



## ARA-2.02 - Prohibition Against Workplace Harassment, Discrimination, Racism, and Retaliation

Administrative Rules Adopted by Bureaus Pursuant to Rule Making Authority (ARB)

### News and notices

Public Notice

Policy category: [Equal Employment](#)

Policy number: ARA-2.02

#### A. City of Portland Core Values

The core values of the City of Portland and the Auditor's Office are:

- Anti-racism
- Equity
- Transparency
- Communication
- Collaboration
- Fiscal Responsibility.

These values guide our actions as we engage our workforce and serve the community.

#### B. Workplace Harassment, Discrimination, Racism, and Retaliation Prohibited

The Auditor's Office is committed to creating a respectful, inclusive, equitable, and professional work environment that promotes employment opportunities and is free of harassment, discrimination, racism, and retaliation.

1. It is the Auditor's Office's policy to prohibit workplace harassment, discrimination, racism, and retaliation based on protected status. Protected status includes race, color, ethnicity, religion, nonreligion, gender, marital status, familial status, national origin, age, mental or physical disability (as defined by the Americans with Disabilities Act and state law), sexual orientation, gender identity, source of income, protected veterans' status, or other protected status under applicable law.
2. Employees are expected to talk with their supervisor, other managers, Operations Management staff, the City Auditor, or Bureau of Human Resources staff if they experience harassment, discrimination, racism and/or

[Notice of Proposed Rulemaking | September 2022](#)

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Search Code, Charter, Policy

Keywords

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retaliation, regardless of its origin. Supervisors or managers receiving such complaints shall take appropriate corrective action to stop the harassment, discrimination, racism and retaliation, and report the incident to Operations Management as required in this rule.

3. Harassment, discrimination, racism, and retaliation are prohibited in the workplace, in any work-related setting outside the workplace, and when off-duty conduct creates a sufficiently negative work environment based on protected status.

Examples: By way of illustration only and not limitation, off-duty conduct that would likely create a sufficiently negative work environment based on protected status includes:

- a. A text message to a co-worker where the sender calls the recipient of the text a racial epithet.
  - b. An employee is a member of a known white supremacist hate group and/or publicly actively participates in white supremacist hate group activities, and such conduct negatively impacts the City's legitimate interests.
4. Every employee shares responsibility for bringing to the City's attention conduct that interferes with a work environment free of harassment, discrimination, racism, and retaliation. See [Auditor's Office Administrative Rule 11.03 - Duty to Report Unlawful or Improper Actions](#) for more information about reporting duties and whistleblower protections.

#### **C. Who is Covered by this Rule?**

1. This rule covers all Auditor's Office non-represented employees, interns (paid or unpaid), volunteers, and applicants for employment, as well as contractors providing services to the Auditor's Office, such as outside vendors or consultants. Contractors will be notified of this rule.
2. This rule is consistent with City-wide [Human Resources Rule 2.02 - Prohibition Against Workplace Harassment, Discrimination and Retaliation](#), which applies to elected officials, employees, interns, volunteers, applicants, and contractors outside the Auditor's Office, and to represented Auditor's Office employees.

#### **D. Prohibited Conduct; Definitions and Examples**

**NOTE:** The definitions in this rule are designed to be consistent with the Auditor's Office's goal of creating a respectful and professional work environment. However, definitions alone do not

capture the Auditor's Office's policy without examples. Accordingly, examples are provided to illustrate the definitions of terms, but are not intended to be the only examples of conduct that may violate this rule.

1. Harassment. The Auditor's Office strictly prohibits harassment based on protected status. Harassment involves inappropriate verbal or physical conduct, which may include conduct that is derogatory or shows hostility towards an individual related to the individual's protected status.
  - The intent or consent of the persons engaging in the inappropriate conduct, or whether the person toward whom the inappropriate conduct is directed is aware of it, does not matter.
  - By way of illustration only, and not limitation, prohibited harassment includes:
    - Racial or ethnic slurs, epithets, hate speech, and any other offensive remarks
    - Jokes, pranks, or other banter, including stereotyping and microaggressions
    - Threats, intimidation, and other menacing behavior (whether written, verbal, physical, or electronic)
    - Inappropriate verbal, graphic, or physical conduct
    - Sending or posting harassing messages, videos, or messages via text, instant messaging, or social media, which have a nexus to the workplace
    - Other harassing conduct based on one or more protected status identified in this rule.
2. Sexual Harassment. Sexual harassment is a specific form of harassment, which includes a broad spectrum of conduct, including unwanted sexual advances, requests for sexual favors, and other sexually oriented verbal or physical conduct.
  - a. Sexual harassment may also include situations where:
    - (1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
    - (2) Submission to or rejection of such conduct is used as a basis for employment decisions affecting such individual; or
    - (3) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment.

- b. By way of illustration only, and not limitation, some examples of unacceptable behavior include:
- Unwanted sexual advances
  - Offering an employment benefit (such as a raise, promotion, or career advancement) in exchange for sexual favors, or threatening an employment detriment (such as termination or demotion) for an employee's failure to engage in sexual activity
  - Visual conduct (such as leering, making sexual gestures, and displaying or posting sexually suggestive objects or pictures, cartoons, or posters)
  - Sending or posting sexually-related messages, videos, or messages via text, instant messaging, or social media
  - Verbal abuse of a sexual nature, graphic verbal comments about an individual's body, sexually degrading words used to describe an individual, and suggestive or obscene letters, notes, or invitations
  - Welcome or unwelcome contact with any intimate body part, including but not limited to breasts, buttocks, hair, neck, lips, legs, thighs, and feet (such as pinching, kissing, grabbing, patting, or neck massages/rubs)
  - Physical or verbal abuse concerning an individual's gender, gender identity, or gender expression.

3. Microaggressions. Microaggressions are a form of harassment. A microaggression is a statement, action, inaction, or incident, whether intentional or unintentional, that excludes, denigrates, negates, or nullifies a person's identity or their lived experience.

- a. A microaggression may take the form of an insult or invalidation that communicates a derogatory or negative slight against any protected status covered under this rule, including federal or state law.
- b. By way of illustration only, and not limitation, some examples of unacceptable behavior include:
- A White person telling a person of color that "racism does not exist in today's society."

- A person saying to a person who is Black, Indigenous, or a person of color (BIPOC), “Your people must be so proud” in response to an accomplishment or public recognition.
  - Someone telling a person of color, “You don’t speak the language, so you must not really be...”
  - Someone being given a nickname because others struggle to pronounce their name.
  - A person of color being told, “You don’t even look...”
  - A person telling a person of color, “You speak really well for...”
- c. The Auditor’s Office’s goal is to create a work environment of respect, dignity, and open communication. Microaggressions, regardless of intent, are harmful. Whenever a microaggression occurs, interrupting the act, fostering dialogue, and providing awareness are first steps to addressing the issue. Where there are frequent acts of microaggression(s), a more formal process is required to determine accountability and apply corrective action as appropriate.

4. Discrimination. The Auditor’s Office is committed to prohibiting discrimination in the workplace. Discrimination is the unequal or different treatment of an individual in any personnel action based on protected status. By way of illustration only, and not limitation, examples of discrimination may include:

- Making employment decisions (such as promotional decisions, hiring decisions, or discharge or layoff selections) based on a protected status
- Using stereotypes or assumptions about a protected status for the purpose of employment decisions
- Denial or exclusion from information or meetings that could impact successful job performance based on protected status
- Collusion with another person to treat someone negatively based on protected status.

5. Racism. Racism is a form of discrimination and/or harassment. The Auditor’s Office prohibits racism in the workplace. By way of illustration only, and not limitation, examples of racism may include:

- A White employee assuming a Black coworker is of lesser employment status
- Asking a Black woman if you can touch her hair
- Commenting that a Black employee is “so articulate” or referring to a Black employee as “you people”
- Racial slurs, racist jokes or cartoons, racial stereotypes, paraphernalia like swastikas or nooses, or singing along to racist song lyrics.

6. Retaliation. The Auditor’s Office prohibits retaliation against those who engage in protected activities.

Protected activities may include but are not limited to:

- Complaining or threatening to complain about alleged discrimination, racism, or harassment against oneself or others
- Resisting sexual advances or intervening to protect others
- Requesting a reasonable accommodation for disability, religion, or limitations related to pregnancy, childbirth, or a related medical condition.
  - a. Conduct that would likely deter an individual from reporting or supporting a claim of harassment, racism, or discrimination may constitute retaliation.
  - b. The Auditor’s Office will not tolerate retaliation against any individual who reports discrimination, racism, or harassment, or testifies, assists, or participates in any manner in an investigation, proceeding, or hearing, regardless of the outcome of the complaint. Retaliation can occur even if the underlying complaint of harassment, racism, or discrimination is not substantiated.
  - c. By way of illustration only, and not limitation, examples of retaliation may include:
    - Any adverse employment action, including disciplining or terminating an employee for filing a claim of harassment, racism, or discrimination
    - Ostracizing or excluding a complainant from a work-related meeting or conversation
    - Spreading malicious gossip or rumors about a coworker for filing a complaint of discrimination, racism, or harassment
    - Scrutinizing work or attendance more closely than that of others without

justification.

#### **E. Manager / Supervisor Expectations**

Managers and supervisors are required to enforce this rule and maintain a productive, respectful, inclusive, and professional workplace.

1. Managers and supervisors who know or have reason to know that discrimination, harassment, racism, or retaliation may be occurring must take immediate action to stop it and report the conduct as required below.
  - a. Implied approval of harassment, discrimination, racism, and/or retaliation (by, for example, laughing and treating a situation as a joke, failing to take action, or advising an employee not to complain) is prohibited.
  - b. Any manager or supervisor who is aware of harassment, discrimination, racism, and/or retaliation and fails to report it or condones it by action or inaction will be subject to disciplinary action.
2. As used in this rule, a "complaint" has its ordinary meaning: it means that an employee is bringing information forward or protesting something that is affecting their work environment, and the substance of the complaint involves protected status.
3. If a manager or supervisor observes or becomes aware of conduct that likely constitutes harassment, discrimination, racism, retaliation, or other inappropriate conduct discussed under this rule, or receives a complaint from a City employee, an applicant, a member of the public, or a contractor about conduct that likely constitutes harassment, discrimination, racism, or retaliation, they must:
  - a. Contact Operations Management and/or the City Auditor as soon as possible, but no later than two working days after observing or becoming aware of the conduct or receiving the complaint; and
  - b. Upon receipt of a complaint, provide the complainant with a copy of this rule.
4. Managers and supervisors are not expected to determine whether a Rule 2.02 violation has occurred before contacting Operations Management and/or the City Auditor. When in doubt, managers and supervisors should always err on the side of contacting Operations Management and/or the City Auditor within two working days.
5. Managers and supervisors are expected to contact

Operations Management and/or the City Auditor even if the person making the complaint requested that it be kept confidential or the person toward whom the prohibited conduct was directed is not aware of the concerns. Managers and supervisors should inform the individual making a complaint that strict confidentiality may not be feasible.

6. Managers and supervisors are responsible for ensuring that the following are not permitted in and are removed from the workplace: any media and any notes, comments, posters, or other materials on walls, bulletin boards, or elsewhere in the workplace that reflects harassment, discrimination, racism, or retaliation.
  - a. Managers and supervisors are expected to educate and remind employees about the impropriety of these items, as well as the inappropriateness of jokes, slurs, and other negative verbal comments that violate this rule.
  - b. Managers and supervisors are responsible for educating employees that the use of City-owned equipment (e.g., electronic devices such as computers, phones, mobile phones, tablets, or photocopiers) for any of these purposes is also prohibited.

#### **F. What Should Employees Do?**

1. All employees, managers, and supervisors are advised to:
  - a. Not engage in workplace discrimination, harassment, racism, or retaliatory conduct in violation of this rule.
  - b. Document incidents and allegations of workplace harassment, discrimination, racism, or retaliation.
  - c. *If you believe you are being subjected to conduct that violates this rule and feel comfortable doing so:* Tell the offender to "stop it!" and say it firmly, without smiling or apologizing. However, nothing prevents you from filing a complaint because you did not tell the offender that their behavior is unwelcome or ask the offender to stop.
  - d. *If you are the recipient of workplace harassment, discrimination, racism, or retaliation prohibited by this rule:* Promptly file a complaint using the procedure below.
  - e. *If you witness prohibited conduct:* You are encouraged to bring that information to the



attention of a supervisor, Operations Management, or the City Auditor.

2. Employees are not required to follow any supervisory chain of command in filing a complaint or reporting possible violations of this rule. You may go directly to Operations Management or the City Auditor.
3. Employees who believe they are subject to conduct that violates this rule are encouraged to take advantage of the City's [Employee Assistance Program](#) (but please do not stop there: also bring the issue to the attention of your supervisor, Operations Management, or the City Auditor).
4. If an employee is unsure whether or not the behavior or incident is a Rule 2.02 violation, the Auditor's Office recommends that the employee report it.
5. Nothing in this rule restricts an employee's right to file a complaint with the [Bureau of Labor and Industries](#) or the [Equal Employment Opportunity Commission](#) or to file a lawsuit.
6. Oregon law requires the City to notify all employees that anyone who intends to sue the City for violation of state law must provide notice of the tort claim within 180 days of the alleged violation of the law. If a timely tort claim notice is given, a complaint alleging an unlawful employment practice as described in [ORS 659A.030](#), [ORS 659A.082](#), or [ORS 659A.112](#) must be commenced not later than five years after the occurrence of the alleged violation. More information about filing a tort claim notice is available from the City's [Risk Management Division](#).
7. This policy includes conduct that is enforceable as an Auditor's Office rule but is not prohibited under state or federal law, and is not intended to create a legal right of action that does not exist under state or federal law.

#### **G. Internal Complaint Process: Who to Contact**

1. Auditor's Office employees are encouraged to discuss harassment, discrimination, racism, and/or retaliation concerns with their immediate supervisor.
2. If an employee does not feel comfortable discussing their concerns with their immediate supervisor, the employee should contact:
  - Their supervisor's manager
  - Business Operations Manager
  - Chief Deputy City Auditor
  - City Auditor
  - Bureau of Human Resources staff.
3. Oregon law requires the City to investigate complaints submitted within four years from the date that the

workplace harassment, racism, or discrimination occurred. The Auditor's Office encourages employees to report concerns promptly so that it can act quickly to address the issue, and to bring forward any complaints the employee may have regardless of when the conduct occurred.

4. A non-City employee (e.g., an applicant, a member of the public, or a contractor) may contact the manager of the Auditor's Office Division where alleged harassment, discrimination, racism, or retaliation occurred, or may file a complaint with Operations Management or the City Auditor.

#### **H. Investigations**

1. The Auditor's Office will conduct or provide for the investigation of complaints, in accordance with Auditor's Office procedures. All complaints must be thoroughly and promptly addressed.
  - a. When appropriate, the individual who receives the complaint may discuss options for informally resolving the complaint with the complainant.
  - b. Immediate action may be required in situations where prohibited harassment, retaliation, racism, or discrimination has occurred.
2. The Auditor's Office will notify the individual making the complaint and the subject of the complaint of the results of the investigation and whether action will be taken.
3. Operations Management will follow-up with the complaining employee not less than every three months for one year after receipt of the complaint to ensure that the harassment, racism, or discrimination has stopped, and the complainant has not experienced retaliation. The complainant may, at any time, request in writing for Operations Management to stop following up on the complaint.

#### **I. Confidentiality**

1. The Auditor's Office will treat all information received in connection with inquiries or with the filing, investigation, and resolution of workplace harassment, discrimination, racism, and/or retaliation complaints as highly sensitive.
2. Employees authorized by the City Auditor to receive and investigate complaints are required to maintain confidentiality to the extent possible. It is expected and anticipated that all parties involved in complaints will observe the same standard of sensitivity. It is emphasized that this practice is in the best interest of all

parties; however, absolute confidentiality cannot be guaranteed.

3. A person who believes that they have been the victim of workplace harassment may voluntarily disclose information regarding the incident of workplace harassment.
4. As required under State law, the City may not require or coerce an employee reporting a violation of this policy to enter into a nondisclosure or non-disparagement agreement; however, an employee may voluntarily request to enter into such an agreement with City and will have seven days after executing the agreement to revoke any such agreement.
  - a. A nondisclosure agreement refers to a contract by which the parties agree not to reveal information with others outside of their arrangement.
  - b. A non-disparagement agreement refers to a contract by which the parties agree not to make negative statements about the other(s).

#### J. **Training**

Auditor's Office employees will attend training on the Citywide counterpart to this rule, [City of Portland Human Resources Rule 2.02](#), upon hire and every three years thereafter.

**Important Notice to all Employees:** Employees who have experienced conduct they believe is contrary to this rule have an obligation to take advantage of the complaint procedure included in this rule. An employee's failure to fulfill this obligation could affect their other rights.

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#### **Auditor's Office Administrative Rule Information and History**

Questions about this administrative rule may be directed to the [Auditor's Office's Operations Management Division](#).

Adopted by the City Auditor December 11, 2017.

Adapted from [City of Portland Human Resources Administrative Rule 2.02 Prohibition Against Workplace Harassment, Discrimination, and Retaliation](#)


Adopted by Council March 6, 2002, Ordinance No. 176302.

Revised February 15, 2018.

Revised by the City Auditor on October 5, 2020, as an interim rule effective for not more than 180 days.

Amended by the City Auditor after a 30-day public comment period on April 30, 2021.

## Related documents

 [ARA 2.02 Prohibition Against Workplace Harassment, Discrimination, Racism, and Retaliation](#) (540.07 Kb)



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**ARA 2.02 PROHIBITION AGAINST WORKPLACE HARASSMENT, DISCRIMINATION,  
RACISM, AND RETALIATION (RULE 2.02)**

**A. City of Portland Core Values**

The core values of the City of Portland and the Auditor's Office are:

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2. Employees are expected to talk with their supervisor, other managers, Operations Management staff, the City Auditor, or Bureau of Human Resources staff if they experience harassment, discrimination, racism and/or retaliation, regardless of its origin. Supervisors or managers receiving such complaints shall take appropriate corrective action to stop the harassment, discrimination, racism and retaliation, and report the incident to Operations Management as required in this rule.
3. Harassment, discrimination, racism, and retaliation are prohibited in the workplace, in any work-related setting outside the workplace, and when off-duty conduct creates a

sufficiently negative work environment based on protected status.

Examples: By way of illustration only and not limitation, off-duty conduct that would likely create a sufficiently negative work environment based on protected status includes:

- a. A text message to a co-worker where the sender calls the recipient of the text a racial epithet.
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### **D. Prohibited Conduct; Definitions and Examples**

**NOTE:** The definitions in this rule are designed to be consistent with the Auditor's Office's goal of creating a respectful and professional work environment. However, definitions alone do not capture the Auditor's Office's policy without examples. Accordingly, examples are provided to illustrate the definitions of terms, but are not intended to be the only examples of conduct that may violate this rule.

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  - a. The intent or consent of the persons engaging in the inappropriate conduct, or whether the person toward whom the inappropriate conduct is directed is aware of it, does not matter.
  - b. By way of illustration only, and not limitation, prohibited harassment includes:
    - Racial or ethnic slurs, epithets, hate speech, and any other offensive remarks
    - Jokes, pranks, or other banter, including stereotyping and microaggressions
    - Threats, intimidation, and other menacing behavior (whether written, verbal, physical, or electronic)
    - Inappropriate verbal, graphic, or physical conduct
    - Sending or posting harassing messages, videos, or messages via text, instant messaging, or social media, which have a nexus to the workplace
    - Other harassing conduct based on one or more protected status identified in this rule.
2. Sexual Harassment. Sexual harassment is a specific form of harassment, which includes a broad spectrum of conduct, including unwanted sexual advances, requests for sexual favors, and other sexually oriented verbal or physical conduct.
  - a. Sexual harassment may also include situations where:
    - i. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
    - ii. Submission to or rejection of such conduct is used as a basis for employment decisions affecting such individual; or
    - iii. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment.

b. By way of illustration only, and not limitation, some examples of unacceptable behavior include:

- Unwanted sexual advances
- Offering an employment benefit (such as a raise, promotion, or career advancement) in exchange for sexual favors, or threatening an employment detriment (such as termination or demotion) for an employee's failure to engage in sexual activity
- Visual conduct (such as leering, making sexual gestures, and displaying or posting sexually suggestive objects or pictures, cartoons, or posters)
- Sending or posting sexually-related messages, videos, or messages via text, instant messaging, or social media
- Verbal abuse of a sexual nature, graphic verbal comments about an individual's body, sexually degrading words used to describe an individual, and suggestive or obscene letters, notes, or invitations
- Welcome or unwelcome contact with any intimate body part, including but not limited to breasts, buttocks, hair, neck, lips, legs, thighs, and feet (such as pinching, kissing, grabbing, patting, or neck massages/rubs)
- Physical or verbal abuse concerning an individual's gender, gender identity, or gender expression.

3. Microaggressions. Microaggressions are a form of harassment. A microaggression is a statement, action, inaction, or incident, whether intentional or unintentional, that excludes, denigrates, negates, or nullifies a person's identity or their lived experience.

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- Someone telling a person of color, "You don't speak the language, so you must not really be..."
  - Someone being given a nickname because others struggle to pronounce their name.
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- c. The Auditor's Office's goal is to create a work environment of respect, dignity, and open communication. Microaggressions, regardless of intent, are harmful. Whenever a microaggression occurs, interrupting the act, fostering dialogue, and providing awareness are first steps to addressing the issue. Where there are frequent acts of microaggression(s), a more formal process is required to determine accountability and apply corrective action as appropriate.
4. Discrimination. The Auditor's Office is committed to prohibiting discrimination in the workplace. Discrimination is the unequal or different treatment of an individual in any personnel action based on protected status. By way of illustration only, and not limitation, examples of discrimination may include:
- Making employment decisions (such as promotional decisions, hiring decisions, or discharge or layoff selections) based on a protected status
  - Using stereotypes or assumptions about a protected status for the purpose of employment decisions
  - Denial or exclusion from information or meetings that could impact successful job performance based on protected status
  - Collusion with another person to treat someone negatively based on protected status.
5. Racism. Racism is a form of discrimination and/or harassment. The Auditor's Office prohibits racism in the workplace. By way of illustration only, and not limitation, examples of racism may include:
- A White employee assuming a Black coworker is of lesser employment status
  - Asking a Black woman if you can touch her hair
  - Commenting that a Black employee is "so articulate" or referring to a Black employee as "you people"
  - Racial slurs, racist jokes or cartoons, racial stereotypes, paraphernalia like swastikas or nooses, or singing along to racist song lyrics.

6. **Retaliation.** The Auditor's Office prohibits retaliation against those who engage in protected activities. Protected activities may include but are not limited to:
- Complaining or threatening to complain about alleged discrimination, racism, or harassment against oneself or others
  - Resisting sexual advances or intervening to protect others
  - Requesting a reasonable accommodation for disability, religion, or limitations related to pregnancy, childbirth, or a related medical condition.
- a. Conduct that would likely deter an individual from reporting or supporting a claim of harassment, racism, or discrimination may constitute retaliation.
- b. The Auditor's Office will not tolerate retaliation against any individual who reports discrimination, racism, or harassment, or testifies, assists, or participates in any manner in an investigation, proceeding, or hearing, regardless of the outcome of the complaint. Retaliation can occur even if the underlying complaint of harassment, racism, or discrimination is not substantiated.
- c. By way of illustration only, and not limitation, examples of retaliation may include:
- Any adverse employment action, including disciplining or terminating an employee for filing a claim of harassment, racism, or discrimination
  - Ostracizing or excluding a complainant from a work-related meeting or conversation
  - Spreading malicious gossip or rumors about a coworker for filing a complaint of discrimination, racism, or harassment
  - Scrutinizing work or attendance more closely than that of others without justification.

#### **E. Manager / Supervisor Expectations**

Managers and supervisors are required to enforce this rule and maintain a productive, respectful, inclusive, and professional workplace.

1. Managers and supervisors who know or have reason to know that discrimination, harassment, racism, or retaliation may be occurring must take **immediate** action to stop it and report the conduct as required below.

- a. Implied approval of harassment, discrimination, racism, and/or retaliation (by, for example, laughing and treating a situation as a joke, failing to take action, or advising an employee not to complain) is prohibited.
  - b. Any manager or supervisor who is aware of harassment, discrimination, racism, and/or retaliation and fails to report it or condones it by action or inaction will be subject to disciplinary action.
2. As used in this rule, a “complaint” has its ordinary meaning: it means that an employee is bringing information forward or protesting something that is affecting their work environment, and the substance of the complaint involves protected status.
3. If a manager or supervisor observes or becomes aware of conduct that likely constitutes harassment, discrimination, racism, retaliation, or other inappropriate conduct discussed under this rule, or receives a complaint from a City employee, an applicant, a member of the public, or a contractor about conduct that likely constitutes harassment, discrimination, racism, or retaliation, they must:
  - a. Contact Operations Management and/or the City Auditor as soon as possible, but no later than two working days after observing or becoming aware of the conduct or receiving the complaint; and
  - b. Upon receipt of a complaint, provide the complainant with a copy of this rule.
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## **F. What Should Employees Do?**

1. All employees, managers, and supervisors are advised to:
  - a. Not engage in workplace discrimination, harassment, racism, or retaliatory conduct in violation of this rule.
  - b. Document incidents and allegations of workplace harassment, discrimination, racism, or retaliation.
  - c. *If you believe you are being subjected to conduct that violates this rule and feel comfortable doing so:* Tell the offender to "stop it!" and say it firmly, without smiling or apologizing. However, nothing prevents you from filing a complaint because you did not tell the offender that their behavior is unwelcome or ask the offender to stop.
  - d. *If you are the recipient of workplace harassment, discrimination, racism, or retaliation prohibited by this rule:* Promptly file a complaint using the procedure below.
  - e. *If you witness prohibited conduct:* You are encouraged to bring that information to the attention of a supervisor, Operations Management, or the City Auditor.
2. Employees are not required to follow any supervisory chain of command in filing a complaint or reporting possible violations of this rule. You may go directly to Operations Management or the City Auditor.
3. Employees who believe they are subject to conduct that violates this rule are encouraged to take advantage of the City's [Employee Assistance Program](#) (but please

do not stop there: also bring the issue to the attention of your supervisor, Operations Management, or the City Auditor).

4. If an employee is unsure whether or not the behavior or incident is a Rule 2.02 violation, the Auditor's Office recommends that the employee report it.
5. Nothing in this rule restricts an employee's right to file a complaint with the [Bureau of Labor and Industries](#) or the [Equal Employment Opportunity Commission](#) or to file a lawsuit.
6. Oregon law requires the City to notify all employees that anyone who intends to sue the City for violation of state law must provide notice of the tort claim within 180 days of the alleged violation of the law. If a timely tort claim notice is given, a complaint alleging an unlawful employment practice as described in [ORS 659A.030](#), [ORS 659A.082](#), or [ORS 659A.112](#) must be commenced not later than five years after the occurrence of the alleged violation. More information about filing a tort claim notice is available from the City's [Risk Management Division](#).
7. This policy includes conduct that is enforceable as an Auditor's Office rule but is not prohibited under state or federal law, and is not intended to create a legal right of action that does not exist under state or federal law.

#### **G. Internal Complaint Process: Who to Contact**

1. Auditor's Office employees are encouraged to discuss harassment, discrimination, racism, and/or retaliation concerns with their immediate supervisor.
2. If an employee does not feel comfortable discussing their concerns with their immediate supervisor, the employee should contact:
  - Their supervisor's manager
  - Business Operations Manager
  - Chief Deputy City Auditor
  - City Auditor
  - Bureau of Human Resources staff.
3. Oregon law requires the City to investigate complaints submitted within four years from the date that the workplace harassment, racism, or discrimination occurred. The

Auditor's Office encourages employees to report concerns promptly so that it can act quickly to address the issue, and to bring forward any complaints the employee may have regardless of when the conduct occurred.

4. A non-City employee (e.g., an applicant, a member of the public, or a contractor) may contact the manager of the Auditor's Office Division where alleged harassment, discrimination, racism, or retaliation occurred, or may file a complaint with Operations Management or the City Auditor.

## **H. Investigations**

1. The Auditor's Office will conduct or provide for the investigation of complaints, in accordance with Auditor's Office procedures. All complaints must be thoroughly and promptly addressed.
  - a. When appropriate, the individual who receives the complaint may discuss options for informally resolving the complaint with the complainant.
  - b. Immediate action may be required in situations where prohibited harassment, retaliation, racism, or discrimination has occurred.
2. The Auditor's Office will notify the individual making the complaint and the subject of the complaint of the results of the investigation and whether action will be taken.
3. Operations Management will follow-up with the complaining employee not less than every three months for one year after receipt of the complaint to ensure that the harassment, racism, or discrimination has stopped, and the complainant has not experienced retaliation. The complainant may, at any time, request in writing for Operations Management to stop following up on the complaint.

## **I. Confidentiality**

1. The Auditor's Office will treat all information received in connection with inquiries or with the filing, investigation, and resolution of workplace harassment, discrimination, racism, and/or retaliation complaints as highly sensitive.
2. Employees authorized by the City Auditor to receive and investigate complaints are required to maintain confidentiality to the extent possible. It is expected and anticipated that all parties involved in complaints will observe the same standard of

sensitivity. It is emphasized that this practice is in the best interest of all parties; however, absolute confidentiality cannot be guaranteed.

3. A person who believes that they have been the victim of workplace harassment may voluntarily disclose information regarding the incident of workplace harassment.
4. As required under State law, the City may not require or coerce an employee reporting a violation of this policy to enter into a nondisclosure or non-disparagement agreement; however, an employee may voluntarily request to enter into such an agreement with City and will have seven days after executing the agreement to revoke any such agreement.
  - a. A nondisclosure agreement refers to a contract by which the parties agree not to reveal information with others outside of their arrangement.
  - b. A non-disparagement agreement refers to a contract by which the parties agree not to make negative statements about the other(s).

## **J. Training**

Auditor's Office employees will attend training on the Citywide counterpart to this rule, [City of Portland Human Resources Rule 2.02](#), upon hire and every three years thereafter.

**Important Notice to all Employees:** Employees who have experienced conduct they believe is contrary to this rule have an obligation to take advantage of the complaint procedure included in this rule. An employee's failure to fulfill this obligation could affect their other rights.

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## **Auditor's Office Administrative Rule Information and History**

Questions about this administrative rule may be directed to the [Auditor's Office's Operations Management Division](#).

Adopted by the City Auditor December 11, 2017.

Adapted from [City of Portland Human Resources Administrative Rule 2.02 Prohibition Against Workplace Harassment, Discrimination, and Retaliation](#)

Adopted by Council March 6, 2002, Ordinance No. 176302.

Revised February 15, 2018.

Revised by the City Auditor on October 5, 2020, as an interim rule effective for not more than 180 days.

Amended by the City Auditor after a 30-day public comment period on April 30, 2021.