

MANUAL OF PERSONNEL RULES, PRACTICES, AND PROCEDURES

SECTION: 5.00

Equal Employment

SUBJECT: 5.05

Discrimination Complaint Procedure

SUPERSEDES: January 1, 2000 NEW EFFECTIVE DATE:

January 1, 2002

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APPROVED BY CITY MANAGER:

POLICY

Employees of the City of Pasadena have a right to expect equality of treatment without regard to race, religion, creed, color, national origin, ancestry, disability, age, marital status, gender or sexual orientation, or any other protected class of persons designated by law. It shall be a violation of this policy for any City employee to engage in discriminatory conduct or harassment against a fellow employee or member of the public on the basis of a person's protected class status.

In order to effectuate this policy, the City of Pasadena has established a Discrimination Complaint Procedure which allows City employees to seek redress of what they may perceive to be discriminatory conduct or harassment.

PROCEDURE

The Discrimination Complaint Procedure provides employees with an immediate mechanism by which their complaint will be evaluated. The procedures shall be utilized in the event that a complaint is brought by an employee alleging any of the following:

- 1. A violation of the Rules and Regulations of the Affirmative Action in City Employment amendment to Municipal Code, Section 2.39, or any amendments or changes made thereto.
- 2. Offensive conduct focused upon race, religion creed, color, national origin, ancestry, disability, age, marital status, gender or sexual orientation, or any other protected class of persons designated by law (e.g. such as derogatory terms or jokes, unwelcome verbal or physical advances of a sexual nature, etc).
- 3. Any other action which is alleged to be discriminatory and such alleged discrimination is based on race, religious creed, color, national origin, ancestry, disability, sex, age, or sexual orientation or any other protected class of persons designated by law.

Nothing in this procedure shall restrict the right of an employee to file a complaint with any state or federal agency responsible for the enforcement of anti-discrimination legislation.

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I. COMPLAINT

Any employee who alleges discrimination may file a complaint with the Director of Human Resources or his/her designee. Such complaint shall be filed within (365) calendar days of the alleged discriminatory act, or in the event of an allegation of recurring acts of a similar nature within (365) calendar days of the most recently alleged occurrence, or within (365) Calendar days from the time a complainant would be reasonably aware that the alleged discriminatory act had occurred. The Director of Human Resources or his/her designee shall take the complaint by conducting an interview with the complainant. The complainant may be accompanied by a person of his/her choice.

A. Interview

The complaint interview shall include the following questions:

- 1. What happened?
- 2. When and where did it happen?
- 3. Who or what is the cause of the alleged discriminatory incident?
- 4. Who witnessed the alleged incident?
- 5. Do you know if this has happened to others? If so, to whom?
- 6. What is the basis for your complaint (e.g. race, religious creed, color,)
- 7. How were you harmed by the alleged discrimination?
- 8. What would you like to see done as a result of your complaint?
- 9. Do you have additional comments?

B. Determination of jurisdiction

Based upon information obtained in the complaint interview, the Director of Human Resources shall make a preliminary finding as to whether the allegation is of a nature, which falls within the purview of the Discrimination Complaint Procedure. If the complaint does not fall within the criteria established for the Discrimination Complaint Procedure, the complaint shall be referred to the appropriate administrative process.

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- C. A letter of notice with a copy of the complaint form, signed by the complainant, shall be distributed as follows:
 - 1. Original retained by the Department of Human Resources;
 - 2. Copy to the complainant;
 - 3. Copy to the Department Head;
 - 4. Copy to the City Manager;
 - 5. Copy to the City Attorney.

II. INVESTIGATION

- A. An investigation shall be conducted by the Director of Human Resources (or designee) in cooperation with all appropriate parties. The Director of Human Resources or designee shall attempt to complete the investigation within (90) days of completion of the signed Confidential Discrimination Complaint Form (hereinafter referred to as "complaint").
- B. The investigation shall include, but not be limited to, the following subjects:
 - 1. Verification of the allegations;
 - 2. Interviews of witnesses or other relevant individuals;
 - 3. Interview of accused employees(s); and
 - 4. Review of documentation on file in the complainant's department, and/or Human Resources Department, which might have a bearing on the complaint.
- C. If during the course of the investigation, the information discloses that the Complaint is not one of discrimination within the purview of the procedure, the Discrimination Complaint Procedure will stop. The complainant will be informed and referred to another administrative procedure if appropriate.

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- D. If during the course of the investigation, the complainant alleges adverse actions as a result of filing the original complaint, said allegations shall be investigated and, if sustained, incorporated into the original complaint.
- E. If during the course of the investigation, the complainant wishes to withdraw the complaint, a notation to that effect will be made on the Director of Human Resources' copy of the complaint. To assure that the withdrawal from the procedure is solely based upon the Complainant's volition, the investigator shall conduct a brief interview, the results of which shall be written, signed by the employee, and filed. The Director of Human Resources may proceed with the investigation as he/she so chooses.

III. RECOMMENDED DISPOSITION

- A The Director of Human Resources will communicate the results of the investigation to the Director of the department complained against. The complainant shall be advised of the recommended disposition of the complaint. The report shall contain the recommended level of disposition, as follows:
 - 1. Unfounded evidence establishes there was no violation.
 - 2. Not sustained insufficient evidence, no action;
 - 3. Sustained (a) against accused employee disciplinary action warranted, or (b) against a practice or procedure remedial action or reasonable accommodation will be taken to correct practice or procedure.
- B. In the event of a recommended disposition of "Sustained" against an Employee, the Director of Human Resources or his/her designee shall meet with the Department Head to consider the appropriate disciplinary or corrective action.
- C. In the event of a recommended disposition of "Sustained" against a systemic practice or procedure, the Director of Human Resources shall meet with the Department Heads, if appropriate, to consider remedial action or reasonable accommodation to correct the practice or procedure. In the event an agreement cannot be reached, the City Manager or designee will decide the matter.

IV. APPEALS

A. If dissatisfied with the disposition of a complaint investigation, a complainant can submit a request, within 30 working days of the resolution of the complaint, for reconsideration of the case by the City Manager or his/her designee.

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B. Within 30 working days of a request for reconsideration, the City Manager or his/her designee will uphold the resolution of the complaint, modify the resolution, or replace the resolution with a new one. The decision of the City Manager or designee shall be final and it shall be communicated to both the complainant and the Director of Human Resources.

CITY OF PASADENA

DEPARTMENT OF AFFIRMATIVE ACTION & DIVERSITY

STEPS TO FILING A COMPLAINT

- 1. Complaints are filed with the Director of Affirmative Action & Diversity or his or her designee.
- 2. Additionally, individuals can also file complaints with EEOC (Equal Employment Opportunity Commission) within 300 days and with DFEH (Department of Fair Employment & Housing) within 365 days of the most recent alleged discriminatory act.

NOTE: Investigation of the complaint begins as soon as jurisdiction is determined by the Director of Affirmative Action and Diversity.

PLEASE SEE FORMAL COMPLAINT PROCEDURE FLOW CHART

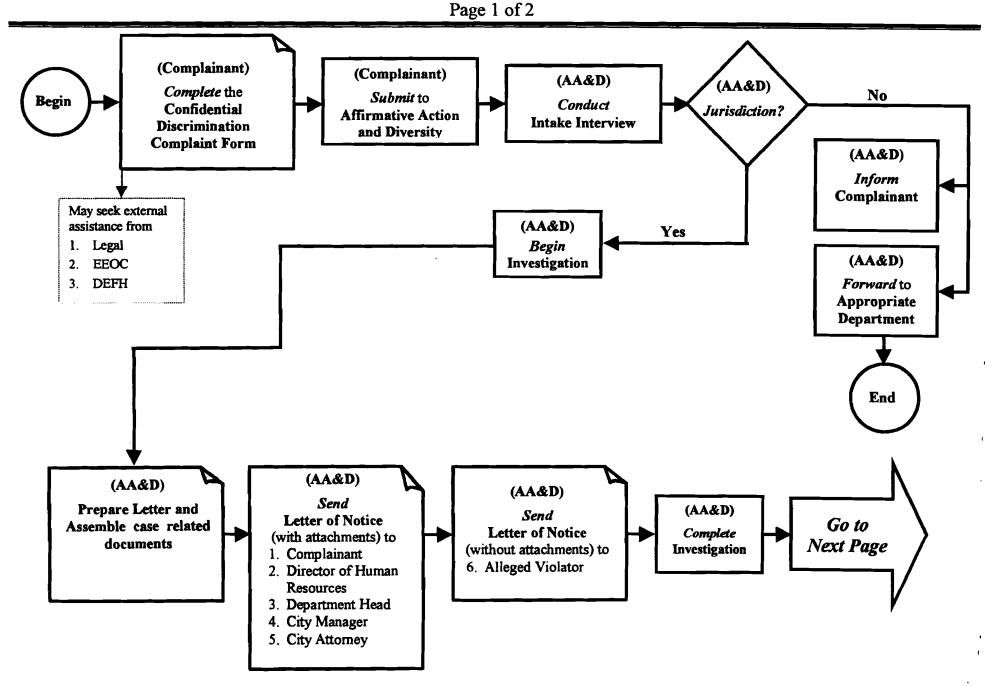
The City of Pasadena Department of Affirmative Action and Diversity encourages you to file a complaint if you think your rights have been violated.

For additional information and assistance regarding complaint processing, please contact the Department of Affirmative Action and Diversity.

CITY HALL 100 NORTH GARFIELD AVENUE THIRD FLOOR – ROOM 323 PASADENA, CA 91109

(626) 744-4216 or (626) 744-4371 (TDD)

Flowchart, Affirmative Action & Diversity Complaint Procedure



Flowchart, Affirmative Action & Diversity Complaint Procedure

