**Respectful Workplace Policy, LMC Model Policy**

*League staff thoughtfully develops models for a city’s consideration. Models should be customized as appropriate for an individual city’s circumstances in consultation with the city’s attorney. Helpful background information on this model may be found in the* [*Personnel Policies Chapter*](https://www.lmc.org/resources/hr-reference-manual-chapter-7-personnel-policies/) *of the Human Resources Reference Manual.* See Section XIII-Other policies.

***Note:*** The EEOC recommends providing the policy to employees upon hire and during harassment prevention trainings, as well as posting centrally, such as on the organization’s internal website, in the employee handbook, near employee time clocks, in employee break rooms, and in other commonly used areas or locations.

City of \_\_\_\_\_\_\_, Minnesota

Respectful Workplace Policy

(includes sexual harassment prevention)

The city believes employees, members of boards and commissions, elected officials and “third parties” (i.e., job applicants, volunteers, contractors/vendors, members of the public, and other persons visiting the workplace and public service environment) should be treated with dignity and respect. Simply put, respect in the workplace is a fundamental value of the city.

The intent of this policy is to provide general guidelines about appropriate conduct in the workplace and other city-sponsored social events.

The city acknowledges this policy cannot possibly predict all situations that might arise, and also recognizes that some employees can be exposed to disrespectful behavior, and even violence, by the very nature of their jobs.

**Applicability**

Maintaining a respectful and positive public service work environment is a shared responsibility. Disrespectful communications and behavior can disrupt the proper functioning of the workplace. This policy is intended to express to all employees, members of boards and commissions, elected officials, and “third parties” (i.e., job applicants, volunteers, contractors/vendors, members of the public, and other persons visiting the workplace and public service environment) the expectations by the city of \_\_\_\_\_\_\_\_\_\_for respectful workplace conduct both in the workplace and other city-sponsored social events. Therefore, it is the intent of the city of \_\_\_\_\_\_\_to ensure a respectful workplace and a public service environment free of disrespectful communications or behavior is being provided. As well as provide effective and non-retaliatory problem-solving processes that address concerns regarding respectful or professional communications or behavior.

**Responsibilities**

Employees and third parties are expected to:

* Conduct themselves in a manner that demonstrates respect for others in the workplace and public service environment.
* Use informal means to address issues with the individual(s) involved whenever possible.
* Participate fully and in good faith in any informal resolution process or formal complaint and investigative process for which they may have relevant information.
* Report incidents that may violate this policy in accordance with processes identified in this policy.

In addition to their responsibilities as employees as described above, managers and supervisors are also expected to:

* Inform their employees and third parties for whom they are responsible of the expectations outlined in this policy.
* Achieve and maintain compliance with this policy.
* Take timely and appropriate action when a complaint is made alleging violation of this policy.

Failure to comply with this policy and its procedures may result in disciplinary action, up to and including discharge, or ending a contractor or volunteer relationship with the city.

Context is important in understanding the difference between respectful behavior and disrespectful behavior. Individuals may experience stress or discomfort in the workplace that is not related to disrespectful behavior. For example, disrespectful behavior does not include:

* The normal exercise of supervisory or managerial responsibilities, including, but not limited to performance reviews, work direction, performance management, and disciplinary action provided they are conducted in a respectful, professional manner.
* Disagreements, misunderstandings, miscommunication, or conflict situations where the behavior remains respectful.

**Abusive Customer Behavior**

While the city has a strong commitment to customer service, the city does not expect employees to accept verbal and other abuse from the public.

An employee may request that a supervisor intervene when a customer is abusive, or the employee may defuse the situation themselves, including professionally ending the contact.

If there is a concern about the possibility of violence, the individual should use his/her discretion to call 911, and as soon as feasible, a supervisor, the city administrator, human resources or the city attorney. Employees should leave the area immediately when violence is imminent unless their duties require them to remain (such as police officers). Again, employees must notify their supervisor, the city administrator, human resources or the city attorney about the incident as soon as possible.

**Types of Disrespectful Behavior**

Disrespectful behavior may or may not be intentional. Unintentionally disrespectful behavior may still violate this policy.

It is not possible to anticipate in this policy every example of offensive behavior. Accordingly, employees are encouraged to discuss with their fellow employees and supervisor what is regarded as offensive, considering the sensibilities of employees and the possibility of public reaction.

Although the standard for how employees treat each other and the general public will be the same throughout the city, there may be differences between work groups about what is appropriate in other circumstances unique to a work group. If an employee is unsure whether a particular behavior is appropriate, the employee should request clarification from their supervisor or the city administrator. Examples of disrespectful behavior include but are not limited to:

* Exhibiting aggressive behaviors including shouting, abusive language, threats of violence, the use of obscenities or other non-verbal expressions of aggression.
* The use of physical force, harassment, bullying or intimidation.
* Behavior that a reasonable person would find to be demeaning, humiliating, or bullying.
* Inappropriate remarks about or conduct related to a person’s legally protected characteristic such as race, (including traits associated with race, including, but not limited to, hair texture and hair styles such as braids, locs and twists), color, creed, religion, national origin, disability, sex, gender, pregnancy, marital status, age, sexual orientation, gender identity, or gender expression, familial status, or status with regard to public assistance.
* Unwelcome touching or comments about a person’s hair, body, clothing, or personal effects.
* Repeatedly misgendering a person, including using gendered personal references that do not align with another person’s identity.
* Repeatedly or deliberately mispronouncing a person’s name, including use of an unwelcome nickname, or shortening a name without permission.
* Repeatedly or deliberately using a name other than a person’s chosen name, except as legally required or for business necessity.
* Microaggressions, which may have the appearance of being harmless. Microaggressions include comments, behavior, or other interactions that intentionally or unintentionally communicate hostility or bias toward a person who might identify as being a member of a marginalized group or nonmainstream community. Comments, behavior, or other interactions are often rooted in a bias towards a certain group.
* Deliberately destroying, damaging, or obstructing someone’s work performance, work product, tools, or materials.
* Use of this policy and procedure to make knowingly false complaint(s).

**Specifically, sexual harassment:**

Can consist of a wide range of unwanted and unwelcome sexually directed behavior such as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

* Submitting to the conduct is made either explicitly or implicitly a term or condition of an individual’s employment; or
* Submitting to or rejecting the conduct is used as the basis for an employment decision affecting an individual’s employment; or
* Such conduct has the purpose or result of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile or offensive work environment.

**Sexual harassment includes, but is not limited to, the following:**

* Unwelcome or unwanted sexual advances. This means stalking, patting, pinching, brushing up against, hugging, cornering, kissing, fondling or any other similar physical contact considered unacceptable by another individual.
* Verbal or written abuse, making jokes, or comments that are sexually oriented and considered unacceptable by another individual. This includes comments about an individual’s body or appearance where such comments go beyond mere courtesy, telling “dirty jokes” or any other tasteless, sexually oriented comments, innuendos or actions that offend others. The harassment policy applies to social media posts, tweets, etc., that are about or may be seen by employees, customers, etc.
* Requests or demands for sexual favors. This includes subtle or obvious expectations, pressures, or requests for any type of sexual favor, along with an implied or specific promise of favorable treatment (or negative consequence) concerning one’s current or future job.

**Names and Pronouns:**

Every employee will be addressed by a name, pronouns (e.g., she, her, hers, he, him, his, they, them, their) titles (e.g., Mrs., Mr., Ms.) and other terms indicating a person’s gender identity that correspond to the employee’s preferred gender identity. A court‐ordered name or gender change is not required.

**Employee Response to Disrespectful Workplace Behavior**

All employees should feel comfortable calling their supervisor or another manager to request assistance should they not feel comfortable with a situation. If situations involve violent behavior call the police, ask the individual to leave the area, and/or take other reasonable action.

If employees see or overhear what they believe is a violation of this policy, employees should advise a supervisor, the city administrator, or city attorney promptly.

Employees who believe disrespectful behavior is occurring are encouraged to deal with the situation in one of the ways listed below. If there is a concern about the possibility of violence, the individual should use his/her discretion to call 911, and as soon as feasible, a supervisor. In the event the disrespectful behavior occurring involves the employee’s supervisor, the employee should contact human resources, the supervisor’s manager or the city administrator.

**Step 1(a).** If you feel comfortable doing so, professionally, but firmly, tell whoever is engaging in the disrespectful behavior how you feel about their actions. Politely request the person to stop the behavior because you feel intimidated, offended, or uncomfortable. If practical, bring a witness with you for this discussion.

**Step 1(b).** If you fear adverse consequences could result from telling the offender or if the matter is not resolved by direct contact, go to your supervisor, human resources, your supervisor’s supervisor, or the city administrator. The person to whom you speak is responsible for documenting the issues and for giving you a status report on the matter.

In some situations, such as with an offender from the public, it is preferable to avoid one on one interactions. Talk to your supervisor about available options to ensure there are others available to help with transactions with the offender.

**Step 1(c).** The city urges conduct which is viewed as offensive be reported immediately to allow for corrective action to be taken through education and immediate counseling, if appropriate. It is vitally important you notify a supervisor, the city administrator, the mayor or councilmember of your concerns promptly. Any employee who observes sexual harassment or discriminatory behavior, or receives any reliable information about such conduct, must report it promptly to a supervisor or the city administrator.

**Step 2**. If, after what is considered to be a reasonable length of time (for example, 30 days), you believe inadequate action is being taken to resolve your complaint/concern, the next step is to report the incident to the city administrator, the mayor or the city attorney.

**Supervisor’s Response to Allegations of Disrespectful Workplace Behavior**

Employees who have a complaint of disrespectful workplace behavior will be taken seriously. In the case of sexual harassment or discriminatory behavior, a supervisor must report the allegations promptly to the city administrator, who will determine whether an investigation is warranted. A supervisor must act upon such a report even if requested otherwise by the victim. In situations other than sexual harassment and discriminatory behavior, supervisors will use the following guidelines when an allegation is reported:

**Step 1(a).** If the nature of the allegations and the wishes of the victim warrant a simple intervention, the supervisor may choose to handle the matter informally. The supervisor may conduct a coaching session with the offender, explaining the impact of their actions and requiring the conduct not reoccur. This approach is particularly appropriate when there is some ambiguity about whether the conduct was disrespectful.

**Step 1(b).** Supervisors, when talking with the reporting employee will be encouraged to ask them what they wish to see happen next. When an employee comes forward with a disrespectful workplace complaint, it is important to note the city cannot promise complete confidentiality, due to the need to investigate the issue properly. However, any investigation process will be handled as confidentially as practical and related information will only be shared on a need to know basis and in accordance with the Minnesota Government Data Practices Act and/or any other applicable laws.

**Step 2.** If a formal investigation is warranted, the individual alleging a violation of this policy will be interviewed to discuss the nature of the allegations. Formal investigations will be prompt, impartial, and thorough. The person being interviewed may have someone of their own choosing present during the interview. Typically, the investigator will obtain the following description of the incident, including date, time and place:

* Corroborating evidence.
* A list of witnesses.
* Identification of the offender.

To facilitate fostering a respectful work environment, all employees are encouraged to respond to questions or to otherwise participate in investigations regarding alleged harassment.

**Step 3**. The supervisor must notify the city administrator about the allegations (assuming the allegations do not involve the city administrator). For more information about what to do when allegations involve the city administrator, the mayor, or a councilmember, see “Special Reporting Requirements” below.

**Step 4**. In most cases, as soon as practical after receiving the written or verbal complaint, the alleged policy violator will be informed of the allegations, and the alleged violator will have the opportunity to answer questions and respond to the allegations. The city will follow any other applicable policies or laws in the investigatory process.

**Step 5.** After adequate investigation and consultation with the appropriate personnel, a decision will be made regarding whether or not disciplinary action will be taken.

**Step 6**. The alleged violator and complainant will be advised of the findings and conclusions as soon as practicable and to the extent permitted by the Minnesota Government Data Practices Act.

**Step 7**. The city will take reasonable and timely action in a fair and objective manner, depending on the circumstances of the situation.

The city is not voluntarily engaging in a dispute resolution process within the meaning of Minn. Stat. § 363A.28, subd. 3(b) by adopting and enforcing this workplace policy. The filing of a complaint under this policy and any subsequent investigation does not suspend the one-year statute of limitations period under the Minnesota Human Rights Act for bringing a civil action or for filing a charge with the Commissioner of the Department of Human Rights.

*The disclaimer above is in reaction to Peterson v. City of Minneapolis 892 N.W. 2d 824 (Minn. 2017), in which the Minnesota Supreme Court held that the City’s Respect in the Workplace Policy is a “dispute resolution process” under Minn. Stat. § 363A.28, subd. 3(b), and that the parties voluntary engagement in that process suspended the one-year statute of limitations period under the Minnesota Human Rights Act for the duration of the process.* ***It is not clear whether a disclaimer will be legally valid.*** *As a result, cities should conduct prompt investigations under this policy and notify complainants when an investigation is complete.*

**Special Reporting Requirements**

When the supervisor is perceived to be the cause of a disrespectful workplace behavior incident, a report will be made to the city administrator who will determine how to proceed in addressing the complaint as well as appropriate discipline.

If the city administrator is perceived to be the cause of a disrespectful workplace behavior incident, a report will be made to the city attorney who will confer with the mayor and City Council regarding appropriate investigation and action.

If a councilmember is perceived to be the cause of a disrespectful workplace behavior incident involving city personnel, the report will be made to the city administrator and referred to the city attorney. In cases such as these, it is common for the city council to authorize an investigation by an independent investigator (consultant). The independent investigator will report their findings to the City Council. The city will take reasonable and timely action, depending on the circumstances of the situation.

Pending completion of the investigation, the city administrator may at their discretion take appropriate action to protect the alleged victim, other employees, or citizens.

If an elected or appointed city official (e.g., council member or commission member) is the victim of disrespectful workplace behavior, the city attorney will be consulted as to the appropriate course of action.

**Confidentiality**

A person reporting or witnessing a violation of this policy cannot be guaranteed anonymity. The person’s name and statements may have to be provided to the alleged offender. All complaints and investigative materials will be contained in a file separate from the involved employees’ personnel files. If disciplinary action does result from the investigation, the results of the disciplinary action will then become a part of the employee(s) personnel file(s).

**Retaliation**

Retaliation is strictly prohibited against any employee or third party who:

* Initiates a complaint.
* Reports an incident that may violate this policy.
* Participates in an investigation related to a complaint.
* Is associated or perceived to be associated with a person who initiates a complaint or participates in the investigation of a complaint under this policy.

Retaliation includes, but is not limited to, any form of intimidation, reprisal, or harassment. Individuals who report harassing conduct, participate in investigations, or take any other actions protected under federal or state employment discrimination laws will not be subject to retaliation.

Retaliation is broader than discrimination and includes, but is not limited to, any form of intimidation, reprisal or harassment. While each situation is very fact dependent, generally speaking retaliation can include a denial of a promotion, job benefits, or refusal to hire, discipline, negative performance evaluations or transfers to less prestigious or desirable work or work locations because an employee has engaged or may engage in activity in furtherance of EEO laws.

It can also include threats of reassignment, removal of supervisory responsibilities, filing civil action, deportation or other action with immigration authorities, disparagement to others or the media and making false report to government authorities because an employee has engaged or may engage in protected activities. Any individual who retaliates against a person who testifies, assists, or participates in an investigation may be subject to disciplinary action up to and including termination.

If you feel retaliation is occurring within the workplace, please report your concern immediately to any of the following:

1. Immediate supervisor;
2. Your supervisor’s manager
3. City administrator;
4. Mayor or city councilmember
5. In the event an employee feels retaliation has occurred by the city administrator or the city council, then reporting may be made to the city attorney.

Supervisors who have been approached by employees with claims of retaliation will take the complaint seriously and promptly report the allegations promptly to the city administrator, or if the complaint is against the city administrator to the city attorney, who will decide how to proceed in addressing the complaint.

Consistent with the terms of applicable statutes and city personnel policies, the city may discipline any individual who retaliates against any person who reports alleged violations of this policy. The city may also discipline any individual who retaliates against any participant in an investigation, proceeding or hearing relating to the report of alleged violations.