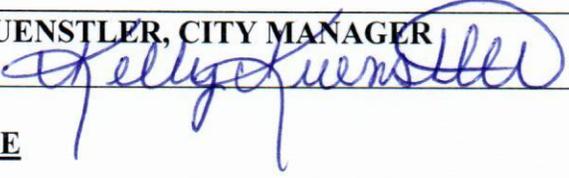




SECTION: HUMAN RESOURCES	REFERENCE NUMBER: A5
SUBJECT: SEXUAL AND OTHER UNLAWFUL HARASSMENT	EFFECTIVE DATE: 09/01/2018
FROM: KELLY KUENSTLER, CITY MANAGER 	LAST REVISION DATE: 03/10/2010

A. **PURPOSE**

1. To aid in the creation of a work environment free from harassment.
2. To maintain high standards of conduct among City employees.
3. To avoid conduct that undermines merit principles in employment decisions.

B. **DEFINITIONS & SCOPE**

All City employees are entitled to a workplace free of unlawful harassment by management, supervisors, co-workers, citizens, and vendors. This means that each employee must be respectful of others and act professionally. City employees are also prohibited from engaging in unlawful harassment of other employees, citizens, vendors, and all other third parties. Harassment of any type is forbidden and will not be tolerated in any circumstances.

1. **Sexual Harassment** – Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature. Sexual harassment on the job is unlawful whether it involves an immediate supervisor, supervisor from another work area, co-worker, someone who is not an employee of the city such as a vendor customer, unpaid intern, male/female or same sex.

Sexual harassment becomes unlawful when:

- a. Hostile Work Environment - overall pervasive atmosphere of hostility or inappropriateness, including harassing a person because of that person's sex.
 - i. 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.
- b. Quid Pro Quo – This is a “this for that” type of harassment where one employer or employee attempts to exchange work benefits for favors of a sexual nature from the victim.
 - i. An employee influences, offers to influence, or threatens the career, pay, and/or the job of another person, male or female, in

exchange for sexual favors. It will also be considered sexual harassment if an employee engages in deliberate or repeated offensive comments, gestures or physical contact of a sexual nature in a work or work related environment.

- ii. Submission to such conduct is made either openly or indirectly a term or condition of an individual's employment.
- iii. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual.

Sexual harassment may include a range of subtle and not so subtle behaviors and may involve individuals of the same or different gender. Sexual harassment does not require sexual attraction or interest. This policy prohibits sexual advances and requests for sexual favors, sexual jokes and innuendo; comments about bodies, sexual prowess, sexual preferences, sexual experiences or sexual deficiencies; leering, whistling, or touching; verbal abuse of a sexual nature, including insulting or obscene comments or gestures; display in the workplace of sexually suggestive objects or pictures, including nudity and pornography; and all inappropriate conduct of a sexual nature, whether it be physical, verbal or visual conduct.

- 2. **Harassment** - In addition to the City's prohibition against sexual harassment, harassment on the basis of any other legally protected characteristic is also strictly prohibited. This means that verbal or physical conduct that singles out, denigrates, or shows hostility or aversion toward someone because of race, sexual orientation, religion, color, national origin, age, disability, genetics, veteran status, citizenship, or any other characteristic protected by law is also prohibited.

Harassment becomes unlawful when:

- a. The offensive conduct causes intimidation, an antagonistic environment and/or is offensive to a reasonable person. The conduct can include but is not limited to epithets, slurs and negative stereotyping; threatening, intimidating, or hostile conduct; denigrating jokes and comments; and writings or pictures, that single out, denigrate, or show hostility or aversion toward someone on the basis of a protected characteristic and interference with work performance. Conduct, comments, or innuendoes that may be perceived by others as offensive are wholly inappropriate and are strictly prohibited.
- b. This policy also prohibits sending, showing, sharing, or distributing in any form, inappropriate jokes, pictures, comics, stories, etc., including but not limited to via facsimile, e-mail, cell phone or other electronic devices, social media, and/or the Internet, such as YouTube and facebook. Harassment of any nature, when based on race, religion, color, sex, sexual orientation, national origin, age or disability, genetics, veteran status, citizenship or any other characteristic protected by law is prohibited and will not be tolerated.

- c. Enduring the offensive conduct becomes a condition of continued employment.

C. **RESPONSIBILITIES**

1. Employees are responsible for:
 - a. Reporting a harassment complaint to the Human Resources Director as outlined in Section E below without fear of reprisal.
 - b. Cooperating fully with any inquiry or investigation of workplace harassment. Willful failure to cooperate, or interfering with an inquiry or investigation in anyway, may subject the employee to disciplinary action, up to and including termination.
2. Supervisors/Department Heads are responsible for:
 - a. Creating and maintaining a positive and productive work environment.
 - b. Eliminating any harassment they become aware of and immediately investigating and taking appropriate disciplinary action for any complaints of harassment by one of their employees.
 - c. Supporting training to their employees on this directive.
 - d. Reporting immediately all complaints or reports of sexual harassment or harassment to the Human Resources Director.
3. The City Manager is responsible for:
 - a. Informing employees of this policy, through distribution of this directive, as well as through group training presentations.
 - b. Appointing an investigating Officer when a claim is generated.
4. The Human Resources Director is responsible for:
 - a. Ensuring that each employee acknowledges in writing receipt of this procedure directive (Attachment A) and a copy of this acknowledgment will be maintained in the employee's official personnel file.
 - b. Provide support to the City Manager in conducting training presentations to city employees on this directive.
 - c. Accepting and reviewing complaints of alleged sexual harassment.
 - d. Provide assistance, if needed, to the City Manager and Department Heads in investigating complaints or reports of sexual harassment or harassment.

D. **GENERAL PROVISION**

1. Anti-discrimination laws prohibit harassment against individuals in retaliation for filing a discrimination charge, testifying, or participating in any way in an investigation, proceedings, or lawsuit under these laws; or opposing employment practices that they reasonably believe discriminate against individuals, in violation of these laws.
2. If a harassment complaint is against the City Manager or members of the Council, the report shall go directly to the Mayor. If the complaint is against the Mayor, the complaint will go to the City Manager.

E. **PROCEDURES**

1. Employees who believe they have been harassed by a member of the public, an employee, and or a representative of the City of Leon Valley on the job, or any supervisor who is aware of the harassment of others must report the complaint directly to the Human Resources Director as soon as possible.
 - a. If a harassment complaint is against the Human Resources Director then the complaint will go to the City Manager.
 - b. If a harassment complaint is against the City Manager then the complaint goes to the Mayor.
2. All forms of harassment complaints, written or verbal, reported by an individual or a group will include the following information:
 - a. Name(s) of the individual(s) involved.
 - b. Names of any witnesses.
 - c. When the event(s) took place.
 - d. A description of the harassing conduct.
3. All harassment complaints will be made directly to the Human Resources Director, unless the complainant feels uncomfortable going to the Human Resources Director, then the complainant will go to the City Manager, because of the nature of these charges; the normal chain of command will not be utilized.
 - a. Upon receipt of the complaint by the Human Resources Director he/she will notify the City Manager immediately. The City Manager may appoint an investigating officer whose duties will be to immediately undertake an effective, thorough, and objective investigation of the sexual harassment or harassment allegations. The investigating officer will submit a

completed written report on his/her findings to the City Manager within 10 (ten) working days of the initial appointment.

- b. Upon completion of the investigation, a determination regarding the alleged sexual harassment or harassment will be made and communicated to the employee(s) who complained and the accused harasser(s). The City Manager will determine the appropriate remedial action, if any, to be taken against an employee if a complaint of sexual harassment is substantiated. Appropriate disciplinary action will be in accordance with established procedures and could include termination of employment with the City.

F. **ATTACHMENT**

A – Harassment Free Workplace Policy Certificate of Acknowledgement

CITY OF LEON VALLEY

HARASSMENT FREE WORKPLACE POLICY CERTIFICATE OF ACKNOWLEDGEMENT

I, _____, hereby acknowledge that I have received and understand the City's policy regarding harassment. This policy and definitions described below pertain to all officers and employees of the City of Leon Valley, including, but not limited to elected officials, regular and temporary employees and full and part time employees. Harassment of any type is forbidden and will not be tolerated in any circumstances.

I understand sexual harassment is defined by the Equal Employment Opportunity Commission as follows:

“Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitutes sexual harassment when: One (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment. Two (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual. Three (3) such conducts has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

The City of Leon Valley also considers sexual harassment when the employee influences, offers to influence, or threatens the career, pay or job of another person – male or female in exchange for sexual favors. It will also be considered sexual harassment if an employee engages in deliberate or repeated offensive comments, gestures or physical contact of a sexual nature in a work or work-related environment or causes a hostile or offensive working environment.

I understand harassment is defined by the Equal Employment Opportunity Commission as follows:

“Unwelcome conduct that is based on race, color, religion, sex, (including pregnancy), sexual orientation, national origin, age, disability or genetic information harassment becomes unlawful when: One (1) enduring the offensive conduct becomes a condition of continued employment. Two (2) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive.

The City of Leon Valley also considers harassment, if the offensive conduct causes intimidation, an antagonistic environment and or is offensive to a reasonable person. The conduct can include, but is not limited, to offensive and interference with work performance. Harassment on the job is unlawful whether it involves co-workers harassment or harassment by a supervisor or manager.

I also understand that all harassment complaints, whether verbal or written, should include the following information: The name of the accused individual(s) and any witnesses; when the event(s) took place, and the nature of the harassment. Because of the nature of sexual harassment or harassment charges, these complaints will be made directly to the Human Resources Director or as described in Section E of the attached Policy. The action will be in accordance with established procedures and could include termination of employment with the City.

Employee's Signature

Date

Department