

**POLICY NUMBER:**

APM-1-03

DATE:

1-14-13

ISSUED BY:

*Johnny Martinez*  
City Manager/Designee

  
SIGNATURE

**CITY OF MIAMI**



**ADMINISTRATIVE  
POLICY**

REVISIONS

REVISED SECTION  
Created  
Revised  
Revised

DATE OF REVISION  
2/26/2003  
1/22/2010  
7/13/2012

**SUBJECT:**

**Equal Employment Opportunity**

**Purpose**

All employees have the right to work in an environment free from all forms of discrimination and conduct considered to be harassing, coercive or disruptive. It is the City of Miami's ("City") position that, discrimination or harassment based on race, color, age, national origin, religion, gender, pregnancy, disability, marital status, familial status, sexual orientation, or retaliation for reporting the same, is a form of misconduct that undermines the integrity of the employment relationship and the provision of services to citizens. These acts also constitute unlawful employment practices under Title VII of the Civil Rights Act of 1964, as amended; the Age Discrimination in Employment Act of 1967, as amended; the Equal Pay Act of 1963; the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990; the Florida Civil Rights Act; and Chapter 11A, Article IV of Miami-Dade County Ordinance No. 97-17.

**Policy Statement**

The City is an equal opportunity employer and promulgated this policy as part of its continuing effort to maintain a work environment free from unlawful discrimination. This policy, along with the Policy Statement on Sexual Harassment, (APM 3-81), constitutes the City's Equal Employment Opportunity Statement.

It is the policy of the City to prohibit discrimination in hiring, promotion, compensation, discharge, and all terms and conditions of employment on the basis of an individual's race, color, age, national origin, religion, gender, pregnancy, disability, marital status, familial status, sexual orientation or any retaliation for reporting the same. Employees are encouraged to report instances of discrimination, as well as acts of retaliation against any employee for reporting incidents of discrimination, participating in any investigation of complaints of discrimination, or otherwise opposing acts of discrimination.

In addition to harassment by fellow employees, the City does not condone

harassment by the public or other non-employees, and it will take appropriate action to the extent of the City's control or legal responsibility with respect to such non-employees.

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**Definitions**

1. "Harassment" for the purpose of this policy refers to any harassment on the basis of race, color, age, national origin, religion, sex, pregnancy, disability, marital status, familial status or sexual orientation.
  2. "Discrimination" for the purpose of this policy refers to any discriminatory practices or conduct that are based upon race, color, age, national origin, religion, sex, pregnancy, disability, marital status, familial status or sexual orientation.
  3. "Supervisors" for the purpose of this policy refers to employees with supervisory responsibilities over other employees, (i.e., elected officials and appointed staff, including the City Manager, City Officers, Department Directors, first line supervisors, etc.).
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**Administration  
and  
Responsibility**

1. The Office of Equal Opportunity and Diversity Programs ("EODP") is responsible for the investigation of any harassment/discrimination complaints as defined in this policy. Any questions regarding this policy are to be directed to:

Office of Equal Opportunity and Diversity Programs  
44 S.W. 2<sup>nd</sup> Avenue, Suite 642  
Miami, Florida 33130  
Phone: (305) 416-1990  
Fax: (305) 416-1995

2. EODP is charged with the responsibility of developing and implementing instructional programs for the purpose of ensuring that officials and employees clearly comprehend the fact that discrimination and harassment in City government is illegal and will not be tolerated.
3. All supervisors are charged with the responsibility of taking reasonable precautions to ensure that all departments are free from discrimination and harassment and to take corrective measures when necessary and appropriate.
4. The City will not ask a job applicant about the existence, nature, or severity of a disability. Applicants may be asked about their ability to

perform specific job functions. Medical examinations or inquiries may be made, but only after a conditional offer of employment is made and only if required of all applicants for the position.

5. The City will make reasonable accommodations for the known physical or mental limitations of a qualified applicant or employee with a disability upon request unless the accommodation would cause an undue hardship on the operation of the City's business. If an applicant or an employee requests a reasonable accommodation and the individual's disability and need for the accommodation are not readily apparent or otherwise known, the City may ask the individual for information necessary to determine if the individual has a disability-related need for the accommodation.
6. The City will maintain any employee's medical records separate from personnel files and keep them confidential.
7. The City will make an individualized assessment of whether a qualified individual with a disability meets selection criteria for employment decisions. To the extent the City's selection criteria have the effect of disqualifying an individual because of disability, those criteria will be job-related and consistent with business necessity.
8. Upon issuance of this policy, it shall be the responsibility of all Department Directors to initially distribute this policy to all current employees. Furthermore, employees shall be advised of their rights to resolve complaints involving discrimination and harassment with EODP, the United States Equal Employment Opportunity Commission, the Florida Commission on Human Relations, or the Miami-Dade County Equal Opportunity Board. The employee is required to sign and retain a copy of the "Acknowledgment of Receipt Form" for this policy and shall return the original signed form to their Department Director, or designee, who will forward the original signed form to the Department of Human Resources for placement in the employee's personnel file.
9. New employees shall be given a copy of this policy and sign the "Acknowledgement of Receipt Form" at the time of orientation. The Department of Human Resources shall retain the original signed form to be placed in the employee's personnel file and provide a copy of the form to the new employee. EODP will emphasize this policy during orientation.

**Management  
Responsibility**

A high standard of honesty, integrity, impartiality, and conduct by City employees is essential for the effective performance of the City's business and the maintenance of citizens' confidence in government.

Any discrimination or harassment constitutes employee misconduct, which undermines the integrity of the employment relationship, and is an illegal act. All employees must be allowed to work in an environment free from discrimination or harassment.

Upon reasonable notice, management is required to take appropriate action against acts of discrimination and harassment. Specifically, the supervisor shall refer the complaining employee to EODP and will inform the employee being accused of the alleged discrimination or harassment that a complaint was made. When informing the accused employee, the supervisor shall remind the employee that the alleged behavior will not be tolerated and that an investigation will be conducted. The supervisor shall contact EODP, to give notice of the complaint as well.

It shall be a violation of this policy for any employee, or applicant for employment, to be harassed or discriminated against on the basis of race, color, age, national origin, religion, gender, pregnancy, disability, marital status, familial status or sexual orientation.

**Violations of this policy will be cause for disciplinary action, up to and including termination.**

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**Complaint  
Procedure**

- A. An applicant or employee who feels that he/she was discriminated against or harassed on the basis of race, color, age, national origin, religion, gender, pregnancy, disability, marital status, familial status, sexual orientation or has been sexually harassed may file a complaint with EODP.
- B. The EODP staff shall meet with the employee and formalize the complaint before it is officially filed.
- C. EODP shall notify the Department Director, who shall be required to respond to the allegations and to make available all necessary records, documents and/or employees.
- D. EODP shall investigate any alleged violations of this policy, including taking sworn statements, and will issue a "Letter of Determination" to the complainant, the Department Director, and the City Manager.
- E. EODP shall respond to complaints or charges received from the United States Equal Employment Opportunity Commission, Florida Commission on Human Relations, or the Miami-Dade County Equal

Opportunity Board, and shall provide notice as set forth in sections B and C above. Said response shall include the submission of a position statement on behalf of the City to the appropriate entity.

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**Non-Retaliation**

Retaliation against employees who file discrimination/harassment charges or assist or participate in any investigation of such charges is **prohibited**. No employee shall be adversely affected in the terms and conditions of their employment, nor discriminated against for filing or participating in the investigation of such a complaint.

Any employee or supervisor, who condones, engages, or attempts to engage in retaliation against another employee for filing or participating in the investigation of such a complaint will be subject to disciplinary action up to and including termination. Similarly, any City Officer or Department Director who condones such retaliation or who allows an atmosphere of retaliation or intimidation to exist in any department will be subject to disciplinary action, up to and including dismissal.

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**Notification**

This policy shall be made readily available to all elected officials, appointed staff and City employees. Copies shall be available on the City website by the Department of Human Resources /Labor Relations Division.

For further information, assistance, or to file a complaint alleging discrimination/harassment, please contact the Office of Equal Opportunity and Diversity Programs, 444 S.W. 2<sup>nd</sup> Avenue, Suite 642, Miami, Florida 33130 at (305) 416-1990.

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# City of Miami Equal Employment Opportunity

## Acknowledgement Receipt Form

I hereby acknowledge that I have received a copy of APM 1-03 Equal Employment Opportunity policy and that I have kept one copy of the receipt form and policy in my possession. Furthermore, I have read said policy and agree to abide by the provisions set forth therein for the duration of my employment with the City of Miami. I understand that violations of APM 1-03 may lead to disciplinary actions, up to and including termination.

Employee's Signature: \_\_\_\_\_

Print name: \_\_\_\_\_

Date: \_\_\_\_\_

Social Security #: \_\_\_\_\_