

RESOLUTION NO. _____

WHEREAS, the City Council of the City of Austin opposes discrimination in employment and encourages employees experiencing discrimination, harassment, or retaliation in the workplace to promptly report that conduct to their department director, assistant director, or the director of the Human Resources Department (HRD); and

WHEREAS, on March 27, 2015, speakers at a staff training session made broad, demeaning generalizations and relied on stereotypes when discussing female leaders; and

WHEREAS, although at least several staff who attended objected to the content of the training session, they chose to speak anonymously to a member of the media rather than to their supervisors or to city management—a circumstance that raised serious concerns among some Council Members and community members about whether the City could better promote a culture of openness with regard to issues related to gender equity; and

WHEREAS, the training session has prompted citywide and community-wide discussions about gender equity in the workplace and, more specifically, about the workplace culture at the City of Austin; and

WHEREAS, on May 27 and September 28, 2015, three female City staff members appeared before the Human Rights Commission (HRC) alleging gender discrimination in the workplace; and

WHEREAS, the HRC subsequently reviewed the City's personnel policies for civil and non-civil service personnel and the City Department Personnel Action

and Employee Relations Protocols, and found provisions within them which could be improved; and

WHEREAS, the HRC Resolution 20151026-5a thus recommended that the City Manager perform a comprehensive review of all anti-discrimination policies and protocols and consider the following:

- Updating definitions of discrimination, harassment, and retaliation
- Providing guidance for employees seeking accommodation of physical or mental disabilities
- Simplifying and clarifying the process by which employees may file complaints
- Providing descriptions of the city's investigatory procedures
- Providing an anonymous complaint mechanism; and

WHEREAS, the HRC also studied detailed information about cases of retaliation, discrimination, and harassment filed since 2010 with the City's Human Resources Department (HRD) as well as the Equal Employment Opportunity Commission (EEOC); and

WHEREAS, this additional information was provided to the Council on October 22, 2015; and

WHEREAS, according to the October 22, 2015, memo from the Human Resources director, over a five-year period HRD investigated 72 alleged cases of discrimination, harassment, retaliation, or hostile environment; and

WHEREAS, the department substantiated only 16 of 72 cases; and

WHEREAS, once an employee has exhausted her or his available remedies within the City's procedures, an employee alleging discrimination on the basis of race, color, religion, sex (including pregnancy), national origin, age (40 or older),

disability, genetic information, or retaliation may file a charge with the EEOC or TWC and, at the appropriate point, pursue the case in court; and

WHEREAS, over the five-year period, staff members filed 162 employment complaints against the city: 37 involved gender discrimination, 84 involved some type of retaliation in addition to discrimination based on protected status, and 39 involved harassment, including gender-based harassment; and

WHEREAS, seeking relief through the EEOC, TWC and/or the court system can require a significant investment of time and resources on the part of the staff members themselves as well as the city; and

WHEREAS, the City Council seeks to create a culture where discrimination, harassment, and retaliation on any grounds is not tolerated; and

WHEREAS, the City Council seeks to ensure that protocols for addressing discrimination, harassment, and retaliation at the City promote accountability and instill confidence in a just process; and

WHEREAS, creating an additional internal option for staff members will signal the city's serious commitment to maintaining a just and fair workplace; and

WHEREAS, the Municipal Civil Service Commission (MCSC) was created by a citizen-initiated charter amendment, adopted in November 2012, to recommend adoption of Civil Service rules to City Council, hear appeals and make final, binding decisions in the case of City employees who are discharged, suspended, demoted, denied a promotion or put on disciplinary probation, and to conduct any investigations it may consider desirable or which it may be required to make by the City Council or the City Manager concerning the administration of municipal civil service; and

WHEREAS, the City Charter further defines that the MCSC shall perform other duties regarding the municipal civil service, not inconsistent with Article IX of the City Charter, that the City Council may require; and

WHEREAS, the MCSC has, in its three years of existence, become a trusted, impartial body within the City structure, and would provide a more accessible vehicle for considering allegations of discrimination, harassment, and retaliation in the work place; and

WHEREAS, Article IX, § 4(C) of the City Charter states that Civil Service rules may be amended using a process defined in Article IX, §4(B), with a recommendation from the human resources director to the MCSC, notice and public hearing, a recommendation with modifications as necessary by the Commission to the City Council, and adoption by the Council; **NOW, THEREFORE**,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

That the City Manager is directed to immediately conduct a comprehensive review of all City anti-discrimination policies and protocols, particularly those contained within the City of Austin Personnel for Non-Civil Service Employees, as recommended by the HRC, and bring back recommended changes by May 1, 2016; and

BE IT FURTHER RESOLVED

That the City Council desires to add a further duty to those of the MCSC: to hear appeals pertaining to allegations of discrimination, harassment, and

retaliation for which an employee has exhausted the departmental grievance process as outlined in the Municipal Civil Service Rules; and

BE IT FURTHER RESOLVED

That the City Council requests the Human Resources Director initiate amendments to the Municipal Civil Service Rules to include a process for appeals pertaining to allegations of discrimination, harassment, and retaliation for which an employee has exhausted the departmental grievance process as outlined in the Municipal Civil Service Rules by June 1, 2016, and to assist the MCSC in the necessary process for development of a subsequent recommendation to the City Council.

ADOPTED: _____, 2016

ATTEST: _____

Jannette S. Goodall
City Clerk