

# CITY OF HUNTINGTON BEACH

MEETING DATE: March 21, 2005

DEPARTMENT ID NUMBER:

Council/Agency Meeting Held: _____ Deferred/Continued to: _____ <input type="checkbox"/> Approved <input type="checkbox"/> Conditionally Approved <input type="checkbox"/> Denied	_____ City Clerk's Signature
Council Meeting Date:                      March 21, 2005	Department ID Number:

## CITY OF HUNTINGTON BEACH REQUEST FOR COUNCIL ACTION

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 CITY OF  
 HUNTINGTON BEACH, CA  
 2005 MAR -9 P 12:55

**SUBMITTED TO:** HONORABLE MAYOR AND CITY COUNCIL MEMBERS

**SUBMITTED BY:** *Penelope Culbreth Graft*  
 PENELOPE CULBRETH-GRAFT, CITY ADMINISTRATOR

**PREPARED BY:** CHARLES THOMAS, ACTING DIRECTOR OF ADMINISTRATIVE SERVICES *CT*

**SUBJECT:** RESOLUTION EXTENDING APPLICATION OF ADMINISTRATIVE REGULATION NO. 412 PERTAINING TO HARASSMENT IN EMPLOYMENT POLICY TO ELECTED AND APPOINTED CITY OFFICIALS  
*Res. No. 2005-24*

Statement of Issue, Funding Source, Recommended Action, Alternative Action(s), Analysis, Environmental Status, Attachment(s)

**Statement of Issue:**

The City of Huntington Beach Administrative Regulation No. 412 pertains to Harassment in Employment Policy. This policy was approved by the City Administrator and last revised on October 5, 1999. The policy applies to all City of Huntington Beach employees; however, it currently does not apply to elected and appointed City officials. Adoption of this Resolution by the City Council extends policy application to these officials and thereby, revises Administrative Regulation No. 412.

**Funding Source:**

Not applicable.

**Recommended Action:**

Adopt the Resolution extending application of Administrative Regulation No. 412, Harassment in Employment Policy, to the City of Huntington Beach elected and appointed officials.

**Alternative Action(s):**

Do not adopt the Resolution extending the application of Administrative Regulation No. 412, Harassment in Employment Policy, to City of Huntington Beach elected and appointed officials.

*E-9*

# REQUEST FOR COUNCIL ACTION

MEETING DATE: March 21, 2005

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## Analysis:

On October 20, 2003, the Huntington Beach City Council considered the issue of who the City's sexual harassment policy should be applicable to. The Council then approved a motion that directed City staff to modify the appropriate documentation to assure that the elected officials and all those who serve on a City board, commission, committee, or task force are included under the City's sexual harassment policy (Administrative Regulation No. 412).

Illegal harassment or discrimination against a public agency employee or job applicant impedes employment opportunities, morale, job performance, and the provision of public services. Moreover, harassment or discrimination based on the protected status of an employee or applicant including race, religious creed, color, national origin, ancestry, disability, medical conditions, marital status, sex, sexual orientation or age can result in significant monetary liability to a public agency and creates a negative public image.

Currently, Administrative Regulation No. 412 is only applicable to employees of the City and not the elected and appointed officials. Adoption of this policy by City Council will extend the policy's authority to the City Council, elected department heads and all those who serve on a City board, commission, committee, or task force. By adopting this policy, the City Council demonstrates that discriminatory Harassment in Employment on the basis of race, religious creed, color, national origin, ancestry, disability, medical conditions, marital status, sex, sexual orientation, or age will not be tolerated at any level of the organization.

## Environmental Status:

None

## Attachment(s):

City Clerk's Page Number	No.	Description
3	1	Resolution extending Administrative Regulation No. 412 to Elected and Appointed City Officials <i>Res. No. 2005-24</i>
5	2	Administrative Regulation No. 412, Harassment in Employment Policy
11	3	H-item correspondence from former Mayor Connie Boardman dated October 13, 2003

RCA Author: Irma Youssefieh

# ATTACHMENT #1

E-9.3

RESOLUTION NO. 2005-24

A RESOLUTION OF THE CITY COUNCIL OF THE  
CITY OF HUNTINGTON BEACH EXTENDING APPLICATION  
OF ADMINISTRATIVE REGULATION NO. 412 PERTAINING TO  
HARASSMENT IN EMPLOYMENT POLICY TO ELECTED AND APPOINTED  
CITY OFFICIALS

WHEREAS, the City has adopted Administrative Regulation No. 412 prohibiting harassment in the workplace, said policy pertaining to City employees; and

The City Council of the City of Huntington Beach is desirous of extending the policy to itself and the various boards, commissions, and committees,

NOW, THEREFORE, the City Council of the City of Huntington Beach does hereby resolve as follows:

Section 1. That the City's adopted Harassment in Employment policy covers the members of the City Council, the boards, commissions and committees of the City.

Section 2. That the members of the City Council and the various boards, commissions and committees acknowledge receipt of the policy upon assuming duties to be performed for the City.

PASSED AND ADOPTED by the City Council of the City of Huntington Beach at a regular meeting thereof held on the \_\_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
Mayor

REVIEWED AND APPROVED:

*Rendge Culbertson*  
City Administrator

APPROVED AS TO FORM:

*Jennifer McGrath*  
City Attorney 3/8/05

INITIATED AND APPROVED:

*C. J. Jones*  
Director of Administrative Services

**ATTACHMENT #2**

*E-9.5*



# ADMINISTRATIVE REGULATION

Office of the City Administrator

Number: 412  
Sections: 1-8  
Effective Date: March 1, 1991  
Revised Date: October 5, 1999  
March 21, 2005

**SUBJECT: Harassment in Employment Policy**

1. Purpose:

- 1.1 To establish a City policy regarding the prohibition of harassment in the workplace and/or while engaged in any activity on behalf of the City of Huntington Beach.
- 1.2 To fully inform all elected officials, officers, members of advisory boards, commissions and committees of the City of Huntington Beach, employees, department heads, managers, supervisors of the City, that any form of harassment in the workplace will not be tolerated or condoned.
- 1.3 To inform elected officials, officers, members of advisory boards, commissions and committees of the City of Huntington Beach and all City employees of their rights if they believe they have been a victim of harassment and,
- 1.4 To provide a means for prompt reporting and a full and effective investigation of all complaints and provide for remedial action against those who engage in harassment as prohibited by this regulation.

2. Authority:

Section 401, Huntington Beach Charter. City of Huntington Beach Code of Ethics. Title VII of the United States Civil Rights Act. Guidelines of the Equal Employment Opportunity Commission and the California Fair Employment and Housing Act Commission (Government Code subsection 12900-12940 et. seq. Fair Employment and Housing Act).

State of California Department of Fair Employment and Housing Commission  
28 Civic Center Plaza, Room 538  
Santa Ana, CA 92701-4010  
(714) 558-4159

3. Application:

This regulation applies to all elected officials, members of advisory boards, commissions and committees of the City of Huntington Beach and all departments, and employees of the City of Huntington Beach.

E-9.6

4. Definition of Harassment. Harassment includes, but is not limited to:

- 4.1 Verbal Harassment – Epithets, derogatory comments, slurs and lewd propositioning on the basis of race, religious creed, color, national origin, ancestry, disability, medical conditions, marital status, sex, sexual orientation, or age. Examples include, but are not limited to, inappropriate sexually-oriented comments on appearance, including dress or physical features, or race-oriented stories and jokes.
- 4.2 Physical Harassment - Assault, impeding or blocking movement, or any physical interference with normal work or movement when directed at an individual on the basis of race, religious creed, color, national origin, ancestry, disability, medical conditions, marital status, sex, sexual orientation, or age. Examples include, but are not limited to, pinching, grabbing, patting, propositioning, leering, or making explicit or implied job threats or promises in return for submission to physical acts.
- 4.3 Visual Forms of Harassment – Derogatory posters, notices, bulletins, cartoons or drawings on the basis of race, religious creed, color, national origin, ancestry, disability, medical conditions, marital status, sex, sexual orientation, or age.
- 4.4 Sexual Favors – Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature which is conditioned upon an employment benefit, unreasonably interferes with an individual's work performance or creates an offensive work environment. By definition, sexual harassment is not within the course and scope of an individual's appointment and/or employment with the City of Huntington Beach.
- 4.5 Definition of Employee - An employee shall be defined as any individual, regardless of classification, employed by the City of Huntington Beach, person providing services pursuant to a contract, or volunteers working under the supervision of the City.

5. Policy:

Harassment of an applicant or employee by an elected official, officer, member of advisory boards, commissions and committees of the City of Huntington Beach, management employee, supervisor or co-worker on the basis of race, religious creed, color, national origin, ancestry, disability, medical conditions, marital status, sex, sexual orientation, or age is prohibited and will not be tolerated.

This policy applies to all terms and conditions of employment, including but not limited to hiring, placement, promotion, disciplinary action, layoff, recall, transfer, leave of absence, training opportunities, and compensation. The policy also applies to outside contractors, customers, and constituents.

Employees who violate this Policy will be subject to disciplinary action, up to and including termination from employment. Any official found to be in violation of this Policy may be subject to censure by the City Council. Any member of an advisory board, commission, or committee found to be in violation of this Policy may be subject to dismissal from appointment.

6. Responsibility:

The City Administrator, department heads and their designated representatives shall be responsible for implementation of this policy against harassment in the workplace.

A copy of this Policy shall be provided to all elected officials, officers, members of advisory boards, commissions and committees of the City of Huntington Beach and all City employees.

A copy of the information sheet on sexual harassment prepared by the Department of Fair Employment and Housing is available to all elected officials, officers, members of advisory boards, commissions and committees of the City of Huntington Beach and all City employees upon request.

The Human Resources Manager shall make available upon request information from the Department of Fair Employment and Housing and the Equal Employment Opportunity Commission about filing claims of discriminatory harassment with these entities.

A copy of this Policy shall appear in any publication, which sets forth the comprehensive rules, regulations, procedures, and standard of conduct for employees.

All City officials, officers, members of advisory boards, commissions and committees of the City of Huntington Beach and all City employees shall receive periodic training on this Policy.

Supervisors and manager shall take corrective action up to and including recommending termination from employment, if they learn of a subordinate employee who is violating this Policy.

7. Complaint Procedure:

An employee who has been harassed on the job should inform his/her employer, its agents or supervisors or the Human Resources Manager of the alleged harassment. The employee may first notify any of the following persons: his/her supervisor, his/her department head, the City Administrator. These officials will treat the complaint confidentially and immediately forward any written complaint to the Human Resources Manager for investigation and action.

To accommodate the unique nature of harassment complaints, a process is provided for the primary purpose of resolution of a complaint at the earliest possible date. Elements of this process are as listed below.

Upon notification of a complaint, the Human Resources Manager will:

- 7.1 Inform the complainant of his/her right to initiate a complaint.
- 7.2 Notify the appropriate department head of the complainant and authorize the investigation of the complaint and supervise and/or investigate the complaint. All investigations should be conducted as confidentially as possible and will include interviews with:
  - A. The complainant.
  - B. The alleged harasser.
  - C. Any other persons the Human Resources Manager has reason to believe have relevant knowledge concerning the complainant, such as witnesses and victims of similar conduct.
  - D. Review factual information gathered through the investigation to determine whether the alleged conduct constitutes harassment, giving consideration to all factual information including the nature of the verbal, physical, visual or sexual circumstances surrounding the conduct and the circumstances in which the alleged incidents occurred.
- 7.3 Report the results of the investigation and the determination, as to whether harassment occurred to appropriate persons including the complainant, the alleged harasser, the supervisor, department head, and the City Administrator.
- 7.4 If it is determined that harassment occurred, recommend to the appointing authority the appropriate disciplinary and remedial action to be taken. The appropriate action will be commensurate with the severity of the offense and will be communicated to the complainant/victim.
- 7.5 Reasonable steps will be taken to protect the victim and other potential victims from further harassment.
- 7.6 Reasonable steps will be taken to protect the victim from any retaliation, as a result of communicating the complainant.
- 7.7 Appropriate action will be taken to remedy the victim's loss, if any, which resulted from the harassment.

- 8. Dissemination of Policy: This Policy will be disseminated to all elected officials, officers, members of advisory boards, commissions and committees of the City of Huntington Beach and all managers, supervisors, and employees.

I have read and understand the Harassment in Employment Policy, AR 412. I understand that harassment in the workplace on the basis of race, religious creed, color, national origin, ancestry, disability, medical conditions, marital status, sex, sexual orientation, or age will not be tolerated by the City of Huntington Beach.

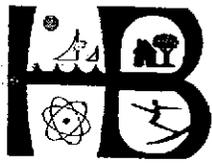
\_\_\_\_\_  
(Signed) \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_

\_\_\_\_\_  
Penelope Culbreth-Graft, City Administrator

**ATTACHMENT #3**

*E-9.11*



**CITY OF HUNTINGTON BEACH**  
City Council Interoffice Communication

*approved 10/20/03 mtg.*  
*(110) P. Dapkus (pd)*

**To:** Honorable City Council Members  
**From:** Connie Boardman, Mayor *CB*  
**Date:** October 13, 2003  
**Subject:** *H-Item, October 20<sup>th</sup> City Council Meeting - Sexual Harrassment Policy*

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The City currently has a sexual harassment policy that applies to employees of the City. Administrative Regulation 412 describing this policy is attached. The City Council, and members of city boards, commissions, committees, & task forces do not currently fall under this policy.

Since the City Council and the board, commission, committee & task force members interact with citizens and employees, I believe it is important that they be covered under the City's policy in this area.

To that end, I am asking that the City Council request that the City Attorney prepare the appropriate documents to assure that the City Council and those who serve on City boards, commissions, committees and task forces are included under the City's sexual harassment policy.

**MOTION:**

The City Council requests that the City Attorney prepare appropriate documentation to assure that the City Council and all those who serve on a City board, commission, committee, or task force included under the City's sexual harassment policy.

Xc: City Administrator  
City Clerk

*Attachment*

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CITY OF  
HUNTINGTON BEACH, CA  
2003 OCT 13 P 4:17

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*E-9.12*



# ADMINISTRATIVE REGULATION

Office of the City Administrator

Number: 412  
Sections: 1-8  
Effective Date: March 1, 1991  
Revised Date: October 5, 1999

**SUBJECT:** Harassment in Employment Policy

## Purpose.

- 1.1 This Administrative Regulation is to establish a City policy regarding the prohibition of harassment in the work place and/or while engaged in any activity on behalf of the City of Huntington Beach.
- 1.2 This policy is to fully inform all Department Heads, managers, supervisors and employees of the City, that any form of harassment in the workplace will not be tolerated or condoned.
- 1.3 To inform employees of their rights if they believe they have been a victim of harassment and,
- 1.4 To provide a means for prompt reporting and full and effective investigation of complaints and provide for remedial action against those who engage in harassment as prohibited by this regulation.
2. Authority. Section 401, Huntington Beach City Charter. Title VII of the United States Civil Rights Act. Guidelines of the Equal Employment Opportunity Commission and the California Fair Employment and Housing Commission. A violation of this policy may not be a violation of State and/or Federal law.
3. Application. This regulation applies to all departments and employees of the City of Huntington Beach.
4. Definition of Harassment. Harassment can consist of virtually any form or combination of verbal, physical, visual or environmental conduct. It need not be explicit, nor even specifically directed at the victim. Sexually harassing conduct can occur between people of the same or different genders. Sexual harassment may be quid pro quo or the result of a hostile work environment. Harassment includes, but is not limited to:
  - 4.1 Verbal: Inappropriate or offensive remarks, slurs, jokes, or innuendoes based on race, religious creed, color, national origin, ancestry, physical handicap, medical

E-9.13

severity of the conduct, whether the conduct is humiliating or physically threatening, and whether the conduct unreasonable interferes with an individual's work.

4.6 Definition of Employee: An employee shall be defined as any individual, regardless of classification, employed by the City of Huntington Beach or volunteers working under the supervision of the City.

Policy. Harassment of an applicant or employee by a manager, employee, supervisor or co-worker on the basis of race, religious, creed, color, national origin, ancestry, physical handicap, medical condition, marital status, sex, sexual orientation or age is prohibited and will not be tolerated. All employees shall report any conduct, which fits the definition of discriminatory harassment to any supervisor or the Personnel Director.

Responsibility. The City Administrator, Department Heads and their designated representatives shall be responsible for implementation of this policy against harassment in the workplace and all employees shall cooperate with any investigation of any alleged act of discriminatory harassment.

Complaint Procedure. An employee who has been harassed on the job should inform his/her employer, its agents or supervisors or the Personnel Director of the alleged harassment. The employee may first notify any of the following persons: his/her supervisor, his/her department head, the City Administrator. These officials will treat the complaint confidentially and immediately forward any written complaint to the Personnel Director.

To accommodate the unique nature of harassment complaints, a process is provided for the primary purpose of resolution of a complaint at the earliest possible date. Elements of this process are as listed below.

Upon notification of a complaint, the investigator will:

7.1 Notify the appropriate department head of the complaint and authorize the investigation of the complaint and supervise and/or investigate the complaint. All investigations should be conducted as confidentially as possible and will include interviews with:

A. The complainant.

B. The alleged harasser.

C. Any other persons the investigator has reason to believe have relevant knowledge concerning the complaint, such as witnesses and victims of similar conduct.

E-9.14

After City Clerk Brockway read by title, a motion was made by Green, second Coerper to approve for introduction the following ordinances:

1. Ordinance No. 3620 - "An Ordinance of the City of Huntington Beach Amending Chapter 14.25 of the Huntington Beach Municipal Code Relating to Storm Water and Urban Runoff Management;"

and

2. Ordinance No. 3621 - "An Ordinance of the City of Huntington Beach Amending Chapter 17.05 of the Huntington Beach Municipal Code, Referred to as the Grading and Excavation Code."

The motion carried by the following roll call vote:

AYES: Sullivan, Coerper, Green, Boardman, Cook, Houchen, Hardy  
 NOES: None  
 ABSENT: None

(City Council) Request the City Attorney to Prepare Documentation Re: Sexual Harassment Policy to Include City Council, City Board, Commission, Committee, and Task Force Members ( . )

SE120-10

The City Council considered a communication from Mayor Connie Boardman transmitting the following Statement of Issue: The City currently has a sexual harassment policy that applies to employees of the City. Administrative Regulation 412 (included in the agenda packet) describing this policy is attached. The City Council, and members of city boards, commissions, committees, and task forces do not currently fall under this policy.

Since the City Council and the board, commission, committee and task force members interact with citizens and employees, I believe it is important that they be covered under the City's policy in this area.

To that end, I am asking that the City Council request that the City Attorney prepare the appropriate documents to assure that the City Council and those who serve on City boards, commissions, committees and task forces are included under the City's sexual harassment policy.

Councilmember Sullivan requested the City Attorney to review the proposed document as it pertains to each proposed designee.

A motion was made by Green, second Coerper to request that the City Attorney prepare appropriate documentation to assure that the City Council and all those who serve on a City board, commission, committee, or task force included under the City's sexual harassment policy. The motion carried by the following roll call vote:

AYES: Sullivan, Coerper, Green, Boardman, Cook, Houchen, Hardy  
 NOES: None  
 ABSENT: None

E-9.15

After City Clerk Brockway read by title, a motion was made by Green, second Coerper to approve for introduction the following ordinances:

1. **Ordinance No. 3620** - *"An Ordinance of the City of Huntington Beach Amending Chapter 14.25 of the Huntington Beach Municipal Code Relating to Storm Water and Urban Runoff Management,"*

and

2. **Ordinance No. 3621** - *"An Ordinance of the City of Huntington Beach Amending Chapter 17.05 of the Huntington Beach Municipal Code, Referred to as the Grading and Excavation Code."*

The motion carried by the following roll call vote:

AYES: Sullivan, Coerper, Green, Boardman, Cook, Houchen, Hardy  
 NOES: None  
 ABSENT: None

**(City Council) Request the City Attorney to Prepare Documentation Re: Sexual Harassment Policy to Include City Council, City Board, Commission, Committee, and Task Force Members ( . . )**

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A motion was made by Green, second Coerper to request that the City Attorney prepare appropriate documentation to assure that the City Council and all those who serve on a City board, commission, committee, or task force included under the City's sexual harassment policy. The motion carried by the following roll call vote:

AYES: Sullivan, Coerper, Green, Boardman, Cook, Houchen, Hardy  
 NOES: None  
 ABSENT: None