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# CITY OF KETTERING — ADMINISTRATIVE POLICIES

## PERSONNEL POLICIES & PROCEDURES

8/06

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### Policy No. 610: Equal Employment Opportunity,

### Non-Discrimination, Prohibition Against Harassment and Compliance with the Employment Provisions of Title I of the Americans with Disabilities Act

#### **A. General Provisions — Equal Opportunity and Non-Discrimination**

1. References in this Policy to the “Director of Human Resources” shall include the Director’s designee.
2. The City of Kettering is committed, and is required by the Constitution of the State of Ohio, to hire applicants and promote employees on the basis of merit and their fitness for duty. Furthermore, the City of Kettering recognizes the right of all applicants and employees to have equal opportunity and access to employment opportunities within the City of Kettering without regard to non-job-related criteria. It also recognizes the right of all employees, applicants and citizens to be treated in a fair and equitable manner and without harassment.
3. The City of Kettering complies with federal regulations implementing the Employment Provisions of Title I of the Americans with Disabilities Act (ADA), as well as those provisions in Title V of the Act that are related to employment issues. The Director of Human Resources is the designated **Title I ADA Coordinator** for issues related to the Employment Provisions of the Act.
4. The City of Kettering complies with federal regulations implementing Title VII of the Civil Rights Act and its amendments, as well as with several other federal and state laws and regulations regarding non-discrimination in employment. The City of Kettering is an Equal Opportunity Employer and voluntarily has developed and maintains an Affirmative Action Plan and Program. The Director of Human Resources is the designated **Equal Opportunity and Affirmative Action Officer**.
5. All employment decisions are to be made without regard to race, color, sex, religion, age, national origin, ethnic heritage or disability in a qualified individual, unless otherwise permitted or required by law, or lawfully documented as a Bona Fide Occupational Qualification (BFOQ).
6. The Director of Human Resources has primary responsibility for ensuring equal opportunity and non-discrimination in the recruitment and application process, the hiring, advancement or discharge of employees, and in employee compensation, job training and other terms, conditions and privileges of employment. Accordingly, all allegations of discrimination or harassment, or requests

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from employees with disabilities regarding reasonable accommodation in the workplace, as well as complaints, questions or comments regarding issues related to this Policy, shall be promptly communicated by supervisors or Department Directors to the Director of Human Resources or one of the Human Resource Analysts.

7. Anyone conducting an investigation of alleged discriminatory acts or harassment, or considering requests from employees with disabilities for reasonable accommodation in the workplace, shall coordinate it with the Director of Human Resources.
8. Although the primary purpose of this Policy is to deal with incidents of illegal discriminatory conduct or harassment that violate state or federal laws, the City does not condone any conduct that is discriminatory or harassing in nature.

### **B. Harassment — General**

1. All employees are entitled to perform their work in an environment free from illegal harassment, either overt or covert, regardless of their race, color, gender, religion, age, national origin, ethnic heritage or disability.
2. The use of any derogatory terminology by any employee to refer to any identifiable group or individual is prohibited.
3. Any conduct that has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment for that individual or group of individuals is prohibited.
4. False accusations of harassment can have serious effects on innocent employees; therefore, false accusations will result in severe disciplinary action.
5. Responsibility to Report: All employees of the City of Kettering are responsible for ensuring that discriminatory or harassing conduct does not occur in any form in the workplace. Any employee who has been the victim of such conduct, or who observes such conduct, is **required to report** the incident immediately to a supervisor, Department Director, Director of Human Resources or one of the Human Resource Analysts. If the report is made to a supervisor or Department Director outside the Human Resource Department, the individual receiving the report shall promptly contact the Director of Human Resources or one of the Human Resource Analysts.

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6. The City will act positively to investigate alleged acts of discriminatory or harassing conduct and to seek effective remedies when an allegation is determined to be valid. Where discriminatory or harassing conduct can be demonstrated to have occurred, appropriate disciplinary action will be taken — up to or including discharge from employment.
7. If an employee feels he/she is the victim of illegal harassment, he/she should consider verbally telling the offending employee to stop the offensive behavior.
8. Complaint Procedure — Illegal Harassment
  - a. If the offensive behavior does not stop, or the behavior is (in the opinion of the offended employee) very inappropriate or offensive, the offended employee should immediately make a complaint to **ONE** of the following:
    - The offended employee's immediate supervisor.
    - A supervisor other than the offended employee's immediate supervisor.
    - The offended employee's Department Director.
    - One of the Human Resource Analysts in Human Resources.
    - The Director of Human Resources.

The complaint should be made to the person with whom the Complainant feels most comfortable.
  - b. When making the complaint, the offended employee should provide specific facts concerning the offensive behavior. These facts should answer the following questions:
    - Who committed the offensive behavior?
    - What was the specific behavior?
    - When and where did the incident(s) occur?
    - Were there any witnesses? If yes, who are they?
  - c. If the complaint is originally made with a supervisor or Department Director outside the Human Resource Department, the individual receiving the complaint shall promptly contact the Director of Human Resources or one of the Human Resource Analysts with the facts of the complaint.
  - d. An investigation of the complaint will be coordinated by the Director of Human Resources.

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- e. If the Complainant has reason to believe an investigation is not being conducted, he/she should contact the Director of Human Resources or one of the Human Resource Analysts as soon as possible.
- f. An employee who feels he/she has been the victim of harassment may, in lieu of making a complaint, or in addition to making a complaint, file a formal grievance as noted under this Policy's Section B.9., which follows. If the Complainant chooses to file a grievance, any pending complaint will immediately become subject to Policy No. 702: Administrative Grievance Procedure or the Grievance Procedure of any applicable bargaining agreement.

### 9. Right to File a Grievance

Any employee who has been a victim of discriminatory or harassing conduct may file a grievance under Policy No. 702: Administrative Grievance Procedure at Step 1, Step 2 or Step 3, or in a manner prescribed by the Grievance Procedure of an applicable bargaining agreement. Given the sensitivity or potential sources of discriminatory or harassing conduct, employees may file a grievance at any **ONE** of the Grievance Steps noted above. The grievance should be filed at the Step and with the person with whom the Grievant feels most comfortable. A grievance related to issues covered by this Policy shall promptly be communicated to the Director of Human Resources or one of the Human Resource Analysts.

- 10. All supervisors and Department Directors are responsible for ensuring that the employees under their supervision are informed of this Policy and that discriminatory or harassing conduct does not occur at any level within this organization. In turn, all employees are responsible for ensuring that their conduct on the job is free from discriminatory or harassing intent or impact.
- 11. Any supervisor or Department Director who receives a report, complaint or grievance alleging discriminatory conduct or harassment shall ensure that it is appropriately received without undue formalities.

### C. Sexual Harassment

- 1. Sexual harassment in the workplace is a violation of federal and state law and is prohibited by the policies of the City of Kettering. No employee, either male or female, should be subjected to unsolicited and unwelcome sexual overtures or conduct, either verbal or physical. Specifically, it is

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illegal and against the policies of the City of Kettering for any employee, male or female, to sexually harass another employee by:

- a. Making acceptance of unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature a condition of an employee's continued employment;
  - b. Making submission to or rejections of such conduct the basis for employment decisions affecting the employee; or
  - c. Creating an intimidating, hostile or offensive work environment by such conduct.
2. The City will enforce disciplinary action against any employee who threatens or insinuates, either implicitly or explicitly, that an applicant's or employee's refusal to submit to sexual advances will adversely affect that individual's compensation, terms, conditions or privileges of employment.

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### D. Applicants/Employees with Disabilities — Non-Discrimination and Access

1. In addition to the City of Kettering's commitment to prohibit discriminatory or harassing conduct in the workplace, the City also complies with the Employment Provisions of Title I of the Americans with Disabilities Act (ADA), as well as those provisions in Title V of the Act that are related to employment issues. For the purposes of this Policy, the Director of Human Resources is the designated **Title I ADA Coordinator** for all questions, comments or complaints regarding access of qualified individuals with disabilities to the application process or employment, or alleged discrimination in employment, based upon a qualified applicant's or employee's disabling condition or relationship or association with a person with a disability.
2. Any applicant or employee who feels he/she has been illegally discriminated against due to a disabling condition and wishes to make a complaint, or who has questions, comments or a complaint regarding access to the application process or employment opportunities due to his disability, should contact the Director of Human Resources or one of the Human Resource Analysts.
3. Any employee who has been a victim of discriminatory or harassing conduct in the workplace, based upon a disability, has responsibilities and remedies available to him/her as outlined in this Policy under Sections A. and B.
4. The City of Kettering is committed to making efforts to reasonably accommodate qualified employees with disabilities to enable them to most efficiently and safely perform the essential functions required by their job, to enable employees with disabilities to enjoy equal benefits and privileges of employment as are enjoyed by all other employees, and to ensure access to workplace facilities.
5. Efforts to reasonably accommodate qualified employees with disabilities may include:
  - a. Job restructuring, including modifying the work schedule or duties of the position held;
  - b. Acquiring or modifying equipment or devices;
  - c. Adjusting or modifying training materials or policies;
  - d. Providing qualified readers or interpreters, or other adaptive equipment;
  - e. Job reassignment to a vacant position in which the employee with a disability is able to perform the essential functions of the job;

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- f. Taking actions to permit access to non-work areas used by employees, such as break rooms, meeting rooms, restrooms, etc.; and
  - g. Considering similar accommodations that may have been made for other individuals with disabilities, within or outside of the workplace.
6. Employees with disabilities have a **responsibility to inform** their supervisor, Department Director, the Director of Human Resources or one of the Human Resource Analysts regarding their requests/recommendations to improve access or make reasonable accommodations as it pertains to their employment. The responsible supervisor or Department Director shall promptly communicate such requests/recommendations to the Director of Human Resources or one of the Human Resource Analysts.

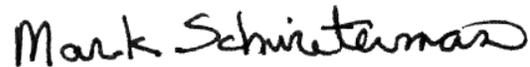
The City Manager hereby delegates the appropriate responsibility and authority to administer this Policy to the City's Assistant City Managers and Department Directors.

Approved:

9/18/06

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Date



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Mark Schwieterman  
City Manager

Issued:

10/27/06

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Date



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Richard L. Strader  
Director of Human Resources