

CITY OF SANTA ROSA
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL

FROM: RHONDA MCKINNON, INTERIM HUMAN RESOURCES
DIRECTOR, HUMAN RESOURCES DEPARTMENT

ANNETTE TOWNLEY, ORGANIZATIONAL DEVELOPMENT AND
TRAINING MANAGER, HUMAN RESOURCES DEPARTMENT

SUBJECT: HARASSMENT, DISCRIMINATION AND RETALIATION
PROHIBITION AND PREVENTION POLICY

AGENDA ACTION: RESOLUTION

RECOMMENDATION

It is recommended by the Human Resources Department that the Council, by resolution, adopt the revised Harassment, Discrimination and Retaliation Prohibition and Prevention Policy.

EXECUTIVE SUMMARY

This is an amendment to the Anti-Harassment and Discrimination Policy (Council Policy 700-03). This policy is now entitled the Harassment, Discrimination and Retaliation Prohibition and Prevention Policy. Other substantive changes include:

1. Expansion of Protected Persons to include City Council members, elected officials, volunteers, unpaid interns, City contractors and applicants for City employment.
2. An expanded list of protected classes consistent with state law.
3. A more comprehensive and specific list of the responsibilities of managers, supervisors and lead workers as they relate to the Policy.
4. Inclusion of responsibilities of other individuals covered by the Policy.
5. Outlining guidelines for identifying harassment.
6. Complaints by City contractors and applicants for City employment are now handled through the City complaint process.
7. Clarification that the investigation procedures also apply to complaints of retaliation against City employees.

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8. Differentiating between the referral process for complaints against a City Council member or appointed City board, commission or committee member and others to whom the Policy applies.
9. A clearer outline of the process that is used by the Director of Human Resources when notification of a complaint has been received.
10. Differentiation between the Right of Appeal process for City Council members, appointment City board, commission and committee members and others covered by the Policy.
11. Addition of a confidentiality section.
12. Differentiation between the Sanction and Discipline process for City Council members and appointed City Board, commission and committee members and others covered by the Policy.

BACKGROUND

This report is a follow up to the August 26, 2014 study session in which City Council members reviewed a revised Anti-Harassment, Anti-Discrimination and Anti-Retaliation Policy (Council Policy 700-03).

In November 2014, Human Resources Staff met and conferred with the bargaining units as required by MMBA (Government Code §§ 3500 et seq.) One slight modification was suggested and accepted regarding employee responsibilities.

In January 2015, the draft Policy was finalized, capturing additional changes in the law that expanded the definition of “protected persons” to include City volunteers and unpaid City interns; and to reflect a change in reporting procedures if a Council member is involved in a complaint by an employee. The complaint will now be referred to the City Manager for further action.

In July 2016, some additional changes were made in the revised Policy as noted in the Executive Summary.

PRIOR CITY COUNCIL REVIEW

At the June 10, 2014 City Council meeting, Council directed staff to amend the Anti-Harassment, Discrimination and Retaliation Policy and schedule a study session and training at the earliest possible time to incorporate the amendments.

On July 29, 2014, staff provided a study session for the Council to review the revised Policy, which included an expanded list of those protected under the Policy consistent with state law, and to direct staff on further action. A number of points of clarification were raised. Council directed staff to further revise the policy and return in August for another study session and to provide additional information regarding the legal background for such policies.

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On August 26, 2014, another study session was conducted by staff that addressed the requested Policy clarifications and provided a legal context to the Policy. An attorney from Liebert Cassidy and Whitmore delivered the legal overview and answered questions posed by the Council. Staff fielded specific Policy questions as they related to the City Organization. It was suggested and agreed upon that City Council members and appointed City Board, Commission and Committee members would be extracted from the Policy and a separate Code of Conduct would be drafted. This Policy would focus only on the protection of employees.

ANALYSIS

Effective April 1, Anti-Harassment Regulations in California were updated and required that all current protected categories under FEHA be included in written discrimination, harassment and retaliation prevention policies. The City's 2005 Policy does not include this comprehensive list. (Please note, that the City's training materials have been updated on a continual basis to reflect state law.)

Research by Human Resources Staff to locate Anti-Harassment, Anti-Discrimination and Anti-Retaliation Policies specifically for Council members resulted in the determination that having a separate policy for Council members was not standard practice. And, consequently there were no templates for review. Therefore, City Council members and appointed City Board, Commission and Committee members are included in the revised Policy.

FISCAL IMPACT

Approval of this action does not have a fiscal impact on the General Fund.

ENVIRONMENTAL IMPACT

This action is exempt from the California Environmental Quality Act (CEQA) because it is not a project which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, pursuant to CEQA Guideline section 15378.

BOARD/COMMISSION/COMMITTEE REVIEW AND RECOMMENDATIONS

Not applicable.

NOTIFICATION

Not applicable.

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ATTACHMENTS

- Attachment 1 – Harassment, Discrimination and Retaliation Prohibition and Prevention Policy
- Resolution / Exhibit A

CONTACT

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