



CITY OF LONG BEACH EMPLOYEE POLICY MANUAL

Adopted By Long Beach City Council Resolution On
October 16, 2018
(Revised July 18, 2023)



**THE CITY OF LONG BEACH
EQUAL EMPLOYMENT OPPORTUNITY POLICY**

Effective Date: July 18, 2023

A. INTRODUCTION

The City of Long Beach respects the dignity and professionalism of each of its employees. Therefore, it is the goal of the City to promote a workplace that is free from unlawful discrimination and harassment.

Discrimination and harassment will not be tolerated by the City. To this end, all allegations of unlawful discrimination or harassment will be taken seriously and investigated.

The City of Long Beach is committed to a policy of equal opportunity and non-discrimination against any covered individual (as defined below) on the basis of:

- Race;
- Creed;
- Color;
- National origin;
- Religion;
- Sex***;
- Marital status;
- Sexual orientation;
- Age;
- Military status;
- Disability;
- Genetic characteristics or information or carrier status; or
- Any other bases protected by state, federal, or local law.

***The term “sex” shall include actual or perceived sex, sexual orientation and shall also include a person’s gender identity, self-image, appearance, behavior or expression, whether or not that gender identity, self-image, appearance, behavior or expression is different from that traditionally associated with the legal sex assigned at birth, including the status of being transgender.

In addition, it is unlawful to retaliate against a covered individual for filing a complaint pursuant to this policy or participating in the investigation of a complaint. Acts of retaliation taken against a covered individual will not be tolerated and allegations of retaliation will be investigated.

B. ACCOMMODATIONS FOR INDIVIDUALS WITH DISABILITIES OR PREGNANCY-RELATED CONDITIONS

The City does not discriminate against any qualified individual with regard to any terms and/or conditions of employment because of such individual's disability, perceived disability or pregnancy-related condition so long as the employee or applicant can perform the essential functions of his/her job or the job for which he/she is applying. Consistent with this policy of non-discrimination and in accordance with applicable federal, state, county and/or local laws, the City will provide reasonable accommodation(s) to a qualified individual with a disability who has made the City aware of his/her disability or pregnancy-related condition unless doing so would result in undue hardship.

The City encourages individuals with disabilities or pregnancy-related conditions to come forward and request reasonable accommodations. A job applicant or employee with a disability or pregnancy-related condition who believes that he/she/they need(s) a reasonable accommodation to perform his/her/their job or the job for which the individual is applying should contact the City Manager who will coordinate with the ADA Coordinator. Any request for accommodation should be submitted to the City Manager in writing as soon as possible upon the employee or job applicant learning or becoming aware of his/her/their need for accommodation. Requests for accommodation will be treated as confidential to the extent practicable.

When the City receives a request for a reasonable accommodation, or is placed on notice that someone may need a reasonable accommodation, the individual will be expected to engage in an interactive process with the City to discuss and identify the precise limitation(s) resulting from his/her/their disability or pregnancy-related condition and the potential accommodation(s) that the City may make to help such individual overcome those limitations in order to perform his/her/their job or the job for which the individual is applying. The City will determine the reasonableness of the requested accommodation, taking into consideration various factors, including but not limited to the nature and cost of the requested accommodation, the impact of the requested accommodation on the City's operation, and whether an accommodation other than what was requested may meet the individual's needs.

This policy is neither exhaustive nor exclusive. The City is committed to taking all other actions necessary to ensure equal employment opportunity for persons with disabilities in accordance with the Americans with Disabilities Act, the New York State Human Rights Law and all other applicable federal, state, and local laws.

C. PURPOSE and APPLICABILITY

To inform all employees of the City and other covered individuals (as defined below) of the conduct proscribed under its EEO Policy and the consequences for violating this policy; to provide all covered individuals with a means to have their complaints addressed should they feel that they have been a victim of discrimination or harassment; to establish a policy concerning investigation of complaints and corrective action; and to inform covered individuals of their responsibility should they witness acts of discrimination or harassment.

This EEO Policy applies to all employees, paid or unpaid interns, non-employees (*i.e.*, an independent contractor, agent or someone who is (or who is employed by) a contractor, subcontractor, vendor, consultant or anyone providing services in the workplace, including temporary workers, gig workers, persons providing equipment repair, cleaning services or any other service pursuant to a contract, or other relationship with the City), appointed and/or elected officials of the City of Long Beach, applicants for employment, and other persons conducting business with the City of Long Beach, regardless of immigration status, (hereafter, “covered individuals”) with respect to conduct by other persons.

D. EMPLOYEE RESPONSIBILITIES

It is the responsibility of every employee of the City of Long Beach, as well as other covered individuals at every level, to take appropriate measures to ensure that unlawful discrimination, harassment, and retaliation do not occur in the workplace. The City will take corrective action against any covered individual who is found to be in violation of this Policy or applicable federal or state anti-discrimination and anti-retaliation laws. For employees, corrective action may include, but is not limited to, disciplinary action up to and including termination of employment. For other covered individuals, corrective action may include, but is not limited to, loss of continued business with the City, or expulsion from City activities, events or premises, in accordance with applicable law.

Any covered individual who experiences prohibited discrimination or harassment, or who witnesses another covered individual being subject to prohibited discrimination or harassment, is strongly encouraged to report the alleged acts in accordance with this Policy as soon as possible. A copy of the City’s Equal Employment Opportunity Complaint Form is available in the Civil Service Office and from union representatives and shop stewards. You may also report incidents of discrimination or harassment verbally or in another manner, if you would prefer to do so, by contacting the City Manager, Corporation Counsel, the City of Long Beach Equal Opportunity Officer or their Department Head

E. SUPERVISORY RESPONSIBILITIES

All supervisors or managers must ensure, by example and leadership, that the workplace is free from unlawful discrimination and harassment. Any supervisor or manager who receives a complaint or information about suspected sexual harassment, witnesses/observes what may be sexually harassing behavior, or for any reason becomes aware of or suspects that sexual harassment, harassment based membership in other protected classes (including the groups listed in Section A of this policy), or discrimination is occurring or has occurred, ***must*** report the acts or allegations to the City of Long Beach Equal Employment Opportunity Officer or, if the complaint involves the City of Long Beach Equal Employment Opportunity Officer, to one of the City’s Equal Employment Opportunity Representatives (listed later in this Policy), as soon as possible. This reporting obligation applies even if the affected individual(s) does not file a complaint.

Supervisors and managers should not be passive and wait for a covered individual to make a claim of harassment. If they observe potential or actual sexually harassing or discriminatory behavior, they must act.

In addition to supervisors and managers potentially being subject to appropriate corrective action, subject to any statutory or contractual limitations, if they engage in sexually harassing conduct or retaliation themselves, supervisors and managers will be subject to appropriate corrective action, subject to any statutory or contractual limitations, for failing to report suspected sexual harassment or for otherwise knowingly allowing sexual harassment to continue. Corrective action includes, but is not limited to, disciplinary action or termination of employment.

F. PROHIBITED CONDUCT

Discrimination and Harassment

It is a violation of this policy to discriminate against any employee of the City of Long Beach on the basis of race, creed, color, national origin, religion, sex, marital status, sexual orientation, age, military status, disability, genetic predisposition and carrier status, or any other basis protected by state, federal, or local law.

Discrimination against an individual can occur in settings and situations including but not limited to: recruiting, hiring and promotion, transfer, work assignments, performance measurements, the work environment, job training, discipline and discharge, wages and benefits, or any other term, condition, or privilege of employment.

Discrimination or harassment can also be through offensive conduct, such as, for example, racial, ethnic, or religion based slurs, jokes, or derogatory comments; or other verbal or physical conduct based on an individual's race/color, creed, national origin religion, sex, or sexual orientation or any other protected category or characteristic. While it is difficult to provide a precise definition of harassment, examples include verbal (including improper joking or teasing) harassment, or physical conduct that denigrates or shows an aversion to an individual because of their protected characteristic(s).

Sexual Harassment

The City of Long Beach is committed to maintaining a workplace that is free from sexual harassment. Sexual harassment in the workplace is a form of employment discrimination prohibited by law that subjects an employee to inferior conditions of employment due to their gender, gender identity, gender expression (perceived or actual), and/or sexual orientation, and it will not be tolerated. Sexual harassment is often viewed simply as a form of gender-based discrimination, but the City recognizes that discrimination can be related to or affected by other identities beyond gender. All City employees and other covered individuals should familiarize themselves with this policy so that they will understand what type of conduct is prohibited and know the remedies available to anyone who has experienced sexual harassment. All covered individuals are required to work in a manner that prevents sexual harassment in the workplace.

This Policy is one component of the City’s commitment to a discrimination-free work environment.

Sexual harassment is a form of misconduct and will not be tolerated. Sexual harassment is offensive, a violation of the City’s policies, unlawful, and may subject the City to liability for harm to targets of sexual harassment. Sexual harassers may also be individually subject to liability for aiding and abetting sexually harassing behavior. Covered individuals at every level who engage in sexual harassment or discrimination, including managers and supervisors who either engage in this conduct or allow it to continue, will be subject to disciplinary or other corrective action, up to and including termination of employment.

In New York, sexual harassment does not need to be severe or pervasive to be illegal. Covered individuals should not feel discouraged from reporting harassment because they do not believe it is bad enough or because they do not want their complaint to potentially result in a coworker or another individual being disciplined or subject to other corrective action. Just as sexual harassment can happen in different degrees, potential discipline or other corrective action for engaging in sexual harassment will depend on the degree of the harassment.

Following receipt of a complaint about sexual harassment or of knowledge regarding possible sexual harassment that is occurring or has occurred, the City will conduct a prompt, thorough and confidential investigation that ensures due process for all parties. Appropriate corrective action, subject to any statutory or contractual limitations, will be taken whenever sexual harassment is found to have occurred. In addition, the City will take steps to ensure a safe work environment for the employee(s) and other covered individuals who experienced the sexual discrimination or harassment.

What is “Sexual Harassment?”

Sexual harassment is a form of gender-based discrimination and is unlawful pursuant to federal, State and (where applicable) local law. Sexual harassment includes harassment on the basis of sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity and the status of being transgender. Sexual harassment is not limited to sexual contact, touching, or expressions of a sexually suggestive nature. Sexual harassment includes all forms of gender discrimination including gender role stereotyping and treating employees differently because of their gender.

Understanding gender diversity is essential to recognizing sexual harassment because discrimination based on sex stereotypes, gender expression and perceived identity are all forms of sexual harassment. The gender spectrum is nuanced, but the three most common ways people identify are cisgender, transgender, and non-binary. A cisgender person is someone whose gender aligns with the sex they were assigned at birth. Generally, this gender will align with the binary of male or female. A transgender person is someone whose gender is different than the sex they were assigned at birth. A non-binary person does not identify exclusively as a man or a woman. They might identify as both, somewhere in between, or completely outside of the gender binary. Some may identify as transgender, but not all do. Respecting an individual’s gender identity is a necessary first step in establishing a safe workplace.

Sexual harassment is unlawful when it subjects an individual to inferior terms, conditions, or privileges of employment. Sexual harassment does not need to be severe or pervasive to be illegal. It can be any sexually harassing behavior that rises above petty slights or trivial inconveniences. Every instance of sexual harassment is unique to those experiencing it, and there is no single boundary between petty slights and harassing behavior. However, the NYS Human Rights Law specifies that whether harassing conduct is considered petty or trivial is to be viewed from the standpoint of a reasonable victim of discrimination with the same protected characteristics. Generally, any behavior in which an employee or other covered individual is treated worse because of their gender (perceived or actual), sexual orientation, or gender expression is considered a violation of the City's policy. The intent of the behavior (for example, making a joke) does not excuse one's behavior in a sexual harassment claim. Not intending to sexually harass an individual is not a defense to the conduct. The impact of the behavior is what counts.

Sexual Harassment includes unwelcome conduct that is of a sexual nature or that is directed at an individual because of his/her/their sex, sexual orientation, gender expression, gender identity or transgender status when:

- the conduct is made either explicitly or implicitly a term or condition of an individual's employment; or
- Submission to or rejection of the conduct by an individual is used as the basis for employment decisions affecting the individual; or
- the conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment, even if the reporting individual is not the intended target of the sexual harassment.

A sexually harassing hostile work environment includes, but is not limited to, words, signs, jokes, pranks, intimidation or physical violence that are of a sexual nature, or that are directed at an individual because of his/her/their sex, sexual orientation, gender expression, gender identity or transgender status. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory statements or sexually discriminatory remarks made by someone that are offensive or objectionable to the recipient, which cause the recipient discomfort or humiliation or that interfere with his/her/their job performance.

Sexual harassment also occurs when a person in authority tries to trade job benefits for sexual favors. Job benefits may include hiring, promotion, continued employment or any other terms, conditions or privileges of employment. This is also called "*quid pro quo*" harassment.

Any covered individual who believes that the individual is being or has been sexually harassed should report the sexual harassment so that any violation of this Policy can be promptly corrected. Any sexually harassing conduct, even a single incident, can be addressed pursuant to this Policy.

Examples of Sexual Harassment

The following describes some of the types of acts that are strictly prohibited and that may constitute unlawful sexual harassment. Any covered individual who believes that they have experienced sexual harassment, even if it does not appear on this list, should feel encouraged to report it:

- Physical acts of a sexual nature including:
 - Touching, pinching, patting, kissing, hugging, grabbing, brushing against another person's body or poking another person's body; and
 - Rape, sexual battery, molestation or attempts to commit these assaults.
- Unwanted sexual advances or propositions including:
 - Requests for sexual favors accompanied by implied or overt threats concerning the target's job performance evaluation, a promotion or other job benefits or detriments; and
 - Subtle or obvious pressure for unwelcome sexual activities.
 - Repeated requests for dates or romantic gestures, including gift-giving.
- Sexually oriented gestures, noises, remarks, jokes or comments about a person's sexuality or sexual experience that creates a hostile work environment. This is not limited to interactions in person. Remarks made over virtual platforms and in messaging apps when employees are working remotely can create a similarly hostile work environment.
- Sex stereotyping which occurs when conduct or personality traits are considered inappropriate simply because they may not conform to other people's ideas or perceptions about how individuals of a particular sex should act or look.
 - Remarks regarding an individual's gender expression, such as wearing a garment typically associated with a different gender identity; or
 - Asking a person to take on traditionally gendered roles, such as asking a woman to serve meeting refreshments when it is not part of, or appropriate to, her job duties.
- Sexual or discriminatory displays or publications anywhere in the workplace including:
 - Displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials or other materials that are sexually demeaning or pornographic.

This includes displays on workplace computers, cell phones or other electronic devices and sharing these displays while in the workplace.

- This also extends to the virtual or remote workspace and can include having these types of materials visible in the background during a virtual meeting.
- Hostile actions taken against an individual because of his/her sex, sexual orientation, gender expression, gender identity or transgender status, including:
 - Interfering with, destroying or damaging a person's workstation, tools or equipment, or otherwise interfering with the person's ability to perform the job;
 - Sabotaging a person's work; and
 - Bullying, yelling or name-calling.
 - Intentional misuse of an individual's preferred pronouns; or
 - Creating different expectations for individuals based on their perceived identities; for example:
 - Dress codes that place more emphasis on women's attire;
 - Leaving parents/caregivers out of meetings.

Who Can be a Target of Sexual Harassment?

Sexual harassment can occur between or among any individuals, regardless of their sex or gender. New York Law protects covered individuals from sexual harassment. Sexual harassers can be a superior, a subordinate, a co-worker or anyone in the workplace including another covered individual or any other person, including a visitor.

Sexual harassment does not happen in a vacuum and sex discrimination experienced by an employee can be impacted by biases and identities beyond an individual's gender. For example:

- Placing different demands or expectations on black women employees than white women employees can be both racial and gender discrimination;
- An individual's immigration status may lead to perceptions of vulnerability and increased concerns around illegal retaliation for reporting sexual harassment; or
- Past experiences as a survivor of domestic or sexual violence may lead an individual to feel re-traumatized by someone's behaviors in the workplace.

Individuals bring personal history with them to the workplace that might impact how they interact with certain behaviors. It is especially important for all employees to be aware of how words or actions might impact someone with a different experience than their own in the interest of creating a safe and equitable workplace.

Where Can Sexual Harassment Occur?

Unlawful sexual harassment is not limited to the physical workplace itself. It can also occur outside of the workplace while covered individuals are traveling for work or at City-sponsored events, programs, activities or parties. Calls, texts, emails, and social media usage can constitute unlawful workplace harassment even if they occur away from the workplace premises, on personal devices or outside of work hours.

Sexual harassment can occur when employees are working remotely as well. Any behaviors outlined above that leave an employee feeling uncomfortable, humiliated, or unable to meet their job requirements constitute sexual harassment even if the employee or covered individual is at home when the sexual harassment occurs. Sexual harassment can happen on virtual meeting platforms, in messaging apps, and after working hours between personal cell phones.

Retaliation is Prohibited

Retaliation against anyone who, in good faith, complains, provides information or assists in an investigation of suspected sexual harassment as a witness or otherwise will not be tolerated.

No covered individual will be subject to adverse action(s) (*e.g.*, being discharged, disciplined, discriminated against; *etc.*) because that person, in good faith, reports an incident of sexual harassment, provides information, or otherwise participates in any investigation of a sexual harassment complaint. As long as a person reasonably believes that they have witnessed or experienced the reported behavior, they are protected from retaliation.

Appropriate corrective action, subject to any statutory or contractual limitations, including, but not limited to, disciplinary action, termination of employment and/or termination of any contractual or other relationship with the City will be implemented.

Unlawful retaliation can be any action that could discourage a covered individual from coming forward to make or support a sexual harassment claim, including any action by management that punishes an individual upon learning of a sexual harassment claim. Adverse action need not be job-related or occur in the workplace to constitute unlawful retaliation (*e.g.*, threats of physical violence outside of work hours).

Retaliation is unlawful pursuant to federal, State and (where applicable) local law. The New York State Human Rights Law protects any individual who has engaged in “protected activity.” Protected activity occurs when a person has, in good faith:

- made a complaint of sexual harassment, either internally or with any anti-discrimination agency;
- testified or assisted in a proceeding involving sexual harassment pursuant to the Human Rights Law or other anti-discrimination law;

- opposed sexual harassment by making a verbal or informal complaint to management, or by simply informing a supervisor or manager of harassment;
- reported that another employee has been sexually harassed; or
- encouraged a fellow employee to report sexual harassment.

Examples of retaliation after an employee has engaged in a protected activity may include, but are not limited to:

- Demotion, termination, denying accommodations, reduced hours, or the assignment of less desirable shifts;
- Publicly releasing personnel files;
- Refusing to provide a reference or providing an unwarranted negative reference;
- Labeling an employee as “difficult” and excluding them from projects to avoid “drama;”
- Undermining an individual’s immigration status; or
- Reducing work responsibilities, passing over for a promotion, or moving an individual’s desk to a less desirable office location.

Even if the alleged sexual harassment does not rise to the level of a violation of law, the individual is protected from retaliation if he/she had a good faith belief that the practices were unlawful. The retaliation provision is not intended, however, to protect persons making intentionally false charges of sexual harassment.

Any covered individual who believes that he/she/they has/have been a target of any acts of retaliation in violation of this Policy should immediately report that conduct to the City of Long Beach Equal Employment Opportunity Officer. If the complaint involves or the individual is hesitant to report to the Equal Employment Opportunity Officer or, if the complaint involves the City of Long Beach Equal Employment Opportunity Officer, the individual should report the conduct to one of the City’s Equal Employment Opportunity Representatives (listed later in this Policy).

Contact information for these individuals can be found on the City’s website or in its Employee Handbook.

Anyone who believes that he/she/they has/have been a target of prohibited retaliation may seek legal remedies, as explained below in the section on “Legal Protections.”

G. REPORTING HARASSMENT

Preventing harassment is everyone's responsibility. The City cannot prevent or remedy harassment unless we know about it.

All covered individuals are encouraged to report any behavior that may constitute harassment in violation of this Policy to the City of Long Beach Equal Employment Opportunity Officer. If the complaint involves or the individual is hesitant to report to the Equal Employment Opportunity Officer or, if the complaint involves the City of Long Beach Equal Employment Opportunity Officer, the individual should report the conduct to one of the City's Equal Employment Opportunity Representatives (listed later in this Policy).

Contact information for these individuals can be found on the City's website and in its Employee Handbook.

Anyone who witnesses or becomes aware of a potential instance of harassment should also report this behavior to one of the above individuals.

Reports of harassment may be made orally or in writing, including via e-mail, all of which will be treated with equal priority. A form for submission of a written complaint is attached to this Policy, and all covered individuals are encouraged to use this complaint form. If a covered individual reports harassment on behalf of someone else, he/she/they should use the written complaint form and note that he/she is submitting the complaint on someone else's behalf.

An employee or covered individual who prefers not to report harassment to the City may instead report harassment to, among other places, the New York State Division of Human Rights or the United States Equal Employment Opportunity Commission, as explained below in the section on "Legal Protections." Complaints may be made to both the City and a government agency, if desired.

Employees can report allegations of discrimination or harassment to:

- **The City's Equal Employment Opportunity (EEO) Officer**, to be designated by the City Manager (currently Robin Lynch, who can be reached at 516-705-7215); **or**
- **One of the City's Equal Employment Opportunity (EEO) Representatives.** These EEO Representatives shall include the following individuals, who can be reached at the following telephone numbers:
 - The Executive Officer, C.O.I.D, of the Police Department (516-431-1800)
 - The Executive Officer of the Fire Department (516-431-2434)
 - The Commissioner of Parks and Recreation (516-431-3890)
 - The Chief of Lifeguards (516-431-1810)
 - The Director of Transportation (516-431-4445)
 - Any other individual that the Long Beach City Manager so designates

Note: In situations where the allegations of discrimination or harassment are directed at or otherwise pertain to the City's designated EEO Officer AND a designated Equal Employment Opportunity Representative, you may report those allegations directly to the City Manager.

Complaints can be made verbally or by the use of the City of Long Beach Complaint Form. A copy of this form is attached to this policy. Copies are also available in Room 504 in City Hall.

The EEO Officer and the designated EEO Representatives are available to assist you in filing a complaint or preparing a Complaint Form. They are also available to answer your questions concerning the details of this policy.

Bystander Intervention

Any covered individual witnessing harassment as a bystander is encouraged to report it. A supervisor or manager that is a bystander to harassment is **required** to report it. There are five standard methods of bystander intervention that can be used when anyone witnesses harassment or discrimination and wants to help.

1. A bystander can interrupt the sexual harassment by engaging with the individual being harassed and distracting them from the harassing behavior;
2. A bystander who feels unsafe interrupting on their own can ask a third party to help intervene in the sexual harassment;
3. A bystander can record or take notes on the sexual harassment incident to benefit a future investigation;
4. A bystander might check in with the person who has been sexually harassed after the incident, see how they are feeling and let them know the behavior was not ok; and
5. If a bystander feels safe, they can confront the alleged harassers and name the behavior as inappropriate. When confronting sexual harassment, physically assaulting an individual is never an appropriate response.

Though not exhaustive, and dependent on the circumstances, the guidelines above can serve as a brief guide of how to react when witnessing sexual harassment in the workplace.

Complaint and Investigation of Harassment

All complaints or information about harassment will be investigated, whether that information was reported in oral or written form. An investigation of any complaint, information or knowledge of suspected harassment will be prompt and thorough, commenced immediately and completed as soon as possible. All persons involved, including complainants, witnesses and alleged harassers will be afforded due process, as outlined below, to protect their rights to a fair and impartial investigation.

All covered individuals, including supervisors and managers, may be required to cooperate as needed in an investigation of suspected harassment to the extent permitted by law. Anyone who participates in an investigation will not be retaliated against for that reason. The City will not tolerate retaliation against anyone who files a complaint, supports another's complaint or participates in an investigation regarding a violation of this Policy.

The City recognizes that participating in a harassment investigation can be uncomfortable and has the potential to retraumatize a covered individual. Those receiving claims and leading investigations will handle complaints and questions with sensitivity toward those participating.

While the process may vary from case to case, the following investigation procedure must be followed when there is any indication that harassment has taken, or is taking, place:

- The City's Equal Employment Opportunity Officer, or designee, will investigate all complaints of harassment, except as otherwise outlined herein. Third parties may be designated to investigate a complaint or assist with any investigation.
- Upon receipt of a complaint or report of suspected harassment, the City's Equal Employment Opportunity Officer, or designee, will conduct an immediate review of the allegations. If the complaint is oral, the City's Equal Employment Opportunity Officer, or designee, will encourage the complainant or informant to complete the written complaint form, a copy of which is attached to this Policy. If he/she/they refuse(s), the City's Equal Employment Opportunity Officer, or designee, will prepare a complaint form based on the oral reporting.
- If documents, emails, phone records or other paper or electronic records are relevant to the allegations, the City will take steps to obtain and preserve them.
- The City's Equal Employment Opportunity Officer, or designee, will request and review all relevant documents, including all electronic communications.
- The City's Equal Employment Opportunity Officer, or designee, will interview all parties involved, including any relevant witnesses.
- The City's Equal Employment Opportunity Officer, or designee, will create a written documentation of the investigation (such as a letter, memo or email), which contains the following:
 - A list of all documents reviewed, along with a detailed summary of relevant documents;
 - A list of names of those interviewed, along with a detailed summary of their statements;
 - A timeline of events;
 - A summary of any prior relevant incidents disclosed in the investigation, reported or unreported; and
 - The basis for the decision and final resolution of the complaint, together with any corrective action(s).

- All records of the investigation will be maintained in a secure and confidential location.
- The City’s Equal Employment Opportunity Officer, or designee, will notify the individual who complained and the alleged perpetrator of the outcome of the investigation.
- The City’s Equal Employment Opportunity Officer, or designee, will inform the individual who complained of his/her right to file a complaint or charge externally, as outlined below.

Corrective Action

Any person, including covered individuals of every level who, upon an investigation in accordance with this Policy, is determined to have engaged in unlawful harassment, discrimination or retaliation in violation of this Policy, will be subject to appropriate corrective action, subject to any statutory or contractual limitations, including, but not limited to, disciplinary action (*e.g.*, suspension or termination of employment).

If the harassment, discrimination or retaliation involves a non-employee or other covered individual, then other consequences may be implemented up to and including termination of any contractual or other relationship between the City and the non-employee or other covered individual.

Confidentiality

The confidentiality and privacy of all parties involved in a complaint, report or investigation of suspected harassment, discrimination or retaliation in accordance with this Policy will be respected to the extent possible while permitting the City to conduct a thorough investigation of the complaint or report and take appropriate corrective action as necessary.

Bad Faith Claims

If, after investigating a complaint of harassment, it is determined that a person has made a claim of harassment, discrimination or retaliation in bad faith, or intentionally provided false information regarding a claim of harassment, discrimination or retaliation, legal action and/or appropriate corrective action including, but not limited to, disciplinary action, termination of employment and/or termination of any contractual or other relationship with the City may be taken against that person, subject to any statutory or contractual limitations.

H. LEGAL PROTECTIONS AND EXTERNAL REMEDIES

Aside from the internal process at the City, covered individuals may also choose to pursue legal remedies if they have been subjected to unlawful harassment, discrimination or retaliation, including, for example, in court and/or with the below governmental entities. While a private attorney is not required to file a complaint with a governmental agency, you may seek the

legal advice of an attorney. Utilizing the City’s complaint process does not prohibit you from timely filing a complaint with any of the below agencies.

Civil Rights Act of 1964

The United States Equal Employment Opportunity Commission (EEOC) enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act (codified as 42 U.S.C. §2000-e et seq.). Generally, in New York State, an individual can file a complaint, also known as a “Charge of Discrimination” with the EEOC anytime within 300 days from the unlawful harassment, discrimination or retaliation. There is no cost to file a complaint with the EEOC and you do not need an attorney to file with the EEOC. The EEOC will investigate the complaint and determine whether there is probable cause to believe that discrimination has occurred, at which point the EEOC will try to reach a voluntary settlement with the employer. If a settlement cannot be reached, the EEOC (or the Department of Justice in certain cases) will decide whether to file a lawsuit. The EEOC may also issue a Notice of Right to Sue permitting the individual to file a complaint in federal court, if the EEOC closes the charge, is unable to determine if federal employment discrimination laws may have been violated, or believes that unlawful discrimination occurred but does not file a lawsuit.

The EEOC does not hold hearings or award relief, but may take other action including pursuing cases in federal court on behalf of complaining parties. Individuals may also/instead obtain relief in mediation, settlement or conciliation. Federal courts may award remedies if discrimination is found to have occurred.

The EEOC has district, area and field offices where complaints can be filed. Contact the EEOC by calling 1-800-669-4000 (TTY: 1-800-669-6820), visiting their website at www.eeoc.gov, or via email at info@eeoc.gov. If an individual filed an administrative complaint with the DHR, the DHR will file the complaint with the EEOC to preserve the right to proceed in federal court.

New York State Human Rights Law (HRL)

The Human Rights Law (HRL), codified as N.Y. Executive Law, Article 15, § 290 et seq., applies to all employers in New York State with regard to harassment, discrimination and retaliation, and protects employees, paid or unpaid interns and non-employees, regardless of immigration status. A complaint alleging violation of the HRL may be filed either with the Division of Human Rights (DHR) or in the New York State Supreme Court. Complaints may be filed with the DHR or, if an individual does not file with the DHR, he/she/they may sue in State court pursuant to the HRL, any time within three years of the alleged unlawful conduct. An individual may not file with the DHR if they have already filed a HRL complaint in State court.

Utilizing the complaint process pursuant to this Policy does not extend an individual’s time to file with the DHR or in court. The three-year time period outlined above is counted from the date of the most recent incident of harassment.

You do not need an attorney to file a complaint with the DHR and there is no cost to file. The DHR will investigate your complaint and determine whether there is probable cause to believe that unlawful conduct has occurred. If such a determination is made, an administrative law judge will hold a public hearing and if, after that hearing, unlawful conduct is found, the DHR has the authority to award relief, which varies but may include requiring an employer to take action to stop the harassment, or redress the damage caused, including paying monetary damages, attorneys' fees and civil fines.

The DHR's main office contact information is: New York State Division of Human Rights, One Fordham Plaza, 4th Floor, Bronx, New York 10458, (718) 741-8400, www.dhr.ny.gov. The contact information for DHR's Nassau County Office is: 50 Clinton Street, Suite 301, Hempstead, NY 11550 (516) 539-6848, www.dhr.ny.gov. Individuals can contact the DHR at (888) 392-3644 or visit dhr.ny.gov/complaint for more information about filing a complaint. The website has a complaint form that can be downloaded, filled out, notarized and mailed to the DHR. The website also contains contact information for DHR's regional offices across New York State.

Individuals experiencing sexual harassment in the workplace may also call 1-800-HARASS-3, which is a free, confidential hotline that connects individuals with pro-bono attorneys to discuss sexual harassment issues or to submit a complaint. Please be advised that contacting this hotline is not the same as filing a report of sexual harassment with the City. Employees/supervisors must still follow the above procedures in the "Reporting Sexual Harassment" or "Supervisory Responsibilities" section, respectively, when reporting sexual harassment to the City.

Local Protections

Many localities also enforce laws protecting individuals from unlawful harassment, discrimination, and retaliation. An individual should contact the county, or municipality in which they live to find out if such law exists. For example, employees who work in Nassau County may file complaints of unlawful discrimination or harassment with the Nassau County Commission on Human Rights (NCCHR), located at 240 Old Country Road, Suite 606, Mineola, New York 11501. The NCCHR's phone number is (516) 571-3662 and their website is www.nassaucountyny.gov/414/Human-Rights-Commission.

I. CONTACT THE LOCAL POLICE DEPARTMENT

If the unlawful conduct involves unwanted physical touching, coerced physical confinement or coerced sex acts, the conduct may constitute a crime. Contact the local police department.

J. DISTRIBUTION AND TRAINING

This Policy should be posted prominently in all work locations, to the extent practicable (for example, in a main office). This policy must also be provided to all employees in person or

digitally through email upon hiring. For those offices operating remotely, in addition to sending the policy through email, it will also be available on the City's shared network.

All employees will receive sexual harassment prevention training at least annually, during which the City will provide a copy of this Policy and the information presented at the training. The City will also provide a copy of the Policy and training information to new employees upon hire.

As new EEO Officers and new EEO Representatives are designated by the City Manager, employees will be notified by memoranda. Each employee receiving a copy of this policy will sign an acknowledgment of receipt, which will be placed in the employee's personnel file.

We trust that everyone will continue to act responsibly to establish a working environment free of sexual harassment. We encourage you at any time to raise any questions you may have about this Policy.



Equal Employment Opportunity Complaint Form

This form may be used to report all forms of alleged unlawful harassment or discrimination, in accordance with the City's EEO Policy.

If you believe that you have been subjected to unlawful harassment or discrimination you are encouraged to complete this form and submit it to your designated EEO Official. If the subject of your complaint is your EEO Official, then you are encouraged to complete this form and submit it to an EEO Representative. If the subject of your complaint involves both the EEO Official and an EEO representative, then you are encouraged to complete this form and submit it to the City Manager. This form can be submitted by hand delivery or email. Retaliation against anyone who, in good faith, files a harassment or discrimination complaint form is prohibited.

If you are more comfortable reporting verbally or in another manner, the City will complete this form, provide you with a copy of it and follow its EEO Policy by investigating the claims.

For additional resources regarding sexual harassment in the workplace, visit:
ny.gov/programs/combating-sexual-harassment-workplace

COMPLAINANT INFORMATION

Name:

Work Address:

Work Phone:

Job Title:

Email:

Select Preferred Communication Method: Email Phone In person

SUPERVISORY INFORMATION

Immediate Supervisor's Name:

Title:

Work Phone:

Work Address:

COMPLAINT INFORMATION

1. Your EEO complaint is made about:

Name:

Title:

Work Address:

Work Phone:

Relationship to you: Supervisor Subordinate Co-Worker Other

2. Please describe what happened and how it is affecting you and your work. BE SURE to list the following: **location of incident(s) dates, time, day/shift where the incident(s) occurred, forms of hostile threatening, violent or offensive conduct, nature and extent of injuries arising from the incident (if applicable).** *You may attach additional pages, if necessary. Please remember to sign and date the form.*

3. Date(s) of alleged harassment/discrimination:

Is the harassment/discrimination continuing? Yes No

4. Please list the name and contact information of any witnesses or individuals who may have information related to your complaint:

The last question is optional, but may help the investigation.

5. Have you previously complained or provided information (verbal or written) about related incidents? If yes, when and to whom did you complain or provide information?

If you have retained legal counsel and would like us to work with them, please provide their contact information.

Signature: _____

Date: _____



**THE CITY OF LONG BEACH
FAMILY & MEDICAL LEAVE ACT (“FMLA”) POLICY**

Effective Date: October 16, 2018

A. PURPOSE AND GOAL

In furtherance of its commitment to the welfare of its workforce, the City of Long Beach has established this policy to clearly delineate employee rights and responsibilities, and to otherwise comply with the Family and Medical Leave Act (“FMLA”) of 1993.

B. FMLA ELIGIBILITY

Employees who have been employed for at least one (1) year and who have at least 1,250 working hours in the previous twelve (12) months are eligible for leave under the Family and Medical Leave Act (FMLA). This Act entitles eligible employees up to twelve (12) weeks of unpaid, job-protected leave in a 12-month period for one or more of the following qualifying events:

- Birth of and care for an employee’s newborn child;
- Placement of and care for a child with the employee for adoption or foster care;
- Care for an employee’s spouse, child or parent who as a serious health condition; or
- Employee’s own serious health condition.

Military Family Leave - Eligible employees with a spouse, son, daughter, or parent on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation may use their twelve (12) weeks of leave to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions and attending post-deployment reintegration briefings. FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a “covered service member” during a 12-month period. A “covered service member” is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty that may render the service member medically unfit to perform his or her duties for which the service members is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list. Employees must make a request for such leave, directly to the City Manager, prior to taking leave. This request must include the circumstances supporting the need for such military family leave. The City Manager will promptly notify the employee whether the request has been approved or declined.

C. RULES & PROCEDURES

The following rules and procedures apply to the City's FMLA policy:

1. The "12-month" period in which the twelve (12) weeks of leave entitlement occurs is a "rolling 12-month period" measured backward from the date an employee uses any FMLA leave. *For example, if an employee has taken eight (8) weeks of leave during the last twelve (12) months, an additional four (4) weeks of leave could be taken. If an employee used four (4) weeks beginning February 1, 2010, four (4) weeks beginning June 1, 2010, and four (4) weeks beginning December 1, 2010, the employee would not be entitled to any additional leave until February 1, 2011. However, beginning February 1, 2011, the employee would be entitled to an additional four (4) weeks, etc.*
2. FMLA leaves are not chargeable to the employee's attendance record and are **unpaid**, except those:
 - (a) for an employee's own serious health condition which run **concurrently** with any existing or future paid medical leave program(s) administered by the City or;
 - (b) where an employee uses vacation and/or sick days for salary continuation purposes, as described in section (C)(3) of this Policy. As described in section (C)(3) below, FMLA leave runs **concurrently** with an employee's use of sick or vacation days, so long as those sick or vacation days are used in connection with an FMLA-qualifying event.
3. Any time an FMLA leave is taken by an employee, the employee is permitted (upon timely request) to use his or her unused accrued vacation days for salary continuation purposes. In situations where the FMLA leave is necessitated by the employee's own serious medical condition, the employee may also use his or her unused accrued sick days for salary continuation purposes.¹ If the paid portion of the medical leave is less than the amount of FMLA time needed, the additional leave time necessary to attain a maximum of twelve (12) weeks will be unpaid. *For instance, if an employee goes on leave for an FMLA-qualifying event and elects to use two (2) weeks of sick or vacation days for salary continuation purposes, the remaining ten (10) weeks of that leave (if taken) will be unpaid, and the entire twelve (12) week leave will be counted as leave time taken under the FMLA.* Nothing in this section should be construed as limiting the City's right to classify any paid and/or unpaid portions of a leave as "FMLA leave," when such leave is taken for an FMLA-qualifying event.
4. **Medical certification is mandatory.** Medical certification is required to support a request for leave due to a serious health condition. This certification applies to an

¹ This correlates with the City's policy that sick days may be used only when the employee is, *him or herself*, ill. Sick days may not be used for any other purpose.

employee's own serious health condition or the serious health condition of a parent, spouse or child. A medical certification form must be submitted to the City's City Manager (located on the fifth floor of City Hall) **at such time FMLA leave is requested.** *The certification must specify the serious medical condition necessitating the leave, and the expected approximate duration of the serious medical condition.* The City may require a second opinion, at the City's expense. Failure to provide appropriate certification in a timely manner may result in denial of the leave.

5. Notice is required for all leaves. If a leave is foreseeable, twenty (20) days advance notice is required. If twenty (20) days notice is not possible, the employee should give as much notice as possible. Failure to properly notify the City may result in denial of the leave.
6. FMLA leave for the birth or placement (for adoption or foster care) of a child may only be taken within twelve (12) months of that birth or placement.
7. It is the employee's responsibility to notify the City when any time off from work is being requested under the FMLA and/or this Policy. Therefore, it is essential that an employee explain the reason for all illness-related absences. If a leave was taken for an FMLA reason but the City was not aware of the reason, and the employee desires that the leave be counted as FMLA, the employee must notify the City as soon as possible. In the absence of such timely notification, the employee may not retroactively assert FMLA protection for the absence.
8. Intermittent Leave. FMLA leave for a serious health condition – either a family member's or the employee's own condition – can be taken intermittently or on a reduced schedule if medically necessary. In such cases, the City may periodically ask for, and the employee will be required to provide, new and/or updated medical certification. Leaves for the birth, placement, or care of a newborn child cannot be taken intermittently. When leaves are taken intermittently, salary will be reduced based on the amount of time actually worked. In addition, while an employee is on an intermittent or reduced schedule FMLA leave, the City temporarily may transfer you to an available alternative position which better accommodates your recurring leave and which has equivalent pay and benefits.
9. Extensions of FMLA leaves will not be granted without new medical certification. Employees who take FMLA leave for their own or a family member's serious medical condition are responsible for providing new and updated medical certification whenever they wish to extend an FMLA leave. For example, if an employee takes a six (6) week FMLA leave for his or her serious medical condition and wishes to extend that leave for three (3) more weeks (before returning to work), new and updated medical certification must be provided in the manner described in section (C)(4) of this Policy. *Additionally, this new certification must indicate the status and continued presence of the serious medical condition that necessitated the*

original FMLA leave, or the onset of a new and/or different condition that warrants an extension of the FMLA leave.

10. If you take leave because of your own serious health condition, (except if you are taking intermittent leave), you are required to provide medical certification that you are fit to resume work with or without reasonable accommodation. Employees failing to provide this documentation will not be permitted to resume work until it is provided.
11. For the duration of the FMLA leave, the City will maintain the employee's health insurance coverage, to the extent that the employee is enrolled in the City's health insurance plan.
12. All family and medical leaves that fall within the requirements of the FMLA will run concurrently with the City's family and medical leave policies.



**THE CITY OF LONG BEACH
DRUG-FREE WORKPLACE POLICY**

Effective Date: October 16, 2018

A. PURPOSE AND GOAL

The City of Long Beach is committed to protecting the safety, health and well being of all employees and other individuals in our workplace. We recognize that alcohol and drug abuse pose a significant threat to our goals. Moreover, we recognize that workplace violence, often the byproduct of drug and alcohol abuse, poses a serious threat to the welfare of our employees. We have established a drug-free workplace program that balances our respect for individuals with the need to maintain an alcohol and drug-free environment.

- This policy recognizes that employee involvement with alcohol and other drugs can be very disruptive, adversely affect the quality of work and performance of employees, pose serious health risks to users and others, and have a negative impact on productivity and morale.
- The City of Long Beach encourages employees to voluntarily seek help with drug and alcohol problems.

B. COVERED WORKERS

Our policy includes, but is not limited to managers, supervisors, full-time employees, part-time and seasonal employees, off-site employees, volunteers, interns and applicants. Additionally, any individual who conducts business for the City, is applying for a position, or is conducting business on the City's property is covered by our drug-free workplace policy.

C. APPLICABILITY

Our drug-free workplace policy is intended to apply whenever anyone is working, representing, or conducting business for the City. Therefore, this policy applies during all working hours, whenever conducting business or representing the City, while on call, paid standby, while on organization property and at city-sponsored events.

D. PROHIBITED BEHAVIOR

It is a violation of our drug-free workplace policy for employees to use, possess, sell, trade, and/or offer for sale alcohol, illegal drugs or intoxicants whenever working, representing, or conducting business for or on behalf of the City in any capacity. Employees are also

prohibited from working, representing, or conducting business for the City while their ability to do so has been impaired (in any manner) by the use of alcohol, prescription drugs, non-prescription drugs, recreational drugs, or any other controlled substance.

E. NOTIFICATION OF CONVICTIONS

Any employee who is convicted of any offense related to drugs or other controlled substances, where such offense occurred *within the workplace, or while on official Long Beach business, or while representing the City in any capacity whatsoever*, must notify the City Manager (located on the fifth floor of City Hall) in writing within five (5) calendar days of the conviction. The City will take appropriate action within thirty (30) days of notification.

F. SEARCHES

Acceptance of employment with the City constitutes an employee's consent to searches and inspections of all City-owned property, equipment and other materials. If an individual is suspected of violating the drug-free workplace policy, any City owned property is subject to search. For example, desks, work stations, lockers, City vehicles, and any other property, equipment, or other materials owned by the City is subject to search and inspection at any time.

The City Manager has sole and non-delegable discretion to authorize searches under this Policy. Thus, any searches conducted pursuant to this Policy must be specifically authorized by the City Manager. Should the City Manager designate another employee to conduct the actual search, the City Manager shall set forth the date and time that the search will occur, and the precise property or properties to be searched.

G. REFUSAL TO TAKE TEST

Refusal to take a drug and/or alcohol test constitutes a verified positive test result. The following is a description of the behavior and circumstances that constitute a "refusal":

- (a) Failure to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer after being directed to do so by the employer;
- (b) Failure to remain at the testing site until the testing process is complete (an employee who leaves the testing site before the testing process commences for a pre-employment test is not deemed to have refused to test);
- (c) Failure to provide a urine specimen for any drug test required by this part or DOT agency regulations;
- (d) Failure to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure'

- (e) Fail or decline to take an additional drug test the employer or collector has directed you to take;
- (f) Fail to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or employer. In the case of a pre-employment drug test, the employee is deemed to have refused to test on this basis only if the pre-employment test is conducted following a contingent offer of employment. If there was no contingent offer of employment, the MRO will cancel the test;
- (g) Fail to cooperate with any part of the testing process (e.g., refuse to empty pockets when directed by the collector, behave in a confrontational way that disrupts the collection process, fail to wash hands after being directed to do so by the collector);
- (h) In the case of a directly observed or monitored collection in a drug test, fail to permit the observation or monitoring of your provision of a specimen;
- (i) For an observed collection, fail to follow the observer's instructions to raise your clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process;
- (j) Possess or wear a prosthetic or other device that could be used to interfere with the collection process;
- (k) Admit to the collector or MRO that you adulterated or substituted the specimen.

(source: 49 CFR Part 40)

H. CONSEQUENCES

One of the goals of our drug-free workplace program is to encourage employees to voluntarily seek help with alcohol and/or drug problems. If, however, an individual violates the policy, the consequences are serious.

In the case of applicants, if he or she violates the drug-free workplace policy, the offer of employment may be withdrawn.

If an employee violates the policy, he or she will be subject to disciplinary action (up to and including discharge) and may be required to enter rehabilitation. An employee required to enter rehabilitation that fails to successfully complete it and/or repeatedly violates the policy will be terminated from employment. Nothing in this policy prohibits the employee from being disciplined or discharged for other violations and/or performance problems.

I. RETURN TO WORK AGREEMENTS

Following a violation of the drug-free workplace policy, the employee must sign and abide by the terms set forth in a Return-to-Work Agreement as a condition of continued employment.

J. ASSISTANCE

The City of Long Beach recognizes that alcohol and drug abuse and addiction are treatable illnesses. We also realize that early intervention and support improve the success of rehabilitation. To support our employees, our drug-free workplace policy:

- Encourages employees to seek help if they are concerned that they or their family members may have a drug and/or alcohol problem.
- Encourages employees to utilize the services of qualified professionals in the community to assess the seriousness of suspected drug or alcohol problems and identify appropriate sources of help.

Treatment for alcoholism and/or other drug use disorders may be covered by the employee health plan and/or under the provisions of the collective bargaining agreement. However, the ultimate financial responsibility for recommended treatment belongs to the employee.

K. CONFIDENTIALITY

Efforts will be made to maintain the confidentiality of the information provided in connection with a complaint. However, investigatory steps or corrective action might require disclosure to certain individuals, including witnesses and the respondent (the person whom the allegations are made against). As such, nothing herein guarantees, or should be construed as guaranteeing, the confidentiality of any investigation or the information contained within or otherwise associated with such investigation.

L. SHARED RESPONSIBILITY

A safe and productive drug-free workplace is achieved through cooperation and shared responsibility. Both employees and management have important roles to play.

Employees are encouraged to:

- Be concerned about working in a safe environment.
- Support fellow workers in seeking help.
- Report dangerous behavior to their supervisor.

It is the supervisor's responsibility to:

- Observe employee performance.
- Investigate reports of dangerous practices.
- Document negative changes and problems in performance.
- Counsel employees as to expected performance improvement.
- Clearly state consequences of policy violations.

M. COMMUNICATION

Communicating our drug-free workplace policy to both supervisors and employees is critical to our success. To ensure that employees are aware of their role in supporting our drug-free workplace program, all employees shall receive a written copy of this policy.



**THE CITY OF LONG BEACH
WORKPLACE VIOLENCE PREVENTION ACT (“WVPA”)
POLICY & PROGRAM**

Effective Date: October 16, 2018

A. PURPOSE

Nothing is more important than the safety and security of our employees. Threats, threatening behavior, or acts of violence against employees, visitors, guests, or other individuals by anyone on City property will not be tolerated. In this light, the City recognizes that workplace violence poses a serious threat to employee safety, and hinders the City’s organizational objectives. Accordingly, the City has promulgated this Policy to reduce the real and potential threat of workplace violence and clearly convey the consequences for violating this Policy, and to otherwise comply with the Workplace Violence Prevention Act (N.Y. Labor Law § 27-b, et seq.).

The following has been developed and implemented by the City, in conjunction with authorized representatives from the Civil Service Employees’ Association, Patrolmen’s Benevolent Association, and the Professional Fire Fighters Association.

B. DEFINITION OF WORKPLACE VIOLENCE

Workplace violence is generally defined as *any physical assault, threatening behavior or verbal abuse occurring in the work setting*. While workplace violence can take many forms, some types include:

- Specific threats of violence by an employee
- Vague or non-specific threats of violence by an employee
- Threats of violence directed against an employee by a non-employee
- Violent confrontation by a spouse or significant other with an employee over a personal/domestic dispute
- Threats or threatening conduct by disgruntled current or former employees
- Violent altercations between two (2) coworkers and/or between supervisors and subordinates
- Assaults by intruders or guests

C. PROHIBITED CONDUCT

The City of Long Beach has a policy of zero-tolerance toward, and is fully committed to eradicating, workplace violence. As such, any person who makes threats, exhibits threatening behavior, or engages in violent acts on City property will be removed from the premises as quickly as safety permits and shall remain off City premises pending the outcome of an investigation. The City's response to incidents of violence may include a formal reprimand, transfer to another facility, reassignment of job duties, suspension, or any other form of discipline, up to and including termination.

D. RISK EVALUATION

The City, in conjunction with representatives of the Civil Service Employees' Association, Patrolmen's Benevolent Association, and the Professional Fire Fighters Association has conducted a thorough investigation and evaluation of its facilities in an effort to identify the presence of "risk factors," or circumstances considered likely to lead to, or result in, workplace violence.

1. Risk Factor Methodology & Risk Factors

To help assess the City's exposure to risk, the City primarily utilized four (4) analytical tools. Specifically, the City: (1) reviewed occupational injury records to determine whether injuries were caused by or otherwise related to workplace violence; (2) cooperated with unions to inspect and/or analyze City facilities; (3) conducted surveys of employees to learn of past incidents; and (4) reviewed internal records to uncover past incidents and possible patterns.

This analysis revealed the existence of the following specific risk factors:

- City Department heads in need of supplemental workplace violence training
- Undocumented access to City facilities by members of the public
- Employees who work in inherently dangerous occupations, such as Police and Fire Department personnel
- Employees who work late night and early morning hours, such as Police and Fire Department Personnel
- Allegations of substance abuse made during or in connection with discrimination, harassment, and other types of complaints

2. Corrective Measures

The City shall take the following preliminary steps, which are designed to address some of the risk factors identified above, and to curb potential workplace violence:

- a. Sign-in sheets Now Required: The City has determined that it may have a security interest in documenting the identities of visitors at certain City facilities. As such, the City has introduced sign-in/sign-out sheets at one or more facilities.
- b. Supplemental Training for Managers. Pursuant to Union recommendations, supervisors and/or department heads will receive supplemental workplace violence training
- c. Revisions of Drug-Free Workplace Policy. In its review of past discrimination, harassment and other complaints, the City has observed a pattern of allegations relating to substance abuse among employees. The City finds that substance abuse significantly increases the propensity for workplace violence. Accordingly, the City has promulgated, and recently updated, a separate “Drug-Free Workplace Policy” to address this issue. This policy is designed to reinforce the City’s commitment to providing a drug-free and alcohol-free workplace for its employees. The updates are designed to explain to all employees, in clear terms, the consequences for refusing to take a drug or alcohol test. The Policy shall be distributed to all employees, who will be required to acknowledge receipt of same.

In addition, the City has allowed for full employee participation of through the above-referenced unions and/or collective bargaining units in the development and implementation of all aspects of this WVPA Policy and Program, including the written policy statement. All unions were previously been given an opportunity to address any concerns regarding the Policy, Program and/or Program Statement with the City following a meeting that occurred among the City, New York State Department of Labor representatives, and union representatives.

E. DESIGNATION OF WORKPLACE SECURITY COORDINATOR

The Workplace Security Coordinator is responsible for the administration of this Policy. Currently, the City’s Workplace Security Coordinator is Robin Lynch, who can be reached at (516) 431-1000, ext. 7214. The Workplace Security Coordinator is available to assist you in filing a complaint. They are also available to answer your questions concerning the details of this policy. *****All complaints regarding alleged violations of the Policy should be directed to the Workplace Security Coordinator’s attention.**

F. REPORTING WORKPLACE VIOLENCE

Any employee of the City of Long Beach who believes he or she has been subjected to workplace violence in violation of this policy or who witnesses another being subjected to improper conduct in violation of this policy is urged to report the alleged acts as soon as possible. The City of Long Beach will promptly and thoroughly investigate the facts surrounding any allegation of workplace violence. Consistent with its zero-tolerance policy,

anyone, regardless of position or title, whom the City of Long Beach determines has engaged in workplace violence will be subject to discipline up to and including discharge.

*Any employee who believes that a serious violation of this Policy exists or that an imminent danger exists shall bring such matter to the attention of the Workplace Security Coordinator. This notice must be in writing, and the complaining employee must provide the City with a reasonable amount of time to investigate and (if a violation or imminent danger is found to exist) address the violation or imminent danger. This referral requirement shall not apply when imminent danger or threat exists to the safety of a *specific employee* and the complaining employee reasonably believes in good faith that reporting to the Workplace Security Coordinator would not result in corrective action. In such cases, the complaining employee has the option of reporting the imminent danger directly to the New York State Department of Labor.*

Note: Efforts will be made to maintain the confidentiality of the information provided in connection with a complaint. However, investigatory steps or corrective action might require disclosure to certain individuals, including witnesses and the respondent (the person whom the allegations are made against). As such, nothing herein guarantees, or should be construed as guaranteeing, the confidentiality of any investigation or the information contained within or otherwise associated with such investigation.

Shortly after you file a complaint, you will be contacted and interviewed at a location that will protect your privacy. Your complaint will be investigated, and you will be notified when the investigation has concluded. To the extent permissible, practical and/or reasonable, you will be notified of the results of the investigation.

At the conclusion of any investigation, the Workforce Security Coordinator shall submit an official report to the City Manager (or the City Manager's designee), which shall include factual findings and recommendations. The City Manager (or the City Manager's designee) shall then adopt, or refuse to adopt, all or any portion of the Workforce Security Coordinator's report.

Rest assured that the City of Long Beach will not retaliate against anyone who makes a complaint, or participates in an investigation of a complaint. This extends to complaints made to, and investigations undertaken by, the New York State Department of Labor. Additionally, no employee shall be retaliated against for accompanying the New York State Department of Labor during an investigation. Retaliation is strictly prohibited by the City. Anyone who retaliates in violation of this policy will be subject to discipline, up to and including discharge.

G. ORDERS OF PROTECTION

An employee who applies for or obtains a protective or restraining order that lists City of Long Beach work sites as protected areas must provide a copy of the petition and declarations used to seek the order and a copy of any temporary or permanent protective or restraining order that was granted. The City has confidentiality procedures that recognize and respect the privacy of the reporting employee(s).

H. LOCATION OF POLICY

Copies of this Policy are available in Room 504 in City Hall.

I. HIERARCHY OF CONTROLS

In the wake of a sustained workplace violent complaint, the City shall ensure for proper provision of engineering controls, work practice controls, and personal protective equipment.

J. OUTLINE AND LESSON PLAN

The City will prepare presentation materials that will be distributed to all employees during training sessions conducted pursuant to this Policy. These materials, which are expressly incorporated by reference herein, contain the City's full outline and/or lesson plan.

K. PROGRAM REVIEW AND UPDATE

This program shall be reviewed at least once annually by the City, and the City shall periodically conduct training sessions on this Program in compliance with N.Y. Labor Law § 27-b and the Department of Labor's implementing regulations.



**THE CITY OF LONG BEACH
CODE OF ETHICS**

(City Charter, Art. 2 § 18)

All City officers and employees are bound by, and must adhere to, the City's Code of Ethics, as set forth in Article 2, Section 18 of the City Charter:

1. [*Generally.*] Pursuant to the provisions of section eight hundred six of the general municipal law, the common council of the City of Long Beach recognizes that there are rules of ethical conduct for public officers and employees which must be observed if a high degree of moral conduct is to be obtained and if public confidence is to be maintained in our unit of local government. It is the purpose of this local law to promulgate these rules of ethical conduct for the officers and employees of the City of Long Beach. These rules shall serve as a guide for official conduct of the officers and employees of the City of Long Beach. The rules of ethical conduct of this local law [section] as adopted, shall not conflict with, but shall be in addition to any prohibition of article eighteen of the General Municipal Law or any other general or special law relating to ethical conduct and interest in contracts of municipal officers and employees.
2. *Definitions.*
 - (a) "Municipal officer or employee" means an officer or employee of the City of Long Beach, whether paid or unpaid, including members of any administrative board, commission or other agency thereof. No person shall be deemed to be a municipal officer or employee solely by reason of being a volunteer fireman or civil defense volunteer, except a chief engineer or assistant chief engineer.
 - (b) "Interest" means a pecuniary or material benefit accruing to a municipal officer or employee unless the context otherwise requires.
3. *Standards of conduct.* Every officer or employee of the City of Long Beach shall be subject to and abide by the following standards of conduct:
 - (a) Gifts and favors. No officer or employee of the City of Long Beach, whether paid or unpaid, shall accept or solicit any valuable gift, whether in

the form of services, loan, thing or promise or any other form, from any person, firm or corporation which to his knowledge is interested directly or indirectly in any manner whatsoever in business or professional dealings with the city or any agency thereof.

- (b) Confidential information. He shall not disclose confidential information acquired by him in the course of his official duties or use such information to further his own personal interest or that of others.
- (c) Representing private interests before city agencies. No officer or employee of the City of Long Beach whose salary is paid in whole or in part from the city treasury shall appear in behalf of private interests before any city agency; nor shall any officer or employee whose salary is paid in whole or in part from the city treasury represent private interests in any action or proceeding against the interests of the city, in any litigation to which the city is a party, or in any action or proceeding in which the city or any agency or any officer or employee thereof in the course of his official duties is a complainant, in a matter involving any violation of the municipal code.
- (d) No person serving the city without compensation shall appear, either directly or indirectly, on behalf of private interests involving the agency, board, or commission which he serves or before any agency of the city affecting matters involving the agency in which he serves.
- (e) Disclosure of interest:
 - 1. Any officer or employee of the City of Long Beach, whether paid or unpaid, who has a direct or indirect financial or other private interest in any matter being considered by the city council or by any other official board, agency, officer or employee of the City of Long Beach, and who participates in discussions before or gives opinions to such board, agency or individuals, shall publicly disclose on the official record the nature and extent of such interest.
 - 2. Any officer or employee of the City of Long Beach, whether paid or unpaid, who has knowledge of any matter being considered by any board, agency, officer or employee of the City of Long Beach

in which he has any direct or indirect financial or other private interest, shall be required to disclose in writing his interest to such board, agency, officer or employee, and the nature and extent thereof.

3. A copy of every disclosure required under subsection "1" and "2" above, including a copy of every transcript containing such a disclosure, shall be promptly transmitted by the board, agency, officer or employee receiving such disclosure to the city clerk of the City of Long Beach who shall file and maintain same as a public record.
 - (f) Investments in conflict with official duties. He shall not invest or hold any investment, directly or indirectly, in any financial, business, commercial or other private transaction, which creates a conflict with his official duties.
 - (g) Private employment. He shall not engage in, solicit, negotiate for or promise to accept private employment or render services for private interests when such employment or service creates a conflict with or impairs the proper discharge of his official duties.
 - (h) Future employment. No person who has served as officer or employee of the city shall within a period of two years after termination of such service or employment appear before any board or agency of the city or receive compensation for any services rendered on behalf of any person, firm, corporation or association in relation to any case, proceeding or application with respect to which such person was directly concerned, or in which he personally participated during the period of his service or employment, or which was under his active consideration or with respect to which knowledge or information was made available to him during the period of said service or employment.
4. [*Exceptions.*] Nothing herein shall be deemed to bar or prevent the timely filing by a present or former municipal officer or employee of any claim, account, demand or suit against the City of Long Beach, or any agency thereof on behalf of himself or any member of his family arising out of any personal injury or property damage or for any lawful benefit authorized or permitted by law.

5. *Board of ethics.* There is hereby created and established a board of ethics consisting of eight (8) members to be appointed by the city council, a majority of whom shall not be employees or officers of this city, all of whom shall reside in the City of Long Beach and who shall serve without compensation. Members of the board of ethics shall serve at the pleasure of the city council. The members of the board shall elect a chairman. The corporation counsel shall be a member ex officio of the board, and at least one member of said board shall be an elected or appointed municipal officer or employee.

The board shall render advisory opinions with respect to Article 18 of the General Municipal Law and of this code. All requests for opinions must be submitted to the board in writing. An opinion shall be rendered only to the person duly requesting it. Opinions may be rendered on the motion of the board or of any member thereof.

Such board, upon its formation, shall promulgate its own rules and regulations as to its forms and procedures and shall maintain appropriate records of its opinions and procedures.

6. *Distribution of code of ethics.* The city manager of the City of Long Beach shall cause a copy of this code of ethics to be distributed to every officer and employee of the city within twenty (20) days after the effective date of this local law [section]. Each officer and employee elected or appointed thereafter shall be furnished a copy before entering upon the duties of his office or employment.
7. *Penalties.* In addition to any penalty contained in any other provision of law, any person who shall knowingly and intentionally violate any other provision of law or of this code may be fined, suspended or removed from office or employment as the case may be, in the manner provided by law.
8. *Effective date.* This local law [section] shall take effect twenty (20) days after it is filed as provided in section twenty-seven of the municipal home rule law.

(L.L. No. 3, 1967, § 1; L.L. No. 1, 1968, § 1; L.L. No. 10, 1970, § 1; L.L. No. 2, 1971, §§ 1—3; L.L. No. 2, 1972, § 1; L.L. No. 6, 1980, § 1)

