

**EXECUTIVE ORDER NO. 92 -18**

**SEXUAL HARASSMENT PREVENTION IN CITY GOVERNMENT**

WHEREAS, it is the policy of the City of Philadelphia (the "City") to promote a diverse and inclusive workplace environment free of discrimination or harassment; and

WHEREAS, the City expects all employees to conduct themselves in a professional manner with respect and concern for other employees and members of the public; and

WHEREAS, the City requires mandatory Sexual Harassment training for all employees and supervisors; and

WHEREAS, the City is an equal opportunity employer and does not discriminate on the basis of age, ancestry, color, disability, domestic or sexual violence victim status, ethnicity, familial status, gender identity, genetic information, marital status, national origin, race, religion, sex, sexual orientation, and source of income or any other basis protected by federal, state or local law; and

WHEREAS, sexual harassment includes acts of harassment based on sex, sexual orientation, and gender identity; and

WHEREAS this Order is intended to reaffirm and avow that the City does not tolerate any form of sexual harassment in the workplace and prohibits workplace sexual harassment by all City employees, officials, contractors, vendors, Mayoral appointees to Boards and Commissions, volunteers, and interns; and

WHEREAS, a transparent, consistent, and efficient method for receiving, investigating and resolving complaints is essential to creating and maintaining a workplace free from discrimination and harassment; and

WHEREAS, the City has established a database that enables employees to electronically file sexual harassment complaints using an online form, and maintains a centralized City-wide tracking system of sexual harassment complaints;

NOW, THEREFORE, I, James F. Kenney, Mayor of the City of Philadelphia, by the powers vested in me by the Philadelphia Home Rule Charter, do hereby ORDER that:

**PROHIBITION OF SEXUAL HARASSMENT**

1. The City fosters an inclusive and safe workplace environment. All workplace sexual harassment by City employees, officials, contractors, vendors, Mayoral appointees to Boards and Commission, volunteers, and interns toward other employees and officials, applicants for City employment, contractors, vendors, and members of the public is prohibited.
2. All City employees, officials, contractors, vendors, Mayoral appointees to Boards and Commissions, volunteers, and interns have the right to work in a professional environment free from sexual harassment and discrimination, regardless of the source.
3. Sexual harassment in the workplace or involving individuals who work together violates federal law and is prohibited by this Order. Sexual harassment is defined as unwelcome sexual advances, unwelcome requests for sexual favors, or other unwelcome verbal, non-verbal, or physical conduct of a sexual nature.
4. Whether such conduct is deemed to be unlawful or not, unwelcome and offensive conduct in the workplace toward anyone is prohibited by this Order.
5. No City official or employee shall engage in any form of retaliation against a person because he or she has raised a concern, filed a complaint of, or been a witness to, sexual harassment.
6. Executives, cabinet members, managers, and supervisors are expected to actively work to create and maintain diverse, inclusive workspaces free from sexual harassment, intimidation, or discrimination. Therefore, executives, managers, and supervisors must be fully familiar with this Order and with the accompanying City of Philadelphia's Sexual Harassment Prevention Policy. Any failure to uphold the goals or follow the directives outlined herein or in the Policy will be met with discipline.
7. City supervisors and managers shall provide copies of the City's Sexual Harassment Prevention Policy to employees under their supervision.
8. Duty to Cooperate: All City employees, including executives, managers, and supervisors, shall cooperate with an investigation. Failure to cooperate may subject an employee to

discipline, up to and including termination. *See Philadelphia Home Rule Charter, Article X, Section 10-110.*

**RELATED POLICY**

The City of Philadelphia's Sexual Harassment Prevention Policy shall be attached to this Order and made a part hereof. The Director of the Mayor's Office of Labor Relations is authorized to amend the Policy going forward, as is deemed necessary to meet the needs of the City, and no further Executive Order shall be necessary to make effective any such amendments.

**PRIOR ORDER RESCINDED**

Executive Order No. 4-11 is hereby rescinded.

**EFFECTIVE DATE**

This Order shall be effective immediately.

Date: 7/19/18

James F. Kenney  
James Kenney, Mayor





**City of Philadelphia's  
Sexual Harassment Prevention Policy  
Effective Date July 19, 2018**

**INTRODUCTION**

This document explains the City of Philadelphia's policy prohibiting discrimination, sexual harassment and retaliation of employees and applicants. If you have experienced or witnessed inappropriate conduct, please utilize the procedures for making complaints outlined in Section V. The City will take appropriate action to investigate, resolve, and prevent discrimination, sexual harassment, and retaliation, and to protect the rights of anyone who files complaints.

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## **I. STATEMENT OF POLICY**

The City of Philadelphia is an equal opportunity employer and strives to foster a diverse, inclusive, safe workplace free from sexual harassment, intimidation, or discrimination. It is the policy of the City that all employees of and applicants to Departments, Boards and Commissions of which the Mayor or designee is the Appointing Authority have the right to a workplace free of discriminatory or harassing conduct. The City strives to provide a work environment that promotes respect, and hereby reaffirms its policy that all forms of work-related harassment, including sexual harassment, is prohibited. Cultivating and maintaining a culture of respect in the workplace empowers all employees to be fully engaged and maximizes employee satisfaction and productivity.

As a concrete, tangible step in achieving an inclusive and safe workplace the City of Philadelphia is committed to providing appropriate targeted training on sexual harassment to its employees. In addition, executive staff, managers, and supervisors are expected to actively work to create and maintain diverse, inclusive workspaces free from sexual harassment, intimidation, or discrimination. Therefore, executive staff, managers, and supervisors must be fully familiar with this policy and the accompanying Executive Order No. 02-18 Sexual Harassment Prevention in City Government, and any failure to uphold the goals or follow the directives outlined in this policy or the Executive Order will be met with heightened discipline.

### **A. TRAINING**

The City of Philadelphia requires mandatory Sexual Harassment Prevention training for all employees and supervisors. *See Philadelphia Home Rule Charter, Article IV, § 4-300.*

It is the responsibility of each Appointing Authority to cooperate with any entities providing training, to ensure that all employees and supervisors receive the appropriate training, including any training mandatory under the Home Rule Charter, and such other training as the City may deem necessary. The Appointing Authority, as well as all City entities providing training, shall maintain records of training attendance.

### **B. DISSEMINATION**

It is the responsibility of each Appointing Authority to ensure that all employees, both current and newly hired, receive a copy of this policy. A copy of this policy shall be provided to every newly hired employee at the time of their onboarding by the departmental HR Manager and posted prominently on the City of Philadelphia's website. In addition, each Appointing Authority shall post the policy, and the contact information for any departmental staff authorized to receive and investigate complaints made pursuant to this policy, in a visible and freely accessible location at every City workplace.

All employees are required to sign an Acknowledgement Form certifying that they have read this policy. The original signed document must be filed in the employee's personnel file maintained by the Departmental HR Unit. *See Acknowledgement Form on p.11 of this policy.*

## II. STATEMENT OF PROHIBITION

The City prohibits workplace sexual harassment based on sex, sexual orientation and gender identity by City employees and officials toward other employees, officials, applicants for City employment, and members of the public. The prohibition also applies to third parties doing business with or carrying out the goals and objectives of the City government, such as vendors, contractors, grantees, customers, and other persons visiting or working at City worksites inside and outside of City agencies; such third parties may not sexually harass City employees.

Any person who may have experienced or witnessed sexually harassing conduct of any kind is encouraged to object to the behavior and/or promptly report the behavior to their supervisor or other appropriate officials as indicated in Section V - Procedures for Making Complaints.

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## III. DEFINITIONS

**Sexual Harassment** is defined legally as unwelcome sexual advances, unwelcome requests for sexual favors, or other unwelcome verbal or physical conduct of a sexual nature when:

1. Submission to that conduct is made explicitly or implicitly a term or condition of employment; or
2. Submission to or rejection of that conduct is used as a basis for employment decisions; or
3. The conduct has the purpose or effect of interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment.

For the purposes of this policy, unwelcome means unwanted. No employee should assume that any such conduct is welcome by others. Moreover, all individuals who come into contact with City employees should report inappropriate conduct as delineated in this policy regardless of whether it meets the strict legal definition of sexual harassment.

**Sexual Favoritism** occurs when employment opportunities or benefits are granted because of an individual's submission to sexual advances or requests for sexual favors.

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## IV. PROHIBITED CONDUCT

The City of Philadelphia strictly prohibits sexual harassment and other forms of harassment, not only in the workplace and in other work-related activities such as business trips, business-related meetings, social events, but in any interaction between co-workers.

The following categories provide examples of conduct that violate the City's Sexual Harassment Prevention Policy. These are not to be construed as an all-inclusive list of prohibited acts under the policy. Conduct need not fall within the legal definition of discrimination, harassment, or retaliation to be actionable under this policy.

## **A. PHYSICAL**

Prohibited conduct includes but is not limited to:

- Intentional physical contact, such as touching, pinching, patting, groping, slapping, massaging, poking, touching clothing covering the immediate area of intimate body parts, grabbing or brushing up against someone, sniffing, blocking or impeding movement;
- Physical assaults of a sexual nature such as rape, sexual assault, molestation or attempts to commit those offenses, or committing an act with intent to cause fear in another of immediate bodily harm or death.
- Human Resources staff must contact the Philadelphia Police Department and make a report for any incident of sexual assault, rape or conduct of a criminal nature.

*See also the City's Workplace Violence Policy.*

## **B. VERBAL**

Prohibited conduct includes but is not limited to:

- Making sexually-oriented, demeaning or hostile remarks, slurs, jokes, or comments about a person's sexuality or sexual experience;
- Sexual epithets, jokes, ridicule, insults, gossip or remarks about one's own or someone else's sex life, body, sexual deficiencies or prowess;
- Repeated requests for romantic or sexual contact to someone who has indicated that such attention is unwelcome;
- Questions or opinions about someone's sexual experience or sexual preferences;
- Sexually suggestive, insulting or degrading comments, catcalls, or music;
- Stereotyping or offensive comments that denigrate or insult someone because of their protected class.

*For a list of protected classes see Executive Order No. 02-18 Sexual Harassment Prevention in City Government.*

## **C. NON-VERBAL**

Prohibited conduct includes but is not limited to:

- Making sexually-oriented gestures or sounds directed at or made in the presence of any employee including but not limited to:
  - Leering, whistling, sexual gestures, or looking someone up and down;
  - Repeated flirtations;
  - Sexually suggestive texts, letters, notes, cards, or invitations.

#### **D. VISUALS**

Prohibited conduct includes but is not limited to:

- Displaying, publicizing, or possessing graphic materials that are in any way sexually revealing, sexually suggestive, sexually demeaning or pornographic in the work environment, such as pictures, screen savers, posters, cartoons, calendars, graffiti, objects, promotional materials, reading materials, websites, GIFs (Graphics Interchange Format), social media content, or other materials;
- Graphic content will be presumed to be sexually suggestive if it depicts a person who is nude or seminude and/or who is posed for the obvious purpose of displaying or drawing attention to private portions of the body, with exceptions considered in situations where nudity or sexually explicit language is necessary to convey a message important to public health and/or safety;
- Displaying signs or other materials purporting to segregate an employee by sex in any area of the work place (other than restrooms and similar semi-private lockers/changing rooms).

#### **E. SEXUAL FAVORITISM**

Prohibited conduct includes but not limited to:

- Granting or withholding employment opportunities and benefits including, but not limited to, job assignments, unequal discipline, promotion, evaluation, compensation, preferential treatment or promise of preferential treatment when based on sexual favoritism.

#### **F. GENDER IDENTITY/SEXUAL ORIENTATION**

The City prohibits unwelcome conduct based on one's sex, sexual orientation, or gender identity. Prohibited conduct includes but is not limited to:

- Stereotyping or offensive comments that denigrate or insult someone because of sex, sexual orientation, or gender identity;
- Misgendering a person;
- Intentionally or consistently outing a person;
- Gossip or questions about someone's sex, sexual experience, sexual orientation, gender identity, or anatomy such as genitals;
- Intrusive questions regarding a person's family formation or structure in terms of the gender of their spouse, person(s) they are cohabiting with, or romantic/sexual partner(s);
- Ostracizing someone or otherwise making it known to someone that they are not welcomed in the workplace because of their sex, sexual orientation or gender identity.

## **G. USE OF TECHNOLOGY**

Depending on the circumstances, the City prohibits the use of technology, both City-owned and personal, to engage in conduct prohibited by this policy. The term “technology” includes but is not limited to computers, fax, e-mail, cell phones, instant messaging, social media, videos, or any other similar modes of transmission, including emerging or future transmission technology.

On City devices prohibited conduct includes but is not limited to:

- Sexting;
- Harassing a coworker or work contact via electronic devices or social media;
- Displaying or transmitting pictures, jokes, videos, GIFs (Graphics Interchange Format) that are sexual in nature;
- Accessing material sexual in nature regardless of whether it can be observed by another.

On personal devices prohibited conduct includes but is not limited to:

- Displaying or transmitting pictures, jokes, videos, GIFs (Graphics Interchange Format) that are sexual in nature at the workplace;
- Accessing material that is sexual in nature that can be observed by another at the workplace.

*See also the following City policies that apply to use of technology:*

- *City’s Social Media Policy*
- *City’s Information Security Policy – Acceptable Use*
- *City’s Information Security Policy – Internet Use and Access*
- *City’s Information Security Policy – Electronic Mail and Messaging*

## **H. OTHER FORMS OF PROHIBITED CONDUCT**

Other conduct that has the purpose or effect of interfering with an employee’s work performance or working conditions based on sex, sexual orientation or gender identity is prohibited.

Examples may include:

- Assigning disagreeable or unsafe duties, or not making comparable assignments that would tend to disadvantage an employee’s development or career;
- Withholding information, materials, equipment or supplies which are necessary for the efficient performance of a job;
- Unreasonably failing to cooperate or assist employees with work-related matters;
- Interfering with an employee’s efforts to satisfactorily complete a job assignment.

## I. RETALIATION

It is unlawful to take adversary action against someone who files a complaint of harassment or discrimination, or who cooperates in an investigation of such a complaint.

Retaliation is a violation of the City's policy and employees who engage in retaliatory conduct are subject to appropriate discipline up to and including discharge, and may incur legal liability. Examples of retaliation may include:

- Arbitrary discipline, unwarranted change of work assignments, providing inaccurate work information, or failing to cooperate or discuss work-related matters with any employee because that employee has complained about, been a witness to or resisted harassment, discrimination or retaliation; and
- Intentionally pressuring, falsely denying, lying about, or covering up or attempting to cover up conduct such as that described in any item above.

*See also Whistleblower Executive Order No. 9-17.*

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## V. PROCEDURES FOR MAKING COMPLAINTS

In order to resolve complaints efficiently and address inappropriate conduct in a timely manner, employees are strongly encouraged to report instances of sexual harassment or retaliation (as noted in Section IV D) as promptly as possible. The City has established a database that enables employees to file sexual harassment complaints using their computer or mobile devices, and maintains a centralized City-wide tracking system of sexual harassment complaints.

NOTE: Anonymous complaints will be investigated, but may not lead to discipline for the offender if the complaint cannot be substantiated.

The City is committed to resolving these complaints as quickly and efficiently as possible to ensure a respectful work environment for all employees; long delays between incidents and the filing of complaints make it more difficult to conduct investigations or quickly resolve issues.

Employees who have been sexually harassed, or have knowledge that others have been sexually harassed, have both **internal** and **external avenues** available for making complaints.

### **Internal Resources**

Employees are encouraged to make a complaint by contacting any of the following:

- Their supervisor;
- Their department's Human Resources manager or other staff authorized by the department to field such complaints;
- The Mayor's Office of Labor Relations, Employee Relations Unit (ERU);
- Filing a complaint using the online form located at:  
<https://beta.phila.gov/services/working-jobs/file-a-sexual-harassment-complaint/>

### **External Resources**

Employees may also make formal complaints to outside agencies such as the U.S. Equal Employment Opportunity Commission (EEOC), the Pennsylvania Human Relations Commission, or the Philadelphia Commission on Human Relations. Formal complaints to these agencies may not result in the City conducting an internal investigation or issuing discipline.

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## **VI. PROCEDURES FOR INVESTIGATING AND RESOLVING COMPLAINTS**

This section is intended to provide all City employees with a guide on how the City will conduct investigations into complaints of harassment or discrimination. All complaints of sexual harassment shall be received, investigated, and resolved in accordance with the procedures set forth in this policy.

### **A. DEPARTMENTAL INVESTIGATIONS**

Each department is expected to be capable of conducting a thorough investigation into a complaint made pursuant to this policy. Any supervisor, HR manager or authorized staff receiving a complaint of sexual harassment, either directly from a complainant or relayed from a supervisor pursuant to the supervisor's obligations under Section VIII B, shall memorialize the complaint in writing and/or enter the complaint into the City-wide database using the online form, and have the complainant sign and date it, or otherwise electronically verify the complaint. Copies of this document will be forwarded to the Mayor's Office of Labor Relations, Employee Relations Unit (ERU).

If the ERU determines that having the department investigate the complaint risks an objective appearance of impropriety, either because the alleged harasser is a high-ranking official, there is reason to believe that the harasser has relationships with decision makers within the department that may influence the outcome of the investigation, or the matter at issue is otherwise complex or sensitive, the ERU may assume control of the investigation, at which point it will proceed pursuant to the process delineated in Section VI B.

NOTE: If the complaint involves sexual assault, rape or conduct of a criminal nature, the Philadelphia Police Department shall be contacted and a report of the incident made. If there is any question or concern whether the alleged conduct complained of constitutes criminal activity, the Mayor's Office of Labor Relations, Employee Relations Unit should be contacted.

Once the department has received a complaint, it shall assign an investigator to the matter. This investigator shall attempt to secure statements from all participants in, and witnesses to the alleged incident. Union-represented employees may request that a union shop steward be present for the investigatory interview.

All investigations should be completed by the assigned investigator within ninety days from the filing date of the complaint. At the close of an investigation, the investigator shall forward a copy of the investigation to the Mayor's Office of Labor Relations, Employee Relations Unit (ERU). If the Appointing Authority believes the charge should be substantiated, it shall include with the investigation a recommendation for the appropriate level of discipline for the accused. The ERU will then review the investigation and any disciplinary recommendation. The ERU must approve all decisions to deem a complaint substantiated or unsubstantiated, and any discipline resulting from a substantiated investigation.

Once the ERU has approved the decision on the merits of the complaint as well as any subsequent discipline, the departmental investigator shall prepare a closing letter that outlines whether the complaint was deemed substantiated or unsubstantiated. This letter will be provided to the complainant, the accused, and the Appointing Authority.

For substantiated complaints, the Appointing Authority shall also prepare a closing letter that sets forth the conduct deemed substantiated and any actions taken by the Appointing Authority in disciplining or training the offending party, and place that letter in the party's personnel file. The Appointing Authority's disciplinary documentation may be placed in the offender's personnel file to fulfill this requirement if it contains the necessary information.

Investigations into both substantiated and unsubstantiated charges shall be maintained by the departmental HR manager in a separate confidential EEO file established expressly for retaining complaints of sexual harassment against employees of that department, as well as in the City-wide database.

## **B. INVESTIGATIONS BY THE MAYOR'S OFFICE OF LABOR RELATIONS, EMPLOYEE RELATIONS UNIT**

The Mayor's Office of Labor Relations, Employee Relations Unit (ERU) is empowered to conduct investigations into harassment and discrimination City-wide. Complaints made directly to that office shall be investigated directly by that office if the office determines that the departmental HR manager will be unable to adequately conduct an investigation, either because the matter involves individuals in that manager's direct chain of command, the complaint involves high-ranking officials, or the matter is sufficiently sensitive or complicated that the ERU's additional expertise is required.

If the ERU determines that the relevant departmental HR staff are capable of conducting an investigation into a complaint made directly to the Employee Relations Unit, the ERU will refer that complaint to the department for investigation and resolution consistent with this policy.

Investigations conducted by the ERU should be completed within ninety days of receipt of the complaint. These investigations will include interviews of complainants, witnesses, and participants. Departments shall cooperate as necessary to ensure timely witness availability and document production.

The ERU shall, at the close of an investigation, prepare a letter that outlines the Unit's findings. This letter will be provided to the complainant, the accused, and to the accused's Appointing Authority. For substantiated complaints, the ERU shall provide the Appointing Authority with the investigation, as well as recommended discipline for the accused. The Appointing Authority shall impose discipline consistent with the Unit's recommendation, and place the ERU's closing letter, along with a document prepared by the Appointing Authority that sets forth any actions taken by the Appointing Authority in disciplining or training the offending party, into that party's personnel file. The Appointing Authority's disciplinary documentation may be placed in the offender's personnel file to fulfill this requirement if it contains the necessary information.

Investigations into both substantiated and unsubstantiated charges shall be maintained by the ERU in a separate confidential EEO file established expressly for retaining complaints of sexual harassment against employees of that department, as well as in the City-wide database.

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## **VII. DUTY TO COOPERATE WITH INVESTIGATIONS**

All City employees and officials, including managers and supervisors, must cooperate with an investigation. Failure to cooperate may subject an employee to discipline up to and including termination.

*See Philadelphia Home Rule Charter, Article X, Section 10-110.*

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## **VIII. RESPONSIBILITIES AND DUTIES OF MANAGERS AND SUPERVISORS**

### **A. RESPONSIBILITY FOR WORK ENVIRONMENT**

Managers and supervisors are responsible to maintain a work environment that is free from harassment and discrimination, and therefore are responsible for the conduct of their subordinates and non-employees present in the workplace. Any manager or supervisor's failure to affirmatively act to comply with this responsibility may result in discipline.

### **B. DUTY TO REPORT SEXUAL HARASSMENT COMPLAINTS**

Any supervisor who receives a sexual harassment complaint or has reason to believe sexual harassment is occurring shall report the complaint to the relevant departmental HR manager for processing in accordance with this Policy. Failure to report any such complaint will be grounds for disciplinary action.

### **C. STANDARD OF CONDUCT**

Supervisors shall be held to a higher standard of conduct and shall be subject to a higher level of discipline when engaging in sexual harassment.

**SEXUAL HARASSMENT PREVENTION POLICY**  
**EMPLOYEE ACKNOWLEDGEMENT FORM**

I acknowledge that I have received and read a copy of the City of Philadelphia Sexual Harassment Prevention Policy and understand that this document describes the conduct and behavior expected of me as an employee of the City of Philadelphia.

\_\_\_\_\_  
Employee (**print name**)

\_\_\_\_\_  
HR Manager (**print name**)

\_\_\_\_\_  
Employee (**signature**)

\_\_\_\_\_  
HR Manager (**signature**)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

\_\_\_\_\_  
Payroll Number

The original signed document must be filed in the employee's personnel file maintained by the Departmental HR Unit. **The employee must receive a copy.**

