

## **Preamble - Definitions and Application of Personnel Rules**

### **Preamble.1 Authority**

SMC 4.04.050, and subsequent revisions thereto, Rule Making Authority

### **Preamble.2 Definitions**

The following definitions shall be used for the interpretation and administration of all Personnel Rules, except where subchapters to these Rules provide otherwise.

1. "Actual service" shall mean the total straight-time pay hours accumulated in a title. The first 240 hours per year of authorized unpaid time off for non-disciplinary reasons shall not be deducted from actual service.
2. "Administrative reassignment" means paid leave status which an appointing authority may authorize for any City officer or employee in the appointing authority's department or office, when such employee is the cause of or subject of, or otherwise significantly affected by an active official investigatory process related to alleged violations of personnel rules, policies of the City and/or City Department, City ordinances, or state or federal laws and/or an investigation intended to determine the employee's fitness for duty. Administrative reassignment shall not be considered discipline.
3. "Alternative Dispute Resolution Program" or "ADR" shall mean a Citywide function located in the Seattle Department of Human Resources to promote the resolution of workplace disputes through training, mediation, conciliation and facilitated discussion.
4. "Appointing authority" shall mean the head of an employing unit authorized by ordinance or City Charter to employ others on behalf of the City. The term includes and can be used interchangeably with department head, department director, superintendent, or chief.
5. "Appointment" shall mean the placement of an employee in a position by initial hire, promotion, transfer, demotion or reduction.
6. "City-sponsored blood drive" shall mean a blood drive for which times and locations are coordinated by the Seattle Human Resources Director and at which employees must register to verify their participation.
7. "Civil Service Commission" shall mean the Civil Service Commission of the City of Seattle, which is charged with hearing appeals regarding the administration of the personnel system.

8. "Classification specification" shall mean a written description of a classification that includes a title, a description of distinguishing characteristics, a statement of duties and responsibilities, and a statement of minimum qualifications.
9. "Classified service" shall mean all employment positions in the City that are not excluded by ordinance, City Charter or State law from the provisions of Seattle Municipal Code 4.04 or Personnel Rules passed pursuant thereto related to the selection, discipline, termination or appeals of personnel actions to the Civil Service Commission.
10. "Code of Ethics" shall mean Seattle Municipal Code Chapter 4.16 as amended.
11. "Continuous out-of-class assignment" shall mean an ongoing assignment to perform and receive compensation for the duties of a higher-paying title. A continuous out-of-class assignment is broken by the employee's return to their regular payroll title for regular work hours (coded as "AA" pay on the employee's timesheet).
12. "Demotion" shall mean the movement of an employee from such employee's current classification to a classification with a lower maximum salary rate, for justifiable cause.
13. "Discharge" shall mean separation from employment, for justifiable cause.
14. "Disciplinary action" shall mean an action taken by the appointing authority or a designated management representative in response to a proven act of employee misconduct or uncorrected poor work performance. Disciplinary actions include verbal warnings, written reprimands, suspension, demotion and discharge.
15. "Discretionary pay program" shall mean a compensation program in which the appointing authority, in accordance with guidelines and procedures established by the Seattle Human Resources Director, is granted discretion to set pay within the authorized pay zone.
16. "Discrimination," "discriminate," and/or "discriminatory act" shall mean any act, by itself or as part of a practice, which is intended to or results in different treatment or differentiates between or among individuals or groups of individuals by reason of race, color, age, sex, marital status, sexual orientation, genetic information, gender identity, political ideology, creed, religion, ancestry, national origin, honorably discharged veteran or military status; or the presence of any sensory, mental, or physical disability.
17. "Domestic partner" shall mean an individual with whom an employee shares the same regular and permanent residence, has a close personal relationship, and has

agreed to be jointly responsible for basic living expenses incurred during the domestic partnership. To qualify to use sick leave to care for a domestic partner, an employee must file an affidavit of domestic partnership with their employing unit attesting that:

- a. The filing employee is not married, and
- b. The filing employee and the filing employee's domestic partner is 18 years of age or older, and
- c. The filing employee and the filing employee's domestic partner are not related by blood closer than would bar marriage in Washington, and
- d. The filing employee and the filing employee's domestic partner were mentally competent to consent to contract when their domestic partnership commenced, and
- e. The filing employee and the filing employee's domestic partner are each other's sole domestic partner, and
- f. Any other domestic partnership in which the employee or the employee's domestic partner participated with a third party was terminated not less than 90 days prior to the date such employee files an affidavit of domestic partnership, or by the date of the death of the third party, whichever was earlier.

18. "Elected official" shall mean the Mayor, City Councilmembers, City Attorney, and all Municipal Court Judges whether elected or appointed.
19. "Employing unit" shall mean any department of the City and, within the Executive and Legislative Departments, any office created by ordinance.
20. "Executive leave" shall mean annual paid leave that is granted to an employee assigned on a regular or out-of-class basis to an eligible salaried title.
21. "Exempt employee" shall mean one who serves at the discretion of the appointing authority in a position which is exempted by the City Charter or SMC Chapter 4.13 from compliance with this chapter regarding selection, discipline and discharge of employees, and appeals of personnel actions to the Civil Service Commission.
22. "Exempt position" shall mean a position of employment held by an at-will employee who serves at the discretion of the appointing authority in a position that is excluded by ordinance, City Charter or State law from compliance with the provisions of Seattle Municipal Code Chapter 4.04 or the Personnel Rules adopted pursuant thereto related to selection, discipline, termination or appeals of personnel actions to the Civil Service Commission.
23. "External applicant" shall mean an applicant for employment with the City who is not a regularly appointed employee.

24. "Facilitated conversation" shall mean an informal conversation between parties assisted and coached by a trained neutral person.
25. "Finance Director" shall mean the Director of Finance at the Department of Finance and Administrative Services who is charged with managing the City's financial accounts.
26. "Grandchild" shall mean the employee's grandchild or the grandchild of the employee's spouse or domestic partner
27. "Grandparent" shall mean the parent of an employee's parent, or the parent of the parent of the employee's spouse or domestic partner.
28. "Grievable incident" shall mean an alleged action or event that resulted from the alleged misapplication of the provisions of Seattle Municipal Code Chapter 4.04 or the Personnel Rules and any policies or procedures adopted pursuant thereto which aggrieves the employee who files the grievance. The scope of 'grievable incidents' may be limited further as defined by Personnel Rule 1.4.
29. "Harassing conduct" shall mean but is not limited to epithets, slurs, and negative stereotyping; threatening, intimidating or hostile acts; or written or graphic materials that denigrate or show hostility or aversion that is placed on walls, bulletin boards, electronic bulletin boards, e-mail or otherwise placed or circulated in the workplace; when such actions or materials are related to or directed at an individual or group because of race, color, religion, creed, sex, sexual orientation, genetic information, gender identity, national origin, ancestry, age, disability, marital status, families with children status, veteran status, or political ideology.
30. "Harassment" may include but is not limited to verbal or physical conduct toward an individual because of such individual's race, color, religion, creed, sex, sexual orientation, genetic information, gender identity, national origin, ancestry, age, disability, marital status, families with children status, veteran status, or political ideology, or that of such individual's relatives, friends or associates, when such harassing conduct has the purpose or effect of unreasonably interfering with an individual's work performance or otherwise adversely affects an individual's employment opportunities. The term includes sexual harassment.
31. "Harassment complaint" shall mean any oral or written complaint alleging an incident or incidents of harassment made by an employee to a management representative, or any information obtained by a management representative indicating that harassment has occurred or may be occurring in the workplace.

32. "Hourly employee" shall mean an employee who is compensated on an hourly basis for each hour of work performed, including time worked beyond 40 hours in a workweek.
33. "Inappropriate pressure" shall mean any written or verbal suggestion to a City employee the effect of which would preclude open consideration of qualified applicants, or result in the selection of an employee for reasons other than relative ability, knowledge and skills.
34. "Initial appointment" shall mean the first appointment of an individual to a non-temporary position, or the re-appointment of a former City employee after separation from City employment, or after the exhaustion of the reinstatement or reversion/recall period.
35. "Internal applicant" shall mean a regularly appointed City employee or an active temporary worker who applies for another position of City employment who or applies for a regular position of City employment.
36. "Job abandonment" shall mean voluntary separation from an employee's job with no notice or same-day notice, or failure to appear for work as regularly scheduled for 3 consecutive work days absent proper authorization.
37. "Management representative" shall mean any individual working at or above the level of supervisor or crew chief who is responsible for directing the work of employees and who exercises independent judgment with respect to the direction of such work. The term includes human resources representatives, strategic advisors, and departmental equal employment opportunity officers, but excludes individuals employed in the City's Alternative Dispute Resolution Program and the Office of the Employee Ombud.
38. "Mediation" shall mean an informal voluntary meeting between the parties to a dispute and one or more trained neutral mediators who assist them to find a mutually acceptable resolution to their conflict.
39. "Medical certification" shall mean verification by the employee's health care provider that an employee is incapacitated for the performance of such employee's job by an illness or injury that qualifies for sick leave.
40. "Merit leave" shall mean annual paid leave that is awarded to an employee assigned on a regular or out-of-class basis to an eligible salaried title in recognition of such employee's exceptional job performance.
41. "Opportunity for Advancement Bulletin" or "OFA" shall mean the City's official internal communication of job vacancies.

42. "Out-of-class assignment" shall mean the temporary assignment of an eligible employee to perform the normal ongoing duties and responsibilities associated with a higher-paying title.
43. "Overtime threshold" shall mean a combined total of 40 straight-time hours of work and/or paid leave per workweek. Hours worked beyond the overtime threshold must be compensated at the appropriate overtime rate of pay.
44. "Parent" shall mean the mother, father, stepmother, or stepfather of an employee or an employee's spouse or domestic partner, or an individual who stood in loco parentis to an employee or the employee's spouse or domestic partner when the employee or the employee's spouse or domestic partner was a dependent child.
45. "Performance evaluation" shall mean a formal assessment or appraisal by a supervisor of an employee's job performance.
46. "Period of war or armed conflict" shall include World War I; World War II; the Korean conflict; the Vietnam era; the Persian Gulf War; the period beginning on the date of any future declaration of war by the United States Congress and ending on the date prescribed by presidential proclamation or concurrent resolution of the United States Congress; or the following armed conflicts if the person was awarded the respective campaign badge or medal: the crisis in Lebanon, the invasion of Grenada, Panama—Operation Just Cause, Somalia—Operation Restore Hope, Haiti—Operation Uphold Democracy, or Bosnia—Operation Joint Endeavor, Operation Noble Eagle; southern or central Asia—Operation Enduring Freedom; and Persian Gulf—Operation Iraqi Freedom.
47. "Pre-disciplinary hearing" shall mean an opportunity for an employee to meet with the appointing authority to respond to the charges made against them that may result in the appointing authority's decision to impose a suspension, demotion or discharge.
48. "Primary rate of pay" shall mean the pay rate an employee receives in the employee's primary job title.
49. "Probation" shall mean an extension of the selection process during which period an employee is required to demonstrate the ability to perform the job for which they were hired. Employees shall serve one 12-month probationary period, except that their probation may be extended in accordance with the Seattle Municipal Code and these Rules.
50. "Probationary employee" shall mean an employee who has not yet completed a probationary period of employment.

51. "Progressive discipline" shall mean a process of applying and documenting disciplinary actions progressing from less to more serious depending on the employee's history and the nature of the offense.
52. "Project Hire" shall mean a program administered by the Seattle Human Resources Director that provides job referrals to individuals who are at risk of layoff or who are on a reinstatement list.
53. "Promotion" shall mean an appointment to a class or position with a higher maximum pay rate that occurs subsequent to an employee's initial appointment.
54. "Quit" shall mean to voluntarily separate from City employment without proper written notification from the employee at least 2 weeks in advance of their last day of employment.
55. "Reduction" shall mean the non-disciplinary voluntary or involuntary movement of an employee to a position with a lower maximum pay rate at the request of the employee to be reduced, or by the appointing authority or their designated representative for reasons of organizational change, reduction in force, poor job match or poor work performance.
56. "Regular employee" shall mean an employee who has been appointed to a position in the classified service and who has completed a probationary period of employment.
57. "Regular status" shall mean the status an employee holds after completion of a probationary period.
58. "Regularly appointed employee" shall mean an individual with a probationary, trial service, regular or exempt appointment to a position of City employment.
59. "Reinstatement" shall mean the appointment from a reinstatement list of an employee within 12 months of layoff to a position in a class in which such employee previously held probationary, trial service or regular status.
60. "Reinstatement list" shall mean a list maintained by the Seattle Human Resources Director of regular, probationary, and trial service employees who are eligible for reappointment to a position in a class in which they were laid off.
61. "Resign" shall mean to voluntarily separate from City employment with proper written notification from the employee at least 2 weeks in advance of their last day of employment.

62. "Reversion recall list" shall mean a list maintained by the Seattle Human Resources Director of individuals who did not complete their trial service period and who could not revert to their former classifications due to lack of appropriate vacancies.
63. "Sabbatical leave" shall mean an unpaid leave of absence not to exceed 12 months duration for which an employee may apply after completion of 7 years of continuous full-time service or the equivalent thereof.
64. "Salaried employee" shall mean an employee who is not covered by the Fair Labor Standards Act who regularly receives each pay period a predetermined amount of compensation. In general, this base salary will not be reduced because of variations in the quality or quantity of work performed. However, unpaid suspensions can be issued pursuant to Personnel Rule 1.3.2(B)
65. "Scholarship" shall mean funds used to assist employees with education expenses paid to colleges, universities, and vocational institutions by issuing advance and/or reimbursement payments to the employee or directly to the educational institution.
66. "Seattle Human Resources Director" shall mean the head of the Seattle Department of Human Resources, or their designee.
67. "Service retirement" shall mean separation of a member of the City Employees Retirement System from City employment with the proper combination of age and service credit to qualify for a monthly pension.
68. "Sexual harassment" includes but is not limited to unwelcome advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting the individual; or such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment.
69. "Sibling" shall mean the biological, step-, adopted or foster brother or sister of the employee or the employee's spouse or domestic partner.
70. "Sick leave" shall mean paid time off from work for a reason that qualifies under Rule 7.7.
71. "Single qualifying incident" shall mean an illness, injury, impairment, or physical or mental condition that qualifies an employee's absence from work for sick leave



- transfer, as well as any subsequent absences for follow-up treatments, therapies, etc., that are a direct consequence of the original condition. For example, absence(s) for surgery for cancer, a recovery period, chemotherapy, and other treatments that are a direct result of the original condition comprise a single qualifying incident. A recurrence of the cancer would constitute a separate incident.
72. "Standby duty" shall mean the formal assignment by the appointing authority or a designated management representative to an employee of the responsibility to respond to emergencies during the employee's non-working hours. The act of carrying a pager or other such communication device does not, in itself, constitute standby duty.
73. "Standby pay" shall mean the compensation paid to an hourly employee who is assigned to standby duty.
74. "Standing" shall mean the classification in which an employee accrues service credit for layoff purposes.
75. "Step Progression Pay Program" shall mean a compensation system that provides for wage progression based on length of service.
76. "Supervisor file" shall mean files maintained by the employee's supervisor which may include, but are not limited to, documents or electronic files reflecting workplace or performance expectations, the employee's performance or conduct, communications between employee and supervisor, and counseling efforts and discipline. A supervisor file shall not contain confidential employee medical information.
77. "Suspension" shall mean the temporary discontinuation without pay of an employee from employment for a specified period of time, for justifiable cause.
78. "Transfer" shall mean the movement of an employee from one position to another position in the same class, or with the same maximum pay rate.
79. "Transplant donor" shall mean an employee who voluntarily donates their bone marrow, tissue or organ to a human recipient. The donation must be determined to be medically matched and uniquely suited or critical to the successful outcome of a medical procedure intended to save the recipient's life. A transplant donor receives no compensation and has no ability to direct compensation to any other person or entity in exchange for the employee's participation as a donor.
80. "Trial service" shall mean a 12-month trial period of employment for a regular employee who has completed a probation period and who is subsequently

appointed via promotion or transfer to a position in another classification, except that the trial period may be extended in accordance with the Seattle Municipal Code and these Rules.

81. "Trial service employee" shall mean an employee who has not yet completed a period of trial service.
82. "Verbal warning" shall mean a verbal notification from the appointing authority or designated management representative to an employee that specified activities or conduct are inappropriate for the work place, that performance standards have not been met, and/or that a violation of work place rules or policies has occurred; and that continuation thereof will result in more severe discipline, up to and including discharge.
83. "Veteran" shall mean one who has received an honorable discharge or received a discharge for medical reasons with an honorable record, where applicable, and who has served in at least one of the following capacities: (1) As a member in any branch of the armed forces of the United States, including the national guard and armed forces reserves, and has fulfilled the initial military service obligation; (2) As a member of the women's air forces service pilots; (3) As a member of the armed forces reserves, national guard, or coast guard, and has been called into federal service by a presidential select reserve call up for at least one hundred eighty cumulative days; (4) As a civil service crewmember with service aboard a U.S. army transport service or U.S. naval transportation service vessel in oceangoing service from December 7, 1941, through December 31, 1946; (5) As a member of the Philippine armed forces/scouts during the period of armed conflict from December 7, 1941, through August 15, 1945; or (6) A United States documented merchant mariner with service aboard an oceangoing vessel operated by the department of defense, or its agents, from both June 25, 1950, through July 27, 1953, in Korean territorial waters and from August 5, 1964, through May 7, 1975, in Vietnam territorial waters, and who received a military commendation.
84. "Workweek" shall mean a designated block of 168 hours within which an employee's work schedule is contained.
85. "Written reprimand" shall mean a written notification from the appointing authority or designated management representative to an employee that specified activities or conduct are inappropriate for the work place, that performances standards have not been met, and/or that a violation of work place rules or policies, and that continuation thereof will result in more severe discipline, up to and including discharge.

### **Preamble.3 Application of Personnel Rules**

All Personnel Rules shall be applied to City employees as described below, except where subchapters to these Rules provide otherwise.

- A. The Personnel Rules apply to all regularly appointed employees.
- B. For regularly appointed employees who are represented under the terms of a collective bargaining agreement, the Personnel Rules shall prevail except where they conflict with the employee's collective bargaining agreement, any memoranda or agreement or understanding signed pursuant to the collective bargaining agreement, or any established and recognized practice relative to the members of the bargaining unit.
- C. The Personnel Rules do not apply to individuals who are hired under the terms of a grant that includes provisions that conflict with this Rule, nor do they apply to individuals hired under contract to the City. These individuals are subject to all applicable federal, state and City laws.
- D. Except for Chapter 11, the Personnel Rules do not apply to individuals hired by the City on a temporary, intermittent, or seasonal basis, or for a work schedule of fewer than 20 hours per week, nor do they apply to individuals hired under contract to the City. These individuals are subject to all applicable federal, state and City laws.
- E. Appointing authorities may establish written policies and procedures for the implementation of the Personnel Rules to facilitate the management of the personnel system within their employing units, provided that such policies and procedures do not conflict with the provisions of the Personnel Rules

## **Personnel Rule 1.1 – Discrimination and Workplace Harassment**

### **1.1.0 Authority**

SMC 3.15.022 and subsequent revisions thereto, Office of the Employee Ombud

SMC 4.04.050 and subsequent revisions thereto, Rule-making Authority

SMC 4.80.020 and subsequent revisions thereto, Affirmative Action Plan—Policy

SMC Chapter 14.04 and subsequent revisions thereto, Fair Employment Practices Ordinance

Council Resolution 30291 and subsequent revisions thereto, Workplace Harassment Policy and Investigation Procedures

Executive Order 2019-04; Anti-Harassment and Anti-Discrimination

Title VII, Civil Rights Act, 42 U.S.C. 2000e, et seq.

RCW 49.60, Discrimination—Human Rights Commission

### **1.1.1 Application of this Rule**

- A. This Rule does not apply to employees of City departments that have alternative internal investigation procedures established by ordinance unless the affected employees are not subject to such internal investigation procedures.
- B. The provisions of this subchapter shall be applied to employees of the Seattle Municipal Court except where they conflict with any policy promulgated by the Court and/or General Court Rule 29.

### **1.1.2 Anti-discrimination**

It is the policy of the City of Seattle to provide a work environment for its employees that is free from discrimination and promotes equal employment opportunity for and equitable treatment of all employees. Any individual who believes he or she has been discriminated against in employment may make an internal complaint to any management representative, or the Department of Human Resources Investigations Unit; or file a complaint with the Seattle Office of Civil Rights, Washington State Human Rights Commission, or the Equal Employment Opportunity Commission.

### **1.1.3 Anti-Harassment**

Harassment of an individual is illegal conduct and a violation of this Rule. The City of Seattle will not tolerate harassment of its employees by co-workers, supervisors, managers, officers of the City or from non-employees conducting business with the City.

### **1.1.4 Making a Harassment Complaint**

- A. Employees shall promptly report to the Department of Human Resources Investigations Unit (HRIU) or any management representative (including their home department's human resources representative) any allegations or complaints of harassment. Where the complaint is against an elected official, it shall be filed with the Seattle Office of Civil Rights, the Ethics and Elections Commission, the Washington State Human Rights Commission, or the Equal Employment Opportunity Commission. Reporting a harassment complaint to or discussing a complaint with a management representative will result in an investigation.
  - 1. Employees may make informal inquiries about legal rights and agency procedures to the Seattle Office of Civil Rights, the Washington State Human Rights Commission, and the Equal Employment Opportunity Commission. Such inquiries do not constitute a harassment complaint.
  - 2. Employees may seek confidential assistance and referral through the Office of Employee Ombud. Contacting the Office of the Employee Ombud does not constitute a harassment complaint and will therefore not trigger an investigation.
  - 3. Employees may seek confidential assistance, counseling and referral through the City's Employee Assistance Program or Alternative Dispute Resolution Program. Contacting the Employee Assistance Program or Alternative Dispute Resolution program for assistance, counseling and referral does not constitute a harassment complaint and will therefore not trigger an investigation.
- B. A harassment complaint may be oral or written. Where possible, it should include the date(s) the incident(s) occurred, name(s) of the individual(s) involved, name(s) of witness(es), and a description of the incident(s). It may also include a statement of the desired remedy.
- C. Employees have the right to consult with or file a harassment complaint with the Seattle Office of Civil Rights, the Washington State Human Rights Commission, or the Equal Employment Opportunity Commission, or to pursue other legal action, in addition to their rights and responsibilities under this Rule.
- D. Retaliation against an employee who brings a complaint of harassment, reports allegations of harassment, or participates in an investigation of a harassment complaint is prohibited and shall not be tolerated. "Retaliation" for the purposes of administering Personnel Rule 1.1.4(D) means an adverse job action(s) taken against an employee because he or she has complained about harassment, given a statement about a harassment investigation, participated in a harassment investigation, or supported a harassment complainant.

### **1.1.5 Investigating Harassment Complaints**

- A. A management representative who is told or otherwise becomes aware that harassment may be occurring is obligated immediately to report the allegation or complaint to the Department of Human Resources Investigation Unit (HRIU).
  - 1. The HRIU shall notify the alleged harasser's appointing authority that a harassment complaint has been made.
  - 2. The appointing authority or designated management representative shall, as soon as practicable, notify the alleged harasser that they have been named in a harassment complaint and that it will be investigated.
  - 3. The appointing authority or designated management representative shall, as soon as practicable, assess the need to relocate either or both the complainant and the alleged harasser to another work unit, or to place either or both on administrative reassignment. The complainant shall not be given work or placed at a work site that is, in the judgment of the appointing authority or designated management representative, in any way less desirable than the complainant's current position and work site.
- B. The HRIU shall oversee or investigate allegations of harassment. Investigations shall commence immediately.
  - 1. The investigator shall complete the investigation as promptly as possible while ensuring that the investigation is fair, complete and impartial. It shall be the City's objective to complete all investigations within 90 days unless compelling circumstances require more time. The investigator shall regularly inform the complainant about the status of the investigation.
  - 2. The investigation shall include interviews with the complainant and the alleged harasser and any other person(s) whom the investigator has reason to believe has information directly related to the complaint or the investigation thereof.
  - 3. The investigator shall assure compliance with any employee's right to union representation, including the right of the alleged harasser, who may reasonably believe that disciplinary action may be taken based upon such individual's statements to the investigator or on the outcome of the investigation.
  - 4. The investigator shall maintain records of the investigation and shall prepare and provide a report of the investigation to the appointing authority. The appointing authority shall provide a written summary of the allegations and the investigation findings to the complainant and to the alleged harasser.
  - 5. In determining from the totality of the circumstances whether conduct is sufficiently severe or pervasive to create an intimidating, hostile or offensive work environment, the investigator shall consider the conduct from the perspective of a reasonable person of the alleged victim's race, color, religion, creed, sex, sexual orientation, gender identity, genetic information, national origin, ancestry, age, disability, marital status, families with children status, veteran/military status or political ideology.
  - 6. To the extent that it does not hinder the investigation or the resolution of the complaint and is permitted under local, state and federal laws,

management representatives and any investigator shall maintain the confidentiality of a harassment complaint.

- C. To avoid duplication of efforts or otherwise conserve City resources, the Human Resources Investigation Unit or department overseeing the investigation may suspend or close an investigation for any reason that does not conflict with this Rule, including the reason that the complainant is actively pursuing the same complaint in another forum or has agreed to participate in a mediation of the complaint.

### **1.1.6 Resolution of Harassment Complaints**

- A. The investigator shall provide a report of the investigation findings to the alleged harasser's appointing authority.
- B. If the investigation substantiates the complaint of harassment by a City employee, an appropriate City official shall make a determination regarding the appropriate resolution, including disciplinary action. Before making the decision to impose disciplinary action, the appointing authority or designated representative shall ensure that the harasser has been given the opportunity to review the results of the investigation, has been told of the evidence obtained, and has had an opportunity to provide to the appointing authority a response to the outcome of the investigation. The appointing authority shall take the employee's response into account before taking final action on the complaint.
- C. In addition to any disciplinary action taken, substantiated complaints shall be noted in the employee's personnel file and referenced in such employee's first performance evaluation following the conclusion of the investigation. The employee shall be ineligible for consideration for any performance pay program or any individual performance award program for which he or she might otherwise qualify, for a period of one year following the resolution of the complaint. The prohibition against performance pay or awards for the individual employee shall not adversely affect awards extended to work groups or teams on which the employee is a participant.
- D. If during the course of the investigation, the investigator determines that the allegation or complaint of harassment or discrimination was reported to a management representative, and that management representative failed to promptly report the allegation or complaint to the appointing authority or designated management representative, the appointing authority shall investigate and take appropriate action against the management representative, to include disciplinary action. In addition, the failure to report shall be noted in the management representative's personnel file and referenced in the management representative's first performance evaluation following completion of the investigation. The management representative shall forfeit for one year following resolution of the complaint any eligibility for individual performance pay or performance awards.

Following determination of a substantiated complaint of harassment, the appropriate management representative should inquire of the complainant at a

frequency and for whatever duration is necessary to ensure that the harassment has not resumed and that the complainant has not been retaliated against for making a complaint. After the investigation has been completed, the complainant continues to have an obligation to promptly report to any management representative any allegations or complaints of harassment.