CITY OF MILLBRAE		
ADMINISTRATIVE STANDARD PROCEDURES	**Number: 3-5**	Page 1 of 6
	Revision: March 1, 2013	Supersedes: April 7, 1995
Subject: Workplace Harassment Policy	**Approved by:** Marcia Raines MR City Manager	**Effective Date: March 1, 2013**

I. PURPOSE

The purpose of this policy is to define the City's policy and procedures regarding the prohibition of harassment and discrimination and give notice to all employees. As part of the City's continuing efforts to ensure full equal employment opportunity and conform with the provisions of Title VII of the Civil Rights Act of 1964, the guidelines issued by the Equal Employment Opportunity Commission, and the regulations issued by the California Fair Employment and Housing Commission, this policy shall be distributed to all current and future employees. Utilizing this policy and procedure does not waive an employee's rights to pursue action with the agencies mentioned above or to initiate civil action. It is not the intent of this policy to regulate the social interaction of relationships freely entered into by or between City employees.

II. POLICY

The City of Millbrae is committed to creating and maintaining a work environment that is free of all forms of harassment or intimidation, including sexual harassment. Sexual harassment is a form of sex discrimination, is an abuse of power, and is an unlawful employment practice prohibited by State and Federal Law. It debilitates morale and interferes with work productivity. It is the policy of the City of Millbrae that harassment and discrimination are unacceptable and will not be condoned or tolerated on the part of any employee. The City shall take preventative, corrective, and disciplinary action for behavior that violates this policy or the rights and privileges it is designed to protect. In addition, individual employees can be held personally liable for acts of sexual harassment.

An employee who believes he/she has been harassed either in the process of applying for a position, carrying out the duties of the job, outside the work place by another employee, or by someone such as citizens, contractors, or consultants doing business with the City are encouraged to use the complaint process and procedures that are outlined in this policy. An employee who files a complaint of harassment shall be free from reprisals or retaliation, regardless of the outcome. Retaliation in any form is considered a serious violation of this policy. Anyone engaging in subtle or overt forms of retaliation shall be subject to an investigation and appropriate disciplinary action.

III. DEFINITIONS AND EXAMPLES

A. Harassment of a Sexual Nature

Sexual harassment has been specifically defined by the Equal Employment Opportunity Commission as follows:

Unwelcome sexual advances, requests for sexual favors, or other verbal, visual, or physical conduct of a sexual nature constitutes sexual harassment when:

- submission to such conduct is made either explicitly or implicitly a term or condition of an employee's employment; or
- submission to, or rejection of, such conduct by an employee is used as the basis for employment decisions affecting the employee; or
- such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creates on intimidating, hostile, or offensive working environment.

Sexual harassment refers to behavior which is not welcomed, is personally offensive to the victim, and interferes with the ability to effectively carry out the duties of his/her position or co-workers' positions. Differences in individual values and culturally diverse customs may make it difficult for employees to recognize their own behavior or that of their peers, subordinates, or non-employees as sexual harassment. An investigation and decision based on all the available facts must be made to determine whether a particular action or incident constitutes sexual harassment. Negative consequences to the offender places a responsibility on supervisors and employees to report factual and truthful information in filing and investigating complaints of sexual harassment.

B. Examples of Harassment

Harassment may take many forms, including but not limited to:

1. Verbal Harassment: For example, epithets, derogatory comments or slurs on the basis of race, religious creed, color, national origin, ancestry, physical handicap, medical condition, age, marital status, sex, sexual orientation, political opinions or affiliations, or lawful employee organization activities. Verbal harassment may also include sexual remarks or well-intentioned compliments about a person's clothing, body, or sexual activities.

2. Physical Harassment: For example, assault, unwelcome touching, impeding or blocking movement, and/or any physical interference with normal work or movement when directed at an individual on the basis of race, religious creed, color, national origin, ancestry, physical handicap, medical condition, age, marital status, sex, sexual orientation, political opinions or affiliations, or lawful employee organization activities. This includes, but is not limited to, posters, magazines, videos, Internet sites or other electronic media of a sexual nature.

3. Visual Forms of Harassment: For example, derogatory posters, notices, bulletins, cartoons, drawings, or other advertisements on the basis of race, religious creed, color, national origin, ancestry, physical handicap, medical condition, age, marital status, sex, sexual orientation, political opinions or affiliations, or lawful employee organization activities. This includes, but is not limited to, posters, magazines, videos, Internet sites, or other electronic media of a sexual nature.

4. Sexual Favors: Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature which are implicitly or explicitly a term or condition of an employee's employment, are used as the basis of employment decisions, or affect or interfere with the employee's work performance.

5. Hostile Environment: Conduct including the above-referenced behavior that has the purpose or effect of creating an intimidating, hostile, or offensive work environment.

IV. RESPONSIBILITIES

A. The City Manager shall be responsible for assigning responsibility and accountability for implementation of the City's harassment and discrimination policy and procedures. He/She shall take all steps necessary to set a positive example and to support and encourage actions and attitudes in the organization that prevent harassment and discrimination from occurring. He/She shall direct the investigation and respond to all complaints involving Department Heads and the Assistant City Manager.

B. The Human Resources Director shall be responsible for ensuring that all complaints of harassment and discrimination are investigated thoroughly and are responded to in a timely fashion and arrange for periodic training for all employees, including supervisors and managers. Formal training shall be on a semi-annual basis at a minimum and employees shall sign signature sheets as evidence of training. He/She shall assist, advise, or consult with employees, supervisors, and managers regarding the harassment and discrimination policy, complaint procedures, and incidents. He/She shall maintain current knowledge of harassment and discrimination legal issues.

C. Department Heads, Division Managers, and Supervisors shall be responsible for informing employees of the City's policy on harassment and discrimination. They shall take all steps necessary to set a positive example and to prevent harassment and discrimination from occurring. Managers and supervisors are responsible for acts of harassment and discrimination in the work place by employees and non-employees and become legally liable when the manager/supervisor knows, or should have known, of the conduct but fails to take immediate and appropriate corrective action. Managers and supervisors shall assist, advise, or consult with employees and the Human Resources Director regarding harassment and discrimination policy, complaint procedures, and incidents. Managers and supervisors shall assist in the investigation of complaints involving employee(s) in their departments; and if the complaint is substantiated, shall recommend appropriate corrective or disciplinary action in accordance with City/District Personnel Rules, up to and including discharge. Managers and supervisors shall participate in periodic training and shall schedule employees for training.

D. All Employees shall treat each other with respect and consideration and shall not engage in actions or behaviors that violate or encourage violation of the City's harassment and discrimination policy. Employees shall participate in periodic training and shall fully cooperate with investigation of harassment and discrimination incident(s). Employees who believe they have been the subject of harassment or discrimination are strongly encouraged to seek assistance, consultation and support, and/or to utilize the procedures in this policy to assure that the problem is identified, investigated, and resolved as expediently as possible.

V. COMPLAINT PROCESS AND PROCEDURES (for Sexual Harassment complaints)

To accommodate the unique and sensitive nature of sexual harassment complaints, a separate process is provided for the primary purpose of resolving these complaints at the earliest possible date. These procedures are contained in this document. Employees shall make a decision to utilize this process or another (e.g. grievance) but not both. To address other kinds of discrimination or harassment, employees should utilize existing grievance procedures in the Personnel Rules or applicable Memoranda of Understanding.

During the informal and/or formal complaint process outlined below, every effort shall be made to protect the privacy of the individuals involved in the complaint, as long as this does not compromise safety or a prompt and thorough investigation. Verbal information and written documents shall be restricted to individuals responsible for receiving, investigating and responding to the complaint. Complaints involving alleged criminal behavior shall be referred to the appropriate law enforcement agency. The Department Head shall be apprised of all complaints, unless he/she is a named party in the complaint. All employees involved in a harassment complaint may be represented by a person of their choosing (at their own expense) during the informal and/or formal complaint process.

Complaint Procedure

A. Protest or Object to the Harassment

An employee who believes he/she is a victim of harassment or discrimination may prefer to address the issue directly with the individual(s) involved. Many victims find using this informal approach to be effective. Firmly telling the other offender to stop may improve the situation. However, anyone uncomfortable with this approach or unable to alleviate the problem with this method is encouraged to proceed to with the next step.

Using the informal complaint procedure is not comfortable for everyone or appropriate for every situation. Protesting or objecting to the conduct with the individual(s) involved is not a prerequisite to filling a formal or an informal complaint.

B. Seek Assistance, Advice or Consultation

Obtain the assistance of, advice from, or consultation with a supervisor, manager, Department Head, Human Resources Director, or Employee Assistance Program representative. Sexual harassment problems brought to the attention of supervisory or management representatives of the City through the informal complaint procedure shall be taken seriously and addressed promptly. Management and supervisory personnel shall advise the Human Resources Director of all informal complaints brought to their attention.

Due to the nature and seriousness of sexual harassment, all incidences and complaints shall be investigated. Investigations will remain confidential to the extent possible and be conducted in a thorough and sensitive manner.

C. File a Written Complaint

If previously outlined efforts do not resolve the problem to the victim's satisfaction or within a reasonable time frame, the employee shall proceed with the formal complaint process.

An employee who believes he or she has been the subject of sexual harassment or discrimination and either has not resolved the problem or does not feel comfortable utilizing the informal complaint process, shall

report the incident(s) to the Department Head and the Human Resources Director in writing. Employees are encouraged to use the Confidential Complaint Form for this purpose.

D. Receiving and Investigating Complaints

The Human Resources Director and Department Head (unless either party is named in the complaint) shall coordinate the actions of all individuals involved in the receipt, investigation, and resolution of formal complaints. Department Heads may be in a position to receive a complaint and will consult with Human Resources as soon as possible thereafter. He/She may utilize the services of attorneys, consultants, investigators, or other specialists as appropriate.

The investigation shall include, but not limited to, the following:

-a review of all available information regarding the alleged conduct, giving consideration to the records, the totality of circumstances, the nature of the conduct or actions, and the context in which the alleged incident occurred;

-the identification and interview of the accused, witnesses, and supervisors, retrieval and review of documents or evidence including, but not limited to, computer records, work schedules, letters, telephone messages, personnel files, gifts, or cards.

-preparation of a written report by the investigating party submitted to the City Manager and Human Resources Director that includes allegations of the alleged victim, the accused response, persons interviewed and their credibility, findings of facts and supporting evidence, conclusions about the allegations, and recommendations for corrective actions or discipline in accordance with City/District Personnel Rules; and

-completion of the investigation and response to the complaint within thirty (30) days (whenever possible) by the Human Resources Director. Both the complainant and the accused shall be notified of the outcome of the investigation and the response to the complaint.

Resolution of a Complaint

A. If the complaint is substantiated, through informal or formal procedures, this policy shall be reviewed with the accused and appropriate corrective or disciplinary action shall be recommended by the employee's Department Head, up to and including termination in accordance with City/District Personnel Rules. Employees disciplined for substantial complaints of harassment or discrimination may appeal the Department Head's decision in accordance with Personnel Rule 14.

B. If the complaint is not substantiated, the Human Resources Director shall conduct a review and assessment with the complainant and the accused individually. The review and assessment shall address issues of sensitivity, confidentiality, and the seriousness of sexual harassment allegations.

VI. POLICY IMPLEMENTATION

Each Department Head is responsible for ensuring that the workplace is free of harassment and discrimination by implementing and documenting the following measures:

-setting a positive example of behavior appropriate to the workplace and encouraging all department personnel to do likewise;

-posting copies of the policy and this procedure in conspicuous places;

-having managers and supervisors inform their employees of the City policy and complaint resolution procedures;

-encouraging employees to report instances of harassment or discrimination to the appropriate party promptly;

-holding employees, supervisors and managers accountable for following the provisions of this workplace harassment policy and procedures; and

-requiring managers, supervisors and employees to attend training or read materials supplied by the City to increase awareness of and sensitivity to the problem of harassment and discrimination.

The City's policy shall be distributed to all employees, accompanied by training on the subject. New employees shall receive a copy of the policy with orientations. New supervisors or Department Heads will be advised of the responsibilities of their position with regard to harassment and discrimination prevention and reporting, and investigation procedures.

Suggestions for improvements to the policy can be communicated to the Human Resources Director at any time. The policy will be reviewed periodically and revised as needed to comply with laws and legal recommendations. Confidential surveys may be conducted to determine if harassment has or is occurring in the workplace that has not been reported.

VII. EFFECTIVE DATE

March 1, 2013

ACKNOWLEDGEMENT STATEMENT

I _____ (Print your name) have read the City of Millbrae's Harassment Policy and agree to abide by the policies stated therein.

_____ _____

Employee Signature Date

Forward completed form to the Human Resources Division in Administration.