

**CITY OF NEW ORLEANS  
CHIEF ADMINISTRATIVE OFFICE**

**POLICY MEMORANDUM NO. 141(R)**

**Date: December 20, 2021**

**TO: All Departments, Boards, Agencies and Commissions**

**FROM: Gilbert A. Montaño, Chief Administrative Officer**



**SUBJECT: SEXUAL HARASSMENT POLICY AND COMPLAINT/INVESTIGATION PROCEDURES**

**I. PURPOSE:**

The purpose of this memorandum is to revise the **Sexual Harassment and Complaint/Investigation Procedures** to include regulations as set forth in **Ordinance Number 27795 M.C.S.** The City of New Orleans is committed to providing a workplace that is free from sexual harassment. In implementing and enforcing a Sexual Harassment policy, we hereby define workplace sexual harassment, prohibit it in all of its forms, assign the appropriate disciplinary actions for any violations of this policy, and provide procedures for lodging complaints of conduct that violate this policy and the investigation of sexual harassment complaints.

**II. DEFINITIONS:**

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

- A. Submission to such conduct is made either explicitly or implicitly or as a condition of an individual's employment;
- B. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting the individual; or,
- C. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment. For purposes of this section, an intimidating hostile, or offensive work environment exists when sexual harassment is so pervasive or severe that it creates an intimidating, offensive workplace and alters the conditions of employment.

Examples of conduct and descriptions of behavior that may constitute sexual harassment include, but are not limited to:

1. Verbal: Sexual innuendos, suggestive comments, insults, humor and jokes about sex, anatomy or gender specific traits, sexual propositions, threats, repeated requests for dates, statements about other employees that are of a sexual nature, or quid pro quo offers wherein an employee is in a management or supervisory role and states or implies that an employee must consent to unwelcome sexual advances in exchange for some economic benefits such as promotions, merit job offers, or job retention. Quid pro quo sexual harassment also occurs when rejection of sexual advances would result in adverse decisions affecting an employee's job status (e.g., demotion, termination, denial of employment).
2. Non-verbal: Suggestive or insulting sounds ("catcalls" or "kissing" noises), leering, obscene gestures, and sexually suggestive body gestures.
3. Visual: Posters, signs, pin-ups or slogans of a sexual nature, viewing pornographic materials or websites.
4. Physical: Touching, unwelcome hugging or kissing, pinching, brushing the body, any coerced sexual act or actual assault.
5. Text/electronic: Electronically sending messages with sexual content, including pictures and video, the use of sexually explicit language, harassment, cyber stalking and threats via all forms of electronic communication (e-mail, text/picture/video messages, intranet/on-line postings, blogs, instant messages, and social network websites).

Note: Although severe and overt forms of sexual harassment may be readily apparent, some sexual harassment is subtle and varies depending on interpretation and perception. Review of sexual harassment allegations are subject to the standard of what offends a "reasonable person."

### **III. APPLICATION:**

The provisions of this policy apply to all employees of the City of New Orleans whether classified or unclassified.

### **IV. INITIATION PROCEDURES:**

Employees, whether classified or unclassified, may report to his/her respective department's human resources manager, and/or appointing authority any allegations or complaints of sexual harassment. Reporting a harassment complaint or discussing a complaint with the human resources manager, and/or appointing authority will result in an investigation. If the accused harasser is the human resources manager or the appointing authority for a given agency, the complaint shall be submitted to the Asst. CAO of the personnel division. If the accused harasser is an elected official that is governed by this Code, the complaint shall be submitted to the New Orleans Inspector General.

- A. A sexual harassment complaint may be an oral complaint initially but must be followed by a sexual harassment or discrimination complaint form. The complaint should include the date(s) the incident(s) occurred, name(s) of the individual(s) involved, name(s) of witness(es), and a detailed description of the incident(s).
- B. When the employee completes the sexual harassment or discrimination complaint form, a human resources manager and/or appointing authority must sign the form. Only signatures from human resources managers and/or appointing authorities are to be entered on the sexual harassment or discrimination complaint form in the space designated for this purpose. In the event that the accused harasser is the human resources manager or the appointing authority for a given agency, the complaint should be signed by the Asst. CAO of the personnel division.
- C. After an employee has signed the sexual harassment or discrimination complaint form, the original should be sent to the personnel division, chief administrative office. The sexual harassment or discrimination complaint form will become part of the complaining employee's personnel file located in that department and the civil service department employee record.
- D. Employees also have the right to file a complaint with the Equal Employment Opportunity Commission (EEOC), the Human Relations Commission (HRC) or to pursue other legal action, in addition to their rights under this policy, regardless of the outcome of the investigation. The EEOC provides employees 300 days to file an official complaint.

**Note:** A supervisor, manager, or employee who ignores a request to cease harassing behavior or who engages in perpetuating sexual harassment in the agency, shall face disciplinary action in accordance with Civil Service Rule IX.

## **V. INVESTIGATING HARASSMENT COMPLAINTS:**

- A. The Human Resources manager or Appointing Authority who is told or otherwise becomes aware of that harassment may be occurring is obligated to immediately report the allegation or complaint to the alleged harasser's Appointing Authority or initiate an investigation if the alleged harasser works within the same department or agency.
  - 1. The Appointing Authority shall, as soon as practically possible, notify (in-person and in writing (by certified mail) the alleged harasser that he or she has been named in a harassment complaint and that an investigation is being conducted.
  - 2. The Appointing Authority shall, as soon as practically possible, assess the need to relocate either one or both (the complainant and/or the alleged harasser) to

another work unit. The complainant shall not be given work or placed at a work location that is, in any way less than the classification and pay grade of his or her current position.

- B. The Appointing Authority along with the Human Resources manager shall initiate an investigation of the complaint or allegation as promptly as possible while ensuring that the investigation is fair, complete, and impartial. It shall be the city's objective to complete all investigations within 60 days unless compelling circumstances require additional time. An extension beyond 60 days will require a written request to the Asst. CAO of the Personnel Division prior to the expiration of the investigation. The written statement of the complainant or witness constitutes the initiation of the 60-day investigation period.
1. The complainant and the alleged harasser shall participate in the investigation. The investigation shall include separate interviews with the complainant, the alleged harasser, and any other person(s) believed to have information directly related to the complaint or the investigation. All actions taken on the complaint shall be documented.
  2. The Appointing Authority shall assure compliance with any of the complainants' privacy rights, as well as the alleged harasser's rights.
  3. The Appointing Authority shall maintain records of the investigation and provide said records to other investigatory bodies and law enforcement agencies upon request.

## **VI. RETALIATION:**

Retaliation against an employee who brings a complaint of harassment, reports an allegation of harassment on behalf of another, or participates in an investigation of a harassment complaint is prohibited and could result in disciplinary action. An allegation of retaliation shall be reported, investigated, and documented in the same manner as the substantive claim of sexual harassment.

## **VII. RESOLUTION OF SEXUAL HARASSMENT COMPLAINTS:**

- A. If the investigation substantiates the complaint of harassment, the Appointing Authority shall make a determination regarding the appropriate resolution, including disciplinary action. Before making the decision to impose disciplinary action or the application same, the Appointing Authority shall ensure that the harasser has been given the opportunity to review the results of the investigation, has been explained the reported findings.
- B. In addition to any disciplinary action taken, the substantiated complaint shall be noted in the harasser's official personnel file. If employment continues for the harasser, the disciplinary action shall be taken in consideration of the harasser's performance and other disciplinary record, if applicable.

- C. If during the course of the investigation, the investigator determines that the allegation or complaint of sexual harassment was reported to a management representative, and that individual failed to promptly report the allegation or complaint to the Appointing Authority, the Appointing Authority shall investigate and take appropriate action against the management representative, to include disciplinary action. A substantiated finding of failure to report an allegation or complaint of sexual harassment and resulting disciplinary action shall also be made a part of the management representative's official personnel file.
- D. Allegations or complaints of sexual harassment that have been determined in accordance with the procedures of this policy to be fabricated, knowingly false, or otherwise baseless shall require the Appointing Authority to impose disciplinary action against the complainant found to have filed the improper complaint, as well as any other employees that participated in the false allegation or complaint.

#### **VIII. EMPLOYEE TRAINING:**

- A. Each public employee shall receive a minimum of one hour of education and training on preventing sexual harassment during each full calendar year of his/her public employment or term of office.
- B. Appointing authorities or their designees shall make use of standardized education and training materials developed by the department of state civil service; additional materials may be approved by the CAO. The education or training required may be received in person or via the Internet.
- C. Appointing authorities or their designees shall require supervisors to receive additional education and training.
- D. Each public servant shall be notified of the mandatory training requirement. Appointing authorities or their designees shall be responsible for maintaining records of the compliance of each public servant in the agency with the mandatory training requirement.

#### **IX. DISCIPLINE:**

Employee violations of this policy may subject the employee to disciplinary action and possible termination of employment, including suspension, demotion, and where circumstances warrant, termination. The implementation of disciplinary measures shall be consistent with civil service rules where applicable. In addition to any other discipline that may be applicable, any person who violates Sections [86-40](#), [86-43](#), or [86-46](#) of the New Orleans City Code may be subject to a fine of up to \$500.00 per offense. Each violation may constitute a separate offense. Any discipline imposed by the city shall be separate and apart from any penalty imposed by any fines or penalties imposed by a court of law or a state or federal agency.

Requests for information from the media must be referred to the City Attorney's Office and the Mayor's Office of Communication.

**X. MANDATORY REPORTS:**

Each appointing authority shall compile an annual public record report by February 1<sup>st</sup> of each year that contains the below information for the prior calendar year and submit said report to the CAO and City Council:

- A. Certification of compliance with the requirements herein including the number and percentage of public servants who have completed the training requirements.
- B. The number of sexual harassment complaints received.
- C. The number of complaints which resulted in a finding that sexual harassment occurred.
- D. The number of complaints that resulted in discipline or corrective action and the amount of time it took to resolve each complaint.

**XI. INQUIRIES:**

Any inquiries concerning this policy memorandum may be addressed to the Chief Administrative Office - Personnel and Training Division at (504) 658-8600.

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