



4.01 Policy against Harassment

Effective Date: July 10, 1996, revised December 11, 2024

Statement of Commitment

The City of Douglas is committed to providing a discrimination-free environment for all employees. The City will not tolerate prohibited discrimination, prohibited harassment, or sexual harassment in the workplace.

Purpose

The City of Douglas is committed to a work environment in which all individuals are treated with respect and dignity. The purpose of this policy is to establish expectations for employee conduct within the workplace and to provide a complaint process for employees who feel as if they have been discriminated against or harassed within the workplace by anyone.

Scope

This policy covers all City of Douglas employees. The City prohibits unlawful discrimination, harassment and retaliation of any kind, and such will not be tolerated by individuals employed by, working for, or doing business with the City. This includes employees, appointed and elected officials, applicants, customers, volunteers, contractors, sub-contractors, and the public.

Definitions

1. **Discrimination:** Any act taken because of race, color, religion, sex, pregnancy, gender, age, disability, sexual orientation, genetic information, gender identity, veteran's status, national origin or any other characteristics protected by law that adversely affects an employee or applicant in any aspect of City employment.
2. **Sexual Harassment:** Behavior directed at an individual due to gender that is not welcome, that is offensive, demoralizing, and/or interferes with work effectiveness. It may be conduct toward an individual of the opposite sex, or the same sex and it may occur between peers or between individuals in a supervisor/staff member relationship.

Sexual harassment does not refer to occasional compliments or personal interactions of a general socially acceptable nature. Determining whether specific conduct constitutes

sexual harassment depends upon the facts and the context in which the conduct occurs. It should also be understood that certain behaviors that do not fit the definition of sexual harassment may still be unprofessional and inappropriate in the workplace and are also prohibited.

There are two forms of sexual harassment:

- a. **Quid Pro Quo:** Occurs when a supervisor or other person in authority grants an economic or other benefit, such as a raise or promotion, contingent upon the receipt of sexual favors from a subordinate, withholds such benefits, or punishes the subordinate for refusing sexual favors.
- b. **Hostile Environment:** Is created by persons in the workplace through unwelcome sexual advances or other verbal or physical conduct of a sexual nature that has the purpose or effect of unreasonably interfering with an individual's work performance or job conditions.
- c. **Examples of Prohibited Conduct:**
 - i. Offering or implying an employment-related reward or opportunity, such as a merit pay increase or promotion, in exchange for sexual favors or submission to sexual conduct.
 - ii. Threatening, verbally or physically or taking a negative employment action such as termination, demotion, denial of a leave of absence, merit pay increase, or withholding of any other benefit of employment if sexual conduct is rejected.
 - iii. Unwelcome intentional touching, hugging, or holding of another person, or other unwanted intentional physical contact (including patting, pinching, brushing against another person's body, or blocking of physical movement).
 - iv. Unwelcome non-verbal/non-physical conduct such as whistling, staring, or leering at another person.
 - v. Asking unwelcome questions or making unwelcome comments about another person's sexual activities, dating, personal or intimate relationships, or appearance.
 - vi. Sending unwelcome sexually suggestive or flirtations letters, gifts, notes, and jokes via instant messaging, e-mail, text message, or social media, including pictures, photographs or graphics.
 - vii. Saying unwelcome sexual jokes, pranks, teasing, obscenities or rude gestures or noises, slurs, derogatory or abusive names.
 - viii. Displaying or circulating pictures, objects, or written materials of a sexual nature (including graffiti, cartoons, photographs, posters, calendars, magazines, figurines, novelty items).
 - ix. Engaging in other unprofessional conduct that technically may not be considered "sexual harassment" but may have a similar effect on the work environment. While it is not possible to provide an exhaustive list,

such conduct might include verbal or physical nonsexual conduct that denigrates or shows hostility toward an individual because of his gender, jokes include derogatory slurs, improper relationships between supervisors and subordinates, profane or vulgar language, or improper sexual behavior in the workplace.

- x. Retaliating against a person for opposing, reporting, or threatening to report harassment, or for participating in an investigation, proceeding or hearing conducted by an investigating party or agency.
3. Protected Category Harassment: is behavior based upon an individual's race, color, religion, gender, age, disability, sexual orientation, or national origin, or any other legally protected basis. Protected category harassment is evaluated from the victim's perspective. Individuals vary in their view of what is offensive. What may not be offensive to one person may be offensive to another. Determining whether specific conduct constitutes protected category harassment depends on the facts and the context in which the conduct occurs as well as the severity or frequency of that conduct. *Any employee who engages in behavior that is not of a generally socially acceptable nature runs the risk of committing protected category harassment.*

Acts of unfair or unequal treatment, or acts which may appear to be harassing in nature if they are *not* based upon an individual's race, color, religion, gender, age, disability, sexual orientation, or national origin are not covered by this policy, but may be addressed through the grievance procedure.

a. Examples of Prohibited Conduct

- i. Producing or displaying derogatory posters, photography, cartoons, drawings, messages, notes, novelty items, etc. that tend to alienate or discriminate against persons because of their race, color, religion, gender, age, disability, sexual orientation, or national origin.
- ii. Producing or displaying unwelcome messages that contain jokes, pictures, photographs, graphics or other written materials that tend to alienate or discriminate against persons because of their race, color, religion, gender, age, disability, sexual orientation, or national origin.
- iii. Physical conduct such as blocking normal movement, making offensive gestures, offensive pranks, destruction of property, sabotaging, or interfering with work.
- iv. Verbal conduct such as telling unwelcome jokes, spreading rumors, teasing, obscenities, slurs, epithets, or unwelcome and inappropriate questions or comments about an individual's race, color, religion, gender, age, disability, sexual orientation, or national origin.
- v. Retaliating for opposing, reporting, or threatening to report harassment or for participating in an investigation, proceeding or hearing conducted by an investigator, or investigating agency.
- vi. Non-verbal-physical conduct such as intimidating, hateful looks, unresponsiveness, or overbearing presence.

- vii. Engaging in other unprofessional conduct that may not technically be considered harassment, but may have a similar effect on the work environment. While it is not possible to provide an exhaustive list, such conduct might include verbal or physical conduct that denigrates or shows hostility toward an individual because of their race, color, religion, gender, age, disability, sexual orientation, or national origin, including derogatory slurs, profane or vulgar language, or improper negative behavior in the workplace.

Policy

The City of Douglas will not tolerate employment discrimination. No employee of the City is permitted to harass another employee or discriminate against another employee based on race, color, religion, sex, pregnancy, gender, age, disability, sexual orientation, genetic information, gender identity, veteran's status, national origin or any other characteristics protected by law.

Supervisors, managers, and executives are required to take proactive steps to prevent discrimination and harassment. Supervisors must take prompt corrective action whenever they become aware of any possible discrimination or harassment.

The filing of a discrimination or harassment complaint cannot be used against an employee or job applicant in any aspect of employment. Any City employee found guilty of retaliation toward another employee, due to the filing of a discrimination or harassment complaint, will be disciplined accordingly, up to and including termination.

City employees and job applicants are urged to raise discrimination or harassment complaints promptly, so that issues can be addressed and corrected promptly before the situation deteriorates. Problems can be quickly resolved through City administrative channels if addressed early.

What to Do if Harassment or Discrimination Occurs -

The City requires all employees to immediately report conduct which is prohibited by this policy whether or not they are personally involved. Any employee who believes they have been discriminated against or harassed on the job based on a protected category or has been sexually harassed as described in this policy, needs to report the behavior immediately to their department management or Human Resources. Any employee or supervisor who knows or believes that sexual harassment, protected category harassment, or discrimination is occurring, or has occurred, must report that information immediately to their department management or Human Resources. Failure to report harassment or discrimination can be a serious offense and may be grounds for disciplinary action.

Applicants for employment should file their complaints or discuss their concerns directly with Human Resources.

An employee or applicant may choose to raise a complaint with a state or federal agency without first pursuing it through City channels. Pursuant to state and federal law, complaints may be filed with the Civil Rights Division of the Arizona State Attorney General's Office (ACRD) or the U.S. Equal Employment Opportunity Commission. Complaints must be filed following State and local rules and regulations.

How to make a Report — All employees have a right to redress for prohibited harassment and discrimination. In order to secure this right, the employee should provide a complaint, preferably in writing, as soon as possible following the incident to their department management or Human Resources.

In the event the complaint relates to the Human Resources Department, an employee may submit his complaint, preferably in writing, as soon as possible to the City Manager's Office or to the City Attorney's Office.

Investigation and Resolution of Complaints Investigation –

- a) All incidents of harassment or discrimination that are reported will be investigated by the Human Resources Department. In the event the complaint relates to Human Resources the City Manager will designate the person(s) responsible for the investigation. Notice of the conclusion of the investigation will be given to the complainant, City Manager, department director, and the respondent. The City Manager has the option to refer investigations to an outside firm if the circumstances warrant it.
- b) Resolution — If the City determines that harassment or discrimination has occurred, it will take remedial action commensurate with the circumstances.
- c) Appropriate corrective action will be taken to deter and future harassment or discrimination.
- d) Disciplinary Action — Management personnel will take prompt corrective action.

A finding that the conduct does not constitute sexual or protected category harassment or discrimination does not limit a department's right and responsibility to discipline or take remedial action for unacceptable conduct that may amount to conduct unbecoming and/or is in violation of any other City policy or regulation.

Retaliation -

No supervisor, manager, executive, or co-worker may retaliate against an employee who makes a report of illness or injury, sexual harassment, protected category harassment, or discrimination, or who cooperates with an investigation. Retaliation is unlawful and will not be tolerated. Retaliation must be reported and will be handled in the same way as complaints of harassment or discrimination as set forth in this policy. Retaliation is a serious offense that may result in discipline up to and including termination.

Exoneration on the underlying harassment or discrimination complaint will have no effect on the investigation or possible discipline imposed for retaliation.

Approved by Mayor and City Council this 11th day of December, 2024

Mayor Jose Grijalva

Attest:

Alma Andrade, City Clerk

Approved as to form:

Denis Fitzgibbons, City Attorney