

CITY OF HEALDSBURG
RESOLUTION NO. 112-99

A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF HEALDSBURG UPDATING AND REAFFIRMING
THE CITY'S ZERO TOLERANCE POLICY AGAINST
DISCRIMINATION AND/OR HARASSMENT IN THE WORK
PLACE AND RESCINDING RESOLUTION NO. 80-98

WHEREAS, discrimination and/or harassment violates Title VII of the 1964 Civil Rights Act and is illegal under the California Government and Labor Code, the regulatory guidelines of the Equal employment Opportunity Commission (EEOC), the California Fair Employment and Housing Commission; and the Americans With Disabilities Act (ADA), and

WHEREAS, all incidents of harassment of a job applicant or employee by a co-worker, supervisor, management employee, appointed or elected official, on the basis of any non-merit factor, such as race, religious creed, color, national origin, ancestry, physical handicap or medical condition, marital status, sexual preference, sex, and/or age will not be tolerated; and

WHEREAS, the courts have further defined by their recent decisions the standards and responsibilities incumbent upon employers in implementing a "zero tolerance" program as to discrimination and harassment;

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Healdsburg hereby adopts a revised Administrative Policy, "Discrimination and/or Harassment in the Workplace" (Exhibit A), attached and incorporated herein by reference, defining the City's zero tolerance policy against discrimination and/or harassment in the workplace, and rescinds Resolution No. 80-98 in its entirety.

DATED: November 15, 1999

VOTE upon the foregoing resolution was as follows:

AYES: Councilmembers: (5) Harvey, Liles, Mitchell, Ziedrich and Mayor Gleason

NOES: Councilmembers: (0) None

ABSENT: Councilmembers: (0) None

ABSTAINING: Councilmembers: (0) None

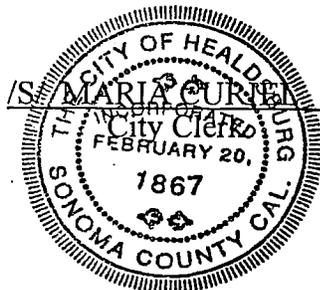
SO ORDERED:

ATTEST:

/S/ MARK GLEASON
Mark Gleason, Mayor

/S/ MARIA CURIEL
Maria Curiel, City Clerk

I, MARIA CURIEL, City Clerk of the City of Healdsburg, do hereby certify that the foregoing is a full, true, and correct copy of a resolution adopted by the City Council of the City of Healdsburg on the 15th day of November, 1999.



CITY OF HEALDSBURG
Administrative Policy

SUBJECT: Discrimination and/or Harassment in the Workplace

I. PURPOSE

The purpose of this policy is to restate and reaffirm that the City will take all reasonable steps to prevent and prohibit harassment in the work environment. The purpose of this policy is also to define discrimination and harassment and to set forth procedures for investigating and resolving internal complaints. In addition to information contained within this written policy, the City will provide other information materials about harassment including, but not limited to, brochures and posters as recommended by the Department of Fair Employment and Housing.

II. ZERO TOLERANCE POLICY

The City is committed to providing a workplace free of sexual harassment (which includes harassment based on gender, pregnancy, childbirth or related medical conditions) as well as harassment based on such factors as race, color, religion, national origin, ancestry, age, physical disability, mental disability, medical condition, marital status, sexual orientation, family care or medical leave status, or veteran status. The City strongly disapproves of and will not tolerate harassment of employees by managers, supervisors, co-workers, clients or vendors, City Council members, and Board or Commission members.

This Policy applies to all terms and conditions of employment including, but not limited to, hiring, placement, promotion, disciplinary action, layoff, recall, transfer, leave of absence, compensation and training. Disciplinary action up to and including termination will be instituted for behavior that the City determines to be in violation of this policy.

All employees, male and female, are protected from sexual harassment. Both male and female workers may be victims of sexual harassment by harassers of either gender. Harassment can be between a supervisor and subordinate or between co-employees. Whether sexual harassment has occurred depends on the conduct, not on the intentions of the one accused of harassment.

Any retaliation against a person for filing a harassment charge, making a harassment complaint, or participating in an harassment investigation will not be tolerated and will be taken as seriously as harassment itself. Disciplinary action up to and including termination for retaliation will be taken for violations of this policy.

The City's policy is one of "Zero Tolerance". The city's policy prohibits sexual and/or discriminatory harassing conduct even if it may not rise to the level of legally actionable harassment under the law.

III. TYPES OF HARASSMENT

Both Federal and State laws recognize two kinds of sexual harassment: "Quid pro quo" harassment and "hostile environment" harassment. Both types of harassment are prohibited under this policy.

- A. **Quid Pro Quo:** "Quid pro quo" sexual harassment occurs when an employer explicitly or implicitly makes submission to some form of unwelcome sexual advance a term or condition of employment or submission is used as the basis for employment decisions affecting the employee. This could be behavior as blatant as a request for sexual favors in return for a promotion or something more vague, such as a bad review following a refusal to go out on a date with the reviewer.
- B. **Hostile Environment:** Hostile environment harassment occurs when verbal, physical and/or visual conduct of a sexual nature, or other protected category factor, has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment. The prohibited conduct need not be directed specifically at an employee in order for a hostile environment to be created.
- C. **Harassment vs. Discrimination:**
 - 1. **Harassment claims** arise from avoidable conduct not necessary for performance of job and usually motivated by personal interests;
 - 2. **Discrimination claims** arise out of performance of necessary personnel management duties such as hiring, firing, demotions, etc.

IV. EXAMPLES OF PROHIBITED CONDUCT

- A. **Verbal Harassment:** Examples of verbal harassment are making or using unsolicited and unwelcome derogatory epithets; comments, slurs, or jokes on the basis of race, religion, color, national origin, ancestry, handicap, disability, medical condition, marital status, sex, sexual preference or age. This might include inappropriate sexually oriented comments on appearance, including dress or physical features or racially oriented stories, verbal sexual advances or propositions; making or threatening reprisals after a negative response to sexual advances.
- B. **Physical Harassment:** Examples of physical harassment are unwelcome touching, assault, impeding or blocking the movement and/or the physical interference with normal work or movement when directed at an individual on the basis of race, religion, color, national origin, ancestry, handicap, disability, medical condition, marital status, sex, sexual preference or age. This could be conduct in the form of pinching, grabbing, patting, propositioning, leering, making sexual gestures, or making explicit or implied job threats or promises in return for submission to physical acts.

C. **Visual Harassment**: Examples of visual harassment are sexually suggestive or obscene letters, notes, or invitations; display of sexually suggestive or derogatory objects, posters, notices, bulletins, cartoons, or drawings on the basis of race, religion, color, national origin, ancestry, handicap, disability, medical condition, marital status, sex, sexual preference or age.

D. **Exceptions**

1. It shall not be discriminatory and/or harassing to follow a seniority system as long as that system is a bonafide one and not designed to circumvent or evade this policy.
2. It shall not be discriminatory and/or harassing to select or reject a person based upon bonafide occupational qualifications.

V. **EDUCATION AND TRAINING**

The City of Healdsburg recognizes its responsibility to provide continuing education and training to all employees in the area of discrimination and/or harassment.

To prevent discrimination and harassment in the workplace, the City has initiated an education and training program which includes, but is not limited to (a) training of all employees in the recognition, reporting and prevention of discrimination and/or harassment; and (b) informal inquiry and assistance, consultation, counseling, referrals and mediation with all employees, including supervisors and managers, regarding equal employment matters.

VI. **COMPLAINT PROCEDURE**

- A. Employees are encouraged, whenever possible, to let a person know if he or she has done something or said something which the other employee finds offensive or unwelcome. Many complaints can be resolved at this informal level without further incident.
- B. Employees are encouraged to report complaints of harassment promptly so that an effective investigation can be conducted and any problem remedied as soon as possible. Employees may complain, as outlined in Appendix A, to an immediate supervisor or any supervisor within the department; a department head, the Assistant City Manager or City Manager. Any Supervisor or Department Head who receives a harassment complaint shall notify the Assistant City Manager and/or the City Manager immediately. Management guidelines on how to deal with such complaints are outlined in Appendix B.

The City emphasizes that an employee is not required to complain first to his or her supervisor, particularly if that supervisor is the individual who is harassing the employee.

C. Upon notification of a harassment complaint, the Assistant City Manager shall:

1. Provide the complainant, the accused harasser and any other persons concerning the complaint with another copy of this policy;
2. Authorize a full and effective investigation of the complaint and supervise and/or investigate the complaint. The investigations will be immediate, confidential, thorough, objective and complete and shall include interviews with (a) the complainant, (2) the accused harasser and (3) any other persons the Assistant City Manager has reason to believe have relevant knowledge concerning the complaint. This may include victims of similar conduct. Although the City will take all reasonable efforts to maintain confidentiality for the benefit of both the complainant and the accused, complete confidentiality cannot be guaranteed. The City must disclose the name of the complaining party to the accused in order to complete a full and fair investigation. However, to the fullest extent possible, the City will limit access to information contained in the complaint and discovered in the investigation process only to those persons who need it to complete the investigation or take appropriate remedial action;
3. Review factual information gathered through the investigation; determine whether a violation of this policy has occurred, giving consideration to all factual information, the totality of the circumstances including the nature of the verbal, physical, visual or sexual conduct and the context in which the alleged incident(s) occurred;
4. Promptly report the results of the investigation and the determination as to whether this policy has been violated to appropriate persons including to the complainant, the alleged harasser, the supervisor, and the department head.
5. Take reasonable steps to protect the victim and other potential victims from further harassment and from any retaliation as a result of communicating the complaint.
6. If a violation of this policy has been established, recommended to the appointing authority prompt and effective remedial action against the harasser, which can include disciplinary action up to and including termination. The action taken should be commensurate with the severity of the offense. Any disciplinary action should not be conveyed to the complaining employee due to rights of privacy.
7. If appropriate, take action to remedy the victim's loss, if any, which resulted from the harassment.

VI. RETALIATION PROHIBITED

Employees have the right to complain about harassment without fear of retaliation. Any retaliation against a person for filing a harassment charge or making a harassment complaint is prohibited. Retaliation against anyone who participates in an investigation regarding

harassment is also prohibited. Employees found to be retaliating against another employee shall be subject to disciplinary action, up to and including termination.

Examples of retaliation include (a) a supervisor giving bad job evaluation to victim because she/he complained about harassment by that supervisor, (b) supervisor acting hostile towards victim because she/he has complained of harassment by a co-worker, who is a friend of the supervisor, (c) co-workers shun the accuser because he/she has complained that their buddy was a harasser.

An employee, who believes that he or she is being, or has been, retaliated against for complaining about harassment or participating in a harassment investigation should promptly notify the Assistant City Manager or his or her supervisor. If the supervisor is the person believed to have engaged in the retaliation, an employee need not complain to that supervisor but may notify any supervisor in the department, the Assistant City Manager and/or the City Manager.

VII. DUTY TO COOPERATE

Every employee has an obligation to cooperate in the City's investigation of alleged harassment or retaliation. Failure to cooperate, deliberately providing false information, or withholding information during an investigation shall be grounds for disciplinary action, up to and including termination.

VIII. LEGAL REMEDIES AND COMPLAINT PROCESS THROUGH THE CALIFORNIA DEPARTMENTS OF FAIR EMPLOYMENT AND HOUSING

Employees or job applicants who believe that they have been harassed may also, within one year of the harassment, file a complaint of discrimination with the California Department of Fair Employment and Housing (Department). The Department serves as a neutral fact-finder and attempts to help the parties voluntarily resolve disputes. If the Department finds evidence of harassment and settlement efforts fail, the Department may file a formal accusation against the employer and the harasser. The accusation will lead to either a public hearing before the Fair Employment and Housing Commission or a lawsuit filed on the complainant's behalf by the Department. If the Commission finds that harassment occurred, it can order remedies, including fines or damages for emotional distress for each employer or harasser charged. In addition, the Commission may order hiring or reinstatement, back pay, promotion, and changes in the policies or practices of the involved employer. A court may order unlimited damages.

For additional information, contact the Fair Employment and Housing Office Communications Center at 1 (800) 884-1684.

IX. DISSEMINATION OF POLICY

All employees of the City, City Council members, Board or Commission members shall be provided a copy of this Policy.

CITY OF HEALDSBURG

Discrimination and/or Harassment in the Workplace Policy

APPENDIX A

COMPLAINT INITIATION

Employees who believe they are the victim of, or witness to, any form of discrimination and/or harassment are urged to make a complaint. Complaints may be submitted orally or in writing and may include a suggested method of resolution.

Complaints concerning any employee, except police officers, may be made either formally or informally to any of the following individuals and will be kept in all possible confidence:

1. Any supervisor
2. The Department Head
3. The Assistant City Manager
4. The City Manager

Complaints concerning police officers may be made either formally or informally to any of the following individuals and will be kept in all possible confidence:

1. Any police supervisor
2. The Chief of Police
3. The Assistant City Manager
4. The City Manager

Complaints of sexual harassment may be registered anonymously by voice mail with the Department Head, Police Chief or Assistant City Manager to ensure confidentiality when fear of reprisals exists.

CITY OF HEALDSBURG

Discrimination and/or Harassment in the Workplace Policy

APPENDIX B

**MANAGEMENT GUIDELINES IN CASES OF
DISCRIMINATION AND/OR HARASSMENT**

Management employees should as much as possible make themselves aware of the interactions and reactions of their employees and the work environment that exists. Instead of just reacting once a discrimination complaint is made, management, to the greatest extent possible, must be proactive in changing employee behavior and work environments so that discrimination or harassment complaints do not have to be brought forth at all.

When a complaint is being made to the department head, the following attitudes will be helpful toward the resolution of the complaint:

- All complaints must be taken seriously and require fair, open minded, patient and considerate treatment.
- Every employee should know that s/he has the right to communicate a complaint and that the City protects that right.
- In dealing with an employee complaint, management personnel should thoroughly the complaint. Do not argue, become antagonistic or defensive, and avoid any inference or threat of retaliation because the employee has voiced a complaint. Above all, do not dismiss the issue as nothing and/or belittle the complainant for being "too sensitive". Take all complaints seriously and act appropriately.
- When employees have complaints, the department head should with sincerity get the employee's explanation or view of the facts, while withholding judgment or snap decisions. The complaint should be discussed in private and prompt action on the problem should be taken.
- The complaining employee should be assured that his or her wishes with regard to the action to be taken will be given consideration.
- The complaining employee should be informed of the action taken by management to the extent that it does not invade the privacy rights of the employee against whom action is being taken. The employee should be instructed to immediately report any further incidents of harassment or discrimination if the actions taken fail to correct the problem.