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E.O. 2014-001

Superseding: E.O. #2006-008

E.O. #2004-001

E.O. #1998-015

February 25, 2014

**REISSUANCE OF
EXECUTIVE ORDER OF THE MAYOR
OF THE
CITY OF JERSEY CITY**

**PROHIBITING UNLAWFUL DISCRIMINATION, HARASSMENT, OR RETALIATION, AND
REQUIRING REASONABLE ACCOMMODATIONS FOR QUALIFIED INDIVIDUALS**

Pursuant to the authority vested in the Mayor of the City of Jersey City ("Jersey City" or "the City") by law, I confirm and reissue the following Executive Order to restate and reaffirm Jersey City's policy and procedure pertaining to unlawful discrimination, harassment, retaliation and requests for reasonable accommodations.

This Order shall apply to all Jersey City employees both in uniformed and non-uniformed services. This Order shall rescind all prior Orders and procedures, which may have been used to report, investigate and remediate unlawful discrimination, harassment or retaliation complaints, including those set forth in E.O. 2006-008, E.O. 2004-001, 1998-015, 1994-032 and 1992-047.

I. POLICY PROHIBITING UNLAWFUL DISCRIMINATION AND HARASSMENT

A. Protected Characteristics

The City of Jersey City prohibits any form of unlawful discrimination or harassment, which is discrimination or harassment based upon race, color, age, creed, national origin, religion, ancestry, mental or physical disability (to the extent covered by state or federal statute), perceived disability, pregnancy, childbirth, pregnancy-related medical conditions, political activity or political affiliation, refusal to engage in political activity, marital status, familial status, domestic partnership or civil union status, sexual orientation, gender identity or expression, sex or gender, atypical hereditary cellular or blood trait, AIDS and HIV status, genetic information, refusal to submit to a genetic test or to make available the results to Jersey City, service in the armed forces,

veteran status, status as a victim of domestic violence or sexually violent offense, or any other category protected by state or federal law (collectively referred to as "Protected Characteristics").

B. Applicability

Jersey City is committed to maintaining and promoting a healthy, productive, and non-threatening work environment that is built upon mutual respect and is free from unlawful discrimination or harassment. This is a zero tolerance policy and applies to all Jersey City employees. Any person found guilty of engaging in unlawful discrimination or harassment will be subject to appropriate discipline, up to and including discharge.

The City will not tolerate unlawful discrimination or harassment by anyone in the workplace, including supervisors or co-workers. This policy also applies to all communications, whether oral or written, including communications by telephone, e-mail, voicemail, text message, or any social media platform (including but not limited to Facebook or Twitter). This policy also applies to internet usage, including the transmission or forwarding of communications to others, or other graphic images that denigrate individuals on the basis of a Protected Characteristic.

C. Prohibited Conduct

It is the policy of the City of Jersey City that all employees are responsible for assuring that the workplace is free from unlawful discrimination or harassment.

It is a violation of this Order to engage in any employment practice or procedure that treats an employee less favorably based upon a person's Protected Characteristics. This includes all employment practices such as recruitment, selection, hiring, training, promotion, transfer, assignment, layoff, return from layoff, termination, compensation, fringe benefits, working conditions, and career development.

Third-party harassment based upon any of the aforementioned Protected Characteristics is also prohibited by this Order. Third-party harassment is unwelcome behavior of a derogatory nature regarding any Protected Characteristic that is not directed at an individual but is a part of that individual's work environment.

Discourtesy or rudeness should not be confused with racial or ethnic harassment.

Examples of Behaviors That May Constitute Unlawful Discrimination or Harassment Include, But Are Not Limited To:

1. Discriminating against an individual with regard to terms and conditions of employment because of that individual's Protected Characteristic;
2. Treating an individual differently because of a Protected Characteristic, or because an individual has the physical, cultural or linguistic characteristics of a racial or national origin group;

3. Treating an individual differently because of marriage or domestic partnership with persons of a Protected Characteristic, or due to membership in or association with an organization identified with the interests of a racial, religious or national origin group; or because an individual's name is associated with a racial, religious or national origin group;
4. Calling another by an unwanted nickname that refers to a Protected Characteristic;
5. Telling jokes or using derogatory or demeaning slurs to refer to a person's Protected Characteristics. This can be harassment even if there was no intent on the part of an individual to harass or demean another;
6. Using derogatory references regarding a Protected Characteristic in any job-related communication;
7. Engaging in threatening, intimidating, or hostile acts, in the workplace, based on a Protected Characteristic; or
8. Displaying or distributing material in the workplace that contains language or images that are derogatory or demeaning, based upon a Protected Characteristic.

D. Sexual or Gender-Based Harassment

This policy prohibits sexual or gender-based harassment in any form. It does not matter whether the harasser is male or female.

For the purpose of this Order, sexual harassment is defined to include: unwelcome sexual advances (either verbal or physical), requests for sexual favors, with or without accompanying promises, threats, or reciprocal favors or actions, and other verbal or physical conduct of a sexual nature made to an employee when, for example:

1. Submission to such conduct is either an explicit or implicit term or condition of employment;
2. Submission to or rejection of such conduct by an individual is used as the basis for making employment decisions, or taking or not taking a personnel action affecting such individual; or
3. Such conduct has the purpose or effect of substantially interfering with an individual's work performance, or creating an intimidating, hostile or offensive work environment.

Gender-based harassment is defined as unwanted acts of verbal or nonverbal hostility based on gender or gender-stereotyping. Gender-based harassment occurs, whether or not sexual activity or language is involved, if it has the purpose or effect of abusing, devaluing or subordinating the members of one sex.

Other examples of unlawful sexual or gender-based harassment may include, but are not limited to:

1. Explicit sexual propositions or advances in any form, including, but not limited to, express or implied comments, writings, or actions;
2. Sexually suggestive or gender-based comments, innuendos or slurs;
3. Sexually suggestive letters, internet communications, photos, emails, or text messages;
4. Generalized gender-based remarks and comments;
5. Sexual or Gender oriented "kidding" or "teasing";
6. Graphic or physical conduct related to an individual's body or gender;
7. Foul or obscene language or gestures of a sexual nature;
8. Display in the workplace of sexually suggestive or explicit objects, pictures, symbols, greeting cards, articles, books, magazines, photos, or cartoons;
9. Intentional/unwanted physical contact such as patting, pinching, touching, grabbing, or brushing against another's body;
10. Using authority to make any sexual advance toward an individual over whom the person is authorized to make, recommend or otherwise influence a personnel action;
11. Granting, recommending, or refusing to take personnel action on the basis of an employee's gender or sexual orientation or in exchange for sexual favors;
12. Taking or failing to take a personnel action as reprisal against any employee for rejecting or reporting a sexual advance; or
13. Third party sexual harassment, which is unwelcome behavior of a sexual nature or based on sex that is not directed at an individual but is a part of an individual's work environment.

E. Non-Retaliation

The City of Jersey City expressly prohibits and forbids retaliation against anyone who reports unlawful discrimination or harassment based on a Protected Characteristic, assists in making a discrimination or harassment complaint, or cooperates in a discrimination or harassment investigation. This is a zero tolerance policy, and applies to all Jersey City employees. Any person found guilty of engaging in the above-described retaliation will be subject to appropriate discipline, up to and including discharge.

II. POLICY REGARDING REASONABLE ACCOMMODATIONS

A. Qualified Employees or Applicants with Disabilities

The City of Jersey City is committed to the fair and equal employment of people with disabilities. Reasonable accommodations are the key to this policy. While many individuals with disabilities can work without accommodations, other qualified applicants and employees face barriers to employment without the accommodation process. It is the policy of the City of Jersey City to reasonably accommodate qualified individuals with disabilities unless the accommodation would impose an undue hardship.

If you require an accommodation in order to perform the essential functions of your job, you should contact the Equal Employment Opportunity/Affirmative Action (EEO/AA) Officer, your department-designated EEO/AA Liaison Officer, or your supervisor, manager or director and request an accommodation. Jersey City will work with you to identify possible reasonable accommodations, if any, to help eliminate the limitation, and will act in accordance with the ADA and any other applicable laws.

B. Pregnancy, Childbirth or Medical Conditions Related to Childbirth

It is the policy of the City of Jersey City to reasonably accommodate an employee based upon pregnancy, childbirth, or medical conditions related to pregnancy or childbirth, including recovery from childbirth, when the employee requests the accommodation based on her physician's advice, unless the accommodation would impose an undue hardship.

If you require an accommodation based upon pregnancy, childbirth, or medical conditions related to pregnancy or childbirth, including recovery from childbirth, you should contact the EEO/AA Officer, your department-designated EEO/AA Liaison Officer, or your supervisor, manager or director and request an accommodation. Jersey City will work with you to identify possible reasonable accommodations, if any, and will act in accordance with the New Jersey Law Against Discrimination and other applicable laws.

C. Non-Retaliation

The City of Jersey City expressly prohibits and forbids retaliation against an employee in the terms, conditions, or privileges of employment for requesting or using an accommodation. This is a zero tolerance policy, and applies to all Jersey City employees. Any person found guilty of engaging in the above-described retaliation will be subject to appropriate discipline, up to and including discharge.

III. POLICY REGARDING RETALIATION FOR REPORTING PURPORTED ILLEGAL OR FRAUDULENT WORKPLACE ACTIVITIES, POLICIES OR PRACTICES

A. Prohibited Conduct

Jersey City encourages employees to report illegal or fraudulent workplace activities, policies, or practices. Jersey City expressly prohibits and forbids retaliation against an employee who does any of the following:

1. Discloses, or threatens to disclose, to a supervisor or to a public body an activity, policy or practice of the employer or another employer, with whom there is a business relationship, that the employee reasonably believes is in violation of a law, or a rule or regulation issued under the law, or, in the case of an employee who is a licensed or certified health care professional, reasonably believes constitutes improper quality of patient care;
2. Provides information to, or testifies before, any public body conducting an investigation, hearing or inquiry into any violation of law, or a rule or regulation issued under the law by the employer or another employer, with whom there is a business relationship, or, in the case of an employee who is a licensed or certified health care professional, provides information to, or testifies before, any public body conducting an investigation, hearing or inquiry into quality of patient care; or
3. Provides information involving deception of, or misrepresentation to, any shareholder, investor, client, patient, customer, employee, former employee, retiree or pensioner of the employer or any governmental entity.
4. Provides information regarding any perceived criminal or fraudulent activity, policy or practice of deception or misrepresentation which the employee reasonably believes may defraud any shareholder, investor, client, patient, customer, employee, former employee, retiree or pensioner of the employer or any governmental entity.
5. Objects to, or refuses to participate in, any activity, policy or practice which the employee reasonably believes:
 - (a) is in violation of a law, or a rule or regulation issued under the law or, if the employee is a licensed or certified health care professional, constitutes improper quality of patient care;
 - (b) is fraudulent or criminal; or
 - (c) is incompatible with a clear mandate of public policy concerning the public health, safety or welfare or protection of the environment.

To ensure proper handling of an employee disclosure of an illegal or fraudulent activity, policy, or practice, the employee's disclosure must be in writing. The disclosure should be addressed to the Business Administrator for the City of Jersey City, 280 Grove Street, 1st Floor, Jersey City, NJ 07302. The Employee should also provide a copy of the written notification of the disclosure to the employee's supervisor, manager or director and the EEO/AA Officer or department-designated EEO/AA Liaison Officer. Employees are not required to report any prohibited conduct to a Business Administrator, supervisor, manager, director, EEO/AA Officer or department-designated EEO/AA Liaison Officer who may be hostile, who has engaged in such conduct, who is a close associate of the person that has engaged in the conduct in question, or with whom the employee is uncomfortable discussing such matters. To ensure confidentiality,

employees who report a complaint should not discuss it with any other person (including other employees).

B. Non-Retaliation

The City of Jersey City expressly prohibits and forbids retaliation against an employee for reporting an illegal or fraudulent activity, policy or practice of an employer, assists in making a complaint of an illegal or fraudulent activity, policy or practice of an employer, or cooperates in an investigation regarding same. This is a zero tolerance policy, and applies to all Jersey City employees. Any person found guilty of engaging in the above-described retaliation will be subject to appropriate discipline, up to and including discharge.

IV. COMPLAINT PROCEDURE FOR DISCRIMINATION, HARASSMENT OR RETALIATION

A. Department Directors, Supervisors and Managers

It is the responsibility of all department directors, supervisors and managers to ensure that their department/workplace is in full compliance with this Policy. Directors, supervisors or managers who knowingly permit unlawful discrimination, harassment, or retaliation, to exist in their department violate this policy and are subject to discipline, up to and including discharge.

Department directors, supervisors and managers are expected to take the following measures to ensure that the work environment is free from unlawful discrimination, harassment or retaliation:

1. Monitor the workplace for signs of prohibited conduct;
2. Immediately report all allegations of violations to the EEO/AA Officer or department- designated EEO/AA Liaison Officer for investigation; and
3. Direct all aggrieved employees to report violations to the EEO/AA Officer or department-designated EEO/AA Liaison Officer as set forth below.

B. Employee Complaints

Any employee who believes that she or he has been subjected to any form of unlawful discrimination, harassment, or retaliation, or who witnesses others being subjected to such harassment or discrimination is encouraged to promptly report the incident(s) to their supervisor, manager, director, the EEO/AA Officer or the department-designated EEO/AA Liaison Officer.

However, employees are not required to report any prohibited conduct to a supervisor, manager, director, EEO/AA Officer, or department-designated EEO/AA Officer who may be hostile, who has engaged in such conduct, who is a close associate of the person that has engaged in the conduct in question, or with whom the employee is uncomfortable discussing such matters. To ensure confidentiality, employees who report a complaint must not discuss it with any other person (including other employees).

No employee shall be subject to discipline for going outside the "chain of command" in reporting unlawful discrimination, harassment or retaliation. If any employee knowingly makes a false accusation of unlawful discrimination, harassment or retaliation, or knowingly provides false information in the course of an investigation of a complaint, such conduct may be grounds for discipline. Complaints made in good faith, however, even if found to be unsubstantiated, shall not be considered a false accusation.

C. Complaint Form

Annexed to this policy is the City of Jersey City's Unlawful Discrimination, Harassment or Retaliation Complaint Form. If an employee believes that an incident of unlawful discrimination, harassment or retaliation has occurred, the employee should complete the attached Complaint Form. The Complaint Form should contain the employee's description of the unlawful discrimination with as much detail as possible.

Pursuant to the foregoing, the Equal Employment Opportunity/Affirmative Action Officer is located at 280 Grove Street, 1st Floor, Jersey City, NJ 07302; and designated EEO/AA Liaison Officers are located department-wide and a complete listing of the EEO/AA Officer for each department is attached.

In addition to filing an internal complaint, employees have the right to file complaints to the U.S. Equal Employment Opportunity Commission (EEOC) and/or the New Jersey Division on Civil Rights (DCR). Both agencies have time limits for filing complaints. For more information, you may visit their websites at: www.eeoc.gov and www.state.nj.us/lps/dcr/index.html.

D. Confidentiality

It is the City of Jersey City's policy to investigate all such complaints thoroughly and promptly. All complaints will be held in as much confidence as possible, consistent with the policy to investigate and take corrective action where appropriate.

All persons interviewed, including witnesses, are directed not to discuss any aspect of the investigation with others. Failure to comply with this confidentiality directive may result in appropriate discipline, up to and including discharge.

If an investigation confirms that unlawful discrimination, harassment or retaliation has occurred, the City of Jersey City will take corrective action or discipline up to and including the discharge of the offending party. Individuals who provide intentionally false information in the course of an investigation may be subject to discipline, up to and including discharge.

V. INVESTIGATION

After notification of an employee's complaint, the EEO/AA Officer or his/her designee will immediately initiate a confidential investigation.

All employees are expected to cooperate with investigations undertaken pursuant to this Order. Failure to cooperate in an investigation may result in appropriate discipline, up to and including discharge.

To the fullest extent possible, consistent with Jersey City's policy to investigate each complaint thoroughly and promptly and to take corrective action where appropriate, the investigation and facts uncovered will be confidential.

After the investigation has been completed, a determination will be made regarding the allegations in the Complaint. If the investigation confirms that unlawful discrimination, harassment or retaliation has occurred, the City of Jersey City will take prompt, remedial action, including discipline, up to and including discharge.

In certain circumstances deemed appropriate by the Corporation Counsel or Business Administrator, or EEO/AA Officer, and where both the complainant and accused employee give consent, a non-disciplinary mediation process may be utilized to resolve the Complaint.

VI. DISCIPLINARY ACTION

Any employee found to have violated this Order may be subject to appropriate disciplinary action which may include, but which shall not be limited to: referral for training/counseling, reprimand, suspension, reassignment, demotion or termination of employment. Referral to another appropriate authority for review for possible violation of state and federal law may also be appropriate.

VII. DISSEMINATION OF THIS ORDER

A copy of this Executive Order must be distributed to each and every employee of the City of Jersey City, who will be required to sign for receipt of it. Further, the City Clerk, Business Administrator and each Department Director shall post copies of this Executive Order in conspicuous places and maintain copies in their files. This policy shall be redistributed when updated or amended.

This Order shall take effect immediately.

Very truly yours,


STEVEN M. FULOP
MAYOR

SMF/mm

cc: Robert J. Kakoleski, Acting Business Administrator
Robert Byrne, City Clerk
Jeremy Farrell, Corporation Counsel
Darlene H. Pharmes, Division of Human Resources
Jeana F. Abuan, EEO//AA Officer
All Department and Division Directors

CITY OF JERSEY CITY
UNLAWFUL DISCRIMINATION, HARASSMENT OR RETALIATION
COMPLAINT FORM

DEPARTMENT: _____

DIVISION: _____

EMPLOYEE NAME (OPTIONAL): _____

TELEPHONE NUMBER: _____

EMAIL ADDRESS: _____

JOB TITLE: _____

DATE OF COMPLAINT: _____

DETAILS OF COMPLAINT:

(Please describe as clearly as you can exactly what happened to you that leads you to believe that you have been unlawfully discriminated, harassed or retaliated against as prohibited by the City's policy. Include, dates, if you can, and the names of everyone who was involved in the discrimination, harassment or retaliation or who saw or heard what happened. If there was more than one incident of discrimination, harassment or retaliation, please describe each incident separately. You may use the back of this form or any other sheet of paper.)

REMEDY REQUESTED:

Employee Signature

Date