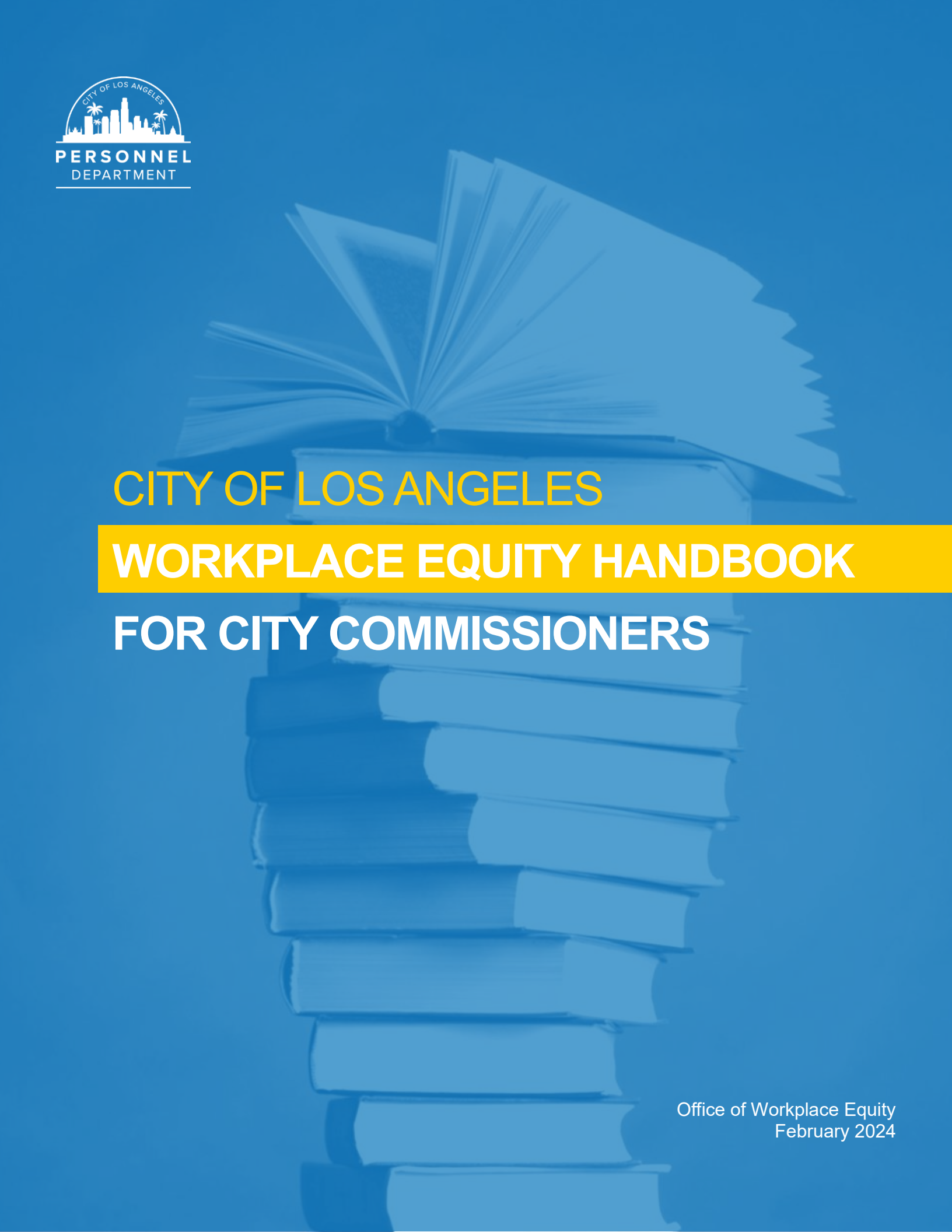
PERSONNEL DEPARTMENT



CITY OF LOS ANGELES

WORKPLACE EQUITY HANDBOOK

FOR CITY COMMISSIONERS

Office of Workplace Equity
February 2024

INTRODUCTION

Welcome to the City of Los Angeles in your role as a new City Commissioner. The City has over 50 Commissions and over 300 Commissioners, overseeing a myriad of City services. Each Commission serves a vital role to ensure that the citizens of Los Angeles and public receive quality services. While each Commission relies on the Commissioners' expertise for their particular field, the City has certain policies that affect all Commissions and Commissioners. One such policy is the City's commitment to maintaining a discrimination free work environment and equal employment opportunity.

The documents contained in this handbook are a compilation of information regarding federal and state anti-discrimination laws, City policies and procedures. It is important that you review this material so you become familiar with the City's commitment to zero tolerance and the procedures that are in place to address any violation of the laws or policies.

We hope you find this information to be a useful resource while serving as a City Commissioner.

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SECTION 1: TERMS AND DEFINITIONS

ACCOMMODATION/REASONABLE ACCOMMODATION

Arises as a category of discrimination in cases where the charges stem from discrimination on the bases of religion or disability. Laws, regulations, and court decisions indicate what employers are required to consider when making reasonable changes (accommodations) in some aspect of the work in order to allow for equal employment opportunity of the disabled and those with religious beliefs that might conflict with normal working hours, locations, or duties.

The key regarding discrimination against the disabled is for employers to ensure that their personnel and selection practices consider each individual's limitations in connection with the job or position for which the person is being considered, and to make a very careful assessment of possible accommodations to allow that person to be employed in that position. Accommodations can take the form of restructuring jobs through the reassignment of nonessential duties; making changes in the physical work environment, such as raising a desk a few inches to facilitate employment of a person in a wheelchair; and considering adaptive devices.

Accommodations for individuals with religious beliefs might include arranging for special work hours so that the employee can observe religious practices, not requiring the employee to work on a day during the week that would be contrary to his or her religious belief, and/or allowing the employee time off either with vacation or without pay to observe religious holidays.

ADA defines an "individual with a disability" as a person who has:

- A physical or mental impairment that **substantially limits** one or more major life activities or major bodily functions
- A record of such an impairment; or
- Is regarded as having such an impairment
- Determination of disability is made without regard to mitigating measures

Substantially Limits (ADA) – When an individual is unable to perform, or is significantly limited in the ability to perform, an activity compared to an average person in the general population. Consider:

- Nature and severity of the impairment
- How long it will last or is expected to last
- Its permanent or long-term impact, or expected impact

ADVERSE OR DISPARATE IMPACT

Where a personnel system or practice that appears neutral, has the effect of discriminating against race, sex, national origin, age, etc. For example, a high school diploma requirement for assignment to a preferred work unit, where the diploma is not job-related and where the diploma requirement tends to "screen" out proportionately more of one group than another group, could constitute unlawful discrimination on the basis of the disparate impact. It is in this category where we use statistics in order to show whether or not there has been adverse impact against a particular group.

THE AMERICANS WITH DISABILITIES ACT (ADA) 1990

Prohibits discrimination against qualified disabled persons in employment (15 or more employees) and requires employers to make reasonable accommodations (engage in the interactive process).

ARTIFICIAL BARRIERS

An employment policy, practice, or requirement that has the effect of denying or limiting employment opportunities for a particular group or groups, and which cannot be justified on the basis that it is job-related. For example, a requirement that one must be a citizen of the United States in order to work for the City of Los Angeles would be considered an artificial barrier for most City jobs, especially since it may have an adverse impact against groups such as Hispanics and Asians.

BONAFIDE OCCUPATIONAL QUALIFICATION (BFOQ)

A requirement that can be proven to be necessary even though it is discriminatory.

- Permitted on the basis of sex, religion, or national origin when sex, religion, or national origin is a BFOQ for a particular job
- There is no BFOQ for race or color
- Employer must prove only individuals of one sex, national origin, or religion can perform the duties of the job in a safe and efficient manner, and that the essence of the business would be undermined by not hiring exclusively members of a given class
- Customer preferences and stereotypic notions concerning the capabilities of persons of sex, religion, or national origin do not warrant application of this exception

DISABILITY

Any physical or mental impairment that substantially limits one or more major life functions (such as caring for one's self, performing manual tasks, walking, breathing, seeing, hearing, learning, or working), or a major bodily function (such as bowel, bladder, respiratory and reproductive functions). This term includes but is not limited to such diseases or conditions as visual and orthopedic impairment, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, Acquired Immune Deficiency Syndrome (AIDS), diabetes, heart disease, mental retardation, and specific learning disabilities such as perceptual handicaps, dyslexia, minimal brain dysfunction and developmental aphasia.

DISCRIMINATION

Any employment practice or decision which intentionally or unintentionally results in the unequal treatment of an individual or group in a protected class on a basis other than job-related reasons.

DISCRIMINATION-FREE WORKPLACE

Free of any discriminatory activities including:

- Racial, ethnic, or sexual jokes
- Cartoons or other derogatory images associated with gender, religion, nationality, sexual orientation, or disability
- Use of derogatory language or slang describing ethnic groups, sexes, sexual orientation, or race

- Imitation of accents associated with ethnic groups or nationalities
- labeling employees with racial, ethnic, sexual, disability, religious, or sexual orientation characteristics

DISPARATE TREATMENT

Intentional discrimination; treating individuals differently without a valid job-related reason or without using job-related criteria to make decisions that affect a person's employment options.

EQUAL EMPLOYMENT OPPORTUNITY

Opportunity to compete and to be hired, based on individual merit and ability to perform a job, without regard to any of the bases protected by law.

FAMILY AND MEDICAL LEAVE ACT (FMLA) 1993 *(Amended 2008)*

- To qualify, an employee must work for the City for 1040 hours in a year
- Enforced by the Department of Labor
- Requires employers to grant up to 12 workweeks of leave during any 12-month period for one or more of the following reasons:
- Birth of a child, and to care for the child
- Placement of a child with the employee through adoption or foster care, and to care for the child
- To care for the employee's spouse, son, daughter, or parent with a serious health condition
- Because a serious health condition makes the employee unable to perform one or more of the essential functions of his or her job
- Requires employer to maintain the employee's existing level of coverage under a group health plan
- Requires employer to take an employee back into the same or an equivalent job
- Must designate FMLA leave as early as possible or may have to provide additional time

Note: Although, FMLA provides for 12 workweeks of leave, the City and the employee organizations (unions) currently have negotiated agreements which provide City employees with up to nine pay periods of leave during any 12-month period. Supervisors should regularly check Memoranda of Understanding (MOUs) for changes affecting family leave and other terms and conditions of employment.

FAIR EMPLOYMENT AND HOUSING ACT (FEHA)

Prohibits discrimination on the basis of ancestry, race, color, national origin, religion, age, sex, sexual orientation, disability, medical condition (cancer and genetic characteristics), genetic information, pregnancy, marital status, gender, gender identity, and gender expression.

FEHA's definition of "disability" – is different from the ADA definition and includes:

- Having any physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss that affects one or more of the following body systems: neurological, immunological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive, genitourinary, hemic, and lymphatic, skin, and endocrine and limits a major life activity.
- Having any mental or psychological disorder or condition that limits a major life activity.
- Having a record or history of the above.
- Being regarded as having or having had the above.

FEHA also has as a protective basis "medical condition" which refers to any health impairment related to or associated with a diagnosis of cancer or a record or history of cancer; or having its genetic characteristics.

HARASSMENT

- The deliberate, repeated, and hurtful mistreatment of a target by a harasser.
- Includes emotional abuse, bullying, abuse of power, unfair penalties, hostile communication, and offensive behavior.

HOSTILE WORK ENVIRONMENT

Created when offensive conduct sufficiently humiliates, distresses, or intrudes upon its victim so as to disrupt tranquility in the workplace, affect ability to perform the job as usual, or otherwise interfere with and undermine one's sense of well-being. Consider:

- Frequency of conduct
- Severity of conduct
- Physically threatening or humiliating vs. verbally abusive or mere offensive utterance
- Cumulative effect
- Context in which conduct took place

INTERACTIVE PROCESS

An on-going dialogue between a disabled applicant or employee and the employer for the purpose of identifying and providing a reasonable accommodation. This process must be timely and conducted in good faith. The interactive process is triggered either by a request for an accommodation by a disabled applicant or employee or by the employer's recognition of the need for an accommodation.

The four steps critical to the interactive process are as follows:

1. Analyze the particular job involved and determine its purpose and essential functions;
2. Consult with the individual with the disability to ascertain the precise job- related limitations imposed by the individual's disability and how those limitations could be overcome with a reasonable accommodation;
3. In consultation with the individual to be accommodated, identify potential accommodations, and assess the effectiveness each would have in enabling the individual to perform the essential functions of the position; and
4. Consider the preference of the individual to be accommodated and select and implement the accommodation that is most appropriate for both the employee and the employer.

MAJOR LIFE ACTIVITY

An activity that an average person can perform with little or no difficulty, such as walking, speaking, breathing, performing manual tasks, seeing, hearing, learning, caring for oneself, concentrating, thinking, sitting, standing, lifting, reading, and working.

Major Bodily Function – a major life activity also includes the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

MERIT SYSTEM

A system in which the selection, assignment, evaluation, training, promotion, discharge, and other personnel transactions are based on uniformly applied criteria of relative fitness to perform the duties of the position held or sought.

OCCUPATIONAL CATEGORY

This term applies to job classifications that have been grouped together according to criteria established by the EEOS, which standardize the City's method of determining and reporting the representation levels of employee groups within departments. The City's job classifications are placed within eight such categories:

1. **Officials/Administrators:** Occupations in which employees set broad policies, exercise overall responsibility for execution of these policies, or direct individual departments or special phases of the agency's operations.
2. **Professionals:** Occupations which require specialized and theoretical knowledge which is usually acquired through college training or through work experience and other training which provides comparable knowledge.
3. **Technicians:** Occupations which require a combination of basic scientific or technical knowledge and manual skill which can be obtained through specialized post-secondary school education or through equivalent on-the-job training.
4. **Protective Service Workers:** Occupations in which employees are entrusted with public safety, security, and protection from destructive forces.
5. **Paraprofessionals:** Occupations in which employees perform some of the duties of a professional or technician in a supportive role, which usually require less formal training and/or less experience than normally required for professional or technical status.
6. **Administrative Support:** Occupations in which employees are responsible for internal and external communication, recording and retrieval of data and/or information, and other paperwork required in an office.
7. **Skilled Craft:** Occupations in which employees perform jobs which require special manual skill and a thorough and comprehensive knowledge of the processes involved in the work which is acquired through on-the-job training and experience or through apprenticeship or other formal training programs.
8. **Service/Maintenance:** Occupations in which employees perform duties which result in or contribute to the comfort, convenience, hygiene, or safety of the general public or which contribute to the upkeep and care of buildings, facilities, or grounds of public property.

OUTREACH RECRUITMENT

A concerted effort by an employer to attract applicants in those groups which have sub-parity representation in a given job class.

QUALIFIED INDIVIDUAL WITH A DISABILITY

A person with a disability who satisfies the requisite skill, experience, education, and other job-related requirements of the employment position such individual holds or desires, and who, with or without reasonable accommodation, can perform the essential functions of such position.

REASONABLE ACCOMMODATION

Any change made in the work environment or in the way things are usually done that results in a disabled applicant/employee being able to perform the essential functions of a job.

RETALIATION

Action against an employee for:

- Opposing an unlawful employment practice
- Making a charge, testifying, assisting, or participating in a discrimination investigation, proceeding, or hearing.

SEXUAL HARASSMENT

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- Such conduct has a purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment

Examples:

- Visual forms such as cartoons, drawings, gestures
- Physical interference with normal work or movement such as blocking, following, touching
- Verbal harassment such as jokes, slurs, derogatory comments

Note: Sexual harassment does not necessarily involve sexual conduct. It need not have anything to do with lewd acts or sexual advances. Sexual harassment may involve conduct, whether blatant or subtle, that discriminates against a person solely because of that person's sex.

SUPERVISOR (FEHA)

- Any individual with authority to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees
- Any individual with responsibility to direct employees or to adjust their grievances or effectively to recommend that action
- Under FEHA an employer may be liable for harassment committed by a non- supervisory employee if a supervisor knew or should have known of the harassment and failed to take immediate and appropriate corrective action
- Supervisors may be held personally liable if they commit harassment in violation of FEHA
- Employers are strictly liable for the supervisor's behavior

TEST

Any well-defined instrument, process, or procedure that is formal, scored, or qualified, when used as a basis for any selection decision. The term “test” is not restricted to a paper and pencil test.

UNDUE HARDSHIP

An action that is excessively costly, extensive, substantial, or disruptive, or that would fundamentally alter the nature or operation of the employer’s business.

VALIDATION

A process through which a test is evaluated to assure that it measures skills, knowledges, and/or abilities which are required to effectively perform the job. The Uniform Guidelines on Employee Selection Procedures recognize three types of validation in supporting the job-relatedness (or business necessity) of selection procedures. The three validation methods are:

1. **Content Validation** – Data showing whether or not the “content” of a selection procedure is representative of important aspects of performance on the job for which applicants are being considered. For example, a typing test would be considered content valid for a Clerk Typist examination.
2. **Construct Validation** – Data showing whether or not the psychological trait (the “construct”) that is shown by the selection procedure accurately measures the presence and degree of study to be necessary in order to successfully perform the job. An example of a construct would be “leadership ability.”
3. **Criteria-Related Validation** – Data showing whether or not the selection procedure can be justified by a statistical relationship between scores on the test and measures of actual job performance. If a selection procedure is criterion valid, it would have been determined that success in the selection procedure (test) would likely lead to success on the job.

SECTION 2: OVERVIEW OF EQUAL EMPLOYMENT OPPORTUNITY (EEO) LAWS

Following are the major discrimination laws with which the City of Los Angeles as an employer must comply. The chart on the following page depicts the bases of discrimination covered:

FEDERAL

1963 **Equal Pay Act** – Requires equal pay for equal work in the same establishment for both sexes. Prohibits employers from paying employees of one sex less than employees of the opposite sex for equal work on jobs, the performance of which requires "equal skill, effort, and responsibility, and which are performed under similar working conditions.

1964 **Title VII of the Civil Rights Act of 1964** – Prohibits discrimination in all employment practices because of race, color, sex, religion, or national origin. This Act established the Equal Employment Opportunity Commission, an agency that advises and assists persons and other agencies with alleged violations of the Title VII. Title VII prohibits not only overt discrimination, but also practices that are fair in form but discriminatory in operation.

1967 **Age Discrimination in Employment Act** – Prohibits discrimination against candidates and employees age 40 and above, in terms of hiring, compensation, discharge and other major aspects of employment.

1972 **Equal Employment Opportunity Act** – This Act amended the 1964 Civil Rights Act and expanded the investigative power of the Equal Employment Opportunity Commission to cover State and Local governments. The 1972 Amendments gave the EEOC the power to go directly to court to enforce the law. This Act specifies that an employer may not, because of a person's race, color, national origin, religion, or sex:

1. Refuse to hire
2. Discharge
3. Harass
4. Otherwise discriminate against an individual with respect to compensation, terms, conditions, or privileges of employment
5. Limit, segregate, or classify employees in a discriminatory manner
6. Retaliate against an employee because they have filed a complaint, testified under the Act, or opposed any practices forbidden under the act.

1973 **Rehabilitation Act** – Prohibits employment discrimination against otherwise qualified physically or mentally handicapped persons.

1978 **Pregnancy Discrimination Act** – This Act prohibits employment discrimination against women on the bases of pregnancy or pregnancy-related medical conditions. Such discrimination is considered an aspect of sex discrimination.

1990 **Americans with Disabilities Act (ADA)** – Provides civil rights protections to individuals with disabilities. It guarantees equal opportunity for individuals with disabilities in public accommodations, employment, transportation, state and local government services, and telecommunications.

1991 **Civil Rights Act of 1991** – Amends the Civil Rights Act of 1964 to strengthen and improve Federal civil rights laws, to provide for damages in cases of intentional employment discrimination, to clarify provisions regarding disparate impact actions, and for other purposes.

1993 **Family Medical Leave Act (FMLA**) – Enforced by the Department of Labor, this Act requires employers to grant up to 12 workweeks of leave during any 12-month period for the birth of a child, and to care for the child; placement of a child with the employee through adoption or foster care, and to care for the child; to care for the employee's, spouse, son, daughter, or parent with a serious health condition; a serious health condition which makes the employee unable to perform one or more of the essential functions of their job. This Act requires an employer to maintain the employee's existing level of coverage under a group health plan during the twelve workweeks and it requires the employer to take an employee back into the same or equivalent job upon their return.

STATE OF CALIFORNIA

1959 **Fair Employment and Housing Act (FEHA)** – The California Fair Employment and Housing Act (changed from Fair Employment Practice Act in 1980) prohibits all forms of employment discrimination based on Age (40 and over), Ancestry, Color, Creed, Denial of Family and Medical Care Leave, Disability (mental and physical) including HIV and AIDS, Marital Status, Medical Condition (cancer and genetic characteristics), National Origin, Race, Religion, Sex or Sexual Orientation. It establishes the Fair Employment and Housing Commission to adjudicate complaints of discrimination.

1993 **California Family Rights Act (CFRA)** – The California Family Rights Act was established to ensure secure leave rights for the birth, adoption, or foster-care placement of a child; the serious health condition of the employee's child, parent, or spouse; or the employee's own serious health condition. Leave under this Act may total up to 12 work weeks in a 12-month period. It does not need to be taken in one continuous period of time. Upon granting a leave under CFRA, the employer must guarantee reinstatement to the same or comparable position.

CITY OF LOS ANGELES

LAMC 45.80 (Prohibition Against Discrimination Based on a Person having AIDS….)

LAMC 49.70 (Discrimination on the Basis of Sexual Orientation)

LAAC, Division 4, Chapter 7, Article 9 (Non-discrimination in Employment)

SECTION 3: EXECUTIVE DIRECTIVE 34 OF THE GARCETTI SERIES

ERIC GARCETTI
MAYOR

EXECUTIVE DIRECTIVE NO. 34

Issue Date: March 30, 2022

Subject: Citywide Workplace Equity

The City of Los Angeles (City) is committed to an equitable workplace that rests on a foundation of values that define our City: principles founded on inclusion, empathy, and mutual respect. Not only are these values necessary for the City to recruit and retain employees who reflect and understand the diverse communities they serve, they are also key attributes for any City employee performing services for the public good. Throughout L.A.'s history, many policies have been developed by my predecessors to address these issues. In particular, the City of L.A. released a groundbreaking policy against HIV/AIDS discrimination, the first of its kind in the nation, and was the first city in California to protect its employees against LGBTQ discrimination, ahead of the state of California.

Now in order to strengthen the process and make it easier for employees to understand their duties and responsibilities and the procedures for addressing discrimination, harassment, hazing, and bullying, the City has brought all of these protections together to develop a single, easy to read and comprehensive, citywide policy that addresses all types of harassment and discrimination. The new Workplace Equity Policy is designed to be the foundation for a workplace rooted in respect, equity, and constructive methods of conflict resolution and incorporates feedback from employees, supervisors, and City leaders.

Since 2018, the City has taken various steps to increase equity in our workplaces. I signed Executive Directive 23: Harassment and Discrimination, which outlined the ways the City would become a more inclusive and equitable workplace. Since then, the City has come together to develop a series of over 50 recommendations to more effectively address and prevent incidents of harassment and discrimination in the workplace. My office partnered with the Information Technology Agency and the Personnel Department to develop a reporting and case management system known as MyVoiceLA. MyVoiceLA was designed to encourage reporting and ensure fair, thorough, and timely investigations of all reported incidents of discrimination and harassment.

In 2020, we confronted a legacy of racial injustice and took a substantive step to advance racial equity across City government. I signed Executive Directive 27: Racial Equity in City Government to translate our values into action within our own City government — assigning Racial Equity Officers in every department and mandating implicit bias training for all City employees and commissioners.

Executive Directive 34: Citywide Workplace Equity Policy is the next step along the path towards more equitable City workplaces, as it formalizes the reimagining of the City's Equal Employment Opportunity Program. This includes a realignment and expansion of the Personnel Department's Equal Employment Opportunity Division; a new Workplace Equity Policy; new Workplace Equity Complaint Procedures; a new Equity Review Panel; and citywide training designed to help each and every employee understand their rights and responsibilities under the Policy, as well as their role in contributing to the City's equitable and inclusive work environment.

Accordingly, I hereby direct the following:

Establishment of the Office of Workplace Equity

The Office of Workplace Equity shall be hereby established to provide subject matter expertise and lead in matters of equity and inclusion for City of Los Angeles employees and others who perform work for the City, through the following responsibilities:

- Supporting diversity, equity, inclusion, and belonging efforts citywide by developing and recommending new policies and procedures; partnering with departments to advise and assist their diversity, equity, inclusion and belonging efforts; and developing and sourcing training programs that instruct and inspire new ways of working more inclusively and equitably.
- Providing guidance, support, and proactive assistance to City departments in matters affecting diversity, equity and inclusion of City employees, applicants and volunteers.
- Developing and implementing a Citywide Culture and Climate Assessment and providing results and recommendations to each department.
- Developing a Citywide Inclusion and Anti-Bias Plan, engagement strategy, and curriculum of culturally responsive programs based on the results of the Citywide Culture and Climate Assessment.

Implementation of the Citywide Workplace Equity Policy and Workplace Equity Complaint Procedures

The Personnel Department has crafted a comprehensive Workplace Equity Policy to combine and update the City's various policies regarding workplace conduct. The City's Workplace Equity Policy will be applicable to all City employees and other persons identified within the Policy.

- The Policy outlines the City's commitment to a diverse and inclusive work environment, as well as equitable and civil workplace standards of conduct.

- This comprehensive policy will be adopted as the City's official policy on these matters as it updates existing prohibitions against conduct including discrimination, harassment, sexual harassment, bystander harassment and retaliation, and establishes a new prohibition against inequitable conduct.
- The Policy includes a requirement that all City supervisors report potential violations of the Workplace Equity Policy to MyVoiceLA.
- The Workplace Equity Complaint Procedures shall replace the Personnel Department's Discrimination Complaint Procedures, which are hereby rescinded. The Workplace Equity Complaint Procedures shall be updated, as appropriate, by the General Manager of the Personnel Department in collaboration with the Mayor's Office and the office of the CAO to reflect current procedures, best practices and legal requirements.
- Under the new Citywide Workplace Equity Complaint Procedures, the Equal Employment Opportunity Division shall implement an Equity Review Panel pilot program with the goal of expanding it for citywide use. The Equity Review Panel shall review all completed investigations of Equity Complaints to determine their thoroughness, completeness and accuracy, and shall use this determination to recommend appropriate responsive actions to department leadership.

All departments are required to ensure compliance with the Workplace Equity Policy and Workplace Equity Complaint Procedures and any updates. The Personnel Department shall offer training to help City employees understand their rights and responsibilities under the Policy. This training is mandatory for all City employees and other persons identified in the Policy and will be conducted biennially in conjunction with the City's mandatory sexual harassment prevention training.

Nothing in the Workplace Equity Policy is intended to abridge any rights or protections conferred upon sworn public safety officers under the Public Safety Officers Procedural Bill of Rights Act, the Firefighters Procedural Bill of Rights Act, or the California Constitution.

Equal Employment Opportunity Division shall investigate all City workplace equity policy violations.

The Equal Employment Opportunity (EEO) Division in the Personnel Department shall conduct investigations of internal workplace equity complaints or notifications of potential Workplace Equity Policy violations received through MyVoiceLA or other means. The Office of Discrimination Complaint Resolution (ODCR) and any of its associated processes are hereby dissolved. The EEO Division shall use the Workplace Equity Complaint Procedures as its guiding document for receiving, assigning, investigating, and responding to workplace equity complaints.

The EEO Division shall continue to respond to workplace equity complaints made by City employees to external agencies, such as the U.S. Equal Employment Opportunity Commission or the California Department of Fair Employment and Housing.

Department Heads shall make all reasonable efforts to ensure their departments are free of discrimination, retaliation, harassment, and other inequitable behaviors.

As such, each department head shall:

- Cooperate with the Office of Workplace Equity and EEO Division and its initiatives, including but not limited to, the implementation of the Workplace Equity Policy and Workplace Equity Complaint Procedures and participation in the Citywide Culture and Climate Assessment.
- Take prompt action to appropriately address violations of the Workplace Equity Policy.
- Cultivate environments that encourage reporting of violations of the Workplace Equity Policy.
- Ensure that supervisors report violations of this Workplace Equity Policy by taking appropriate action (counseling, retraining, or discipline) in the event of any supervisor who fails to report policy violations.
- Support equity investigations by:
  - Directing employees who are identified by the Office of Workplace Equity as reporting parties, named parties, or witnesses to participate in investigative interviews;
  - Promptly providing all requested documentation and information;
  - Accommodating requests from the EEO Division to meet with and interview involved parties on City time
- Post a copy of this policy in person and/or online, and any other key documents shared by the EEO Division, in a location where employees traditionally find key information about job duties and workplace rights or responsibilities.
- Maintain standard protocols for investigating and responding to non-Equity complaints referred by the EEO Division to the department for investigation and response.
- Maintain each of the following roles in their department, under the new titles reflected below:

Prior	New
Equal Employment Opportunity Coordinator	Workplace Equity Officer
Sexual Orientation Counselor	LGBTQ+ Support Officer
Reasonable Accommodation Coordinator/Disability Coordinator	Reasonable Accommodation/Disability Support Officer
Sexual Harassment Counselor	Sexual Harassment Support Officer

Prior Executive Directives and related documents shall be continued or rescinded as follows:

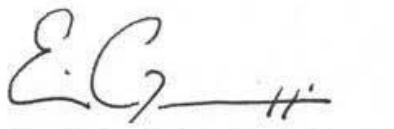
The following policies are considered complementary to the new Workplace Equity Policy and should be used in concert with it in relevant circumstances: Workplace Violence Policy and Guidelines, Domestic Violence and Abuse Policy, Domestic Violence Protocols, Workplace Gender Transition Guidelines, Reasonable Accommodation Policy, and the Lactation Accommodation Policy.

This Executive Directive will incorporate and supersede Executive Directive No. PE-1: Equal Employment Opportunity, Non-Discrimination and Reasonable Accommodations (Revised), dated August 20, 2004, *except* as it relates to Reasonable Accommodations.

The following policies, procedures and directives were incorporated by reference into the new Workplace Equity Policy and are superseded by this Executive Directive, as are all other Personnel procedures and policies on the topics of harassment or discrimination:

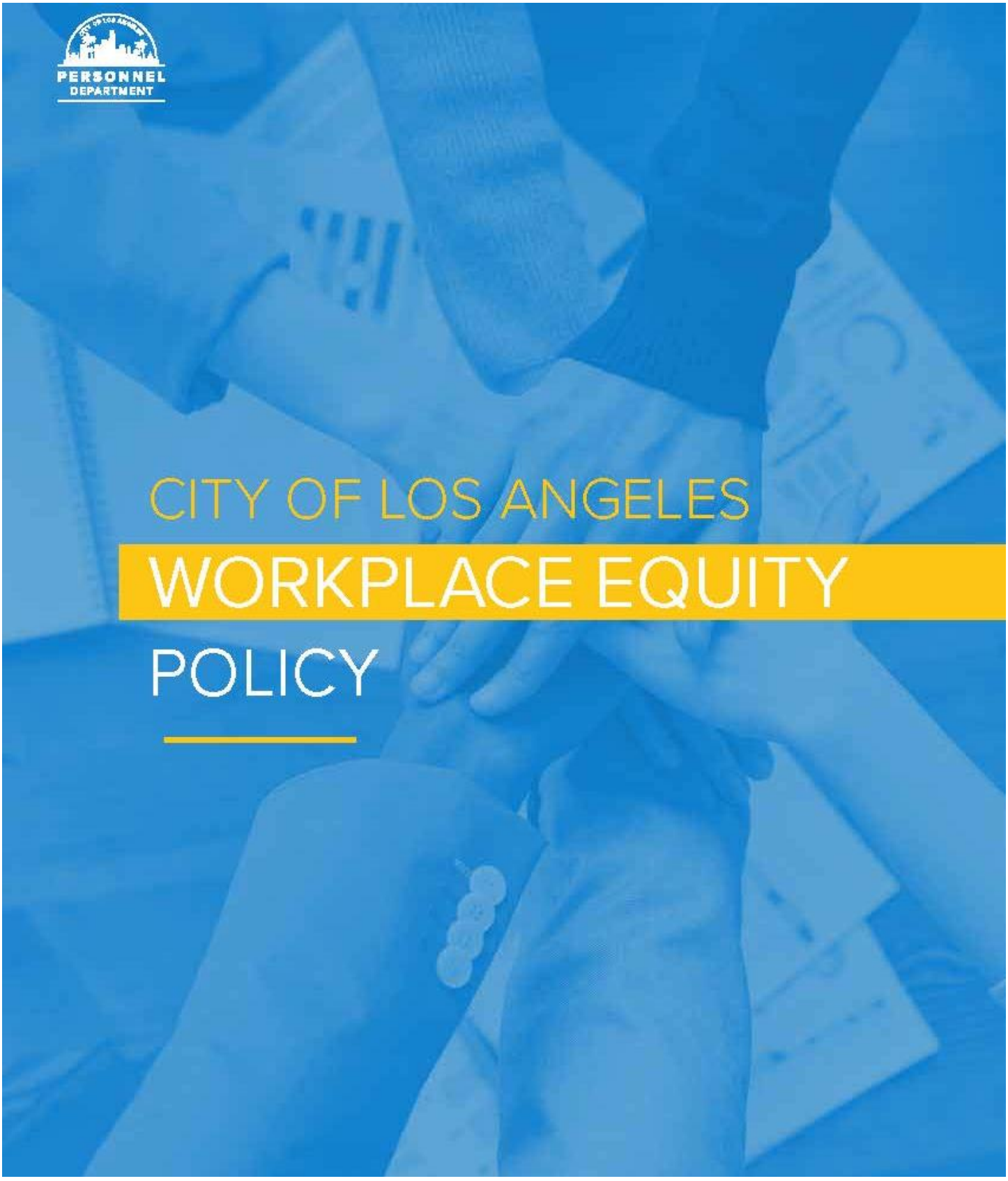
- Executive Directive 8: Zero Tolerance for Hazing Fellow Employees, November 20, 2006
- Executive Directive 12: Policy Against Discrimination in Employment, June 6, 2008
- HIV and AIDS Discrimination in City Employment Policy
- Discrimination Complaint Procedure
- Sexual Harassment Complaint Procedure
- Sexual Orientation Complaint Procedure
- Hazing Complaint Procedure
- The Sexual Harassment Reporting Procedure Update, dated December 15, 2017

Executed this 30th day of March, 2022.



ERIC GARCETTI
Mayor

SECTION 4: WORKPLACE EQUITY POLICY



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1. INTRODUCTION

STATEMENT OF VALUES

The City of Los Angeles (City) is steadfast in its mission to maintain a professional, equitable, and inclusive workplace to cultivate an environment where diverse employees and applicants experience equity of opportunity for personal and organizational success.

The City recognizes that a workforce of individuals with diverse personal backgrounds, ideas, talents, and experiences facilitates an opportunity for each individual to make a unique contribution to the workplace and to provide superior and equitable service to all of the communities of Los Angeles.

The City is committed to protecting the right of employees and applicants for employment to be free from unlawful, inequitable, and unprofessional treatment in the workplace.

PURPOSE

The City of Los Angeles Workplace Equity Policy (Policy) is established to preserve the dignity and professionalism of the workplace and to encourage equity within the diverse City workforce. This Policy consolidates existing City policies and documents outlining expectations of behavior and standards of conduct pertaining to an equitable and civil workplace. This Policy also outlines key procedures for reporting and addressing prohibited conduct.

Nothing in this Policy is intended to abridge any rights or protections of public safety officers or firefighters that are conferred by the Public Safety Officers Procedural Bill of Rights Act, the Firefighters Procedural Bill of Rights Act, California Penal Code, Los Angeles City Charter, or any other statutes or ordinances.

POLICY

All City employees and other specified individuals covered by this Policy are expected to act and communicate with others in a manner that is appropriate for an equitable and inclusive working environment.

All City employees and other specified individuals covered by this Policy are responsible for understanding and conducting themselves in accordance with this Policy, as well as all applicable local, state, and federal laws.

2. SCOPE OF COVERAGE

2.1 WHO IS REQUIRED TO COMPLY WITH THIS POLICY

All City employeess (as defined in section 2.1.1) and any other individuals covered by this Policy, including, but not limited to City commissioners, neighborhood council board members, other volunteers, and fellows are responsible for understanding and abiding by this Policy.

2.1.1 DEFINITION OF "EMPLOYEE" UNDER THIS POLICY

For the purposes of this Policy, "employee" includes any individual employed within any City department, including proprietary departments, occupying a position in the classified civil service or working as an intern (whether paid or unpaid), a contract employee (a person providing services pursuant to a contract in the workplace), or as an employee exempted from civil service under the provisions of the City Charter (including, but not limited to, as an elected official or paid appointed official).

2.1.2 DEFINITION OF "SUPERVISOR" UNDER THIS POLICY

For the purposes of this Policy, "supervisor" includes any employee, having authority in the interest of the City to hire, transfer, suspend, lay off, recall, promote, discharge, assign, or discipline other employees, or having the responsibility to direct them, or to act on their grievances, or effectively to recommend these actions, if exercising this authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

2.1.3. OTHER INDIVIDUALS COVERED BY THIS POLICY

Volunteers (e.g., neighborhood council board members, unpaid commissioners) and fellows are protected from Harassment, Sexual Harassment, Hazing, Bullying, and Inequitable Conduct, as defined in this Policy.

Job applicants are protected from Discrimination, Harassment, Bystander Harassment, Sexual Harassment, and Retaliation with regard to their application for employment with the City.

2.2 WHEN AND WHERE THIS POLICY APPLIES

This Policy prohibits Discrimination, Harassment, Bystander Harassment, Sexual Harassment, Retaliation, Inequitable Conduct, Hazing, Abusive Conduct and Bullying in the workplace, during working hours, and/or at work-related events. The City also reserves the right to take appropriate corrective action against potential Policy violations occurring in an environment or under circumstances with a nexus to the workplace. These environments or circumstances may include, *but are not limited to:*

- Before or after working hours (including during breaks)
- At work-related conferences
- At City sponsored volunteer activities, meetings or events
- At council, committee and commission meetings or events
- In "the field"
- Online (whether or not during working hours)
- At "off-duty" events when interacting with other City employees, contractors, and/or volunteers (including social events such as "happy hours," retirement parties, holiday celebrations, etc.)

2.2 WHEN AND WHERE THIS POLICY APPLIES (Cont'd)

This Policy also prohibits employees from using any technology, communication system, or equipment, regardless of whether City-issued, personal, or otherwise, whether used online or offline, to deliver, display, store, forward, publish, circulate, or solicit material in violation of this Policy. The technology, communication systems, or equipment referenced in this subsection include, *but are not limited to*, email, text, social media, internet, intranet, telephones, computers, fax machines, voicemail, radio, video, cell phones, mobile digital terminals, and/or other communication devices.

2.3 CONSEQUENCES FOR VIOLATION OF THIS POLICY

All individuals covered by this Policy are responsible for understanding and conducting themselves in accordance with this Policy and its related Workplace Equity Complaint Procedures. Failure to do so will result in prompt and appropriate responsive administrative action which may include, but is not limited to, counseling, education and training, oral or written warnings, written reprimands, suspension, demotion, discharge, or removal (e.g. Policies of the Personnel Department, Section 33.2).

For public safety officers or firefighters, investigation of and discipline for violation of this Policy will be subject to procedures established under the City Charter (including, but not limited to Board of Rights procedures), relevant MOUs, and California state law (including, but not limited to rights established under the Public Safety Officers Procedural Bill of Rights Act and the Firefighters Procedural Bill of Rights Act).

3. EQUITABLE WORKPLACE

3.1 EQUITABLE WORKPLACE STANDARDS

City Policy prohibits harassment or discrimination on the basis of any Protected Category, or sexual harassment, retaliation, and other inappropriate conduct based on a Protected Category or protected activity. These activities interfere with the City's goals of maintaining a diverse, equitable, inclusive, and productive workplace.

Protected Categories under this Policy include:

- Acquired Immune Deficiency Syndrome (AIDS) or the Human Immunodeficiency Virus (HIV) Status
- Age (40 and over)
- Ancestry
- Color
- Disability - Mental or Physical
- Domestic Violence Victim Status
- Ethnicity
- Gender, Gender Expression and/or Gender Identity
- Genetic Information (including family medical history)
- Marital Status
- Medical Condition (cancer and genetic characteristics)
- Military and Veteran Status
- National Origin (including but not limited to language use restrictions)
- Race (including natural hair texture and/or protective hairstyles)
- Religious Creed (including but not limited to religious dress and grooming practices)
- Sex (including but not limited to pregnancy, childbirth, breastfeeding, and related medical conditions)
- Sexual Orientation
- Any Protected Category under local, state (California), or federal law

This Policy also includes protections for individuals perceived as being a member of one of the Protected Categories and individuals associated with members of the Protected Categories.

The City prohibits conduct in violation of this Policy and will respond promptly and effectively to reports of potential Policy violations. This response includes action to stop, prevent, correct, and where appropriate, discipline any individual who engages in any conduct that violates this Policy.

The definitions of conduct prohibited by this Policy may be different than those used in legal proceedings in courts of law. Consequently, no legal conclusions can or should be drawn from decisions associated with this Policy and its related administrative procedures.

3.2 CONDUCT PROHIBITED UNDER THIS POLICY

3.2.1 DISCRIMINATION

For the purposes of this Policy, discrimination is the unequal treatment of one or more employees or applicants in any aspect of hiring or employment because of the employee(s') actual or perceived Protected Category(ies).

Discrimination may include, *but is not limited to*, one or more instances of the following:

- Granting or withholding promotional opportunities because of an employee's race, disability, sexual orientation, etc.
- Recommending or instituting discipline against one or more employees because of their religion, national origin, age, etc.
- Declining to hire an applicant because of their sex, marital status, veteran status, etc.
- Requiring different work appearance, dress, and grooming standards based on sex, gender and/or gender identity, gender expression, religious beliefs, etc.
- Making employment decisions about any individual on the basis of their natural hair texture or wearing protective styles such as braids, locs, twists, and knots
- Requiring an employee or applicant for employment to take an HIV test, or any other test intended to assess directly or indirectly a person's infection with HIV, unless specifically required by a controlling law

3.2.2 HARASSMENT

For the purposes of this Policy, harassment is the unwelcome and offensive, threatening, or abusive treatment of one or more employees or other individuals covered by this Policy by any individual, including both City employees and third parties, because of their actual or perceived Protected Category(ies).

Harassment may include, *but is not limited to*, one or more instances of the following:

- Posting, sending, forwarding, soliciting, or displaying in the workplace any offensive materials, documents, or images that are or could reasonably be perceived as racist, sexist, ableist, ageist, or as targeting any protected group
- Using epithets, slurs, or degrading words or names related to a Protected Category
- Making jokes related to a Protected Category
- Making comments or gestures about a person's physical appearance that have a racial, gender-related, disability-related, religious, age-related, or ethnic connotation
- Making derogatory comments about religious differences and practices
- Offensive or unwelcome conduct or comments targeted at one or more employees because of their Protected Category, even if the content is not about their Protected Category

3.2.3 SEXUAL HARASSMENT

For the purposes of this Policy, sexual harassment includes unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature by any individual, including both City employees and third parties, that meets any one of the following criteria:

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; or
- Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual or others; or
- Such conduct could reasonably interfere with the performance of work or create an offensive, intimidating, or abusive working environment.

Sexual harassment may include, *but is not limited to*, one or more instances of the following:

- Unwelcome romantic or sexual advances, flirtation, teasing, sexually suggestive or obscene letters, invitations, comments, questions, notes, emails, voicemails, or gifts directed toward another employee (including those initiated between employees engaged in a current or former romantic relationship)
- Making sex-, gender-, or sexual orientation-related comments, slurs, jokes, remarks, or epithets
- Leering, sexual, obscene, or vulgar gestures
- Displaying or distributing sexually suggestive or derogatory objects, pictures, cartoons, or posters
- Impeding or blocking movement, unwelcome touching, or assaulting others
- Reprisals or threats after a rejection of sexual advances
- Treating an employee(s) favorably because of sexual or romantic conduct

3.2.4 BYSTANDER HARASSMENT

For the purposes of this Policy, bystander harassment occurs when an employee or other individual covered by this Policy witnesses an incident of unwelcome and offensive, threatening, or abusive conduct, even if the individual engaging in the conduct is unaware of this "bystander" employee's presence. When an individual (whether a City employee or third party) engages in harassing behavior, they assume the risk that a "bystander employee" may witness the behavior. The City considers bystander harassment as being the same as direct harassment of an employee.

Bystander harassment may include, *but is not limited to*, the following conduct:

- Making jokes or comments related to a Protected Category (such as one or more disparaging comments about individuals of a different sex), which are overheard by another employee
- Sending an email containing offensive materials to a trusted colleague, which is inadvertently forwarded to or witnessed by another employee
- Engaging in one or more acts of physical contact in the workplace that is/are sexual in nature and is/are witnessed by another employee

3.2.5 RETALIATION

For the purposes of this Policy, retaliation is any adverse employment action or conduct taken against one or more employees or other individuals covered by this Policy because the employee(s) or individual(s) engaged in any activity protected under this Policy.

"Protected activities" under this Policy include, *but are not limited to*:

- Reporting or assisting in reporting suspected violations of this Policy
- Cooperating in investigations or proceedings arising out of any alleged violation of this Policy
- Requesting or receiving a reasonable accommodation for a medical condition or disability, such as medical leave
- Reasonably and in good faith indicating opposition, or taking actions to, oppose discrimination or harassment
- Any other kind of opposition to inequitable conduct in the workplace, whether formal or informal

Examples of adverse employment actions or conduct may include, *but are not limited to*:

- Conduct or behavior that could reasonably interfere with an individual or individuals' terms and conditions of employment
- Conduct or behavior that has the effect of creating an intimidating, hostile, offensive, or abusive working environment for the individual or others
- Non-selection for training, promotion, or other coveted position
- Discipline, reprimands, loss of pay, transfer, demotion, reassignment, or termination

3.2.6 INEQUITABLE CONDUCT

By way of this subsection, it is the City's intent to identify, address, and prevent misconduct at the lowest possible level.

Inequitable Conduct is any inappropriate conduct based on a Protected Category or protected activity. Inequitable Conduct includes any instance of unwelcome conduct directed at one or more employees or other individuals covered by this policy, because of the employee(s)' or other individual(s) covered by this Policy's actual or perceived Protected Category(ies) or protected activity(ies). Similarly unwelcome conduct that is sexual in nature may also violate this Policy.

Inequitable Conduct may be similar in nature to conduct defined as discrimination, harassment, sexual harassment, and retaliation under this Policy, although to be considered Inequitable Conduct, it must be lesser in severity.

Inequitable Conduct may include, *but is not limited to*, one or more instances of the following, depending on the context in which it occurs:

- Microaggressions (indirect, subtle or unintentional verbal or behavioral conduct that communicates hostile, derogatory, or negative attitudes toward Protected Categories)
- Stray remarks
- Hostilities in vocal tone and body language
- Sexual innuendo

4. CIVIL WORKPLACE

4.1 CIVIL WORKPLACE STANDARDS

Certain behaviors, including hazing, abusive conduct, bullying, and other types of discourteous and unprofessional conduct interfere with the City's goals of fostering a civil, safe, professional, and productive work environment. The City prohibits such conduct and will respond promptly and effectively to reports of potential Policy violations. This includes action to stop, prevent, correct, and when appropriate, discipline any conduct that violates this Policy.

4.2 PROHIBITED CONDUCT

4.2.1 HAZING

Hazing is any action taken, or situation created, that is meant to (or in some cases may unintentionally) cause embarrassment, degradation, discomfort, or ridicule, and that may cause emotional and/or physical harm to an individual or individuals. Hazing typically occurs as a rite of passage or involves peer pressure. Actions may be considered hazing, regardless of an individual's willingness to participate in such activities.

Hazing consists of a broad range of potentially harmful behaviors or activities that show disregard for another person's dignity or well-being. Hazing often involves engaging in illegal, harmful, demeaning, or dangerous acts that are not consistent with City policy and the performance of job-related activities. Even when these behaviors do not appear overtly harmful (i.e., where the participants appear to engage in them willingly), they may constitute hazing if they might cause humiliation or be perceived as demeaning or degrading. The determination of whether any particular conduct constitutes hazing will depend on the circumstances and context in which that activity occurs. Hazing activities or behaviors do not have to be related to any Protected Category to violate this Policy.

For the purposes of this Policy, hazing may include *but is not limited to*:

- Unnecessary physical and/or psychological shocks
- Forced, unnecessary exertions
- Engaging in pranks or horseplay
- Requiring employees to engage in stunts or buffoonery
- Degrading or humiliating games and activities
- The inappropriate application of substances to the body of another (including forced eating or drinking)

4.2.2 ABUSIVE CONDUCT/BULLYING

For the purposes of this Policy:

> **Abusive Conduct** is verbal, physical, electronic, or other behavior by a supervisor, directed at one or more subordinates that demeans, intimidates, or humiliates or could reasonably be considered hostile, offensive, and unrelated to a legitimate business interest of the workplace.

4.2.2 ABUSIVE CONDUCT/BULLYING (Cont'd)

> **Bullying** is verbal, physical, electronic, or other behavior directed at one or more employees or other individuals covered by this Policy) that demeans, intimidates, or humiliates or could reasonably be considered hostile, offensive, and unrelated to a legitimate business interest of the workplace.

Abusive conduct and bullying consist of a broad range of behaviors, which may be subtle or overt. In most circumstances, abusive conduct or bullying consists of repeated or multiple incidents, over a period of time. *The determination of whether a particular act constitutes abusive conduct or bullying will depend on the circumstances and context in which that act occurs.*

Abusive Conduct and/or Bullying can take the form of:

- Inappropriately directing profanity or shouting at another person
- Criticizing a person, their opinions, or actions persistently, with malice, or without a legitimate business reason
- Belittling a person's opinions persistently, especially in the presence of others
- Deliberately sabotaging or impeding a person's work
- Tampering with a person's work equipment or personal belongings without legitimate reason
- Spreading malicious rumors, gossip, or innuendo
- Sending via email or text, posting, or sharing online any objectively negative, harmful, false, or derogatory content about someone else, including the sharing of personal or private information about someone else and thereby causing embarrassment or humiliation
- Excluding or isolating someone consistently
- Intruding on a person's privacy by spying or unreasonably pestering

A single incident of bullying may constitute a violation of this Policy where it interferes with the performance of work, or creates a working environment unfavorable to productive work.

Conduct that reflects a supervisor engaging in reasonable and appropriate behavior to monitor, direct, evaluate, or hold an employee accountable to their duties is not prohibited by this subsection.

Note: Employees or other individuals covered by this Policy who make threats or engage in confrontational behavior, possess and/or use weapons (without authorization) on City property or on the job, or engage in actions on the job or on City property intended to destroy property or to inflict bodily injury represent a potential Workplace Violence threat. Such behavior must be brought to the attention of a supervisor and/or the employing department's Workplace Violence Coordinator, and/or to the City's Threat Assessment Team. Refer to the City's Workplace Violence Policy for guidance in handling these matters.

5. REPORTING POTENTIAL POLICY VIOLATIONS

Any City employee or other individual covered by this Policy (as defined in section 2.1 of this Policy) who believes they have been subjected to or learns of conduct that potentially violates this Policy has the right to, and is encouraged to, without interference, report the potential violation of the Policy to any of the following:

- Online at **MyVoiceLA.org**
- To a City supervisor (as defined in section 2.1.2 of this Policy)
- To a departmental Workplace Equity Officer, Sexual Harassment Counselor, LGBTQ+ Counselor, Disability Specialist, or Human Resources (HR) representative
- To the Personnel Department - Office of Workplace Equity

Employees may also report to any external non-discrimination enforcement agency, such as the **California Department of Fair Employment and Housing (www.dfeh.ca.gov)** or the federal **Equal Employment Opportunity Commission (www.eeoc.gov)**.

Any City employee has the right to report any potential violation(s) of this Policy – even if they were not the primary 'target' of the potential violation(s) – if they witnessed the potential violation(s) or have reason to believe that a potential violation has occurred.

City employees are not required to confront the person alleged to have violated the Policy before filing a report on the potential violation of the Policy.

5.1 RIGHT TO REPORT ANONYMOUSLY

Any City employee may report potential Policy violations anonymously unless the employee is a supervisor reporting an incident as part of their supervisory duties. A reporting party's anonymity will be protected to the greatest extent possible; in some cases investigations of anonymous reports may result in investigative staff, or other involved parties, becoming aware of the identity of the reporting party.

5.2 RIGHT TO REPORT IRRESPECTIVE OF INCIDENT DATE

Under this Policy, incidents may be reported regardless of how much time has passed since the incident and will be investigated to the greatest extent possible. Supervisors reporting as part of their job duties should report in a timely manner, as outlined below.

5.3 CONFIDENTIALITY OF INVESTIGATIONS

Equity complaints and related documents are confidential personnel records and will be accorded the strictest confidentiality possible. Such confidential records and information shall be maintained, secured, and released only as permitted by law.

6. DUTIES & OBLIGATIONS UNDER THIS POLICY

6.1 SUPERVISOR DUTY TO REPORT POTENTIAL POLICY VIOLATIONS

All City supervisors have a ***duty*** to report potential violations of the Workplace Equity Policy through **MyVoiceLA.org**. Supervisors are responsible for knowing how to report according to the City's Workplace Equity Complaint Procedures. When submitting a report through MyVoiceLA.org on behalf of another employee, supervisors must:

- Include approximate date(s) and description(s) of the potential Workplace Equity Policy violation(s);
- Identify key involved parties and witnesses;
- Detail any responsive action taken by the supervisor; and
- identify themselves, their department and contact information.

6.1.1 TIMEFRAME FOR SUPERVISOR REPORTING

Supervisors must report any potential Policy violation ***as soon as practically possible*** (usually within 48 hours of being notified of the potential Policy violation).

6.1.2 SCOPE OF SUPERVISORY DUTY TO REPORT

Supervisors must report ***any and all potential Policy violations*** they become aware of. Supervisors shall not discourage or refuse to accept reports of violations of this Policy for any reason, nor may supervisors decline to report as required by this Policy – even when the reporting party requests that no action be taken, or where the supervisor does not personally regard the report as reasonable, timely, significant, or true. Supervisors are also required to fulfill their reporting duties regardless of whether any of the parties involved are direct subordinates of the supervisor or in the supervisor's chain of command.

Failure by any supervisor to carry out these duties may be cause for discipline. For this reason, it is recommended that any supervisor who is unsure whether a Policy violation has occurred report the incident through the City's Workplace Equity Complaint Procedures.

6.2 SUPERVISOR DUTY TO PREVENT AND STOP VIOLATIONS

All City supervisors have a duty to maintain an equitable workplace (free from harassment, discrimination, retaliation etc.). To fulfill this duty, supervisors must take appropriate action to prevent and stop any harassment, discrimination, retaliation, and inequitable conduct in the workplace. Supervisors should consult with their management and/or human resources staff to ensure compliance with this Policy.

Supervisors may also seek advice from the Office of Workplace Equity on reporting and/or addressing potential Policy violations.

6.3 EMPLOYEE DUTY TO COOPERATE IN EQUITY INVESTIGATIONS

All City employees and other individuals covered by this Policy have a duty to cooperate with Equity Investigations. Failure to cooperate in an Equity Investigation may result in disciplinary action, subject to limited exceptions.

WORKPLACE EQUITY POLICY

FAQ for NON-SUPERVISORS

1. WHAT IS THE WORKPLACE EQUITY POLICY?

It is a single, comprehensive policy that prohibits certain inequitable conduct in the workplace including discrimination,harassment, sexual harassment, bystander harassment, bullying, retaliation, and other inequitable conduct on the basis of any protected category or activity. It also outlines procedures for reporting and addressing prohibited conduct in the workplace.

2. WHO DOES THE WORKPLACE EQUITY POLICY APPLY TO?

All City employees, including proprietary department and sworn employees, are protected by and required to follow the requirements of the Workplace Equity Policy. The Policy also applies to City commissioners, neighborhood council board members, other volunteers, and fellows.

3. WHEN AND WHERE DOES THE WORKPLACE EQUITY POLICY APPLY?

The Policy prohibits covered conduct during work hours, and/or at work-related events. It also applies in environments or under circumstances with a nexus to the workplace including but not limited to, during, before or after working hours; during breaks; at work-related conferences; at City sponsored events; online; and off-duty social events.

4. WHAT DOES THIS MEAN FOR ME AS A NON-SUPERVISOR CITY EMPLOYEE?

You are responsible for understanding and conducting yourself in accordance with the Policy. You must also cooperate with equity investigations. Failure to do so may result in administrative action against you, up to discharge or removal.

If you believe you have been subjected to or witnessed any behavior that violates the Policy, you have the right to report it to MyVoiceLA.org; to a City supervisor; to a departmental Workplace Equity Officer, Sexual Harassment Support Officer, LGBTQ+ Support Officer, Reasonable Accommodation/Disability Support Officer, or HR representative; or the Office of Workplace Equity. You may also report it to any external non-discrimination enforcement agency such as the California Department of Fair Employment and Housing or the Equal Employment Opportunity Commission.

5. DOESN'T THE CITY ALREADY HAVE POLICIES AND EXECUTIVE DIRECTIVES IN PLACE FOR DISCRIMINATION AND HARASSMENT?

Yes, the City has issued previous policy statements, however, the Workplace Equity Policy supersedes those policies, specifically Executive Directive 8, Executive Directive 12, HIV and AIDS Discriminaton in City Employment Policy, Discrimination Complaint Procedure, Sexual Harassment Complaint Procedure, Sexual Orientation Complaint Procedure, Hazing Complaint Procedure, and the Sexual Harassment Reporting Procedure Update dated December 15, 2017.

6. HOW CAN I ENSURE I AM IN COMPLIANCE WITH THE WORKPLACE EQUITY POLICY?

The Personnel Department will provide training to help City employees understand their rights and responsibilities under the Policy. The training will be mandatory and will be conducted biennially. Additional questions can be directed to the Office of Workplace Equity at **per.eeo.ciu@lacity.org**.

WORKPLACE EQUITY POLICY

FAQ for SUPERVISORS

1. WHAT IS THE WORKPLACE EQUITY POLICY?

It is a single, comprehensive policy that prohibits certain conduct in the workplace including discrimination, harassment, sexual harassment, bystander harassment, bullying, retaliation, and other inequitable conduct on the basis of any protected category or activity. The Policy also outlines procedures for reporting and addressing prohibited conduct in the workplace.

2. WHO DOES THE WORKPLACE EQUITY POLICY APPLY TO?

All City employees, including proprietary department and sworn employees, are protected by and required to follow the requirements of the Workplace Equity Policy. The Policy also applies to City commissioners, neighborhood council board members, other volunteers, and fellows.

3. WHEN AND WHERE DOES THE WORKPLACE EQUITY POLICY APPLY?

The Policy prohibits covered conduct during work hours and/or at work-related events. It also applies in environments or under circumstances with a nexus to the workplace including, but not limited to, during, before, or after working hours; during breaks; at work-related conferences; at City sponsored events; online; and off-duty social events.

4. WHAT DOES THIS MEAN FOR THE SUPERVISOR?

As a supervisor, you are responsible for understanding and conducting yourself in accordance with the Policy and following the Complaint Procedures. You must report any and all potential violations of the Workplace Equity Policy to MyVoiceLA as soon as practically possible, ***even if the reporting party requests that no action be taken***. You must also cooperate with equity investigations.

5. DOESN'T THE CITY ALREADY HAVE POLICIES AND EXECUTIVE DIRECTIVES IN PLACE FOR DISCRIMINATION AND HARASSMENT?

Yes, the City has issued previous policy statements, however, the Workplace Equity Policy consolidates these into a single resource and supersedes them, specifically Executive Directive 8, Executive Directive 12, HIV and AIDS Discriminaton in City Employment Policy, Discrimination Complaint Procedure, Sexual Harassment Complaint Procedure, Sexual Orientation Complaint Procedure, Hazing Complaint Procedure, and the Sexual Harassment Reporting Procedure Update dated December 15, 2017.

6. WHAT IS THE PROCEDURE FOR FILING A COMPLAINT?

Supervisors must report potential violations of the Policy using MyVoiceLa.org as soon as practically possible. When filing the complaint on behalf of another employee, you must include the approximate date and time of the potential violation; the key involved parties including witnesses; any responsive action you have already taken; and your name, department, and contact information.

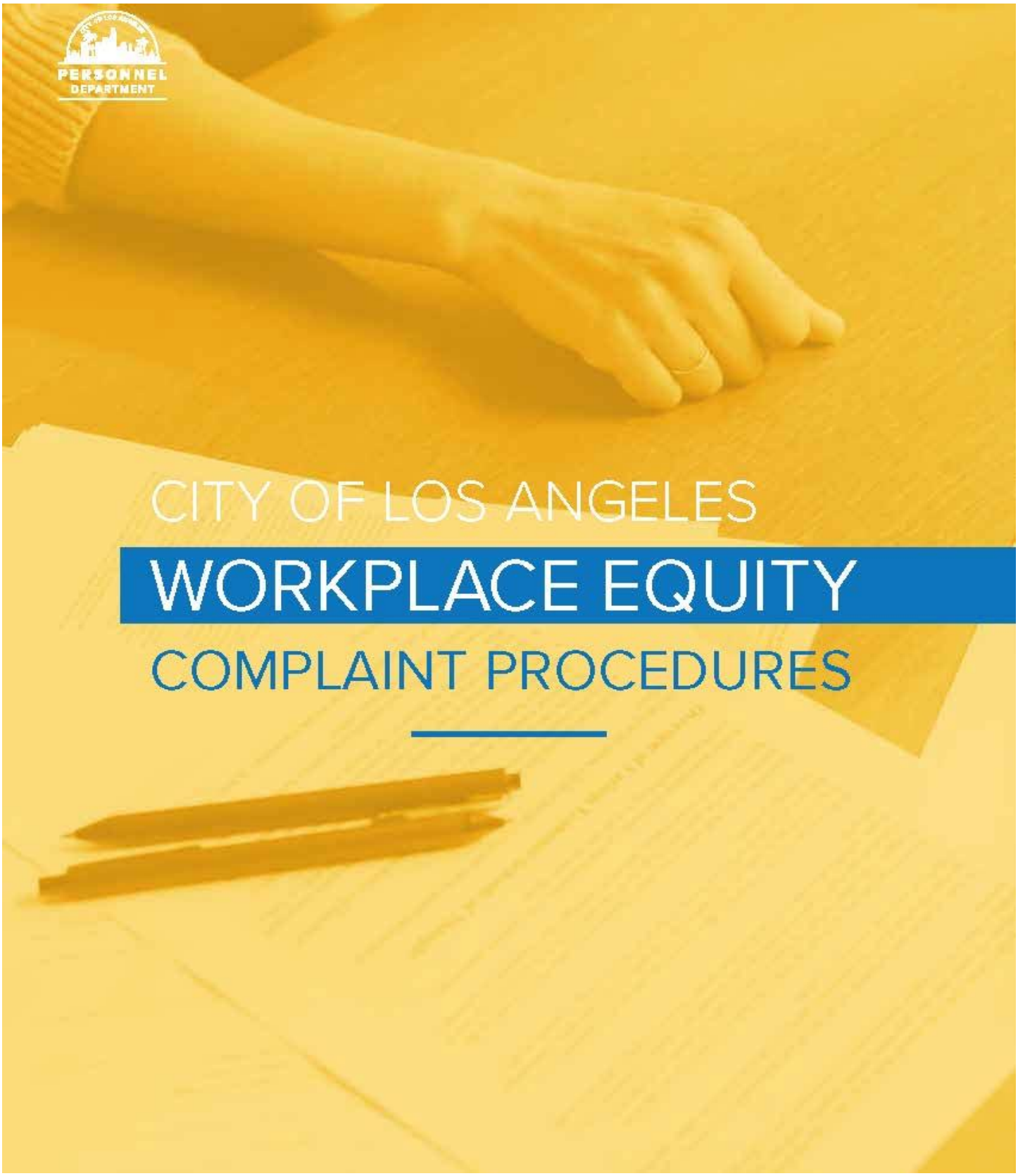
7. SHOULD I STILL FOLLOW THE STEPS LISTED IN THE DISCRIMINATION COMPLAINT PROCEDURES?

No. The Workplace Equity Policy and the Workplace Equity Complaint Procedures replace the "Discrimination Complaint Procedures." All supervisors should follow the procedures listed in the Workplace Equity Policy, and be informed of and comply with the Workplace Equity Complaint Procedures. Supervisors should also inform their staff to do so as well.

8. HOW CAN I ENSURE MY STAFF AND I ARE IN COMPLIANCE WITH THE WORKPLACE EQUITY POLICY?

The Personnel Department will provide training to help City employees and supervisors understand their rights and responsibilities under the Policy. The training will be mandatory and will be conducted biennially. Additional questions can be directed to the Office of Workplace Equity at **per.eeo.ciu@lacity.org**.

SECTION 5: WORKPLACE EQUITY COMPLAINT PROCEDURES



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1. INTRODUCTION

The City of Los Angeles' ("City") Workplace Equity Complaint Procedures establish the City's current processes for reporting, investigating, and resolving complaints of violations of the City's Workplace Equity Policy ("Policy").

All reports of Policy violations made to the Office of Workplace Equity using the Workplace Equity Complaint Procedures ("Equity Complaints") will be investigated in a fair, complete, and timely manner. All Equity investigations will be handled with discretion, sensitivity and due concern for the dignity of those involved. All "Equity Investigations" will be as extensive as required, based upon the nature of the allegations. Violations of the Policy will lead to prompt and appropriate administrative action including, but not limited to, counseling, training, written warnings, written reprimands, suspension, demotion, or discharge (as referenced in the Policies of the Personnel Department, Section 33.2).

2. INCIDENT REPORTING PROCEDURES

2.1 INCEDENT REPORTING PROCEDURES

Employees (as defined in section 2.1.1 of the Workplace Equity Policy) may report any potential violation of the Policy to the following:

- Online at **MyVoiceLA.org**

Additionally, employees may report any potential violation of the Policy to any of the following:

- Any City supervisor
- To a departmental Workplace Equity Officer, Sexual Harassment Support Officer, LGBTQ+ Support Officer, Reasonable Accommodation/Disability Support Officer, or Human Resources (HR) representative
- The Equal Employment Opportunity Division, Personnel Department (contact information can be found at **MyVoiceLA.org**)
- Any external non-discrimination enforcement agency such as the **California Department of Fair Employment and Housing (www.dfeh.ca.gov)** or the federal **Equal Employment Opportunity Commission (www.eeoc.gov)**

Any individual who files a report as outlined in these procedures, regardless of that person's connection to the potential Policy violation, will be known as the "Reporting Party." This may include, but is not limited to, witnesses, supervisors reporting as part of their duties (outlined in section 6.1 of the Workplace Equity Policy), individuals who become aware of a potential Policy violation, or any individual who has experienced or is impacted by a potential Policy violation ("Complainant").

Where possible, the Equity Complaint should include the following information:

- The name, address, and telephone number of the Complainant
- The basis of the alleged Policy violation (see the protected categories covered by the Policy)
- A description of the offensive practice(s), procedure(s), or incident(s) alleged
- The names of any persons thought to be responsible for the alleged Policy violation

Equity Complaints that are reported close to the time of the incident and which include the key intake information identified above (including current contact information) will facilitate a more efficient Equity Investigation and a timely resolution.

2.2 RIGHT TO WITHDRAW A REPORT

Reporting Parties have the right to request that an Equity Complaint be withdrawn at any time. However, the City may have a legal obligation to proceed with an Equity Investigation or may decide that continuing and concluding an Equity Investigation is warranted, based on the information provided to the City.

2.3 INTENTIONALLY FALSE ACCUSATIONS

Knowingly making false accusations or providing false information during an Equity Investigation may be grounds for discipline under the City's Personnel Policy. This does not apply to any complaint or allegation made in good faith (believed to be true) by a Reporting Party, Complainant or witness, which might later be determined to be unsubstantiated by the Office of Workplace Equity.

2.4 PROTECTION FROM RETALIATION

All employees who file an Equity Complaint or participate in an Equity Investigation are protected from Retaliation" by the City, Department management, supervisors or any other employee (as defined by the Policy). Any action believed to be retaliatory should be immediately reported to **MyVoiceLA.org** or to the Equity Investigator conducting the investigation.

3. SUPERVISORY & HR REPRESENTATIVE REPORTING REQUIREMENTS

3.1 DUTY TO REPORT

All City supervisors and managers ("supervisors") are required to report any known potential violations of the Workplace Equity Policy, and are responsible for knowing how to report according to this procedure.

All departmental human resources (HR) representatives (including but not limited to employees in the Personnel Analyst class series, and any person performing HR work and/or acting as a Workplace Equity Officer, Sexual Harassment Support Officer, LGBTQ+ Support Officer, or Reasonable Accommodation/ Disability Support Officer,) are required to report any known potential violations of the Workplace Equity Policy, and are responsible for knowing how to report according to this procedure.

Failure by any supervisor to carry out these duties may be cause for discipline. For this reason, it is recommended that any supervisor who is unsure whether a Policy violation has occurred report the incident using the City's Workplace Equity Complaint Procedures. Supervisors may also seek advice from the Office of Workplace Equity at any time.

3.2 WHAT TO REPORT

Supervisors and HR representatives must report ***all potential Workplace Equity Policy violations*** they become aware of in the City workplace. This obligation to report applies even when the Complainant or Reporting Party requests that no action be taken, or where the supervisor does not regard the Equity Complaint as reasonable or true. Supervisors are required to fulfill their reporting duties even if the party affected by the Policy violation is not a subordinate of the supervisor.

Supervisors may let employees know of their reporting responsibilities before they receive a report, in the event that this may independently affect the employee's decision to discuss the issue with them. However, supervisors ***may not discourage or refuse*** to accept reports of violations of this Policy for any reason.

3.3 REPORTING GUIDELINES/EXPECTATIONS

Any supervisor or HR representative who becomes aware of any incident that may violate the Policy ***must report*** the potential Policy violation to **MyVoiceLA.org** using the supervisory reporting function ***promptly*** (***usually within 48 hours*** of receiving a report about, witnessing, or learning of the incident). Where ongoing or severe conduct is alleged or suspected, a report of potential policy violation must be made as soon as practically possible.

This duty to report ***promptly*** or ***as soon as practicably possible*** (depending on the urgency of the complaint) to the Office of Workplace Equity exists regardless of technical limitations or difficulties. In the event such reporting difficulties or limitations arise, supervisors or HR representatives must attempt to utilize any available reporting options (including phone, in person, etc.)

When submitting a report, supervisors or HR representatives should include a description of the Policy violation(s) and any initial steps taken by the supervisor or the Department. Supervisors or HR representatives must identify themselves and include their contact information if they are reporting on behalf of another individual.

If a supervisor or HR representative wishes to report on their own behalf (e.g. if they were the target of harassing conduct), they may file such a report at **MyVoiceLA.org** or use any other reporting procedure outlined in Section 2.1 of this document (anonymous reporting is permitted in this circumstance).

3.4 ADDITIONAL ACTIONS MANDATORY REPORTERS MAY TAKE

Supervisors may consult with departmental human resources staff or the Office of Workplace Equity to seek advice and determine appropriate next steps that prevent continued violations or address any immediate concerns.

Supervisors or HR representatives may offer a private meeting with the Reporting Party or Complainant of the incident to discuss the potential Policy violation. The purposes of this meeting are to gather facts, ensure that the Reporting Party or Complainant is not at risk of continued prohibited conduct and to assure the Reporting Party or Complainant that this potential Policy violation will be taken seriously and investigated

Supervisors or HR representatives may also direct employees to the Policy, which can be found at **per.lacity.org** or **MyVoiceLA.org**, as necessary.

4. COMPLAINT INVESTIGATION PROCEDURES

All Equity Complaints will be investigated in a fair, complete, and timely manner.

4.1 INTAKE PROCEDURES - CIVILIAN & NON-LAPD SWORN EMPLOYEES AS NAMED PARTIES

After initial review of the details of an Equity Complaint submitted to the Office of Workplace Equity, a member of the Citywide Workplace Equity Intake Unit ("Intake Investigator") will contact the Complainant or Reporting Party within 10 days of receipt of the report. If the Intake Investigator makes successful contact with the Complainant or Reporting Party, the Intake Investigator will take the following steps, as appropriate:

- Review the Equity Complaint details with the Complainant
- Describe the Equity Investigation and resolution process
- Answer the Complainant's questions about the process or policies
- Ask about any key details or information missing from the original report
- Discuss the Complainant's right to be free from retaliation and how to report any potential retaliation
- Ask the Complainant about the remedy they seek and/or set these expectations where appropriate

A notice of the receipt of the complaint will be sent out to the Reporting Party and the department of the Named Party (the individual alleged to have violated the Policy). If the Named Party in an Equity Complaint is a General Manager or other appointed official, this notice will be sent to their appointing authority. If the Named Party is an elected official, a special procedure, as outlined in Los Angeles Administrative Code Division 4, Chapter 7, Article 9.5 will be followed.

Complaints not found to be within the Office of Workplace Equity's jurisdiction (e.g. a complaint about the actions of a private employer) will be administratively closed by the Office of Workplace Equity.

Equity Complaints found to be within the Office of Workplace Equity's jurisdiction will be reviewed to determine their appropriate category: allegations with a ***Protected Basis*** or a ***Non-Protected Basis***. Equity Complaints containing allegations related to an employee or applicant's Protected Category—such as harassment, discrimination, sexual harassment, retaliation, and/or inequitable conduct—will be determined to have a ***Protected Basis***. Conversely, Equity Complaints containing only allegations of other Policy violations, including hazing, abusive conduct (bullying), or other inappropriate conduct will be determined to have a ***Non-Protected Basis***.

Complaints within the Office of Workplace Equity's jurisdiction, which are identified as having a ***Protected Basis*** will be investigated by the Office of Workplace Equity. Any complaint found as having a ***Non-Protected Basis*** will then be referred to the appropriate entity -- typically, the Named Party's employing department -- for investigation, resolution, and/or closure.

4.2 INTAKE PROCEDURES - SWORN LAPD EMPLOYEES AS INVOLVED PARTIES

The intake procedures for complaints submitted to the Office of Workplace Equity when an LAPD sworn employee is an involved in a complaint are the same as those for civilian employees, except for the following procedures:

- After the Equity Intake Unit categorizes the complaint, any complaint (whether identified as having a "Protected Basis" or a "Non-Protected Basis") against a sworn employee will be referred to the LAPD Internal Affairs Group for investigation, resolution, and/or closure.

4.3 EQUITY INVESTIGATION PROCEDURES

All Equity Investigations conducted by the Office of Workplace Equity will be handled with discretion, sensitivity, and due concern for the dignity of those involved. All Equity Investigations will be as extensive as required, based upon the nature of the allegations.

ROLE OF THE EQUITY INVESTIGATOR

The Office of Workplace Equity will assign an Equity Investigator to conduct a thorough Equity Investigation. An Equity Investigation involves reviewing the report, interviewing the Complainant, interviewing other parties relevant to the case (including witnesses and/or the Named Party), and gathering and reviewing information and materials pertinent to the allegation(s), as appropriate.

INVESTIGATORY INTERVIEWS

Named Parties, as appropriate, may be contacted during the investigation, informed of the allegations being made against them, given the opportunity to respond to the allegations, and given the opportunity to identify witnesses. Investigatory interviews of Named Parties, Complainants, or Reporting Parties, and witnesses may be audio-recorded to allow for a complete and accurate record of the interview.

Named parties who occupy positions in the classified civil service (and any Named Parties who have been granted any such right by contract or statute) have the option to be represented by a union representative, attorney, or other individual of their choice during investigatory interviews.

Other parties (e.g. witnesses) who are interviewed in the course of an Equity Investigation ***may*** also have the option to be represented by a union representative, attorney, or other individual of their choice during investigatory interviews, if they are granted any such right by contract, statute, or agreement.

Persons named as potential witnesses by the Reporting Party or Complainant may be contacted during the course of the investigation, and those witnesses determined by the investigator to have information relevant to the issues of the Equity Complaint will be interviewed. All persons contacted or interviewed during the Equity Investigation will be instructed not to discuss the Equity Investigation (other than with their representatives) in order to protect both the privacy of all those participating in the investigation as well as the integrity of the investigation itself. All parties will be advised about the protections against retaliation for participating in an Equity Investigation.

4.3 EQUITY INVESTIGATION PROCEDURES (Cont'd)

COOPERATION WITH INVESTIGATIONS

All City employees are expected to cooperate with Equity Investigations. The minimum standard for cooperation is attending scheduled investigatory interviews and providing any pertinent documents requested by investigators. Failure to cooperate in an Equity Investigation may result in disciplinary action. Departments should weigh individual facts and circumstances when determining whether disciplinary action for failure to cooperate should apply.

In order to support this duty to cooperate, all Departments shall be required to permit any employees who are requested to appear for interview by the Office of Workplace Equity to be interviewed while on City time.

INVESTIGATIVE REPORTS

Once the relevant facts are gathered, the Equity Investigator will draft an investigative report. This report will state the allegations investigated and describe the investigative process, including: who was interviewed, which information and materials were reviewed, and what information was found to be relevant to the investigation. The report will also include the Equity Investigator's ultimate findings (including findings of fact and whether allegations were substantiated, unsubstantiated, or inconclusive).

CONFIDENTIALITY OF INVESTIGATIONS

Equity Complaints and related documents (including investigative notes and reports) are confidential personnel records and will be accorded the strictest confidentiality possible. Such records shall be maintained, secured, and released only as permitted by law.

Certain limitations to confidentiality may apply. In order to investigate and/or respond to Equity Complaints, certain details (including but not limited to complaint allegations or the identity of the parties to the complaint) may be disclosed to persons with a legitimate business need for the information. Such persons may include, but are not limited to parties or witnesses identified in the Equity Investigation (including the Named Party) or the appointing authority, as appropriate.

Investigative reports and supporting documents will be maintained by the Office of Workplace Equity as a record of the Equity Investigation and to inform any actions taken to address the findings of the investigation.

4.4 EQUITY REVIEW PANEL PROCEDURES (IN DEVELOPMENT)

PILOT ANTICIPATED IN FY 22-23

The final investigative report of the Equity Investigators will be reviewed by the Chief of the Equal Employment Opportunity Office or their designee for approval. After approval, the investigative report, along with any supporting documents from the Equity Investigation, will then be sent to the Equity Review Panel ("ERP") for evaluation and recommendation. The final investigative report for any complaint naming a sworn officer which was flagged by the Office of Workplace Equity for having an "Protected Basis" will also be sent to the ERP for review, evaluation, and recommendation.

4.4 EQUITY REVIEW PANEL PROCEDURES (Cont'd)

The ERP members will review the investigative report and materials from the investigation, and make a determination on the thoroughness and completeness of Equity Investigation and the accuracy of the findings. If the ERP is unsatisfied with the investigation, the ERP may ask for further investigation, documents or information.

If the ERP is satisfied with the Equity Investigation but seeks further context before making a recommendation, the ERP may hold an Equity Review Briefing where stakeholders from the appointing authority, HR representatives, and other relevant management figures will appear to provide information relevant to the matter. Neither the Complainant(s) nor the Named Party(ies) (or their representatives) shall participate in the Equity Review Briefing.

If the ERP is satisfied with the Equity Investigation and needs no additional information to make a ruling and recommendation, the Office of Workplace Equity will notify the Named Party and Complainant's appointing authorities of both the ERP's tentative finding and their recommendation on appropriate responsive action.

If the appointing authority of the Named Party agrees with the tentative finding(s) and recommendation(s) and does not seek further context or information through an Equity Review Briefing, a representative shall respond to confirm their agreement and responsive actions taken within 60 days of receipt of the recommendation.

If the appointing authority of the Named Party disagrees with the tentative ruling or recommendation, or would like further context or information, its representative may also request to participate in an Equity Review Briefing. After the conclusion of the Equity Review Briefing, the ERP will finalize their findings and recommendations based on both the Equity Investigation materials and the information presented during the briefing. The ERP's finding and recommendation for responsive action will then be submitted to the appointing authority.

Once the ERP recommendation is final, a notice will be sent to the appointing authority outlining the details and expectations for follow up, as necessary. A representative shall respond to confirm their agreement and responsive actions taken or their decision to decline the recommendation and the reason(s) for this declination within 60 days of receipt of the recommendation.

5. COMPLAINT RESPONSE PROCEDURES

5.1 RECOMMENDATION RESPONSE PROCEDURES TO SUBSTANTIATED ALLEGATIONS

At the conclusion of an investigation, if any allegation(s) is (are) substantiated or other City Policy violations are found, the Office of Workplace Equity will forward the investigative report to the appointing authority for prompt and appropriate responsive administrative action which may include, but is not limited to, counseling, education and training, oral or written warnings, written reprimands, suspension, demotion, or discharge.

5.2 EDUCATION BASED DISCIPLINE OPTIONS

The Office of Workplace Equity recognizes the ability of individuals to learn and grow through training. Whenever reasonable and where training may be effective in correcting behavior, departments should evaluate whether training or other supportive processes, rather than disciplinary action, may be the first step in the discipline process for substantiated violations.

It is recommended that departments take responsive action in the form of counseling, education, and/or training for any first violation of the Inequitable Conduct standard of the Workplace Equity Policy.

5.3 RECOMMENDATION RESPONSE PROCEDURES TO UNSUBSTANTIATED ALLEGATIONS

At the conclusion of an investigation, if the allegation(s) is (are) not substantiated and other City Policy violations are not found, the Office of Workplace Equity will follow Equity Complaint closure procedures (see Section 6.1).

5.4 VOLUNTARY DISPUTE RESOLUTION PROCEDURES (IN DEVELOPMENT)

The Office of Workplace Equity is developing a voluntary dispute resolution program. Employees or other individuals who report an Equity Complaint may be eligible to be referred to this program to resolve disputes underlying their report.

6. COMPLAINT CLOSURE PROCEDURES

6.1 COMPLAINT CLOSURE PROCEDURES

A written correspondence stating the general findings of the investigation, including whether or not the Office of Workplace Equity has found a Policy violation, will be sent to the Complainant. Details of disciplinary actions against parties found to have violated the Policy will not be shared with the Complainant in order to comply with privacy laws pertaining to confidential personnel information.

A written notice of the closure of the Equity Investigation, stating the general findings of the investigation, including whether or not the Office of Workplace Equity has found a Policy violation, will be sent to the Named Party's appointing authority.

7. MISCELLANEOUS PROCEDURES

7.1 NON-CITY EMPLOYEES

Complaints by employees against non-employees will be handled on an individual basis to determine the most effective remedy to stop any prohibited conduct.

If the Named Party is not a City employee, the Equity Investigator will conduct an Equity Investigation as indicated above. The extent of the City's control and any other legal responsibility which the City may have with respect to the conduct of the non-employee shall be considered.

If the non-employee has no City affiliation, such as a private citizen, appropriate action will be taken to prevent a recurrence where possible. Such actions may include, but are not limited to: modification of assignments to ensure no future contact between the Complainant and the named party, the provision or increase of security, or other appropriate measures.

If the Equity Investigation finds that the prohibited conduct occurred during the scope of work for a non-employee who has affiliation through the City (e.g. as a contractor), this information will be forwarded to their employer for appropriate responsive action. Additional measures may be taken by the City to prevent recurrence.

7.2 PROCEDURES FOR COMPLAINTS AGAINST AN ELECTED OFFICIAL

The Los Angeles Administrative Code (LAAC) contains a special procedure for handling reports of discrimination and sexual harassment filed against elected officials. This procedure is outlined in LAAC Division 4, Chapter 7, Article 9.5, titled Investigation of Complaints of Discrimination and Sexual Harassment Against City Officials.

SECTION 6: REASONABLE ACCOMMODATION POLICY AND GUIDELINES

CITY OF LOS ANGELES REASONABLE ACCOMMODATION POLICY

INTRODUCTION

Disability laws are intended to allow persons with disabilities the opportunity for employment. Once a need for reasonable accommodation arises, the law requires an employer to engage the employee in a timely, good faith, interactive process to determine how to overcome the job-related limitations. A reasonable accommodation is a change in the work environment or in work processes that enables a qualified individual with a disability to enjoy equal employment opportunities. The accommodation must be effective in meeting the needs of the individual by addressing the barrier created by the functional limitations and does not impose an undue hardship on the employer.

STATEMENT OF POLICY

The City of Los Angeles is committed to maintaining a discrimination free workplace. It is our intent to provide equal employment opportunities to individuals with disabilities by ensuring that selection and employment practices include efforts to reasonably accommodate disabled employees and candidates for employment by fully complying with Federal and State law. The following is an overview of the reasonable accommodation legal obligations required by the Federal ADA and State FEHA law.

- An employer must provide a reasonable accommodation to the known physical or mental limitations of a qualified applicant or employee with a disability unless it can show that the accommodation would impose an undue hardship on business operations.

- The obligation to provide a reasonable accommodation applies to all aspects of employment. This duty is ongoing and may arise anytime a person's disability or job changes.

- An employer cannot deny an employment opportunity to a qualified applicant or employee because of the need to provide reasonable accommodations, unless it would cause undue hardship (a high standard).

- An employer does not have to make an accommodation for an individual who is not otherwise qualified for a position.

- Generally, it is the obligation of the prospective employee or employee with a disability to inform the employer that an accommodation is needed to participate in an application process, to perform essential functions, or to receive equal benefits and privileges of employment. The individual does not have to specifically request a reasonable accommodation, but merely has to let the employer know that some adjustment or change is needed to perform a job because of the limitations caused by a disability.

- An employer must engage in a good faith, timely and interactive process with an employee or prospective employee with a disability who is in need of or requests an accommodation. The department should document these efforts.

- If an employee or applicant requests an accommodation, they must provide documentation of their functional limitations to support the request. Departments may request documentation in the form of a letter from the individual's private physician and/or refer the individual to the Personnel Department's Medical Services Division (MSD) for a medical evaluation to determine work limitations if the individual has been given an offer of employment or is a current employee. Departments are advised not to inquire as to the nature of the disability.

- A qualified individual with a disability has the right to refuse an accommodation, however, if the individual cannot perform the essential job functions without an accommodation, the individual may not be qualified for the position.

- If the cost of an accommodation would impose an undue hardship on the employer, the employee/applicant with a disability should be given the option of providing the accommodation or paying that portion of the costs which would constitute an undue hardship. If a department believes that an accommodation would impose an undue hardship, the Personnel Department's Citywide Disability Coordinator and the ADA Compliance Officer in the Department on Disability are available to discuss those findings and conclusions.

- The reasonable accommodation does not have to be the exact accommodation requested by the applicant or employee as long as what is offered as a reasonable accommodation allows the individual to perform the essential functions their position.

REASONABLE ACCOMMODATION GUIDELINES

City of Los Angeles
Personnel Department
Office of Workplace Equity

December 2015

PREFACE

The Reasonable Accommodation Guide is a tool for all City managers and supervisors to assist them in complying with ADA (Americans with Disabilities Act) and FEHA (Fair Employment and Housing Act) requirements. In addition, this guideline will help managers and supervisors ensure that medically restricted employees and job applicants are given an opportunity to fully participate in the workplace. The City needs your help to ensure we comply with ADA and FEHA.

Questions and issues regarding the Reasonable Accommodation process, ADA, and or FEHA are usually complex and fact specific. You are encouraged to use the appropriate department and City resources to assist you as follows:

Department Disability Coordinator
Department supervisors and managers should contact their Department Disability Coordinator or Department Personnel Director. Here is a link to a list of Coordinators:
http://www.lacity.org/per/eeo/DeptCoord.pdf

Citywide Reasonable Accommodations Coordinator
For questions regarding the City policies and procedures with respect to reasonable accommodations please contact the Citywide Reasonable Accommodations Coordinator at (213) 473-3344.

Citywide Placement Officer
For questions or referrals regarding placement of employees with work restrictions into jobs Citywide please call (213) 473-0178.

Office of the City Attorney
Departments should contact the Office of the City Attorney for legal advice.

REASONABLE ACCOMMODATION GUIDELINES

I. OVERVIEW

Federal and California State Law prohibit discrimination in all employment practices on the basis of disability. The purpose of this document is to provide an overview of legal obligations under the law and to provide general guidelines for conducting reasonable accommodation assessments for job applicants and current City employees with disabilities.

These guidelines include some of the basic analytical tools used in reasonable accommodation assessments. However, these guidelines should not be considered a comprehensive or finite methodology for consideration of reasonable accommodation requests. Accommodation requests require that evaluations be made on a case-by-case basis with attention to the unique features of each case.

II. POLICY

The City of Los Angeles is committed to maintaining a discrimination free workplace. It is our intent to provide equal employment opportunity to individuals with disabilities by ensuring that selection and employment practices include efforts to reasonably accommodate employees and candidates with disabilities for employment by fully complying with federal and California state laws.

A. DEPARTMENT DUTIES AND RESPONSIBILITIES

The Mayor's Executive Directive PE-1 addresses not only the City's policy but also the roles and responsibilities of Department Heads and Disability Coordinators. City departments are responsible for the following:

- Designating a Reasonable Accommodations Counselor/Coordinator (Disability Coordinator) to provide internal expertise to management and disabled individuals regarding the reasonable accommodation process;

- Informing employees of the procedure for requesting a reasonable accommodation;

- Requiring staff to engage in a timely, interactive process, conducted in good faith when presented with an oral or written request for accommodation by an employee or job applicant. This process must be fully documented using the **"Reasonable Accommodation Assessment Form"** (RAAF) provided by the City's Personnel Department; and

- Fully cooperating with the Personnel Department and other Department heads in accepting transfers of employees with disabilities into positions that will afford them a reasonable accommodation. This includes communicating all work restrictions

(industrial and non-industrial) to the Personnel Department and receiving Department to ensure the accommodation is consistent with all the employee's work restrictions to prevent further injury.

- Executive Directive PE-1 may be found on the Personnel Department's website under the EEO Tab at: http://www.lacity.org/per/eeo/exec_pe1.pdf or on the Mayor's Home Page under Executive Directives, Hahn Series, at: http://www.lacity.org/mayor/hahned/mayorhahned248358517_02082005.pdf

III. REASONABLE ACCOMMODATIONS – LEGAL OBLIGATIONS

Many individuals with disabilities are qualified to perform the essential functions of jobs without any accommodations. However, if an individual with a disability who is otherwise qualified cannot perform one or more essential job functions because of the disability, departments must consider whether there are reasonable accommodations that would enable the person to perform these functions.

Reasonable accommodation is a means of overcoming unnecessary barriers in the workplace and the work environment that might exclude qualified individuals with disabilities from certain jobs and employment opportunities. City departments should consider reasonable accommodation of work restrictions of job candidates and employees with disabilities on a case-by-case basis.

The following is an overview of the reasonable accommodation legal obligations required by the federal ADA and state FEHA laws.

- An employer must provide a reasonable accommodation to the known physical or mental limitations of a qualified applicant or employee with a disability unless it can show that the accommodation would impose an undue hardship on business operations.

- The obligation to provide a reasonable accommodation applies to **all aspects** of employment. This duty is **ongoing** and may arise anytime a person's disability or job changes.

- An employer cannot deny an employment opportunity to a qualified applicant or employee because of the need to provide reasonable accommodations, unless it would cause undue hardship (a high standard).

- An employer does not have to make an accommodation for an individual who is not otherwise qualified for a position.

- Generally, it is the obligation of the prospective employee or employee with a disability to inform the employer that an accommodation is needed to participate in an application process, to perform essential functions, or to receive equal benefits and privileges of employment. The individual does not have to specifically

request a reasonable accommodation but merely has to let the employer know that some adjustment or change is needed to perform a job because of the limitations caused by a disability.

- An employer **must engage** in a good faith, timely and interactive process with a disabled prospective employee or employee who requests an accommodation. The department should **document** these efforts.

- If an employee or applicant requests an accommodation, they must provide documentation of their functional limitations to support the request. Departments may request documentation in the form of a letter from the individual's private physician and/or refer the individual to the Personnel Department's Medical Services Division (MSD) for a medical evaluation to determine work limitations if the individual has been given an offer of employment or is a current employee. Departments are advised not to inquire as to the nature of the disability.

- A qualified individual with a disability has the right to refuse an accommodation, however, if the individual cannot perform the essential job functions without an accommodation, the individual may not be qualified for the position.

- If the cost of an accommodation would impose an undue hardship on the employer, the employee/applicant with a disability should be given the option of providing the accommodation or paying that portion of the costs which would constitute an undue hardship. If a department believes that an accommodation would impose an undue hardship, the Personnel Department's Citywide Disability Coordinator and the ADA Compliance Officer in the Department on Disability are available to discuss those findings and conclusions.

- Reasonable accommodation **does not** have to be the exact accommodation requested by the applicant or employee as long as what is offered as a reasonable accommodation will allow the individual to perform the essential functions of the job.

IV. IMPORTANT REMINDER REGARDING ON-THE-JOB INJURED WORKERS

Departments are responsible for returning injured workers to work without exceeding work restrictions following a work injury. If that employee is deemed permanent and stationary by their treating physician or City approved physician, with work restrictions, it is the department's job to determine whether they are able to accommodate those restrictions and return the employee to work.

Once an injured employee's condition is deemed to be permanent and stationary, employers have **60 days** to offer a job consistent with work restrictions. The offer will cause the employee's remaining permanent disability payments to be reduced by 15%. **If no job is offered, these payments will be increased by 15%. In order to take the**

reduction, the job offered must be at least 85% of their pre-injury salary and must last for at least one year.

V. REASONABLE ACCOMMODATION ASSESSMENT PROCESS

A. NOTICE OF A DISABILITY

The employee/applicant is responsible for notifying the supervisor or interviewer that they have a disability or medical condition, which requires reasonable accommodation. Notice of a disability may come in the form of (1) the employee/applicant's direct statement to a supervisor/interviewer that they are unable to perform a duty that is part of the job because of a disability; (2) the employee/applicant's direct request for an accommodation to the supervisor/interviewer or (3) the supervisor's/interviewer's receipt of information regarding an employee/applicant's disability or need for accommodation.

B. REQUESTING A REASONABLE ACCOMMODATION DURING RECRUITMENT OR SELECTION PROCESS

When a qualified applicant with a disability requests an accommodation, the Human Resources staff will confer with the applicant on the type of accommodation(s) they need. When the applicant's disability is not obvious or known, or when additional medical clarification is needed, appropriate documentation of the disability, limitations and the needed accommodation will be sought from the applicant. Given the time sensitivity of the recruitment process, Human Resources staff will move as quickly as possible to make a decision, and if appropriate, provide an accommodation. Please refer to Section VIII A for information about pre-employment medical inquiries.

C. REQUESTING A REASONABLE ACCOMMODATION DURING EMPLOYMENT

Usually, the employer considers reasonable accommodation **when the employee requests it**. An employee may request an accommodation in many different ways. A request may be formal or informal, in writing or made verbally. The employee does not need to use the magic words "*reasonable accommodation*." An employee simply may express: "I'm having trouble with performing my job," or "I need to see a doctor because I'm having problems at work." As long as the employee's request is submitted to a supervisor or manager, the request must be evaluated.

There will be rare occasions **when an employee does not make a request**, but the employee's supervisor or coworker knows that the employee has a disability and knows or has reason to believe that the employee is having work performance problems because of the disability. For example, there may be a situation when the employer is aware that the employee has a disability such as a mental illness that prevents the employee from requesting a reasonable accommodation. Under these scenarios, the **employer initiates the accommodation process and must inquire whether the employee needs an accommodation**. Simply ask the employee "what can I do to help" or "do you need an accommodation" If the employee denies having a disability or denies the need for

accommodation, the department will have fulfilled its obligation under the law. If the employee's work performance or work behavior is at issue, then the department should proceed with the disciplinary process as usual. For general guidance on how to handle performance and conduct issues when an employee requests an accommodation, refer to the EEOC web page: http://www.eeoc.gov/facts/performance-conduct.html

An employee's request for a reasonable accommodation always triggers an evaluation of whether (1) the employee has a disability and (2) whether his or her disability can be reasonably accommodated.

> **Practical Tip:**
>
> **If the need for an accommodation is temporary and due to a work-related injury, the Department should consider whether the accommodation is appropriate based on the Citywide Temporary Modified Duty Program for IOD (visit the Personnel Department intranet at http://per.ci.la.ca.us/WorkCmp/CTMDPMenu.htm). If the need for an accommodation is permanent, the parties will discuss a permanent accommodation.**

QUESTION: CAN PROBATIONARY EMPLOYEES, HIRING HALL EMPLOYEES OR EXEMPT EMPLOYEES REQUEST A REASONABLE ACCOMMODATION?

Yes. Although the Rules of the Board of Civil Service Commissioners have different definitions for these "temporary" employees, they are nonetheless employees under ADA and FEHA, and may request a reasonable accommodation. Thus, the interactive dialogue and reasonable accommodation process will be triggered upon a request for accommodation by a probationary employee, hiring hall employee, or exempt employee.

A "temporary" employee's civil service classification becomes important when the employee seeks an accommodation by reassignment to a different position without complying with the civil service requirements. The City cannot violate its civil service rules for the purpose of accommodating a disabled employee.

D. ESSENTIAL FUNCTIONS OF THE JOB

The employer determines the essential functions of the job and must conduct an **individualized assessment** to determine if the employee can perform the essential functions of the job with or without a reasonable accommodation. Essential functions are the fundamental job duties of the position a person holds or desires. These duties must

be performed by the person in the position with or without an accommodation. The absence of these duties creates an **undue hardship** on business operations and may change the proper classification for the position. In cases where employees are assigned to a work crew or frequently move from position to position within a certain unit, the essential functions of the crew or unit must be determined as opposed to the essential functions of a single position.

> **Practical Tip:**
>
> **Departments should include a comprehensive list of essential job functions in their job descriptions. Each time a job description is updated, the essential functions should also be reviewed and updated accordingly.**

When identifying an essential function, it is important to focus on the purpose of the task and the result to be accomplished rather than the manner in which the duty is presently performed. If a disabled individual has a physical or mental limitation that presents one or more conflicts with the essential duties of the job, the mere fact that a conflict exists does not establish that the individual cannot be accommodated. The worker with a disability may be qualified to perform essential functions if an accommodation enables this person to perform the job in a different way. The law does not require employers to change or reassign essential functions, alter the quality or quantity of work that must be performed or set lower standards for the job. ADA and FEHA require only that the qualifications of an individual with a disability be evaluated in relation to the essential functions of the job and that a reasonable accommodation be considered when a known limitation prevents a qualified individual from performing one or more essential job functions.

The most effective method of determining the essential functions of a job is to obtain information from employees who are currently performing the job and their immediate supervisors. Conducting a job analysis can also determine essential functions. Other helpful sources are current position descriptions, prior job analyses, or any other material that details the duties of the relevant position.

The following are factors for determining essential job functions:

- The position exists to perform the function.
- Only a limited number of employees are available to perform the function.
- A function is highly specialized and the person in the position is hired for special expertise or ability to perform the job.
- A significant amount of time is spent performing the function. Generally, job duties frequently performed tend to be essential. (Some exceptions are frequently performed duties that may be easily shared with other employees or infrequently performed duties that may be essential if no one else is available or capable of performing the duties.)

E. WORK RESTRICTIONS

Written verification of the limitations from the employee's physician must be provided by the employee. Generally, unless the need for an accommodation is obvious, documentation from an appropriate medical provider will be required which identifies:

1) The physical or mental limitation imposed by the disability or medical condition; and
2) For each limitation, the expected duration and whether it is permanent or temporary.

Information regarding the employee's specific medical condition cannot be required as that information is confidential.

The medical provider must be provided with the individualized assessment prepared by the Department containing the specific information about the employee's job duties and what physical activities are involved in order to outline the employee's limitations. However, it is the employing department that ultimately bears the responsibility for deciding whether or not a disabled individual is qualified for a position and if a reasonable accommodation can be provided to that individual.

For employees injured on duty, the Workers' Compensation Division of the Personnel Department will advise Departments of an employee's work restrictions once their work-related condition becomes permanent and stationary. Departments must respond back to Workers' Compensation Division regarding their ability to accommodate the employee's work restrictions. Please be aware that an employee may receive a finding of a disability by Workers' Compensation, however, that employee may not meet the criteria under ADA or FEHA to be considered disabled.

F. THE INTERACTIVE DIALOGUE

After an accommodation has been requested, the employer has determined the essential functions and the employee has provided documentation of their limitations (through their health care provider), both employer and employee are required to discuss the limitations and proposed accommodation. The law provides that the discussion must be **timely** in relation to the request, **interactive** in that it is between both parties, and accomplished in **good faith**. The interactive dialogue facilitates the employer's understanding of the employee's limitations and the alternative accommodations available.

It is important to note that the failure of an employer to engage in a timely interactive process with an employee or applicant is a violation of the FEHA and ADA, regardless of whether it is ultimately determined that the employer is legally excused from providing the employee a reasonable accommodation. This obligation to engage in the interactive process also extends to persons whom the employer perceives to have a physical or mental disability.

1. WHAT IS AN INTERACTIVE DIALOGUE?

The interactive dialogue is a two-way communication between management and the employee to discuss the employee's work restrictions and proposed reasonable accommodation. The division or department coordinator must do the following to successfully engage in the interactive dialogue:

- The Department must meet with the employee who requested an accommodation;
- Request information about their condition and what limitations the employee has;
- Ask the employee what he or she specifically wants;
- Offer and discuss available alternatives when an employee's request is too burdensome.

2. HOW IS THE INTERACTIVE DIALOGUE STARTED?

The responsibility to initiate the interactive dialogue lies primarily with the employee. An employee whose disability is not apparent is obligated to specifically request an accommodation.

If, however, an employee with a known disability is having difficulty performing his or her job, an employer may inquire whether the employee needs an accommodation. If the employee denies a disability, or declines the need for an accommodation, the employer's duty to engage in the interactive dialogue ceases.

G. JOB ANALYSIS AND COMMON EXAMPLES OF ACCOMMODATIONS

Consideration of reasonable accommodation involves analysis of the essential functions of a particular job and how those functions can be performed in a different manner. Each assessment must be made on a case-by-case basis and in light of the duties of the proposed job, not the classification. **Accommodation is a stair-step process** starting within the employee's current division then expanding to the employee's department and, if needed, Citywide.

First, the division must examine whether an employee can remain in his or her current position with a reasonable accommodation. If a division cannot accommodate an employee within his or her current position, it should determine whether it could accommodate an employee in another position within the division and in the same job class.

Second, the department's Placement Coordinator must do the same examination but department-wide. After reviewing all vacancies in the employee's current job class, the Coordinator and the employee should consider all vacancies in other job classes that match the employee's skills and education. If the employee cannot be accommodated in their current classification, then, the Placement Coordinator should consider the options listed below for transferring the employee to a different class. Keep in mind that when considering an individual for transfer to a new class the employee must meet the minimum

qualifications required for the class and have the capability to perform the essential functions with or without a reasonable accommodation. The employee must also give their written consent to the reassignment. You must document the reassignment on the Reasonable Accommodations Assessment Form and Form 41.

Finally, after an exhaustive search for an accommodation within the department, the department's Placement Coordinator may refer the employee to the Citywide Placement Officer who will work to find a position with a different department either in the same class or in a different class. Citywide placement is the method of last resort.

The following are examples of workplace modifications that may be provided as an accommodation. Other accommodation strategies may be necessary depending on the particular circumstances of the case.

Job Restructuring – Departments are not required to reallocate essential job functions, but a reasonable accommodation includes modifications of essential functions by changing when, where, and how they are done. For example, a person who has a disability that makes it difficult to write may be allowed to use a computer. Another example is removal of non-essential duties where removal does not alter the purpose of the job.

Modified Work Schedules – Many people with disabilities are fully qualified to perform jobs with the accommodation of an adjustment to their work hours or week. For example, a flexible work schedule may reasonably accommodate an individual who requires special medical treatment or needs rest periods. Similarly, a modified work schedule may accommodate an individual with a mobility impairment who experiences problems using public transportation during peak hours or who depends on special Para-transit schedules.

Flexible Leave Policies – People with disabilities may require special leave for a number of reasons, such as medical treatment related to the disability, training in the use of an assistive device, repair of a prosthesis/equipment or temporary adverse conditions of the work environment. The law does not require an employer to provide additional paid leave as an accommodation.

Intermittent Leave (paid or unpaid) – Under FEHA, holding a job open for a disabled employee who needs time to recuperate is, in itself, a form of reasonable accommodation.

Reassignment to a Vacant Position – Consideration of reassignment is only required for current employees, not job applicants. Reassignment may be appropriate if an employee becomes disabled, a disability becomes more severe, or changes in the work process or work equipment affects the employee's job performance. ADA and FEHA do not require an employer to create a new job, nor promote an individual with a disability as a reasonable accommodation. Reassignment should be considered first to a position equivalent to the one presently held by the individual in terms of pay and job status, if the employee is qualified and if such position is vacant or will be vacant in a reasonable amount of time.

Make Facilities More Readily Accessible – Making an existing facility readily accessible to and usable by individuals with disabilities is another form of reasonable accommodation.

Acquisition or Modification of Equipment/Devices and Personal Services – Many devices exist which make it possible for people with disabilities to overcome existing barriers to performing the essential functions of a job. There are many ways standard equipment can be modified to enable people with different functional limitations to perform jobs effectively and safely. Further, applicants and employees with disabilities, who have experience in accommodating their disabilities, can suggest effective low-cost devices or equipment. Some examples of accommodation through acquisition or modification of equipment are:

- Light weight tools and hand trucks to allow people with lifting or pulling limitations to perform their job with minimal strain;
- Telecommunication Devices for the Deaf (TDDs) make it possible for hearing and/or speech impaired individuals to communicate over the telephone;
- Special software for standard computers to enlarge print or convert print documents to spoken words for people with vision or reading disabilities; and
- Rearrangement of office furniture and equipment to provide accessibility for people with vision or mobility impairments.

Where economically feasible, personal assistants may also be utilized to provide such services as reading for the vision-impaired or sign language interpreters for the hearing impaired. However, it should be noted that employers are not required to hire personal assistants to perform the essential functions of a position for a disabled employee.
The Department on Disability administers an ADA/504 Accommodations Fund, which may be utilized to provide financial assistance for worksite modifications, special equipment, or personal services contracts. This department should be contacted directly for further information.

Adjusting and Modifying Examinations – Reasonable accommodation for a test must be provided only if requested by the individual with a disability. Departments have an obligation to inform job applicants in advance that a test will be given and that an individual who needs an accommodation may make such a request. Accommodations may be needed to assure that tests or examinations measure the actual ability of an individual to perform job functions rather than reflecting limitations caused by the disability. Tests must be given in a format that does not require the use of the impaired skill, unless that is the job-related skill the test is designed to measure. For example, an individual with a visual or learning disability might be allowed more time to take a test, unless that test is designed to measure speed required on the job. An applicant who has difficulty reading because of dyslexia should be given an oral rather than a written test, unless reading is an essential function.

Adjusting or Modifying Training – Providing accessible training sites, supplying training materials in alternate formats, and modifying the manner in which training is provided are all examples of training accommodations. It may be a reasonable accommodation to allow more time for training or to provide extra assistance to people with learning disabilities, provide materials on tape, large print or via a computer to assist employees with various limitations.

Charter Section 1014 Special Reassignment – Civil service employees may have an opportunity for a Charter Section 1014 Special Reassignment. This provides for status and seniority for civil service employees in classes other than those for which they were examined where an employee is incapable of performing satisfactorily the duties of their position because of injury, sickness, or disability. The employee must agree to the reassignment, must meet the minimum qualifications for the class, and be capable of performing the required duties and the change of class status may not result in a promotion. Charter Section 1014 Special Reassignment requests must be approved by the Personnel Department.

Reversion – Reversion to a former class held by an employee that can accommodate their work restrictions is also possible. However, this typically will be considered as one of the last options since it usually results in decreased wages.

Transitional Worker Temporary Trainee Class – In cases where an employee has an interest in a particular class, but does not meet the minimum requirements, that employee may become a transitional worker whereby he or she obtains training while receiving salary corresponding to his or her prior class. The employee has three years to pass the Civil Service examination and get appointed to the new class. While the employee is in the Transitional Worker class, they are not entitled to civil service status, accrue of seniority credits, and is subject to a probationary period for the new class and must successfully transition (receive an appointment) to the new class within three (3) years.

Light Duty – A light duty assignment can be a form of reasonable accommodation. However, a temporary assignment is insufficient to constitute a reasonable accommodation if what the employee truly needs is a permanent reassignment. For on-the-job injuries please refer to Section VII on Temporary Light Duty as well as http://per.ci.la.ca.us/WorkCmp/CTMDPMenu.htm.

QUESTION: IS THE DISABLED EMPLOYEE ENTITLED TO PREFERENTIAL CONSIDERATION IF THE ACCOMMODATION INVOLVES REASSIGNMENT?

Yes. An employee with a disability is entitled to preferential consideration for job reassignments. An employer must give an employee with a disability preference over nondisabled candidates for vacant positions, ***even if the other candidates are more qualified or have more seniority***. However, preferential consideration of employees with disabilities must still comply with the City's Charter and the Rules of the Board of Civil Service Commissioners.

H. DOCUMENT THE EVALUATION

It is important that the key elements of the accommodation evaluation be effectively documented. Documentation is necessary to show that a reasonable accommodation was discussed and considered and to justify the outcome of the assessment. This documentation will become critical should a subsequent discrimination complaint be filed. Documentation should include all requests for accommodations, work restrictions, determination of essential functions, efforts to accommodate, placement offers, response to placement offers, all correspondence, reasons for non-accommodation and a method to track employees with restrictions to ensure that the accommodation needs continue to be met and/or make changes as necessary.

It is also helpful to maintain the results of an evaluation for future reference in the event that a person with similar limitations is considered for reasonable accommodation in the same or similar position.

I. NON-ACCOMMODATION

If the findings of an evaluation indicate that an employee cannot perform the essential functions of a job due to a non-industrial disability and the department is unable to provide a reasonable accommodation following an exhaustive internal search, the department should notify the employee in writing that their work limitations cannot be reasonably accommodated.

If an employee has work restrictions as a result of an industrial injury, the Workers' Compensation Division will ask the employee's department if they can provide a reasonable accommodation. If the department cannot provide an accommodation, the Workers' Compensation Division will advise the employee in writing of the non-accommodation.

In either of the above situations, the department should refer the case to the Personnel Department's Citywide Placement Officer for further assistance.

VI. CITYWIDE PLACEMENT POLICY & PROCEDURE

If, after a thorough assessment, it is determined that a reasonable accommodation cannot be made, the department's Disability Coordinator should refer the case to the Personnel Department's Citywide Placement Officer. Once the department's documentation has been reviewed to verify that the department cannot make a reasonable accommodation, the Placement Officer will conduct a Citywide search to try to place the employee in another City department. **While this Citywide search is active, departments should continue their own internal efforts to accommodate the employee as positions become available.** The employee may use their accumulated paid leave (vacation or overtime) or be placed on an unpaid leave of absence.

A. REFERRALS FOR CITYWIDE PLACEMENT

An employee should be referred to the Citywide Placement Officer when his or her department has determined that the employee's disability or permanent work restrictions cannot be reasonably accommodated within the department. As noted above, once an employee is accepted into the Citywide Placement program, the departments have a continuing obligation to review new and vacant positions to determine if they can accommodate the employee.

With respect to employees with industrial illnesses or injuries (IOD), the Department's Placement Coordinator should forward all documentation to the assigned Workers' Compensation Analyst and Citywide Placement Officer. For employees with non-occupational injuries or illnesses, all documentation should be directed to the City-wide Placement Officer. **All departments are required to submit all paperwork that documents their placement efforts, communication with the employee with a disability, and any job offers with the employee's response to each offer.**

VII. TEMPORARY LIGHT DUTY

Light duty assignments originated from workers' compensation law. The intent was to return an employee back to work as soon as possible following a work-related injury. Although light duty assignments started within the context of workers' compensation, the concept has expanded to the reasonable accommodation process. A light duty assignment can be a form of reasonable accommodation. However, a temporary assignment is insufficient to constitute a reasonable accommodation if what the employee truly needs is a permanent reassignment. An employer will not meet its obligations under the ADA and FEHA by allowing an employee to compete for a vacant position.

Within the context of FEHA, it is important to review all City and Departmental policies on light duty assignments for Injury-on-Duty cases. The Personnel Department issued a policy on Citywide Temporary Modified Duty Program for IOD Cases on January 19, 2005, which may be found on the Department's intranet at **http://per.ci.la.ca.us/WorkCmp/CTMDPMenu.htm**. This policy controls how the City should manage light duty assignments for work-related injuries only. ***Currently, the Personnel Department has not issued a light duty assignment policy on non-industrial cases.*** Therefore, your department should review its internal policies and directives on this subject. **If, and only if, no departmental policy exists**, it need not create light duty assignments for employees without work-related disabilities.

As a rule of practice, a department should engage in the interactive dialogue with the disabled employee if it (1) receives continual requests for light duty even though the employee has been serving in a light duty assignment for several months; or (2) receives notification from the Workers' Compensation Division (if a work-related injury) or the employee's treating physician (if non-occupational injury or disability) that the employee's work restrictions are permanent.

QUESTION: DO LIGHT DUTY ASSIGNMENTS COME PERMANENT ONCE THE EMPLOYEE'S DISABILITY BECOMES PERMANENT?

No. Once an employer receives notification that an employee's disability has become permanent; it does not have a duty to transform the temporary light duty assignment into a permanent position. Transforming a light duty assignment into a permanent position is, in essence, creating a new position. The ADA and FEHA do not require the employer to create a new position to accommodate an employee, if the employer does not regularly offer such assistance to disabled employees.

QUESTION: ONCE THE DEPARTMENT HAS NOTICE ABOUT AN EMPLOYEE'S PERMANENT DISABILITY, CAN THE DEPARTMENT IMMEDIATELY REMOVE THE EMPLOYEE FROM HIS OR HER LIGHT DUTY ASSIGNMENT?

Generally, no. But departments must ensure permanent work restrictions are consistent with the assignment. The length of the light duty assignment depends upon the policies issued by the City's Personnel Department as well as the department's internal policies. Currently, for industrial injuries, the City Personnel Department advises departments that after an employee reaches 150 days on a light duty assignment, "a determination needs to be made to continue with the light-duty assignment or a permanent accommodation." So, each situation must be evaluated on an individual, case-by-case basis. If additional guidance is needed, contact the Personnel Department or the Labor Relations Division of the City Attorney's Office.

VIII. MEDICAL EXAMINATIONS – LEGAL OBLIGATIONS

Medical examinations and inquiries may be necessary in order to evaluate the ability of applicants and employees to perform essential job functions or to promote health and safety on the job. The following is an overview of the medical examination legal obligations required under ADA and FEHA:

A. PRE-OFFER EXAMINATIONS & INQUIRIES

Generally, pre-employment medical inquiries and exams are unlawful. An employer may not require a job applicant to take a medical or psychological examination, respond to medical, psychological or disability related inquiries or to provide information about worker's compensation claims **before** a job offer is made. However, employers may inquire about an applicant's ability to perform job-related essential functions and may respond to an applicant's request for accommodation. **In such case, *if the need for accommodation is not obvious,*** the employer may request information necessary to assess the applicant's disability, and it should tell the applicant why this information is needed.

B. POST-OFFER EXAMINATIONS & INQUIRIES

If a conditional employment offer was made, an employer may require a medical examination or ask questions about an applicant's medical history ***if and only if*** such medical questions or examinations are related to the performance of the job and the employer subjects all entering applicants/employees in the civil service classification to the same inquiries and/or examinations.

If a pre-examination job offer is withdrawn based upon the results of a medical or psychological examination, the employer bears the burden of demonstrating that the criteria used to disqualify the applicant was **job-related** and consistent with **business necessity**. The employer must also show that no reasonable accommodation was available that would enable this individual to perform the essential job functions, or that accommodation would impose an undue hardship.

- ***Job-Related*** *= criteria used to measure the candidate's ability to perform the specific job to which the criterion is being applied, not a general class of jobs. May relate to the essential or marginal functions of the position.*
- ***Business Necessity*** *= an overriding legitimate business purpose such that the practice is necessary to the safe and efficient operation of the business and that the challenged practice effectively fulfills the business purpose it is supposed to serve. There should be no alternative practice that would accomplish the business purpose with a lesser discriminatory impact.*

After a person starts work, a medical examination or inquiry of an employee must be job-related and consistent with business necessity. During employment, an employer may ask an employee disability-related questions or request a medical examination **if and only if** the employer has a reasonable belief, *based upon objective evidence*, that (1) an employee does not have the ability to perform the essential functions of his job due to a medical condition or disability, or (2) an employee is a danger to himself or the public due to a medical condition or disability.

- Objective evidence of an employee's medical condition or disability includes, but is not limited to, the following:
    - Follow up on an employee's request for reasonable accommodation;
    - Visual observations of an employee's difficulty with the performance of essential job functions; **or**
    - The unsolicited receipt of medical information from a professional about the employee's condition.

Reasons for medical examinations also include situations where examinations are required by other State or Federal laws, and voluntary examinations that are part of employee health programs.

An employer may conduct a medical examination of an employee who has an **on-the-job-injury** that appears to affect the individual's ability to perform the essential functions,

provided that the examination is job-related and consistent with business necessity. A job-related medical examination (not a general physical examination) may also be required when a worker wishes to return to work after an extended absence due to an accident or illness.

Tests for illegal drugs are not medical examinations under the law and are not subject to the restrictions of such examinations. Persons who are no longer using drugs illegally and are receiving treatment for drug addiction or who have been rehabilitated successfully are protected by FEHA and ADA from discrimination on the basis of past drug addiction.

Unlike a current illegal drug user, a person who currently uses alcohol is not automatically denied protection simply because of the alcohol use. An alcoholic is a person with a disability under the law and may be entitled to consideration of a reasonable accommodation, if the individual is qualified to perform the essential duties of the job and is in a treatment program (i.e. AA). An employer may discipline, discharge, or refuse employment to an alcoholic whose use of alcohol adversely affects job performance or conduct to the extent that the individual is not qualified.

It is important to note that all information concerning an employee's medical history, condition or disability, and limitations must be kept confidential. There are limited exceptions to this confidentiality requirement:

- Supervisors and managers must be informed about necessary work restrictions and any accommodations;
- First aid and safety personnel may **be told known information in the event of an emergency requiring treatment and the employee is unable to speak on his or her behalf** or if any specific procedures are needed in case of fire or other evacuations;
- Government officials investigating compliance with ADA or FEHA should be provided the information upon request;
- Relevant information may be provided to state workers' compensation offices or "second injury" funds in accordance with state workers' compensation laws;
- Relevant information may be provided to insurance companies where the company requires a medical examination to provide health or life insurance.

An employer should never release information about an employee's medical history, condition, or disability to coworkers.

QUESTION: CAN THE CITY RESCIND A CONDITIONAL JOB OFFER BASED UPON AN APPLICANT'S MEDICAL RESTRICTIONS?

This question cannot be answered with a "yes" or "no" answer. Under some state health and safety laws, employers are permitted to exclude disabled persons from employment. However, the ADA may not permit such exclusion. Even if an employer has no liability for refusal to hire a disabled employee under the FEHA, it may be subject to liability under the ADA.

The ADA requires an employer to demonstrate that a disabled person poses a "direct threat" upon refusing to hire the disabled person. ***"Direct threat"*** means a significant risk of substantial harm to the health or safety of the individual or others that cannot be eliminated or decreased by reasonable accommodation.

The employer must show that if it hires the applicant, then it will cause substantial harm to the applicant and/or others as a result of the applicant's disability. This is a considerable burden for the employer to overcome.

IX. KEY TERMS DEFINED

DISABILITY

Federal:

On January 1, 2009 the Americans with Disabilities Act Amendments of 2008 ("ADA Amendments Act" or "Act") took effect. The Act makes important changes to the definition of the term "disability" by rejecting the holdings in several Supreme Court decisions and portions of EEOC's ADA regulations. The Act retains the ADA's basic definition of "disability" as **an impairment that substantially limits one or more major life activities, a record of such an impairment, or being regarded as having such an impairment**. However, it changes the way these statutory terms are interpreted giving them a broader interpretation.

Among the most significant changes are:

- "Substantially limits" no longer will be defined to mean either "significantly restricted" or "severely restricted;"
- Major life activities now include "major bodily functions" such as normal cell growth;
- The ameliorative effects of mitigating measures, other than ordinary eyeglasses or contact lenses, cannot be considered in assessing whether an individual has a disability;
- Impairments that are episodic or in remission may be disabilities if they are substantially limiting when active; and,
- An individual will meet the "regarded as" prong of the definition if she can show that an employment decision (e.g., hiring, promotion, termination, discipline) was made because of an actual or perceived physical or mental impairment, regardless of whether the impairment limits or is perceived to limit a major life activity. The new definition of "regarded as" does not cover an impairment that is the basis of an employment decision if it is transitory (meaning that it will last six months or less) and minor.

California:

The California Fair Employment and Housing Act (FEHA) extends protection to **an individual with an actual or perceived physical or mental disability (precise definitions below) that limits a major life activity**.

Physical Disability

"Physical disability" includes, but is not limited to, all of the following:

(1) Having any physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss that does both of the following:

(A) Affects one or more of the following body systems: neurological, immunological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive, genitourinary, hemic, and lymphatic, skin, and endocrine.

(B) Limits a major life activity. For purposes of this section:

(i) "Limits" shall be determined without regard to mitigating measures such as medications, assistive devices, prosthetics, or reasonable accommodations, unless the mitigating measure itself limits a major life activity.

(ii) A physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss limits a major life activity if it makes the achievement of the major life activity difficult.

(iii) "Major life activities" shall be broadly construed and includes physical, mental, and social activities and working (regardless of whether the actual or perceived working limitation implicates a single job or a broad class of jobs).

(2) Any other health impairment not described in paragraph (1) that requires special education or related services.

(3) Having a record or history of a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment described in paragraph (1) or (2), which is known to the employer.

(4) Being regarded or treated by the employer or other entity covered by this part as having, or having had, any physical condition that makes achievement of a major life activity difficult.

(5) Being regarded or treated by the employer or other entity covered by this part as having, or having had, a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment that has no present disabling effect but may become a physical disability as described in paragraph (1) or (2).

Mental Disability

"Mental disability" includes, but is not limited to, all of the following:

(1) Having any mental or psychological disorder or condition, such as mental retardation, organic brain syndrome, emotional or mental illness, or specific learning disabilities that limits a major life activity. For purposes of this section:

(A) “Limits” shall be determined without regard to mitigating measures, such as medications, assistive devices, or reasonable accommodations, unless the mitigating measure itself limits a major life activity.

(B) A mental or psychological disorder or condition limits a major life activity if it makes the
achievement of the major life activity difficult.

(C) “Major life activities” shall be broadly construed and shall include physical, mental, and social activities and working.

(2) Any other mental or psychological disorder or condition not described in paragraph (1) that requires special education or related services.

(3) Having a record or history of a mental or psychological disorder or condition described in paragraph (1) or (2), which is known to the employer or other entity covered by this part.

(4) Being regarded or treated by the employer or other entity covered by this part as having, or having had, any mental condition that makes achievement of a major life activity difficult.

(5) Being regarded or treated by the employer or other entity covered by this part as having, or having had, a mental or psychological disorder or condition that has no present disabling effect, but that may become a mental disability as described in paragraph (1) or (2).

Conditions not protected by the FEHA

The categories of physical disability and mental disability do not include (1) sexual behavior disorders, (2) compulsive gambling, (3) kleptomania, (4) pyromania, or (5) psychoactive substance use disorders resulting from the unlawful use of controlled substances or drugs.

When determining whether impairment constitutes a disability under the law, it is important to consider:

1. The nature and severity of the impairment; how long is it expected to last?
2. What is the permanent, long term, or expected impact on the individual?

Temporary, non-chronic impairments that do not last for a long time or have little impact on a major life activity usually are not disabilities. For example, medical limitations arising from a sprain, infection, or flu would not meet the requirements of a bona fide disability. Similarly, a physical condition that is not the result of a physiological disorder, such as pregnancy, or a predisposition to a certain disease would not be an impairment.

ESSENTIAL FUNCTIONS

Essential functions are the fundamental job duties of the position. This does not include marginal functions of the position. For example, driving is an essential function for the class of Delivery Driver, while answering telephones in the office when not making deliveries might be a marginal function.

QUALIFIED INDIVIDUAL WITH A DISABILITY

A person with a disability who meets legitimate skill, experience, education, and other job-related requirements of a position held or sought and who can perform the essential functions of the position with or without an accommodation.

REASONABLE ACCOMMODATION

Any modification or adjustment to a job, employment practice or the work environment that enables an individual with a disability to participate in an application process, to perform the essential functions of a position, or to enjoy equal benefits and privileges of employment as are enjoyed by other similarly situated employees without disabilities. Such modifications may include: making existing facilities accessible and usable; job restructuring; part-time or modified work schedule; reassignment to a vacant position (for current employees); acquisition or modification of examinations, training materials, or policies; and providing qualified readers or interpreters.

UNDUE HARDSHIP

An undue hardship is a requested accommodation that requires significant difficulty or expense in relation to the size of the employer, the resources available and the nature of the operation. It may include any action that is unduly costly, extensive, substantial, disruptive or would fundamentally alter the nature or operations of the business. Undue hardship is determined on a case-by-case basis.

X. REASONABLE ACCOMMODATION RESOURCES

Remember: When an accommodation has been requested, the Department is required to discuss the work restriction(s) and proposed accommodation with the employee with a disability. The law provides that the discussions must be ***timely*** in relation to the request, interactive in regards to ***continual*** communication between both parties, and accomplished in ***good faith***.

The Personnel Department, the Labor Relations Division of the City Attorney's Office, and the Department on Disability provide guidance on the reasonable accommodation assessment process through various sources.

CITY OF LOS ANGELES

- This guide can be found on the Personnel Department intranet website, http://per.ci.la.ca.us/ under the EEO tab.
- The Personnel Department's Reasonable Accommodation site contains tools to document reasonable accommodation efforts, links to resources, a frequently asked questions page, and information for employees on rights and responsibilities.
- The Citywide Disability/Reasonable Accommodations Coordinator and the Citywide Placement Coordinator are available for consultation at any point in the process. They may be reached at per.placement@lacity.org.
- Inquiries and medical examinations may be necessary in order to evaluate the ability of applicants and employees to perform essential job functions. The **Medical Services Division** (MSD) of the Personnel Department can provide the department with assistance by working with the person's doctor to clarify work restrictions. MSD also performs work fitness medical and psychological examinations of City employees and candidates for employment.
- **Note**: For current City employees, if the work restrictions are from an industrial injury or illness that occurred within five years, the **Workers' Compensation Division** of the Personnel Department is available to assist departments and individual supervisors with interpreting, clarifying, or accommodating an employee's work restrictions. For all others or if you are uncertain or do not have this information, contact MSD.
- Department on Disability maintains helpful information on their website at http://www.lacity.org/dod.

The state and federal agencies that investigate disability discrimination also provide considerable guidance on reasonable accommodations through their countless publications. Knowing what state and federal investigators review and consider can help the employer fulfill their obligations and avoid unlawful practices.

STATE

- The California Department of Fair Employment and Housing (DFEH) has many great resources on their website, namely their Disability Case Analysis Manual. http://www.dfeh.ca.gov/publications/caseAnalysisManual.aspx

FEDERAL

- The Equal Employment Opportunity Commission (EEOC), the federal agency, provides useful guidance as well, but be aware of the differences between federal and state law. Enforcement Guidance on Reasonable Accommodation and Undue Hardship under the Americans with Disability Act (ADA) may be found at: http://www.eeoc.gov/policy/docs/accommodation.html

SECTION 7: LACTATION ACCOMMODATION POLICY AND FREQUENTLY ASKED QUESTIONS

CITY OF LOS ANGELES LACTATION ACCOMMODATION POLICY

Issued by the Personnel Department, Office of Workplace Equity (Revised July 2021)

INTRODUCTION

The City of Los Angeles recognizes the need to promote a work environment that is supportive of breastfeeding employees who wish to continue nursing their children when they return to work. Allowing employees to express milk at work is beneficial not only to the employee, but also the employer and the community. Employees who are lactating recover faster after childbirth and have a reduced risk of breast cancer, ovarian cancer, and osteoporosis. Common childhood illnesses are less frequent and less severe among breastfed infants. Breastfeeding also reduces the risk of more serious diseases like meningitis, diabetes, and allergies, as well as chronic diseases, especially obesity, which impacts our economy by increasing costs for healthcare and lost productivity throughout the lifespan. Healthier employees and babies mean fewer employee absences and lower health care costs.

STATEMENT OF POLICY

The City encourages employees and management to have a positive, accepting attitude of working women and breastfeeding. The City's Lactation Accommodation Policy shall be disseminated to every incoming employee. This policy shall also be disseminated to all employees biennially. In accordance with Federal and California State laws, it is the policy of the City to accommodate nursing employees' lactation needs by providing:

1. Time to Express Milk or Breastfeed (Lactation Time)

    1.1. If possible, the lactation time should be the same as the employee's regular break time.

    1.2. The department must make separate time available if an employee needs extra or different time than their regularly scheduled breaks. Any time beyond the employee's regular break time will be unpaid. At management discretion, beginning or ending work times may be adjusted to accommodate these breaks.

2. An Appropriate Private Location

    2.1. Appropriate private space shall be provided with reasonable efforts made for the location to be in close proximity to the nursing employee's work area. The space shall be clean, safe, and free of hazardous materials. The space shall have access to electricity and a sink with running water; contain comfortable seating with a surface to place a breast pump and personal items; and, shielded from view and free from intrusion while an employee is expressing milk in private. A refrigerator suitable for storing milk in close proximity to the nursing employee's workspace shall be provided.

2.2. The location may be the place where the nursing employee normally works if there is adequate privacy (e.g., the employee's private office, a supervisor's private office, or a conference room that can be secured).

2.3. Areas such as restrooms, closets or storage rooms are usually not appropriate spaces for lactation purposes. However, a separate anteroom (women's lounge) or a separate changing area within or next to a bathroom is permissible. Closets or storage rooms that do not contain noxious materials may be converted to be acceptable private spaces.

2.4. For non-traditional worksites, the employee and the supervisor and/or the department Reasonable Accommodation Coordinator should enter into a good faith interactive process to identify reasonable accommodations.

3. Notice/Information

3.1. The department FMLA Coordinator shall provide a copy of this policy to employees prior to their maternity leave and after returning to work from leave. Coordinators should document furnishing the policy to employees on both occasions.

The Personnel Department shall continue to be the lead agency for equal employment opportunity and equity-related policies and complaint resolution, and reasonable accommodation. As such, the Personnel Department shall be the lead agency for lactation accommodation, and shall monitor and provide guidance to departments for compliance with this directive and other non-discrimination laws, policies and procedures, and recommended training. The Personnel Department may revise and update this policy on an as-needed basis.

LACTATION ACCOMMODATION REQUEST PROCEDURE

1. An employee who has need for lactation accommodation should inform their supervisor and/or the department Reasonable Accommodation Coordinator and discuss any relevant workload or scheduling issues.

2. Supervisors and/or Reasonable Accommodation Coordinators who receive a lactation accommodation request are advised to do the following:

   a. Review available space in the department and prepare to provide appropriate nearby space and break time.

   b. Contact the department EEO Coordinator for advice and assistance if you are unable to locate appropriate space to meet an employee's request.

ZERO TOLERANCE

Breastfeeding should not constitute a source of discrimination in employment or in access to employment. It is prohibited under this policy to harass a breastfeeding employee; such conduct unreasonably interferes with an employee's work performance and creates an intimidating, hostile or offensive working environment. Any incident of harassment of a breastfeeding employee will be addressed in accordance with the City's policies and procedures for discrimination and harassment.

FILING A COMPLAINT

Nursing employees who feel they have been denied appropriate accommodation are encouraged to contact the department EEO Coordinator or human resources representative, the Personnel Department's Office of Workplace Equity (OWE), or MyVoiceLA.org for information to file a complaint. Investigations will be conducted in accordance with the City's equity-related policies and procedures.

Complaints may also be filed with the State compliance agency, the Department of Fair Employment and Housing (DFEH), and/or the Federal compliance agency, the Equal Employment Opportunity Commission (EEOC).

LACTATION ACCOMMODATION PROGRAM FREQUENTLY ASKED QUESTIONS

The City of Los Angeles recognizes that breastmilk is the optimal food for growth and development of infants and encourages employees and management to have a positive accepting attitude toward employees who are breastfeeding. The City of Los Angeles promotes and supports breastfeeding and the expression of breast milk by employees who are breastfeeding when they return to work. Breastfeeding reduces serious acute and chronic conditions, including obesity. Healthier employees and babies mean fewer employee absences and lower health care costs.

All City departments must provide a reasonable amount of break time and make reasonable efforts to provide the use of appropriate space for employees who desire to express milk for their infant child during work hours.

1. TIME

a. Is there an end date to how long we provide pumping breaks?

Breastfeeding is most effective when done exclusively over a long period of time. The American Academy of Pediatrics recommends that a baby breastfeed for at least the first year of life or longer.

There is no upper limit for how long an employee may request a lactation accommodation. Typically, employees need more time for pumping in the first 9-12 months of their baby's life. After table food has been introduced and assimilated into the baby's diet, an employee's need for pumping may diminish.

Some employees may need to continue pumping into the second year of their baby's life and beyond. This is a protected right under California's state law §1030.

b. What if an employee requests extra break time for pumping?

Periodically, an employee may need extra pumping breaks to help maintain or increase their milk supply due to illness or changes in the baby's eating habits. The employee and their supervisor should work together to accommodate the employee's need.

c. What is a reasonable amount of time for a pumping break?

Many employees have found that they need at least 20 minutes to pump. A pumping break also requires time to set up the pump, undress, pump, store, label and cool milk, clean pump parts and dress.

Initially, as employees are learning how to navigate pumping, they may require more time. As they become more experienced and their bodies learn to respond to the pump, they become more efficient.

d. What if an employee is taking too much time to pump?

Some people may require more time to pump than others, especially in the beginning. Their pumping time is a protected right. There is not a "right amount of time" for pumping. It is unique to each person.

The law requires that the designated space for pumping be "in close proximity" to the employee's work area. The time that it takes to get to the designated rest/pump area is not calculated into the employee's break time.

Sometimes it takes longer for women to pump because they do not have access to an efficient electric pump. Pumping may take longer, if they are hand expressing or using a manual or single sided pump. (See information about pumps below #3.)

e. How many times a day will an employee need to pump?

Most employees can take care of pumping during their regularly scheduled rest and meal periods. A typical pumping schedule may be:

7:00 am	Arrive at work
9:00 am	Rest Break, pump 20 minutes
11:00 am	Lunch break, pump 20 minutes, eat lunch
2:00 pm	Rest Break, pump 20 minutes
4:00 pm	Leave work

Periodically, an employee may need extra pumping breaks to help maintain or increase their milk supply, due to illness or changes in the baby's eating habits.

f. Are we required to pay for pumping breaks?

For covered employees, breaks may be taken concurrently with their paid rest breaks. Any time beyond their regularly scheduled paid rest breaks may be unpaid. Managers, supervisors, and employee may also agree, based on the needs of service, to adjust the employee's work schedule to cover the unpaid break time, or to allow the employee to use earned accrued time to cover the unpaid break time.

g. What if my newly hired employee makes a request for a lactation accommodation, do I need a medical verification?

No.

2. SPACE

a. What if the most private space that we have is an unused bathroom or anteroom to a bathroom?

Sometimes these spaces can be appropriate and some employees are comfortable with those accommodations. However, you must consult with your department Reasonable Accommodation Coordinator before you designate a space within or connected to a bathroom, because of certain restrictions in the Federal Law.

b. Can an employee use their own private office to pump?

Yes, if the office can be made private enough by closing doors and obscuring windows.

c. Can an employee sit at their desk in their cubicle and pump?

Some employees and their coworkers have found this arrangement to be an acceptable and efficient way to complete work and take care of pumping. They create privacy with curtains, small pop-up tents or by using privacy covers. This is sometimes a good alternative when no other alternative space is available. Some employees will not find this to be private enough. Other co-workers may be bothered by the sound of the pump. The key is to find the reasonable accommodation that meets the needs of both the employee and the others in the direct work area, being sensitive to all parties.

d. Can an employee leave the worksite and pump in their private vehicles?

During a covered employees meal period, they are permitted to leave the worksite.

During covered employees rest breaks, employees generally are restricted to staying within the work area and using the designated rest area.

If identifying an appropriate space is the issue, please contact your department Reasonable Accommodation Coordinator.

e. What types of rooms are acceptable as a lactation space?

Empty offices and conference rooms are all excellent locations if the space can be made private enough by closing doors and obscuring windows.

It is also reasonable for a supervisor to vacate his or their own office to accommodate the pumping, if no reasonable alternative is available.

Some storage and filing spaces can be utilized, provided that they are a low-traffic space and can be made private. The storage spaces must not contain noxious or hazardous materials.

Copy rooms are a possibility, however because of their frequent use, they may be undesirable as it may interrupt operations.

f. Must we designate one space and only use that one space?

The law requires that we provide reasonable accommodations, but that does not mean we have to designate only one space. In some cases, those designated spaces may not be the space in closest proximity to the employee's work area.

The goal is to make reasonable accommodations. Please work with the employee to find the most reasonable accommodation, in close proximity to their work area. If there are issues with the designated space or with locating appropriate space, contact your department Reasonable Accommodation Coordinator.

g. I have an employee that would like to bring their baby to work and direct breastfeed? Can we accommodate this?

The law and the City's policy do not cover bringing a baby to work and direct breastfeeding. It is up to the discretion of each Department to decide on the appropriateness of having an employee's baby at work.

Generally, a covered employee is free to leave during their meal period. If their baby was brought to them, a covered employee would be free to direct breastfeed during their meal period in anyplace that she is publicly allowed to be.

(**California Civil Code § 43-53.** 1997 Section 43.3 of the Civil Code 43.3. Notwithstanding any other provision of law, an employee may breastfeed their child in any location, public or private, except the private home or residence of another, where the employee and the child are otherwise authorized to be present.)

3. PUMPS

a. Are we required to provide employees with pumps?

No. However, providing access to information about how to get a good pump is helpful. Some employees may lack resources to pay for a pump. They may be able to get a FREE pump through WIC (Women, Infants and Children Program).

Employees should also consult their health care providers about access to lactation services, including access to breast pumps.

As of August, 2012, most Health Care Plan are required to provide people with access to lactation services, including equipment.

b. What if an employee wants to pump in a private space, but their pump can be heard and annoys other employees?

Many employees have found that putting a heavy blanket over the pump muffles the sound.

c. What is the best pump?

What is right for one person, would not work for another.

Many employees find that a hospital grade, double electric pump is the most efficient. Others purchase consumer grade double electric pumps and are successful.

If an employee does not have access to a high-grade pump, their break times may be more frequent and last longer. Some employees are just as efficient with a manual pump or expressing milk by hand. It depends on the employee.

4. NON-TRADITIONAL WORKSITES

a. Can employees pump in their cars? (i.e. employees working in the field, driving from location to location, or on patrol?)

Pumping in cars may be appropriate, if it is within the employee's private vehicle. Employees should refrain from pumping in City vehicles, unless it is a reasonable accommodation that has been arranged in advance with your department Reasonable Accommodation Coordinator.

Ideally, we will accommodate our employees by consulting the list of dedicated space within the City and making arrangements for the employee to take lactation breaks where the City can accommodate the

employee appropriately. However, for some field employees pumping in the car may be the most efficient strategy, providing the pumping can be done discretely.

b. How does the employee in a non-traditional worksite make a request for "reasonable accommodations"?

An employee from a non-traditional worksite enters into an "interactive process" with the Reasonable Accommodation Coordinator and their supervisor to discuss any relevant workload or scheduling issues.

Reasonable Accommodation Coordinators, Supervisors and the employees have several opportunities to communicate regarding the need for lactation accommodations.

c. What are some "reasonable accommodations" for an employee who works in a "non-traditional" worksite?

Reasonable accommodations could be similar to those who have a temporary disability. For example, employees can request a "limited duty assignment", job restructuring, modified work schedule, reassignment to a vacant position.

Please review the Fair Employment and Housing Act, at Government Code section 12926, subdivision (o), for reasonable accommodation for persons with disabilities.

d. Do we need medical certification for an employee who requests a "limited duty assignment" for lactation accommodations?

No supporting medical certification is required. The employee simply asserts their right to a lactation accommodation, and requests a reasonable accommodation of "limited duty assignment" so that they are in a facility that can provide them with space and time to facilitate their milk expression.

e. I have an employee who works in the field and would like to schedule their breaks so that she goes home to direct breastfeed? Can we accommodate this?

The law and the City's policy require employers to provide reasonable accommodations in the workplace for pumping breaks. Covered employees are free to leave during their meal period. In some cases, this scenario may prove to be the most productive and efficient solution, providing that there is reasonable time monitoring in place. Regardless, a decision for this scenario should be made in consultation with your department Reasonable Accommodation Coordinator.

f. I have an employee whose job involves the use of chemicals. Is she prohibited from working with chemicals while breastfeeding?

The National Institute for Occupational Safety and Health (NIOSH) states, "Not all chemicals can get into breast milk, and not all chemicals will harm your baby. However, here are a few chemicals that can get into breast milk:

- Lead, mercury, and other heavy metals
- Organic solvents and volatile organic chemicals (such as dioxane, perchloroethylene, and bromochloromethane)
- Chemicals from smoke, fires, or tobacco
- Some radioactive chemicals used in hospitals for radiation therapy (such as Iodine-131)

If you work with one of these chemicals, it is important to talk to your doctor about breastfeeding." The California Occupational Safety and Health Administration (Cal/OSHA) has issued a limited number of standards (e.g., Lead, Cadmium, and others) that acknowledge and provide some protection to reproductive risks. Per Cal/OSHA, employers shall ensure affected employees receive information and training on the Hazard Communication Program and any related chemicals including safety data sheets in which they are required to work with.

You can contact your department's Human Resources Section, Medical Services Division Administrator (joanne.obrien@lacity.org), and/or Safety Administrator (najma.bashar@lacity.org) for further inquiries.

g. What about employees who are employed in public safety (i.e. sworn officers and fire fighters) who are called out on long emergencies?

Employees who work in public safety are aware of their job requirements. Many employed fire fighters and sworn officers have combined breastfeeding and working successfully. In some cases, temporary re-assignment of duties is considered.

FIRE PERSONNEL

Fire personnel who are called to long emergencies typically are rotated out of the emergency call for "rehabilitation" checks: their vital signs, carbon monoxide levels and hydration are checked by first aid personnel. A female lactating fire fighter should be prioritized for rehabilitation checks and also assessed for their need to pump. Space can be provided within a fire truck, ambulance, or a shielded space in a first aid tent.

Lactating female fire fighters are encouraged to always bring their pumps with them on calls. Many breastfeeding fire fighters have found that the time returning from their calls are good times for pumping, usually in the back of an ambulance or the truck.

SWORN OFFICERS

Many sworn officers pump in the locker room when they are changing in and out of uniform. Bulletproof vests can be an issue for some lactating sworn officers. Breast size can dramatically change with lactation and breast size can differ from week to week based on fluctuations in milk supply, weight gain or loss. Constriction of the breast tissue can cause plugged ducts or mastitis (breast infection.)

Frequent milk removal is critical to preventing mastitis. Some sworn officers may request a temporary job transfer to a desk job or community outreach position, which will allow them more frequent opportunities to express breastmilk.

Reasonable Accommodation coordinators are encouraged to utilize the interactive process to find suitable solutions. The goal is to accommodate the employee.

h. Is it really possible for sworn officers and fire fighters to combine public safety jobs and breastfeeding?

Yes! It is not always easy, which is why having a supportive employer is a critical component to an employee's breastfeeding success. Please review the list of resources available at the website for suggested reading and community support. http://breastfeedingincombatboots.com/

5. MISCELLANEOUS

a. Can I require medical certification that an employee is lactating if I suspect she is not? What if I never see her with a pump or expressed breast milk?

If you have concerns that an employee no longer needs a lactation accommodation, then contact your department Reasonable Accommodation Coordinator with the details regarding your concern.

b. I gave an employee a copy of the policy when the employee came back to work and the employee advised me that she is not breastfeeding and would not need an accommodation. She asked me why there is not a program to support her choice. How do I respond?

First, congratulate the employee for becoming a parent and welcome her back to work.

Second, explain that the City's Lactation Accommodation Policy supports the City's policy to promote Breastfeeding as a public health imperative and to comply with both Federal and State Law. As an employer, we are required to provide lactation accommodations to women who need pumping breaks.

c. I have an employee who makes mooing sounds and other comments to my lactating employee. How do I handle this?

Please refer to the City's Lactation Accommodation Policy, which states that there is Zero Tolerance for this type of behavior. Take immediate action to correct the inappropriate behavior.

As per the policy, "Any incident of harassment of a breastfeeding employee will be addressed in accordance with the City's policies and procedures for discrimination and harassment."

d. I have an employee who has complained that our lactating employee is getting a special benefit of longer breaks? How can I handle this situation?

Co-worker support is critical to the success of an employed parent in breastfeeding to healthcare recommendations. Provide a copy of the policy to the complaining employee and use the Brochure to describe the benefits of supporting the employee to continue breastfeeding.

Second, explain that the City's Lactation Accommodation Policy supports the City's policy to promote Breastfeeding as a public health imperative and to comply with both Federal and State Law. As an employer, we are required to provide lactation accommodations to women who need pumping breaks.

Additionally, you can tell the complaining employee that the covered employee may not paid for her extra break time.

SECTION 8: DOMESTIC VIOLENCE POLICY

CITY OF LOS ANGELES
POLICY IN SUPPORT OF EMPLOYEE VICTIMS OF DOMESTIC VIOLENCE AND ABUSE

Adopted by the Los Angeles City Council, May 1, 1998 (C.F. 97-0978)

STATEMENT OF POLICY

The City of Los Angeles, as an employer, recognizes the need to promote a work environment that is supportive of victims of domestic violence and sensitive to the effects of domestic abuse. Therefore, it is the policy of the City to offer assistance and a supportive environment to its employees experiencing domestic violence or abuse by providing 1) an understanding and supportive workplace environment; 2) referrals to appropriate community and workplace resources; and 3) an alternative to discipline when work performance is affected as a result of the battering relationship.

It is the purpose of this policy to ensure that employees who are in battering relationships will have the opportunity to obtain appropriate assistance so that they may remain productive members of the City's workforce. While this policy cannot address the abusive actions of its employees who may perpetrate domestic violence and abuse with no connection to the workplace, the City recognizes the harm resulting from such abuse upon its employees, City's resources, and the well-being of the City and all of its residents.

For the purposes of this policy, "domestic violence" is defined as:

> "Intentionally or recklessly causing or attempting to cause psychological, emotional, financial and/or physical injury, including but not necessarily limited to sexual assault, threatening, harassing, stalking, or making annoying phone calls by a person who is in any of the following relationships with the employee:
>
> - Spouse or former spouse
> - Cohabitant or former cohabitant
> - A person with whom the victim is having or has had a dating or engagement relationship
> - A person with whom the victim has had a child
>
> A "victim" for the purpose of this policy, is an employee who is experiencing domestic violence/abuse.

This policy will accomplish its objectives only with the full support of management and employees at all levels throughout the City. Accordingly, each department is directed to distribute the City's policy on domestic violence and abuse to all employees and supervisors and to adopt and distribute the protocols for implementing this policy, when the protocols are developed.

Additionally, the City has established the Domestic Violence Resource Team (DVRT) to assist with the implementation of City policy and protocols, as well as departmental procedures; to advise and consult with management and employees on all inquiries regarding domestic violence; and to assist management and employees with alternatives to disciplinary actions, on a case-by-case basis. The members of the DVRT will include, but not necessarily be limited to, a representative from the Commission on the Status of Women, Office

of the City Attorney, Personnel Department, the employee unions, and one of the Employee Assistance Program providers. The representative from the Commission on the Status of Women will serve as Team Coordinator and will be responsible for convening and coordinating the activities of the team.

WORKPLACE SUPPORT AND SAFETY FOR EMPLOYEES WHO ARE THE VICTIMS OF DOMESTIC VIOLENCE

When a supervisor becomes aware that an employee is in an abusive relationship and subjected to harassment, threats, or violence by a person earlier described as a perpetrator, the supervisor will offer the employee/victim information on the Domestic Violence Resource Team and other available resources for appropriate assistance. The other resources may include, but will not necessarily be limited to, the City Attorney's Domestic Violence Unit victim advocates; the appropriate Employee Assistance Program; battered women's shelters; legal assistance agencies which can assist the employee in obtaining a domestic violence restraining order; and the employee's union, if the employee is represented.

Additionally, when a supervisor becomes aware of an employee's domestic violence or abuse situation, they will review the facts of the employee's situation with the department personnel officer who will then, if appropriate, consult with the City Attorney's Domestic Violence and Employee Relations Units. If it is determined that the facts meet the level of proof required for the issuance of a restraining order under the Workplace Violence Act, and that the issuance of a restraining order would improve the safety of the employee victim and of other employees in the workplace, an attorney will be assigned to seek a restraining order in the name of the City of Los Angeles.

CONFIDENTIALITY

The circumstances of the domestic violence or abuse and any referrals under this policy, whether or not they arise in the disciplinary process, shall remain confidential to the extent permitted by law. Recognizing the difficulty for a victim of domestic violence to leave a violent relationship, supervisors will make all efforts to maintain a nonjudgmental and supportive environment for the employee which is not dependent on the employee's leaving the violent or abusive relationship.

In order to provide assistance to an employee experiencing domestic violence or abuse, and in an effort to provide a safe work environment for that employee and all employees, the City will, whenever possible, give positive consideration to the employee's request for transfer to another worksite and/or approval of time off, including medical or personal leave or use of vacation time. To accommodate an employee who is seeking the protection of the law, the City will make all efforts to ensure the employee will be allowed time off to attend court proceedings to obtain domestic violence restraining orders and on other domestic violence-related matters.

Further, a procedure to protect a victim/employee's home and work addresses and phone numbers from being released to anyone without the authorization of the employee will be developed as part of the policy implementation protocols.

ALTERNATIVES TO DISCIPLINE

It is the intention of this Policy to provide alternatives to disciplinary procedures when it is determined that there is a nexus between domestic violence or abuse and the cause for proposed discipline. To that end, an employee/victim may request the assistance of the Domestic Violence Resource Team, by contacting the Team Coordinator at the Commission on the Status of Women, at any time during disciplinary proceedings.

When a tenured employee who is subject to discipline, including counseling, for work performance or attendance deficiencies, or for any other reason, confides that they are a victim of domestic violence and provides some form of supporting documentation, such as a police report, medical report, or declaration of a witness or the victim, the employee's supervisor will meet with the employee to determine whether there is a nexus between the problem conduct and the domestic violence or abuse. Upon request of the employee, the Domestic Violence Resource Team will be consulted for assistance with alternatives to discipline.

In keeping with the purposes of this Policy, it is strongly recommended that disciplinary actions be held in abeyance whenever a nexus is shown. During the period of abeyance, efforts will be made to provide the employee with work assignments to accommodate the effects of the domestic violence. The matter will be periodically reviewed and a determination shall be made of whether there has been improvement in the work performance, attendance or other problem which came to the attention of the supervisor.

If the problem conduct has satisfactorily improved, all disciplinary memoranda will be removed from the employee's personnel file. If, within the period of abeyance, the employee demonstrates a lack of improvement or a deterioration in her/his work performance, attendance or other problem area, the supervisor will meet with the employee, a representative from the department's personnel division and the employee's union representative, if the employee is represented, before the City undertakes disciplinary action.

The period during which any discipline is to be held in abeyance for a probationary employee must end at least a month before the employee's probationary period is completed to give the employee's supervisor sufficient time to evaluate the employee and make a recommendation regarding tenure.

DOMESTIC VIOLENCE AND ABUSE TRAINING PROGRAMS FOR MANAGERS, SUPERVISORS AND EMPLOYEES

The City of Los Angeles, in conjunction with experts in the field of domestic violence, will undertake training programs for supervisors and support staff throughout the City. The purpose of the training will be to educate the supervisors and managers on the nature and effects of domestic violence, the impact of domestic violence on employees in the workplace, strategies for successful interventions, procedures for requesting restraining orders and resources for referral to appropriate domestic violence agencies. The supervisors and managers will also be trained on implementing the procedures under this policy and protocols to effectively manage employees who are victims of domestic violence and abuse. A similar program for non-supervisory employees will also be given to all line employees in the City. Such training will be developed by City employees in conjunction with domestic violence experts and/or participating City unions.

DOMESTIC VIOLENCE AND ABUSE AND WORKPLACE SAFETY

The City of Los Angeles, with the assistance of experts in the field of domestic violence and abuse, will undertake a review of all current security procedures to ensure inclusion in those procedures of specific safety considerations and responses appropriate for victims of domestic violence and abuse and their workplace. The employee unions will be asked to participate in this review.

The City will also require that all security personnel assigned throughout the City's departments receive training about the nature and effects of domestic violence and about procedures for responding to harassing phone calls, annoying and threatening conduct, and unauthorized entry by potentially violent or harassing perpetrators in any of the City's departments and/or facilities. The security officers will also receive training in the recognition and enforcement of domestic violence and civil harassment restraining orders.

DOMESTIC VIOLENCE PROTOCOLS

I. STATEMENT OF PURPOSE

The City of Los Angeles, as an employer, has an interest in providing a supportive work environment to victims of domestic violence. The purpose of this protocol is to provide uniform steps of action and alternatives to discipline for all departments throughout the City to maintain the greatest opportunity for safe working conditions for victims of domestic violence and their co-workers. These protocols are intended to supplement existing City and departmental personnel policies and procedures.

II. MANAGEMENT AND SUPERVISORY RESPONSE

Management's full support is required to accomplish the objectives of the City's domestic violence policy[1]. The response by the supervisor or manager is determined by the danger or threat level of the incident and its relationship to the workplace. Therefore, the purpose of the supervisor's actions, as a management representative and the person having the most direct contact with the affected employee, should be to:

- Provide a supportive work environment for the employee-victim;
- Advise the employee of the City's domestic violence policy and of available resources, including the Employee Assistance Program (EAP);
- Obtain sufficient information to attempt to provide protection for the employee-victim, other employees, and the workplace; and,
- Ensure all employees receive training in the area of domestic violence and abuse.

To that end, the supervisor should be familiar with the following:

- City's Policy in Support of Employee Victims of Domestic Violence and Abuse and these protocols;
- City's Workplace Violence Policy and Operational Guidelines;
- Policy No. 33 of the Policies of the Personnel Department governing discipline, where applicable;
- Responsibilities of the Domestic Violence Resource Team (DVRT)[2]; and,
- Reporting responsibilities and emergency procedures.

A. Known or Suspected Domestic Violence

If a supervisor becomes aware that an employee is in a domestic violence situation, the supervisor will provide an opportunity for the employee to voluntarily discuss the situation in a private consultation, and offer available resources for appropriate assistance.

1. Meet with the Employee

The purpose of the meeting is not to pry into the employee's private life but to offer support for the employee. To that end, the supervisor shall:

[1] Used generically for the "Policy in Support of Employee Victims of Domestic Violence and Abuse"

[2] The City has established DVRT to advise and consult with management and employees on inquiries involving domestic violence. See Section IV of these protocols for further details.

- ensure that the meeting is held discreetly and in a private location. At the employee's option, an employee's union representative may be present.
- inform the employee of the City's Domestic Violence Workplace Policy

Unless the employee offers additional information, the supervisor should discreetly state his or her suspicions and offer referrals to agencies recommended by the City of Los Angeles, including the DVRT and the EAP, and terminate the meeting.

If the domestic violence is confirmed, the supervisor shall determine if the domestic violence has encroached into the workplace. If the domestic violence has encroached into the workplace, the supervisor shall follow the procedures outlined in Section "B" and/or "C" below.

2. Review With Department Personnel Officer (DPO)

Following the meeting with the employee, the supervisor shall, if appropriate, review the information with the DPO to determine if further action should be taken.

3. Offer Accommodation for Employee-Victims

The Supervisor shall make every effort to accommodate the employee's request for assistance, if any, including requests for:

- Transfer or reassignment
- Security escort
- Time off to relocate or take a leave of absence
- A change in work assignment to accommodate the effects of domestic violence
- Use of accrued vacation, sick or overtime benefits

In addition, the supervisor is advised that California law requires that supervisors allow employees time off to attend court proceedings related to domestic violence, including obtaining domestic violence restraining orders and appearing as a witness in civil and criminal cases. Any accommodation provided for the employee-victim shall be documented.

B. Domestic Violence Which Affects Work Performance

Domestic violence may affect an employee-victim's work performance. No City employee will be disciplined or terminated simply because they have been or is the victim of domestic violence. Additionally, every effort must be made in such circumstances to maintain a non-judgmental and supportive environment for the employee, which is not dependent on the employee leaving the abusive relationship. If an employee-victim's work performance is affected by domestic violence, the supervisor shall take appropriate action to assist the employee.

1. Conference upon Disclosure

If an employee's performance on the job becomes subject to disciplinary action, and in the course of the disciplinary process the employee confides that they are the victim of domestic violence which contributed to the work performance problem, the supervisor shall:

- Conduct a private conference with the employee and advise the employee of the services of the DVRT and the EAP.
- Ensure that such conference is held discreetly and in a private location.

- Inform the employee of the City's Domestic Violence Workplace Policy.
- Obtain facts to determine whether there is a nexus between the problem conduct and the domestic violence or abuse.
- Inform the employee that they may be required to sign a declaration describing the nexus and may be asked to provide restraining orders or copies of police reports.
- Obtain some form of supporting documentation, such as a police report, medical report, or a declaration of a witness or the employee-victim.
- Document the conference.
- Review the facts and supporting documentation with the DPO (or other appropriate management representative).
- Meet with the DVRT when requested by the employee to seek assistance with determining alternatives to discipline.

2. Disputed Cases

If the supervisor disputes either the existence of the employee's domestic violence situation or the link between the domestic violence and the work performance problem, the supervisor shall inform the employee of her/his right to request that the City's DVRT be consulted.

3. Holding Disciplinary Actions in Abeyance

In cases in which a nexus is shown between the work performance problem and the employee's domestic violence situation, **it is strongly recommended that the department hold discipline in abeyance to determine if the employee's problem behavior will continue.**

Some form of supporting documentation must be provided by the employee-victim before disciplinary action may be held in abeyance.

- The employee may be required to sign a declaration describing the nexus between the domestic violence and the work performance problem.
- The employee may be asked to provide restraining orders or copies of police reports if the employee asserts such documents verify the domestic violence situation.
- The employee may provide medical reports or doctor's verification documenting the domestic violence situation.
- The employee may provide any other form of documentation which they believe may support the nexus between domestic violence and the workplace performance problem.

Any one form of supporting documentation may be sufficient. Any such documents provided by the employee will be maintained separate from the employee's personnel file.

When it is determined that the disciplinary action will be held in abeyance, the supervisor will develop, in consultation with the DPO, a written plan to reevaluate the performance within a stated period of time and inform the employee and the employee's union representative, if the employee is being represented in this disciplinary action.

- The period of abeyance should not exceed six months.
- The employee's circumstances should be reviewed, minimally, every three months for tenured employees, and every month for probationary employees.
- **For probationary employees, the period of abeyance must end at least.one month prior to completion of probation to allow supervisors sufficient time to evaluate the**

employee's performance and make recommendations regarding tenure. Under no circumstances will holding disciplinary action in abeyance serve to extend a probationary period.

For sworn members of the LAPD/LAFD the statute of limitations outlined in the City Charter shall be taken into consideration in holding discipline in abeyance.

4. Action after Period of Abeyance

If the employee's performance improves to an acceptable level during the period of abeyance, it is strongly recommended that any discipline originally contemplated be dismissed. All related disciplinary memoranda, if any, will be removed from the employee's personnel files and maintained in a separate, sealed, file.

Should the employee's performance deteriorate or fail to improve during the period of abeyance, the supervisor will meet with the employee, the employee's representative, if any, and a department personnel representative to determine a course of action that may result in discipline up to and including termination. When an employee's performance deteriorates or fails to improve during the period of abeyance, it is recommended that disciplinary action held in abeyance be reinstituted[3].

C. Threats or Incidents Occurring at the Workplace

The supervisor shall immediately report all workplace incidents of domestic violence to the Department's Personnel Section[4] or a member of the department's threat assessment team, if any. Such incidents include, but are not limited to, threats made to employees at the workplace: violations of restraining orders; and/or actual physical assaults or property damage. The supervisor or the Personnel Section shall, if appropriate, report the workplace incident to the LAPD or other law enforcement agency.

1. Documentation

If it is determined that a domestic violence incident involving an employee-victim has occurred in the workplace, the supervisor shall document the situation in a separate file, which shall not be part of the employee's personnel file, and will be maintained in a different location. The documentation should include the date of any reported incident and the date it was reported, the involved parties, a description of the incident, employee request for accommodation, if any, and the department's response to the request, as well as any action taken as a result of the reported situation.

2. Review With Department Personnel Officer (DPO)

After meeting with the employee, the supervisor shall review the information with the DPO. If appropriate, the DPO shall consult with the City Attorney's Domestic Violence Unit to determine if there is a credible threat of violence requiring law enforcement intervention. Further, if appropriate, the DPO shall consult with the City Attorney's Labor Relations Unit (formerly the Employee Relations Unit) to determine whether a corporate restraining order can be obtained to protect the employee and co-workers, and whether the City or department threat assessment team should be contacted.

[3] Department management may modify or reduce the originally proposed discipline if the facts or conditions warrant.

[4] In accordance with Department of Public Works protocol, supervisors in the Department of Public Works shall immediately report all workplace violence incidents to the Departmental Workplace Violence Prevention Coordinator.

3. Critical Domestic Violence Incidents

All incidents determined by the supervisor and/or the DPO to be critical domestic violence incidents shall immediately be reported to the LAPD or other appropriate law enforcement agency, as well as to the LAP D's Threat Management Unit. A critical domestic violence incident is any incident consisting of a threat of, or actual occurrence of domestic violence in the workplace which appears to be likely to result in immediate harm or injury to any City employee (or person on City premises) or which warrants consideration as a possible criminal act.

4. Emergency Procedures

Department management should be knowledgeable of departmental procedures for securing emergency assistance, including but not limited to, access to security personnel. Supervisors should be aware of facility escape routes and departmental emergency procedures, as well as any security systems available.

Further, it is strongly recommended that department management, in conjunction with the personnel officer and the City's Threat Assessment Team, develop an assistance plan for the employee-victim and/or employees in the workplace when there is a potential danger or credible threat of violence in the workplace.

III. EMPLOYEES

A. Employee Victims of Domestic Violence

Employees who are victims of domestic violence are encouraged to utilize appropriate resources, including the Employee Assistance Program, domestic violence service centers, battered women's shelters, and other appropriate community resources. Employees are encouraged to obtain domestic violence restraining orders and report incidents to LAPD or other appropriate law enforcement agencies. Employees who obtain restraining orders are also strongly encouraged to provide copies of the restraining orders and photos of the alleged perpetrator to:

- their supervisor,
- the department personnel section,
- security personnel, and
- the Domestic Violence Resource Team.

B. Employees' Conduct

It is management's expectation that employees obey all City policies[5] and departmental rules, be productive and contribute to the protection and safety of the workplace. As it relates to the City's domestic violence policy, employees are strongly encouraged to notify their department management of credible threats of violence to themselves and/or to the workplace as soon as possible so that the necessary security measures can be implemented for the protection of the employee-victim, coworkers, and the work location. Early notification to management by employee-victims affected by battering relationships will provide them with the greatest level of assistance.

[5] Including, but not limited to the City's Workplace Violence Policy, Workplace Violence Prevention Guidelines, and Civil Service Commission's Policy No. 33.

IV. THE DOMESTIC VIOLENCE RESOURCE TEAM

The City has established the Domestic Violence Resource Team to assist with the implementation of City policy and protocols, as well as departmental procedures; to advise and ·consult with management and employees on all inquiries regarding domestic violence; and to assist management and employees with alternatives to disciplinary actions, on a case-by-case basis. The members of the DVRT will include, but not necessarily be limited to, a representative from the Commission on the Status of Women, the Office of the City Attorney, the Personnel Department, the employee-victim's union, if represented, and one of the Employee Assistance Program providers. The representative from the Commission on the Status of Women will serve as Team Coordinator and will be responsible for convening and coordinating the activities of the team.

The goals of the City's domestic violence policy and the DVRT are to:

- provide uniform procedures for all departments throughout the City
- provide resources and referrals for employee-victims of domestic violence
- maintain safe working conditions for employee-victims of domestic violence and their coworkers.

The DVRT must be notified by the supervisor or DPO when requested by an employee. To contact the team, call the Commission on the Status of Women at (213) 978-1675.

The team will be convened at the request of an employee or department management representative when the possibility of a connection exists between domestic violence or abuse and proposed disciplinary action. DVRT will:

- meet with the employee and representatives from the employee's bargaining unit, if represented,
- notify the department that DVRT has been convened and provide the opportunity for the department to supply any additional information or documentation, as needed,
- determine whether a nexus exists between the alleged domestic violence and the poor work performance and/or disciplinary action,
- if a nexus is established, make recommendation(s) to the department in writing, in a timely manner,
- inform the employee-victim and/or her/his representative, if represented, of any recommendation or decision made.

V. CONFIDENTIALITY

Absolute confidentiality cannot be promised or guaranteed. The employee-victim should be informed that the information provided shall be held in confidence only to the extent allowed by law and that the need for confidentiality must be balanced against any threats that may be posed by an alleged perpetrator to the safety of the employee-victim and others.

Department management should also take precautions to protect employee-victim's work and home addresses and phone numbers from being released:

- An employee-victim's work and home addresses and phone numbers shall not be released, to the extent permitted by law, unless the employee-victim has given prior consent.
- Any such requests for which prior consent has not been given shall be referred to the employee-victim's supervisor or to a department management representative. The employee-victim's supervisor or a department management representative shall then determine whether or not the information should be released and/or obtain the consent from the employee-victim.

ACTION CHART FOR SUPERVISORS AND MANAGERS IMPLEMENTING THE POLICY IN SUPPORT OF EMPLOYEE-VICTIMS OF DOMESTIC VIOLENCE AND ABUSE

Event level	Action	Documentation	Information to Employee
A. Suspicion or knowledge of domestic violence situation	• Private consultation • Review with DPO • Offer accommodation	• None	• Refer to support agencies.
B. Effect on work performance	• Hold conference to determine nexus • If appropriate, hold discipline in abeyance. • Create abeyance plan with periodic reviews. • Refer to DVRT if requested by employee.	• Document conference and abeyance plan. • If performance improves, remove disciplinary memoranda from personnel file.	• Inform employee of their right to consult DVRT. • Refer to support agencies.
C. Incident or threat at workplace	• Notify DPO • If appropriate, notify LAPD or other law enforcement agencies. • For critical domestic violence incidents, call 911 and building security.	• Document in a separate file, including action taken and accommodation, if any.	• Keep employee informed of all actions being taken.

SECTION 9: WORKPLACE VIOLENCE PREVENTION POLICY & GUIDELINES

WORKPLACE VIOLENCE POLICY

Nothing is more important to the City of Los Angeles than the safety and security of its employees, customers, and visitors. The City is committed to maintaining a workplace that is free from violence or threats of violence. Threats, threatening behavior, or acts of violence against an employee, a customer, a visitor, or any other individual cannot and will not be tolerated. All reports of workplace violence will be taken seriously and will be investigated promptly and thoroughly. For the purpose of this policy, the workplace is considered to be anywhere an employee is engaged in City-related business.

Any form of violence or threat of violence - whether actual or reasonably perceived -involving a City employee or occurring in the workplace must be reported to a supervisor, manager, or the department's personnel office. Such behavior must be reported whether it is committed by another City employee, a contractor, a customer, or member of the public. If management determines that an employee has engaged in workplace violence, appropriate action must be taken, which may include discipline up to and including discharge. Any violent behavior committed by an employee outside of the workplace which arises out of a contact made at the workplace may also result in disciplinary action up to and including discharge. When the violent behavior occurs at the workplace, whether it is committed by a City employee or by an individual who is not a City employee, the City will contact the appropriate law enforcement agency, if necessary. Additionally, in all cases where violent behavior or a credible threat of violent behavior is directed at a City employee, the City will take appropriate legal action and/or other steps necessary to help protect the employee and/or the employee's family members.

An employee should also report the existence of any restraining order that covers the employee at the workplace or any potentially violent non-work-related situation that could likely result in violence in the workplace. Under such circumstances, management will take appropriate precautions to help protect its employees in the workplace.

The types of behavior covered by this policy include, but are not limited to:

- Violent physical actions
- Direct or implied threats to do harm to another or to property, including intimidating use of one's body or physical objects
- Verbally abusive or intimidating language or gestures
- Threatening, abusive, or harassing communication (e.g., phone calls, letters, memoranda, faxes, e-mail)
- Unauthorized possession of a weapon at the workplace, including on City parking lots
- Destructive or sabotaging actions against City or personal property
- Engaging in a pattern of unwanted or intrusive behavior against another (e.g., stalking, spying, following)
- Violation of a restraining order

This policy will accomplish its objectives only with the open and full support of management at all levels throughout the City. Accordingly, each department is directed to develop and implement a plan and provide training programs to prevent and appropriately respond to incidents of violence. Additionally, each department shall communicate workplace violence-prevention and violence-management techniques to staff on a regular basis and ensure that appropriate security measures are implemented to minimize the likelihood of violence occurring.

Full cooperation by all employees is necessary if the City is to maximize the safety and security of its employees, customers, and visitors. The City will not tolerate retaliation against any employee who reports workplace violence or a threat of violence.

WORKPLACE VIOLENCE PREVENTION GUIDELINES

In accordance with sound employment practice and State law, the City of Los Angeles has adopted its Workplace Violence Policy. This policy commits the City to taking reasonable actions to develop and maintain a workplace that is free from violence or the threat of violence. The best strategy to achieve a violence free workplace is to prevent violence or the threat of violence before it occurs in the work environment. The effective prevention of violence requires the consistent commitment of all employees, supervisors, and managers. Employees should be encouraged to immediately communicate to supervision any work related, or non-work-related situation that has the potential to create violence in the workplace. Supervisors and managers must take all reports of potential violence seriously, investigate promptly and take appropriate actions to minimize and eliminate the potential for violence in the workplace. The City can effectively reduce the potential for violence in the workplace only through the ongoing development and maintenance of the highest levels of communication between employees and managers. City departments should implement the concepts in the following guidelines to achieve an effective workplace violence prevention program.

COORDINATION OF WORKPLACE VIOLENCE PREVENTION

Each City department should identify a Workplace Violence Prevention Coordinator. The position will be responsible for the development, implementation, evaluation, and modification of the department's workplace violence prevention program. The Workplace Violence Prevention Coordinator should be the department's personnel officer or a senior manager with the authority to implement policies on a department-wide basis.

The Workplace Violence Prevention Coordinator, as a member of the Department's Threat Assessment Team, (refer to attachment III) will be responsible for reviewing all reports of threats or acts of violence to identify areas for improvement in the department's security, training, and communication programs. The Coordinator may seek technical assistance from members of the City's Threat Assessment Team, Department of General Services Security Services, and employee organizations to identify and implement the elements of an effective prevention program.

WORKPLACE VIOLENCE PREVENTION TRAINING

Each City department should conduct general and work environment specific training on methods and techniques to prevent violence or the threat of violence in the workplace.

General workplace violence prevention training may include, but not be limited to: awareness of the City's Workplace Violence Policy, methods for defusing hostile or potentially threatening situations, awareness of basic behavioral indicators that could lead to violent acts, communications procedures for reporting potentially violent situations or individuals, methods for assessing security in the workplace and awareness of Employee Assistance Programs.

Work environment specific training may include: awareness of crime areas, awareness of specific higher risk work activities, personal safety, location and operation of alarm systems, communication procedures for securing assistance from security services, protective services, and medical services and emergency escape routes.

SECURITY ASSESSMENT

Each City department should periodically review all work environments to assess the potential for violence or threat of violence, to identify existing security measures and to recommend additional reasonable measures that could be implemented to increase workplace security. The necessity for workplace security measures varies significantly, depending on the type of work environment. The following are some of the general issues that should be addressed in a workplace security assessment: procedures for securing emergency assistance; access and freedom of movement within the work environment; existing locks, security systems, physical barriers; employees' knowledge of emergency procedures; routine work procedures; escape routes; access to protective and security personnel; cash handling procedures and signage.

In conducting the periodic security assessment, City departments are encouraged to use joint labor management teams to ensure that the security issues of line staff are identified.

COMMUNICATION

Fundamental to the success of the City's efforts to prevent workplace violence is completely open communication between employees, supervisors, and managers. Employees are the best source of information on potentially violent situations or individuals in the workplace. Employees should be encouraged to immediately bring to the attention of supervisors and/or managers any issue that has the potential to create violence in the workplace. Management must educate and update employees on workplace violence issues through relevant articles in newsletters, safety bulletins, and safety meetings.

INVESTIGATION OF POTENTIAL WORKPLACE VIOLENCE

Management must take any report of a potentially violent situation or potentially violent individual seriously, and conduct an immediate investigation to assess the potential for violence. If the information is verified, management should take action in accordance with the concepts identified in the Workplace Violence Intervention and Reporting Guidelines.

WORKPLACE VIOLENCE INTERVENTION AND REPORTING GUIDELINES

This document provides intervention and reporting procedures to implement the City's Workplace Violence Policy. The procedures apply to situations and behaviors involving the threat of violence, the potential for violence or actual violence in the workplace. The procedures cover steps to take when dealing with employees and former employees who present early warning signals of danger, potential danger, or immediate danger as well as to non-employees who may pose similar threats to City employees.

THREAT ASSESSMENT TEAMS

Two types of Threat Assessment Teams are hereby established:

1. **City's Threat Assessment Team:** The City has created a City-wide Threat Assessment Team consisting of representatives of the Personnel Department, Los Angeles Police Department's Threat Management Unit, the City Attorney's Labor Relations Division, the Personnel Department's Medical Services Psychology Section, and the Los Angeles Police Department's Behavioral Science Services. The team or any of its members is available to City departments to assist in handling situations involving potential or actual violence in the workplace.

2. **Department Threat Assessment Team:** Each City department should create a Department Threat Assessment Team for the evaluation and management of all reported threats or acts of workplace violence. The team should be chaired by the department's personnel officer and should include a representative from the department's senior management. Additional members may be added to the team on an incident-by-incident basis, including a member from the affected employee's line supervision and a representative from the employee's employee organization, if the employee is represented.

The Threat Assessment Team will evaluate each reported threat or act of violence and, where appropriate, provide recommendations for intervention and management of the individual and work site. The chair of the team must maintain a record of all reported threats or acts of violence and document the team's findings and recommendations.

RESPONSE TO "DANGER SIGNALS" BY THREAT ASSESSMENT TEAMS

1. **Early Warning Danger Signals:** An individual may display early warning signs of behavior or language which, if not addressed, could result in acting out and/or creating significant emotional distress for others in the workplace. These warning signs include changes in an individual's regular behavior patterns, especially a deterioration of general behavior and/or work performance, withdrawal from others at work, increased irritability or expressed feelings of victimization (for example, blaming others for the employee's work problems). These behaviors should be evaluated. If the behaviors of an employee are verified, the employee should be counseled, and, if appropriate, encouraged to seek treatment through the employee's Employee Assistance Program or their health care provider.

   While it may be more difficult to observe early warning signs developing over time in an individual who is not a City employee, if similar types of behavior on the part of such individual do occur in the workplace, it is important to notify a supervisor and document any such incident or behavior.

2. **Potential Danger:** An individual may display a pattern of behavior or language which is a warning sign of potential violence and/or which may cause significant emotional distress for others in the workplace. Such indicators include belligerent or defiant behavior; harassing, abusive or threatening language; indirect threats; paranoid language or actions; fascination with weapons or with acts of violence; or preoccupation with a particular City employee. Any such behavior should be evaluated, verified, and documented.

   In instances where an employee's behavior is verified and is creating disruption in the workplace, but attempts to defuse the situation fail, the supervisor, in consultation with a personnel officer if feasible, may place an employee off duty on paid leave. However, in instances where the supervisor reasonably suspects that substance abuse is a contributing cause of the behavior of concern, the supervisor should arrange for an immediate substance abuse assessment in accordance with existing department policies and procedures.

   Where the potential danger is caused by an individual who is not a City employee, it may be possible to defuse the situation verbally. If efforts to do so fail, all affected employees should attempt to remove themselves from the situation. If necessary and possible, security should be notified and the individual removed from the workplace.

   As soon as it is practical after an incident creating potential danger, a meeting of the department's Threat Assessment Team should be held to develop an intervention plan for the individual creating such a danger and for the employees in the workplace. Such plan may include removing an employee from the workplace (if that has not yet been done) proposing discipline, and/or referring the employee for a work

fitness evaluation by a City Psychologist. If the incident was caused by an individual who is not an employee, such plan may include taking additional security or precautionary measures.

At any time during the assessment of the individual's behavior and the work environment or later, during the planning sessions of the department's Threat Assessment Team, the department's personnel officer or other team member may find it useful to consult with the City's Threat Assessment Team by calling the City Psychologist at (213) 473-6928 or the Los Angeles Police Department's Threat Management Unit at (213) 847-0200.

3. **Immediate Danger:** Circumstances may arise in which an individual poses a clear and present threat of danger causing harm to him/herself or to others. Examples of posing an immediate danger include brandishing or using a weapon or otherwise causing harm or risk of harm to another or making credible direct threats to cause such harm.

   Where an individual poses an immediate danger, the following steps should be taken:

   A. Call 911 when a weapon is involved or when there is an immediate and direct threat to someone's life.
   B. In all other cases, call department security, if available, and/or place a nonemergency call to the local police department for assistance in controlling the situation.
   C. Notify other persons in the area of immediate danger.
   D. Get medical and/or mental health assistance, if necessary.
   E. Contact the Police Department's Threat Management Unit for an assessment of possible criminal activity and/or need for mental health intervention.
   F. If violence occurs, take immediate action to care for the needs of affected employees. See the "Aftermath Response" section of the Post-Critical Incident Guidelines for specific recommendations for action.
   G. In addition to the above, if an employee poses the immediate danger, the following steps should be taken by supervisory or management personnel of the department:
   H. Place the employee who poses an immediate danger off duty with pay. The department's personnel officer should then determine, by consulting with the appropriate mental health professional, whether a work fitness evaluation will be required prior to the employee's return to duty.
   I. Where appropriate, impose discipline in accordance with Civil Service or other applicable disciplinary guidelines.
   J. In instances in which the employee has been cleared to return to duty, hold a meeting of the department's Threat Assessment Team and appropriate members of the City's Threat Assessment Team to develop an immediate and long-range plan for the employee and the work site.

WORKPLACE VIOLENCE POST CRITICAL INCIDENT GUIDELINES

Workplace violence is one of a range of critical incidents outside the normal scope of human experiences that has the potential to cause psychological trauma. Critical incidents include naturally occurring disasters; industrial or traffic accidents resulting in death, serious injury, or the perception of a "close call"; unusual occurrences which bring intense and/or prolonged negative public scrutiny; and physical violence or credible threats of violence that result in or could result in death or serious injury to employees or their customers.

The impact of a critical incident may be limited or widespread within a department depending upon whether it affects a few or many people within the department. Regardless of the extent to which it impacts the department, it is important to initiate a series of steps to assist the affected employees with their emotional recovery. These

guidelines are designed to establish a timely and appropriate City response to the aftermath of traumatic events involving City employees so that the impact upon employees is mitigated and their coping and recovery may be accelerated.

Each department shall designate an individual, usually the department's personnel officer, who shall serve as the Post Critical Incident Coordinator in conjunction with the City's Lead Occupational Psychologist in cases involving non-LAPD employees, and the LAPD's Chief Police Psychologist of Behavioral Sciences Services in cases involving LAPD employees. The department's Post Critical Incident Coordinator will be responsible for the preparation and implementation of a Post Critical Incident Plan.

Plan preparation shall include but not be limited to:

1. Identifying and establishing a list of available City mental health practitioners, including available EAP resources, who have expertise in trauma, crisis intervention, and critical incident stress debriefing and who can be deployed in the aftermath of a critical incident. These resources shall be on-call and immediately available.
2. Establishing a list of management personnel who can make appropriate decisions regarding an employees' work status.
3. Establishing a system for communicating with highly affected employees and victims' families for ongoing psychological and human resource needs.
4. Establishing within each organizational unit/facility a location for the incident command center to serve as the point of telephonic/physical contact for incidents.

   ***Some departments, such as Fire and Water and Power, may have their own mental health/EAP resources with appropriate critical incident services. In such instances, the department should utilize its own mental health resources.**

5. Identifying rooms within each organizational unit/facility for individual counseling, group counseling, and a meeting place for the mental health team.
6. Creating an Injury and Death Notification Team by identifying and training appropriate departmental representatives to provide death and injury notifications.
7. Establishing media relations procedures, including identifying the department's media spokesperson.

AFTERMATH RESPONSE

The department's Post Critical Incident Coordinator will be responsible for implementing the following aftermath response guidelines to critical incidents. For all incidents, whether limited or widespread, the following steps should be considered:

IMMEDIATE

1. In coordination with the department's media spokesperson, gather information as to what happened, who was involved, who may be affected (most to least) and begin a process of determining what information may be shared immediately with involved and the affected employee(s) to reduce anxiety and misinformation.
2. Ensure that all media contact is through the department's media spokesperson.
3. Consult with the City's Lead Occupational Psychologist or the LAPD Chief Police Psychologist of Behavioral Sciences, or other mental health/EAP resources as appropriate, regarding necessary notifications and the need for onsite mental health intervention. Consideration should be given to critical incident defusing and/or debriefing as indicated for the affected employee(s).

4. Address the issue of temporary reassignment, time off, or other appropriate accommodations with the more highly affected work group members as recommended by mental health resources and as requested by the employee(s).

   ***Staff of the LAPD's Behavioral Science Services Section will be available to provide training for the members of the Injury and Death Notification Teams. Interested departments should contact the Chief Police Psychology of Behavioral Science Services who will be coordinating delivery of this training at a specific date and time in a centralized training session.**

5. Ensure that prior to leaving work each potentially affected employee will have had access to on-scene mental health support and/or, for those employees desirous of, or in obvious need of counseling, that an appointment has been scheduled with a mental health counselor. Use, as needed, the appropriate EAP to facilitate scheduling such an appointment.
6. Provide each affected or potentially affected employee with the phone numbers to the appropriate EAP and to the counseling service from the employee's medical provider.
7. If necessary, convene the Injury and Death Notification Team. For death notification, include on the team, if possible, an individual who knew the decedent and/or the family. Ensure that the injury and death notifications are conducted in a sensitive and compassionate manner.
8. Ensure that as much relevant information as possible will be shared with personnel within a supportive context by holding a meeting of all affected employees as soon as practical. Care should be taken that information shared at this meeting does not jeopardize any ongoing investigation and does not violate the privacy needs of victims and their families.

SHORT-TERM

1. Contact each affected employee two days, one week, and then two weeks after the incident, whether the employee is on or off duty, to inquire regarding their current status and need for mental health intervention, and to assess the need for work accommodation or work site adjustment.
2. Through mental health counselors, provide critical incident debriefing to affected and potentially affected employees within two days of the incident.
3. Offer an opportunity for follow-up critical incident debriefings for affected employees within one to two weeks of the incident.
4. Assign a liaison to provide emotional support to victims' families and to assist in City related matters.

LONGER-TERM

1. Ensure that the progress of the most affected personnel is monitored.
2. Orient management and supervision to be sensitive to employees' grief reactions around anniversaries of the event, holidays, and criminal justice/civil proceedings.
3. Consider the need for follow-up debriefing.
4. Consult with the appropriate City Psychologist regarding employees who continue to report difficulties in coping two weeks post incident.
5. Establish a liaison to assist victims and their families in obtaining the City resources and benefits to which they are entitled.
6. If a fatality occurs, establish a memorial service committee that includes at least one member from the deceased employee's work group.
7. Conduct a post event assessment of the department's response to the incident. Discuss any modifications to the procedures with appropriate City staff and incorporate beneficial changes into the Post Critical Incident Plan.

SECTION 10: GUIDE TO EMPLOYEE-RELATED INQUIRIES

The Guidelines outlined in the following pages should be applied to all employment-related inquiries or processes, including, but not limited to, application forms, interview questionnaires and other selection processes used in connection with appointment, promotion, assignment, and other employment related processes.

To be considered a lawful inquiry, an inquiry or request for information must be job-related. Therefore, an inquiry shown as lawful below could be deemed unlawful if it is not job related and serves no job-related purpose.

Prepared by:
EEO/ED Programs Division
Personnel Department
January 2003

LEGAL AND ILLEGAL PRE-EMPLOYMENT INQUIRIES GUIDELINE

SUBJECT	LAWFUL PRE-EMPLOYMENT INQUIRIES	UNLAWFUL PRE-EMPLOYMENT INQUIRIES
Address or Duration of Residence	Applicant's place of residence. How long applicant has been a resident of this state or city.	Inquiries that are not job-related or serve no job-related purpose.
Age	Inquiries as to whether applicant is 18 years old or older, for the purpose of determining whether they are of legal age for employment. Inquiry as to whether applicant meets any designated age requirement specified for the classification they are applying for.	Requirement that an applicant produce proof in the form of a birth certificate or Baptismal record. Any inquiry which implies a preference for persons under 40 years of age.
Arrests	Whether applicant has ever been convicted of a crime. Whether applicant has any felony charges pending against him/her.	Inquiry regarding arrests which did not result in conviction.
Birthplace	None.	Birthplace of applicant. Birthplace of applicant's parents, spouse, or other close relatives.
Citizenship	Whether applicant is prevented from lawfully becoming employed in this country because of visa or immigration status.	Whether an applicant is naturalized or a native-born citizen; the date when the applicant acquired citizenship. Requirement that applicant produce their naturalization papers or first papers. Whether applicant's parents or spouse are naturalized or native-born citizens of the United States; the date when such parents or spouse acquired citizenship.
Disability/Health	Whether applicant is able to perform the essential functions of the job for which the applicant is applying, with or without reasonable accommodation.	Inquiries about the nature, severity, or extent of a disability or whether the applicant requires reasonable accommodation. Whether applicant has applied for or received workers' compensation. Any inquiry that is not job related or consistent with business necessity.

SUBJECT	LAWFUL PRE-EMPLOYMENT INQUIRIES	UNLAWFUL PRE-EMPLOYMENT INQUIRIES
Education	Inquiry into the academic, vocational, or professional education of an applicant and the public and private schools they have attended.	Inquiry as to how applicant acquired ability to read, write or speak a foreign language.
Experience	Inquiry into work experience.	Inquiries that are not job-related or serve no job-related purpose.
Family	Whether applicant can meet specified work schedules or has activities, commitments or responsibilities that may prevent him/her from meeting work attendance requirements.	Specific inquiries concerning spouse, spouse's employment or salary, children, child care arrangements, or dependents.
Height and Weight	Being of a certain height or weight will not be considered to be a job requirement unless the employer can show that all or substantially all employees who fail to meet the requirement would be unable to perform the job in question with reasonable safety and efficiency.	Any inquiry which is not based on actual job requirements and not consistent with business necessity.
Marital Status	None.	Requirement that an applicant provide any information regarding marital status or children.
Medical History	None.	All inquiries into an applicant's medical history are prohibited.
Military Experience	Inquiries concerning education, training, or work experience in the armed forces of the United States.	Type or condition of military discharge. Inquiry into applicant's military service not in the Armed Forces of the United States, in the State Militia or National Guard. Request for discharge papers.
Name	Whether applicant has worked for the City or another employer under a different name and, if so, what name. Name under which applicant is known to references if different from present name.	Original name of an applicant whose name has been changed by court order or otherwise. Inquiries about a name which would divulge marital status, lineage, ancestry, national origin, or descent. Applicant's maiden name.

SUBJECT	LAWFUL PRE-EMPLOYMENT INQUIRIES	UNLAWFUL PRE-EMPLOYMENT INQUIRIES
National Origin	Inquiry into languages applicant speaks, reads, or writes fluently, when such inquiries are based on job requirements.	Inquiry into language commonly used by applicant. Inquiry into how applicant acquired ability to read, speak or write a foreign language. Inquiry into applicant's: • Lineage • Ancestry • National origin • Descent • Parentage • Nationality Nationality of applicant's parents or spouse.
Organizations	Inquiry into organizations to which an applicant has membership, excluding any organization the name or character of which indicates the race, color, creed, sex, marital status, religion, or national origin/ancestry of its members.	Requirement that applicant list all organizations, clubs, societies, and lodges to which they belong.
Photograph	May be requested after hiring, for identification purposes.	Request that applicant submit a photograph, mandatory or optionally, at any time before hiring. Requirement for photograph after interview but before hiring.
Pregnancy	Inquiries as to duration of stay on job or anticipated absences which are made to all employees, regardless of gender.	All questions relating to pregnancy, medical history concerning pregnancy, and related matters.
Race	None.	Any inquiry concerning race or color of skin, hair, eyes, etc.
References	Identification of person(s) who referred applicant to position for which they are applying. Names of former/current supervisor(s). Names of personal references.	Requirement of the submission of a religious reference.
Relatives	Names of applicant's relatives already employed by the City.	All inquiries concerning names or addresses of any relatives.

SUBJECT	LAWFUL PRE-EMPLOYMENT INQUIRIES	UNLAWFUL PRE-EMPLOYMENT INQUIRIES
Religion or Creed	None.	Inquiry into an applicant's religious denomination, religious affiliations, church, parish, pastor, or religious holidays observed. Inquiry as to whether applicant regularly attends a house of worship.
Sex	None.	Any inquiry concerning gender is prohibited.
Sexual Orientation	None.	All inquiries into an applicant's sexual orientation is prohibited.

SECTION 11: DISCIPLINARY GUIDELINES FOR DISCRIMINATION OFFENSES

Excerpt from the **POLICIES OF THE PERSONNEL DEPARTMENT**
(https://personnel.lacity.gov/doc.cfm?get=Personnel-Department-Policies)

DISCRIMINATION AND HARASSMENT

City employees are expected to comply with Federal and State laws and regulations and City policies including applicable mayoral directives ensuring equal employment opportunity and a discrimination and harassment free workplace. City employees are expected to demonstrate sensitivity to and respect for individual and personal differences when working with other employees and the public. Actions that create a hostile, offensive, threatening, or intimidating work environment will not be tolerated.

SUGGESTED ACTIONS

OFFENSE	FIRST OFFENSE	SECOND OFFENSE	THIRD OFFENSE
1. Failure to comply with City policies on equal employment opportunity, including but not limited to, the recruitment, selection, promotion, training or disciplining of employees.	Oral warning to discharge.	Discharge.	-
2. Demonstrating insensitivity to others by making derogatory comments, epithets, jokes, teasing, remarks, or slurs, or making suggestive gestures or displaying images or written material that derogatorily depict or demean people.	5-day suspension to discharge.	Discharge.	-
3. Retaliating against an employee for filing a discrimination complaint, for participating in a discrimination complaint investigation, or for opposing discriminatory actions.	5-day suspension to discharge.	Discharge.	-
4. Supervisory Standard: Failure to maintain a harassment free workplace for subordinates; failure to foster a discrimination free workplace by one's own individual actions or failure to act; or allowing subordinates to retaliate against an employee for filing a discrimination complaint, for participating in a discrimination complaint investigation, or for opposing discriminatory actions.	5-day suspension to discharge.	Discharge.	-

SEXUAL HARASSMENT

City policy and Federal and State law prohibit sexual harassment in the workplace. Supervisors are required to ensure and maintain a working environment free of sexual harassment, intimidation, and coercion. City employees are expected to conduct themselves in a manner that fosters a workplace environment which is free from conduct that is hostile, offensive, threatening, or intimidating, or that interferes with an individual's work performance. Some of these violations, if proved, may also constitute crimes under local and/or state law. Departments should take appropriate measures to report such actions and to advise their employees about reporting such actions that have occurred on City property or involving City employees.

SUGGESTED ACTIONS

OFFENSE	FIRST OFFENSE	SECOND OFFENSE	THIRD OFFENSE
1. **Sexual Favors:** Implicit or explicit coercive pressure for sexual favors.	20-day suspension to discharge.	Discharge.	-
2. **Physical:** a. Any physical conduct or act of a sexual nature, involving the use of force or the threat of force.	Discharge.	-	-
b. Unwelcome physical contact in sexual areas, including but not limited to breasts, buttocks, or genitalia.	20-day suspension to discharge.	Discharge.	-
c. Unwelcome touching, rubbing, any type of physical contact and/or conduct toward other employees, which is sexually suggestive.	1-day suspension to discharge.	Discharge.	-
3. **Verbal:** Demonstrating insensitivity to others by making derogatory comments, epithets, jokes, teasing, remarks, slurs, or questions of a sexual nature.	Oral warning to 20-day suspension.	Discharge.	-
4. **Visual:** Demonstrating insensitivity to others through non-verbal actions, such as making sexually suggestive gestures; displaying sexually explicit objects, pictures, cartoons, or posters; leering; unwanted letters, gifts, and/or materials of a sexual nature.	Oral warning to 20-day suspension.	Discharge.	-
5. **Hostile Work Environment:** Repeated, unwelcome, unwanted actions as described in #1, #2, #3, and/or #4 which create or could lead to a hostile, offensive, threatening, or intimidating work environment.	10-day suspension to discharge.	Discharge.	-
6. **Retaliation:** Retaliating against an employee for filing a sexual harassment complaint, for participating in a sexual harassment complaint investigation, or for opposing discriminatory actions.	10-day suspension to discharge.	Discharge.	-
7. **Supervisory Standard:** Failure to take appropriate action to correct and eliminate sexual harassment from the workplace; failure to foster a discrimination free workplace by personal actions or conduct; or allowing subordinates to retaliate against an employee for filing a sexual harassment complaint, for participating in a sexual harassment complaint investigation, or for opposing discriminatory actions (Amended 12-15-95).	20-day suspension to discharge.	Discharge.	-