

POLICY TITLE        DISCRIMINATION, HARASSMENT, RETALIATION, AND  
RESPECTFUL WORKPLACE CONDUCT POLICY

POLICY STATEMENT

It is the policy of the City of Santa Cruz to maintain and promote a working environment free from abusive conduct, discrimination, harassment, and retaliation; and to provide all current and prospective employees, Councilmembers, contractors, unpaid interns, and volunteers with equal opportunity in employment regardless of race, religious creed (including religious dress and grooming practices), color, national origin (including language use restrictions), ancestry, disability (mental and physical), medical condition, sex, gender (including gender identity and gender expression), physical characteristics, marital status, age, sexual orientation, genetic information (including family health history and genetic test results), organizational affiliation, and military and veteran status (all of which are later referred to as “Protected Categories”), or any other consideration made unlawful by local, State or Federal law.

This policy pertains to all aspects of employment with the City or the application for employment with the City including, but not limited to, recruitment, selection, placement, assignment, compensation, benefits, training, transfer, promotion, evaluation, discipline, and termination.

This policy prohibits unlawful harassment, discrimination, and retaliation by supervisors, managers, co-workers, and third parties such as vendors or customers.

**Definitions:**

Discrimination as used in this policy is defined as the treatment or consideration of, or making a distinction in favor of or against, an employee on the basis of any of the above-listed protected categories including, but not limited to, any of the following forms:

- a) basing an employment decision on a job applicant’s or an employee’s protected status;
- b) treating an applicant or employee differently with regard to any aspect of employment because of their protected status;
- c) offering an employment benefit in exchange for sexual favors;
- d) threatening negative consequences if an employee declines a sexual advance;
- e) engaging in harassment, as more specifically defined below; and
- f) taking adverse employment action (i.e., demotion, transfer, discipline, or termination) against an employee based on the employee opposing discrimination in the workplace; assisting, supporting, or associating with a member of a protected category who complains about discrimination, or assisting in an investigation of discrimination.

Harassment as used in this policy is defined as the persistent disturbance or irritation of an employee on the basis of any of the above-listed protected categories including, but not limited to, any of the following forms:

- a) verbal harassment such as epithets, derogatory comments, or slurs, including on social media;
- b) physical acts such as assault or impeding or blocking movement;
- c) visual insults such as derogatory posters, drawings, or photographs;

- d) unwanted sexual advances, requests for sexual favors, and other acts of a sexual nature; and
- e) sending sexually-related emails or text messages.

Abusive Conduct as used in this policy is defined as conduct in the workplace or on social media, undertaken with malice, that a reasonable person would find hostile, offensive, and unrelated to an employer's legitimate business interests; it 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 sabotage or undermining of a person's work performance. A single act shall not constitute abusive conduct, unless especially severe and egregious.

Employee as used in this policy is defined as an individual performing business activities under direct supervision of another City employee and includes full-time, part-time, and temporary employees, contractors, unpaid interns, and volunteers.

Equal Employment Opportunity Committee (EEOC) as used in this policy is an advisory body to the City Council consisting of nine (9) members, including representatives from the community appointed by the City Council, employees appointed by the City Manager, and employees appointed by various labor groups.

Responsibilities:

1. The City of Santa Cruz shall take reasonable steps to prevent abusive conduct, discrimination, harassment, and retaliation from occurring in the workplace environment, including the following:
  - a) affirmatively raising the subjects of abusive conduct, discrimination, harassment and retaliation;
  - b) expressing strong disapproval;
  - c) maintaining and developing appropriate sanctions;
  - d) informing employees of their right to raise and how to raise the issues of abusive conduct, discrimination, harassment, and retaliation under City policy and/or the law; and
  - e) maintaining and developing methods to sensitize all concerned.

Such behavior shall not be tolerated, condoned, or trivialized. The City is committed to take action against any person violating this policy which will end the prohibited conduct. City employees who violate this policy shall be subjected to appropriate discipline, including possible dismissal, upon consideration of the findings and recommendations of the City Manager or their representative.

2. The City Manager shall fully accept and support the City's commitment to prevent abusive conduct, discrimination, harassment, and retaliation as a means to assure full equal employment opportunity for all prospective and current employees, contractors, unpaid interns, and volunteers including the following:
  - a) defining and assigning specific responsibilities throughout the organization for the development, implementation, and monitoring of this policy;
  - b) appointing one (1) department head and three (3) employee representatives to the EEOC;
  - c) ensuring all department heads support this policy;
  - d) reviewing the recommendations of the Human Resources Director on the resolution of complaints appealed under the Administrative Procedure Order (APO) Discrimination/Harassment/Retaliation Policy Implementation and Complaint Procedure, and making final decisions in each such complaint; and
  - e) ensuring that an EEO Report is completed and submitted annually to the City Council.

3. The Human Resources Department (HR) Director shall be responsible for:
  - a) ensuring that this policy, including its definition of abusive conduct, discrimination, harassment, and retaliation and the complaint procedures are disseminated to all employees;
  - b) providing guidance, training sessions, and assistance to department heads, managers, supervisors, and employees within their areas of responsibility;
  - c) investigating, resolving, and making findings and recommendations on complaints that are reported according to established informal and formal grievance procedures as set forth in the Discrimination/Harassment/Retaliation Policy Implementation and Complaint Procedure APO and the Respectful Workplace Conduct APO;
  - d) coordinating the annual EEO report, to include data on the make-up of the City workforce and the representation of protected classes, and distributing the report to the City Council, City staff, the public, and Federal and state agencies as requested or required;
  - e) regularly reviewing and revising personnel policies, procedures, and practices to eliminate non-job-related criteria, minimize the opportunity for discrimination and harassment, and ensure compliance with all legal requirements for equal employment opportunity;
  - f) designing, implementing, and monitoring a recruitment program to draw all qualified applicants; and
  - g) designating an EEO Coordinator, who will assist the HR Director with EEO-related activities and staff the EEOC.
  
4. Department Heads, Managers, and Supervisors shall all be responsible for:
  - a) giving their full support to this policy through active cooperation, leadership, and personal example;
  - b) informing employees in their respective departments or areas of responsibility of their rights and responsibilities regarding abusive conduct, discrimination, harassment, and retaliation under this policy;
  - c) ensuring that their employees have equal access to training and promotional opportunities;
  - d) acting to prevent abusive conduct, discrimination, harassment and retaliation from occurring; and
  - e) cooperating with the HR Director in resolving complaints involving employees in their respective departments.
  
5. Employees of the City shall be responsible for lending their personal support and cooperation in maintaining equal employment opportunities in the City. Employees shall cooperate fully with all investigations of abusive conduct, discrimination, harassment, and retaliation and implementation of remedial measures and shall not retaliate against complainants or witnesses.
  
6. The EEOC shall act in an advisory capacity to the City Council in all matters pertaining to EEO and be responsible for serving as a communication channel between City employees, the community, the City Manager, and the EEO Coordinator on any EEO activities and concerns.

Additional Applications and Considerations:

- Complaints may be filed by any individual (or a representative of their choice, on their behalf) who feels a violation of this policy has occurred. The procedures for resolving complaints alleging violation of this policy are set forth in APO Discrimination/Harassment/Retaliation Policy Implementation and Complaint Procedure and APO Respectful Workplace Conduct.

- Contracts with the City of Santa Cruz which contain an equal employment opportunity/non-discrimination clause shall also include language which requires those contractors to be responsible for ensuring that effective policies and procedures concerning the prevention of abusive conduct, discrimination, harassment, and retaliation exist in their companies.
- Councilmembers, contractors, unpaid interns, volunteers, customers and visitors shall not be subjected to, or cause, a violation of this policy.
- All Memoranda of Understanding entered into by the City and any employee organization shall contain an appropriate non-discrimination/harassment clause.
- In applying this policy, the rights of free speech and association shall be accommodated consistently with the intent of this policy. Nothing in these regulations may be construed as limiting the City's right to take reasonable disciplinary measures which do not discriminate on a basis identified in this policy.
- Discrimination/harassment/retaliation prevention (including prevention of abusive conduct), and cultural diversity awareness training, is mandatory for all City employees and City Councilmembers.
- All City employment announcements, brochures, procedures, advertisements, and application forms will state that the City is an Equal Opportunity Employer. The Human Resources Department will also inform all outreach recruitment and referral sources of the City's Discrimination and Harassment Policy and request that sources actively recruit and refer qualified applicants from all sectors of the community.
- In support of recruitment and retention efforts, City management shall consider the viability of participating in or developing supportive programs in such areas as: job-related skill training and education, job development, career counseling, transportation, day care, and health care.
- Where groups of employees are featured in the City's publications and communications (i.e., text and photographs), insofar as possible, the materials should illustrate that the City's workforce is as diverse as the populace it serves.

AUTHORIZATION: Council Policy Manual Update of November 17, 1998

**HISTORY:**

Revision by Resolution No. NS-28,533 July 24, 2012

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