

# **NON-DISCRIMINATION POLICIES**

## **EQUAL EMPLOYMENT OPPORTUNITY POLICY**

The City of Lewiston does not discriminate in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral or any other aspect of employment, on the basis of race, color, religion, gender, sexual orientation, gender identity or expression, national origin, age, genetic information, disability, or veteran status. The City of Lewiston does not discriminate against qualified applicants and employees with disabilities in hiring, promotion, discharge, pay, job training, fringe benefits, classification, referral or any other aspect of employment. The City of Lewiston also provides qualified applicants and employees with disabilities with reasonable accommodations that do not impose undue hardship on the City of Lewiston.

The City of Lewiston prohibits retaliation against any person who opposes an unlawful employment practice or who files a charge of discrimination or participates in an investigation of unlawful employment practices.

## **HARASSMENT PREVENTION POLICY**

The Maine Human Rights Act and the Civil Rights Act of 1967 prohibit sex discrimination. Sex discrimination includes sexual harassment. The City of Lewiston and each of its departments has zero tolerance for illegal employment discrimination, including gender and sexual harassment. Unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of employment;
- Submission to or rejection of such conduct is used as the basis for employment decisions; or
- Such conduct has the purpose or effect of substantially interfering with an employee's work performance, or creating an intimidating, hostile, or offensive work environment.

The following are examples of illegal sexual harassment:

- Unwelcome sexual advances
- Sexual or lewd remarks
- Unwanted hugs, touches, kisses
- Requests for sexual favors
- Harassment consistently targeted at only one sex, regardless if the conduct itself is not sexual
- Retaliation for complaining about sexual harassment

Sexual harassment can take the form of other types of conduct as well. All forms of sexual and gender harassment are prohibited by law. Within each City of Lewiston Department, the Department Head or designee is responsible for day-to-day compliance with this policy and for the prevention and correction of illegal discrimination. Within the Lewiston Police Department, the Chief of Police and, in his absence, the Deputy Chief, shall have such responsibility. Within the Fire Department, the Fire Chief and in his absence, the Assistant Chief, shall have such

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responsibility.

The Maine Human Rights Act, and Federal Civil Rights Laws, also prohibit discrimination in employment on the basis of race, color, sex, sexual orientation, physical or mental disability, religion, age, ancestry, or national origin. Unlawful discrimination includes harassment of an employee on the basis of his or her race, color, religion, gender, sexual orientation, gender identity or expression, national origin, age, genetic information, disability, or veteran status.

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Any employee who feels he or she has been subject to sexual harassment or any other form of discrimination, or feels that he or she has observed another employee being subject to sexual harassment or any other form of discrimination, should report the conduct to their Immediate Supervisor, Division/Department Head or Human Resources. The Human Resources Department will be available to assist in processing complaints. All allegations of sexual harassment and discrimination will be investigated immediately.

Employees are also entitled to file a complaint with the Maine Human Rights Commission. The Maine Human Rights Commission can be reached by telephone at (207) 624-6050 or by mail at 51 State House Station, Augusta, ME 04333-0051.

The Maine Human Rights Act also prohibits any employer or individual from punishing or penalizing, or attempting to punish or penalize, any person for seeking to exercise the rights protected by the Maine Human Rights Act, for reporting a violation of the Maine Human Rights, and for testifying in any proceeding brought pursuant to the Maine Human Rights Act.

### **EQUAL EMPLOYMENT OPPORTUNITY REPORTING POLICY**

Any employee of the City of Lewiston who believes that he or she has been discriminated against in employment, on the basis of race, color, religion, gender, sexual orientation, gender identity or expression, national origin, age, genetic information, disability, or veteran status. has been denied any employment benefit on that basis, or has been harassed, must report the behavior to their Immediate Supervisor, Division or Department Head or to Human Resources. The Human Resources Department will be available to assist in processing complaints. The City of Lewiston takes allegations of discriminatory treatment very seriously. The City of Lewiston will investigate every allegation of discrimination promptly and take whatever action is necessary to stop unlawful discrimination and remedy any effects of unlawful discrimination.

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An employee, who feels that he or she has been discriminated against, or believes he or she has witnessed discriminatory treatment of another employee, should report the conduct to one of the following individuals:

- The employee's Supervisor
- The employee's Department Head
- The Human Resources Department

An employee can report discriminatory treatment or harassment verbally or in writing. An employee's report will be investigated immediately.

### INVESTIGATION POLICY FOR MANAGEMENT PERSONNEL

#### Policy Statement

City of Lewiston policies and federal and state law require us to investigate promptly and to remedy unlawful discrimination in employment, including sexual harassment. It is the policy of the City of Lewiston to investigate every allegation of discrimination or harassment thoroughly. The steps outlined below describe, in a general way, the investigation process to be followed by the City of Lewiston. The City of Lewiston has the discretion to alter the investigatory process as required by the individual circumstances of each report of discrimination or harassment.

#### Procedure

1. When a Supervisor, Department Head, the Human Resources Department receive a report of discrimination or harassment, he or she will encourage the reporting employee to make a written report of the discrimination or harassment. The reporting employee must sign and date the written report.
2. If the employee does not want to make a written report, the Supervisor, Department Head or Human Resources Department will take notes during the employee's verbal report, and will immediately prepare a written report which contains the name of the reporting employee, the date of the alleged discrimination or harassment, the date of the report and all of the information provided by the reporting employee.
3. The report will immediately be transmitted to the Human Resources Department.
4. The Human Resources Department will conduct an investigation which may include:
  - a. Interviewing the reporting employee;
  - b. Interviewing potential witnesses;
  - c. Interviewing the individual alleged to have discriminated or harassed;
  - d. Review of the information by the City Administrator and other management personnel;
  - e. Review of the information by legal counsel for the City of Lewiston;
  - f. Development of a resolution to the complaint; and
  - g. Implementation of the resolution.

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Development of a resolution may include a factual determination that discrimination or harassment occurred, a factual determination that no such conduct occurred, or a determination that a particular remedy is appropriate even if factual findings cannot be made.

Remedial action may include suspension with pay during an investigation, suspension without pay during an investigation, reinstatement, and back-pay, time off with pay, payment of out-of-pocket expenses, transfer, additional training or termination of employment.

No employee has a right to any specific remedial measure. No employee has a right to any particular procedure. However, the City of Lewiston will treat all employees fairly throughout the course of the investigation.

### **RESPONDING TO A REQUEST FOR ACCOMMODATION BY DISABLED EMPLOYEE**

City of Lewiston policies and federal and state law require the City of Lewiston to provide a disabled employee with any reasonable accommodation which is necessary for the disabled employee to perform his or her job functions.

The Americans with Disabilities Act (ADA) and Maine Human Rights Act (MHRA) protect qualified employees who are disabled from employment discrimination. Under the ADA and MHRA, an employee has a disability if the employee has a physical or mental impairment that substantially limits a major life activity. The ADA and MHRA also protect employees who have a medical record of a substantially limiting impairment and employees who are regarded by others as having a substantially limiting impairment. A substantially limiting impairment is a physical or mental impairment that significantly limits or restricts the employee's ability to perform a major life activity such as hearing, seeing, speaking, breathing, performing manual tasks, walking, caring for oneself or learning.

An employee with a disability must be qualified to perform the essential functions of the job in order to be protected by the ADA and MHRA. This means that the employee must meet job requirements for educational background, employment experience, skills, licenses and any other qualification standards that are job related and be able to perform all of the tasks that are essential to the job, with or without an accommodation.

An essential function of a job is a basic job duty that the employee must be able to perform in order for the job to be completed. Usually, a written job description establishes the essential functions of any position. However, the actual functions performed by any employee occupying that job, as opposed to those reflected in a written job description should also be taken into consideration.

The City of Lewiston must provide a reasonable accommodation to any disabled employee who needs such an accommodation to participate in the employment application process, or to perform the employee's job and otherwise enjoy the benefits and privileges of employment. The best way to identify a reasonable accommodation is to enter into a dialogue with an employee.

If an employee requests an accommodation on the basis of a disability, you, as the employee's

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supervisor, must take the following steps:

1. Determine, by speaking with the employee, whether the employee requests an accommodation because the employee is disabled.
2. If the employee asserts that he or she is disabled, and therefore, entitled to the protection of the ADA and MHRA, the Supervisor must refer the employee's request for an accommodation to the Human Resources Department.
3. The Human Resources Department will work with the employee and the employee's Department Head to determine whether the employee needs an accommodation to perform his or her job, and to determine what accommodation or accommodations are reasonable. That determination may include some or all of the following steps:
  - a. An individualized examination of the nature and extent of the employee's disabling condition;
  - b. An individualized analysis of the requirements of an employee's job;
  - c. A medical examination;
  - d. An analysis of whether a particular accommodation will enable the employee with a disability to perform the essential functions of the job.

The Human Resources Department, working with the employee and the Department Head, will have the final discretion to choose which effective accommodation; the most reasonable accommodation is, given all of the circumstances related to the employee's abilities and the functions of the job.

In some cases, the City of Lewiston will need to determine whether an employee who asserts entitlement to the protection of the ADA and MHRA is a qualified individual with a disability. This determination, like the determination of the appropriated accommodation, will be made on a case-by-case basis, usually involving the participation of the employee's health care provider(s), and will focus on whether the employee is substantially limited in the ability to perform a major life activity.

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## EMPLOYEE STATEMENT OF AWARENESS

I, \_\_\_\_\_, employed by the City of Lewiston in its Department or Division of \_\_\_\_\_, hereby acknowledge that I have read, reviewed, been given a copy of or have been trained in the information, procedures, rules and regulations presented in the City of Lewiston's Non-Discrimination Policies, as follows:

- Equal Employment Opportunity Policy
- Harassment Prevention Policy
- Equal Employment Opportunity Reporting Policy
- Investigation Policy for Management Personnel
- Responding to a Request for Accommodation by Disabled Employee

Dated: \_\_\_\_\_

\_\_\_\_\_  
Employee Name - Printed

\_\_\_\_\_  
Employee Signature

Are you a supervisor? Yes \_\_\_\_\_ No \_\_\_\_\_ Title: \_\_\_\_\_

Dated: \_\_\_\_\_

\_\_\_\_\_  
Human Resources Representative