

AN EXECUTIVE ORDER
AMENDING THE CITY'S POLICY THAT PROHIBITS
HARASSMENT OF INDIVIDUALS IN PROTECTED CLASSES

I, Edward M. Augustus, Jr., by virtue of the authority vested in me as the City Manager of the City of Worcester (the "City"), do hereby order and direct the following:

I. Policy

EQUAL OPPORTUNITY AND NON-DISCRIMINATION POLICY

SOURCE: Human Resources
City of Worcester Policy 1000

Applicable Federal Policies: Equal Pay Act, Title VII of the Civil Rights Act of 1964, Age Discrimination in Employment Act, Americans with Disabilities Act

The City of Worcester is fully committed to equal opportunity in its employment decisions, programs and activities, in compliance with all applicable federal and state laws and regulations and in furtherance of appropriate affirmative action efforts. The City of Worcester prohibits discrimination and harassment against any individual on the basis of age*, gender expression/identity, genetic information, marital status, color, national origin, language, physical or mental disability, pregnancy, race, religion, sex ¹, sexual orientation*, status as a U.S. veteran.

To that end, each executive officer serving under the City Manager and all City employees will take rigorous steps to ensure affirmative action and equal opportunity in the internal affairs of the City government, as well as in their relationship with the public, including those persons and organizations doing business with the City. Furthermore, each City agency or development project supported in part, or in whole, by the City funds shall consider the likely effects of this policy.

The City reserves the right to refrain from hiring an individual if doing so will create a violation of the Massachusetts Conflict of Interest Law. For example, employment in a division, department or city institution headed or supervised by the employee's or applicant's spouse is permitted only if the spouse does not have the power to hire or fire or make performance evaluations of the employee or applicant.

The following statement must be included in all bulletins, announcements, manuals, publications, guidebooks, brochures, pamphlets, application forms, or recruitment materials that are made available to the City of Worcester participants, applicants, or employees:

The City of Worcester does not discriminate in its programs and activities on the basis of age, gender expression/identity, genetic information, marital status, color, national origin, language, physical or mental disability, pregnancy, race, religion,

Sexual harassment is covered by a separate policy, which has been issued to all employees.

* As defined by law.

² Employees of the City that are members of a bargaining unit shall be subject to discipline in accordance with the terms of the applicable Collective Bargaining Agreement.

sex¹, sexual orientation*, or veteran status, as applicable. Direct inquiries to: City Hall Human Resources 109, 508-799-1030, EEOAA@worcestenna.gov

Effective: April 1, 2013

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* As defined by law.

Employees of the City that are members of a bargaining unit shall be subject to discipline in accordance with the terms of the applicable Collective Bargaining Agreement.

A. Introduction

The City depends upon a work environment of tolerance and respect for the achievement of its goals. The City is committed to providing a working environment that is free of all forms of abuse or harassment. The City recognizes the right of all employees to be treated with respect and dignity.

Harassment on the basis of age, gender expression/identity, genetic information, marital status, color, national origin, language, physical or mental disability, pregnancy, race, religion, sex¹, sexual orientation*, or veteran status,* (hereafter referred to as "protected class harassment") is a form of behavior that adversely affects the employment relationship. It is prohibited by Federal and/or State law. Protected class harassment of individuals occurring in the workplace or in other Settings in which individuals of the City may find themselves in connection with their employment is unlawful and will not be tolerated by the City. The City also condemns and prohibits protected class harassment by any applicant, client, vendor or visitor.

Because the City takes allegations of protected class harassment seriously, we will respond promptly to complaints of protected class harassment; and where it is determined that inappropriate conduct has occurred, we will act promptly to eliminate the conduct and impose such corrective action as is necessary, including disciplinary action where appropriate, including discharge.

It is important to note that while this policy sets forth our goals of promoting a workplace that is free of protected class harassment, the policy is not designed or intended to limit our authority to discipline or take remedial action for workplace conduct which we deem unacceptable, regardless of whether that conduct satisfies the definition of protected class harassment.

B. Definition of Protected Class Harassment

Protected class harassment refers to behavior, which is not welcomed by the employee, which is personally offensive to him or her, and which undermines morale and/or interferes with the ability of the employee to work effectively. Because it is not possible to list all of the circumstances that may constitute protected class harassment, which depends upon the totality of the facts, including the severity of the conduct and its pervasiveness, the following is a non-exhaustive list of situations that could constitute protected class harassment.

- verbal abuse on the basis of any protected status;
- use of words that degrade a protected class or person because of his/her protected class status;

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- jokes or language about a protected class;
- obscene or suggestive gestures or sounds intended to relate to the protected class;
- teasing related to the protected class;
- verbal comments of a nature about an individual's appearance or terms used to describe an individual that are related to the individual's protected class;
- verbal abuse, including degrading language, comments, jokes, teasing or threats directed at a person because of his/her protected class status;
- posting or distributing objects, pictures, cartoons or other materials degrading to the protected class or a person because of his/her protected class status;
- letters or notes that degrade the protected class or a person because of his/her protected class status;
- sending offensive or discriminatory messages or materials through the use of electronic communications (e.g., electronic mail, including the Internet, voice mail and facsimile) which are degrading to the protected class or a person because of his/her protected class status;
- condoning harassment on the basis of protected class.

Harassment on the basis of protected class status is not limited to behavior by a non-member of the protected class. Protected class harassment can occur in a variety of circumstances. Here are some things to remember:

- The harasser does not have to be the victim's supervisor;
- A member of the protected class may be victimized by another member of the protected class;
- The victim does not have to be the person at whom the unwelcome protected class harassment is directed. The victim may be someone who is affected by the harassing conduct, even when it is directed toward another person, if the conduct creates an intimidating, hostile, or offensive working environment for the co-worker or interferes with the co-worker's work performance.

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C. Individual Responsibilities

Each individual of the City is personally responsible for:

- ensuring that his/her conduct does not harass any other employee or person with whom the employee comes in contact on the job, such as an outside vendor;
- cooperating in any investigation of alleged protected class harassment by providing any information he/she possesses concerning the matter being investigated;
- actively participating in efforts to prevent and eliminate protected class harassment, and to maintain a working environment free from such discrimination; and
- ensuring that an employee who files a protected class harassment claim or cooperates in an investigation may do so without fear of retaliation or reprisal.

D. The Rule

It is, therefore, against the policy of the City for any individual, whether a member of a protected class or not, to harass another individual on the basis of protected class status by:

- making submission to such conduct either implicitly or explicitly a term or condition of an employee's employment;
- making submission to, or rejection of, such conduct by an individual the basis for employment decisions affecting the employee;
- intending to or having the effect of interfering with an individual's work performance; or
- by creating a hostile or intimidating work environment for the employee.

It is also against the policy of the City for an individual to harass any person with whom the employee comes in contact on the job or to engage in any protected class harassment or inappropriate or unprofessional conduct in the workplace.

E. Retaliation

Retaliation against an individual for filing a complaint of protected class harassment or against any individual for cooperating in an investigation of a protected class harassment complaint is against the law.

II. Violation of Policy

Sexual harassment is covered by a separate policy, which has been issued to all employees.

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Employees of the City that are members of a bargaining unit shall be subject to discipline in accordance with the terms of the applicable Collective Bargaining Agreement.

Any individual violating this policy will be subject to appropriate discipline, including possible discharge.

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III. Procedures for Complaints

A. Complaint

The City has designated a Protected Class Harassment Grievance Officer. If any individual believes he or she has been subject to protected class harassment on the basis of his/her protected class, the individual should initiate a complaint by contacting the Protected Class Harassment Grievance Officer as soon as possible. The individual should file the complaint promptly following any incident of protected class harassment. The individual should be aware that the longer the period of time between the event giving rise to the complaint and the filing, the more difficult it will be for the Protected Class Harassment Grievance Officer to reconstruct what occurred. The individual will be requested to write out his or her complaint to document the charge.

If an employee prefers to discuss a possible protected class harassment problem with his or her supervisor, the employee may always do so, but employees do not have to go through the regular chain of supervision when reporting protected class harassment and may go directly to the Grievance Officer.

B. Investigation

On receiving the complaint, the Protected Class Harassment Grievance Officer or the Alternate Protected Class Harassment Grievance Officer will promptly have a review made into the matter. If, after the completion of this review, it is determined that there is a reasonable basis for finding a violation of this policy, the City will conduct an investigation. The charged employee will be requested to respond to the complaint. The investigation will be made to the extent appropriate in each case. This process will be confidential to the extent consistent with an effective investigation, subject to the business needs of the City.

The Protected Class Harassment Grievance Officer may seek the advice of the city solicitor at any time during any investigation.

C. Decision

After the response of the charged individual has been made, and any further investigation which may be warranted has been carried out, the City will make a final decision. If the City finds that the allegations in the complaint have been established by the investigation, the City will initiate discipline of the charged individual. Discipline will be appropriate to the offense and employees involved, and may include discharge.²

The complainant will be notified of the disposition of the investigation.

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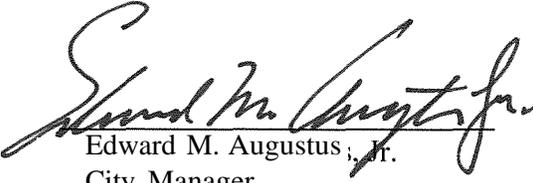
Employees of the City that are members of a bargaining unit shall be subject to discipline in accordance with the terms of the applicable Collective Bargaining Agreement.

IV. State and Federal Agencies

The Massachusetts Commission Against Discrimination ("MCAD"), located at One Ashburton Place, Boston, MA 02108, and 436 Dwight Street, Springfield, MA 01103, is responsible for enforcing the Massachusetts discrimination and protected class harassment law, and the U.S. Equal Employment Opportunity Commission ("EEOC") is responsible for enforcing the federal law prohibiting protected class harassment. The EEOC is located at JFK Federal Office Building, Government Center, Room 475, Boston, MA 02203. They may be contacted at the above addresses. A complaint to the MCAD must be filed within 300 days. A complaint under the federal law should be filed within 180 days, but under certain circumstances, a federal complaint may be filed within 300 days.

The MCAD Worcester Office is located at 484 Main Street, Room 320 Worcester, MA 01608. Main numbers are 508-453-9630 for telephone and Fax is 508-755-3861. The office may also be reached by E-Mail at assistanttochainnan@state.ma.us

Complaints can be filed Monday through Friday from 9:00 a.m. to 4:00 p.m.


Edward M. Augustus, Jr.
City Manager

Issued: April 1, 2013
Effective: April 1, 2013

Acknowledgment of Receipt of Policy

I acknowledge receipt of this Protected Class Harassment Policy from the City, and I have read its contents.

Witness

Employee

Date

City of Worcester

Addendum to the Protected Class Harassment Policy: Grievance Officers

If any individual believes he or she has been subjected to protected class-harassment, the individual should initiate a complaint by contacting the Protected Class Harassment Grievance Officer as soon as possible.

The current Protected Class Harassment Grievance Officer is Pamela Callahan, Training Coordinator, and Department of Human Resources. She can be reached at 455 Main St., Room 109 and her telephone number is 508-799-1030 Ext 31131