

EXECUTIVE ORDER NO. S-33-16

PROHIBITION AGAINST UNLAWFUL DISCRIMINATION BASED UPON RACE, COLOR, CREED, ETHNICITY, RELIGION, SEX, MARITAL STATUS, SEXUAL ORIENTATION, GENDER IDENTITY, NATIONAL ORIGIN, AGE, OR DISABILITY

PURPOSE:

To declare and reaffirm a policy of “zero tolerance” for any form of unlawful discrimination by any City of Omaha employee toward any person.

All City employees are reminded that Title VII of the 1964 Civil Rights Act and the City of Omaha Anti-Discrimination Ordinance, Section 13-88, *et. seq.*, provide that employees shall have the right to work in an environment free from unlawful discrimination. Nothing in this policy is meant or intended to preclude any rights that employees may have under State or Federal law.

Specifically, the City expects all employees to accomplish their work in a businesslike manner with a concern for the well-being of their co-workers and the public. Any unlawful discrimination of employees, whether on the basis of race, color, creed, ethnicity, religion, sex, marital status, sexual orientation, gender identity, national origin, age, or disability, by supervisors and/or co-workers, is strictly prohibited.

POLICY AND PROCEDURES:

It is not the intent of the City of Omaha to regulate the social interactions or relationships freely entered into by employees; however, the City strictly prohibits unlawful discrimination of its employees. Appropriate actions, including termination of employment or other discipline, will be taken whenever:

- any employee unlawfully discriminated against any person,
- any supervisor allows unlawful discrimination to occur on the job when the supervisor knows or should have known about the discrimination.

A. Definition of Unlawful Discrimination:

Unlawful discrimination shall include, but not be limited to, the following actions or circumstances:

1. Deliberate or repeated jokes, remarks, stories, gestures, or conversations based upon race, color, creed, ethnicity, religion, sex, marital status, sexual orientation, gender identity, national origin, age, or disability which are considered derogatory or offensive to those groups or individuals.

Executive Order

Prohibition Against Unlawful Discrimination Based Upon Race, Color, Creed, Ethnicity, Religion, Sex, Marital Status, Sexual Orientation, Gender Identity, National Origin, Age, Or Disability

Page 2

2. The display or circulation of printed electronic or written material or pictures based upon race, color, creed, ethnicity, religion, sex, marital status, sexual orientation, gender identity, national origin, age, or disability, which is considered derogatory or offensive to those groups or individuals.
3. Any conduct in the workplace based upon race, color, creed, ethnicity, religion, sex, marital status, sexual orientation, gender identity, national origin, age, or disability, whether committed by supervisory or non-supervisory personnel, which creates an intimidating, hostile, or offensive work environment and/or interferes with an individual's performance.
4. Sexual harassment is a form of unlawful discrimination and is defined as unwelcomed sexual advances, requests for sexual favors, and other verbal or physical conduct when:
 - a. submission to such conduct is made, either explicitly or implicitly, a term or condition of an individual's employment;
 - b. submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
 - c. such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.
5. Any retaliation by any employee against any person because such person has complained of unlawful discrimination, offered evidence, or assisted in any fashion in the investigation of an unlawful discrimination complaint.

B. Procedure: Responsibility to Take Action

Taking timely and effective action is the key to eliminating unlawful discrimination in the workplace. Should an employee believe that an instance of unlawful discrimination has occurred, both the employee and the City of Omaha play a role in correcting the unlawful discrimination.

Employee Role:

1. Any employee who believes that he or she is being unlawfully discriminated against has the responsibility to:
 - a. point out the offensive behavior to the person responsible for the behavior.

Executive Order

Prohibition Against Unlawful Discrimination Based Upon Race, Color, Creed, Ethnicity, Religion, Sex, Marital Status, Sexual Orientation, Gender Identity, National Origin, Age, Or Disability

Page 3

- b. request that the offensive behavior stop.
 - c. No further action is required if the offensive behavior is minor as determined by a reasonable person and stops.
 2. Any employee who is not comfortable with approaching the person who is responsible for the offensive behavior, or whose request to stop the offensive behavior was unsuccessful, should notify any or all of the following:
 - a. The employee's immediate supervisor.
 - b. The supervisor of the person responsible for the offensive behavior.
 - c. The division manager.
 - d. The department director.
 - e. The Human Resources Director.
 3. Any employee who believes that he or she is being unlawfully discriminated against by a department director should notify the Mayor.
 4. No employee will be retaliated against for complaining of offensive behavior or unlawful discrimination, for offering evidence, or for assisting in any fashion in the investigation of a complaint.

It is the intent of the City by defining the employee's role (above) to provide a mechanism by which an employee can seek the assistance of any responsible party of the employee's choosing in solving any unlawful discrimination related problem.

City of Omaha's Role:

The City of Omaha is morally and legally responsible for promptly correcting any unlawful discrimination.

1. When one of the supervisory individuals mentioned above is notified or becomes aware of possible unlawful discrimination, he or she shall take immediate corrective action. Such supervisory individual shall promptly notify the Human Resources Director or person designated by the department to receive such complaints. The Human Resources Director shall cause the alleged offensive behavior to be investigated as deemed appropriate. The

Executive Order

Prohibition Against Unlawful Discrimination Based Upon Race, Color, Creed, Ethnicity, Religion, Sex, Marital Status, Sexual Orientation, Gender Identity, National Origin, Age, Or Disability

Page 4

nature and extent of the investigation depends on the nature and extent of the problem presented.

2. Such investigation will be done under the direction of the Labor Relations Director. In so doing, the Labor Relations Director may seek the assistance of the Human Rights and Relations Director and/or the director(s) of the department(s) of the affected employee(s).
3. If such investigation determines that:
 - a. any unlawful discrimination has occurred, and/or
 - b. a supervisor has tolerated the unlawful discrimination,

the normal disciplinary process will be followed. Corrective action may include disciplinary action, including termination, and/or required employee counseling or training.

4. Regardless of whether or not any complaint results in disciplinary/corrective action, the Labor Relations Director shall report, in writing, the results of every investigation to the Human Resources Director and to the affected employee. The Human Resources Director shall keep a file of all such complaints and the results of the ensuing investigation.
5. If the City Human Rights and Relations Department receives a complaint of unlawful discrimination from a City employee or of unlawful discrimination engaged by a City employee, the investigation will be referred to the City Labor Relations Director for investigation as set forth herein. If the complainant chooses to file a complaint involving a City employee with the City Human Rights and Relations Department, the complaint will be referred to the Nebraska Equal Opportunity Commission for investigation to avoid a conflict of interest.

OVERSIGHT:

The City Human Resources Department shall have oversight over the maintenance and enforcement of this policy. The City Human Resources Department and the Human Rights and Relations Department shall collaborate to provide employee training, as needed.

BY THE POWER VESTED IN ME AS MAYOR BY SECTION 3.04 OF THE HOME RULE CHARTER OF THE CITY OF OMAHA, 1956, AS AMENDED, I HEREBY PROCLAIM THIS TO BE THE EXECUTIVE ORDER ESTABLISHING AND

Executive Order

Prohibition Against Unlawful Discrimination Based Upon Race, Color, Creed, Ethnicity,
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Or Disability

Page 5

GOVERNING THE PROHIBITION AGAINST UNLAWFUL DISCRIMINATION
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STATUS, SEXUAL ORIENTATION, GENDER IDENTITY, NATIONAL ORIGIN,
AGE, OR DISABILITY.

WITNESS my hand as Mayor of the City of Omaha this 23 day of Sept, 2016.

A handwritten signature in cursive script that reads "Jean Stothert". The signature is written in black ink and is positioned above a horizontal line.

Jean Stothert, Mayor
City of Omaha