**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 League recommends providing the policy to employees upon hire and during respectful workplace/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. The League also recommends providing the policy to contractors/vendors as well as others.

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, at other city-sponsored social events, at other work-related events (such as conferences), and at other occasions that may affect the workplace (i.e. coworker social gatherings).

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, positive workplace and public service work environment is a shared responsibility. Disrespectful communications and behavior can disrupt the proper functioning of the workplace. This policy communicates 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 occasions. Therefore, the City of \_\_\_\_\_\_\_ intends to ensure a respectful workplace and a public service environment free of disrespectful communications or behavior. The city also intends to
* Contact law enforcement and/or take any other immediate steps if they fear violence and/or otherwise feel unsafe.

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 and/or they have direct knowledge (observations, photos, videos, etc.) of a violation or potential violation.

Failure to comply with this policy and its procedures may result in disciplinary action, up to and including termination, 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.

**Reporting Requirements**

When a non-supervisory coworker is perceived to be the cause of disrespectful workplace behavior, a report will made to the supervisor and/or human resources, who will then determine how to proceed in addressing the complaint and whether discipline or other action is warranted.

When the supervisor is perceived to be the cause of a disrespectful workplace behavior incident, a report will be made to human resources and/or 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 city elected officials regarding appropriate investigation and action.

If a city elected official 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/or city attorney.

If the city attorney is perceived to be the cause of a disrespectful workplace behavior incident, a report will be made to the city administrator and/or elected officials who will confer regarding appropriate investigation and action.

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, human resources, the city administrator, and/or the city attorney may at their discretion take appropriate action to protect the complainant, other employees, or residents.

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

**Abusive Customer Behavior**

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

An employee may request 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/their discretion to call 911 and/or otherwise contact law enforcement, 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, human resources, and/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 (i.e. hitting a wall or other thing, throwing things, etc.).
* The use of physical force, harassment, bullying or intimidation.
* Behavior that a reasonable person would find to be demeaning, humiliating, bullying, or offensive.
* Viewing offensive videos or playing loud sexually graphic, violently misogynistic, racist, etc. Videos, music and/or media in the workplace.
* 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, 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, and/or offensive work environment. A true hostile work environment must meet certain legal criteria according to the EEOC. An environment can become hostile when:
	+ Unwelcome conduct, or harassment, is based on protect class status such as race, sex, pregnancy, religion, national origin, age, etc.
	+ Harassment is continued and long lasting.
	+ In limited but severe circumstances, a single incident of harassment can result in a hostile work environment.
	+ Conduct is severe or pervasive enough that the environment becomes intimidating, offensive or abusive.

**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.
* Relationships with subordinates or superiors or other power differentials are likely to lead to difficulties and have the potential to cause great personal and professional risk. Amorous, sexual, or intimate relationships between supervisors and their subordinates often adversely affect decisions, distort judgment, and undermine workplace morale even for those not engaged in the relationships.

**Names and Pronouns:**

Every employee will be addressed by a name, pronouns (e.g., she, her, hers, he, him, his, they, them, theirs) titles (e.g., Mx., Mrs., Mr., Ms.) and other terms indicating a person’s 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 supervisor to request assistance should they not feel comfortable with a situation. If a situation involves violent or potentially violent or other criminal behavior, employees should contact law enforcement and/or take any other immediate steps if they fear violence and/or otherwise feel unsafe. Employees must notify their supervisor the city administrator, human resources, or the city attorney about the incident as soon as possible, If employees see, hear, or otherwise learn of information that they believe shows a violation of this policy, they should inform a supervisor, the city administrator, or others as noted in the reporting section of this policy.

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 or other criminal conduct, employees should contact law enforcement, and as soon as feasible, follow the reporting requirements noted above.

**Step 1(a).** If an employee feels comfortable doing so, professionally, but firmly, they are to tell whoever is engaging in the disrespectful behavior how they feel about their actions. Professionally request the person to stop the behavior because they feel intimidated, offended, or uncomfortable. If practical, an employee can bring a witness along for this discussion.

**Step 1(b).** If an employee fears adverse consequences could result from telling the offender or if the matter is not resolved by direct contact, then they will want to report according to the reporting requirements noted above.

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

**Step 1(c).** The city encourages employees to address and/or report conduct that they believe is offensive and/or otherwise in violation of this policy as soon as possible. It is important employees report promptly any employee who observes sexual harassment or discriminatory behavior, or receives any reliable information about such conduct, must report it promptly.

**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 human resources and/or 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 complainant and/or the supervisor does not believe the complaint has merit. 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 complainant warrant a simple intervention, the supervisor may choose to handle the matter informally, and will also inform human resources and/or the city administrator. The supervisor may conduct a coaching session with the alleged violator, 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 confidentiality due to the need to investigate the issue. However, any investigation process will be handled as discreetly 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 have the opportunity to give their side of the story, including in an interview to the investigator. Formal investigations will be prompt, impartial, thorough, and comply with any applicable laws (such as the Peace Officer Discipline Procedures Act for peace officers). 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 alleged violator.

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**. Again, the supervisor must notify human resources and/or 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 “Reporting Requirements.”.

**Step 4**. In most cases, as soon as practical after receiving the written or verbal complaint, the alleged 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 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 and/or any other applicable laws.

**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.*

**Confidentiality**

A person reporting or witnessing a violation of this policy cannot be guaranteed anonymity or confidentiality. The person’s name and statements may have to be provided to the alleged offender and/or others. 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 or discriminatory 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, 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.

Retaliation 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. 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.

1. If an employee feels retaliation is occurring within the workplace, they are to report their concern immediately to a supervisor, the administrator, human resources, and/or the city attorney as noted in the reporting requirements above. 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.
2. In the event an employee feels retaliation has occurred by the city attorney, then reporting may be made to the city administrator or city council.

Supervisors who have been approached by employees with claims of retaliation will take the complaint seriously and promptly report the allegations according to the reporting requirements above. 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.