



Section: 30-00, EQUAL EMPLOYMENT COMPLIANCE

Equal Employment Opportunity Policy and Procedures

A. Purpose and Scope

The City of Memphis Government is an equal opportunity employer. It is the policy of the City of Memphis Government that there shall be no discrimination in city employment of personnel because of religion, race, sex, creed, political affiliation, national origin, ethnicity, age, disability, sexual orientation, gender identity or expression, or other non-merit factors. Furthermore, nor shall there be any discrimination in the promotion or demotion of city employees because of religion, race, sex, creed, political affiliation, national origin, ethnicity, age, disability, sexual orientation, gender identity or expression, or other non-merit factors. The City of Memphis Government will conform to the spirit as well as the letter of all applicable laws and regulations.

The policy of equal employment opportunity and anti-discrimination applies to all aspects of the relationship between the City of Memphis and its employees, including but not limited to:

1. Recruitment
2. Employment
3. Promotion
4. Transfer
5. Training
6. Working conditions
7. Wages and salary administration
8. Employee benefits and application of policies

The policies and principles of equal employment opportunity also apply to the selection and treatment of independent contractors, personnel working on our premises who are employed by temporary agencies and any other persons or firms doing business for or with the City of Memphis Government.



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B. Covered Parties

A charge must allege that a covered entity, such as the City of Memphis Government, took a discriminatory action against a covered individual. The following sections discuss who is protected by the EEO statutes.

1. Who is an “Employee”?

In most circumstances, an individual is only protected if s/he was an “employee” at the time of the alleged discrimination, rather than independent contractor or other non-employee. For purposes of this policy, an “employee” is defined as an individual employed by an employer. However, there are a number of factors to indicate whether a worker is in an employment relationship with the City for purposes of EEO coverage.

2. Coverage of Former Employees

Former employees are protected by the EEO statutes when they are subjected to discrimination arising from the former employment relationship.

3. Coverage of Training Program Applicants and Participants

An applicant to, or a participant in, a training or apprenticeship program is protected against discrimination with respect to admission to, or participation in, the training or apprenticeship program, regardless of whether the individual is an “employee.”

4. Coverage of Elected Officials and their Personal Staff, Appointees and Immediate Advisers.

Elected Officials: Elected officials are specifically excluded from coverage under Title VII, the ADEA, and the EPA. However, the ADA does not exclude elected officials from coverage.

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Personal Staff, Appointees and Advisers: Members of an elected official's personal staff, appointees on the policy making level, and immediate advisers on the exercise of constitutional or legal powers of the elected officials office are covered by Title VII, the ADEA, and the ADA; however, charges filed by those individuals, are subject to modified enforcement procedures pursuant to Section 321 of the Civil Rights Act of 1991.

C. Dissemination and Implementation of Policy

The Division Directors or designees will be responsible for the dissemination of this policy. Directors, managers, supervisors and other members of management are responsible for implementing equal employment practices within each division/service center. The Human Resources Division is responsible for the City of Memphis Government's overall compliance, and shall maintain personnel records in compliance with applicable laws and regulations.

This policy shall be covered with all new employees during New Hire Orientation. As a result, all new hire employees will be required to sign an acknowledgment form indicating that s/he was advised of the content of this entire policy and will thereby comply with its terms and conditions. The policy will be covered with all current employees, who likewise will be required to sign acknowledgment forms.

City of Memphis Government practices that support this policy include the following:

1. The City of Memphis Government displays posters regarding equal employment opportunity in areas highly visible to employees.
2. All advertising for job applicants includes the statement "An Equal Opportunity Employer ----M/F/D/V."
3. The City of Memphis Government will post all required job openings in accordance with the rules and regulations promulgated by City Charter and/or Ordinance.
4. The City of Memphis Government forbids retaliation against any individual who files a charge of discrimination, reports harassment, or who assists, testifies or participates in an equal employment proceeding.



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5. Employees are required to report to a member of management, or the Office of Equity, Diversity and Inclusion of any apparent discrimination or harassment. The report should be made within forty-eight (48) hours of the incident or within 300 days of the alleged harassment or the date they became aware of the alleged discrimination or harassment.
6. The Human Resources representative should promptly notify the Office of Equity, Diversity and Inclusion of any and all incidents or reports of discrimination and/or harassment.

D. Discipline

Employees who violate this policy are subject to appropriate discipline. If an investigation results in a finding that this policy has been violated, the mandatory minimum discipline is a written reprimand. The discipline for very serious or repeat violations is severe discipline up to and including termination of employment. Persons who violate this policy also are subject to civil damages and/or criminal penalties.

The procedures available under this policy do not preempt or supersede any legal procedures or remedies otherwise available to a victim of discrimination under state or federal law.

E. Confidentiality

All inquiries, complaints, and investigations are treated confidentially. Information is revealed strictly on a need to know basis. Information contained in a formal complaint is kept confidential to the extent allowed pursuant to the Open Records Act. However, the identity of the complainant usually is revealed to the respondent and witnesses. The Office of Equity, Diversity and Inclusion takes adequate steps to ensure that the complainant is protected from retaliation during the period of the investigation.

All information pertaining to complaint of discrimination or the investigation of such is maintained by the Office of Equity, Diversity and Inclusion in secure files.



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F. Harassment

Harassment is prohibited by federal and state laws. This policy prohibits harassment of any kind, and the City will take swift appropriate action to address any violations of this policy.

For purposes of this policy, harassment is defined as: verbal or physical conduct designed to threaten, intimidate or coerce. Also, verbal taunting (including racial and ethnic slurs) which, in the employee's opinion, impairs his or her ability to perform his or her job.

Examples of harassment are as follows:

(1) **Verbal Harassment:** Comments which are not flattering regarding a person's religion, race, sex, creed, political affiliation, national origin, ethnicity, age, disability, sexual orientation, gender identity or any other non-merit factor which includes but not limited to epithets, slurs, negative stereotyping.

(2) **Non-verbal Harassment:** Distribution, display or discussion of any written or graphic material that ridicules, denigrates, insults, belittles, or shows hostility or aversion toward an individual, or group because of their religion, race, sex, creed, political affiliation, national origin, ethnicity, age, disability, sexual orientation, gender, gender identity, genetics, pregnancy, appearance disability, political affiliation, marital or any other non-merit factors.

G. Discrimination

It is a violation of this policy to discriminate in the provision of employment opportunities or privileges, to create discriminatory work conditions, or to use discriminatory evaluative standards in employment if the basis of that discriminatory treatment is, in whole or in part, the person's religion, race, sex, creed, political affiliation, national origin, ethnicity, age, disability, sexual orientation, gender identity or other non-merit factors. Gender identity means the actual or perceived gender-related identity, appearance, or mannerisms, or other gender-related characteristics of an individual, with or without regard to the individual's designated sex at birth. Discrimination of this kind may also be strictly prohibited by a variety of federal, state and local laws, including but not limited to Title VII of the



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Civil Rights Act 1964; Equal Pay Act, the Age Discrimination in Employment Act of 1975; the Genetic Information Non-Discrimination Act of 2008, Americans with Disabilities Act of 1990 and City of Memphis Ordinance Section 3-8-4 and Section 3-8-6. This policy is intended to comply with the prohibitions stated in these anti-discrimination laws.

Discrimination in violation of this policy will be subject to severe sanctions up to and including termination.

1. Responsibility of Employees

If an employee believes that she/he has been subjected to discrimination, she/he should report the alleged act of discrimination to his/her immediate supervisor/manager and/or the Office of Equity, Diversity & Inclusion, Division of Human Resources.

All incidents of discrimination must be reported as soon as possible in order to avoid spoliation of information and/or records. Publicizing information about alleged discrimination without following the proper reporting procedures or filing a complaint might be considered evidence of a vexatious intent on part of the accuser.

2. Responsibility of Management

Management must deal expeditiously and fairly with all allegations of discrimination within their respective departments whether or not there has been a written or formal complaint filed. Additionally, management must:

- a. Stop any acts that they see that may be viewed as an act of discrimination and take appropriate steps to intervene;
- b. Express strong disapproval of all forms of discrimination;
- c. Act promptly to investigate allegations of discrimination;
- d. Ensure that allegations of discrimination are reported to the Division Director and Office of Equity, Diversity & Inclusion;
- e. Take corrective action to prevent prohibited conduct from reoccurring;
- f. Take immediate action to prevent retaliation towards the complaining party or any participant in an investigation;



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g. Take immediate action to eliminate any hostile work environment where there has been a complaint of discrimination.

Members of management who knowingly allow or tolerate discrimination are in violation of this policy and will be subject to discipline up to and including termination.

3. Responsibility of the Office of Equity, Diversity & Inclusion, Human Resources

The Office of Equity, Diversity & Inclusion is responsible for:

- a.** Ensuring that the individual filing the complaint (hereafter referred to as the complainant) as well as management are aware of the seriousness of the complaint;
- b.** Explaining the City of Memphis Government's non-discrimination policy and its investigation procedures to the complainant and management;
- c.** Exploring informal means of resolving discrimination complaints;
- d.** Notifying police and legal if criminal activities are alleged; and
- e.** Arranging for an investigation of the alleged discrimination and the preparation of a written report.

4. Informal Resolution Procedures

Any employee who feels that she/he is being subjected to discrimination should report all incidents to his/her manager and the Office of Equity, Diversity & Inclusion/Human Resources. Some complaints can be resolved through informal mediation between the employee and the member of management who is allegedly responsible for the discriminatory act. The Office of Equity, Diversity & Inclusion/Human Resources, arranges for or facilitates mediation between the parties and coordinates other informal problem resolution measures.



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If mediation is successful, a written settlement agreement must be prepared. Generally, the mediation agreement includes:

- a. A pledge by management not to engage in any behavior that could be construed as in violation of this policy
- b. A promise by management not to retaliate against the complainant;
- c. The restoration of any employment terms, conditions, or opportunities the complainant lost or was denied because of the discriminatory act and for any other relief necessary to remedy the situation; and
- d. Procedures for monitoring compliance with the agreement.

The settlement agreement must be in writing, signed by both parties, notarized and approved by the Office of Equity, Diversity & Inclusion.

If the complaint cannot be resolved informally, the complainant should follow the formal resolution procedures set forth below.

5. Formal Resolution Procedures

All incidents of discriminatory conduct should be reported. Employees who consider themselves victims of discrimination should make a complaint to the alleged discriminator or to the next higher level of supervision or management as soon as possible. Complaints should also be made to the City of Memphis Office of Equity, Diversity, and Inclusion; or if an employee chooses, charges may be filed with the Federal Equal Employment Opportunity Commission or with the Tennessee Human Rights Commission.

Individuals who wish to file charges with either the City's Office of Equity, Diversity, and Inclusion or the Federal Equal Employment Opportunity Commission must do so within 300 days from the date of the alleged violation or from the date s/he became aware of the alleged violation. Individuals who wish to file charges with the Tennessee Human Rights Commission must do so within 180 days from the date of the alleged violation or from the date s/he became aware of the alleged violation.



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Complaints should be filed as soon as possible after an incident of alleged discrimination. To ensure a prompt and thorough investigation of possible discriminatory conduct, the complainant should provide as much of the following information as is possible:

1. The name, department, and position of the person or persons allegedly responsible for the discriminatory conduct;
2. A description of the incident(s), including the date(s), location(s), and the presence of any witnesses;
3. The alleged effect of the incident(s) on the complainant's position, salary, benefits, promotional opportunities, or other terms or conditions of employment;
4. The names of similarly-situated employees who were treated differently from the complainant;
5. The names of other employees who might have been subjected to the same or similar discriminatory behavior/actions.
6. Any other information the complainant believes to be relevant to the complaint.

G. EMPLOYEE CONDUCT

City employees, as integral members of the City of Memphis Government, shall adhere to acceptable business principles in matters of personal conduct and behavior and must exhibit a high degree of personal integrity. This not only involves respect for the rights and feelings of other City employees, but demands that City employees refrain from any conduct or behavior that is criminal or illegal, or that might be personally harmful to co-workers, members of management, customers, vendors or visitors of the City of Memphis Government or that could be viewed unfavorably by the public at large. Therefore, City employees are expected to behave in a professional manner by conducting themselves in a way that best represents City Government and to exercise appropriate conduct and judgment at all times.

Employees are required to keep their work environment clean and orderly and to carefully maintain equipment that is used in the performance of their work tasks. Willful, deliberate, or careless misuse of City equipment and/or City property shall not be tolerated. Such abuse will lead to disciplinary action up to and including termination and/or assignment of financial responsibility for loss or damage caused.



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City of Memphis Government employees are required to accept assigned job responsibilities, adhere to the rules of conduct at all times, and shall not commit criminal or illegal acts against the City of Memphis, other City employees, or the public at large. Violation of this policy shall subject City employees to disciplinary action up to and including termination and/or possible criminal prosecution for either a criminal or illegal act.

If it becomes apparent that an investigation is needed to determine whether or not an employee's conduct or behavior is viewed as criminal or illegal, the employee's Division Director shall immediately notify the Chief Human Resources Officer and the City Attorney. The City Attorney will review the matter, notify the Chief Administrative Officer of City of Memphis Government, and a decision shall be made as to whether or not police involvement is warranted and/or referred to the appropriate legal authority. If the criminal activity involves the City, the decision to prosecute shall be made by the City Attorney and the Chief Administrative Officer of the City of Memphis Government. The employee's Division Director should proceed with appropriate disciplinary action against the employee under the direction of the City Attorney and the Chief Human Resources Officer.

Additionally, the City of Memphis has an Alertline which is hosted by Global Compliance. The purpose of Alertline is to provide City of Memphis employees, vendors, business partners, and citizens with a system to report and obtain feedback regarding potential acts of fraud, unethical behavior and policy violations. All reporting will be held to the highest level of confidentiality and the reporter may remain anonymous. Reporting may be made online at www.cityofmemphis.alertline.com.



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DEFINITIONS

- **Gender identity:** The actual or perceived gender-related identity, appearance, or mannerisms, or other gender-related characteristics of an individual, with or without regard to the individual's designated sex at birth.
- **Gender expression:** An individual's characteristics and behaviors such as appearance, dress, mannerisms, speech patterns, and social interactions that may be perceived as masculine or feminine.
- **Harassment:** Verbal or physical conduct designed to threaten, intimidate or coerce. Also, verbal taunting (including racial and ethnic slurs) which, in the employee's opinion, impairs his or her ability to perform his or her job.
- **Discrimination:** Unfavorable treatment of an employee or job applicant based on protected characteristics such as religion, race, sex, creed, political affiliation, national origin, ethnicity, age, disability, sexual orientation, gender identity or expression, or other non-merit factors.

REFERENCES AND CORRESPONDING POLICIES:

TITLE VII

ADA

ADEA

GINA

EPA

PPACA

FLSA

CITY OF MEMPHIS ORDINANCE SECTION 3-8-4 AND SECTION 3-8-6