CITY OF CHANDLER

ANTI-HARASSMENT AND ANTI-BULLYING POLICY AND COMPLAINT PROCEDURE

I. PURPOSE

The City of Chandler is committed to maintaining an environment that encourages and fosters appropriate conduct among all persons and respect for individuals and individual values. Accordingly, the City is committed to enforcing this Anti-Harassment and Anti-Bullying Policy at all levels of the organization in order to create an environment free from discrimination, harassment, and retaliation. The purpose of this policy is to inform employees of their rights and responsibilities and the procedures for promptly addressing allegations of bullying and harassment in the workplace. All employees are required to take the time to ensure they understand their obligations under this policy.

II. POLICY

It is the policy of the City to provide a work environment free from discrimination, bullying, harassment, and retaliation. Bullying and harassing conduct in the workplace violate City policy and will not be tolerated. Retaliation against individuals for reporting or complaining of bullying or harassment, for assisting or participating in the investigation of a complaint of bullying or harassment, or for enforcing this policy is prohibited. Any employee who engages in bullying, harassment, or retaliation violates City policy and will be subject to disciplinary and/or remedial action up to and including dismissal.

This policy and the related procedures are designed to help the City identify and address potentially harassing conduct before it becomes severe or pervasive within the meaning of the federal and state anti-discrimination laws. This policy covers work-related bullying and harassment which occurs both in and out of the workplace, such as on business trips, through social media, or at work-related events or social functions. It applies to bullying and harassment by employees and non-employees including employees of other employers, contractors, and members of the public, such as vendors and customers. The underlying principle of this policy is that employees must treat others with dignity and respect and should, themselves, be treated with dignity and respect.

The City encourages employees to report incidents of bullying and harassment promptly. All allegations of bullying and harassment will be taken seriously and addressed promptly. Any inquiry or investigation will be conducted with the greatest degree of confidentiality consistent with completing a fair and thorough investigation.

III. DEFINITIONS

A. "**Bullying**" is offensive, intimidating, malicious, or insulting behavior involving the misuse of power that makes a person feel vulnerable, upset, humiliated, undermined or threatened. "Power" does not always mean being in a position of authority, but can include both personal strength and the power to coerce through fear or intimidation. Bullying can take the form of physical, verbal and non-verbal conduct.

Examples of bullying behavior include, but are not limited to:

- Shouting at, being sarcastic towards, ridiculing or demeaning others;
- Staring, glaring or other nonverbal demonstrations of hostility;
- Personal attacks (angry outbursts, excessive profanity, or name-calling);
- Nonverbal threatening gestures; glances that can convey threatening messages;
- Pushing, shoving, kicking, poking, tripping, assault or threat of physical assault, damage to a person's work area or property;
- Socially or physically excluding or disregarding a person in work-related activities, or encouraging others to do so;
- Physical or psychological threats;
- Acts of physical or psychological violence;
- Creation of arbitrary standards for one person, imposing unrealistic demands, micromanaging work, or using supervision to intimidate a person;
- Inappropriate, exaggerated or untrue derogatory remarks about someone's performance, particularly in front of others;
- Sabotage of work;
- Abuse of authority or power by those in positions of seniority;
- Stealing credit for another's work; and
- Conduct that a reasonable person would find hostile, offensive, and unrelated to the employer's legitimate business interests.

The occurrence of any of the above listed behaviors does not automatically constitute a violation of this policy. The purpose of the policy is to address and correct severe, repetitive, or cumulative behavior that unreasonably affects an employee's work environment and/or has a detrimental effect on the productivity of the work group.

Legitimate, reasonable, and constructive criticism of an employee's performance or behavior, or reasonable instructions given to employees in the course of their employment, does not constitute bullying on its own.

B. "**Harassment**" is serious, severe, or pervasive conduct that is unwanted or offensive and directed toward an individual because of his or her race, gender and/or gender identity or expression, color, creed, religion, age, national origin, ethnicity, disability, veteran or military status, sexual orientation, pregnancy, genetic information, marital status, political affiliation, citizenship status or on any other legally prohibited basis, that has the purpose or effect of violating a person's dignity or creating an intimidating, humiliating, hostile or offensive environment. The harasser can be the person's supervisor, a supervisor in another area, a co-worker, or someone who is not an employee of the City, such as a contractor, client, or customer.

Examples of harassing conduct include, but are not limited to:

- Unwanted and inappropriate physical contact or horseplay, including touching, pinching, pushing, grabbing, unnecessary brushing against someone, invading personal space and physical or sexual assault;

- Unwelcome sexual advances or suggestive behavior, and suggestions that sexual favors may further a career or that a refusal may hinder it;

- Stalking or persecuting a person with unwanted attentions, gifts, or messages;

- Continued suggestions for dating, romance, or social activity after it has been made clear that the suggestions are unwelcome;

- Sending or displaying material that is pornographic or that some people may find offensive (including e-mails, text messages, video clips and images sent by mobile phone or posted on the Internet);

- Offensive or intimidating remarks, insults, epithets or gestures, or insensitive jokes or pranks that undermine the dignity of the person;

- Mocking, mimicking or belittling a person's disability or age;

- Racist, sexist, homophobic or ageist epithets, slurs and jokes, or derogatory or stereotypical remarks about a particular ethnic, social, linguistic or religious group, or gender;

- Displays or electronic transmission of derogatory, demeaning or hostile materials;

- Disclosing or threatening to disclose someone's sexual orientation without their consent;

- Shunning someone, for example, by deliberately excluding them from a conversation or a workplace social activity; and

- Bullying behavior that is serious, severe, or pervasive and directed toward an individual because of his or her membership in one of the protected groups described herein.

- Offensive electronic communication, regardless of the type or ownership of the device used, such as:
    - Virtual harassment: harassment through a social media site;
    - Textual harassment: harassing, intimidating, or inappropriate text messages;
    - Sexting: sexually explicit or offensive photos or videos sent via electronic media; or
    - Cyberstalking: harassing an employee by following him or her on blogs, posts, and social websites.

Individuals may be harassed even if they are not the intended target. For example, an individual may be harassed by racist jokes about a different ethnic group if the jokes create an offensive environment for the non-targeted individual.

C. **"Sexual harassment"** is a form of harassment that consists of making unwelcome sexual advances or requests for sexual favors, or engaging in other verbal or physical acts of a sexual or sex-based nature where such conduct interferes with the employee's work performance or creates an intimidating, hostile or offensive working environment.

Sexual harassment may also occur where a supervisor/manager demands that an employee/subordinate satisfy sexual demands in order to receive job benefits, to continue employment, or as a basis for making any other employment-related decision. Such sexual harassment occurs between a manager/supervisor and an employee due to the nature of the manager/subordinate relationship. A manager/supervisor for this purpose is someone who can affect or impact an employee's terms, conditions, or privileges of employment because s/he can take or impact action such as

hiring, firing, promoting, disciplining, scheduling, training, or deciding how to compensate that employee.

D. A "**hostile work environment**" results from harassing conduct that has the purpose or effect of unreasonably interfering with an employee's work performance, or creates an intimidating, hostile or offensive working environment.

E. **"Retaliation"** is any adverse action taken against an individual (applicant or employee) because s/he filed a charge of discrimination, complained to the City or a government agency about discrimination on the job, or participated in an employment discrimination proceeding (such as an internal investigation or lawsuit), including as a witness. Retaliation also includes adverse action taken against someone who is associated with the individual opposing the perceived discrimination, such as a family member.

Examples of retaliation include, but are not limited to dismissal, demotion, refusal to promote, unwarranted job or schedule reassignment, threats, unjustified negative evaluations, unjustified negative references, increased unwarranted monitoring or any other adverse action that a reasonable person could perceive as retaliatory.

IV. RESPONSIBILITIES

A. **Human Resources Director.** The Human Resources Director is responsible for:

1. Assisting supervisors and managers to comply with this policy and procedures;

2. Assisting supervisors and managers to identify the most appropriate measures to ensure compliance with this policy;

3. Ensuring that performance appraisals of all supervisors and managers included training relating to compliance with this policy;

4. Ensuring that all new employees receive a copy of this policy;

5. Maintaining all harassment inquiry-related records and files in a secure location.

B. **Supervisors and Managers**. Supervisors are responsible for maintaining a respectful work environment that is free from bullying and harassment by both employees and non-employees, and for taking prompt, effective corrective action when they know or have reason to know of interactions among coworkers, either on or off duty, that foster a hostile work environment.

1. Because of the nature of their positions, supervisors and managers are specifically responsible for:

   - Ensuring that their subordinates are aware of this policy and procedures, and evaluating employees' compliance;

   - Fostering a harassment-free work environment and setting an example through personal behavior of appropriate conduct in both the workplace and in social settings;

   - Understanding and clearly communicating the process for investigating and resolving bullying and harassment complaints made by employees;

   - Taking immediate and appropriate steps to address any allegations of bullying or harassment upon becoming aware of them, whether or not a complaint has been made;

   - Taking appropriate action during an investigation, including separating the parties to the complaint, when appropriate;

   - Monitoring the work environment after a complaint of an alleged violation of this policy has been made to ensure there are no further violations or incidents of retaliation against any individual who reported or participated in the inquiry or investigation; and

   - Ensuring bullying and harassment situations are dealt with in a sensitive, prompt and confidential manner.

C. **Employees.** Employees are responsible for:

   - Treating others with respect in the workplace;

   - Understanding their rights and responsibilities under this policy and the related procedures;

   - Promptly reporting bullying or harassing conduct in the workplace by employees or others before it becomes severe or pervasive;

- Promptly reporting any suspected retaliation for making a complaint or helping another employee make a complaint, participating in an inquiry into potential violations of this policy, or opposing unlawful discrimination or harassment; and

- Fully cooperating in any inquiry or investigation and respecting the confidentiality related to the investigative process.

V. PROCEDURES

A. Reporting potential violations.

1. An employee who has been subjected to bullying or harassing conduct is always encouraged to inform the person(s) responsible for the conduct that it is unwelcome and offensive and to request that the behavior stop immediately. If the unwelcome behavior continues, or the employee feels uncomfortable confronting the responsible person(s) about the conduct, s/he should report the conduct as provided below.

2. Employees who have experienced conduct that they believe violates this policy, or who have concerns about such matters, should report their complaints verbally or in writing to their immediate supervisor, the Department Director, the Human Resources Director or the City Manager before the conduct becomes severe or pervasive. Individuals should not feel obligated to report their complaints to their immediate supervisor first before bringing the matter to the attention of one of the other designated City representatives identified above.

3. Employees who have observed or are otherwise aware of hostile or abusive conduct directed at others are encouraged to report the conduct to the supervisor of the offending employee, the reporting employee's own supervisor, the Department Director, or the Human Resources Director.

B. Fact-Finding Inquiries and Investigations. The City will conduct a prompt, thorough and impartial investigation and take immediate and appropriate corrective action if it determines that conduct that violates this Policy has occurred.

1. Supervisors or managers who observe or are notified of bullying or harassing conduct are required to assess the situation immediately and notify the Human Resources Director.

2. The Human Resources Director, in consultation with the department, will determine based on the nature and circumstances of the complaint whether a fact-finding inquiry or investigation will be conducted at the department level or will be handled by Human Resources. In some cases, the determination will be made that the nature of the complaint falls outside of the scope of this Policy and no further inquiry or investigation will be required.

3. Depending on the circumstances, the department may be advised to take appropriate interim measures to alleviate escalation of the circumstances during the fact-finding process.

4. The investigator (or co-investigators, as necessary) will conduct a fact-finding inquiry that may include written statements, interviews and any other sources of evidence the investigator deems appropriate. During the course of the investigation, the investigator may receive counsel from the Human Resources Director, the City Attorney's Office, or other parties as needed.

5. While the length of an investigation will depend on a variety of factors, including the nature and scope of the allegations, the number of parties and witnesses, and the availability of parties and witnesses, the investigator will seek to conclude the investigation within 45 business days of receipt of the complaint.

6. The inquiry or investigation should result in a written record sufficient to support any corrective and/or disciplinary action taken or to indicate that there is insufficient evidence to support corrective and/or disciplinary action.

C. Confidentiality

1. The City will protect the confidentiality of harassment or bullying allegations to the extent reasonably possible. Information will be disclosed on a need-to-know basis, consistent with the City's legal obligations to follow up on complaints, including investigation, remedial action, and if required, reporting to appropriate enforcement agencies.

2. When supervisors become aware of the alleged harassment or bullying, they are responsible for taking the steps outlined in this policy to prevent and correct the behavior, protecting confidentiality to the greatest degree possible.

3. Employees that are interviewed as part of an investigation regarding harassment and bullying must refrain from discussing the investigative interview with other employees as the integrity of the investigation could be compromised.

VI. GOOD FAITH ALLEGATIONS

Because of the nature of discrimination, harassment, or retaliation complaints, allegations often cannot be substantiated by direct evidence other than the complaining individual's own statement. Lack of corroborating evidence should not discourage individuals from seeking relief under this policy. No adverse action will be taken against an individual who makes a good faith allegation of discrimination, harassment, or retaliation under this policy, even if an investigation fails to substantiate the allegation. However, individuals who make dishonest statements or make statements with willful disregard for the truth during an investigation or enforcement procedure under this policy may be subject to disciplinary action in accordance with existing City policies.

VII. RETALIATION

No employee will be subject to any form of retaliation or discipline for addressing or making a complaint about harassment or for cooperating in an investigation. An employee or supervisor who initiates a retaliatory act is subject to discipline up to and including dismissal.

VIII. APPROVAL

Marsha Reed

Marsha Reed, Acting City Manager

2/25/16

Date

ACKNOWLEDGEMENT OF RECEIPT AND UNDERSTANDING OF ANTI-HARASSMENT AND ANTI-BULLYING POLICY

I acknowledge that I have received and read the Anti-Harassment and Anti-Bullying Policy and/or have had it explained to me.

I understand: (1) that it is my responsibility to abide by all rules contained in this policy, (2) how to report incidents of harassment or bullying as set forth in this policy (3) that I shall not retaliate against any employee exercising his or her rights under this policy, (4) that I shall not make false and/or malicious allegations, or deliberately provide false information during an investigation, and (5) that violation of this policy can lead to disciplinary action by City of Chandler, up to and including termination of employment.

Employee Printed Name: _____

Signature: _____

Date: _____