

March 18, 1994; Reissued August 16, 1994; Reissued May 27, 2003

EXECUTIVE ORDER NO. 2

**TO: ALL BOARDS, COMMISSIONS, DIRECTORS OF DEPARTMENTS
AND ELECTED OFFICIALS**

SUBJECT: POLICY AGAINST DISCRIMINATION AND HARASSMENT

This executive order is issued to clarify and reaffirm the City of Detroit's policy prohibiting employment practices resulting in discrimination or harassment as defined by Sections 13-12-1 and 27-3-1, as amended, of the 1984 Detroit City Code. You are directed in particular to the provision governing sexual harassment, Section 13-12-1, et seq., a copy of which is attached (Attachment A).

Recent decisions of the Michigan and United States Supreme Courts on the subject of sexual harassment have provided further guidance with respect to the elements of establishing such a claim. The definition of sexual harassment found in Sec. 13-12-1 of the 1984 City Code is still applicable. However, the Michigan Supreme Court has ruled that in order to determine whether the alleged conduct meets the standards as set forth in the Code, the conduct must be viewed from the standpoint of a reasonable person. This is not a gender based analysis, i.e., not based on the viewpoint of a reasonable woman.

Further, the United States Supreme Court issued an opinion which clarified the level of conduct necessary in order to state a claim of sexual harassment. The Court indicated that the conduct need not lead to a psychological injury or seriously affect the psychological well-being of the individual who complains. Title VII does not require evidence of concrete psychological harm in order to establish a claim under the statute. It is possible that this same standard may be applied to claims of harassment based upon race, religion or national origin.

All employees, managers and supervisors are responsible for ensuring that subordinates or co-employees are afforded a working atmosphere that is free from improper or unwelcome harassment on the basis of race, color, creed, national origin, age, religion, marital status, disability, public benefit status, sex, or sexual orientation. Discrimination against or harassment of any employee or other person is a serious violation which will not be tolerated and which will subject the offending employee to appropriate discipline, including discharge.

In order to facilitate the implementation of this policy, each city department has an administrator appointed for purposes of this order. The Human Resources Consultant or Manager shall act as the administrator of the departments in their Service Group.

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Individuals who believe that they have been subjected to discrimination or harassment on the basis of their race, color, creed, national origin, religion, age, marital status, disability, public benefit status, sex, or sexual orientation may file a complaint under this Executive Order with either their department's administrator or directly to the Human Rights Department. The complaint shall be reduced to writing on the attached form (Attachment B). Any complaint filed with a department administrator must be reported by the administrator to the Human Rights Department.

Unless otherwise directed by the Human Rights Department, each department administrator is required to take immediate investigative action whenever a complaint of discrimination or harassment is filed. Except in extraordinary circumstances, the investigation should be completed within sixty (60) days of the date the complaint was filed.

The employee or employees charged by the complainant shall have an opportunity to review the written complaint and to provide a written response. Each witness named in the complaint and the response shall be interviewed by the administrator. A conciliation hearing attended by the complainant and his or her representative, as well as the charged employee and his or her representative, shall be held prior to the close of the investigation. Within thirty (30) days of completion of the investigation, the department shall provide a timely report to the Mayor's Office and the head of the complainant's department. The report must contain a statement regarding the findings of the investigation and, if appropriate, a recommendation for corrective and/or disciplinary action. The complainant and the affected employee shall be provided with a written disposition of the investigation.

In the event a complainant is not satisfied with the results of the department's investigation, the complainant shall submit a written request to the administrator asking that the investigation be forwarded to the Human Rights Department. The department administrator must, within five (5) days, forward all documents and statements gathered in the investigation as well as a copy of the administrator's report to the Human Rights Department. The Human Rights Department must review the department's investigation for thoroughness and accuracy. The Human Rights Department may then supplement the investigation. The Human Rights Department shall have access to department records and personnel deemed relevant to the investigation. Within thirty (30) days from the date the Human Rights Department received the investigation materials, the original report along with additional comments and recommendations must be submitted to the Mayor's Office and the director of the complainant's department.

All appointees, managers and supervisors must take training classes on the City's policy and guidelines prohibiting discrimination and harassment. Training is coordinated by the Human Resources Department.

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Employees are reminded that there are state and federal laws which also prohibit conduct which is the subject of this Executive Order. Employees are further advised that the Equal Employment Opportunity Commission (EEOC) and the Michigan Department of Civil Rights (MDCR) also have jurisdiction over this subject area, and that specific time limits control the jurisdiction of those agencies and the bringing of claims in the state and federal courts. To protect your rights, any questions concerning an employee's remedies under either the state or federal laws should be referred to those agencies.



Kwame M. Kilpatrick
Mayor

Detroit Code

CIVIL SERVICE AND PERSONNEL REGULATIONS

§ 13-12-1

<p>ARTICLE XII: SEXUAL HARASSMENT</p>	<p>(d) A comprehensive plan shall be established by directive or order of the mayor for every-city department, division, agency, board or commission which shall include steps for receiving, investigating, and resolving complaints of sexual ' harassment.</p>
	<p>(e) In order to implement this policy, all managers and supervisors are directed to take training classes on the city's guidelines and policy prohibiting sexual harassment, the training will be coordinated by the Human Resources Department.</p>
<p>Sec. 13-12-1. Sexual harassment-prohibited.</p>	
<p>(a) Sexual harassment is a violation of both state and federal laws. Federal guidelines place an affirmative duty upon the City of Detroit to inform not only city employees, but elected officials and agents as well, that sexual harassment is forbidden and any conduct of a sexual nature is prohibited in the work place.</p>	<p>(f) The training classes will commence within sixty (60) days of the adoption of this article.</p>
<p>(b) Sexual harassment is defined as expressed or implied sexual interaction or behavior which:</p> <ol style="list-style-type: none"> 1. Interferes with an individual's work performance or creates an intimidating, hostile or offensive work environment; or 2. Serves to effect employment decisions, ie. salary, promotion, or career development; or 3. Is made either an explicit or implicit term or condition of an individual's employment. 	<p>(g) Each department shall designate an administrator to facilitate the implementation of the city's policy regarding sexual harassment. (Ord. No, 28-92, § 1, 9-30-92)</p>
<p>(c) It is the policy of the city that sexual harassment in the work place is unacceptable conduct and accordingly prohibited. Therefore, all department heads, managers; and supervisors are directed to take the following action:</p> <ol style="list-style-type: none"> 1. Require that all employees shall sign a receipt indicating that they have read and received the policy and procedure for filing a sexual harassment complaint. 2. Take immediate corrective/investigative action should such a discrimination be reported. 3. Report all sexual discrimination complaints to the human rights department who shall have the responsibility for investigative action and monitoring. 	<p>Supp. No. 10</p>

COMPLAINT

NAME (Indicate Mr., Ms. or Mrs.)	SSN
Street Address	Telephone No.
Department	Division
Name of Employee against whom Complaint is made:	Title
Business address of Employee:	Telephone No.
Cause of Discrimination based on: <input type="checkbox"/> Race <input type="checkbox"/> Color <input type="checkbox"/> Sex <input type="checkbox"/> Age <input type="checkbox"/> Religion <input type="checkbox"/> Disability <input type="checkbox"/> Creed <input type="checkbox"/> National Origin <input type="checkbox"/> Martial Status <input type="checkbox"/> Public Benefit Status <input type="checkbox"/> Sexual Orientation	Date of most recent or continuing discrimination took place:
The particulars are (if additional space is needed_ attach extra sheets):	

Signature

Date:

Signature of person taking the complaint:

Date copy submitted to HRD:
