

RESOLUTION NO. 20161201-018

WHEREAS, Resolution No. 20160324-014 directed the City Manager to review all City anti-discrimination policies and protocols; and

WHEREAS, the Director of Human Resources has reviewed the City's anti-discrimination policies and protocols and recommends the following amendments of the Personnel Policies; and

WHEREAS, the City Manager approves and recommends adoption of this amendment; **NOW, THEREFORE**,

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

Sections I.A.1, 2, and 3 (Conditions of Work, Discrimination, Harassment and Sexual Harassment) and Section I.B. (Employee Conduct) of Chapter A (Non-Civil Service Employees) of the City of Austin Personnel Policies are amended to read as provided in Exhibit A.

BE IT FURTHER RESOLVED:

Sections II.A.1, 2, and 3 (Conditions of Work, Discrimination, Harassment and Sexual Harassment) and Section I.B. (Employee Conduct) of Chapter B (Civil Service Employees) of the City of Austin Personnel Policies are amended to read as provided in Exhibit B.

ADOPTED: December 1, 2016

ATTEST:

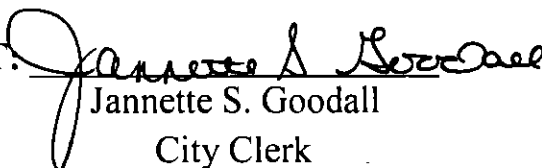

Jannette S. Goodall
City Clerk

EXHIBIT A

CHAPTER A: NON-CIVIL SERVICE EMPLOYEES

The City of Austin is committed to providing a workplace where all employees are valued and treated with respect and dignity. All City employees should share in that commitment and responsibility to one another. These Personnel Policies are meant to help define a common set of policies and expectations that will serve to guide and support City Employees in the collective effort to best serve citizens, businesses, and fellow employees.

I. CONDITIONS OF WORK

A. Equal Employment Opportunity and Anti-discrimination

The City of Austin is committed to Equal Employment Opportunity and anti-discrimination. Discrimination, Harassment, and Retaliation based upon a protected class, in any form, as defined in federal, state or local law/ordinance, will not be tolerated. Protected classes include race, color, religion, creed, sex, gender, pregnancy status, genetic information, sexual orientation, gender identity, national origin, ethnicity, age, disability, and veteran status or other legally protected class.

Every employee is responsible for maintaining a professional environment free of discrimination, harassment, and retaliation, and for bringing to the City's attention conduct that interferes with providing a work environment free of discrimination, harassment and retaliation.

Findings of discrimination, harassment or retaliation against an employee may result in discipline up to and including discharge.

1. Discrimination

The City is committed to providing a work environment that is free of discrimination. Discrimination is the unequal or different treatment of an individual in any employment and/or personnel action on the basis of a protected class.

Departments and Offices shall implement this policy through uniform and consistent employment practices. As an Equal Employment Opportunity (EEO) employer, the City will recruit, hire, train, compensate, discipline, provide benefits and promote without regard to protected class. It is the policy of the City to ensure:

- Equal Opportunity to all employees and candidates; and,
- That employees be selected and promoted based on merit and fitness and without discrimination. The City of Austin will employ positive business and personnel practices designed to ensure equal employment opportunity.

In addition, the City will not discriminate in employment decisions and/or personnel actions on the basis of an individual's AIDS, AIDS Related Complex, or HIV status; nor will the City discriminate against individuals who are perceived to be at risk of HIV infection, or who associate with individuals who are believed to be at risk.

Reasonable accommodations shall be provided for all employees and qualified applicants with a disability, as defined by the Americans with Disabilities Act (ADA), as amended, provided that the individual is otherwise qualified to perform the essential functions of the job and such accommodations can be provided without undue hardship for the City of Austin.

2. Harassment

The City is committed to providing a work environment that is free of harassment. Harassment is unwelcome verbal or physical conduct toward an individual or a group because of a protected class. Harassment can create a hostile work environment when such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or otherwise adversely affects an individual's employment opportunities. Employees who engage in such conduct will be subject to discipline, up to and including discharge.

Employees shall not engage in conduct which could reasonably create a hostile work environment while on duty or on City premises, to include any work-related setting outside the workplace, such as business trips, professional conferences, etc. or if off duty, conduct is related to or relevant to an employee's job. Such conduct will not be tolerated and may result in disciplinary action up to and including discharge.

Supervisors or managers receiving complaints of such harassment are expected to take prompt and appropriate action to stop the alleged conduct and to make departmental Human Resources aware of such complaints and/or conduct.

Prohibited Conduct:

This list of prohibited conduct is meant to give some examples of inappropriate behavior and is not a complete list of conduct prohibited under this policy.

- a. Use of epithets, innuendos, names, comments, foul language or slurs because of an individual's protected class;
- b. Jokes, pranks or other banter, including stereotyping based on a protected class; or,
- c. Distribution, display, viewing, downloading or discussion of any written or graphic material, including online content, voicemail, e-mail, text-messages, calendars, posters and cartoons, that are sexually suggestive or show hostility toward an individual or group based on protected class.

4. Sexual Harassment

The City is committed to providing a work environment that is free of sexual harassment. Sexual harassment is any unwelcome sex or gender based comments and/or conduct that occurs when:

- a. Submission to such conduct is made either openly or by implication a term or condition of an individual's employment;
- b. Submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting that person; or

- c. Such conduct unreasonably interferes with the individual's work performance or creates an intimidating, hostile, or offensive working environment.

Any employee who engages in such objectionable conduct is subject to discipline up to and including discharge. Sex or gender based and/or sexually-oriented jokes, remarks, gestures, or pictures may be offensive to other employees and will not be tolerated.

5. Retaliation

The City is committed to maintaining a work environment that is free of retaliation and where an employee is free to raise a question or concern involving the terms and conditions of any employee's employment.

Retaliation is defined as an action or inaction that adversely affects the terms and conditions of employment, and is taken in response to an employee's good faith complaint, participation in an investigation, proceeding or hearing, exercise of rights or availing themselves of any benefit authorized under the personnel policies. An adverse employment action includes, but is not limited to, discharge, demotion, and denial of promotional opportunity.

The City prohibits the taking of any adverse employment action against an employee who, in good faith, reports discrimination, harassment, or retaliation; files a complaint regarding a law, policy, practice or procedure, testifies, assists or participates in an investigation, proceeding, or hearing, or exercises rights or avails themselves of any benefit authorized under the personnel policies, such as filing a worker's compensation claim, requesting Family and Medical Leave (FML), or requesting military leave.

Unacceptable conduct that would likely deter an individual from reporting or supporting a claim may constitute retaliation. Retaliation can occur even if the underlying complaint is not substantiated.

6. Reporting Discrimination, Harassment or Retaliation

City of Austin employees are expected and encouraged to promptly raise questions and concerns regarding alleged violations of City policy or local, State or Federal law. Promptly raising questions and/or concerns allows the opportunity for such concerns to be addressed quickly and can assist in preventing problems from occurring or escalating.

Any employee who believes that they have been subjected to discrimination, or harassment based on a protected class or retaliation based on a protected activity is encouraged to report it to any supervisor, manager, Department Director, Officer, or any Executive or Department Human Resources representative and/or make an anonymous or named complaint to the Integrity Unit in the Office of the City Auditor. An employee is not required to follow the "chain of command" when reporting harassment, discrimination or retaliation, but instead may file a complaint directly with the Director of Human Resources or the Employee Relations Division.

Any supervisor or manager who receives a complaint of such conduct must promptly notify their Department Human Resources, the Department Director or the Human

Resources Department. A prompt evaluation of the complaint shall be conducted to determine the appropriate course of action.

No employee shall suffer discrimination, harassment or retaliation as a result of good faith reporting of any City policy violation or participation in the investigation of a complaint.

B. EMPLOYEE CONDUCT

Employees who are on duty are at all times individually responsible for conducting themselves in a professional and ethical manner and for treating coworkers and members of the public with respect and dignity. Unacceptable personal conduct is behavior by an employee that is incompatible with the City's values. The City will not tolerate behavior or language that is disruptive, unprofessional, offensive, threatening and/or disrespectful including, but not limited to, horseplay, gossip, profanity, the mishandling of information, or communication that is untrue or inappropriate in a professional work environment. Employees are also responsible and can be held accountable for off-duty conduct that is related to or relevant to the Employee's job.

The City of Austin defines bullying as persistent conduct that is malicious, or unwelcome, that harms, intimidates, offends, degrades or humiliates an employee, whether verbal, non-verbal, physical, psychological, or otherwise. Conduct of such a nature, that a reasonable person would find inappropriate, offensive, and unrelated to the employer's legitimate business interests, shall not be tolerated and is in violation of this policy. This policy applies to conduct while on duty or on City premises, work-related settings outside the workplace, and off-duty personal conduct that is related to or relevant to the Employee's job.

The intent of this policy is to make a clear statement that unprofessional behavior, bullying behavior, abusive or threatening behavior will not be tolerated in the workplace.

Employees are encouraged to constructively address appropriate workplace issues directly with their colleagues. Employees seeking to file a complaint regarding a potential violation of Employee Conduct, or any other City policy, are encouraged to contact any member of their management chain or Human Resources staff.

In addition to the provisions in these policies, employees are responsible for complying with any other federal and state laws or regulations or local ordinances governing their conduct. This includes, but is not limited to, the City Charter, City Code sections 2-7-62 through -66 (Standards of Conduct, Prohibition on Conflict of Interest, Disclosure of Conflict of Interest, Substantial Interest of Relative and Misuse of Official Information. See also, MCS Rule 6.02(B)(4)).

EXHIBIT B

CHAPTER B: CIVIL SERVICE EMPLOYEES

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