

RESOLUTION 2022-002

A RESOLUTION AMENDING THE CITY OF PAOLA PERSONNEL MANUAL, EFFECTIVE JANUARY 11, 2022

WHEREAS, Section 1-307 of the Code of the City of Paola, Kansas provides for the preparation, revision, and amendment of a Personnel Manual; and,

WHEREAS, the Interim City Manager has submitted a proposed and revised Personnel Manual to the Governing Body as follows:

Section 2.6 of the Personnel Manual is hereby amended and reads as follows:

2.6 Policy Prohibiting Discrimination, Harassment and Retaliation.

(a) **General Policy.** It is the policy of the City to maintain a work environment free of intimidation, insult, discrimination and harassment based upon race, gender, religion, color, national origin, age, ancestry, disability, or any other characteristic protected by Federal, State, or local law. Discrimination, harassment or retaliation of any kind will not be tolerated. Employees have the obligation to report all incidents of such conduct, and those reports will be promptly and thoroughly investigated. The City also does not tolerate retaliation against those who report discrimination or harassment in good faith or those who cooperate with discrimination or harassment investigations. Any employee who has engaged in discriminatory, harassing or retaliatory conduct will be subject to immediate discipline, up to and including termination.

(b) **Harassment Defined.** Harassment is verbal, written, or physical conduct which degrades or displays hostility or hatred toward others based on their race, gender, religion, color, national origin, age, ancestry, disability, or any other characteristic protected by Federal, State, or local law and which creates an intimidating, hostile, or offensive working environment; unreasonably interferes with an individual's work performance; or otherwise adversely affects an individual's employment opportunities.

(c) **Examples of Harassment.** Generally speaking, harassing conduct includes, but is not limited to, the following acts or conduct when those acts or conduct relate to race, gender, religion, color, national origin, age, ancestry, disability, or any other characteristic protected by Federal, State, or local law:

1. Epithets;
2. Slurs;
3. Stereotyping;
4. Threats; and
5. Written or graphic material that degrade or display hostility or hatred toward an individual or group when such material is distributed or circulated in the workplace or placed on walls, on bulletin boards, or elsewhere on the premises of the City.

(d) **Sexual Harassment Defined.** Sexual harassment is defined as the threat or insinuation by one employee or group of employees, either explicitly or implied, that his/her refusal to submit to sexual advances will adversely affect his/her employment, evaluation, wages, advancement, assigned duties, shifts, or any other condition of employment or career development (quid pro quo); or the subjecting of an employee(s), by another employee(s), to unsolicited and unwelcome sexual overtures or conduct, either verbal or physical, so as to create an intimidating, hostile or offensive working environment.

(e) **Examples of Sexual Harassment.** No employee, whether supervisory or non-supervisory, may sexually harass another employee. Sexual harassment as defined includes, but is not limited, to:

1. Unwelcome or unnecessary sexual touching, propositions, and/or advances;
2. Unwelcome sexual flirtations;
3. Abusive and/or vulgar language of a sexual nature;
4. Graphic or vulgar commentaries about an employee's body or clothing;
5. Displays of sexually graphic or suggestive pictures, photographs, cartoons, etc.
6. Sexually degrading words used to describe a person;
7. Displays in the workplace or on City premises of sexually suggestive materials, including objects or pictures;
8. Physical assault or battery;
9. Verbal harassment or abuse;
10. Accusations of sexual preference;
11. Demands for sexual favors, including demands accompanied by express or implied promises or threats concerning an individual's employment status;
12. Conditioning any term or benefit of employment upon sexual favors;
13. Sexual slurs or innuendoes;
14. Suggestive or insulting sounds;
15. Touching, leering, whistling or obscene gestures;
16. Displaying derogatory or offensive posters, cartoons or drawings; and
17. Any other conduct that unreasonably interferes with an employee's performance of his or her job, creates an intimidating, hostile or offensive working environment, or otherwise adversely affects an individual's employment opportunities.

(f) **Discrimination, Harassment and Retaliation Complaint Procedure.** Any employee who feels he/she is being subjected to discrimination, harassment or retaliation should immediately contact one of the persons listed below with whom the employee feels the most comfortable. Complaints may be made orally or in writing to:

1. The employee's immediate supervisor;
2. The employee's Department Head;
3. Other Supervisory Personnel;

4. The Human Resources Director; or
5. The City Manager.

Employees shall not make a complaint to the person who is the alleged harasser or person committing the retaliation. Instead, the complaint should be made to one of the other listed persons.

The employee should be prepared to provide the following information:

1. Employee's name, department, and position title;
2. The name of the person(s) committing the discrimination or harassment;
3. The date(s) and approximate times(s) of the discrimination or harassment;
4. The specific nature of the discrimination or harassment, the duration of the harassment, and any employment action (demotion, failure to promote, termination, refusal to hire, transfer, etc.) taken against him/her as a result of the harassment;
5. The name of any witness to the discrimination or harassment; and
6. Whether he/she has previously reported such discrimination or harassment and if so, when and to whom.

After receiving a complaint, the recipient of the complaint shall assist the employee filing the complaint with documenting the incident in writing and the employee shall affix their signature attesting to the accuracy and truthfulness of the complaint. All information disclosed in the complaint procedure will be held in strictest confidence and will only be disclosed on a need-to-know basis in order to investigate and resolve the matter.

(g) **Discrimination, Harassment or Retaliation Investigations.** Anyone who receives a complaint of discrimination, harassment or retaliation shall immediately report the complaint directly to the Human Resource Director. The Human Resource Director is the officer designated to investigate reports of complaints based on race, gender, religion, color, national origin, age, ancestry, disability, or any other characteristic protected by Federal, State, or local law. Once a complaint is received, the Human Resource Director shall inform the City Manager of the complaint and shall immediately conduct a thorough investigation regarding any complaint. If the Human Resource Director is named as a witness or alleged to have engaged in the wrongful conduct, the City Manager's designee shall conduct the investigation. At the discretion of the City Manager, a neutral third-party may be secured to investigate any complaint of discrimination, harassment or retaliation. If third-party investigators are used, disclosure of any investigation report and its contents will be restricted to the City, Federal or State officers, agency, or departments, or any officer, agency, or department of a unit of general local government; or any self-regulatory organization with regulatory authority over the activities of the employer or employees; as otherwise required by law.

An investigation will be conducted consistent with the City's investigation procedures. The City shall complete an investigation as soon as practicable upon receipt of any complaint of discrimination, harassment or retaliation.

When asked, all employees shall cooperate fully and completely with such investigations. Refusal to cooperate, or interfering with an investigation in any way, shall

subject employees to immediate disciplinary action, up to and including discharge from employment.

The investigation findings, along with any recommendations, shall be submitted by the investigator to the City Manager. The City Manager shall take disciplinary or remedial action as appropriate. The City Manager shall notify the complainant and any other parties of the investigative findings as appropriate.

If the City Manager determines, after reviewing the investigation report, that the complaint was intentionally falsified by the employee filing the complaint, the City Manager shall take immediate and appropriate disciplinary action against the employee, to be determined on a case-by-case basis, up to and including termination.

(h) In the event that the City Manager is named as a witness or alleged to have engaged in the wrongful conduct. The complaint should be made directly to the Human Resource Director. After receiving a complaint, the HR Director shall assist the employee in preparing the complaint with documenting the incident in writing and the employee shall affix their signature attesting to the accuracy and truthfulness of the complaint. All information disclosed in the complaint procedure will be held in strictest confidence and will only be disclosed on a need-to-know basis in order to investigate and resolve the matter.

The Human Resource Director shall inform the City Attorney. In the absence of the Human Resource Director, the City Clerk will serve as the City's designee to the City Attorney. The City Attorney will inform the City Council and the City Council will then proceed with an investigation as directed by either internal or external legal counsel.

(i) **Records of Complaints.** All records, except those affected by the Kansas Open Records Act concerning a complaint shall be confidential and kept in a separate locked file. Access shall be granted only to parties who have a direct and relevant need-to-know and only with the City Manager's approval.

Section 2.9 of the Personnel Manual is hereby amended and reads as follows:

2.9 Workplace Bullying Policy

- (a) **General Policy.** The purpose of this policy is to communicate to all employees, including supervisors, department heads that the City of Paola will not in any instance tolerate bullying behavior. Employees found in violation of this policy will be disciplined, up to and including termination.
- (b) **Bullying Defined.** The City of Paola defines bullying as repeated, health-harming mistreatment of one or more people by one or more perpetrators. It is abusive conduct that includes, but is not limited to:
 1. Threatening, humiliating or intimidating behaviors.

2. Work interference/sabotage that prevents work from getting done.
3. Verbal abuse

Such behavior violates the general policy for employee conduct which clearly states that all employees will behave in a professional and ethical manner at all times.

(c) **Examples of Bullying.** The City considers the following types of behaviors examples of bullying. This list is not intended to be a complete list of misconduct that may result in immediate termination or other disciplinary action; these are merely some examples of unacceptable conduct:

1. Verbal bullying. Slandering, ridiculing or maligning a person or his or her family; persistent name-calling that is hurtful, insulting or humiliating; using a person as the butt of jokes; abusive and offensive remarks.
2. Physical bullying. Pushing, shoving, kicking, poking, tripping, assault or threat of physical assault, damage to a person's work area or property.
3. Gesture bullying. Nonverbal gestures that can convey threatening messages.
4. Exclusion. Socially or physically excluding or disregarding a person in a work-related activity.

In addition, the following examples may constitute or contribute to evidence of bullying in the workplace.

1. Using obscene or intimidating gestures.
2. Not allowing the person to speak or express themselves (i.e., ignoring or interrupting).
3. Personal insults and use of offensive nicknames.
4. Public humiliation in any form
5. Public reprimands.
6. Repeatedly accusing someone of errors that cannot be documented.
7. Deliberately interfering with mail and other communications.
8. Spreading rumors and gossip regarding individuals.
9. Encouraging others to disregard a supervisor's instructions.
10. Manipulating the ability of someone to do his or her work (i.e., overloading, under loading, withholding information, setting deadlines that cannot be met, giving deliberating ambiguous instructions).
11. Taking credit for another person's ideas.

12. Deliberately excluding an individual or isolating him or her from work-related activities, such as meetings.

13. Unwanted physical contact, physical abuse or threats of abuse to an individual or individual's property (defacing or marking up property)

Bullying Complaint Procedure. Any employee who feels he/she is being subjected to bullying should immediately contact one of the persons listed below with whom the employee feels the most comfortable. Complaints may be made orally or in writing to:

1. The employee's immediate Supervisor.
2. The employee's Department Head.
3. Other Supervisory Personnel.
4. The Human Resource Director.
5. The City Manager.

Employees shall not make a complaint to the person who is the alleged bully or persons who are alleged to be involved in the bullying. Instead, the complaint should be made to the other listed persons.

The recipient of the complaint shall immediately report the complaint directly to the Human Resources Director. Once a complaint is received, the Human Resources Director shall inform the City Manager of the complaint and shall immediately conduct a thorough investigation regarding any complaint. If the Human Resources Director is named as a witness or alleged to have engaged in the wrongful conduct, the City Manager's designee shall conduct the investigation. At the discretion of the City Manager, a neutral third-party may be secured to investigate any complaint of bullying. If third-party investigators are used, disclosure of any investigation report and its content will be restricted to the City.

An investigation will be conducted consistent with the City's investigation procedures. The City shall complete an investigation as soon as practicable upon receipt of any complaint of bullying.

When asked, all employees shall cooperate fully and completely with such investigations. Refusal to cooperate, or interfering with an investigation in any way, shall subject employees to immediate disciplinary action, up to and including being discharged from employment.

The investigation findings, along with any recommendations, shall be submitted by the investigator to the City Manager. The City Manager shall take disciplinary or remedial action as appropriate. The City Manager shall notify the complainant and any other parties of the investigative findings as appropriate.

If the City Manager determines, after reviewing the investigation report, that the complaint was intentionally falsified by the employee filing the complaint, the City Manager shall take immediate and appropriate disciplinary action against the employee, to be determined on a case-by-case basis, up to and including termination.

In the event that the City Manager is named as a witness or alleged to have engaged in the wrongful conduct. The complaint should be made directly to the Human Resource Director. After receiving a complaint, the HR Director shall assist the employee in preparing the complaint with documenting the incident in writing and the employee shall affix their signature attesting to the accuracy and truthfulness of the complaint. All information disclosed in the complaint procedure will be held in strictest confidence and will only be disclosed on a need-to-know basis in order to investigate and resolve the matter.

The Human Resource Director shall inform the City Attorney. In the absence of the Human Resource Director, the City Clerk will serve as the City's designee to the City Attorney. The City Attorney will inform the City Council and the City Council will then proceed with an investigation as directed by either internal or external legal counsel.

NOW THEREFORE BE IT RESOLVED by the governing Body of the City of Paola, Kansas that said Sections of the Personnel Manual be hereby amended and adopted as the official policy of the City of Paola, Kansas effective on January 11, 2022.

BE IT FURTHER RESOLVED that this Amended Personnel Manual is intended to and shall replace all previous versions, and that copies of said manual shall be available in the office of the City Clerk.

PASSED, APPROVED AND ADOPTED this 11th day of January, 2022.

Leigh House, Mayor

ATTEST: [seal]

Stephanie Marler, City Clerk