



**CITY OF CHESAPEAKE, VIRGINIA**

**NUMBER: 2.09 EFFECTIVE**

**CITY DIRECTIVE**

**DATE: 04/01/2021**

**SUBJECT: DEPARTMENT OF HUMAN RESOURCES  
EQUAL EMPLOYMENT OPPORTUNITY POLICY**

**SUPERCEDES: 12/15/04**

**I. PURPOSE**

The City of Chesapeake is committed to providing a safe and productive work environment, free of discrimination, harassment, retaliation, or bullying. The City’s commitment in this regard goes well beyond meeting legal requirements. The personal uniqueness of each employee is an asset of great worth. As such, the City is dedicated to providing equal employment opportunity for all employees and applicants regardless of these protected factors - race, color, religion, sex, sexual orientation, gender identity and/or expression, national origin, age, pregnancy, childbirth or related medical conditions, physical or mental disability, genetic information, protected veteran status, citizenship status, marital status, political affiliation and any other characteristic protected by federal, State, or local law. For the purpose of this policy, “disability” is defined in accordance with the Americans with Disabilities Amendments Act (ADA) and “genetics” in accordance with Title II of the Genetic Information Non-Discrimination Act.

This Policy sets forth the City’s anti-discrimination, harassment, and retaliation policies as well as the compliance and investigation procedures.

The Director of Human Resources is responsible for official interpretations of this Policy.

**II. POLICY / RESPONSIBILITY**

The City is an Equal Employment Opportunity Employer. Consistent with the Civil Rights Act of 1964 as amended, the Rehabilitation Act of 1973, the Equal Pay Act of 1963, the Americans with Disabilities Act of 1990 as amended, the Age Discrimination in Employment Act of 1967 (ADEA), the Genetic Information Nondiscrimination Act of 2008 (GINA) and other relevant statutes, the City does not discriminate against employees in any aspect of employment, nor applicants for employment, based upon the protected factors.

All allegations of EEO violations will be investigated in accordance with this Policy, and employees found to be in violation of this Policy shall be subject to corrective and/or disciplinary action up to and including termination of employment. Every employee is responsible for helping ensure that discriminatory practices are avoided or, when necessary, identified and eliminated. All supervisory personnel are responsible for taking appropriate action to identify and stop all unacceptable behaviors and implement corrective action to ensure that there is no recurrence.

**III. APPLICABILITY**

This Policy is applicable to all City employees within departments/agencies under the direction of the City Manager. Likewise, any person conducting business with the City (contractors, vendors, citizens, interns, volunteers, or agents thereof) is expected to treat our employees and citizens with respect and to conform to the same workplace standards of conduct as City employees.

This Policy applies to all terms and conditions of employment, including, but not limited to

recruitment, promotions, testing, training opportunities, hiring, transfers, work assignments, discipline, salary and benefits, termination, performance evaluations, and working conditions.

#### IV. DEFINITIONS

- **Age discrimination** - occurs when persons 40 years or older are treated unfairly because of their age.
- **Citizenship status discrimination** - occurs when people are treated unfairly based on their citizenship or immigration status.
- **Color discrimination** - occurs when people are treated unfairly because of the color of their skin.
- **Disability discrimination** - occurs when people are treated unfairly because of a disability or perceived disability.
- **Duty** - a task that must be accomplished, rather than the manner in which the task is accomplished.
- **Equal Employment Opportunity (EEO)** - is the right to be considered for a job, training opportunity, or other benefit for which a person is skilled or qualified.
- **Equal Employment Opportunity Compliance Officer** – Human Resources staff member responsible for the oversight of all EEO matters citywide, to include but not be limited to, investigations and receipt of EEO concerns.
- **Equal Employment Opportunity Professional** - includes the Department of Human Resources' (HR) EEO Compliance Officer and any other HR staff member designated by the Director of Human Resources to address EEO matters.
- **Essential functions** - job duties that are fundamental to the position, not marginal in nature.
- **Gender identity discrimination** - occurs when people are treated unfairly because of how they perceive themselves and what they call themselves. One's gender identity can be the same or different than one's sex assigned at birth.
- **Gender expression discrimination** - occurs when people are treated unfairly because of the way they express their gender identity, typically through their appearance, dress, and behavior.
- **Genetic information discrimination** - occurs when people are treated unfairly because of information about their genetic tests and the genetic tests of their family members, as well as information about the manifestation of a disease or disorder in their family members (i.e. family medical history).
- **Individual with a disability** - an individual under the ADA who has a physical or mental impairment that substantially limits one or more major life activities, or a record of such impairment, or is regarded as having such impairment.
- **Harassment** - occurs when someone creates an intimidating, hostile, or offensive environment verbally, non-verbally, or physically based on a person's protected factors.
- **Hostile environment** - occurs when the conduct has the effect of unreasonably interfering

with a person's work performance or creates an intimidating, hostile or offensive work environment, based on a person's protected factors.

- **Marital status discrimination** - occurs when people are treated unfairly because they are married, single, separated, or divorced.
- **National origin discrimination** - occurs when people are treated unfairly because of their nationality.
- **Political affiliation discrimination** - occurs when people are treated unfairly because of their membership of, or close association with, a political party or organization.
- **Pregnancy discrimination** - occurs when a person is treated unfavorably because of pregnancy, childbirth, or a medical condition related to pregnancy or childbirth.
- **Protected Factors** - race, color, religion, sex, national origin, age, pregnancy, physical or mental disability, genetic information, protected veteran status, citizenship status, marital status, political affiliation, sexual orientation, gender identity and/or expression, and any other characteristic protected by federal, State, or local law.
- **Protected Veteran discrimination** - occurs when people are treated unfairly because they are a disabled veteran, recently separated veteran, active duty wartime or campaign badge veteran, or an Armed Forces Service Medical veteran.
- **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.
- **Racial discrimination** - occurs when people are treated unfairly because of their race.
- **Religious discrimination** - occurs when people are treated unfairly because of their religious belief or non-religious belief.
- **Retaliation** - occurs when negative action is taken against a person because of a personal difference or opinion, because that person has opposed unlawful discrimination, or because they made a charge, testified, assisted, or participated in any manner in an investigation, or procedure under this policy.
- **Sex discrimination** - occurs when people are treated unfairly because of their gender. Sex discrimination includes pregnancy discrimination and sexual harassment.
- **Sexual harassment** - includes “unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature” by a manager, supervisor, co-worker or non-employee (third party). Such conduct may constitute sexual harassment when:
  - Submission to the 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
  - The harassment substantially interferes with the employees work performance or creates an intimidating, hostile, or offensive work environment.

- **Sexual orientation discrimination** occurs when people are treated unfairly solely because of their real or perceived sexual orientation. This includes transgender status or unfair treatment based on their sexual orientation (e.g. lesbian, gay, bisexual, asexual, pansexual, straight).
- **Veteran status discrimination** occurs when people are treated unfairly because of their status as an active duty or retired member of the military.

## V. EQUAL EMPLOYMENT OPPORTUNITY

The City is committed to providing equal employment opportunities without regard to protected factors. This policy relates to all phases of employment, including, but not limited to, recruiting, employment, placement, promotion, transfer, demotion, reduction of workforce, termination, rates of pay or other forms of compensation, selection for training, the use of all facilities, and participation in all City-sponsored employee activities.

It is the responsibility of each supervisor of the City to ensure affirmative implementation of these policies to avoid any discrimination in employment. All employees are expected to recognize these policies and cooperate with their implementation. Violation of these policies is a disciplinary offense.

Employees and applicants shall not be subjected to harassment, intimidation, or any type of retaliation because they have (1) filed a complaint; (2) assisted or participated in an investigation, compliance review, hearing, or any other activity related to the administration of any federal, State, or local law requiring equal employment opportunity; (3) opposed any act or practice made unlawful by any federal, State, or local law requiring equal opportunity; or (4) exercised any other legal right protected by federal, State, or local law requiring equal opportunity.

Where discrimination or harassment is suspected, employees are encouraged to use the City's complaint procedures outlined in this policy. Any individual found to be engaging in discriminatory or harassing conduct or practices will be subject to disciplinary action, up to and including termination of employment, and any other measures deemed necessary to eliminate such behavior. In addition, departments/agencies shall take the necessary steps to address the impact that any discrimination/harassment may have had on the complainant, department, or the City. The Department of Human Resources is responsible for the official investigation of all complaints of discrimination, harassment, and retaliation.

## VI. DISCRIMINATION AND HARASSMENT

The City is committed to maintaining a workplace that fosters mutual employee respect and promotes professional conduct as well as harmonious, productive, working relationships. Our organization believes that discrimination, harassment, and retaliation in any form constitute misconduct that undermines the integrity of the employment relationship. All employees, unpaid interns, and/or volunteers should be able to enjoy a work environment free from all forms of discrimination and harassment. All citizens, vendors and other individuals who conduct business with the City should also be able to enjoy a harassment free interaction. Unlawful harassment is a form of misconduct that undermines the integrity of the employment relationship; therefore, it is the policy of the City of Chesapeake to treat all employees with respect and to ensure that the workplace is free of inappropriate and illegal discrimination and harassment.

The City prohibits conduct that constitutes unlawful harassment, discrimination, and retaliation by employees as well as by third parties such as citizens, vendors and other individuals who conduct business with the City. Unlawful harassment and/or discrimination based on protected factors may be one incident or a series of incidents and may exist systemically as part of the work environment. When such behavior occurs, it is considered discriminatory or harassing if it creates a hostile, intimidating, offensive work environment, unreasonably interferes with an employee's work performance or the conduct of City business.

Examples of what may constitute discriminatory harassment if unwelcome, severe, or pervasive, and in violation of the City's Policy, include, but are not limited to, the following:

- off-color jokes concerning race, sex, disability, or other protected factor(s);
- insults, threats, literature, pictures or cartoons based on protected factor(s);;
- any physical aggression based on protected factor(s); or
- emails, texts, posters, flyers, etc. of an offensive nature.

## **VII. SEXUAL HARASSMENT**

The City of Chesapeake is committed to providing a work environment free of any form of sexual harassment. Sexual harassment is a violation of Title VII of the Civil Rights Act and, therefore, is prohibited within the workplace. It is the responsibility of all City employees to ensure that individuals are provided equal access to employment and services without being subjected to sexual harassment.

Certain other behaviors may constitute sexual harassment if unwelcome, severe, or pervasive, and in violation of City policy. Such behaviors include, but are not limited to, the following:

- Sexually suggestive conduct or remarks about clothing, body, etc.;
- Sexual activities directed personally at a member of the Chesapeake workforce, customer, or citizen;
- Speaking or whistling in a suggestive manner directed personally at others;
- Sexual propositions, invitations, or other unwanted pressures for sexual contact;
- Obscene gestures, patting, pinching, or any other sexually suggestive touching or feeling to include attempted or actual kissing or fondling;
- Coerced sexual acts;
- Expressed or implied requests for sexual favors as a condition of employment, promotion, or favorable performance assessment;
- The display in the workplace of sexually suggestive or explicit objects, pictures, posters, or cartoons, including, but not limited to, offensive electronic communications or voice-mail messages;
- Accessing pornographic images through the internet or e-mail; or
- Verbal abuse of a sexual nature including foul or obscene language, lewd or sexually explicit comments, sexual jokes, or any graphic verbal commentary about an individual's body.

## **VIII. DISABILITY DISCRIMINATION**

The City is committed to complying with the Americans with Disabilities Act (ADA) as amended, and the Rehabilitation Act, as amended. In accordance with these Acts, the City will not discriminate against qualified individuals with disabilities, perceived disability or association with a disabled person, on the basis of disability in its services, programs, or activities, and such individuals will be afforded the right to reasonable accommodations.

The City is dedicated to making individuals with disabilities full participants in employment, programs, services, and activities. No applicant for employment, employee, or program participant shall be denied access to, participation in, or the benefits of the City's employment, programs, or activities solely because of that person's disability, perceived disability, or association with a disabled person. In the employment arena, this prohibition covers all aspects of the employment process to include, but not be limited to, application, testing, hiring, assignments, evaluation, disciplinary actions, promotions, medical examinations, termination, compensation, leave, training, or benefits.

It is unlawful to discriminate against qualified individuals with disabilities, perceived disabilities, or who have a known association with a disabled person. In this context, a qualified individual is an individual with a disability, perceived disability, or association with a disabled person who meets the skill, experience, education, and other job-related requirements of a position held or desired, and who, with or without reasonable accommodation, can perform the essential functions of such job. A person with a "disability" is an individual who has a physical or mental impairment that substantially limits one or more major life functions; has a record of such impairment; or is regarded as having such impairment.

The City will make reasonable accommodation to the known physical or mental limitations of a qualified applicant or employee with a disability unless the accommodation would cause an undue hardship on the operation of the City. Employees and applicants with disabilities who may request a reasonable accommodation to perform essential functions should follow the reasonable accommodation procedure as outlined in Administrative Regulation 2.63, Americans with Disabilities Act (ADA) Policy and Procedure.

## **IX. GENERALLY INAPPROPRIATE CONDUCT**

This policy prohibits behaviors that may not reach the level of harassment or discrimination, as defined in this Policy, but behavior that nonetheless is inappropriate in the workplace. Such behavior includes, but is not limited to, bringing sexually explicit pictures, photographs, cartoons, or objects to the workplace; repeated requests for dates; sexual bantering; jokes or teasing; sexual innuendoes; gestures, leers, or horseplay; obscene, profane, or abusive language; terms of endearment such as "doll," "honey," "sweetheart," or "babe;" sending sexual, racial, ethnic, religious jokes, cartoons, etc. on e-mail, faxes, etc.; treating others in a discourteous manner; and using racial, ethnic or religious slurs or demeaning comments.

## **X. EMPLOYEE RESPONSIBILITIES**

Each employee of the City is responsible for engaging in and promoting workplace behaviors that create and maintain an environment of respect and promote effective teamwork. Employees who

experience violations of this policy are encouraged to make it clear to the offender, at the time of the occurrence, that such behavior is offensive. Employees who are directly impacted, witness, hear about (even just rumors), or have knowledge of behaviors that violate this policy shall immediately report such behavior to their supervisor, other management within their department, or the EEO Compliance Officer in the Department of Human Resources.

Employees may address complaints and concerns through their supervisory chain of command, or by contacting the City's EEO Compliance Officer at (757) 382-6492 or [eeoco@cityofchesapeake.net](mailto:eeoco@cityofchesapeake.net). Persons who wish to discuss a problem concerning discrimination without revealing their identity may do so by contacting the EEO Compliance Officer. In such cases, the EEO Compliance Officer shall provide counseling and take such follow-up action as may be appropriate and possible given the restraints of anonymity. Anonymous complainants should be aware that it may be necessary to investigate the alleged discriminatory behavior even if the anonymous complainant wishes to withdraw his/her complaint.

Complainants may request to withdraw a complaint of discrimination at any time. However, the final decision to approve their request and close the case shall rest with the EEO Compliance Officer.

## **XI. MANAGEMENT RESPONSIBILITIES**

Managers and supervisors have a greater responsibility, not only to model respectful, professional conduct at the workplace, but also to maintain an inclusive environment. Managers and supervisors are expected to do the following:

- Immediately report all EEO concerns to the EEO Compliance Officer in the Department of Human Resources.
- Create, foster, and maintain a workplace that is free from discrimination and harassment;
- Ensure employment decisions and practices are based on a consistent set of criteria that is applied to all employees and not based on protected factors.
- Take each complaint concerning violations of this policy seriously. Failure to report an incident of harassing or discriminatory conduct is a violation of this policy.
- Ensure that all employees under their supervision are aware of this policy and the procedures for communicating a complaint.
- Respect confidentiality to the greatest extent possible by only sharing information regarding complaints and investigations with those who have a need to know.

The EEO Compliance Officer in the Department of Human Resources is responsible for the official investigation of all EEO allegations.

**XII. RETALIATION**

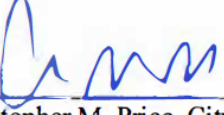
It is unlawful to retaliate against or harass any person for filing a complaint of discrimination, harassment, or retaliation, or for cooperating in the investigation of an EEO concern. The City will not tolerate retaliation or harassment. Employees who believe they have been retaliated against for filing a complaint or cooperating in an investigation are urged to immediately file a complaint with the City's EEO Compliance Officer. Any employee who engages in such retaliation or harassment shall be subject to discipline, which may include reprimand, suspension, demotion, or termination.

APPROVED AS TO FORM AND CONTENT:

  
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Andrea Ruege, Assistant City Attorney

1/27/2020  
Date

APPROVED AND ADOPTED:

  
\_\_\_\_\_  
Christopher M. Price, City Manager

4.1.21  
Date