



**Executive Order
October 2000
City of Boston**

Policy/Investigation Procedure on Discrimination, Sexual & Other Forms of Harassment and Retaliation

Whereas, it is the policy of the City of Boston to promote a workplace that is free of unlawful harassment, **it is hereby ordered and directed:**

1. The “City of Boston Policy/Investigation Procedure on Discrimination, Sexual & Other Forms of Harassment and Retaliation”, in the form attached hereto and incorporated herein by reference, shall be the City of Boston’s Policy on Workplace Discrimination, Harassment and Retaliation.
2. All departments within the City of Boston shall adhere to this policy, provided, however, that the Boston Fire Department, the Boston Police Department and the Boston School Department shall issue and maintain their own Policies on Workplace Harassment.
3. This Policy supersedes any other Harassment Policy heretofore issued by the City of Boston or any Cabinet Member, Department Head or other officer of the City of Boston.
4. This Executive Order shall be effective October 2000.
5. A copy of this Executive Order shall be given to each employee of the City of Boston, excluding employees of those departments listed in paragraph 2 herein.

Martin J. Walsh
Mayor of Boston

CITY OF BOSTON POLICY/INVESTIGATION PROCEDURE ON WORKPLACE

DISCRIMINATION, HARASSMENT AND RETALIATION (updated 1/17)

The City of Boston (the City) affirms its commitment to promote a workplace that is free of discrimination, harassment and retaliation, illegal under state and/or federal law, or City Ordinance — based on sex, race, color, national origin/ethnicity, religion, disability, sexual orientation, age, gender identity or veterans status. The City is committed to maintaining a workplace free of retaliation, based on an employee having complained of, or opposed, discrimination or harassment, or based on an employee having cooperated or assisted with an investigation into discrimination or harassment.

The City expects all employees to conduct themselves in a professional manner with respect and concern for their fellow employees and members of the public. Discrimination, harassment and retaliation are unlawful and will not be tolerated.

The City prohibits discrimination, harassment, and retaliation against employees, customers and visitors.

The policy is not designed or intended to limit the authority of the City to discipline or take remedial action for workplace conduct which the City deems unacceptable, regardless of whether that conduct satisfies the definition of sexual or other forms of harassment or discrimination proscribed by state and/or federal law.

DEFINITIONS AND EXAMPLES

Discrimination, harassment, and retaliation are contrary to City policy and are also illegal. Such conduct is defined as follows:

- *Conduct that conditions a person's hiring, compensation, terms and conditions of employment or access to services provided by the City on that person's sex, race, color, national origin/ethnicity, religion, disability, sexual orientation, age, gender identity or veterans status unless otherwise permitted or required by applicable law;*
- *Adverse employment decisions or decisions regarding access to City of Boston services directed against a person in retaliation for filing a complaint of, or opposing, discrimination, harassment, or retaliation, or for participating or assisting with an investigation or proceeding related to such or;*
- *Harassing conduct of any type (oral, written, email, internet, graphic or physical) directed against a person because of his or her sex, race, color, national origin/ethnicity, religion, disability, sexual orientation, age, gender identity, or veterans status or for filing a complaint. Or for a person opposing discrimination, harassment or retaliation, or participating in or assisting with an investigation and which unreasonably interferes with the person's work or creates a work environment that a reasonable person would find hostile, offensive, humiliating or intimidating.*

Sexual harassment means sexual advances, request for sexual favors, and verbal or physical conduct of a sexual nature when:

- *submission to or rejection of such advances, request or conduct is made either explicitly or implicitly a term or condition of employment or as a basis for employment decisions.*

Sexual harassment, harassment, and or discrimination based on sex, race, color, national origin/ethnicity, religion, disability, sexual orientation, age, gender identity or veterans status occurs when:

- *such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individual's work performance by creating an intimidating, hostile, humiliating or offensive work environment.*

EXAMPLES OF UNLAWFUL HARASSMENT

The following are some examples of conduct, which if unwelcome, and based on sex, race, color, national origin/ethnicity, religion, disability, sexual orientation, age, gender identity or veterans status may constitute harassment:

- *Sexual advances - (verbal or physical) whether they involve physical touching or not;*
- *Displaying sexually, racially, or other suggestive, offensive or intimidating objects, pictures, cartoons, symbols;*
- *Leering, whistling, brushing up against, or touching personal body areas, sexual gestures, suggestive, demeaning or insulting comments;*
- *Inquiries into one's sexual activities;*
- *Use of sexual, racial, or other epithets, slurs or derogatory comments;*
- *Written or oral reference to sexual conduct, gossip regarding one's sex life;*
- *Belittling, derogatory or mocking culture or language;*
- *Commenting on an individual's sexual activity, deficiencies, or prowess;*
- *Assault or coerced sexual acts;*
- *Jokes that have a sexual, racial, ethnic, disability, homophobic, age-ist connotation;*
- *Any improper use of the City's e-mail or Internet as a form of harassment will not be tolerated;*
- *Displaying material or verbal or physical conduct that shows hostility or aversion to a person's race, color, national origin, religion, etc.;*
- *Denying employment opportunities because of such characteristics or association with someone of a particular race, gender, sexual orientation, national origin, etc.*

NOTIFICATION

Employees may notify their immediate supervisor, Cabinet Officer, Department Head, Director of Human Resources, Vivian Leonard at 635-4698 or Jennifer Wexler at 635-3375 regarding any incident whether it is intended or not, that is unwelcome and has the effect of creating a work environment that is hostile, offensive, intimidating or humiliating to employees because of their sex, race, color, national origin/ethnicity, religion, disability, sexual orientation, age, gender identity or veterans status.

When **supervisors** are notified of such incidents, **they have a responsibility to promptly notify** the Office of Human Resources.

If an employee believes that he or she has been subjected to harassment, the employee has the right to file a complaint with the City. This may be done verbally or in writing. The Office of Human Resources seeks to mediate the problems in an expeditious manner.

INVESTIGATION PROCEDURE

The City of Boston takes allegations of harassment seriously and will respond promptly to such complaints. The complaint procedure is designed to facilitate a prompt internal review of the allegations and a fair and equitable resolution of the situation. The investigation procedure generally involves the following steps:

Fact gathering:

- a. **Compiling**- written or oral statements from all involved in the situation, including witnesses,
- b. **Collecting**- personnel records that may establish facts (which may include pay records, job assignments, promotions, transfers, working hours, performance appraisals, etc.),
- c. **Interviewing**- privately the person filing the complaint, witnesses, and the person alleged to have committed the harassment.

A complaint may be determined to be:

- a. **Founded**- the incident occurred as charged
- b. **Unfounded**- the incident is not harassment
- c. **Inconclusive**- there is insufficient evidence to make a ruling either way.

Intervention - Resolution:

*We will to the extent appropriate inform the person filing the complaint and the person alleged to have committed the conduct of the results of the investigation. Any employee of the City of Boston who is found after an investigation to have harassed and/or discriminated against another in the workplace **will be subject to disciplinary action up to and including termination.***

FURTHER INFORMATION

The Office of Human Resources is sensitive to the thoughts and feelings of those involved and will treat every employee seeking advice or filing a complaint with seriousness and maintain confidentiality to the extent practicable.

Retaliation against an employee who has filed a complaint or who has cooperated in the investigation of such a complaint will not be tolerated and will be the subject of a separate harassment complaint and investigation.

At any time, you may file a complaint through State or Federal agencies or courts empowered to enforce anti-harassment, anti-discrimination and anti-retaliation laws.

In addition to a formal investigation of the complaint, an informal mediated procedure may be available to you depending on the severity of the incident and the agreement of all parties to mediate the matter. Interested parties should contact Jennifer Wexler at 635-3375.

OTHER LEGAL RECOURSE

STATE

Massachusetts Commission Against
Discrimination (MCAD)
One Ashburton Place
Boston, MA 02108
617-994-6000
within 300 days from date of violation

FEDERAL

United States Equal Employment
Opportunity Commission (EEOC)
JFK Federal Building Room 601
475 Government Center
Boston, MA 02203
617-565-3200
within 300 days from date of violation