

CITY OF LOS ANGELES
SEXUAL ORIENTATION, GENDER IDENTITY, AND GENDER EXPRESSION
DISCRIMINATION COMPLAINT PROCEDURE

The policy of the City of Los Angeles has been, and will continue to be, to promote and maintain an environment free from sexual orientation, gender identity, or gender expression discrimination. Discrimination is prohibited on the basis of one's actual or perceived sexual orientation, including heterosexual, lesbian, gay, or bisexual, transgender, or gender identity, or gender expression. Also prohibited is discrimination against an individual based on his or her association with a person of a particular sexual orientation, gender identity, or gender expression or because of his or her political activities or affiliations to further the rights of people of a particular sexual orientation, gender identity, or gender expression. Discrimination and harassment on the basis of sexual orientation, gender identity, or gender expression is illegal. Therefore, it is an unlawful employment practice for the City to fail or refuse to hire, to segregate, to fail to provide training, to discharge any individual, or to otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment on the basis (in whole or part) of such individual's known or presumed sexual orientation, gender identity, or gender expression.

For example, a supervisor should not state in an employee's evaluation that the employee has difficulty getting along with others in the workplace, if the reason that employee does not get along with co-workers is their discriminatory attitudes or ostracism based upon the evaluated employee's sexual orientation. Such an evaluation could be considered an evaluation of an employee's work performance based upon the employee's actual or perceived sexual orientation, which is impermissible. The rationale for prohibiting such an evaluation is that it would be unfair to penalize an employee for the bigotry of others.

Similarly, a manager selecting employees to conduct outreach to high school students may not exclude a lesbian employee from consideration on the grounds that the manager feels that, because she is a lesbian, she would poorly represent the City. Again, such conduct could be considered making a job assignment based, in part, upon the employee's sexual orientation, which is prohibited. The rationale for prohibiting such differential job assignments is that the lesbian employee loses an opportunity to gain experiences that could enhance her career. Additionally, the lesbian employee may feel stigmatized.

The following are additional examples of conduct prohibited by City policy. These examples are mere illustrations and are in no way intended to limit the basis for filing a complaint:

1. Inquiring into a job applicant's relationship with a roommate;

2. Refusing to hire (or impeding the hiring of) an applicant based on the applicant's sexual orientation, gender identity, or gender expression or perceived sexual orientation, gender identity, or gender expression;
3. Denying training to a gay, lesbian, bisexual, or transgender employee for a position that involves working with children based on the view that the employee's sexual orientation, gender identity, or gender expression makes him/her inappropriate for the position, and;
4. Imposing greater supervision or discipline on an employee based on the employee's sexual orientation, gender identity, or gender expression or perceived sexual orientation, gender identity, or gender expression.

Harassment in the workplace of a city employee on the basis of actual or perceived sexual orientation, gender identity, or gender expression, and/or the association with a person or persons of a particular sexual orientation, gender identity, or gender expression, and/or political activity or affiliations to further the rights of persons of a particular sexual orientation, gender identity, or gender expression is also prohibited. Sexual orientation, gender identity, or gender expression harassment includes the creation of or contribution to a hostile, intimidating, threatening, offensive, or abusive environment for lesbian, gay, bisexual, transgender, or heterosexual City employees through written, spoken, graphic or demonstrative derogatory terms, slurs, comments, gestures, ridicule, threats, rumors, or jokes regarding sexual orientation, gender identity, or gender expression.

Further, City policy prohibits retaliation by the City, any department, or employee based on making a claim of discrimination or harassment on the basis of sexual orientation, gender identity, or gender expression. This means that no City employee may intimidate, penalize, or take action against an individual for filing a complaint of discrimination based on sexual orientation, gender identity, or gender expression or for supporting such a complaint (as a witness or otherwise) or for opposing such discrimination.

The policy of the City requires that prompt and appropriate action be taken to deter and punish sexual orientation, gender identity, or gender expression discrimination. Therefore, persons believing that they are victims of sexual orientation, gender identity, or gender expression discrimination are strongly encouraged to report any and all incidents.

I. FILING A COMPLAINT

An employee making a sexual orientation, gender identity, or gender expression discrimination complaint can choose to file the complaint with the employee's department EEO Counselor, the City's Sexual Orientation Counselor, and/or with

an external non-discrimination enforcement agency. Complaints filed about pre-employment, employment actions, or actions directly related to Personnel Department functions should be directed to the City's Sexual Orientation Counselor, and/or to an external, non-discrimination enforcement agency.

Complaints filed internal to the City must be filed within one (1) year from the date of the last alleged act of discrimination. Otherwise, the complaint may be considered untimely.

Although complaints must be prepared and filed on an employee's own time, department managers and supervisors should allow the employee filing the complaint, and all other employees who are interviewed as part of the investigation, to be interviewed while on city time when requested by staff conducting the discrimination investigation. A person filing a sexual orientation, gender identity, or gender expression discrimination complaint shall have the right of representation by any designated person or organization.

II. WHERE TO FILE

City employees and employment candidates have the following options for filing a sexual orientation, gender identity, or gender expression discrimination complaint. Complaints may be filed with:

1. The Personnel Section of your City Department

A person wishing to file a complaint with a City department should obtain the name, address and telephone number of the department's Sexual Orientation or Equal Employment Opportunity (EEO) Counselor. Contact the Counselor to discuss the complaint and if necessary, arrange to meet with the Counselor to file a formal complaint. If information for the department Counselor cannot be obtained, contact the Personnel Department Equal Employment Opportunity Section at (213) 473-9100.

2. The City's Sexual Orientation Counselor

A person wishing to file a complaint directly with the City's Sexual Orientation Counselor about pre-employment or employment actions should contact the Counselor at the address or phone number below. Also complaints about actions directly related to Personnel Department functions should be directed to the City's Sexual Orientation Counselor.

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| <p style="text-align: center;">Los Angeles City Personnel Department Office of Discrimination Complaint Resolution 700 E. Temple Street, Room 380, Los Angeles, CA 90012 Phone: (213) 473-9123 Fax: (213) 473-0138</p> |
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Information concerning the City's non-discrimination policies, complaint procedures and filing options, as well as filing deadlines will be provided by the City's Sexual Orientation Counselor upon request.

3. The City's Civil Service Commission

A person wishing to file a complaint through the City's centralized discrimination resolution and investigation entity may write or contact:

**Los Angeles City Personnel Department
Office of Discrimination Complaint Resolution
700 E. Temple Street, Room 380
Los Angeles, CA 90012
(213) 473-9123 Fax: (213)473-0138**

Information concerning the City's non-discrimination policies, complaint procedures and filing options, as well as filing deadlines will be provided by the Civil Service Commission upon request.

4. A Governmental Non-Discrimination Enforcement Agency

Sexual orientation discrimination complaints can also be filed with the State compliance agency. The State compliance agency may be contacted at the following address:

**Department of Fair Employment and Housing
1055 W. Seventh St., Suite 1400
Los Angeles, CA 90017
1-800-884-1684
TTY (800) 700-2320**

Persons considering filing complaints of discrimination with DFEH should verify the filing criteria, including deadlines for filing. The period of time the City investigation takes will not extend the agency filing period. An individual who files a complaint with the DFEH shall not lose any rights he or she has to pursue redress under the City's internal complaint procedures. A DFEH filing shall not terminate or have any other negative impact on the City's investigation or processing of a parallel complaint filed with any City entity. Individuals who file complaints with the DFEH are encouraged to also file with the City, so the City has the opportunity to investigate the complaint, correct the situation, and offer an acceptable remedy to the complainant. Even where an internal complaint is not filed, the City shall conduct its own investigation upon learning of a complaint to an outside agency in an effort to prevent further occurrences or complaints.

III. DISCRIMINATION COMPLAINTS AGAINST ELECTED OFFICIALS

There is a special procedure for filing a complaint of discrimination against elected officials outlined in the Los Angeles Administrative Code Sections 4.405 through 4.411. Contact the Personnel Department Equal Employment Opportunity Section at (213) 473-9100 should you need detailed information on this procedure.

The investigation of such a complaint shall not be conducted by the accused official nor by such official's subordinates nor by the departments or personnel under such official's supervision or management.

Nothing in this procedure shall restrict a person's right to file a complaint with any applicable State agency responsible for the enforcement of anti-discrimination legislation.

IV. EMPLOYEE RIGHTS AND RESPONSIBILITIES

Every employee is entitled to work in an environment free from sexual orientation, gender identity, or gender expression discrimination. An employee who perceives comments, gestures, or actions which offend against an individual's sexual orientation, gender identity, or gender expression made by another employee or supervisor should immediately and clearly communicate to that person that such behavior is offensive.

Any employee who believes he or she has been discriminated against due to his/her sexual orientation, gender identity, or gender expression should take the following steps:

1. The employee should **immediately** report the sexual orientation, gender identity, or gender expression discrimination complaint to her or his supervisor, or to the department's EEO Counselor, or to the City's Sexual Orientation Counselor in the Personnel Department's Office of Discrimination Complaint Resolution. All employees are assured that they may make such reports without fear of retaliation by the City, department management, or their immediate supervisor.
2. The employee has the right to a confidential conference with the person to whom the sexual orientation, gender identity, or gender expression complaint is made. Additionally, the person filing the complaint has the right of representation by any designated person or organization, e.g., a union representative, an attorney or another individual of the complainant's choice.

3. If an employee chooses to initiate a complaint of sexual orientation, gender identity, or gender expression discrimination, the employee's department EEO Counselor or the City's Sexual Orientation Counselor should make preliminary efforts to resolve the complaint, and if not resolved, will conduct a complete investigation. All efforts to resolve the complaint will be fully documented.
4. All investigations, whether conducted by the department EEO Counselor or the City's Sexual Orientation Counselor, will be handled with discretion, sensitivity, and due concern for the dignity of those involved, and will be conducted consistent with the procedures indicated in this document. As in any discrimination complaint investigation, information will be kept confidential to the maximum extent allowed by law.
5. All investigations will be thorough. All persons named as potential witnesses by the employee will be contacted as required during the course of the investigation. Anyone who is alleged to have committed acts of sexual orientation, gender identity, or gender expression discrimination will be contacted during the investigation and allowed to make a statement. Any person accused or alleged to have committed acts of discrimination or harassment has the right to representation by a union representative or attorney.
6. Any employee who witnesses an incident of sexual orientation, gender identity, or gender expression discrimination shall cooperate in any investigation. All employees are assured that they may cooperate in such an investigation without fear of retaliation or reprisal by the City, department management, their immediate supervisor or any other City employee. Any employee who fails or refuses to cooperate or to be truthful shall be subject to disciplinary action, up to and including termination from City employment.
7. Employees may expect a timely resolution of all complaints.

V. RESPONSIBILITIES OF THE DEPARMTENT EEO COUNSELOR

Each City department manager must designate an EEO Counselor and ensure that all department employees are made aware of the name and phone number of the designated Counselor. An employee who believes he or she has been discriminated against based on sexual orientation, gender identity, or gender expression may choose to file a complaint with the department EEO Counselor. All department EEO Counselors who may receive a complaint of discrimination or harassment based on sexual orientation, gender identity, or gender expression shall receive specialized

training in the law and on the City's policies and procedures governing sexual orientation, gender identity, or gender expression discrimination and harassment and the handling of discrimination and harassment complaints; personnel complaint documentation; investigation and reporting; interviewing skills and techniques; and federal, state and City resources available to assist those concerned about such discrimination or harassment.

Handling a complaint of sexual orientation, gender identity, or gender expression discrimination or harassment according to the responsibilities outlined below shall be considered a primary duty assignment. The EEO Counselor shall not be constrained in conducting a proper investigation by any City employee, manager, or supervisor. Each department EEO Counselor has the following responsibilities with regard to a sexual orientation, gender identity, or gender expression complaints:

1. The Counselor shall initiate an inquiry into the alleged sexual orientation, gender identity, or gender expression harassment or discrimination. The Department EEO Counselor may not refuse to accept or investigate a complaint that alleges sexual orientation, gender identity, or gender expression discrimination or harassment.
2. The Counselor shall meet with the complaining employee at the employee's earliest convenience. The Counselor shall fully inform the employee about the City's sexual orientation, gender identity, or gender expression policies and discrimination complaint procedures and shall answer questions that the employee may have regarding the City's policies and procedures. The Counselor shall provide the complainant with relevant referral and resource information, including a general statement that there are time limitations for filing a complaint with an outside agency.
3. The Counselor shall listen to the employee's complaint and discuss the complaint with discretion, sensitivity, and due concern for the dignity of those involved. The Counselor shall ask the complaining employee what remedy he or she seeks, including whether the complainant seeks a temporary or permanent transfer for the alleged offender or for him or herself.
4. The Counselor shall fully record and document the complaint, including the complainant's proposed resolution to the alleged violation(s).
5. The Counselor shall notify the City's Sexual Orientation Counselor of the complaint.

6. The Counselor shall conduct a complete and timely investigation into the complaint, including conducting interviews with all non-cumulative witnesses and others who may be involved. The investigation will be conducted in a manner consistent with the procedures included in this section.
7. The Counselor shall immediately notify the Citywide Sexual Orientation Counselor in writing if any City Department, manager, supervisor, or employee fails to cooperate fully during the investigation.
8. The Counselor will communicate to the complainant in writing the status of the investigation at least once every two months.
9. Upon completion of the investigation, the Counselor shall prepare a report of the results of the investigation. The Counselor shall inform complainants if disciplinary action is taken against the accused employee, although not the specific nature of the action. No information provided to the complaining employee shall compromise any confidential or privacy protection afforded to the accused employee under the law or City policy. The Sexual Orientation Counselor should contact the Office of the City Attorney if there are questions in this area.
10. If the employee is not satisfied with the way the sexual orientation, gender identity, or gender expression discrimination complaint has been resolved, the Counselor shall fully inform the employee of his or her additional rights under the law. These rights include appealing, filing a complaint under the Citywide Discrimination Complaint Procedure, filing a complaint with the Civil Service Commission, and filing a complaint with the State Department of Fair Employment and Housing (DFEH) and/or in court.

VII. RESPONSIBILITIES OF THE CITY'S SEXUAL ORIENTATION COUNSELOR

An employee or employment applicant who believes he or she has been discriminated against based on sexual orientation, gender identity, or gender expression may choose to file a complaint with the City's Sexual Orientation Counselor. The City's Sexual Orientation Counselor has all of the duties and responsibilities of a department EEO Counselor, as well as the following additional responsibilities:

1. Issue Personnel Discrimination Complaint Report numbers.

2. Accept, investigate, and complete any sexual orientation, gender identity, or gender expression discrimination or harassment complaint that is referred from a department EEO Counselor.
3. Maintain custody of completed sexual orientation, gender identity, or gender expression discrimination and harassment complaint investigations.
4. Maintain a copy of each completed sexual orientation, gender identity, or gender expression discrimination or harassment complaint investigation report in secure storage in City filing facilities for no less than five years.
5. Advise EEO Counselors on sexual orientation, gender identity, or gender expression complaint intake and investigation.
6. Ensure that the posting containing the name and phone number of the City Sexual Orientation Counselor is maintained, accurate, and conspicuous in all City Department offices, and promptly compile a written report for the Personnel Department General Manager and the City Board of Civil Service Commissioners of any locations where postings have been removed.

Prior to any employee assuming any of the above duties as the City Sexual Orientation Counselor, the employee must have received training in the law and the City's policies and procedures governing discrimination and harassment and the handling of discrimination and harassment complaints; personnel complaint documentation, investigation, and reporting; interviewing skills and techniques; and federal, California, and City of Los Angeles resources available to assist him or her in competently performing all of the duties required to handle issues related to sexual orientation, gender identity, or gender expression discrimination and harassment on a Citywide basis, including training and providing guidance to department EEO Counselors. Prior to or shortly after assuming the above duties, the Sexual Orientation Counselor shall seek out and obtain specialized training in the law governing sexual orientation, gender identity, or gender expression discrimination and harassment and handling complaints thereof.

The City also has a Sexual Orientation Coordinator; this position is situated in the City's Personnel Department. The Sexual Orientation Coordinator's areas of responsibility include training and policy and procedure development for the City on issues related to sexual orientation, gender identity, or gender expression. The Sexual Orientation Coordinator, in cooperation with the Sexual Orientation Counselor, shall provide training to department EEO Counselors on conducting sexual orientation, gender identity, or gender expression complaint investigations. As described above, the responsibilities of the City's Sexual

Orientation Counselor relate to the handling of formal complaints for sexual orientation, gender identity, or gender expression discrimination.

VII. RESPONSIBILITIES OF CITY MANAGEMENT

It is the responsibility of City Management to take necessary steps to prevent sexual orientation, gender identity, or gender expression discrimination, and, when a complaint is made, has been investigated, and discrimination is found to exist, to remedy any sexual orientation, gender identity, or gender expression discrimination that is discovered.

It is the responsibility of the Personnel Department to ensure that the operating departments are in compliance with the Sexual Orientation, Gender Identity, or Gender Expression Discrimination Complaint Procedures, and to monitor said compliance on an ongoing basis.

In addition, all operating departments are to comply with the Mayor's Directive, 12 issued on June 6, 2008 and to place said directive in Operating Department manuals, policies and training materials.

City Department EEO counselors should be reminded that all sexual orientation, gender identity, or gender expression discrimination complaints filed within their operating departments must be handled in a manner consistent with the procedures set forth in this Sexual Orientation, Gender Identity, or Gender Expression Discrimination Complaint Procedure.

All Operating Departments are directed to evaluate, and if necessary, revise and redistribute their internal sexual orientation, gender identity, or gender expression discrimination complaint procedures to eliminate any provisions that permit the operating department to close the complaint without investigation if the complainant files with an outside agency or other City process, or which allow the operating department to terminate an investigation regardless of the evidence, for reasons such as failure to cooperate with the investigation or refusing to accept the offered remedy. To the extent possible, without the cooperation of the complaining party, the investigation should continue and be completed so that any discovery of improper conduct or behavior can be dealt with and remedied.

All operating departments are to ensure that sexual orientation, gender identity, or gender expression harassment is expressly included in departmental sexual harassment and sexual orientation, gender identity, or gender expression non-discrimination policies. However, those policies should expressly state and explain that sexual orientation, gender identity, or gender expression harassment is *not* the same as sexual harassment. Employees should be instructed that, while sexual harassment is based upon a person's gender, sexual orientation, gender identity, or gender expression harassment is based upon a person's sexual orientation, gender identity, or gender expression or on another's

perception of that person's sexual orientation, gender identity, or gender expression. City departments are to review and update their policies in this regard.

VIII. THE CITY'S DISCRIMINATION COMPLAINT PROCEDURE

The City's Discrimination Complaint Procedure gives City employees and candidates for City employment the right to file a written complaint with the City's Civil Service Commission. The complaint must deal with a City action, procedure, or practice in hiring or employment which the employee or prospective employee believes to be discriminatory. Complaints alleging sexual orientation, gender identity, or gender expression discrimination are covered by the Citywide Discrimination Complaint Procedure.

Complaints made under the City's Discrimination Complaint Procedure must be filed within one year of the alleged act of discrimination.

IX. OTHER DISCRIMINATION COMPLAINT OPTIONS

Employees who believe that they have been discriminated against based on sexual orientation, gender identity, or gender expression also have the right to file a discrimination complaint with the California Department of Fair Employment and Housing (DFEH). See Section II of this procedure for contact information. An employee/employment candidate should check directly with the DFEH regarding filing deadlines.

X. DISTRIBUTION OF COMPLAINT PROCEDURE

This Sexual Orientation, Gender Identity, or Gender Expression Discrimination Complaint Procedure shall be distributed to all Departments, which shall then distribute it to all employees via internal mail or e-mail with a return receipt requested (these receipts shall be forwarded to the Personnel Department by each department), or by internal mail for those employees for whom email distribution is not available. It will also be provided to all applicants for City employment. In addition, all new employees will receive the Complaint Procedure as part of the orientation process. Moreover, this policy should be incorporated into and added to each operating department's personnel rules, work rules, or manuals, or otherwise distributed in a manner that ensures all employees receive it. In addition, the Sexual Orientation, Gender Identity, or Gender Expression Discrimination Complaint Procedure should be posted on all department employment-related bulletin boards. Further, all operating departments should post the City's equal employment opportunity poster on each department's employment-related bulletin board.

In adapting this procedure, all operating departments should eliminate any of its prior procedure that required the complaining party to file separate documents

with a series of different City officials in order for the complaint to warrant continued review, or that otherwise deviate from this policy. All internal procedures should be reviewed and approved by the Personnel Department.

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