

# DENVER CITY COUNCIL RESPECTFUL WORKPLACE POLICY

## Introduction

The citizens of the City and County of Denver (“City”) expect their elected officials to behave in a manner befitting the honor and privilege they hold as representatives of the City. Through adoption, implementation, and enforcement of this Respectful Workplace Policy (“Policy”) and through continuing education and training provided by the Office of Human Resources (“OHR”), the Denver City Council will seek to prevent, address, and correct behavior that violates this Policy.

The Denver City Council is committed to providing and maintaining a professional work environment that encourages mutual respect and promotes equality, dignity, and respect. This Policy embodies the Denver City Council’s commitment to prevent and address discrimination; harassment, including sexual harassment; and retaliation. Discrimination, harassment, and retaliation in the workplace are against the law and will not be tolerated.

## Application

The expectations of this Policy apply to all Members of the Denver City Council, the Council Executive Director, legislative staff, Council staff, Legislative Counsel and Deputy Legislative Counsel and Third Parties as defined in the Definitions section below who interface with the Denver City Council. **Nothing in this Policy is intended or should be read to alter the terms and conditions of the at-will status of Council staff.**

## Prohibited Conduct

### Discrimination Strictly Prohibited

#### *Policy*

The Denver City Council strictly prohibits discrimination based on protected characteristics and will take prompt and appropriate action in response to good-faith complaints or knowledge of an alleged violation of this Policy.

#### *Definitions*

- “Protected characteristics” means a person’s race, color, religion, creed, national origin or ancestry, sex, sexual orientation, transgender status, gender identity and expression, disability, genetic information, military status, age, marital status, political affiliation, pregnancy or related condition, or any other status protected under federal, state, or local law.
- “Discrimination” occurs when an employee experiences an adverse employment action based on one or more of an employee’s protected characteristics. Adverse employment actions include, but are not limited to, termination, suspension, involuntary demotion, and failure to promote. Adverse employment actions that are taken for any reason other than an employee’s protected characteristic are not discrimination.

#### *Examples of Discrimination*

- An employee is terminated from his job because he is Muslim.
- A male candidate is selected for promotion over a more qualified female candidate because he is a man.
- An employee is involuntarily demoted because of his sexual orientation.

## Harassment, Including Sexual Harassment, Strictly Prohibited

### *Policy*

The Denver City Council strictly prohibits harassment, including sexual harassment, and will take prompt and appropriate action in response to good-faith complaints or knowledge of an alleged violation of this Policy.

### *Definitions*

- “Harassment” means verbal or physical conduct that demeans, stereotypes, or shows hostility or aversion toward an individual or group because of the individual’s or group’s protected class. Harassment is conduct directed toward a member of a protected class where it creates a hostile work environment. A hostile work environment exists when:
  - The conduct was based on a protected status;
  - The conduct was unwelcomed by the employee (which is a subjective standard);
  - The conduct was offensive to a reasonable person (which is an objective standard); and
  - The conduct was severe or pervasive.
  
- “Sexual harassment” is a form of harassment, and can involve individuals of any sex or gender identity, for example male-identified or female-identified individuals by individuals of a same or different sex or gender being harassed by members of either sex. Sexual harassment can fall into the following two categories:
  - “Quid Pro Quo” or “this for that” means direct or implied requests for sexual favors in exchange for actual or promised job benefits, such as favorable reviews, salary increases, promotions, increased benefits, or support of legislation or other legislative processes. Quid pro quo harassment can also mean direct or implied requests for sexual favors with the threat of an adverse action for non-compliance. Quid pro quo occurs when:
    - Submission to or rejection of such advances, requests, or conduct is made either explicitly or implicitly a term or condition of employment;
    - It is used as a basis for employment decisions;
    - Submission to or rejection of such conduct by a person is used as the basis for decisions or actions related to the support or opposition of legislation or other legislative processes; or
  - “Hostile Work Environment” means sexual advances, requests for sexual favors and verbal or physical conduct of a sexual nature when such advances, requests, or conduct have the purpose or effect of unreasonably interfering with an individual’s work performance by creating an intimidating, hostile, humiliating, or sexually offensive work environment. A hostile work environment exists when:
    - The conduct was based on a protected status;

- The conduct was unwelcomed by the employee (which is a subjective standard);
- The conduct was offensive to a reasonable person (which is an objective standard); and
- The conduct was severe or pervasive.

### *Examples of Harassment*

While no policy can provide an exhaustive list of behaviors that may rise to the level of harassment, harassment encompasses a broad range of conduct that may be verbal, visual, or physical in nature. Specifically prohibited conduct includes, but is not limited to:

- Verbal conduct such as epithets, derogatory comments, and slurs directed at someone because of their protected class;
- Visual conduct such as derogatory posters, photographs, cartoons, drawings, or gestures directed at someone because of their protected class;
- Mocking someone’s accent or disability;
- Acts or jokes that are hostile or demeaning toward a protected class;
- Racially offensive words or phrases;
- Written or graphic material that insults, stereotypes, or shows aversion or hostility to an individual or group because of a protected class that is placed on walls, bulletin boards, email, or elsewhere on the premises of the workplace;
- Displays of symbols, slogans, or items that are associated with hate or intolerance towards any select group, such as swastikas or nooses;
- Pranks or hazing someone because of their protected class; and
- Physical aggression or gestures based on someone’s protected class.

In addition to the examples listed above, an aggregation of a series of incidents can constitute harassment, even if one of the incidents considered separately would not rise to the level of harassment. Harassing conduct does not have to rise to the level of an unlawful hostile work environment to warrant corrective action under this policy.

### *Examples of Sexual Harassment*

Examples of sexual harassment include, but are not limited to the following conduct:

- Inappropriate commentary, such as sexual epithets, jokes, written or oral references to sexual conduct, gossip regarding a person’s sex life, comments regarding a person’s body or sexual-activity deficiencies or prowess;
- Sexually suggestive comments about a person’s clothing, vocal activity like catcalls or whistles, leering or staring at a person or part of a person’s body, obscene letters, emails, texts messages, photographs, cartoons, or other written or pictorial materials of a sexual nature, or sexting or posting sexual messages or images on social media;

- Direct sexual propositions including persistent requests for dates, drinks, or other personal contact after being informed that the interest is unwelcome, inappropriate sexually themed communication in person, online or via mobile devices;
- Sexual coercion under threat or perceived threat of punishment including demotion, firing, negative reviews, opposition to legislative initiatives, blacklisting or otherwise interfering with someone's access to opportunities;
- Explicit or implicit requests for sexual activity in exchange for reward, position, or career advancement, support of legislative initiatives, introductions, special access invitations to exclusive events, support for candidacies, position stability, or any other such condition or potential benefit;
- Sexual contact including unwanted physical touching, blocking or impeding movements, groping, or kissing.

## **Retaliation Strictly Prohibited**

### *Policy*

The Denver City Council strictly prohibits retaliation. The Denver City Council will take prompt and appropriate action in response to good-faith complaints of retaliation or knowledge of a violation of this Policy.

### *Definitions*

“Retaliation” means an act of punishment, reprisal, or revenge that is taken against a person because he or she reported a form of harassment prohibited under this Policy, prevented unlawful practices, or participated in an investigation of an alleged act of harassment. For purposes of retaliation, an action is considered to be materially adverse if it is harmful to the point that it would dissuade a reasonable employee from making a complaint of discrimination.

### *Examples*

Retaliation can take place in the workplace or outside of the workplace. Retaliatory conduct does not have to rise to the level of a materially adverse employment action to warrant corrective action under this policy. Examples of potentially retaliatory conduct for purposes of this policy may include but are not limited to:

- Granting access to a person differently after a complaint in a manner that negatively affects the person’s legislative business (i.e., a Councilmember refusing to meet with a lobbyist after a complaint);
- Removing a person from a committee assignment;
- Change in support for legislation proposed by, or supported by, a person in their professional capacity (i.e., Councilmember, lobbyist, activist, etc.);
- Disparaging a person to colleagues or peers;
- Changing the person’s role, responsibilities, supervisory or legislative authority;
- Newfound scrutiny of work performance by a supervisor;
- Denial of a promotion, demotion, suspension, or termination;
- Warnings, reprimands, or poor performance evaluations;
- Exclusion from beneficial networking or other opportunities;
- Encouraging coworker shunning;
- Exclusion from team or coworker events;
- Workplace or legislative sabotage; or
- Assignment of disproportionate workload.
- Disparaging the person to others or in the media;
- Disparaging the person to potential new employers;
- Threatening legal action;

- Threatening immigration action; or
- Abusive verbal or physical behavior.

## **Formal Complaint and Resolution Process**

The following processes will be used when a reporting party reports a violation of this Policy. The formal resolution process will be used when someone makes a good-faith report of discrimination, harassment, or retaliation. If a person identifies other misconduct, issues of disrespect, or other workplace conduct that does not rise to the level of discrimination, harassment, or retaliation prohibited under this Policy, OHR or a third party will perform initial informal fact-finding to determine the appropriate remedial options designed to help the parties reach a confidential resolution or other appropriate outcome.

### *Definitions*

- “Reporting party” means a person who has been subjected to or who has witnessed another person be subjected to behavior that violates this Policy. It includes but is not limited to the Denver City Council, the Council Executive Director, legislative staff, Council staff, Legislative Counsel, Deputy Legislative Counsel, and third parties.
- “Complaint contact” means:
  - For most reporting parties:
    - Any supervisor, manager, or director;
    - The Executive Director of City Council;
    - A representative of the Office of Human Resources; or
    - The President of City Council or any other Councilmember.
  - For members of the Classified Service:
    - In addition to the complaint contacts listed above, the Safety HR or their respective Internal Affairs division.
  - For third parties:
    - Any supervisor, manager, or director;
    - The Executive Director of City Council; or
    - The President of City Council or any other Councilmember.
- “Respondent” means a person who is alleged to have violated this Policy and includes members of the Denver City Council, the Executive Director of City Council, legislative staff, Council staff, Legislative Counsel, Deputy Legislative Counsel, and persons who are under contract with the City and County of Denver.
- “Third party” means a contractor, lobbyist, member of the public, or a person whose employment, including interns, gives them access to or contact with the Denver City Council.

### *Confidentiality and Privacy Interests*

An essential duty of the Denver City Council is to be accountable to the public it serves. Residents deserve to have access to some information about complaints and complaint trends, but this must be balanced with the needs of the parties to have a safe, fair, and impartial process with appropriate confidentiality. The complaint resolution process is a confidential process. Complaint contacts must ensure that reporting parties can communicate privately and confidentially with them in discussing their complaints. Complaints and information about the investigation must be kept confidential by all parties, witnesses, those who handle the complaints, and those who recommend discipline or remediation, to the fullest extent possible. The confidential investigation report or any records of complaints of sexual harassment, and any sexual harassment investigations shall not be disclosed pursuant to an open records request except in accordance with Colo.Rev.Stat. § 24-72-204.

#### *Timeline for Investigation*

Every effort will be made to complete a prompt investigation in 45 days. For any investigation that exceeds 45 days, OHR will provide regular updates concerning the progress of the investigation to both the complainant and the responding parties.

#### *Annual Reporting and Review*

OHR will publicly report, on an annual basis, the total number of complaints under the Policy, and the resolution of each complaint, appropriately redacted to protect the confidential personnel decisions and party identities. OHR will maintain a publicly available list of Councilmembers who have attended mandatory and voluntary trainings.

### **Complaints Against a Member of the Denver City Council**

#### *Reporting*

The Denver City Council encourages any person who is the subject of or witness to a violation of this Policy by a Denver City Councilmember to immediately bring the violation to the attention of the Denver City Council, via the complaint contacts listed above, so it may take proper steps to investigate and address the issue. Prompt reporting helps ensure that the witness recollection and other evidence do not deteriorate over time. The report should contain all facts available to the Reporting party regarding the alleged Policy violation.

The reporting party is encouraged to take the following actions:

- If the reporting party is comfortable addressing the issue directly with the respondent, the reporting party may explain to the respondent that the behavior is offensive to the reporting party, and request that such behavior be discontinued.
- If the behavior reoccurs, the reporting party must immediately report the behavior to a complaint contact listed above.

- If the reporting party is not comfortable addressing the issue directly with the respondent, the reporting party should immediately report the offensive behavior to a complaint contact listed above.

#### *Action by Complaint contact*

A complaint contact who receives a report from a reporting party must document the date, time, whether the complaint was in person or by phone, and nature of the conversation, as well as any steps taken. The complaint contact must transmit complaints that fall under the Policy to the Executive Director of OHR.

#### *Investigation*

OHR must promptly refer a complaint against a Councilmember that warrants investigation to a third-party investigator retained by OHR in consultation with the City Attorney's Office. After the investigation, the investigator must prepare a confidential investigation report and transmit it to OHR.

#### *Disciplinary and Remedial Action*

Upon completion of the investigation by a third-party investigator, OHR will inform the reporting party and the respondent of the pertinent findings. OHR will send the confidential investigative report to each member of the Denver City Council with a cover letter that contains recommendations on whether a violation of policy occurred and, if so, recommendations to remedy the harassment, discrimination, or retaliation. Upon receipt, the respondent must immediately endeavor to comply with OHR's recommendations. Any Councilmember at any time may initiate a motion for censure of a respondent Councilmember for an alleged violation of this policy.

### **Complaints Against a Denver City Council Staff Member**

#### *Reporting*

The Denver City Council encourages any person who is the subject of or witness to a violation of this Policy by a Denver City Council staff member to bring the violation to the attention of the Denver City Council immediately so it may take proper steps to investigate and address the issue. The report should contain all facts available to the reporting party regarding the alleged Policy violation.

The reporting party is encouraged to take the following actions:

- If the reporting party is comfortable addressing the issue directly with the respondent, the party may explain to the respondent that the behavior is offensive to the reporting party, and request that such behavior be discontinued.

- If the behavior reoccurs, the reporting party must immediately report the behavior to a complaint contact listed above.
- If the reporting party is not comfortable addressing the issue directly with the respondent, the reporting party should immediately report the offensive behavior to a complaint contact listed above.

#### *Action by complaint contact*

A complaint contact who receives a report from a reporting party must document the date, time, whether the conversation was by phone or in person, and nature of the conversation, as well as any steps taken. The complaint contact must transmit complaints that fall under the Policy to the Executive Director of OHR.

#### *Investigation*

Complaints warranting investigation must be promptly investigated by OHR or a qualified third-party investigator retained by OHR in consultation with the City Attorney's Office. OHR or the third-party investigator will prepare a confidential investigation report.

The confidential investigation report and findings, along with a recommendation, will be provided to the respondent's supervisor, who shall then determine whether a policy violation occurred. If the supervisor is the respondent, then OHR must transmit the investigative report and findings to either the Executive Director of City Council or the Council President.

#### *Disciplinary and Remedial Action*

Upon completion of the investigation, OHR will inform both the reporting party and the respondent of the pertinent findings in a timely manner. OHR will forward the investigator's confidential investigation report to the respondent's supervisor. Any respondent found to have engaged in harassment, discrimination, or retaliation prohibited by this Policy is subject to appropriate disciplinary action. The respondent's supervisor shall consult with OHR regarding disciplinary actions that are commensurate with the severity of the offense. Disciplinary action can include, but is not limited to, demotion or termination. Other remedial measures may include:

- Verbal or written direction from the supervisor to cease the offensive behavior;
- A written or verbal apology to the reporting party if the reporting party consents to the apology;
- Resources and support to reporting party; or
- Education and training for the Denver City Council Staff members.