



CITY OF SOMERVILLE

EQUAL OPPORTUNITY (EO) POLICY

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EQUAL OPPORTUNITY (EO) POLICY

POLICY STATEMENT

The City of Somerville is dedicated to providing a working environment that values the diverse backgrounds of all people. It is the goal of the City to promote a workplace that is free of unlawful harassment or discrimination based on sex/gender (including gender identity, gender expression, sexual orientation, and pregnancy) race, color, religion, national origin, ancestry, genetic information, veteran's status, disability, age, marital/parental status, and any other category protected by law. The purposes of this Policy are to inform City employees of: (1) the City's prohibition of all forms of discrimination, discriminatory harassment, sexual harassment and retaliation; (2) the City's efforts to prevent such behaviors; and (3) the manner in which the City will respond to reports of such unlawful behaviors, including the prompt, impartial, fair and thorough investigation and resolution of reports.

This Policy applies to employee interactions while working with members of the public, other employees, elected officials, or third parties (for example, contractors and vendors). The Policy also applies to off-site or after-hours conduct that negatively affects an employee's work experience, including but not limited to social media.

All employees of the City and applicants for City employment are subject to this Policy. This Policy also extends to the use of City property, including but not limited to its telephones, mobile phones, copy machines, facsimile machines and computers and computer applications, such as email and internet access. City property shall not be used to engage in conduct that violates this policy.

POLICY DEFINITIONS

Protected Classes. Characteristics or groups of persons protected from discrimination by law, including:

1. Race. All individuals, including persons of more than one race and the following racial classifications, are protected from discrimination:

Black: All persons having origins in any of the Black racial groups of Africa including, but not limited to, African-Americans, and all persons having origins in any of the original peoples of the Cape Verdean Islands.

White (not of Hispanic origin): Persons having origins in any of the original peoples of Europe, North Africa, or the Middle East.

Hispanic/Latino: All persons of Mexican, Puerto Rican, Cuban, Central, Latin or South American or other Spanish culture or origin, regardless of race.

Asian or Pacific Islander: All persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent or the Pacific Islands, including, for example, the areas of China, India, Japan, Korea, the Philippine Islands and Samoa.

American Indian or Alaskan Native: All persons having origins in any of the original peoples of North America, and who maintain cultural identification through tribal affiliation or community recognition.



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2. Color. Variations in skin tone among persons of the same race.
3. Religion. “Religion” and “creed” have the same or equivalent meaning: all religious and spiritual observances, practices, and sincerely held beliefs.
4. National Origin. A “national origin group” or “ethnic group” is a group sharing a common language, culture, ancestry, and/or other similar social characteristics.
5. Age. For employment purposes, persons 40 years of age or older.
6. Disability. A person with a disability is one who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such impairment.
7. Gender or a person’s sex. “Gender” and “sex” may be used interchangeably for the purposes of the Policy.
8. Gender Identity. Gender identity is a person’s internal view of the individual’s gender. “Gender identity” covers a multitude of identities including, but not limited to, male, female, transgender or gender-nonconforming individuals, who are persons whose gender identity or gender presentation falls outside of stereotypical gender norms.
9. Gender Expression. Gender expression is a term that refers to the ways in which individuals manifest or express masculinity or femininity. It refers to all of the external characteristics and behaviors that are socially defined as either masculine or feminine, such as dress, grooming, mannerisms, speech patterns and social interactions.
10. Sexual Orientation. Actual or perceived heterosexuality, homosexuality, bisexuality or other sexual identification, either by orientation or by practice.
11. Genetic Information. Any written, recorded individually identifiable result of a genetic test or explanation of such a result or family history pertaining to the presence, absence, variation, alteration, or modification of a human gene or genes.
12. Marital/Parental Status. A person’s status as single, married, parent or non-parent, where discrimination on these bases has disparately impacted against those of different protected classes, including gender and sexual orientation.
13. Veteran Status. Any person who is a member of, applies to perform, or has an obligation to perform, service in a uniformed military service of the United States, including the National Guard.
14. Pregnancy. The condition or period of being pregnant; pregnancy discrimination involves treating a woman (an applicant or employee) unfavorably because of pregnancy, childbirth, or a medical condition related to pregnancy or childbirth.

Discrimination. An intentional or unintentional act that adversely affects employment opportunities because of a person’s membership in a protected class or association with a member(s) of a protected class. Discrimination may be classified as either disparate impact (facially neutral practices that fall more harshly on one group than another and cannot be justified by business necessity) or disparate treatment (treatment of an individual that is less favorable than treatment of others based on discriminatory reasons). A single act of discrimination may be based on more than one protected class status. For example, discrimination based on anti-Semitism may relate to religion, national origin, or both; discrimination against a pregnant woman might be based on sex, pregnancy, marital or parental status, or a combination of statuses; discrimination against a transgender individual might be based on sex, gender identity, gender expression and/or sexual orientation.



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Discriminatory harassment. A form of unlawful discrimination including verbal and/or physical conduct based on legally protected characteristics and/or membership in a protected class that:

1. has the purpose or effect of creating an objectively intimidating, hostile or offensive work environment;
2. has the purpose or effect of unreasonably interfering with an individual's work opportunities; or
3. otherwise unreasonably adversely affects an individual's employment.

Reasonable directions or warnings by authorized City personnel as to the time, place and manner in which employees perform their assigned responsibilities or program participants engaged in sponsored activities do not constitute evidence of discriminatory harassment under this Policy.

For purposes of this Policy, unwelcome conduct constitutes hostile environment harassment when:

- it is targeted against a person on the basis of their membership in a protected class;
AND
- it is sufficiently severe or pervasive that it alters the conditions of employment and creates an environment that a reasonable person would find intimidating, hostile or offensive;
OR
- submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
OR
- submission to, or rejection of, such conduct by an individual is used as a basis for employment decisions affecting that individual.

The determination of whether an environment is "hostile" is based on the totality of the circumstances. These circumstances could include the frequency of the conduct, its severity, and whether it is threatening or humiliating. Simple teasing, offhand comments and isolated incidents (unless extremely serious) will not amount to hostile environment harassment under this Policy.

For emphasis, conduct that is not based on a person's membership in a protected class is not considered hostile under this Policy.

Retaliation. Taking adverse employment or action against a person who: (a) files claims, reports or charges under this Policy, or under applicable local, state or federal statute; (b) is suspected of having filed such claims, reports or charges; (c) has assisted or participated in an investigation or resolution of such claims, reports or charges; or, (d) has protested practices alleged to violate the non-discrimination policies of the City, or local, state or federal regulation or statute. Retaliation, even in the absence of provable discrimination in the original report or charge, constitutes as serious a violation of this Policy as proved discrimination under the original claim, report or charge.

Reporter. An individual who makes a report under the Report Investigation and Resolution Procedures under this Policy. The Reporter may also be the City under certain circumstances.



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Respondent. An individual who is accused of violating the Policy.

Timeframes. While the City encourages prompt reporting of incidents of discrimination, discriminatory harassment, sexual or gender-based harassment, and retaliation, they do not limit the timeframe for filing a report under this Policy.

Reports may be filed at any time, but the City's ability to take action may be limited by the employment status of respondents or witnesses. A prompt report will enable the City to most effectively respond to a report. Every effort will be made to reach a resolution within ninety (90) calendar days after the receipt of the report. Extenuating circumstances, including the complexity or severity of a report or the availability of witnesses, may require that the investigation process be extended beyond 90 days. In the event that good cause prevents the investigation and resolution process from being concluded in this time frame, the City will notify in writing all parties of the need for additional time and best efforts will be made to complete the process as expeditiously as possible. As a matter of course, parties can request status updates at reasonable intervals until the matter is resolved.

Standard of Review. All reports pursued under the Report Investigation and Resolution Procedures will be evaluated under a "preponderance of the evidence" standard. Under this standard, conclusions must be "more likely than not." Accordingly, the fact-finder must find that it is more likely than not that the respondent violated the City's Policy.

PROHIBITED CONDUCT

This Policy prohibits all conditions and all actions or omissions, including all acts of discrimination, discriminatory harassment and retaliation, which deny or have the effect of denying to any person their rights to equity and security on the basis of their membership in or association with a member(s) of any protected class.

The prohibited conduct contained in this Policy shall apply to and be enforced against all employees of the City, including, but not limited to, staff, vendors, contractors, and elected officials.

The City has established specific Report Investigation and Resolution Procedures to review and resolve allegations of discrimination, discriminatory harassment and retaliation. Any City employee or any applicant for employment who believes that they have been a victim of such conduct in violation of this Policy may initiate a report as outlined in these procedures, which are set forth in this Policy.

DISCRIMINATION

Examples of discrimination, all of which are prohibited by this Policy, include, but are not limited to:

- Differences in terms, conditions and privileges of employment (including, but not limited to hiring, promotion, reassignment, termination, salary, salary increases, discipline, selection for awards, etc.) on a prohibited basis.
- Differences in salaries or other benefits that are paid to one or more men or women if the differences are not based on a bona fide occupational qualification.



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- Developing position descriptions or qualifications, which, without lawful justification, are so specific as to have a disparate exclusionary impact on a group of individuals because of their membership in a protected class.
- Failing or refusing to hire or promote a person because of their age.
- Classifying a position or positions as unsuitable for persons of certain religions.
- Excluding members of a certain race or national origin from a category of positions or from a department or division.
- Restricting the number of veterans or qualified persons with disabilities in a category of positions or in a department or division.
- Using information on marital or parental status for employment decisions where the use of such information has a disparate impact on persons of one gender or sexual orientation.
- Placing unreasonable expectations upon employees of particular races or national origins on the basis of stereotyped assumptions that members of those protected classes have a better aptitude for certain work than employees not of those races or national origins.

DISCRIMINATORY HARASSMENT

Examples of discriminatory harassment, all of which are prohibited by this Policy, include, but are not limited to:

- Physically harassing another individual or group because of that person's or persons' membership in a protected class by assaulting, touching, patting, pinching, grabbing, staring, leering at them, making lewd gestures, invading their personal space, blocking their normal movement, or other physical interference.
- Encouraging others to physically or verbally abuse an individual (or group of individuals) because of that person or persons' membership in a protected class.
- Threatening to professionally or physically harm an individual or group because of that person's or persons' membership in a protected class.
- Directing epithets, slurs, derogatory comments, unwelcome jokes or stories at an individual or group because of that person's or persons' membership in a protected class.
- Displaying hostile, derogatory and/or intimidating symbols/objects, such as offensive posters, cartoons, bulletins, drawings, photographs, magazines, written articles or stories, screen savers, or electronic communications, to an individual or group because of that person's or persons' membership in a protected class.

RETALIATION

Examples of retaliation, all of which are prohibited by this Policy, include, but are not limited to:

- Terminating an employee for stating an intention to file a report of discrimination or for assisting another employee in filing a discrimination report.
- Refusing to hire an employee because employee pursued an age discrimination charge against a former employer.
- Denying a promotion to an employee for complaining about alleged sexual orientation harassment.
- Issuing an unjustified negative evaluation to an employee for testifying in a legal proceeding concerning a report of discrimination or harassment.



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- Declining to interview an applicant for requesting a reasonable accommodation based on disability.

Employees should not assume that any of the forms of speech described above are protected by the First Amendment to the United States Constitution.

SEXUAL HARASSMENT

Unwelcome conduct of a sexual nature is prohibited when:

- submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; and/or
- submission to, or rejection of, such conduct by an individual is used as a basis for employment decisions affecting that individual; and/or
- such conduct has the purpose or effect of substantially interfering with an individual's job performance or creating a sexually intimidating, hostile, or offensive employment environment.

Examples of sexual harassment may include, but are not limited to:

- repeatedly pressuring another person for sexual activity;
- making sexist or sexual remarks about an individual's clothing, body or sexual activities;
- unnecessary touching, patting or pinching another person;
- demanding sex from a subordinate while making threats concerning the subordinate's job;
- electronically transmitting or viewing derogatory, demeaning or pornographic materials while at work or using City equipment;
- posting explicit sexual pictures on an exterior office door or on a computer monitor; and
- sexually assaulting another person.

Sexual harassment can occur between people of any gender. It can occur between equals (e.g., staff to staff) or between persons of differing power status (e.g., supervisor to subordinate). It is possible for a person who appears to have the lesser power to commit sexual harassment (e.g., an employee harassing a supervisor).

In order for conduct to constitute sexual harassment under this Policy, a reasonable person under similar circumstances would have to conclude that the behavior was harassing or discriminatory. Reasonable directions or warnings by authorized City personnel as to the time, place and manner in which employees perform their assigned responsibilities do not constitute evidence of sexual harassment under this Policy.

Hostile Environment

A hostile environment exists when sexual harassment is sufficiently serious to deny or limit a person's ability to participate in or benefit from City employment. To make the ultimate determination of whether a hostile environment exists, the City considers a variety of factors related to the severity, persistence, or pervasiveness of the sexual harassment, including: (1) the type, frequency, and duration of the conduct; (2) the identity and relationships of persons involved; (3) the number of individuals involved; (4) the location of the conduct and the context in which it occurred; and, (5) the degree to which the conduct affected one or more person's employment.



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A single or isolated incident may create a hostile environment if the incident is sufficiently severe. The more severe the conduct, the less need there is to show a repetitive series of incidents to show evidence of a hostile environment, particularly if the harassment is physical.

DUTY TO COOPERATE

Every employee has a duty to cooperate in an investigation conducted pursuant to the Report Investigation and Resolution Procedures, subject to the provisions of any relevant collective bargaining agreements and any rights under c. 150E. This duty includes, among other things, speaking with the investigator, reviewing or appellate body, and voluntarily providing all documentation that relates to the claim being investigated. The failure and/or refusal of any employee to cooperate in an investigation may result in a separate disciplinary action up to and including termination.

DUTY TO REPORT DISCRIMINATION, DISCRIMINATORY HARASSMENT OR RETALIATION

Employees are strongly encouraged to report any instances of unlawful discrimination and harassment of which they have knowledge either to their superiors, to the Director of Personnel or to the Manager of Diversity, Equity and Inclusion.

It is the responsibility of all management personnel to strictly enforce the terms of this Policy. Supervisors, managers, or department heads who become aware of incidents of harassment or discrimination in their departments, even in the absence of a formal report, should seek immediate assistance and guidance from the Law Department or the Personnel Department before taking any action. Supervisors, managers, or department heads who fail to report knowledge of incidents of harassment or discrimination in their departments will be addressed accordingly.

Anyone who has a question about their responsibilities under this Equal Opportunity Policy should contact Personnel.

POLICY AWARENESS PROCEDURES DISSEMINATION

The City will distribute this Policy, either electronically or in hard copy or in both formats, as follows:

- to all employees annually;
- to all new employees at the time of hire;
- posted to all relevant sections of the City's website;
- posted on the City's employment application;
- each Department should maintain a hard copy in an easily accessible place;
- copies will be made available to City employees and to the public upon request; and
- copies will also be made available in accessible formats upon request.



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Periodic meetings, trainings and workshops will be held with various segments of the City's workforce to assist their understanding of the City's commitment to equal opportunity, nondiscrimination, diversity and affirmative action.

Any revisions of this policy will be made in coordination with the Somerville Police Department for General Order purposes.

CONTRACTORS AND VENDORS

The City will notify all contractors, sub-contractors and vendors of the City's responsibilities and commitments to equal opportunity and non-discrimination.

ADVERTISING

Selection for and participation in the City's employment is without regard to race, color, religion, national origin, age, disability, gender, sexual orientation, gender identity, gender expression, genetic information, marital or parental status, or veteran status. An Equal Opportunity statement will be placed in all appropriate operational publications and advertisements.

REPORT INVESTIGATION AND RESOLUTION PROCEDURES

INTRODUCTION AND APPLICATION

These Procedures are intended to provide a mechanism to investigate and resolve reports of discrimination, discriminatory harassment, sexual harassment, and retaliation. These Procedures are available to all staff, visitors, contractors, applicants for employment and others having dealings with the City.

No employee may retaliate, intimidate, threaten, coerce or otherwise discriminate against any individual for filing a report under these Procedures or for otherwise exercising his or her rights or responsibilities under the Policy.

INVESTIGATION AND RESOLUTION PROCEDURES

Investigations of reports are necessary to determine:

- whether a report alleges a violation of the this Policy;
- whether prohibited conduct has occurred;
- whether there is an ongoing risk of harm for further prohibited conduct and, if so, what steps must be taken to prevent its recurrence; and
- whether local or system-wide changes to policies, practices or training should be considered and implemented by the City.

These Procedures have been designed to provide prompt, thorough, fair and impartial processes from investigation to final result. The proceedings pursuant to these Procedures will be conducted consistently with the City's policies. The formal rules of process or evidence, such as those applied in criminal or civil courts, are not used under these Procedures. The report investigation and resolution process is



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comprised of two processes, the Informal Resolution Procedure and the Formal Investigation Procedure, which are detailed below. Deviations from the Informal Resolution Procedure or Formal Investigation Procedure shall not necessarily invalidate a decision, unless significant prejudice may result to a party or the City.

Note: While these Procedures identify certain City employees who have particular roles and duties, the City may designate other employees to perform specific roles and/or duties set forth in these Procedures.

A. Informal Resolution Procedure

Where appropriate, the parties to a dispute may attempt to reach an informal resolution of the potential violation. The City encourages involved parties to request the intervention of the City to assist in an informal resolution by contacting the Director of Personnel. The Director of Personnel or their designee will assess the request for informal resolution against the severity of allegations and the potential risk of a hostile environment or safety concern for other employees. If an informal resolution is appropriate, the Director of Personnel will notify the parties. The City will not ask a complainant to resolve a problem with a respondent without the involvement of the Director of Personnel or designee. The Director of Personnel or designee will facilitate a dialogue with the parties in an attempt to reach a resolution. At no time prior to the resolution of the matter shall either party question or confront the other, or engage a third party to do so, outside the presence of the Director of Personnel or designee.

The matter will be deemed resolved when all parties expressly agree to an outcome that is acceptable to them and to the City. Every attempt will be made to conclude the Informal Resolution Process within ninety (90) days of the date of the complainant's request.

A complainant is not required to use the Informal Resolution Procedure before initiating the Formal Investigation Procedure. A party may withdraw from the Informal Resolution Procedure and initiate the Formal Investigation Procedure at any time.

B. Formal Investigation Procedure

Submission of Report and Initial Review: When a person believes that they have been harassed, discriminated or retaliated against in violation of the Policy, they may file a written report, preferably using the Report Form attached to these Procedures.

Individuals can file reports with the Director of Personnel or the Manager of Diversity, Equity and Inclusion:

Director of Personnel
(617) 625-6600 ext. 3310
report@somervillema.gov

Manager of Diversity, Equity and Inclusion
(617) 625-6600 ext. 2323
report@somervillema.gov



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In certain circumstances, the City may initiate the Report Investigation and Resolution Procedures without the filing of a written report or the active participation of a complainant. Reports may be generated upon receipt of information from a complainant or by a third-party reporter, such as, but not limited to, a friend, spouse, family member, advisor, parent or coworker.

A report must be filed by the complainant themselves, and the report must be in the words of the complainant. Reports should contain all known facts pertaining to the alleged violation, the names of any known witnesses and others with knowledge of the allegations, and an identification of any documents or other evidence.

The Director of Personnel or the Manager of Diversity, Equity and Inclusion or designee will determine if the report falls within the jurisdiction of these Procedures. If the City determines that a report is not properly filed pursuant to these Procedures, it will provide written notice to the complainant (or third party reporter).

Investigation Process

If a report has been properly filed, or the City otherwise determines that an investigation is necessary, the City will assign the matter to a qualified and competent Investigator. Under circumstances where the City deems it necessary or appropriate, the City may also appoint an external investigator.

The Investigator will notify the respondent of the report, provide them with a description of the report, and invite the respondent to submit a written response. If the respondent does not respond, or otherwise fails to participate in the investigation, the Investigator will complete the investigation on the basis of the other information obtained. Where a report is brought by a third party reporter, the Investigator shall attempt to meet with the potential complainant to discuss their participation in the investigation and to gain additional information.

The investigation shall include, but is not limited to: an analysis of the allegations and defenses presented using the preponderance of the evidence (more likely than not) standard; consideration of all relevant documents, including written statements and other materials presented by the parties; interviews of the parties and other individuals and/or witnesses; and/or reviewing certain documents or materials in the possession of either party that the Investigator has deemed relevant.

At the conclusion of the investigation, the Investigator shall prepare an Investigation Report for an administrative review. The Investigation Report shall: outline the investigatory steps undertaken; summarize the factual findings; state whether a policy violation has occurred based on the preponderance of the evidence; explain the rationale for the violation determination; and, if applicable, recommend an outcome. The Investigation Report will not be shared with the parties except upon request following the issuance of the Notice of Outcome, and then only in accordance with applicable law.

Administrative Review



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The Mayor or their designee (the “reviewer”) will conduct an administrative review of the Investigation Report. The purpose of the administrative review is to determine whether the investigation is prompt, fair, impartial and thorough. If the reviewer determines the investigation is deficient, the reviewer shall remand the matter back to the Investigator for further investigation.

If the reviewer determines that the investigation is prompt, fair, impartial and thorough, the reviewer will then consider whether the recommended discipline or sanction is consistent with City policy, practice, relevant collective bargaining agreement, and any applicable law.

Notice of Outcome

At the completion of the administrative review, the City will notify the respondent of any sanctions imposed. At the completion of the administrative review, the City will also contemporaneously issue a written Notice of Outcome to the complainant and the respondent. The Notice of Outcome shall include the following:

1. the description of the original report; and
2. the outcome of the investigation.

If a violation exists the respondent will additionally receive:

1. factual findings of the investigation;
the policy violation determination and the rationale for the determination; and
2. the sanctions that directly relate to the report that arise from an allegation of discrimination, discriminatory harassment, sexual harassment, and/or retaliation; and
3. the parties’ appeal rights.

If no appeal is filed by either party within five (5) calendar days of their receipt of the Notice of Outcome, the results will become final and the City will proceed with the imposition of the recommended sanction(s).

Option for Mediation of Formal Reports

During a formal investigation, at any time prior to the issuance of the Notice of Outcome, either party may request mediation of the report by contacting the Director of Personnel. All parties must agree to mediation for this option to be used. The purpose of mediation is to resolve the dispute to the satisfaction of all parties. When mediation is appropriate, the Director of Personnel shall designate an impartial Mediator and inform the parties in writing of the mediation process and schedule. Where practicable, a mediation session shall be conducted no later than thirty (30) days after agreed to by the parties. The timelines presented under these Report Investigation and Resolution Procedures shall be tolled pending the outcome of mediation. If successful in resolving the report, the Mediator shall reduce to writing the terms of the mediated resolution, which shall be signed by the parties. If mediation does not result in a resolution, all mediation discussions shall remain confidential and may not be used or introduced in this process or any other forum.



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The City will make every attempt to conclude the Formal Investigation Process within ninety (90) days of the date of the submission of the complainant. If, for good cause, an investigation cannot be completed within 90 days, the City will provide the parties status updates at reasonable intervals until the investigation is completed.

C. Appeals

Either party may appeal the results of an investigation under these Procedures by submitting a written letter of appeal to the Director of Personnel or designee within five (5) calendar days of the party's receipt of the Notice of Outcome. An appeal may be transmitted electronically to the Director of Personnel or designee. Appeals may be submitted on the following grounds:

1. to allege a material procedural error within the investigation and resolution process that would substantially change the outcome; or
2. to consider new evidence that was not known at the time of the investigation that would substantially change the outcome.

Appeals will not be considered on any other basis.

Upon timely receipt of the appeal letter, the Director of Personnel shall transmit the Investigation Report and the appeal letter to the Mayor or their designee as the appellate officer. The Mayor shall not designate as the appellate officer the person who served as the administrative reviewer. If the appealing party has presented an appeal on the basis of the grounds set forth above, the appellate officer, who shall not have participated in the investigation or administrative review, will review the appeal and make a determination to uphold, reverse or modify the decision. When necessary, the appellate officer may seek additional information and/or refer the matter back to the Investigator, prior to making an appellate determination.

Where practicable, within (30) calendar days of receiving the appeal, the appellate officer shall contemporaneously issue a written decision to the parties in which it may uphold, reverse or modify the decision.



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DISCRIMINATION, DISCRIMINATORY HARASSMENT OR RETALIATION REPORT FORM

This form is used to report information necessary to initiate an investigation of alleged discrimination, harassment, sexual harassment, or retaliation pursuant to the City’s Equal Opportunity Policy. All reasonable efforts will be made to maintain the involved parties’ confidentiality during the investigation and resolution procedure. It is unlawful to retaliate against an employee or any other person affiliated with the City for filing a report or for cooperating in an investigation of a report.

Date Filed: _____ Date(s) of Alleged Incident(s): _____

A. Name (Print): _____

B. Check One: Employee Other _____ (describe relationship to City)

C. Type of alleged discrimination or discriminatory harassment:

- Race
- Age
- Gender Identity
- Genetic Information
- Color
- Disability
- Gender Expression
- Sexual Harassment
- Religion
- Sex/Gender
- Veteran Status
- Pregnancy
- National Origin
- Sexual Orientation
- Marital/Parental Status
- Other: _____

D. Retaliation

E. Name of individual(s) you believe harassed you, discriminated or retaliated against you:

F. List any witnesses or people who have relevant information:



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G. Description of the Report – please list the sequence of events, including dates, if possible, and any relevant facts, statements and/or evidence currently known to you:

(if you need more space, please attach additional sheets)

To the best of my knowledge and belief, the above information is complete, true and accurate. I hereby submit this report under the City’s Report Investigation and Resolution Procedure.

Signature of Complainant

Received by: _____ on date: _____



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AMERICANS WITH DISABILITIES ACT (ADA)/REASONABLE ACCOMODATIONS

The City of Somerville is committed to providing equal access to and participation in employment for otherwise qualified persons with disabilities. The City recognizes that individuals with disabilities may need reasonable accommodations to have equally effective employment with the City.

The City is committed to providing reasonable accommodations:

- When an applicant with a disability needs to have an accommodation to have an equal opportunity to compete for a job;
- When an employee with a disability needs an accommodation to perform the essential functions of the job or to gain access to the workplace; When an employee with a disability needs an accommodation to enjoy equal access to benefits and privileges of employment; and
- When an employee with a disability requires a modification to the City's usual leave policies.

I. DEFINITIONS

A. Disability

According to the ADA, a "disability" means:

- A physical or mental impairment that substantially limits one or more of the major life activities of the individual;
- Having a record of such impairment; or
- Being regarded as having such impairment.

B. Qualified Individual With A Disability

An employee or applicant who satisfies the skill, experience, education, and other job-related requirements of the position held or desired, and who, with or without a reasonable accommodation, can perform the essential functions of that position. A qualified individual with a disability has all of the required skills, education, experience and other job-related requirements and can do all of the "essential" or main job functions whether or not they are reasonably accommodated.

C. Reasonable Accommodation

Modifications or adjustments to an application process, job, or work environment that permit a qualified individual with a disability to perform the essential functions or a position or to enjoy the benefits and privileges of employment equally with persons without disabilities.

While each individual's need for accommodations may differ, examples of accommodations may include:



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- Modifying work schedules;
- Altering how or when job duties are performed;
- Removing and/or substituting a non-essential job function;
- Making modifications to workplace policies;
- Providing assistive technology, including information technology and communications equipment or specially designed furniture;
- Removing an architectural barrier, including reconfiguring work spaces;
- Providing accessible parking;
- Providing materials in alternative formats (e.g., Braille, large print);
- Modifying the uniform/dress code policies;
- Modifying the City's usual leave policies;
- Reassignment to another job in rare specific circumstances.

D. Undue Hardship

The City is required to make reasonable accommodations to qualified individuals with disabilities unless doing so would impose an undue hardship on the operation of the City's business. Undue hardship means an action that requires significant difficulty or expense when considered in relation to factors such as the City's overall size, financial resources, and the nature and structure of its operation. The City's determination of undue hardship is based on several factors, including but not limited to:

- the nature and cost of the accommodation needed;
- the overall financial resources of the City making the reasonable accommodation; the number of persons employed by the City; the effect on expenses and resources of the City;
- the overall financial resources, size, number of employees, and type and location of facilities of the City;
- the City's operation, including the structure and functions of the workforce, the geographic separateness, and the administrative or fiscal relationships the involved in making the accommodation;
- the impact of the accommodation on the operation of the City.
- would result in a fundamental alteration of the City's policies and procedures and/or the nature of the job functions; and/or
- will compromise the health and safety of staff, residents or others

E. Interactive Process

An on-going dialogue between the City and an individual with a documented disability in which both parties participate in an effort to determine and provide a reasonable accommodation, or auxiliary aids or adjustments.



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II. RIGHTS AND RESPONSIBILITIES

A. Duty To Report Reasonable Accommodations Requests

Managers, supervisors, staff and other personnel must refer accommodation requests to either the Personnel Director or their designee or the Manager of Diversity, Equity and Inclusion (ADA Coordinator). If employees have any questions regarding where, whether or how to refer a reasonable accommodation request, please contact the Personnel Director or their designee. Managers and supervisors who fail to report accommodation issues to Personnel or the ADA Coordinator may be subject to disciplinary action up to and including termination.

B. Obligation To Cooperate With Inquiries And Interactive Process

Staff (requestors, supervisors, and any other relevant employees) and job applicants must participate in the interactive process with the City to review accommodation requests and the appropriateness and feasibility of accommodations.

C. Retaliation Is Illegal And Is Prohibited

It is a violation of the law and the City's employment policies to retaliate against an individual for requesting an ADA accommodation or alleging discrimination based on a disability. Pursuant to the City's Equal Opportunity (EO) Policy, employees may be subject to discipline up to and including termination for engaging in unlawful retaliation.

D. Confidentiality

The City will protect and maintain the privacy of any medical information received in connection with the reasonable accommodation process to the extent permitted by law.

III. PROCESS BY WHICH TO REQUEST AN ACCOMMODATION

An individual who seeks a reasonable accommodation should contact the Personnel Director or their designee, and/or the City's Manager of Diversity, Equity and Inclusion (ADA Coordinator). For job applicants, information about contacting the Manager of Diversity, Equity and Inclusion will be included in the official job posting.

A request does not have to include any special words, such as "reasonable accommodation," "disability," or "ADA." A request is any communication in which an individual asks or states that they need the City to provide or to change something because of a medical condition. If the nature of the initial communication is unclear, the supervisor, Personnel Director or their designee, or the Manager of Diversity, Equity and Inclusion (ADA Coordinator) may ask the individual whether the employee or applicant is requesting a reasonable accommodation. The City has a Reasonable Accommodation Request Form that may be used to file a request. While this form is not required, using it helps facilitate the City's accommodation review process.



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A family member or health professional may request an accommodation on behalf of an employee or applicant. For example, a doctor's note outlining medical restrictions for an applicant/employee constitutes a request for reasonable accommodation.

Department heads, supervisors, staff and other personnel have an obligation to refer accommodation requests to either the Personnel Director or their designee or the Manager of Diversity, Equity and Inclusion (ADA Coordinator). If employees have any questions regarding where, whether or how to refer a reasonable accommodation request, please contact the Personnel Director or their designee.

A. The Interactive Process

After a request for accommodation has been made, the next step is for the parties to begin an interactive process to determine what, if any, accommodation should be provided. This means that the individual requesting the accommodation and the Personnel Director or their designee and/or the Manager of Diversity, Equity and Inclusion (ADA Coordinator) will communicate and cooperate with each other about the request. This typically includes a review of the employee or applicant's abilities relative to their job duties or workplace environment, what accommodations would enable the employee to perform the essential functions of their job, and alternative accommodations that may be effective in meeting an individual's needs.

The Personnel Director or their designee and/or the Manager of Diversity, Equity and Inclusion (ADA Coordinator) may need to consult with or obtain information from other City personnel (e.g. an employee's supervisor, Information Technology staff), medical professionals treating the employee, consultants or external resources to obtain information necessary to facilitate the interactive process and guide the parties in finding a reasonable accommodation. In appropriate circumstances, it is the responsibility of the applicant/employee to provide appropriate medical documentation upon the request from the Personnel Director or their designee or Manager of Diversity, Equity and Inclusion (ADA Coordinator). Employees/applicants can also authorize the Personnel Director or their designee of the ADA Coordinator to contact their medical professional directly. If the employee or applicant fails or refuses to provide medical documentation upon the request of the Personnel Director or their designee or Manager of Diversity, Equity and Inclusion (ADA Coordinator), the City will be limited in its ability to continue the interactive process and provide the requested accommodation(s).



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REASONABLE ACCOMMODATION REQUEST FORM

Name: _____ Dept. _____

Supervisor: _____ Position: _____

1. What specific accommodation are you requesting?

1a. If unsure, do you have any suggestions that we can explore? Yes No

1b. If yes, please explain:

2. Is your accommodation request time sensitive? Yes No

2a. If yes, please explain:

3. Please identify your limitation(s) _____

4. What is the expected duration of this limitation?

5. What, if any, job function(s) are you having difficulty performing due to this limitation? _____



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6. What, if any, employment benefits (i.e. parking, architectural barriers, etc.) are you having difficulty accessing?

7. Have you previously received an accommodation for this limitation?

Yes No

7a. If yes, what were they and how effective were they?

8. Please provide additional information that might be helpful to process your request.

Signature

Date

Return this form to: Manager of Diversity, Equity & Inclusion
165 Broadway
Somerville, MA 02145
617-625-6600 x 2323
request@somervillema.gov

The City of Somerville is committed to providing reasonable accommodations for qualified individuals with disabilities in a fair and equal manner and in accordance with applicable federal and state law unless doing so represents an undue hardship.



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ADDITIONAL RESOURCES

In addition to the information contained in this Equal Opportunity (EO) Policy, if a party believes that they have been subjected to unlawful harassment and/or discrimination, they may file a formal report with either or both of the government agencies set forth below. Both agencies have a statutory time period for filing a claim (EEOC –300days; MCAD –300 days). The statutory time period begins to toll or accrue from the date the alleged discriminatory act occurred, unless the act is of a continuing nature.

The United States Equal Employment Opportunity Commission (“EEOC”)

John F. Kennedy Federal Building
475 Government Center
Boston, MA 02203
Phone: (800) 669-4000

The Massachusetts Commission Against Discrimination (“MCAD”)

Boston Office:

One Ashburton Place, Room 601
Boston, MA 02108
(617) 727-3990

Springfield Office:

436 Dwight Street, Second Floor, Room 220
Springfield, MA 01103
(413) 739-2145

Worcester Office

Worcester City Hall
455 Main Street, Room 101
Worcester, MA 01608
(508) 799-8010
(508) 799-8490 - FAX

New Bedford Office

800 Purchase Street, Room 501
New Bedford, MA 02740
(508) 990-2390



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EQUAL OPPORTUNITY (EO) POLICY EMPLOYEE ACKNOWLEDGEMENT

Please respond to the following questions:

1. Do you understand the policy that you have just reviewed? _____
2. Do you understand the process for filing a report? _____
3. Do you understand your responsibilities for a harassment-free workplace as outlined in this policy (e.g., not to engage in harassing behavior, to report instances of potential harassment, etc.)? _____

Employee's Signature: _____

Name (print): _____

Department: _____

Date: _____

PLEASE RETURN SIGNED ORIGINAL TO THE CITY OF SOMERVILLE PERSONNEL DEPARTMENT FOR PLACEMENT IN YOUR PERSONNEL FILE.