



# City of Phoenix

<b>ADMINISTRATIVE REGULATION</b>	A.R. NUMBER 2.35 Revised
	FUNCTION Personnel and Payroll Page 1 of 5
SUBJECT  <b>EQUAL EMPLOYMENT OPPORTUNITY</b>	EFFECTIVE DATE March 22, 2005
	REVIEWED DATE March 3, 2010

## I. STATEMENT OF COMMITMENT

The City of Phoenix is committed to providing a discrimination-free environment for all employees. The City will not tolerate prohibited discrimination in the workplace.

## II. PURPOSE

This regulation defines prohibited discrimination, reaffirms the City's policy prohibiting discrimination, outlines City department responsibilities for compliance with this policy, and clarifies procedures available to City employees and applicants for City positions who believe that they have been discriminated against or denied equal employment opportunity in any aspect of City employment because of race, color, religion, gender, age, disability, sexual orientation, genetic information or national origin. It also protects employees from discrimination based on their record of a disability, because they are regarded as having a disability or have a relationship with a person who has a disability.

See Administrative Regulation 2.35(A) for sexual harassment issues and Administrative Regulation 2.35(B) for protected category harassment.

Nothing contained in this Administrative Regulation shall be interpreted to require a less qualified employee or applicant be given a preference over a better qualified employee or applicant based solely on race, color, religion, gender, age, disability, sexual orientation, genetic information, or national origin.

## III. DEFINITIONS

The following definitions apply to the provisions of this Administrative Regulation.

"Discrimination" is any act taken because of race, color, religion, gender, age, disability, sexual orientation, genetic information, or national origin by a City employee or group of employees that adversely affects another employee or applicant in any aspect of City employment. It also includes such acts directed at an employee because of their record of a disability, because they are regarded as having a disability or have a relationship with a person who has a disability.



Discrimination can occur in any process or function in achieving or maintaining City employment, such as in work assignments, working conditions, job classification, disciplinary actions, promotions, salaries, performance ratings and merit pay increases, interpretations of City rules and regulations, or other aspects of City employment which affects employees or job applicants unequally.

"Sexual orientation" refers to heterosexuality, homosexuality, transexuality, or bisexuality.

#### IV. POLICY

Discrimination will not be tolerated in any aspect of City employment. No employee of the City is permitted to discriminate against another employee based on race, color, religion, gender, age, disability, sexual orientation, genetic information, or national origin. No employee can discriminate against another based on the race, color, religion, gender, age, disability, sexual orientation or national origin of a person with whom the other associates. Supervisors, managers, and executives are required to take proactive steps to prevent discrimination and to take prompt corrective action wherever it occurs.

The filing of a discrimination complaint cannot be used against an employee or job applicant in any aspect of employment. Any City employee found guilty of retaliation due to the filing of a discrimination complaint shall be disciplined accordingly.

City employees and job applicants are urged to raise discrimination questions promptly, so that issues can be addressed and corrected promptly before the situation deteriorates. Experience has shown that many such problems can be quickly resolved through City administrative channels if addressed early.

The City shall not deny any City service to any person on the basis of such person's sexual orientation as defined above and outlined in Phoenix City Code § 18-10.01.

#### V. REPORTING DISCRIMINATION

1. **When to make a report.** Any employee who believes s/he has been discriminated against on the job or in the hiring process because of race, color, religion, gender, age, disability, sexual orientation, national origin, genetic information or any other protected basis must report it immediately. Any employee or supervisor who knows or believes that employment discrimination is occurring, or has occurred, also must file a report immediately.
2. **Where to make a report.** Employment discrimination should be reported to a supervisor, department management, department Personnel Officer/Equal Opportunity Liaison, or to the Equal Opportunity Department's Compliance and Enforcement Division at (602) 262-7486 (voice) or (602) 534-1557 (TTY).

Applicants for employment should file their complaints or discuss their concerns directly with the Equal Opportunity Department.

**Complaints must be filed within 180 days of the alleged act(s) of discrimination.**

If there is uncertainty as to whether or not a situation constitutes discrimination, the concerned individual is encouraged to discuss the matter with the department's Personnel Officer/Equal Opportunity Liaison or the Equal Opportunity Department before determining whether to file a formal complaint. Applicants for employment should file their complaints or discuss their concerns with the Equal Opportunity Department.

An employee or applicant may choose to raise the complaint with a state or federal agency without first pursuing it through City channels. Pursuant to state and federal law, complaints may also be filed with the Civil Rights Division of the Arizona State Attorney General's Office (ACRD) at (602) 542-5263 (voice) or (602) 542-5002 (TTY), or the U.S. Equal Employment Opportunity Commission (EEOC) at (602) 640-5000 (voice) or (602) 640-5072 (TTY).

3. **How to make a report.** All employees have a right to redress for prohibited discrimination. In order to secure, this right the employee should provide a complaint, preferably in writing, as soon as possible following the incident, to any of the following City of Phoenix staff:
- Supervisor or another person in the chain of command
  - Department Personnel Officer
  - Department Equal Opportunity Liaison, or
  - Equal Opportunity Department, Compliance and Enforcement Division

## **VI. INVESTIGATION OF COMPLAINTS**

The following procedures will be followed when a report of discrimination is made.

1. **Department investigation.** When an employee or applicant reports a concern about possible discrimination to a City of Phoenix department, the department may, if it has the resources and expertise to do so, conduct its own investigation. In such an instance, the investigation must be done in consultation with the Equal Opportunity Department and in a manner that is generally consistent with the procedure outlined below for the Equal Opportunity Department.
2. **Equal Opportunity Department investigation.** When a possible discrimination concern is brought to the Equal Opportunity Department, the Compliance and Enforcement Division will evaluate the situation and decide on a proper course of action. Among the actions that can be taken are:

- a. The Equal Opportunity Department can facilitate an informal resolution between the parties if it deems it appropriate after reviewing the complaint. This can include consulting with the parties involved to settle the issue.
- b. If a formal complaint is filed, the Equal Opportunity Department will:
  - i. Notify the appropriate Deputy City Manager, Department Head and Equal Opportunity Liaison of the complaint; and
  - ii. Immediately initiate an investigation to gather all relevant facts concerning the complaint.
- c. The Equal Opportunity Department may:
  - i. Schedule interviews with various employees, supervisors, witnesses or officials. Interviews may be tape-recorded or a written statement of the testimony may be provided for the signature of the witness;
  - ii. Review personnel records or other documents;
  - iii. Make site visits to acquire pertinent facts; and
  - iv. Require employees to participate in an investigation either by submitting to an interview or providing documents or other relevant information; failure to participate may result in disciplinary action.
- d. The Equal Opportunity Department will work with the department(s) involved to obtain and evaluate all relevant evidence with respect to what has occurred.
- e. The Equal Opportunity Department will analyze all pertinent information and reach a conclusion as to whether or not a violation of this policy has occurred.
- f. Notice of the conclusion of the investigation will be given to the complainant, the appropriate Deputy City Manager, the Department Head, the department Equal Opportunity Liaison, and the respondent.
- g. All persons involved in an investigation of discrimination must attempt to keep the matter confidential; failure to do so may result in disciplinary action. This admonition does not apply to speaking with an attorney functioning within the attorney-client relationship. In addition, employees who receive a "notice of investigation" or "notice of inquiry" are permitted to consult with their union or association representative.

## **VII. RESOLUTION OF COMPLAINTS**

An employee who engages in discrimination is acting contrary to City policy and will be subject to discipline, up to and including termination.

1. When it is determined that this policy has been violated, the Equal Opportunity Department will make recommendations for the resolution of the complaint.

2. Management will take prompt corrective action. If warranted, verbal counseling up to and including involuntary termination will be imposed. Other appropriate actions will be taken to correct problems caused by the conduct.
3. A finding that the conduct does not constitute discrimination does not limit a department's right and responsibility to discipline or take remedial action for unacceptable conduct that may amount to conduct unbecoming a City employee and/or is in violation of any other City policy or regulation.

#### VIII. NON-DISCRIMINATION INCIDENTS

Alleged acts of unfair or unequal treatment that do not involve discrimination, are not based upon an individual's gender, race, color, sexual orientation, religion, age, disability, national origin, genetic information, or any other protected basis, or do not involve sexual harassment should be addressed through the established grievance procedure and other provisions outlined in Administrative Regulation 2.61.

#### IX. RETALIATION

1. No supervisor, manager, executive, or coworker may retaliate against an employee who makes a report of discrimination or cooperates with an investigation. **Retaliation is unlawful and will not be tolerated.** Retaliation must be reported and handled in the same way as complaints of discrimination. Retaliation is a serious offense that may result in discipline up to and including termination.
2. A person found to have retaliated in response to a charge of discrimination will be subject to discipline. Exoneration on the underlying charge of discrimination will have no effect on the investigation of or possible discipline imposed for retaliation.
3. No supervisor, manager, executive, or coworker may retaliate against an employee who has participated in an interactive process for a reasonable accommodation under the Americans with Disabilities Amendments Act. Retaliation is a serious offense that may result in discipline up to and including termination.

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