



**City of Healdsburg
Policy Against Harassment, Discrimination, and Retaliation:
Equal Employment Opportunity Policy**

Effective Date: March 1, 2023

Approved: _____
Jeff Kay, City Manager

I. PURPOSE:

The City of Healdsburg (“City”) is committed to preventing discrimination, harassment and retaliation in the workplace. The City maintains a strict policy prohibiting all types of harassment, discrimination, or retaliation on the basis of actual or perceived race, color, religion, creed, sex, gender (including pregnancy, childbirth, breastfeeding or related medical conditions), national origin, ancestry, age (40 and over), marital status, physical disability, mental disability, medical condition, sexual orientation, gender identity, gender expression, genetic information, marital status, military or veteran status, or any other basis protected by law, or on the basis of a perception that an individual is associated with a person who has, or is perceived to have, any of these characteristics. The City shall afford equal employment opportunity to all qualified applicants or employees with respect to compensation and all terms and conditions of employment, including hiring, training, promotion, transfer, discipline, and termination.

The City has zero tolerance for any conduct that violates this policy. Conduct need not violate either federal or state law to constitute a violation of this policy. A single act by a covered individual may constitute a violation of this policy and provide sufficient grounds corrective action.

This policy establishes a complaint procedure by which the City will investigate and process complaints of discrimination, harassment, and retaliation by and against City covered individuals. The City encourages all covered individuals to report any conduct that they believe violates this policy as soon as possible.

The City expressly prohibits any retaliation against an employee because they filed or supported a complaint or because they participated in the investigation or complaint resolution process. Individuals found to have retaliated against an employee in violation of this policy will be subject to appropriate sanction or disciplinary action, up to and including termination.

II. COVERED INDIVIDUALS AND SCOPE OF POLICY:

This policy covers the following individuals:

- a. Applicants for employment with the City;
- b. City employees;
- c. Elected and appointed officials of the City;

- d. Interns;
- e. Volunteers;
- f. Contractors.

This policy applies to all terms and conditions of employment, internships, and volunteer opportunities, including selection, hiring, placement, promotion, disciplinary action, layoff, recall, transfer, leave of absence, compensation, and training.

III. PROTECTED CLASSIFICATION:

This policy prohibits discrimination, harassment or retaliation because of an individual's protected classification.

"Protected Classification" means race, color, religion, creed, sex, gender (including pregnancy, childbirth, breastfeeding or related medical conditions), national origin, ancestry, age (40 and over), marital status, physical disability, mental disability, medical condition, sexual orientation, gender identity, gender expression, genetic information, marital status, military or veteran status, or any other basis protected by law.

IV. PROTECTED ACTIVITY:

This policy prohibits discrimination, harassment, and retaliation because of an individual's protected activity.

Protected activity includes, but not limited to, the following activities: (1) making a request for an accommodation for a disability; (2) making a request for accommodation for religious beliefs; (3) making a complaint under this policy; (4) opposing violations of this policy; or (5) participating in an investigation under this policy.

V. DISCRIMINATION:

Discrimination is any action or conduct by which a covered individual is treated differently or less favorably than others who are similarly situated to the covered individual because the covered individual is a member of a protected classification. Examples of conduct that can constitute discrimination if based on an individual's protected classification include the following:

- a. Failing or refusing to hire an individual based on a protected classification.
- b. Terminating an individual from employment based on a protected classification.
- c. Singling out or targeting an individual for different or less favorable treatment because of a protected classification.

VI. **HARASSMENT:**

A. Conduct Amounting to Harassment. Harassment is unwelcome verbal, visual, or physical conduct based on membership in a protected classification that creates an intimidating, offensive, or hostile work environment. Such conduct constitutes harassment when:

1. Submission to the conduct is made either an explicit or implicit condition of employment, or an unpaid internship or volunteer program;
2. Submission to or rejection of the conduct is used as the basis for an employment decision, or any decision related to an unpaid internship or volunteer program; or
3. The harassment unreasonably interferes with an employee's work performance or creates an intimidating, hostile, or offensive work environment.

B. Examples of Harassment. This policy prohibits harassment of a covered individual because of the individual's actual or perceived protected classification. Harassment includes, but not limited to, the following conduct:

1. Verbal acts, such as derogatory, offensive, or inappropriate speech, such as epithets, slurs or stereotypical comments, or verbal propositions made based on the individual's protected classification. This includes, but is not limited to, comments, stories, and jokes about appearance, dress, physical features, gender identification, and race.
2. Physical acts, such as assault, impeding or blocking movement, offensive touching, or physical interference with normal work or movement. This includes, but is not limited to, pinching, grabbing, patting, or making explicit or implied job threats or promises in return for submission to physical acts.
3. Visual acts, such as derogatory, offensive, or inappropriate, posters, cartoons, emails, pictures, or drawings related to a protected classification.

C. Reasonable Person from the Same Protected Classification Standard.

Harassment includes conduct that another individual who is a member of the protected classification would find unwelcome or unwanted. Harassment may include the following:

1. Conduct that is not intended as to harass. Conduct may violate this policy if the conduct is directed at or implicates a protected classification and the recipient finds the conduct to be offensive or inappropriate, even if its well-intentioned conduct (e.g., gifts, over-attention, endearing nicknames, hugs).
2. Conduct to which the recipient appears to have consented. The City does not recognize as a defense that the recipient appeared to have consented to the conduct at issue by failing to protest about the conduct. A recipient may not protest offensive or inappropriate conduct for many legitimate reasons, including,

but not limited to, the need to avoid being perceived as insubordinate or to avoid being ostracized or subjected to retaliation.

3. Conduct about which no employees previously complained. The fact that no employee previously complained about the same or substantially similar conduct does not mean that the conduct is inoffensive or appropriate nor does that fact preclude an employee from complaining about such conduct if it is repeated.

4. Conduct witnessed by a third party or about which a third party learns, even if they did not witness such conduct. Visual, verbal, or physical conduct between two (2) people who do not find such conduct to be offensive or inappropriate may constitute harassment of a third party witnesses such conduct or learns about the conduct later and finds the conduct to be offensive or inappropriate. Conduct can constitute harassment even if it is not explicitly or specifically directed at a particular individual.

D. Sexual Harassment. Sexual Harassment includes sexual advances, requests for sexual favors, or visual, verbal, or physical conduct of a sexual nature may all constitute sexual harassment when: (1) submission to such conduct is made a term or condition of employment, an unpaid internship, or volunteer program; or (2) submission to or rejection of such conduct is used as basis for employment decisions, or any decision relating to an unpaid internship or volunteer program, affecting the individual; or (3) such conduct has the purpose or effect of unreasonably interfering with an employee's work performance or creating an intimidating, hostile or offensive working environment. This definition includes potential forms of offensive behavior. The following is a non-exclusive list of some examples:

1. Unwanted sexual advances
2. Offering employment benefits in exchange for sexual favors.
3. Making or threatening reprisals after a negative response to sexual advances.
4. Visual conduct, such as leering, making sexual gestures, displaying of sexually explicit jokes, comments about an employee's body or dress.
5. Verbal sexual advances or propositions.
6. Verbal abuse of a sexual nature, graphic verbal commentary about an individual's body, sexually degrading words to describe an individual, suggestive or obscene letters, notes, or invitations.
7. Physical conduct, such as touching, assault, impeding, or blocking movements.
8. Retaliation for reporting harassment or threatening to report harassment.
9. Electronic communications such as email, texts, or internet use that violate this policy.

Sexual harassment can occur between members of the same or opposite sex and need not be motivated by sexual desire or attraction. Sexual harassment can be based on pregnancy, child birth, or related medical conditions where such conduct unreasonably interferes with the employee's work performance, affect or impact an employee's terms and conditions or privileges of employment or creates an intimidating, hostile or offensive work environment. Sexual harassment on the job is prohibited whether it involves co-worker harassment, harassment by a supervisor or manager, or harassment by third parties doing business with or for the City.

VII. RETALIATION:

Retaliation is taking adverse action against a covered individual because of the covered individual's opposition to a practice that the covered individual reasonably believes constitutes employment discrimination or harassment or because of the covered individual's participation in an employment discrimination or harassment investigation, proceeding or hearing. Retaliation also includes adverse action against an employee because of opposition or participation by a family member or close associate of the employee.

- A. Examples of Opposition.** Opposition to perceived harassment or discrimination includes threatening to file a discrimination complaint with the Equal Employment Opportunity Commission ("EEOC"), the Department of Fair Employment and Housing ("DFEH"), union, or court, or complaining or protesting about alleged employment discrimination or harassment to a manager, union official, co-worker, or other official. Opposition also includes a complaint or protest made on behalf of another covered individual or made by a covered individual's representative. A complaint about an employment practice constitutes protected opposition only if the covered individual communicates to the City a reasonable good faith belief that the practice opposed constitutes employment discrimination or harassment. Opposition in a manner which disrupts the workplace, or which constitutes an unlawful activity, or engaging in badgering or threatening of employees or supervisors is not protected.
- B. Examples of Participation.** The City prohibits retaliation against any covered individual because the covered individual has filed a charge, testified, assisted or participated in any manner in an investigation, proceeding, hearing or litigation under federal or state employment discrimination or harassment statutes or at other hearings regarding protected employee rights, such as an application for unemployment benefits. The City also prohibits retaliation against somebody closely related to or associated with the employee exercising such rights.
- C. Examples of Adverse Action.** Adverse action may include the following actions: (1) disciplinary action; (2) counseling; (3) taking sides because an individual has reported harassment or discrimination; (4) spreading rumors about a complainant or about someone who supports or assists the complainant or who participates in the investigation; (5) shunning or avoiding an individual who reports harassment or discrimination; or (6) making real or implied threats of intimidation to prevent or deter an individual from reporting harassment or discrimination.

VIII. TRAINING AND POLICY DISSEMINATION:

A. Non-Supervisory Covered Individuals. All covered individuals will be given a copy of this policy, and will receive guidance from the Human Resources Division on its provisions and the City's commitment to provide a harassment-free, discrimination-free, and retaliation-free workplace. All non-supervisory covered individuals will receive training in accordance with the requirements of the Fair Employment Housing Act (Government Code section 12950.1) and implementing regulations.

B. Supervisory Covered Individuals. All supervisory covered individuals will be trained once every two years on matters relating to the prevention, reporting, and investigation of harassment, discrimination, and retaliation. Further, individuals appointed to supervisory positions from a non-supervisory position or as a new employee shall receive training within six months of their hiring or assumption of the supervisory position. Supervisory training will last for a minimum of two hours and will be conducted in a classroom or otherwise interactive setting and will, at a minimum, cover the following topics:

1. Information and practical guidance regarding federal and state statutory laws about sexual harassment;
2. Information about the correction of sexual harassment and the remedies available to victims of sexual harassment;
3. Practical examples aimed at instructing supervisors in the prevention of harassment, discrimination, and retaliation; and
4. Information and practical guidance regarding the prevention of abusive conduct, which is defined as follows: conduct of an employer or employee in the workplace, with malice, that a reasonable person would find hostile, offensive, and unrelated to an employer's legitimate business interests. Abusive conduct may include repeated infliction of verbal abuse, such as the use of derogatory remarks, insults, and epithets, verbal or physical conduct that a reasonable person would find threatening, intimidating, or humiliating, or the gratuitous sabotage or undermining of a person's work performance. A single act does not constitute abusive conduct, unless especially severe and egregious.

IX. COMPLAINT PROCEDURE:

A. Reporting Harassment, Discrimination, or Retaliation. The City's complaint procedure provides for a prompt, thorough, impartial, and objective investigation of every harassment, discrimination, or retaliation claim, appropriate disciplinary action against one found to have engaged in prohibited harassment, discrimination, or retaliation, and appropriate remedies to any victim of harassment, discrimination, or retaliation.

A covered individual who believes that another person has harassed, discriminated, or retaliated against the covered individual is encouraged to, but is not required to, confront this person and politely, but firmly inform the person of the conduct that the

covered individual finds offensive or retaliatory and request that the person cease this behavior. If the covered individual does not wish to confront the person harassing, discriminating, or retaliating against the covered individual, or if the covered individual's attempts to do so have failed, the covered individual should file a complaint with the City.

Covered individuals should follow this procedure to notify the City of harassment, discrimination, or retaliation. A covered individual who believes they have been subjected to discrimination, harassment or retaliation should promptly make a complaint, preferably in writing, to any supervisor, Department Head, Personnel Director, or City Manager without regard to any chain of command.

In addition to being able to report potential harassment, discrimination, or retaliation to any supervisory employee, the following suggested reporting procedures are available when filing a complaint about certain individuals in the City:

- Complaints regarding a person within the covered person's direct chain of command may be provided to the Personnel Director.
- Complaints regarding the Personnel Director may be provided to the Assistant City Manager.
- Complaints regarding the Assistant City Manager may be provided to the City Manager.
- Complaints regarding the City Manager or the City Attorney may be submitted to the Personnel Director for consideration by the City Council during closed session.
- Complaints regarding a member of the City Council may be reported to the City Manager or the City Attorney.

Complaints should be as detailed as possible and should include: details of the incident(s), name(s) of individuals involved, and the name(s) of any witness(es). The covered individual should also attach any documentary evidence to the complaint.

Notification to the City of potential harassment, discrimination, or retaliation is essential. The City assures covered individuals that they will not be penalized in any way for filing a good faith complaint of potential discrimination, harassment, or retaliation.

All covered individuals should note that the failure to use the City's complaint procedure may have an adverse effect on any claim under this policy when such claims are litigated.

B. Processing Complaints of Harassment, Discrimination or Retaliation. Any supervisory or management employee who receives a harassment complaint should immediately notify the Personnel Director. Upon receiving notification of a complaint regarding discrimination, harassment or retaliation, the Personnel Director or their designee will complete and/or delegate the following steps:

1. Authorize and supervise the investigation of the complaint and/or investigate the complaint. The investigation will usually include interviews with the following individuals: (1) the complainant; (2) the accused (*i.e.*, the subject of the investigation); (3) witnesses to the conduct at issue in the complaint; and (4) other persons who have relevant knowledge concerning the allegations in the complaint.
2. Review the factual information gathered during the investigation to determine whether the alleged conduct violated any City policy giving consideration to all factual information, the totality of the circumstances, including the nature of the conduct, and the context in which the alleged incidents occurred.
3. Prepare a summary report of the determination as to whether the conduct violated any City policy and provide such report to the City Manager. If discipline or sanctions are imposed, the level of discipline or sanctions will not be communicated to the complainant.
4. If conduct in violation of any City policy occurred, take or recommend to the appointing authority prompt and effective remedial action. The remedial action will be commensurate with the severity of the offense.
5. Take reasonable steps to protect the complainant from further harassment, discrimination, or retaliation.

If the City Manager and/or Personnel Director is accused, or a witness to the events at issue, an individual with higher authority will complete and/or delegate the above enumerated steps.

X. PROACTIVE APPROACH:

The City of Healdsburg takes a proactive approach to potential policy violations and will conduct an investigation if supervisory or management employees become aware that harassment, discrimination or retaliation occurred or may be occurring, regardless of whether the recipient or third party reports a potential violation.

XI. RIGHT TO FILE REPORT WITH OUTSIDE ADMINISTRATIVE AGENCIES:

In addition to the City's internal complaint procedure, a covered individual has the right to report workplace harassment, discrimination, or retaliation to the EEOC and/or the DFEH. The EEOC and the DFEH investigate and prosecute complaints of harassment, discrimination, or retaliation in employment.

EEOC – San Francisco District Office
www.eeoc.gov

450 Golden Gate Ave.
 San Francisco, CA 94102
 1-800-669-4000 | 1-800-669-6820 (TTY).

DFEH Headquarters
www.dfeh.ca.gov

2218 Kausen Drive, Suite 100
 Elk Grove, CA 95758
 1-800-884-1684 | 1-800-700-2320 (TTY)

XII. ANONYMITY AND CONFIDENTIALITY:

While the City will investigate anonymous complaints, the City strongly discourages anonymous complaints. Covered individuals choosing to file a complaint anonymously must be aware that anonymity in the complaint procedure may compromise the city's ability to complete a thorough investigation. Covered individuals should also be aware that should the City learn of the identity of an anonymous complainant, the City cannot guarantee that the complainant's identity will remain confidential, if the City determines in its discretion that disclosure is necessary to complete the investigation.

The City will take all reasonable steps to assure the confidentiality of complaints made under this policy. However, the City retains sole discretion to determine whether disclosure of information is necessary to complete the investigation for other legitimate purposes.

To protect the integrity of the investigation and the privacy of involved individuals, the City may direct that all covered individuals involved in an investigation of harassment, discrimination, and /or retaliation complaints as complainant(s), witness(es), or accused are required to keep all information related to the investigation confidential. If so directed, a covered individual revealing such information is grounds for corrective action. Note that such directive to maintain confidentiality does not include communications that are expressly permitted by law, such as discussion with a legal or employee representative.

XIII. RESPONSIBILITIES:

Each non-supervisor or non-manager is responsible for the following:

1. Treating all individuals in the workplace or on City worksites with respect and consideration.
2. Modeling behavior that confirms to this policy.
3. Participating in periodic trainings on personnel matters
4. Cooperating with the City's investigations pursuant to this policy by responding fully and truthfully and in a timely manner to all questions posed during an investigation.
5. Taking no actions to influence the complainant or any potential witness while the City investigation is ongoing.
6. Reporting any act they believe in good faith constitutes harassment, discrimination or retaliation as defined in this policy, according to the procedures provided in section IX above.

In addition to the responsibilities listed above, each manager and supervisor is responsible for:

1. Informing employees under their supervision of this policy.

2. Taking all reasonable steps necessary to prevent harassment, discrimination, and retaliation from occurring, including monitoring the work environment and taking immediate and appropriate action to stop violations (e.g., removing inappropriate pictures or correcting inappropriate language).
3. Receiving and processing harassment, discrimination, or retaliation complaints consistent with this policy.
4. Documenting the steps taken to process such complaints.
5. Following up with those who have complained to ensure that the offensive conduct about which they complained has stopped and that there have been no reprisals or retaliation or threats of reprisals or retaliation.
6. Assisting, as directed by the city, in the investigation of complaints involving subordinate employee(s).
7. Where a complaint is substantiated, assisting in the development of a recommendation concerning an appropriate corrective or disciplinary action in accordance with these policies.
8. Implementing appropriate corrective or disciplinary actions.
9. Reporting potential violations of this policy to the Personnel Director, regardless of whether employee covered individual complained about such conduct.
10. Scheduling employees for the required harassment, discrimination, and retaliation prevention training as required by this policy.

XIV. INTENTIONALLY FALSE COMPLAINTS:

Covered individuals are prohibited from making an intentionally false complaint of harassment, discrimination, and/or retaliation. An intentionally false complaint is a complaint that the covered employee demonstrably does not believe to be true. An employee making an intentionally false complaint is subject to disciplinary action, up to and including termination.