

About EEO:

What You May Not Know

City of New York
Bill de Blasio, Mayor

Department of Citywide Administrative Services
Stacey Cumberbatch, Commissioner



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EEO stands for Equal Employment Opportunity. This booklet is intended to help you understand some of the things you may not know about what the City's EEO Policy covers and to provide information on how you can address EEO issues in the workplace. To learn more about the City's EEO Policy, contact an EEO representative at your agency.

What is EEO all about?

The City's EEO Policy was created to provide equal opportunity for all employees and applicants for employment by ensuring that all workplaces in City agencies are free of illegal discrimination, including harassment, based on race, color, national origin, religion, gender (including "gender identity" -- which refers to a person's actual or perceived sex, and includes self-image, appearance, behavior or expression, whether or not different from that traditionally associated with the legal sex assigned to the person at birth), age, disability, alienage or citizenship status, marital status, prior record of arrest or conviction, genetic predisposition (having something in your genes which increases the risk of your having a disease or disability), carrier status (having something in your genes which increases the risk of your children having a disease, even though you do not have it yourself), sexual orientation, or being a victim of domestic violence. The City's EEO Policy provides an opportunity for employees and applicants for employment to complain about discrimination and also protects them from retaliation when they make EEO complaints or cooperate in EEO investigations.

What is "equal opportunity?"

Equal opportunity exists when decisions, practices and procedures relating to the workplace are made in a way that gives everyone a chance to succeed. This means that all decisions and practices about recruitment, testing, selection, hiring, work assignments, salary and benefits, accommodations, working conditions, performance evaluations, promotions, training opportunities, career development, transfers, discipline and discharge must be made free of illegal discrimination.

You probably already know that deciding against promoting someone or paying a person less because of his or her race, sex, national origin, religion, etc. is illegal.

BUT...

Did you know that the following behaviors could be violations of the City's EEO Policy?

- Treating an individual differently, such as denying a person a job, because that person is believed to be disabled even though that person has no disability. The same is true when individuals are treated differently because of assumptions or inaccurate perceptions about their race, gender, religion, national origin, age, sexual orientation, etc.
- Engaging in unwelcome behavior, whether or not directed at a particular individual, that creates a threatening, intimidating, offensive or hostile work environment, based on race, gender, religion, national origin, age, disability, sexual orientation, etc.
- Using derogatory or demeaning statements, slurs, jokes, gestures, notes, materials or e-mails related to race, gender, religion, national origin, age, disability, sexual orientation, etc.

- Treating individuals differently because of their marriage to, domestic partnership or association with, persons of a racial, religious or national origin group; or because of their membership in or association with an organization identified with the interests of a racial, religious or national origin group; or because their names or spouses' or domestic partners' names are associated with a racial, religious or national origin group.
- Retaliating against or harassing any person for: (1) filing an EEO complaint; (2) seeking a reasonable accommodation for a disability, or religious observance or practice; (3) opposing discrimination in the workplace; or (4) cooperating in the investigation of an EEO complaint.
- Failing to make reasonable accommodations for persons with disabilities and/or failing to make reasonable accommodations for religious observances or practices, unless providing such accommodations would create undue hardship for the agency.
- Engaging in discriminatory or harassing behavior at any location that could be an extension of the workplace, such as any field location, any off-site business-related social function, or any facility where City business is being conducted and discussed.

How can I be sure that my behavior is proper?

All employees should be respectful of their co-workers and members of the public, and be sensitive to the effects of their behavior on those around them.

* * * * *

The following sections provide more information about specific protections under the City's EEO Policy.

Sexual Harassment

What is sexual harassment?

Sexual harassment is a form of discrimination prohibited by federal, state and city laws. The federal government has created guidelines that describe sexual harassment as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when submission to or rejection of this conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance or creates an intimidating, hostile or offensive work environment.

What conduct is unwelcome?

The conduct is unwelcome if you did not initiate it, encourage it, provoke it or request it, and you feel that you are being ridiculed or that the conduct is demeaning, insulting, offensive, undesirable, hostile, intimidating or threatening.

What are some behaviors that violate the City's sexual harassment policy?

Telling sexual jokes or making sexual innuendos which cause embarrassment and discomfort to an individual may violate the City's sexual harassment policy. Also, repeatedly asking a co-worker for a date may be sexual harassment if this causes negative job consequences or an uncomfortable work environment. Asking for or pressuring a person into granting sexual favors in exchange for a job benefit, or threatening a person with negative employment decisions for rejecting sexual advances, violates the City's sexual harassment policy. Using office equipment, interoffice mail, e-mail, voice-mail or bulletin boards to send or display sexually suggestive messages, pictures,

cartoons, posters or objects, or making sexually suggestive comments or propositions, or leering, squeezing, pinching, grabbing or other touching may be sexual harassment.

Does sexual harassment have to involve sexual advances or other conduct that is sexual in nature?

The City's EEO Policy prohibits not only harassment of a sexual nature — that is, involving sexual activity or language — but also harassment that involves vulgar language, abusive acts or language, hostility, physical aggression, intimidation, or unequal treatment that is related to a person's gender.

Is everyone in the city's workplaces entitled to be free of sexual and gender-based harassment?

Yes. Some people think that sexual harassment only happens to women and that all harassers are men, but anyone can be sexually harassed, including men and people of the same sex as the harasser. You may complain regardless of whether the harasser is a manager, supervisor or co-worker. You may complain about harassment even if you are a manager or supervisor or if someone other than yourself is the target of the offensive conduct. Sexual harassment violates the City's policy even when the harasser is from another division or agency, or when the harasser is a client, customer, consultant, vendor, or other person who is not a City employee.

What if I don't mean to sexually harass anyone?

Even social relationships or behaviors that are not intended to hurt others may be unwelcome, offensive, intimidating or hostile, and therefore potentially sexually harassing. A good rule to follow: be sensitive to how others are reacting to your behavior, and always try to treat your fellow employees, men and women alike, with consideration, courtesy and respect.

Other Forms of Harassment

The City's EEO Policy prohibits any harassment based on your race, color, religion, national origin, age, disability, sexual orientation, etc. Harassing behavior includes, but is not limited to: slurs or abusive language, denigrating jokes, display or circulation of derogatory written or graphic materials, abusive acts, hostility, physical aggression, intimidation, or other unequal treatment. Any such conduct creates an intimidating, hostile or offensive work environment and could violate the City's EEO Policy. As in the case of sexual harassment, if you are subjected to such unwelcome conduct, you may complain regardless of whether the harasser is a manager, supervisor, co-worker, client, customer, consultant, vendor, or other person who is not a City employee. You may complain about harassment even if you are a manager or supervisor or if someone other than yourself is the target of the offensive conduct.

Disabilities

In addition to prohibiting discrimination based on disability, the City's EEO Policy also provides for reasonable accommodations for qualified persons with disabilities.

What is a disability?

A disability is (1) a physical, medical, mental or psychological impairment, or (2) a history or record of such an impairment, or (3) being regarded as having such an impairment. If you feel that you need an accommodation for your disability, you should make a request for a reasonable accommodation.

What are reasonable accommodations?

Reasonable accommodations include equipment, changes in workplace policies and practices, and other forms of assistance that allow people with disabilities to apply for a position, to perform their jobs, or to enjoy equal benefits and privileges of employment as are enjoyed by other similarly situated employees without disabilities. Whether an accommodation is reasonable will depend upon the circumstances of each request. City agencies are required to provide reasonable accommodations unless providing such accommodations creates an undue hardship.

What is an undue hardship?

Undue hardship is when an accommodation is excessively difficult, costly, extensive, substantial, or disruptive, or an accommodation would change the nature or operation of an agency's business.

What types of accommodations could my agency provide for people with disabilities?

Depending on the circumstances, accommodations that are reasonable may include, but are not limited to, those listed:

- making facilities physically accessible to and usable by people with disabilities (e.g., providing ramps, restroom grab bars, signage);
- job restructuring (e.g., reallocating non-essential typing, telephone or other clerical assignments among employees, assignment of non-essential tasks to others, eliminating non-essential tasks);
- modifying work schedules (e.g., permitting part-time work schedules or alternative starting and ending times to avoid standing and jostling on subways);
- providing or modifying equipment, devices or materials (e.g., raising a desk on boards for an employee who uses a wheelchair, providing flashing lights and volume controls on intercoms and telephones, installing text telephones [TTYs], providing large-print computer display programs, or materials in alternative formats, including Braille, audio tape or enlarged print);
- providing qualified readers, interpreters, or other support services during the application, interview and testing processes, and during training and other employment and employment-related activities, including employment-related social functions (e.g., office parties, picnics);
- providing leave (e.g., permitting the use of paid or unpaid sick or annual leave); and/or
- arranging for transfer or reassignment to a vacant position, if such transfer or reassignment does not violate the Civil Service Law, Personnel Rules and Regulations or other applicable laws, regulations and/or collective bargaining agreements.

What if my disability presents risks to the safety of myself or others?

The ability to perform your work safely, without presenting a significant risk of harm to yourself or others, is an essential requirement of your job. If your disability presents a risk to safety, your agency will determine whether there is a reasonable accommodation that can be made to enable you to continue to perform the job in a safe manner. Your agency is not required to provide an accommodation that poses an undue hardship or that does not adequately eliminate the risk to safety.

How can I get an accommodation for my disability?

Speak to a supervisor or a manager or an agency EEO representative. You may be asked to complete a form which is available at the EEO office and to provide documentation in support of your request. Requests for accommodation can be made at any time.

Will the information I provide related to my request be treated confidentially?

All documentation and information obtained in each stage of the reasonable accommodation process regarding your medical history must be collected and maintained on separate forms and in separate medical files held by the agency EEO officer. They also must be kept separate and apart from other personnel data and treated as confidential medical records, except that managers and supervisors may be informed of necessary restrictions on work and accommodations required. Furthermore, the information may be disclosed: (1) to first-aid and safety personnel if your disability might require emergency treatment; (2) to government officials investigating the agency's compliance with applicable laws; (3) to workers' compensation offices in accordance with the Workers' Compensation Law; and (4) for insurance purposes.

How will a decision about my request for a reasonable accommodation be made?

The agency will evaluate the information you provide to determine whether you have a disability, and whether you need a reasonable accommodation to perform the essential functions of your job or to enjoy equal benefits and privileges of employment as are enjoyed by other similarly situated employees without disabilities. In some cases, the agency may ask you to provide additional information needed to make these determinations. If the agency concludes that you do have a disability and a reasonable accommodation is needed, the agency will consult with you to determine what accommodation to provide. The EEO officer may facilitate this process, and help with researching an appropriate reasonable accommodation.

If the agency finds that I do need a reasonable accommodation, am I entitled to the accommodation I requested?

The agency will consider your preferences, but ultimately, the agency has the right to make a choice among reasonable accommodations that are effective. If the accommodation that you receive is no longer effective, you may request a different accommodation.

Religion

What is religious discrimination?

The City's EEO Policy prohibits discrimination because of religion. This means that you cannot be treated in a hostile way because of your religion or because you do not have a religion, you cannot be disadvantaged because of your religion and you may not be harassed because of religion. In addition, depending on the circumstances, you may be entitled to a reasonable accommodation because of religion.

What are some behaviors that violate the City's EEO Policy?

- Making insults about a co-worker's religion, such as putting a sign on the bulletin board warning everyone not to trust the co-worker because s/he is a pagan and a heathen.
- Not being promoted because you don't share your supervisor's religious beliefs even though you are able to perform the job requirements.
- Being denied a reasonable accommodation to pray in the workplace during lunch and break periods because a manager, who asserts that s/he practices the same religion, believes that the religion does not require prayer in the workplace.

What is a reasonable accommodation for religion?

A reasonable accommodation for religion is a change in a workplace rule or practice that allows you to respect your religious beliefs. Under the City's EEO Policy, agencies must try to accommodate the religious observances, beliefs or practices of an employee or applicant, unless the accommodation creates an undue hardship for the agency.

Whether an accommodation is reasonable or creates an undue hardship depends upon the circumstances of each situation.

What types of religious accommodations may I request?

Depending on the circumstances, agencies may be required to provide workers with a reasonable accommodation for religion such as:

- flexible arrival and departure times
- leave or voluntary swaps of shifts or assignments
- time and/or place to pray
- accommodations relating to appearance and dress
- modifying workplace practices, policies and/or procedures

How can I get an accommodation?

You may speak to your supervisor or your agency's EEO officer or another EEO representative. Your agency will not be required to provide an accommodation that you have not requested, or that is too costly or difficult to provide, or that would interfere with your performing your job.

What happens after I submit a request?

You will be notified whether your request for accommodation is granted or denied. If the accommodation that you request cannot be granted, your agency's EEO officer will seek to facilitate discussions, research appropriate reasonable accommodations and try to have an alternative reasonable accommodation put in place.

The EEO Complaint Process

What can I do about discrimination?

The City's EEO Policy contains procedures for reporting and addressing EEO issues. You should follow these procedures whenever you believe you have an EEO complaint or are aware of a problem possibly involving discrimination. You are urged to contact your agency's EEO officer or any other EEO representative within your agency if you believe that any type of discrimination is occurring at a City agency. You also have the right to file a complaint with an outside enforcement agency, which – depending on the nature of the complaint – may include the New York City Commission on Human Rights, the New York State Division of Human Rights or the United States Equal Employment Opportunity Commission.

Who can I complain about?

The City's EEO Policy applies to anyone in the workplace. Complaints can be filed against a senior level staff member, a manager, a supervisor, or a co-worker. You can also make an EEO complaint about the discriminatory conduct of a person you come in contact with while performing your job who is not an employee of your agency, such as a client, customer, consultant or vendor.

Am I protected against something bad happening to me if I file a complaint or request an accommodation?

It is a violation of the City's EEO Policy to retaliate against or harass any person for filing an EEO complaint, opposing discrimination in the workplace, or cooperating in an EEO investigation. You may not be retaliated against for seeking a reasonable accommodation. You should report any retaliatory behavior to an agency EEO representative because you may also have a right to file a separate complaint for retaliation.

Can I file a complaint without giving my name?

Yes, but if you do not reveal your identity, it may be difficult to investigate your complaint. If you request that your identity be concealed, your agency EEO representative will attempt not to reveal it. You should know, however, that sometimes, during the course of an investigation, your identity may become obvious to the person that you are complaining about.

How can I file a complaint?

You can meet personally with an agency EEO representative. You can also file a complaint by calling or writing the agency EEO office.

How long do I have to file a complaint with my agency EEO office?

Discrimination complaints filed with your agency EEO office must be made within one year of the incident that you are complaining about.

What if I need help to file my complaint?

Let an agency EEO representative know if you need assistance such as a physically accessible location, a sign language interpreter or special equipment in order to make a complaint or participate in the complaint process. In the event that you are unable to fill out a complaint form, an agency EEO representative will help you complete it.

Can I meet with my agency EEO officer or agency EEO representative during office hours?

You can meet with an agency EEO representative during office hours, but, first, you should get permission to leave your work area. Your supervisor must approve such requests as long as your absence does not disrupt the operation of your unit. You

are not required to tell your supervisor the reason that you want to meet with an agency EEO representative. If you prefer, an agency EEO representative can arrange to meet with you before or after office hours, during your lunch period, or at outside premises.

Can someone come with me to the EEO meeting?

You may bring someone with you to the EEO meeting. This includes a co-worker, friend, spouse, other relative or family member, union representative, lawyer, or anyone else as long as you let the agency EEO representative know in advance.

What happens at the EEO meeting?

An agency EEO representative will interview you to determine what kind of assistance you might need. The agency EEO representative will discuss with you the available options for handling the matter. These options include actions you could take on your own, mediation, investigation, or referrals to other offices and/or agencies which may be of assistance.

What is mediation?

Mediation is a voluntary, informal, and confidential process that provides an opportunity for everyone involved in a complaint to come to a mutual agreement about how the complaint can be resolved. It is a choice that could quickly resolve your complaint without a full investigation.

What happens during an EEO investigation?

During an investigation, the agency EEO representative will gather information to determine what happened. This process includes reviewing the complaint, interviewing everyone involved (including any witnesses or anyone who might provide information), and reviewing documents or other available evidence.

What happens after an EEO investigation?

The agency EEO officer will report the outcome of the investigation to your agency head, who will determine whether or not there has been a violation of the City's EEO policy. In some cases, information contained in an EEO complaint may be shared with the agency's disciplinary officer, general counsel or inspector general. If a violation of the City's EEO Policy has occurred, appropriate corrective action will be taken. Corrective action may include disciplinary measures such as formal reprimand, suspension, probation, transfer, demotion, fine or termination. It may also include measures necessary to address the impact that the policy violation had on the complainant or the agency. The agency EEO officer will advise all parties of the agency head's determination.

Will my privacy be protected?

Information provided to your agency's EEO officer and other EEO representatives will be treated as confidential, to the extent this is consistent with adequate investigation and measures needed to take appropriate corrective action.

What if I change my mind after I file a complaint?

If you change your mind after you file a complaint, your agency EEO officer may still have to find out whether the discriminatory conduct that you complained about requires further action. If so, the agency EEO officer will continue to address the complaint and take appropriate action.

What if I decide to file a complaint outside of my agency?

The following federal, state and local agencies enforce laws against discrimination:

New York City Commission on Human Rights

40 Rector Street, 9th Floor

New York, NY 10006

(212) 306-7450 (voice); (212) 306-7686 (TTY)

Web site: www.nyc.gov/html/cchr/home.html

New York State Division of Human Rights

One Fordham Plaza, 4th Floor

Bronx, NY 10458

(718) 741-8400

or

163 West 125th Street, 4th Floor

New York, NY 10027

(212) 961-8650 (voice); (212) 961-8999 (TTY)

or

20 Exchange Place, 2nd Floor

New York, NY 10005

(212) 480-2522

or

55 Hanson Place, 3rd Floor

Brooklyn, NY 11217

(718) 722-2856

Web site: www.nysdhr.com

United States Equal Employment Opportunity Commission

New York District Office

33 Whitehall Street, 5th Floor

New York, NY 10004

(212) 336-3620 (voice); (212) 336-3622 (TTY)

Web site: www.eeoc.gov

In addition to filing with the agencies listed above, a person with a complaint alleging discrimination based on disability may file with:

**United States Department of Justice
Civil Rights Division**

Disability Rights Section
New York Avenue Building
950 Pennsylvania Avenue N.W.
Washington, D.C. 20530
(202) 307-0663 (voice and TDD)
Website: www.usdoj.gov/crt/drs/drshome.htm

A person with a complaint alleging discrimination based on citizenship or immigration status may file with:

**United States Department of Justice
Civil Rights Division**

Office of Special Counsel for Immigration-Related Unfair
Employment Practices
Office of Special Counsel
New York Avenue Building
950 Pennsylvania Avenue N.W.
Washington, D.C. 20530
Voice: (202) 616-5594; (202) 616-5525; 1-800-255-7688
TDD: (202) 616-5525; 1-800-237-2515
Web site: www.usdoj.gov/crt/osc

A person who has been discriminated against by a recipient of financial assistance from the U.S. Department of Labor may file a complaint, either with the recipient or with the Civil Rights Center (CRC). Those who wish to file complaints with CRC should mail their complaints to:

United States Department of Labor

Director, Civil Rights Center

Frances Perkins Building, Room N-4123

200 Constitution Avenue, N.W.

Washington, D.C. 20210

(202) 693-6502 (voice); (202) 693-6515/16 (TTY)

Web site: www.dol.gov/dol/oasam/crchome.htm

Please Note: There are statutory deadlines for filing complaints with each of these agencies. The deadline in some instances is as short as 180 days. If you wish to file a complaint with an external administrative agency, you should promptly contact any of the above agencies directly or a private attorney for information about how to file a complaint, time limits, and how to preserve your rights.

How can I find out more about EEO?

If you wish to find out more, contact your agency's EEO officer or other EEO representative. You may also download the City's EEO Policy from the internet at the Department of Citywide Administrative Services' website at nyc.gov or visit

<http://www.nyc.gov/html/dcas/html/eeopol.html>

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EEO booklet -1/21/14



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**Addendum To
Citywide EEO Policy Handbook - “About EEO: What You May Not Know”**

NOTE:

**This addendum supersedes the prior two addenda to the
Citywide EEO Policy Handbook, dated October 5, 2005 and December 14, 2006.**

Amendments are denoted below by bold text.

In order to reflect recent changes to the New York State Human Rights Law (Executive Law, Section 290 *et seq.*) and the New York City Human Rights Law (Administrative Code, Section 8-101 *et seq.*), the EEO Policy Handbook - “About EEO: What You May Not Know,” is hereby amended to read as follows:

1. The first sentence in paragraph 2 on page 6 is amended as follows:

The City’s EEO Policy was created to provide equal opportunity for all employees and applicants for employment by ensuring that all workplaces in City agencies are free of illegal discrimination, including harassment, based on race, color, national origin, **immigration or citizenship status**, religion or creed, gender (including “gender identity”— which refers to a person’s actual or perceived sex, and includes self-image, appearance, behavior or expression, whether or not different from that traditionally associated with the legal sex assigned to the person at birth), age (**18 and over**), disability, **military status**, prior record of arrest or conviction, marital status, **predisposing genetic characteristic**¹, sexual orientation, **partnership status**² or status as a victim [**or required witness**³] of domestic violence, **sex offenses and stalking**⁴.

2. Behavior that could violate the City’s EEO Policy (pages 7-8) is amended to add the following:

- **Aiding, abetting, inciting, compelling or coercing any person present in a City facility, whether or not an employee of the City, from engaging in any conduct prohibited by the City’s EEO Policy, such as creating a hostile work environment based on any protected characteristic.**
- **Discriminating against or harassing a Work Experience Program (WEP) participant who performs work at a City agency.**

¹ The term “predisposing genetic characteristic” was adopted to streamline the terms “genetic predisposition” and “carrier status” in the previous version of the **New York State** law and took effect on August 30, 2005.

² “Partnership status” was added as a protected class under New York City’s Human Rights Law on October 3, 2005.

³ The New York State Penal law provides that it is a crime for employers to penalize an employee who is required **to appear in Court as a witness in a criminal proceeding including those related to domestic violence.**

⁴ “Status as victim or witness of sex offenses or stalking” was added as a protected class under the City Human Rights Law on December 22, 2003.

Work Experience Program ("WEP") Participants

Work Experience Program ("WEP") participants are also protected under the City's EEO Policy. WEP participants are public assistance recipients who are required to accept workfare assignments in order to receive benefits. The City of New York is committed to protecting WEP participants who perform work at City agencies from unlawful discrimination. WEP participants are protected under Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e, et seq. ("Title VII"); the Americans with Disabilities Act, 42 U.S.C. §12101, et seq. ("ADA"); and the Age Discrimination in Employment Act, 29 U.S.C. §621, et seq. ("ADEA"). Accordingly, WEP participants have a right to a workplace that is free of discrimination, including harassment, based on race, color, national origin, religion, gender, disability, or age, as provided for in the above laws.

In addition, as a matter of City policy, WEP participants should not be harassed or discriminated against on any basis that could otherwise be determined to be prohibited behavior pursuant to the City's Equal Employment Opportunity ("EEO") Policy (such as **immigration** or citizenship status, sexual orientation, gender identity, or status as a victim of domestic violence, **sex offenses and stalking**) as applied to employees or applicants for employment.

All City employees who direct, oversee, or interact with WEP participants performing work assignments at City agencies are required to treat WEP participants in a manner consistent with the treatment of City employees, as mandated by Title VII, the ADA, the ADEA and the City's EEO Policy.

If a WEP participant believes that he or she has been discriminated against or harassed in violation of Title VII, the ADA, the ADEA or any basis set forth in the City's EEO Policy, the WEP participant may file a complaint with the EEO Officer at the agency at which he or she is assigned. The EEO Officer will then take appropriate action, following the procedures outlined in the City's EEO Policy.

In addition, a WEP participant who believes that he or she has been discriminated against or harassed in violation of Title VII, the ADA or the ADEA may also have the right to file a complaint with the United States Equal Employment Opportunity Commission ("EEOC"), 33 Whitehall Street, 5th Floor, New York, New York 10004, (212) 336-3620, TTY: (212) 336-3622, website: www.eeoc.gov.

May 15, 2008