

1 [Amending Section 16.9-25 of the Administrative Code to prohibit managers from pursuing or
2 engaging in romantic or sexual relationships with employees under their supervision.]

3 **Ordinance amending Section 16.9-25 of the Administrative Code to prohibit managers**
4 **from pursuing or engaging in romantic or sexual relationships with employees under**
5 **their supervision.**

6 Note: Additions are *single-underline italics Times New Roman*;
7 deletions are ~~*strikethrough italics Times New Roman*~~.
8 Board amendment additions are double underlined.
9 Board amendment deletions are ~~strikethrough normal~~.

10 Be it ordained by the People of the City and County of San Francisco:

11 Section 1. The San Francisco Administrative Code is hereby amended by amending
12 Section 16.9-25, to read as follows:

13 Sec. 16.9-25 SEXUAL HARASSMENT POLICY

14 (a) Sexual Harassment Policy.

15 (1) It is the policy of the City and County of San Francisco that, in accord with
16 State and federal laws, each city employee has the right to work in an
17 environment free of discrimination, including sexual harassment, and that sexual
18 harassment is unacceptable and will not be tolerated in the workplace. The City
19 and County of San Francisco will take all reasonable steps within its control to
20 provide a workplace in which all individuals are treated with respect and dignity.
21 The City and County of San Francisco recognizes that the elimination of sexual
22 harassment in the workplace will create a better working environment, increase
23 productivity, and improve relationships for all employees.

24 (2) Sexual harassment of a City official or employee is, in accord with State
25 and federal laws, strictly prohibited by another City official or employee. This

1 policy applies to all officials and employees and to all phases of employment,
2 including, but not limited to, recruitment, testing, hiring, promotion or demotion,
3 transfer, layoff, termination and selection for training.

4 (3) It is further the policy of the City and County of San Francisco to take
5 reasonable steps, in accord with State and federal laws, to provide its
6 employees with a workplace free of sexual harassment by non-employees,
7 including, but not limited to: contractors and subcontractors of the City and
8 County of San Francisco, clients, volunteers, interns, and members of the
9 general public. It is also the policy of the City and County of San Francisco to
10 take reasonable steps to prohibit its City officials and employees, acting within
11 the scope of their official duties and employment, from sexually harassing non-
12 employees, including, but not limited to: contractors and subcontractors of the
13 City and County of San Francisco, clients, volunteers, interns, and members of
14 the general public.

15 (4) It is the further policy of the City and County of San Francisco (City) to promote
16 ethical and efficient City operations, to avoid possible claims of sexual harassment or
17 favoritism in violation of state or federal law, and to avoid other problems of security,
18 morale and supervision created when managers pursue or engage in a romantic or
19 sexual relationship with employees under their supervision. Therefore, no City manager
20 may pursue or engage in a romantic or sexual relationship with any employee who
21 reports directly to the manager, who is in the manager's direct chain of command, or
22 over whom the manager has the power to hire or terminate from employment.
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1 (A) City managers include any City employee, elected official, or member of
2 a board, commission, or advisory body of any kind established by the Charter or
3 legislative act of the United States of America, the State of California or the
4 Board of Supervisors.

5 (B) In the case of members of a board, commission, or advisory body, the
6 prohibition applies only with respect to those employees, if any, as to whom the
7 member's board, commission, or advisory body has the specific power to hire or
8 terminate from employment.

9 (C) City managers who violate this ordinance will be subject to discipline, up
10 to and including termination of employment.

11 (D) Violation of this ordinance shall constitute official misconduct for
12 purposes of Section 15.105(a) of the Charter.

13
14 (5) In order to create and maintain a workplace free from sexual harassment
15 of employees, the City and County of San Francisco will, in accord with State
16 and federal laws, take all reasonable steps to:

17 (A) Set an example through its leadership and management that sexual
18 harassment will not be tolerated;

19 (B) Train and educate management and public officials as to their
20 responsibility to carry out the policy of the City and County; and

21 (C) Train and educate employees regarding sexual harassment issues
22 and policy.
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1 (6) It shall be a violation of this policy to engage in harassing conduct that
2 does not meet the definition of sexual harassment under state and federal law,
3 but that, if repeated or allowed to continue, might meet that definition.

4 (7) Pursuant to the Charter, the sexual harassment discrimination complaint
5 procedure established by the Civil Service Commission and Human Resources
6 Director is available to review and resolve all allegations of sexual harassment.
7 Persons wishing to file a complaint are urged to contact the Human Resources
8 Department Equal Employment Opportunity Unit for copies of the forms and
9 procedures.

10 (b) Definition.

11
12 (1) For purposes of this Section and in accord with federal and State laws,
13 sexual harassment is defined as any unwelcome sexual advance, request for
14 sexual favors and other verbal or physical conduct of a sexual nature or directed
15 at an individual because of his or her sex when:

16 (A) Submission to such conduct is made either explicitly or implicitly a
17 term or condition of an individual's employment; or

18 (B) Submission to or rejection of such conduct by an individual is used
19 as the basis for employment decisions affecting said individual; or

20 (C) Such conduct has the purpose or effect of unreasonably interfering
21 with an individual's work performance or creating an intimidating, hostile,
22 or offensive working environment.
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1 (2) Examples of behavior which may, in accord with State and federal laws,
2 constitute sexual harassment, include, but are not limited to, the following:

3 (A) Acts from male to female, female to male and between individuals of
4 the same sex which are sexual in nature and unwelcome; sexual
5 harassment may be directed against a particular person, persons or
6 group;

7 (B) Verbal conduct which is sexual in nature and unwelcome, e.g.,
8 epithets, jokes, comments or slurs, repeated requests for dates which are
9 unwelcome;

10 (C) Nonverbal behavior which is sexual in nature and unwelcome, e.g.,
11 staring, leering, lewd gestures;

12 (D) Physical conduct which is sexual in nature and unwelcome, e.g.,
13 assault, sexual advances such as touching, patting or pinching, impeding
14 or blocking movement or any physical interference with normal work or
15 movement;

16 (E) Visual effects which are sexual in nature and unwelcome, e.g.,
17 posters or signs, letters, poems, graffiti, faxes, cartoons or drawings,
18 pictures, calendars, electronic mail and computer programs;

19 (3) For purposes of this Section, retaliation against any official, employee or
20 applicant for employment for having made a good faith complaint or report of
21 sexual harassment, or participating or aiding in an investigation of sexual
22 harassment, or participating or aiding in an investigation of sexual
23 harassment, or participating or aiding in an investigation of sexual
24 harassment, or participating or aiding in an investigation of sexual
25 harassment;

1 harassment shall be prohibited. Examples of retaliation may, in accord with
2 State and federal laws, include, but are not limited to, the following:

3 (A) Transferring the complainant or witness against his or her will;

4 (B) Ignoring the complainant or witness;

5 (C) Spreading rumors and innuendoes about the complainant or
6 witness;

7 (D) Changing work assignments of the complainant or witness without a
8 valid work-related rationale;

9 (E) Sabotaging of tools, materials or work of the complainant or witness;
10 and

11 (F) Withholding work-related information from the complainant or
12 witness.
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15 (c) Right to File Other Complaints. This policy shall not alter or affect the right of any
16 person to make a charge of discrimination with any State or federal agency with
17 jurisdiction over such claims, file a grievance under a collective bargaining agreement,
18 or consult a private attorney.

19 (d) Education and Training. Prevention is the best tool for the elimination of sexual
20 harassment. All City and County commissions, departments, boards and agencies shall
21 provide to each of their supervisory employees a copy of this ordinance with a written
22 explanation of the most current procedure for filing a complaint. Each appointing officer
23 shall require his or her supervisory personnel to instruct all employees under their
24 supervision of the contents of this ordinance and of the Civil Service and Human
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1 Resources Department procedures for filing and processing a complaint. Each
2 appointing officer shall provide to or acquire for its supervisory personnel a periodic
3 training program designed to educate and thereby prevent sexual harassment.

4 (e) Department of Human Resources Reports.

5 (1) Quarterly Reports. The Human Resources Director shall provide, on a
6 quarterly basis, to the Commission on the Status of Women a written report on
7 the number of sexual harassment complaints filed and the departments that
8 were involved. The report also shall include information on the dispositions of
9 complaints that are concluded and the status of complaints that are pending.
10 The reports shall not include names or other identifying information regarding
11 the parties or the alleged harassers.
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13 (2) Annual Report. The Human Resources Director shall provide annually to
14 the Mayor, the Board of Supervisors, the Human Rights Commission, and the
15 Commission on the Status of Women a written report on the number of claims of
16 sexual harassment filed, including information on the number of claims pending
17 and the departments in which claims have been filed. The reports shall not
18 include names or other identifying information regarding the parties or the
19 alleged harassers.

20 (f) Commission on the Status of Women. The Commission on the Status of Women is
21 available to offer technical advice on this City and County policy, assistance and
22 referrals for sexual harassment complainants, technical assistance and additional
23 resources to supervisory employees and managers regarding sexual harassment, and
24 to assist in the prevention of sexual harassment incidents.
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1 (g) The City and County of San Francisco is assuming an undertaking only to promote
2 the general welfare. It is not assuming, nor is it imposing on its officers and employees,
3 any obligations for which it is liable in money damages or otherwise to any person who
4 claims that such breach proximately caused injury.

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6 APPROVED AS TO FORM:
7 DENNIS J. HERRERA, City Attorney

8 By: _____
9 ELIZABETH SALVESON
Deputy City Attorney

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