

**RESOLUTION NO. \_\_\_\_\_, SERIES 2017**

**A RESOLUTION OF THE LOUISVILLE METRO COUNCIL AMENDING THE METRO COUNCIL'S POLICIES AND PROCEDURES TO ADD A HARASSMENT PERSONNEL POLICY.**

**SPONSORED BY: COUNCIL PRESIDENT YATES**

**WHEREAS**, the Metro Council has not adopted personnel policies governing the reporting and investigating of harassment; and

**WHEREAS**, the Metro Council seeks to temporarily adopt Metro Louisville's personnel policies on reporting and investigating harassment while the Personnel Policy Workgroup reviews further policies more diligently.

**NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT (THE COUNCIL) AS FOLLOWS:**

**SECTION I:** Metro Council Policies and Procedures is hereby amended to add the following Harassment Policy:

**Section 30: Harassment**

**Harassment**

(1) The Louisville Metro Council will make every reasonable effort to ensure that no Metro Council employee is subjected to harassment. In order to preserve and protect an environment in which all employees and all members of the public are treated with equal courtesy and respect, the Louisville Metro Council will not tolerate verbal or physical abuse, harassment, intimidation, threats, violence or other adverse behavior towards any individual on the basis of race, color, religion, national origin, ancestry, sex, disability, smoker or nonsmoker status as long as workplace policy is complied with, pregnancy, veteran status, military status, sexual orientation, gender identity or any other protected characteristic as established by law. The Louisville Metro Council will not tolerate any behavior intended to intimidate, humiliate, threaten, denigrate or otherwise interfere with the ability of any employee, or any member of the public to perform job functions or conduct business, whether or not such behavior constitutes a violation of individual civil rights within the meaning of federal or Kentucky statutes, Louisville Metro Government ordinances or any other violation of this policy, will result in disciplinary actions up to and including termination of employment.

## **Sexual Harassment**

(2) Due to its own philosophy, and in compliance with the U.S. Equal Employment Opportunity Commission's Guidelines, the Louisville Metro Council specifically commits to make every reasonable effort to insure that no Metro Council employee is subjected to sexual harassment or a hostile working environment by co-workers or supervisors, and further prohibits the sexual harassment of members of the public by its employees. The Louisville Metro Council will not tolerate any behavior intended to intimidate, humiliate, threaten, denigrate, or otherwise interfere with the ability of any employee or member of the public to perform job functions or conduct business because of the individual's gender, whether or not such behavior legally constitutes sexual harassment.

Sexual harassment is a violation of federal and state statutes as well as of the Louisville Metro Council policies and procedures. The Louisville Metro Council will investigate any and all complaints of sexual harassment received from employees and members of the public. Any Metro Council employee determined to have violated the prohibitions against sexual harassment shall be subject to disciplinary action up to and including termination of employment.

In carrying out this commitment, the Louisville Metro Council considers sexual harassment to consist of any unwelcome sexual advance, request for sexual favors, and other verbal and physical conduct or communication of a sexual nature if:

- (1) submission to such advances, requests or conduct and communication is an explicit or implicit term or condition of obtaining or retaining employment;
- (2) submission to or rejection of such advances, requests or conduct and communication by an employee affects decisions concerning an individual's employment; or
- (3) such conduct or communication has the purpose or effect of unreasonably interfering with the employee's ability to perform his/her job functions or to create a hostile, intimidating or offensive work environment.

## **Reporting Process**

(3) A Metro Council employee should report any violation of this policy as soon as it occurs by using this reporting process. The very nature of harassment or discrimination makes it virtually impossible to detect unless the person being harmed registers his or her discontent with the appropriate representative the Office of Metro Council President.

Metro Council Employees should use this process to report offensive conduct or situations immediately. Any Metro Council employee who believes that he/she has been harassed should report the incident to their immediate supervisor, Metro Council Member or the Office of the President.

Any supervisor or Metro Council Member who receives a complaint of harassment must report the complaint to the Office of the President. Failure to report such complaints promptly is a violation of this policy and may subject the supervisor, manager or department head to disciplinary action up to and including termination of employment.

The Louisville Metro Council recognizes the potential conflict between the Metro Council employee's desire for confidentiality and its duty to investigate such complaints and allegations when the employee informs management about alleged harassment. However, after the Louisville Metro Council is notified of harassment and the employee requests that no action be taken, the Louisville Metro Council is still obligated to investigate.

Inaction in such circumstances could subject other Metro Council employees to continued inappropriate and potentially illegal behavior, as well as lead to liability for the employer.

The Louisville Metro Council must discharge its duty to provide its employees a safe work place by preventing and correcting harassment. Therefore, the Office of the President will investigate any and all complaints of harassment.

Complaints should be in writing; however, they do not need to follow a prescribed format. The process for investigating complaints is as follows:

The Office of the President will designate someone to be the investigator. This will follow the established investigation procedures of the Louisville Metro Government Department of Human Resources or the Internal Auditor.

The Louisville Metro Council recognizes that confidentiality is important and will protect the confidentiality and privacy of individuals reporting or accused of harassment (of any type) to the extent possible.

However, the Louisville Metro Council cannot guarantee complete confidentiality, because it usually cannot conduct an effective investigation without revealing certain information to the alleged harasser and potential witnesses.

Therefore, information about the allegation of harassment will be shared only with those necessary for the Louisville Metro Council to carry out its investigative and operational responsibilities. Records relating to harassment complaints will be maintained in the same manner.

The Louisville Metro Council cannot maintain confidentiality in circumstances in which it is required by law to disclose information (such as in response to legal processes, grievance procedures, Open Records, etc.) and when disclosure is required by the Louisville Metro Council outweighing interest to protect others.

- The investigator shall exercise the authority to interview the complainant, alleged harasser and any witnesses to the incident or incidents in question.
- The investigator shall exercise the authority to collect documentation and other available information with respect to the incident or incidents in question.
- The investigator shall prepare a written report of the results of the investigation for the Committee on Committees.
- The Committee on Committees shall determine whether there is sufficient cause to believe that the complainant has been the subject of harassment or intimidation, and shall recommend appropriate disciplinary action to be applied to the Metro Council Member or Metro Council employee who is the subject of the complaint.
- At the conclusion of the investigation, the Office of the President shall issue a written determination to the immediate supervisor or Metro Council Member.
- At the conclusion of the investigation, the Office of the President shall provide a written determination to the person who files the complaint.
- The Office of the President and the Committee on Committees must take all reasonable measures to ensure that the harasser ceases and desists from any harassment towards the complainant or any other employee or member of the public. The Louisville Metro Council will follow the Metro Code of Ethics and Kentucky Revised Statutes to determine what disciplinary action should be taken.

## **Retaliation**

(4) The Louisville Metro Council will not tolerate adverse treatment of any individual because he or she has filed a harassment complaint, or has provided information concerning such complaint. Any Metro Council employee or Metro Council Member who engages in retaliation against an individual who has filed a complaint or provided information concerning such complaint shall be subject to discipline, up to and including termination of employment or removal from office.

Any Metro Council employee who feels he or she has been subjected to such retaliation should report this action to the Office of the President.

Any Metro Council employee or Metro Council Member who is found to have knowingly made a false accusation of harassment or retaliation may be subject to disciplinary action up to and including termination of employment.

**Training**

(5) Members of management are required to attend sexual harassment training, as offered through the Training Division of Human Resources, every two years or as otherwise mandated by the Office of the President.

**SECTION II.** This Resolution shall take effect upon its passage and approval.

\_\_\_\_\_  
H. Stephen Ott  
Metro Council Clerk

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David Yates  
President of the Council

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Approval Date

**APPROVED AS TO FORM AND LEGALITY:**

Michael J. O'Connell  
Jefferson County Attorney

BY: \_\_\_\_\_

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