

## **COMPLAINT PROCEDURE**

This policy applies to all aspects of service to citizens and employment within the City of Columbia including recruitment, hiring, promotion, transfer, training, corrective and/or disciplinary action, adverse action, and other terms, conditions, and benefits of employment and access.

Where to file: Personnel Department, City of Columbia, 700 N. Garden Street, Columbia, TN 38401. Phone: 931-560-1565.

Time period for filing: You should file a complaint in writing or verbally within 30 days of the alleged violation and/or when you become aware of the alleged violation.

Investigation of complaint: Once we receive a complaint, the Personnel Director will conduct a thorough investigation and you (and/or any interested party) may submit information relevant to your complaint.

Written determination: We will forward a written determination to you stipulating the response to your complaint. The Personnel Office will maintain the files and records of all complaints processed under this procedure in a central file.

Appeals: You can file a further appeal if you are not satisfied with the resolution of your complaint. You must file your appeal within ten (10) days of receipt of your written determination. You should file any such appeal in writing with the City Manager of the City of Columbia.

If you use this complaint procedure, it does not preclude you from filing a complaint with appropriate state or federal department or agency.

This procedure provides for the timely resolution of complaints and ensures that an individual who files an internal complaint is advised of his/her right to file the same complaint with an outside governmental agency. Time frames for filing, processing and resolving internal matters that come within this procedure shall not exceed ninety (90) calendar days.

A. Any individual (also referred to as complainant) who feels that he/she has been discriminated against by the City of Columbia may contact the Personnel Department. The complainant will be advised of his/her rights in accordance with relevant laws cited in the City of Columbia Affirmative Action policy statements. The complainant may decide at this time if he/she wants to file a written complaint. The written complaint must be signed and dated by the individual making the complaint.

All written complaints should be submitted within thirty (30) days of the alleged discriminatory treatment. The Personnel Department will notify the accused party of the particulars of the complaint.

B. Any discussion concerning allegations of discrimination will remain as confidential as possible. Such information will be shared only on a need to know basis relative to resolution of the matter.

C. The complainant will be notified by the Personnel Department during this initial meeting of his/her right to file a complaint with the Commission on Human Rights and Opportunities or other enforcement agencies.

## **COMPLAINT RESOLUTION**

The Personnel Department will attempt to resolve the alleged discriminatory or unfair employment practice within ninety (90) calendar days after the receipt of a written complaint. The Personnel Department shall further attempt to reconcile the complaint at the supervisory or other necessary level, whichever is deemed appropriate.

### **INVESTIGATION**

A. The Personnel Department shall investigate the alleged unfair employment or discriminatory practice and if the Personnel Department staff finds reason to believe an unfair employment practice and/or discriminatory act has occurred, they shall take steps to seek internal resolution.

This agreement does not constitute an admission of a discriminatory or unfair employment practice(s).

B. If, after an informal inquiry into the complaint, the Personnel Department staff concludes that no discriminatory or unfair employment practice has occurred, they may dismiss the complaint. Any complainant adversely affected by such dismissal retains all other administrative and legal remedies provided by law; and any other agency (state, federal or local) that enforces laws concerning discriminatory or unfair employment practices.

C. If the response from the Personnel Department does not satisfactorily resolve the issue, the complainant or his/her designee may appeal the decision within ten (10) calendar days after receiving notice of the response. This appeal should be directed to the City Manager or his/her designee.

D. Complaints that are not resolved to the satisfaction of the complainant may be filed with Commission on Human Rights Office no later than one hundred and eighty (180) calendar days from the date on which the alleged unfair employment or discriminatory practice occurred.

## EXTERNAL PROCESS

Any person applying for employment with or currently employed by the City of Columbia , or any person requesting or receiving services from the City of Columbia who believes that he/she is being subjected to an unfair employment or discriminatory practice because of his/her race, color, religious creed, sex, age, national origin, ancestry, criminal record, past or present mental disability (or mental retardation), physical disability or handicap, genetic information, or learning disability has the right to file a complaint, regardless of his/her status or classification. A written complaint may be **filed by the complainant or his/her representative with the Personnel Department** or with any of the state or federal agencies.

Complaints submitted through outside agencies will be fully investigated and responded to by the Personnel Department in accordance with the requirements of those respective agencies. The City of Columbia will fully cooperate with those agencies. If a finding is made by an outside agency to support a complaint of discrimination, the City of Columbia will work toward final resolution of the matter.

All records pertaining to the investigation and/or resolution of a complaint will be maintained by the Personnel Department in a limited access file. Information or material from these files may be made available on a business necessity need to know basis only and to the Equal Employment Opportunity Commission; the Commission on Human Rights and Opportunities; or other federal, state or local enforcement agencies investigating the complaint.

#### PROTECTION FROM ADVERSE ACTION

A. No person shall be restrained, intimidated, threatened, coerced or discriminated against by any administrative/supervisory personnel or associates because he/she made a complaint, testified, assisted in or participated in an investigation, proceeding or hearing. Such actions are a protected activity. The protection from adverse action is held to be free from violation, injury, desecration, or outrage by the City of Columbia and alleged violations by a person(s) are to be brought immediately to the attention of the Personnel Department by the complainant, by his/her representative or by any other adversely affected person, for investigation and appropriate disciplinary action.

B. All employees, applicants, clients and grantees of the City of Columbia shall have the right to make a complaint under this procedure, regardless of protected group or other status, classification or length of services.

## GUIDELINES ON SEXUAL HARASSMENT COMPLAINT PROCESSING

Sexual harassment is a "form of misconduct and sex discrimination that undermines the integrity of the employment relationship."

Procedures for handling complaints of sexual harassment:

1. Alleged victims are to report the incident to the Personnel Department. The staff will receive their complaints in written form. Once the complaint form has been completed and signed, the Personnel Department shall notify the City Manager's Office of the complaint and of a pending investigation.
  - a. The Personnel Department may make available a resource person trained to counsel on sexual harassment issues and who may act as a support person for the alleged victim.
2. Upon receiving a complaint of sexual harassment, the alleged harasser shall be called to meet with the investigating officer and presented with the allegations. This individual shall be given an opportunity to respond.
3. The investigating officer shall investigate all the charges. The investigation shall include, but not be limited to, the following:
  - a. Examination of agency records of the accused to determine if any prior complaint patterns exists.
  - b. Interviews with individuals necessary to gather information. These may include the accused supervisor, colleagues or other workers.
  - c. Interviews of witnesses (if any) of the alleged offense; interviews with other victims of the accused harasser, if any.
4. An assessment of the severity of the offense shall be made to include, but not be limited to the following general categories:
  - a. Mild: staring, flirting, pictures, calendars, other artifacts, etc.
  - b. Moderate: suggestive gestures, sexual remarks, etc.

c. Severe: Sexual relations with promise of ensuing rewards, forced sexual relations, sexual propositions, touching, grabbing, brushing or any unwelcome sexual advances.

In severe cases of alleged sexual harassment, it may become necessary to suspend the alleged harasser until the investigation has been completed.

5. Discipline will be determined based on the severity of the offense, the certainty that it occurred and recommendations made by the appointing authority or his/her designee. Disciplinary action shall generally consider the following guidelines as well as the applicable collective bargaining provisions on discipline:

a. Mild: No record of the complaint is included in the file of the accused; or a letter with an annotation that the evidence and acts were mild shall be placed in the accused file, and/or a letter shall be sent to the accused stressing agency policy against sexual harassment.

b. Moderate: A warning or disciplinary letter shall be included in the file of the accused, with provision for further action if subsequent offenses occur (up to and including suspension or dismissal,) and with provision for removal of notice if no subsequent offenses occur within a specified period of time, and the accused shall be directed to seek counseling through the Employee Assistance Program or a private source. Failure on the part of the accused to seek counseling may result in further disciplinary action. Documentation of this activity shall be provided.

c. Severe: Written reprimand to the violator, transfer or demotion, and/or;

Suspension;

Dismissal;

6. Persons who maliciously file false accusations will receive disciplinary action as outlined under item 5(b) and (c) above.

7. Upon completing its investigation, the Personnel Department shall make written recommendations to the City Manager for resolution of the matter. The City Manager or his/her designee shall, approve, disapprove or modify the recommendation(s) of the Personnel Department in writing. Once approved by the City Manager or his/her designee, all signed recommendations become a directive from the City Manager's Office.

a. The complainant, his/her supervisor and the accused will be notified of the final determination.

b. The complainant will either accept the recommendation(s) or decide whether or not to pursue other available avenues.

c. It shall be the responsibility of the accused Director to carry out (or cause to be carried out) the City Manager's directive. Failure to do so (or refusal to do so) shall be brought to his/her attention and handled accordingly.

8. This "Sexual Harassment" complaint procedure shall be part of the City of Columbia's Discrimination Complaint Procedure.

Discrete treatment in the handling of these complaints is essential to the successful implementation of the procedure. All records pertaining to the investigation and/or resolution of sexual harassment complaints are maintained by the Department and are kept in a separate, limited access file. Information or materials from these files may be made available on a business necessity need to know basis only and to the Equal Employment Opportunity Commission; the Commission on Human Rights and Opportunities; or the federal, state or local enforcement agencies investigating the complaint.



### Protection of Rights:

Any person who willfully interferes with or otherwise impairs the processing of any complaints taken under this process, or in any way restricts or impairs the employment rights of the complainant or any witness involved in a complaint, will be dealt with through the appropriate disciplinary action, including but not necessarily restricted to the following: written reprimand, suspension or dismissal. The confidentiality of all investigations and counseling will be protected by the issuance of this policy.

Nothing in this procedure shall be construed as having the effect of barring any person from due process of law. They may file through any of the several processes available to them.

Additionally, if any person feels that he/she has been treated in a discriminatory manner by the Personnel Department, a complaint may be filed directly with the City Manager, The free from violation, injury, desecration, or outrage.

Department of Administrative Services-Human Resources Division or the Commission on Human Rights and Opportunities.

**CITY OF COLUMBIA**

**DISCRIMINATION COMPLAINT FORM**

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**Statement of Facts:** (Explain specifically **Why, What, When, How.**)

I hereby attest that the facts given in the above summary and/or in the attached written complaint are true and correct to the best of my knowledge. I have been advised of the procedure that will be followed and of the other avenues of legal redress open to me.

Complainant's Signature \_\_\_\_\_ Date \_\_\_\_\_

Witness' Title \_\_\_\_\_ Date \_\_\_\_\_