


HUMAN RESOURCES BULLETIN 22-02
(Replaces HRB 21-02)

TO: All City Employees

FROM: Aimee Maddera 
Chief Human Resources Officer

DATE: August 23, 2022

SUBJECT: Policy Prohibiting EEO-related Discrimination and/or Harassment, including Sexual Harassment, Workplace Bullying, and Retaliation

I. PURPOSE

It is the policy of the City of Oklahoma City to prohibit all forms of unlawful discrimination, harassment, bullying, and retaliation as well as any conduct deemed inappropriate for the workplace. (See Article 400 of the City of Oklahoma City Personnel Policies.) This Human Resources Services Bulletin provides procedures for reporting alleged policy violations and potential disciplinary consequences for substantiated violations. It is the City’s intent to administer this policy in a manner that promotes a work culture free of discrimination, harassment, bullying, and retaliation. Any employee conduct that is inconsistent with the spirit of this policy, regardless of the lawfulness of that conduct, shall be a violation of this policy.

II. STATEMENT OF POLICY

The City is committed to a policy of nondiscrimination, nonretaliation and the provision of a work environment that is free from harassment and bullying. It is the policy of the City of Oklahoma City that:

- no person or employee shall benefit, be discriminated or retaliated against, harassed or bullied, in any manner inconsistent with the Constitution, federal or state statutes, the City Charter, ordinances, resolutions, policies, rules or regulations, and
- employment with the City will be free of conduct that can be considered discriminatory, abusive, disorderly, disruptive, or retaliatory.

Any employee conduct, whether intentional or unintentional, that results in discrimination or harassment (unlawful or otherwise) of other employees or individuals with regard to race, color, religion, sex (including pregnancy, actual or perceived sexual orientation, and gender identity and/or expression), national origin, age, disability (mental or physical) and genetic information (including family medical history), also known as equal employment opportunity (EEO) protected classes (or individually, “protected class”), is strictly prohibited. (See Article 400 of the City of Oklahoma City Personnel Policies.)

III. DISCRIMINATION

Unlawful discrimination can occur where decisions regarding hiring, promotion, job assignment, discharge, layoff, discipline, training, compensation, or other terms or conditions of employment, are made based on protected class. Employment decisions shall be made on the basis of knowledge, skill, ability, qualifications, job performance, and needs of the City.

Unlawful discrimination may also be found where conduct toward an employee is based upon the employee's membership in a protected class, and is so severe and/or pervasive, that it interferes with an individual's work performance or creates an intimidating, hostile, or offensive work environment.

Unlawful harassment, a form of employment discrimination, is unwelcome conduct that is based on a protected class. Harassment becomes unlawful where 1) enduring the offensive conduct becomes a condition of continued employment, or 2) the conduct is severe or pervasive enough to create a work environment that could reasonably be considered intimidating, hostile, or abusive.

Sexual harassment is a form of unlawful discrimination. There are two legal definitions of unlawful sexual harassment:

1. Quid pro quo harassment occurs when offers of tangible employment actions (such as hiring, promotion, job assignment, training or compensation) are made, either explicitly or implicitly, and conditioned on the submission to unwelcome sexual advances and/or requests for sexual favors; or a tangible employment action (such as discharge, discipline, job assignment) is taken against an employee who refuses unwelcome sexual conduct because of the employee's refusal.
2. Hostile environment harassment occurs when unwelcome verbal or physical conduct of a sexual nature is so severe or pervasive that it unreasonably interferes with a term or condition of employment or creates an intimidating, hostile, or offensive working environment.

Sexual harassment can occur between a supervisor and employee, between employees, and between employees and non-employees (e.g., residents, contract laborers, vendors, etc.).

Sexual harassment can occur between individuals of the same or different sexual orientation, gender, gender identity and/or expression.

Employees in a "romantic," sexual or domestic relationship are prohibited from being in a position where one would have the authority to supervise, appoint, remove, discipline, evaluate the performance, or otherwise influence the employment of the other. Such relationships are expressly prohibited between supervisors and employees they supervise or who are otherwise in their chain of command. Any employee involved in such a relationship with another employee is required to immediately report such relationship to the department's Equal Employment Opportunity Officer (EEO Officer), division leader, department director, or the Employee and Labor Relations Division of the Human Resources Department. Management reserves the right to terminate the work relationship between the employees in any manner, including dismissal of one or both of the employees.

Unlawful discrimination and related harassment are strictly prohibited.

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Any employee conduct of a discriminatory and/or harassing nature based on a protected class is strictly prohibited, regardless of unlawfulness. Such conduct directed toward or affecting non-employees is also strictly prohibited.

Workplace bullying is also strictly prohibited. (See Article 400 of the City of Oklahoma City Personnel Policies.) Bullying is a persistent pattern of unwarranted, unwanted verbal or non-verbal conduct based on something other than a protected class, which is abusive, obscene, threatening, insulting to another person, or otherwise inappropriate for the workplace, where such conduct has the purpose or effect of creating an offensive, intimidating, degrading or hostile environment, or interferes with or adversely affects an employee's performance. (See Article 400 of the City of Oklahoma City Personnel Policies.)

IV. RETALIATION

Retaliation is a materially adverse action taken against an employee or other individual for bringing a complaint of, or participating in an investigation related to EEO-related discrimination and/or harassment (including sexual harassment), or bullying. A materially adverse action is anything that might well deter an employee or other individual from engaging in protected activity. All employees are prohibited from engaging in retaliatory conduct, and any such conduct will be grounds for disciplinary action, up to and including termination.

V. COMPLAINT PROCEDURES

1. All Department Directors must designate an EEO Officer to assist the HR Department in administering this policy.
2. The City of Oklahoma City has contracted with a third party administrator (Work Shield, LLC) to assist in investigating policy violation complaints made by employment candidates for and employees who are employed in job classifications identified in the following City of Oklahoma City Pay Plans:
 - Executive Pay Plan
 - Management Pay Plan
 - Municipal Counselor Pay Plan
 - City Auditor Pay Plan
 - General Non-Represented Pay Plan
 - General Pay Plan
 - Temporary, Seasonal, and Part-Time Pay Plan

Leased or independently contracted employees in, or directly associated with, said Pay Plans shall also follow WS Complaint Procedure, unless otherwise indicated by the City.

Any employment candidate or employee employed in a job classification identified within one of these Pay Plans who believes they have been subjected to any form of EEO-related discrimination and/or harassment (including sexual harassment), workplace bullying, or retaliation shall immediately file an Incident Report Form ("IRF") with Work Shield, LLC either online at OKCGov.workshieldportal.com or call the 24/7 toll-free Call Center at 866.946.5558. For further information and guidance, please refer to **Attachment 1: Work Shield, LLC: Harassment and Discrimination Work Shield Complaint Procedure**.

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3. Any employee candidate for or employee employed in a job classification identified in one of the following Pay Plans who believes they have been subjected to any form of EEO-related discrimination and/or harassment (including sexual harassment), workplace bullying, or retaliation shall follow the complaint procedures in this Subsection:
 - The Fraternal Order of Police, Lodge 123 Pay Plan
 - The International Association of Fire Fighters Local 157 Pay Plan

Said employees shall immediately report such activity to any of the following: their department EEO Officer; non-involved supervisor in their chain of command; Deputy Chiefs; Chief; or directly to the Employee and Labor Relations Division of the Human Resources Department.

4. Any EEO Officer, supervisor, division leader, or Department Director or above having knowledge of, or information regarding discriminatory, harassing, bullying, or retaliatory conduct, is required to immediately notify the Employee & Labor Relations Division of the Human Resources Department regardless of how the information was obtained (e.g. verbal or written complaint, direct observation, overhearing conversations, information from noninvolved persons, etc.).
5. Depending on the complainant's applicable Pay Plan assignment (as described above in Subsections 2 and 3), either Work Shield, LLC or the Employee and Labor Relations Division of the Human Resources Department will immediately initiate a confidential investigation. The investigators will prepare and submit a report and provide recommendations for action to the Chief Human Resources Officer or designee(s). The HR Department will work with the respondent's and/or complainant's Department Director as appropriate and/or the City Manager to address identified policy violations and/or concerns. To address identified policy violations and/or concerns for complaints related to the Municipal Counselor's Office and the City Auditor's Office, the HR Department will work with the Municipal Counselor or City Auditor appointed by the City Council, respectively, or the Mayor and/or the City Council when appropriate. This report is considered to be a Human Resources Investigation and is not subject to the Oklahoma Open Records Act.

Investigators will attempt to protect the privacy of individuals involved and maintain confidentiality. Employees interviewed during the course of an investigation are required to maintain the confidentiality of the investigation and failure to do so will be considered a violation of this policy.

6. The results of the investigation will be communicated to both the complainant and the respondent (person accused) of EEO-related discrimination and/or harassment (including sexual harassment), workplace bullying, or retaliation by a representative of the Employee and Labor Relations Division.
7. Complaints filed under these complaint procedures that do not allege conduct in violation of this policy will not be investigated under these procedures and will be forwarded to the appropriate department or other authority for investigation.

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NOTE: Employees have the right to make a complaint of discrimination, harassment (including sexual harassment), and retaliation based on a protected class with the State Office of Civil Rights Enforcement, the Equal Employment Opportunity Commission, or with a court of law. This policy does not restrict the rights of employees secured by the laws of the State of Oklahoma or the United States.

VI. TRAINING

The City of Oklahoma City's Human Resources Department offers classroom training regarding EEO-related discrimination and/or harassment (including sexual harassment), workplace bullying, and retaliation. All employees are required to complete the online or in-person version of this training within the first thirty days of employment. Employees may enroll in the course on the City intranet site or by contacting the Employee and Labor Relations Division of the Human Resources Department at 297-2410. All personnel are required to complete the training on an annual basis. Additional on-site training is available at the request of the department or division leader. Each department is responsible for maintaining employee training records of nondiscrimination and anti-harassment training.

VII. DISCIPLINARY ACTION

Any employee found in violation of this policy, or who provides false information in the complaint or investigation procedures, or otherwise interferes with an investigation, is subject to corrective action, including disciplinary action. Disciplinary action may include any range of discipline, up to and including termination.

ATTACHMENT 1

HRB 22-02 (Policy Prohibiting EEO-related Discrimination and/or Harassment, including Sexual Harassment, Workplace Bullying, and Retaliation) / WORK SHIELD, LLC: HARASSMENT AND DISCRIMINATION WORK SHIELD COMPLAINT PROCEDURE

The City of Oklahoma City Employer Harassment and Discrimination Work Shield Complaint Procedure (“WS Complaint Procedure”) provides access to a safe reporting platform with specialized, caring professionals who conduct impartial investigations to bring resolution to workplace harassment and discrimination issues. The WS Complaint Procedure is administered by Work Shield, LLC (“Work Shield”). Work Shield is a team of trusted, experienced professionals that provides employees a safe, immediate and impartial platform to ensure workplace harassment and discrimination concerns are heard, investigated, and resolved without fear of retaliation.

This WS Complaint Procedure has been prepared specifically for employment candidates for and employees who are employed in job classifications identified in the following City of Oklahoma City (the “City”) Pay Plans:

- Executive Pay Plan
- Management Pay Plan
- Municipal Counselor Pay Plan
- City Auditor Pay Plan
- General Non-Represented Pay Plan
- General Pay Plan
- Temporary, Seasonal, and Part-Time Pay Plan

Leased or independently contracted employees in, or directly associated with, said Pay Plans shall also follow the WS Complaint Procedure, unless otherwise indicated by the City.

The City maintains the WS Complaint Procedure and policies related thereto. The City’s Employee and Labor Relations (ELR) Division of the Human Resources Department is available to help you learn about Work Shield, LLC and the WS Complaint Procedure.

As mentioned above, employees of specific City of Oklahoma City Pay Plans are required to follow the WS Complaint Procedure. This applies to employees who work on a Regular “full-time” or Regular “part-time” basis as defined in The City of Oklahoma City Personnel Policies. Regular full-time and part-time also includes any leased, seasonal, temporary or independent contractor of the City, unless otherwise indicated by the City. Regular part-time and Regular full-time includes employees who may be working from home or remotely.

WORK SHIELD COMPLAINT PROCEDURE

Work Shield combines a safe reporting platform with specialized caring professionals who conduct impartial investigations to bring resolution to EEO-related discrimination and/or harassment (including sexual harassment), workplace bullying, and retaliation issues.

Reporting Process

If you experience workplace EEO-related discrimination and/or harassment (including sexual harassment), workplace bullying, or retaliation you can file an incident report with Work Shield one of two ways:

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1. File an Incident Report Form Online

- Go to OKCGov.workshieldportal.com.
- Once you are on the Organization portal, set up your account with (i) your own username and (ii) your own password. NOTE: setting up your account does not prevent you from filing an anonymous incident report.
- Once you set up your account, fill out the Incident Report Form (“IRF”) with as much detail as possible. Please note that you can file an anonymous report and your name or email address will not be included in the report.
- Once your report is submitted, you will receive an email from Work Shield, confirming receipt. From there, the Work Shield team will reach out to you for additional questions or comments. Therefore, it is important to include every detail of the incident.

2. Call Work Shield’s Toll-Free Call Center

You can also call Work Shield’s toll-free Call Center at 866.946.5558. Work Shield representatives are available twenty-four (24) hours a day, seven (7) days a week, to provide assistance services. Spanish-speaking representatives are also available. When calling, please note that the representative will be able to answer your questions, walk you through the IRF process, or even file an IRF on your behalf. If you do not have access to the internet, the representative, as stated above, will be able to file the IRF on your behalf.

When you call the toll-free Call Center, a Work Shield representative will:

- Ask you questions to help identify the process that is needed to file an IRF,
- Guide you through the IRF filing process,
- File an IRF on your behalf, and/or
- Connect you to a member of the Work Shield team who will reach out to you for additional questions or comments.

Once you submit your IRF, you will receive a record and report that are securely signed PDFs with a time stamp of the submission. You will receive this copy of the IRF from submit@workshield.com. The email contains your downloadable PDF report. If you have questions, you may submit them to submit@workshield.com for more information. You will also have a copy of your submission in your designated portal under your username/password that you create(d).

For employment candidates and employees covered by the WS Complaint Procedure (as detailed above), the WS Complaint Procedure is the exclusive procedure for filing a complaint under HRB 22-02 (Policy Prohibiting EEO-related Discrimination and/or Harassment (including Sexual Harassment), Workplace Bullying, and Retaliation).

IMPORTANT: PLEASE NOTE THAT CONTACTING THE HUMAN RESOURCES DEPARTMENT OR YOUR DEPARTMENT’S MANAGEMENT TO FILE A COMPLAINT UNDER HRB 22-02 (POLICY PROHIBITING EEO-RELATED DISCRIMINATION AND/OR HARASSMENT, INCLUDING SEXUAL HARASSMENT, WORKPLACE BULLYING, AND RETALIATION) FAILS TO SATISFY YOUR OBLIGATIONS UNDER THESE PROCEDURES TO PROPERLY FILE SUCH, AND THEREFORE, YOUR COMPLAINT WILL NOT BE RECOGNIZED AS PROPERLY RECEIVED AND WILL NOT BE INVESTIGATED. PLEASE REPORT ANY HRB 22-02 ISSUES TO WORK SHIELD.

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Investigation Process

Once your IRF is submitted, a copy of your filed IRF will be emailed to you, as well as the Work Shield team. Upon receipt, Work Shield will review the information and begin its investigation of the incident. If the IRF is provided with your name, Work Shield's professionals will follow up with you and others mentioned in the IRF, as applicable. If you choose to remain anonymous, Work Shield will conduct as much of an investigation as possible, based on the facts submitted.

Resolution Process

After the investigation process is complete, Work Shield will provide the City with an Incident Evaluation Form, which will provide the resolution to the IRF, as applicable.

Confidentiality

Discussions pursuant to the WS Complaint Procedure may be confidential as it relates to individuals outside of the City. However, Work Shield will not share information identifying your use of the WS Complaint Procedure without your permission, except as required or permitted by law or as needed to complete an investigation of the IRF.

As it relates to the City, to properly address an IRF, your information may be shared on an "as-needed" basis to conduct the investigation and the IRF that was reported.