

CITY OF AUSTIN

City Council Meeting

March 24, 2016

Item #14 Late Backup



Human Resources Department

City of Austin Personnel Policy

Policy includes prohibitions against:

- Harassment
- Sexual Harassment
- Discrimination
- Retaliation
- Unprofessional Employee Conduct

Complaint Reporting Avenues for City Employees

- Immediately report concerns to supervisor
- Escalation within management chain to include Assistant Director, Director
- Department Human Resources, or the Director of Human Resources
- Ethics and Compliance – Law Department
- City Auditor Hotline (includes anonymous reporting)

Current Practice and Protocol

- HRD Employee Relations staff of 6 and Department HR staff investigate complaints – highly experienced and knowledgeable HR professionals
- Investigation practice and protocol are aligned with Society of Human Resource Professionals (SHRM) best practice and EEOC guidance
- HR staff consults with Law Department staff regarding legal and liability matters
- Employee Relations Protocols and a Discipline Procedure are in place

Municipal Civil Service Background

2012

- Council passed an ordinance placing Proposition 10 on the November Ballot.
- Nov. 6 Election- Proposition 10 passed
- HRD, LRO and Law benchmarked other Cities and Practices

2013

- Policy Advisory Group formed consisting of Department Directors and HR Managers
- Peer city review panel convened with representatives from six cities
- Key stakeholder groups engaged
- Employee Focus Group Meetings Held
- Council appointed 5-member Municipal Civil Service Commission
- HR Director proposed MCS Rules to Commission

2014

- MCS Commission recommended Rules to City Council.
- City Council adopted MCS Rules and set effective dates.
- Implementation included training for HR staff, Managers and Supervisors, and all MCS covered Employees

Appeals to MCS Commission

Appealable actions:

- Denial of Promotion
- Disciplinary Probation
- Demotion
- Disciplinary Suspension
- Discharge*

*May be filed without going through department grievance process

- Available to regular status employees (excluding executives, attorneys, council/mayor staff, and council appointees)
- MCS Commission decision is final

Current Council Resolution

BE IT RESOLVED

“That the City Manager is directed to review all City anti-discrimination policies and protocols, particularly those contained within the City of Austin Personnel Policies, as recommended by the Human Rights Commission, and by June 30, 2016..... :”

- HRD Feedback: efforts are currently underway to update, simplify and clarify policy language.

Current Council Resolution

BE IT FURTHER RESOLVED:

“That the City Auditor is directed to commission an external audit to review investigations of alleged discrimination, harassment, and retaliation filed between 2010-2015;..... The audit shall be presented to the Audit and Finance Committee no later than September 30, 2016.”

- HRD Feedback: In the spirit of continuous improvement, HRD would look forward to participating in and supporting this audit.

Current Council Resolution

BE IT FURTHER RESOLVED:

“That the City Council desires to create an objective, third-party appeals process for cases pertaining to allegations of discrimination, harassment, and retaliation.....”

- HRD Feedback: HRD supports the evaluation of potential review processes. Any review steps should be evaluated to include potential impact on the timely, efficient and effective investigation and disposition of cases.

Current Council Resolution

BE IT FURTHER RESOLVED:

“That the City Council directs the City Manager to recommend options for a third-party appeals process, including a potential role for the Municipal Civil Service Commission;.....and to provide those recommendations to Council by June 30, 2016.”

- HRD Feedback: The Law Department has provided legal guidance regarding the Charter language and the inability to authorize an expansion of appeals scope beyond the current role of the Commission.

Current Council Resolution

BE IT FURTHER RESOLVED:

“That the City Council directs the MCSC to consider a potential expansion of its role to include cases related to alleged discrimination, harassment, and retaliation for which an employee has sought relief through the grievance process; and further requests the Commission to advise on the nature of the responsibilities and scope of review that such a role might entail. The City Manager is directed to transmit this request to the Municipal Civil Service Commission and to report back to the City Council by June 15, 2016, on the results of those discussions.”

Feedback and Recommendations

- When analyzing 72 investigations conducted by HRD from 2010 – 2015, involving allegations of discrimination, harassment and/or retaliation:
 - HRD cited discrimination or harassment policy violations in 9.9% of these allegations – EEOC statistics from 2010-2014 cite a 3.8% rate of finding of “reasonable cause.”
 - In 26 of the 72 investigations (36.1%) HRD had a finding of at least one policy violation. Investigations conducted by the City Auditor during a recent 3 year period identified a substantiated finding rate of approximately 26.5 %.

Observations

- Investigations are currently conducted by professional HR staff who invest 20 - 200+ hours for each investigation – significant detail, complexity and uniqueness.
- By the very nature of these employment matters, each investigation conducted can result in the complainant or the respondent being “dissatisfied” with the outcome. Escalation paths exist internal and external to the City for either party

In Summary

- City Management and Human Resources fully support:
 - Equitable treatment of all employees
 - Personnel Policies that clearly and effectively state that discrimination, harassment and retaliation will not be tolerated in the workplace
 - Multiple, accessible avenues for employees to file complaints anonymously or named
 - Ensuring a robust independent investigation process that promotes accountability and instills confidence