



## **CITY OF FORT BRAGG**

416 N. FRANKLIN, FORT BRAGG, CA 95437  
PHONE 707/961-2823 FAX 707/961-2802

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**DATE:** June 27, 2005  
**TO:** All City Employees  
**FROM:** Teresia Haase, Human Resources Analyst  
**SUBJECT: Non-Discrimination and Harassment Policy**

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The City of Fort Bragg Non-Discrimination and Harassment Policy, found in Section 25 of the Personnel Rules and Regulations, reads as follows:

- 25.1. The purpose of this policy is:
- (1) To reaffirm the City's commitment to prohibit and prevent unlawful discrimination (including harassment) in all workplaces of the City;
  - (2) To define discrimination and harassment prohibited under this policy;
  - (3) To set forth a procedure for resolving complaints of prohibited discrimination and harassment.
- 25.2. This policy shall not be construed to create a private or independent right of action. Although this policy is intended to prohibit discrimination consistently with Title VII of the Civil Rights Act of 1964, as amended, the Americans with Disabilities Act, the California Fair Employment and Housing Act and California Labor Code Section 1102.1, the City reserves the right to interpret and apply this policy to provide greater protection than what is afforded under those laws.
- 25.3. **Statement of Policy.** The City is committed to providing an environment that is free from harassment and discrimination of any kind, including sexual harassment and harassment based on race, color, religion, national origin, ancestry, age, physical disability, mental disability, medical condition, marital status, sexual orientation, or any other characteristic prohibited by state or federal law. Therefore, it is important that the City maintain an atmosphere characterized by mutual respect in order to assure fair, courteous treatment for employees and the public.
- 25.4. The City strongly disapproves of and will not tolerate harassment or discrimination against City employees or applicants by elected or appointed officials, managers, supervisors or coworkers. The City also strongly disapproves of unlawful harassment of City employees by persons with whom the City has a business, service or professional relationship.

- 25.5. Sexual harassment and illegal discrimination are considered serious acts of misconduct and will not be tolerated. Employees who violate this policy and engage in acts of sexual harassment or illegal discrimination of any type, for any duration, shall be subject to severe disciplinary action, up to and including termination.
- 25.6. Retaliation against individuals who complain of sexual harassment or any type of prohibited discrimination or who participate in an investigation into sexual harassment or discrimination shall not be tolerated. Employees who engage in such acts of retaliation shall be subject to serious disciplinary action, up to and including termination.
- 25.7. Definitions
- 25.7.1. Prohibited discrimination and harassment for purposes of this policy, includes but is not limited to:
- (1) Speech: Such as epithets, derogatory comments or slurs, and lewd propositions on the basis of race, sex, religion, national origin, ancestry, disability, medical condition, marital status, age, or sexual orientation. This includes, without limitation, inappropriate sex-oriented comments regarding an individual's appearance, including dress or physical features, inappropriate comments of a sexual nature, or race or ethnicity-oriented stories and jokes.
  - (2) Physical Acts: Such as assault, impeding or blocking movement, offensive touching, or physical interference with normal work or movement when directed at an individual on the basis of race, sex, religion, national origin, ancestry, disability, medical condition, marital status, age or sexual orientation. This includes pinching, grabbing, patting, propositioning, leering, or making explicit or implied threats or promises in return for submission to physical acts.
  - (3) Visual Insult: Such as derogatory pictures, posters, cartoons, or drawings related to race, sex, religion, national origin, ancestry, disability, medical condition, marital status, age, or sexual orientation. This includes, without limitation, sending inappropriate emails of a sexual nature to employees, or viewing pornography either in magazines or on the internet in view of other employees, displaying pictures or objects depicting nude or scantily-clad or suggestively posed men or women; circulating derogatory or obscene notes, letters, emails or other literature.
  - (4) Retaliation: Adverse employment actions carried out in retaliation for good faith submission of discrimination or harassment charges, or good faith participation in an investigation made pursuant to this policy.
  - (5) Adverse employment actions carried out on account of race, sex, religion, national origin, ancestry, disability, medical condition, marital status, age or sexual orientation.

25.7.2. Harassment on the basis of race, religion, creed, political affiliation, color, national origin, ancestry, sex, sexual orientation, age, familial status, or mental or physical disability is prohibited. Verbal or physical conduct relating to these categories constitutes harassment when it:

- (1) Has the purpose or effect of creating an intimidating, hostile or offensive working environment;
- (2) Has the purpose or effect of unreasonably interfering with an individual's work performance; or
- (3) Otherwise adversely affects an individual's employment opportunities.

25.7.3. Sexual harassment.

25.7.3.1. Sexual harassment is a form of unlawful sex discrimination and will not be tolerated by the City. Federal and State guidelines provide that unwelcome sexual advances, requests for sexual favors and other verbal, visual or physical conduct of a sexual nature constitute unlawful harassment when:

- (1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment.
- (2) The submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- (3) Sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature that has the purpose or effect of unreasonably interfering with an employee's work performance or of creating an intimidating, hostile, or offensive work environment.

25.7.3.2. Sexual harassment refers to conduct that is not welcome, that is offensive, that fails to respect the rights and dignity of others, that lowers morale and that, therefore, interferes with work effectiveness.

25.8. Reporting Unlawful Harassment or Discrimination.

25.8.1. Any employee who believes he or she has been unlawfully harassed or discriminated against should promptly report it orally or in writing to the employee's supervisor, the Human Resources Office or the City Manager. An employee is not required to complain first to a supervisor if that person is the individual who is harassing and/or engaging in discriminatory actions against the employee. Instead, the employee may report the harassment/discrimination to any member of management.

25.8.2. Any supervisor or manager who receives a complaint of unlawful harassment/discrimination, or who observes or otherwise learns about unlawfully harassing conduct is required to notify the Human Resources Office. Failure to do so may result in disciplinary action.

## 25.9. Remedial Action

25.9.1. Upon receiving complaints of discrimination or harassment, the City may undertake an investigation of the complaints. Any investigation and investigation report prepared relating to the complaint shall be kept confidential except as required by law. If harassment or discrimination is found to have occurred in violation of this policy, the City shall take action to ensure or confirm that the harassment or discrimination at issue is stopped. The City may take whatever measures are appropriate to ensure its workplaces remain free from unlawful discrimination or harassment.

25.9.2. Employees found to have engaged in discrimination or harassment covered by this policy may be subject to disciplinary action up to and including termination of employment. First-time violations of this policy, depending on the severity of the conduct, may lead to termination.

25.9.3. Employees found to have been dishonest or uncooperative during an investigation into allegations of unlawful harassment may be subject to disciplinary action up to and including termination of employment.

25.10. No Retaliation. Employees should feel free to report valid claims of unlawful harassment without fear of retaliation of any kind. The City will not retaliate against or tolerate retaliation against employees for making any complaint of unlawful harassment in good faith, or against any employee for cooperating in an investigation.

25.11. Dissemination of Policy. Copies of the City's Nondiscrimination Policy, and of these complaint procedures, shall be provided to all employees of the City, and to all new employees at the time of hiring. From time to time, the City may also conduct training for its employees to assist them in learning how to recognize, avoid and correct discriminatory behavior.

## 25.12. DFEH and EEOC

25.12.1. In addition to notifying the City about unlawful harassment or retaliation, an affected employee may also direct his or her complaint to the California Department of Fair Employment and Housing ("DFEH"), which has the authority to conduct investigations of the facts. The deadline for filing complaints with the DFEH is one (1) year from the date of the alleged unlawful conduct. You can contact the nearest DFEH office or the FEHC at the locations listed in the City's DFEH poster or by checking with the statement government listings in the local telephone directory.

25.12.2. An employee also has the right to direct his or her complaint to the federal Equal Employment Opportunity Commission (EEOC).

## 25.13. Obligations of Employees

25.13.1. Employees are responsible for knowing the City's policy on nondiscrimination; refraining from discriminatory behavior, including harassment; reporting incidents

of discrimination in a timely fashion; cooperating in any investigation concerning allegations of discrimination; *and* maintaining confidentiality concerning any investigation that is conducted.

- 25.13.2. All employees are also encouraged to communicate with one another to assist co-employees to avoid harassing, discriminatory, or otherwise offensive behavior.