


# City of SeaTac

## Policies and Procedures

<b>Policy Number:</b>	PP 1.16
<b>Policy Name:</b>	Equal Opportunity Employment
<b>Department(s):</b>	Citywide
<b>Effective Date:</b>	March 8, 2017
<b>Supersedes:</b>	Employee Handbook, page 9, "Equal Opportunity Employment" Employee Handbook, page 10, "Workplace Harassment" Employee Handbook, page 29 "Employee Complaints"
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<b>Approved by:</b>	Joseph Scorcio, Acting City Manager
<b>Signature:</b>	

**Purpose:**

The purpose of this policy is to affirm the City’s commitment to Equal Opportunity Employment and ensure full and equal opportunities for participation in the City’s workforce, regardless of the protected class status of the individual. This policy does not require the hiring or promotion of unqualified persons, nor does it require that qualified employees be terminated to create jobs for the unqualified. Rather, it is a commitment to continually examine the City’s practices and to measure and report the outcomes of efforts to provide equal employment opportunity.

**Policy:**

The City of SeaTac is an equal opportunity employer and prohibits discriminatory employment practices. All employment decisions will be made without regard to actual or perceived race, creed, color, national origin, sex, marital status, age, sexual orientation, gender expression/identity, genetic information, pregnancy, veteran status, the presence of any sensory, mental or physical disability, or any other class protected by state, local or federal laws. The City will not permit nor condone any unlawful discrimination in the workplace.

***Types of Prohibited Conduct***

Decisions and practices based on an individual’s protected class that unlawfully affect employment or the compensation, terms, conditions, or privileges of an individual’s employment or potential employment with the City of SeaTac are prohibited by this Policy. This includes unlawful decisions, actions, and practices that occur in the course of recruitment, testing, hiring, work assignments, salary and benefits, working conditions, performance evaluations, promotions, training opportunities, career development and advancement, transfers, discipline, discharge, or any other application or selection process relating to employment.

The Policy also prohibits sexual harassment and harassment based on gender or any other protected class. Forms of harassment may include, but are not limited to, the use of vulgar language, abusive acts or language, hostility, physical aggression, intimidation, or unequal treatment. The Policy prohibits conduct which unreasonably interferes with an employee's job performance or creates an intimidating, hostile, or offensive working environment, or creates an abusive working environment based on any protected class.

Harassment and/or retaliation against a person who opposes or complains about prohibited conduct or participates in any way in the complaint, investigation, or reasonable accommodation processes are strictly prohibited. The Policy also prohibits the denial of reasonable accommodations for disabilities; pregnancy, childbirth, and related medical conditions; religious beliefs, observances, and practices; or for victims of domestic violence, sex offenses, or stalking that do not create an undue hardship.

Some offensive acts or remarks may violate this Policy even if they are not so severe that they violate federal, state, or local discrimination laws. The City and its agencies may discipline conduct that violates this Policy even if the conduct does not violate a law prohibiting discrimination.

The Policy also prohibits any City employee from aiding, abetting, inciting, compelling, or coercing any person present in a City facility, whether or not that person is an employee of the City, from engaging in any conduct prohibited by this Policy, including, but not limited to, conduct that creates a hostile work environment based on any protected class.

### ***Applicability***

Everyone who works within the City of SeaTac government or its workplaces, or who seeks employment within City government, is covered by federal, state, and local employment laws, and this Policy. This includes all current employees, supervisors, managers, department heads, co-workers and job applicants.

This Policy not only protects individuals from prohibited conduct because of their own protected class but also protects individuals from conduct motivated by the actual or perceived protected class of other persons with whom they are associated. For example, this Policy applies to individuals who are subjected to adverse actions because of their marriage to, or domestic partnership or association with, persons of a particular racial, religious, or national origin group, or persons who have a disability. Moreover, discrimination based on an individual's name(s) or spouse's or domestic partner's name(s) that is associated with a particular racial, religious, or national origin group is prohibited. These protections apply to actions, whether or not intentionally offensive or directed at a particular person or group, which violate this Policy.

This Policy extends to conduct which occurs at any location that could be reasonably regarded as an extension of the workplace, such as any field location, offsite business-related social function, City vehicle, or facility where City government business is being conducted and discussed.

### *Specific Protections*

The following sections are provided to enable individuals to understand the unique definitions, issues, rights, and responsibilities under this Policy pertaining to sexual harassment and discrimination based on disability, religion, retaliation, and status as a victim of domestic violence, sex offenses, or stalking.

#### *A. Sexual Harassment*

Sexual harassment is a form of employment discrimination which is prohibited by law. The federal government created guidelines which define sexual harassment as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature...when 1) submission to the conduct is made either explicitly or implicitly a term or condition of an individual's employment; 2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or 3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment. Sexual harassment may involve individuals of the same or different gender(s). A broad range of behavior may be considered sexual harassment, including sexually suggestive remarks and/or emails, pictures or gestures, jokes, cartoons, pranks, verbal abuse or harassment of a sexual nature, subtle or direct propositions for sexual favors, and any unnecessary touching, patting, or pinching. Protection against sexual harassment includes conduct by co-workers, supervisors, managers, department heads, council members, vendors, guests and customers.

#### *B. Disabilities*

Discrimination against a person based on that person's actual or perceived disability, record of disability, or relationship with a person with a disability will not be tolerated by the City of SeaTac. For the purpose of this Policy, a disability is: 1) a physical, medical, mental, or psychological impairment; 2) a history or record of such impairment; or 3) being regarded as having such impairment. The City of SeaTac will take appropriate action to provide reasonable accommodations to qualified employees and job applicants with disabilities, unless providing such accommodations creates an undue hardship. Reasonable accommodations include the provision of equipment, changes in workplace policies and practices, and other forms of assistance that allow people with disabilities to apply for a position, perform their jobs, or enjoy equal benefits and privileges of employment as are enjoyed by other similarly situated employees without disabilities.

Whether an accommodation is reasonable will depend upon the circumstances of the particular request and determinations will be made on a case-by-case basis. Some examples of accommodations that may be reasonable include: making facilities physically accessible to, and usable by, persons with disabilities; job restructuring; modifying work schedules; providing or modifying equipment or devices; providing qualified readers, interpreters, auxiliary aids, and/or other support services; and providing leave and/or arranging for transfer or reassignment to a vacant position, if such transfer or reassignment does not violate City policy or applicable laws, or regulations and/or collective bargaining agreements. Undue hardship may exist when an accommodation is significantly difficult, unduly costly, extensive, substantial, disruptive, or would change the nature or operation of the City's business.

### *C. Religion*

The Policy prohibits adverse employment actions based on a person's religion. This includes discriminatory practices and decisions, harassment, hostility, or other adverse actions because of a person's actual or perceived creed, religious affiliation, religious beliefs, observances, or practices. In addition, depending on the circumstances, the City will try to reasonably accommodate the religious observances, beliefs, or practices of an employee or job applicant, unless the accommodation creates an undue hardship. A reasonable accommodation for religion may be a change in a workplace rule or practice that allows an individual to respect his or her religious observances, beliefs, or practices. Departments may be required to provide accommodations for religion such as flexible arrival and departure times, and/or leave; voluntary exchanges of shifts or assignments; time and/or place to pray; accommodations relating to appearance and dress; and modifying workplace practices, policies, and/or procedures. The City is not required to provide accommodations that are too costly or difficult to provide, that would be disruptive, or would interfere with job performance.

### *D. Non-Retaliation*

It is a violation of the Policy to retaliate against or harass any person who asserts his or her rights regarding employment discrimination by: 1) opposing discriminatory practices in the workplace; 2) complaining about prohibited conduct; or 3) participating in any way in the complaint, investigation, or reasonable accommodation processes. It is also a violation of this Policy to retaliate against or harass someone because of his or her association with such an individual. Behaviors which may be considered retaliatory include, but are not limited to: threats, reprimands, negative evaluations, harassment, refusal to hire, denial of promotion or job benefits, demotion, suspension, discharge, negative references to prospective employers, or other actions affecting the terms, conditions, or privileges of employment. Examples of behavior that are protected against retaliation under this Policy include, but are not limited to: expressing an intent to file a charge or complaint alleging prohibited conduct; participating as a witness in an EEO investigation, administrative proceeding, hearing, or trial; and/or seeking a reasonable accommodation.

## **Procedure:**

### ***Reporting Violations***

Anyone who believes that he or she has been subjected to any action, decision, or harassment in violation of this Policy, or who witnesses others being subjected to improper conduct, is urged to promptly report the incident(s) to his or her supervisor or Department Head or directly to the Human Resources Manager. Supervisors, managers, or human resources personnel who receive harassment or discrimination complaints, or otherwise become aware of any improper harassment or discrimination, must notify the Human Resources Manager promptly.

An individual who believes that this Policy has been violated may report the incident orally or in writing. Where the report is taken orally, the Human Resources Manager shall document the report and launch an internal investigation.

If any employee knowingly makes a false accusation of discrimination or knowingly provides false information in the course of an investigation of a complaint, such conduct may be grounds for discipline up to and including termination of employment. A complaint made in good faith, even if found to be unsubstantiated, will not be considered a false accusation.

### ***Withdrawing Complaints***

A complaint of discrimination may be withdrawn at any time by the person who filed the complaint. Withdrawal of a complaint must be made or confirmed in writing. In some instances, the Human Resources Manager will find it appropriate to end the investigation when the complaint is withdrawn. Prior to ending the investigation, the Human Resources Manager must determine whether the agency should take corrective action to address inappropriate conduct. If the Human Resources Manager determines that corrective action is required, it may be necessary for the investigation to continue in order to recommend action to remedy inappropriate behavior.

### ***Concluding the Investigation***

The Human Resources Manager will complete a confidential report of the complaint investigation to the City Manager at the conclusion of the investigation. If the Human Resources Manager concludes that a violation of this Policy has occurred, they will recommend appropriate corrective action to the City Manager. The City Manager will review the Human Resource Manager's report and promptly issue a determination adopting, rejecting or modifying the recommended action. Such determination shall be in writing and may be issued electronically. The Human Resources Manager and/or the City Manager will advise all parties in writing of the outcome of a complaint.

Any person found to have engaged in conduct or practices in violation of this Policy may be subject to discipline which may include a reprimand, suspension, probation, demotion, transfer, termination, or any other measures permitted by law and/or collective bargaining agreements. In addition to implementing such disciplinary action, agencies may take such steps as may be necessary to address the impact that any violation of this Policy has had on the complainant or within the agency.

### ***Confidentiality***

All complaints, investigations, requests for accommodations, and records will be handled, to the extent possible, in a manner that will protect the privacy interests of those involved. EEO matters may be discussed with other persons who may have information about a complaint or who are necessary to implement reasonable accommodations for disability, religion, status as victims of domestic violence, sex offenses or stalking, and pregnancy, childbirth, or a related medical condition. Therefore, it may be necessary to disclose information to persons with a legitimate need to know about the matter.

### ***Enforcement and Accountability***

#### ***Human Resources***

Human Resources employees have primary responsibility for assisting the City Manager in implementing the City's personnel policies and shall be knowledgeable regarding the interplay of EEO-related laws and other work-related legal regulations including Family Medical Leave Act,

Family Care Act and Workers' Compensation Law. Human Resources will also: 1) ensure that all employees have access to information regarding job responsibilities, performance evaluation standards, examinations, training opportunities and job postings; 2) ensure that all new employees are advised of the Policy, standards, and procedures, the employees' rights and responsibilities under such policies, and the discrimination complaint procedures; and 3) promptly consult with the Human Resources Manager if he or she knows, has been informed of, or suspects that a violation of this Policy has occurred. For any reported Policy violations, the Human Resources Manager will promptly receive, investigate and issue recommendations to the City Manager for consideration.

*Supervisors, Managers and Department Heads*

Managers and supervisors will make every effort to maintain a work environment that fosters sensitivity and respect for the diversity of all individuals. Specifically, each manager or supervisor shall: 1) be accountable to the department head for effectively implementing EEO-related policies; 2) perform managerial or supervisory responsibilities in a non-discriminatory manner; 3) receive training in EEO laws; 4) cooperate with the Human Resources Manager in the implementation of the Policy, standards, and procedures (including training, complaint resolutions, processing, recording, and reporting reasonable accommodation requests, EEO-related recruitment, and selection standards; and modifying department procedures to ensure equal employment opportunity for applicants and employees); 5) promptly consult with the Human Resources Manager if he or she observes, learns about, or suspects that a violation of this Policy has occurred; 6) where appropriate, encourage subordinates to consult with the Human Resources Manager; and 7) maintain confidentiality with respect to EEO-related matters.

**Collective Bargaining Agreement:**

Employees covered by a Collective Bargaining Agreement ("CBA") will be subject to the specific terms of the agreement as applicable to equal opportunity employment, which supersede this policy. In the event the CBA does not contain any provision related to equal opportunity employment, then the affected employees covered by same will be governed by this policy.