy have a duty to take steps to investigate and remedy such harassment and prevent its recurrence.

2. External Reporting Procedure

a. Any employee who believes that he or she has been the victim of sexual or other prohibited harassment by co-workers, supervisors, clients or customers, visitors, vendors, or others may file a complaint with the California Department of Fair Employment and Housing ("DFEH"). The phone number for DFEH is located in the phone book under government agencies.

E. Investigation

1. Upon the filing of a complaint with the City, the complainant will be provided with a copy of this policy. The Director of Administrative Services is the person designated by the City to investigate complaints of harassment. The Director of Administrative Services may, however, delegate the investigation at his/her discretion. In the event the harassment complaint is against the Director of Administrative Services, an investigator shall be appointed by the City Manager or City Council.
2. Charges filed with the DFEH are investigated by the DFEH.

F. Internal Documentation Procedures

1. When an allegation of harassment is made by an employee, the person to whom the complaint is made shall immediately prepare a report of the complaint according to the preceding section and submit it to the Director of Administrative Services.
2. The investigator shall make and keep a written record of the investigation, including notes of verbal responses made to the investigator by the person complaining of harassment, witnesses interviewed during the investigation, the person against whom the complaint of harassment was made, and any other person contacted by the investigator in connection with the investigation. The investigator's notes shall be made at the time the verbal interview is in progress. Any other documentary evidence shall be retained as part of the record of the investigation. Upon completion of the investigation, the results shall be given to the complainant, the alleged harasser, and the Director of Administrative Services.
3. Based on the report and any other relevant information, the Director of Administrative Services shall, within a reasonable period of time, determine whether the conduct of the person

against whom a complaint has been made constitutes harassment. In making that determination, the Director of Administrative Services shall look at the record as a whole and at the totality of circumstances, including the nature of the conduct in question; the context in which the conduct, if any, occurred; and the conduct of the person complaining of harassment. The determination of whether harassment occurred will be made on a case-by-case basis by the Director of Administrative Services.

G. Confidentiality

All records and information relating to the investigation of any alleged harassment and resulting disciplinary action shall be confidential, except to the extent disclosure is required by law, as part of the investigatory or disciplinary process, or as otherwise reasonably necessary.

H. Remedies

1. Disciplinary Action

a. If the Director of Administrative Services determines that the complaint of harassment is founded, the Director of Administrative Services shall take immediate and appropriate disciplinary action consistent with the requirements of law and any personnel policies or procedures pertaining to employee discipline. Other steps may be taken to the extent reasonably necessary to prevent recurrence of the harassment and to remedy the complainant's loss, if any.

b. Disciplinary action shall be consistent with the nature and severity of the offense, the rank of the harasser, and any other factors relating to the fair and efficient administration of the City's operations.

2. In the event a complaint is filed with the DFEH, and the DFEH finds that the complaint has merit, the DFEH will attempt to negotiate a settlement between the parties. If not settled, DFEH may issue a determination on the merits of the case.

a. Where a case is not settled and the DFEH finds a violation to exist, it can prosecute the charging party's case before the Fair Employment and Housing Commission ("FEHC"). Legal remedies available through DFEH and FEHC for a successful claim by an applicant, employee, or former employee include possible reinstatement to a former job; award of a job applied for; back pay; front pay; attorneys' fees; and under appropriate circumstances, actual damages and/or administrative fines.

b. In the alternative, DFEH may grant the employee permission to withdraw the case and pursue a private lawsuit seeking similar remedies.

I. Retaliation

Retaliation against anyone for opposing conduct prohibited by this policy or for filing a complaint with or otherwise participating in an investigation, proceeding or hearing conducted by the City, DFEH, or FEHC is strictly prohibited and may subject the offending person to, among other things, disciplinary action, up to and including, discharge.

J. Employee Obligation

1. Employees are not only encouraged to report instances of harassment; they are obligated to report instances of harassment.
2. Employees are obligated to cooperate in every investigation of harassment, including, but not necessarily limited to:
 - a. Coming forward with evidence, both favorable and unfavorable to a person accused of harassment; and
 - b. Fully and truthfully making a written report or verbally answering questions when required to do so during the course of a City investigation of alleged harassment.
3. Knowingly, falsely accusing someone of harassment or otherwise knowingly giving false or misleading information in an investigation of harassment shall be grounds for disciplinary action, up to and including, termination of employment.