

**A G E N D A**

600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232 2736  
TEL 503 797 1542 | FAX 503 797 1793



**METRO**

**Agenda**

**MEETING:** METRO COUNCIL WORK SESSION MEETING  
**DATE:** July 19, 2005  
**DAY:** Tuesday  
**TIME:** 2:00 PM  
**PLACE:** Metro Council Chamber

**CALL TO ORDER AND ROLL CALL**

- |                |           |   |                              |
|----------------|-----------|---|------------------------------|
| <b>2:00 PM</b> | <b>1.</b> | <b>DISCUSSION OF AGENDA FOR COUNCIL<br/>REGULAR MEETING, JULY 21, 2005/<br/>ADMINISTRATIVE/CHIEF OPERATING OFFICER<br/>AND CITIZEN COMMUNICATIONS</b> |                              |
| <b>2:15 PM</b> | <b>2.</b> | <b>HARASSMENT AND DISCRIMINATION TRAINING</b>   | <b>Colling</b>               |
| <b>2:45 PM</b> | <b>3.</b> | <b>TOTAL COMPENSATION COMMUNICATION</b>   | <b>Bertoni/<br/>Gilbreth</b> |
| <b>3:15 PM</b> | <b>4.</b> | <b>BREAK</b>  |                              |
| <b>3:20 PM</b> | <b>5.</b> | <b>PARKS BOND MEASURE DISCUSSION</b>  | <b>Desmond/<br/>Eadie</b>    |
| <b>5:00 PM</b> | <b>6.</b> | <b>COUNCIL BRIEFINGS/COMMUNICATION</b>  |                              |

**ADJOURN**

Agenda Item Number 2.0

***HARASSMENT AND DISCRIMINATION TRAINING***

Metro Council Work Session  
Tuesday, July 19, 2005  
Metro Council Chamber

# **Understanding and Preventing Discrimination & Harassment**

**Manager & Supervisor Training  
February-April 2005**

Presented by

Human Resources: Kevin B. Dull & Lisa Colling

Legal: Katie Pool & Lisa Umscheid

# Course Content and Objectives

- Learn to identify discrimination & harassment
- Understand Metro/MERC's policies
- Prevention methods
- Complaint process
- Understanding a manager's role
- Whistleblowing
- Retaliation



# Legal Background

Many laws protect an employee's rights, examples include:

- Title VII of the Civil Rights Act (1964, 1991)
- ADEA (1967)
- ADA (1990)
- FMLA/OFLA (1993, 1995)
- Local Ordinances



## **Metro's Commitment**



- Promote and maintain a work environment free from all forms of discrimination, harassment, and offensive behavior.
- Take all complaints seriously and investigate all allegations of discrimination and harassment.

# Protected Classes

Discrimination (harassment) is illegal when it is based on any of the following classes:

- Race
- Color
- Religion
- Sex
- National Origin
- Age
- Veteran
- Disability
- Marital/Familial
- Sexual orientation
- Gender Identity

# Protected Classes

- **Race:** refers to a person's racial background – for example, African American, White, Asian or Hispanic.
- **Color:** refers to a person's skin color. This is not necessarily related to a person's race.
- **National Origin:** refers to a person's country of origin – (e.g. India, Colombia or Romania)

## **Same Race or Color Harassment**

- Can a person of the same race or color harass another of the same race or color?

## Harassment based on Color

In August, 2003, the EEOC's Atlanta district office announced a \$40,000 settlement in a "black on black" discrimination case against a franchisee of a large restaurant chain. The plaintiff was a dark-skinned male waiter at the restaurant in Georgia when a light-skinned black man began working as the general manager. The manager almost immediately "began harassing [the plaintiff], continuously making offensive and embarrassing comments about the dark color of [his] skin, and was eventually fired.

# Protected Classes

**Religion:** refers to a person's religious faith or beliefs.

**Age:** refers to a person's chronological age

**Disability:** refers to a person's physical or mental disability status.

**Sexual Orientation:** refers to a person's sexual preference

**Gender Identity:** refers to a person's actual or perceived sex



# **Same Sex Harassment**



**Can a man sexually harass a man, or a woman sexually harass a woman?**



## **Oncale v. Sundowner**

**The plaintiff was a heterosexual male employed on an offshore oil rig run by Sundowner Offshore Service. He claimed that his supervisor and two male co-workers harassed him and eventually threatened to sexually assault him. Oncale's complaints to supervisory personnel did not result in remedial action. He eventually resigned from the company and sued his former employer, supervisor and co-workers, alleging sexual harassment based both on quid-pro-quo and hostile work environment.**

## **Oncale v. Sundowner**

**The U.S. Supreme Court, overruling a lower court, ruled that same-sex sexual harassment was actionable. The Court held that “it would be unwise to presume that people of one definable group will not discriminate against members of that group.”**

# Definition of Unlawful Harassment

Conduct relating to a protected class is unlawful when;

- **Quid Pro Quo (This for That)**

- Submission to such conduct is made either explicitly or implicitly a term or condition of employment; or
- Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or

## **Definition (continued)**

- **Hostile, or offensive work environment**
  - Behavior which is reasonably perceived by the receiver as unwelcome and is severe or pervasive and has the purpose or effect of unreasonably interfering with an individual's work performance or creates an intimidating, hostile, or offensive work environment.

# Harassment

## What's Unwelcome?

- Unsolicited.
- Victim has done nothing to provoke it.

## What's Offensive?

- Victim views the conduct as undesirable.
- Perception of victim, not intention of speaker

# Definition of Unlawful Harassment

Harassment is unwelcome and/or offensive behavior based on \_\_\_\_\_ that creates an intimidating, hostile or offensive work environment, even if the behavior isn't directed at you.

# Prohibited Conduct

Four Categories of harassing behavior:

- Verbal
- Written
- Visual
- Physical

# Harassment vs. Bad Behavior

- Discrimination
- Harassment

Leads to:

- Discipline
- BoLI/EEOC complaints
- Civil Lawsuits

- Personality Conflicts
- Bad Treatment
- Intimidation
- Humiliation

Leads to:

- Discipline
- Lower Morale/  
Performance



# Equal Opportunity Harasser

- Can a manager equally harass all employees based on their race (e.g. white, black, Latino, Asian, etc.)?
- No – if the harassment is regarding a protected status



## **Harassment Risks to Employer**

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- Decreases morale/productivity
- Creates a negative workplace
- Expend resources, time, and money
- Legal action taken against Metro

# **Metro's Roles and Responsibilities**

- Discrimination and Harassment policy
- Training for managers and employees
- Complaint procedure
- Promptly investigate all alleged instances of harassment
- Take immediate and appropriate corrective action

# **Manager's role in prevention:**

It is misconduct for managers or supervisors who know or should have known of workplace harassment to fail to report such behavior or fail to take immediate, appropriate, corrective action.

## **Providing a Harassment-Free Workplace Manager's/supervisor's role in prevention:**

- Lead by example, model appropriate behavior
- Review, and follow Metro/MERC's policies
- Make the subject of harassment an open and discussable topic with your staff.
- Take all complaints of harassment seriously.
- Be aware of behaviors in your workplace, if you observe questionable behavior, don't wait for a complaint, initiate action.

# Providing a Harassment-Free Workplace

Inappropriate conduct of others

“If I feel like I am being harassed, do I have to approach the person and ask them to stop?”

# Providing a Harassment-Free Workplace

- For unwelcome conduct it is best to communicate that you want the behavior to stop if you feel you can.
- If the problem persists report it to your supervisor.
- If you are uncomfortable talking to your supervisor, or if your supervisor is the person harassing you, speak to their supervisor or call a Human Resources Manager.

# Providing a Harassment-Free Workplace

“If I see someone I supervise doing something inappropriate should I say something to them?”



# Providing a Harassment-Free Workplace

How should a manager deal with inappropriate conduct of others?

A manager should take responsibility when they see inappropriate behavior and document the conduct.

## What to do with a complaint?

- Panic (take rest of the day off)
- Ignore
- Blame the complainant
- Pass on to another manager
- Immediately interrogate the alleged harasser
- None of the above!

# What to do with a complaint?

- Assure the complainant of Metro/MERC's no tolerance policy.
- Inform them that you will contact HR and HR will conduct an investigation
- Assure the employee(s) that you will maintain confidentiality to the best of your ability under the circumstances
- Assure the complainant that all parties will be advised that they are not to retaliate against the complainant.

# Investigation Process

If an employee files a complaint, HR will conduct an investigation:

- The employee, witnesses and alleged harasser will be interviewed
- If the investigation substantiates the harassment claim, the offending employee will be appropriately disciplined
- To the degree possible, the privacy of the employee(s) will be respected.

# **Whistleblowers & Other Protected Classes**

Katie Pool &  
Lisa Umscheid



# Protected Classes

- Classes based on the employee's characteristics, *e.g.*, race, gender
- Classes based on the employee's actions, *e.g.*,
  - Filing a workers compensation claim
  - Using FMLA or OFLA
  - Union activities
  - Exercise of civil rights (free speech, free association)
  - Whistleblowing

# Whistleblowing

(Disclosures by Public Employees) ORS 659A.203

Unlawful for a public employer to:

- Prohibit disclosure or threaten/take disciplinary action against a public employee for disclosing information that the employee reasonably believes is evidence of:
  - A violation of federal, state, local or agency law or regulation
  - Mismanagement, gross waste of funds, abuse of authority, or substantial and specific danger to public health or safety
  - Under some circumstances, the fact that a person receiving services, benefits, or assistance is subject to a warrant for his/her arrest. Cooperation with law enforcement officials is also protected

## Whistleblowing (cont'd)

- Require employees to give notice before making such disclosures; **or**
- Discourage or otherwise interfere with such disclosures or conversations; **or**
- Prohibit public employee discussions with the Legislative Assembly



# Rights of Whistleblowers

- No discipline
- No retaliation by employer
- **COMPLETE CONFIDENTIALITY**

**“The identity of the employee ... shall not be disclosed by a public employer without the written consent of the employee during any investigation of the information provided by the employee ... .”**

# Whistleblower's Claims

- Discipline & Termination
- Failure to promote/hire
- Work assignments

# Why Whistleblowers & “Protected Act” Claims Are Common

- Employers are less familiar with these protections than with characteristic-based protections for race, gender, national origin, religion, etc.
- May involve workplace behaviors that are viewed as unproductive, disruptive, or insubordinate by supervisors
- Everybody complains – especially at work!
- Examples of whistleblowing disclosures claimed by Metro/MERC employees facing discipline
  - Inconsistent accounting procedures on one contract
  - Uncovered garbage bins
  - Birthday party

# Safeguards against Whistleblower Claims

- No retaliation – or words or conduct or eyerolling or sighing or ANYTHING that implies retaliation or discouragement
- Manage all employees equally effectively; focusing only on problem employees invites whistleblowing claims

# Discipline for Whistleblowers & Other “Protected Act” Classes

- Due process – a preview
  - Do good investigations in discipline matters – objective, thorough, fair - uncover
  - Documentation shows supervisor acted properly based on work-related performance not on protected status
- Use email cautiously in personnel matters

# Retaliation

- The law and Metro/MERC policies prohibit an employer from retaliating against an employee for filing a claim of discrimination or harassment or for whistleblowing.
- Retaliation is prohibited regardless of the validity of the claim.

# Retaliation

## Protected activities:

- Reporting harassment
- Being a witness in an investigation
- Taking any other substantial action to support rights protected by law or policy.

## Retaliation Scenario

Curly - a well liked supervisor - was accused by Moe of sexual harassment. Everyone in the department suspects that Moe is not telling the truth. In a display of support for Curly, most of the department ignores or avoids Moe.



## Retaliation Scenario


- This is considered retaliation because Moe is experiencing adverse workplace consequences for making the complaint.
- The best course of action is to **not** to treat Moe any differently than before the complaint was made.
- As manager, you should direct all staff to continue to work together as a team, and maintain a high level of professionalism.

# Discussion Scenarios

- Break into small groups
- Discuss assigned scenarios
- Nominate a spokesperson
- Report findings



## Bottom line:



Lastly, preventing workplace harassment really boils down to treating individuals with dignity and respect.

If a particular behavior is questionable, “just don’t go there.”

## Wrap Up

- Contact HR when you need assistance or are unsure about a possible discrimination or harassment issue within the workplace.
- Contact HR each time you receive a discrimination or harassment complaint.
- Questions
- Complete evaluations.



**Thank you for your participation.**

## **Discrimination and Harassment Policy and Complaint Procedures**

### **POLICY**

Metro is committed to promoting and maintaining a work environment that is free from all forms of harassment, intimidation, hostility, offensive behavior and discrimination. Any practice or behavior which acts to discriminate against or harass an employee or applicant because of his/her race, color, religion, sex, national origin, age, marital status, familial status, gender identity, sexual orientation, disability for which a reasonable accommodation can be made, or any other status protected by law, is in direct conflict with Metro's commitment to Equal Employment Opportunity. All types of harassment, discriminatory, or inappropriate behavior against a co-worker, manager, supervisor or non-employee will not be tolerated.

Harassment is behavior which is reasonably perceived by the receiver as unwelcome and includes, but is not limited to the use of verbal/written derogatory or discriminatory statements, denigrating jokes, unwelcome touching, offensive remarks, put-downs, epithets, slurs or negative stereotyping, displays, objects and materials which create an offensive work environment. Harassment does not refer to behavior or occasional compliments of a socially acceptable nature. It refers to behavior that is not welcome, or that is offensive, fails to respect the rights of others, lowers morale and interferes with work effectiveness. Such behavior or tolerance of such behavior, on the part of management or employees violates Metro's policy and may result in disciplinary action up to and including termination, even if the conduct does not necessarily constitute a violation of the law.

Metro's discrimination and harassment policy applies to all conduct on any of Metro's premises and to conduct off of Metro's premises that has an effect upon an employee's work environment.

It is the policy of Metro that no employee, customer, vendor, or elected official may do any of the following: (This list represents examples and is not intended to be inclusive)

- Make unwelcome sexual advances, or requests for sexual favors or other inappropriate verbal or physical conduct of a sexual nature.
- Make stereotypical offensive comments, jokes, innuendo or threats about a person's protected status (e.g., race, color, religion, sex, national origin, age, etc.)
- Bring suggestive or offensive objects or pictures, cartoons, or graphics onto Metro premises, either electronically or otherwise.
- Make suggestive or insulting sounds or obscene gestures, leering, staring, or whistling.
- Make unwanted physical contact with others, such as touching, grabbing, pinching, brushing the body, neck or back rubs, coerced sexual intercourse and assault.

Management and elected officials must demonstrate by their own conduct that they support and enforce Metro's policy, they must take prompt action if a problem is reported, and they are expected to provide leadership in carrying out the policy's intent. If a manager learns of discrimination or harassment in the workplace, they must contact the HR department immediately.

## **COMPLAINT PROCEDURES**

Any employee or elected official subjected to discrimination or harassment is encouraged to proceed under the Complaint Procedure in this policy. Employees who observe or who are aware of situations involving discrimination or harassment are encouraged to immediately notify their supervisor or the Human Resource Director. Discretion will be used during the investigation in order to maintain as much confidentiality as is possible, while still being able to effectively complete the investigation.

- A. If a complaint, whether informal or formal, is in regard to a Councilor, the complaint shall be forwarded to the Council President. If the complaint, whether informal or formal, is in regard to the Council President, the complaint shall be forwarded to the Deputy President.
- B. If a complaint, whether informal or formal, is in regard to the Chief Operating Officer, the complaint shall be forwarded to the Council President.
- C. If a complaint, whether informal or formal, is in regard to the Auditor, the complaint shall be forwarded to the Chief Operating Officer.
- D. If a complaint, whether informal or formal, is in regard to the Human Resource Director, the complaint shall be forwarded to the Chief Operating Officer.

### **Informal Procedure:**

Some people who allege that an act of unlawful discrimination or harassment has occurred simply want it to end, and do not wish to go through a protracted formal or legal procedure. The following informal procedure is established to address that need, however, a person making a complaint is not required to use this procedure either in lieu of or prior to proceeding with a formal complaint:

- (A) Any employee who alleges that an act of discrimination or harassment by another employee, customer, vendor, citizen or elected official has occurred, may verbally request an informal investigation of the allegation by either his/her Manager/Director or the Human Resource Director.
- (B) The Manager/Director or Human Resource Director shall, after appropriate investigation of the complaint, determine what informal remedial action, if any, shall be taken. The Manager/Director or Human Resource Director shall inform the complainant and alleged harasser of the determination and any action to be taken.
- (C) If the complainant does not feel that the informal procedure satisfactorily resolves his/her complaint, or if the complainant does not want to initiate the informal procedure, he/she may proceed with the formal complaint procedure below.
- (D) All management and supervisory personnel, who have received a report or complaint of discrimination or harassment, shall immediately inform Metro's Human Resource Director. The Human Resource Director shall make arrangements for the prompt and proper investigation of such report or complaint.
- (E) Discretion will be used during the investigation in order to maintain as much confidentiality as possible while still being able to effectively complete the investigation.

**Formal Procedure:**

An employee, who alleges that an act of discrimination or harassment by another employee, customer, vendor, citizen or elected official has occurred, may file a complaint in writing to the Human Resource Director.

A complaint filing must include the following information:

- (A) complainant's name and class status (e.g., race, sex, disability, age, veteran status, sexual orientation, etc.) if applicable;
- (B) nature of the complaint, date the alleged violation occurred, and the name of the person who is the subject of the complaint; and
- (C) if the complaint is in regard to a vendor, contractor or subcontractor, the name of that organization.

The Human Resource Director shall:

- (A) thoroughly investigate the complaint and establish a file of findings;
- (B) submit the findings with a recommendation to the Department Director or his/her designee;
- (C) inform the complainant and the alleged harasser of the determination and any action to be taken; and
- (D) notify complainant of relevant avenues of appeal, if appropriate.

**Applicant Complaints:**

Any individual who has made application for employment and alleges that an act of unlawful discrimination has occurred may file a complaint in writing to the Human Resource Director as set forth in the formal procedure outlined above.

**RETALIATION**

Any employee who files a complaint of discrimination or harassment, participates in the investigation of a complaint, or reports harassing or discriminatory behavior shall not have their conditions of employment negatively impacted as a result. In addition, if you are the subject of or are aware of a complaint, you must refrain from taking any retaliatory actions against the person who complained or others participating in the investigation. Retaliating because of a discrimination or harassment claim may be disciplined up to and including termination.



Agenda Item Number 3.0

***TOTAL COMPENSATION COMMUNICATION***

Metro Council Work Session  
Tuesday, July 19, 2005  
Metro Council Chamber

**METRO COUNCIL**

**Work Session Worksheet**

Presentation Date: 7/19/05 Time: 2:45 Length: 30 minutes

Presentation Title: Total Compensation Statement

Department: Human Resources

Presenters: Kerry Gilbreth and Rachel Bertoni

**ISSUE & BACKGROUND**

Metro Council directed the HR department to communicate total compensation to employees. The purpose of this presentation is to brief the Council on HR's planned communication. HR has developed a Total Compensation Statement to be distributed on an annual basis. The Total Compensation Statement will encompass all aspects of employees compensation including; gross pay, retirement, insurance premiums and FICA.

**OPTIONS AVAILABLE**

N/A

**IMPLICATIONS AND SUGGESTIONS**

N/A

**QUESTION(S) PRESENTED FOR CONSIDERATION**

N/A

LEGISLATION WOULD BE REQUIRED FOR COUNCIL ACTION \_\_Yes \_\_X\_\_No  
DRAFT IS ATTACHED \_\_X\_\_Yes \_\_No

**SCHEDULE FOR WORK SESSION**

Department Director/Head Approval *Ruth Scott*  
Chief Operating Officer Approval \_\_\_\_\_



**METRO**

February 1, 2005

Anne M. Ployee  
600 NE Grand Ave  
Portland, OR 97232

Dear Anne:

Attached is a copy of your Total Compensation statement from Metro. It details the total value of all the forms of compensation Metro has provided to you over the past year. We're providing this information because you are a valued employee, and we take your employee compensation and benefits package quite seriously. It's important to us that you understand the full scope of your Total Compensation package.

Your Total Compensation package is more than just your annual base salary. The individualized custom report enclosed details every piece of your Total Compensation package at Metro. This report is a powerful tool that can be used to track your Total Compensation from year to year.

There are three elements used to calculate your total compensation:

	<b>Gross Pay (Total Cash)</b>	This includes all cash you received directly this year (salary, overtime pay, shift differential, bonus, etc.)
+	<b>Retirement</b>	This includes all PERS contributions that Metro makes—commonly referred to as “Employer Contribution” and “Employee Contribution”.
+	<b>Insurance Premiums and FICA</b>	This includes all medical /dental/vision insurance premiums Metro pays so that you have insurance coverage, and all the employer taxes that Metro pays to your social security and medicare accounts.
=	<b><i>TOTAL COMPENSATION</i></b>	

Total Compensation is presented in both dollar and graphical format on the attached report.

In addition to the figures listed on the attached report, Metro provides your annual Tri-Met Pass. The value of this pass varies by each employee's work location. Look at the list below to see the cash value of your individual Tri-Met Pass.

- Metro Regional Center \$166.0
- Any Park Location \$20.00
- Oregon Zoo \$161.04
- Metro Central Transfer Station \$69.96
- Metro South Transfer Station \$62.16

In reviewing Total Compensation information, employees often have questions about their tax deductions. Listed below is information regarding the current Federal Tax designations you reported to us on your most recent W-4:

- Federal Tax Marital Status: Married
- Federal Tax Withholding Allowances: 2

We hope you find this information of value, and thank you for all you do for Metro.

Sincerely,

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Rachel Bertoni  
Compensation Systems Manager  
bertonir@metro.dst.or.us  
(503)797-1568

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Kerry Gilbreth  
Benefits Manager  
gilbrethk@metro.dst.or.us  
(503)797-1571

Errors occasionally occur in the calculation of benefit amounts. If you should discover errors in this statement or if you have questions contact your HR department. This statement is only an overview of your benefits; it is not legally binding and should not be considered a contract.



**METRO**

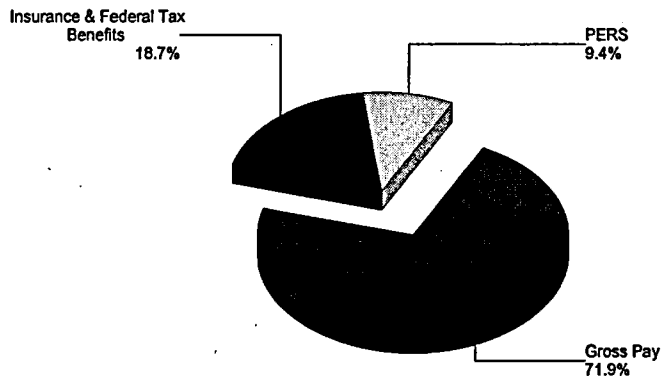
January 01, 2004 - December 31, 2004  
For information call:  
Human Resource Department  
503 797 1571

Anne M. Ployee  
00420 Human Resources

**My Total Compensation**

Description	Paid by Metro January 01, 2004 - December 31, 2004
Gross Pay (Total Cash)	46,865.47
Medical Insurance Premiums	5,709.85
PERS - Employer Portion (Paid by Metro)	3,346.20
Social Security	2,877.39
PERS - Employee Portion (Paid by Metro)	2,811.95
Vacation Leave Accrual Value	1,276.81
Dental Insurance Premiums	1,102.70
Medicare	672.94
Long - Term Disability Plan	298.32
Basic Life Coverage Plan	96.00
Vision Insurance Premiums	66.40
Workers Compensation Insurance Premiums	30.07
Employee Assistance Program	21.36
Accidental Death/Dismemberment Plan	18.00
Dependent Life Plan	4.20
	<b>65,197.66</b>

**My Total Compensation Allocation**



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A G E N D A

600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232 2736  
TEL 503 797 1542 | FAX 503 797 1793



METRO

Agenda

MEETING: METRO COUNCIL REGULAR MEETING  
DATE: July 21, 2005  
DAY: Thursday  
TIME: 2:00 PM  
PLACE: Metro Council Chamber

CALL TO ORDER AND ROLL CALL

1. INTRODUCTIONS

2. CITIZEN COMMUNICATIONS

3. CONSENT AGENDA

3.1 Consideration of Minutes for the July 14, 2005 Metro Council Regular Meeting.

4. ORDINANCES – SECOND READING

4.1 **Ordinance No. 04-1063A**, For the Purpose of Denying a Solid Waste Facility Franchise Application of Columbia Environmental, LLC to Operate a Local Transfer Station Hosticka

5. RESOLUTIONS

5.1 **Resolution No. 05-3561**, For the Purpose of Authorizing Entry Into A Memorandum of Understanding With Portland State University, Branford P. Millar Library for Participation in the Oregon Sustainable Digital Library Collection (OSDLC). McLain

5.2 **Resolution No. 05-3596**, For the Purpose of Authorize the release of the call for grant applications for the Organic Waste Composting Capital Improvements Matching Grant program and authorize release of grant funds to qualifying applicants. McLain

5.3 **Resolution No. 05-3598**, For the Purpose of Authorizing a limited tax pension bond, series 2005 to satisfy Metro’s Unfunded Public Employees Retirement System (PERS) Actuality Liability. Hosticka

**6. CONTRACT REVIEW BOARD**

- 6.1 **Resolution No. 05-3601**, Authorizing Issuance of Request for Proposals 06-1154- SWR for Competitive Sealed Proposals to Provide Consulting Services Regarding Disposal System Planning for Alternative Service Delivery. Park

**7. CHIEF OPERATING OFFICER COMMUNICATION**

**8. COUNCILOR COMMUNICATION**

**ADJOURN**

**Television schedule for July 21, 2005 Metro Council meeting**

<b>Clackamas, Multnomah and Washington counties, and Vancouver, Wash.</b> Channel 11 -- Community Access Network <a href="http://www.yourtv.org">www.yourtv.org</a> -- (503) 629-8534 2 p.m. Thursday, July 21 (live)	<b>Washington County</b> Channel 30 -- TVTV <a href="http://www.yourtv.org">www.yourtv.org</a> -- (503) 629-8534 11 p.m. Saturday, July 23 11 p.m. Sunday, July 24 6 a.m. Tuesday, July 26 4 p.m. Wednesday, July 27
<b>Oregon City, Gladstone</b> Channel 28 -- Willamette Falls Television <a href="http://www.wftvaccess.com">www.wftvaccess.com</a> -- (503) 650-0275 Call or visit website for program times.	<b>West Linn</b> Channel 30 -- Willamette Falls Television <a href="http://www.wftvaccess.com">www.wftvaccess.com</a> -- (503) 650-0275 Call or visit website for program times.
<b>Portland</b> Channel 30 (CityNet 30) -- Portland Community Media <a href="http://www.pcatv.org">www.pcatv.org</a> -- (503) 288-1515 8:30 p.m. Sunday, July 24 2 p.m. Monday, July 25	

**PLEASE NOTE: Show times are tentative and in some cases the entire meeting may not be shown due to length. Call or check your community access station web site to confirm program times.**

Agenda items may not be considered in the exact order. For questions about the agenda, call Clerk of the Council, Chris Billington, (503) 797-1542. Public hearings are held on all ordinances second read and on resolutions upon request of the public. Documents for the record must be submitted to the Clerk of the Council to be considered included in the decision record. Documents can be submitted by e-mail, fax or mail or in person to the Clerk of the Council. For additional information about testifying before the Metro Council please go to the Metro website [www.metro-region.org](http://www.metro-region.org) and click on public comment opportunities. For assistance per the American Disabilities Act (ADA), dial TDD 797-1804 or 797-1540 (Council Office).

**Understanding and Preventing  
Discrimination & Harassment**

Council Training  
July 19, 2005

Presented by  
Human Resources: Kevin B. Dull & Lisa Coling

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**Metro's Commitment**

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**Protected Classes**

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- Veteran
- Disability
- Marital/Familial
- Sexual Orientation
- Gender Identity

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## Definition of Unlawful Harassment

Conduct relating to a protected class is unlawful when;

- **Quid Pro Quo (This for That)**
  - Submission to such conduct is made either explicitly or implicitly a term or condition of employment; or
  - Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or

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## Definition (continued)

- **Hostile, or offensive work environment**
  - Behavior which is reasonably perceived by the receiver as unwelcome and is severe or pervasive and has the purpose or effect of unreasonably interfering with an individual's work performance or creates an intimidating, hostile, or offensive work environment.

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## Harassment

### What's Unwelcome?

- Unsolicited.
- Victim has done nothing to provoke it.

### What's Offensive?

- Victim views the conduct as undesirable.
- Perception of victim, not intention of speaker.

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### **Prohibited Conduct**

Four Categories of harassing behavior:

- Verbal
- Written
- Visual
- Physical

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### **Harassment Risks to Employer**

- Decreases morale/productivity
- Creates a negative workplace
- Expends resources, time, and money
- Legal action taken against Metro

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### **Metro's Roles and Responsibilities**

- Discrimination and Harassment policy
- Training for managers and employees
- Complaint procedure
- Promptly investigate all alleged instances of harassment
- Take immediate and appropriate corrective action

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**Manager's role in prevention:**

It is misconduct for managers or supervisors who know or should have known of workplace harassment to fail to report such behavior or fail to take immediate, appropriate, corrective action.

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**Providing a Harassment-Free Workplace  
Manager's/supervisor's role in prevention:**

- Lead by example, model appropriate behavior.
- Review, and follow Metro/MERC's policies.
- Make the subject of harassment an open and discussable topic with your staff.
- Take all complaints of harassment seriously.
- Be aware of behaviors in your workplace, if you observe questionable behavior, don't wait for a complaint, initiate action.

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**Providing a Harassment-Free Workplace**

- For unwelcome conduct it is best to communicate that you want the behavior to stop if you feel you can.
- If the problem persists report it to your supervisor.
- If you are uncomfortable talking to your supervisor, or if your supervisor is the person harassing you, speak to their supervisor or call a Human Resources Manager.

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### **Providing a Harassment-Free Workplace**

How should a manager deal with inappropriate conduct of others?

A manager should take responsibility when they see inappropriate behavior and document the conduct.

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### **What to do with a complaint?**

- Assure the complainant of Metro/MERC's no tolerance policy.
- Inform them that you will contact HR and HR will conduct an investigation.
- Assure the employee(s) that you will maintain confidentiality to the best of your ability under the circumstances.
- Assure the complainant that all parties will be advised that they are not to retaliate against the complainant.

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### **Investigation Process**

If an employee files a complaint, HR will conduct an investigation:

- The employee, witnesses and alleged harasser will be interviewed.
- If the investigation substantiates the harassment claim, the offending employee will be appropriately disciplined.
- To the degree possible, the privacy of the employee(s) will be respected.

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## Retaliation

- The law and Metro/MERC policies prohibit an employer from retaliating against an employee for filing a claim of discrimination or harassment or for whistleblowing.
- Retaliation is prohibited regardless of the validity of the claim.

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## Retaliation

### Protected activities:

- Reporting harassment.
- Being a witness in an investigation.
- Taking any other substantial action to support rights protected by law or policy.

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## Wrap Up

- Contact HR when you need assistance or are unsure about a possible discrimination or harassment issue within the workplace.
- Contact HR each time you receive a discrimination or harassment complaint.
- Questions
- Complete evaluations.

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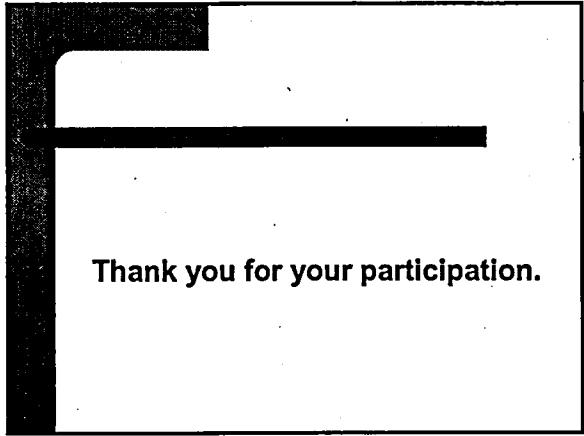
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## Discrimination and Harassment Policy and Complaint Procedures

### POLICY

Metro is committed to promoting and maintaining a work environment that is free from all forms of harassment, intimidation, hostility, offensive behavior and discrimination. Any practice or behavior which acts to discriminate against or harass an employee or applicant because of his/her race, color, religion, sex, national origin, age, marital status, familial status, gender identity, sexual orientation, disability for which a reasonable accommodation can be made, or any other status protected by law, is in direct conflict with Metro's commitment to Equal Employment Opportunity. All types of harassment, discriminatory, or inappropriate behavior against a co-worker, manager, supervisor or non-employee will not be tolerated.

Harassment is behavior which is reasonably perceived by the receiver as unwelcome and includes, but is not limited to the use of verbal/written derogatory or discriminatory statements, denigrating jokes, unwelcome touching, offensive remarks, put-downs, epithets, slurs or negative stereotyping, displays, objects and materials which create an offensive work environment. Harassment does not refer to behavior or occasional compliments of a socially acceptable nature. It refers to behavior that is not welcome, or that is offensive, fails to respect the rights of others, lowers morale and interferes with work effectiveness. Such behavior or tolerance of such behavior, on the part of management or employees violates Metro's policy and may result in disciplinary action up to and including termination, even if the conduct does not necessarily constitute a violation of the law.

Metro's discrimination and harassment policy applies to all conduct on any of Metro's premises and to conduct off of Metro's premises that has an effect upon an employee's work environment.

It is the policy of Metro that no employee, customer, vendor, or elected official may do any of the following: (This list represents examples and is not intended to be inclusive)

- Make unwelcome sexual advances, or requests for sexual favors or other inappropriate verbal or physical conduct of a sexual nature.
- Make stereotypical offensive comments, jokes, innuendo or threats about a person's protected status (e.g., race, color, religion, sex, national origin, age, etc.)
- Bring suggestive or offensive objects or pictures, cartoons, or graphics onto Metro premises, either electronically or otherwise.
- Make suggestive or insulting sounds or obscene gestures, leering, staring, or whistling.
- Make unwanted physical contact with others, such as touching, grabbing, pinching, brushing the body, neck or back rubs, coerced sexual intercourse and assault.

Management and elected officials must demonstrate by their own conduct that they support and enforce Metro's policy, they must take prompt action if a problem is reported, and they are expected to provide leadership in carrying out the policy's intent. If a manager learns of discrimination or harassment in the workplace, they must contact the HR department immediately.

## **COMPLAINT PROCEDURES**

Any employee or elected official subjected to discrimination or harassment is encouraged to proceed under the Complaint Procedure in this policy. Employees who observe or who are aware of situations involving discrimination or harassment are encouraged to immediately notify their supervisor or the Human Resource Director. Discretion will be used during the investigation in order to maintain as much confidentiality as is possible, while still being able to effectively complete the investigation.

- A. If a complaint, whether informal or formal, is in regard to a Councilor, the complaint shall be forwarded to the Council President. If the complaint, whether informal or formal, is in regard to the Council President, the complaint shall be forwarded to the Deputy President.
- B. If a complaint, whether informal or formal, is in regard to the Chief Operating Officer, the complaint shall be forwarded to the Council President.
- C. If a complaint, whether informal or formal, is in regard to the Auditor, the complaint shall be forwarded to the Chief Operating Officer.
- D. If a complaint, whether informal or formal, is in regard to the Human Resource Director, the complaint shall be forwarded to the Chief Operating Officer.

### **Informal Procedure:**

Some people who allege that an act of unlawful discrimination or harassment has occurred simply want it to end, and do not wish to go through a protracted formal or legal procedure. The following informal procedure is established to address that need, however, a person making a complaint is not required to use this procedure either in lieu of or prior to proceeding with a formal complaint:

- (A) Any employee who alleges that an act of discrimination or harassment by another employee, customer, vendor, citizen or elected official has occurred, may verbally request an informal investigation of the allegation by either his/her Manager/Director or the Human Resource Director.
- (B) The Manager/Director or Human Resource Director shall, after appropriate investigation of the complaint, determine what informal remedial action, if any, shall be taken. The Manager/Director or Human Resource Director shall inform the complainant and alleged harasser of the determination and any action to be taken.
- (C) If the complainant does not feel that the informal procedure satisfactorily resolves his/her complaint, or if the complainant does not want to initiate the informal procedure, he/she may proceed with the formal complaint procedure below.
- (D) All management and supervisory personnel, who have received a report or complaint of discrimination or harassment, shall immediately inform Metro's Human Resource Director. The Human Resource Director shall make arrangements for the prompt and proper investigation of such report or complaint.
- (E) Discretion will be used during the investigation in order to maintain as much confidentiality as possible while still being able to effectively complete the investigation.



**Formal Procedure:**

An employee, who alleges that an act of discrimination or harassment by another employee, customer, vendor, citizen or elected official has occurred, may file a complaint in writing to the Human Resource Director.

A complaint filing must include the following information:

- (A) complainant's name and class status (e.g., race, sex, disability, age, veteran status, sexual orientation, etc.) if applicable;
- (B) nature of the complaint, date the alleged violation occurred, and the name of the person who is the subject of the complaint; and
- (C) if the complaint is in regard to a vendor, contractor or subcontractor, the name of that organization.

The Human Resource Director shall:

- (A) thoroughly investigate the complaint and establish a file of findings;
- (B) submit the findings with a recommendation to the Department Director or his/her designee;
- (C) inform the complainant and the alleged harasser of the determination and any action to be taken; and
- (D) notify complainant of relevant avenues of appeal, if appropriate.

**Applicant Complaints:**

Any individual who has made application for employment and alleges that an act of unlawful discrimination has occurred may file a complaint in writing to the Human Resource Director as set forth in the formal procedure outlined above.

**RETALIATION**

Any employee who files a complaint of discrimination or harassment, participates in the investigation of a complaint, or reports harassing or discriminatory behavior shall not have their conditions of employment negatively impacted as a result. In addition, if you are the subject of or are aware of a complaint, you must refrain from taking any retaliatory actions against the person who complained or others participating in the investigation. Retaliating because of a discrimination or harassment claim may be disciplined up to and including termination.