

1 [Administrative Code - Harassment Prevention Training for City Employees - Reporting  
2 Requirements for City Departments]

3 **Ordinance amending the Administrative Code to require City employees to complete**  
4 **harassment prevention training annually; Department of Human Resources (DHR) to**  
5 **post harassment prevention training and complaint information on its website; City**  
6 **Attorney to report harassment settlements to Department on the Status of Women**  
7 **(DOSW); DOSW to post on its website reports from DHR and the City Attorney; and**  
8 **recommending that the Civil Service Commission adopt a rule requiring DHR to accept**  
9 **complaints of harassment, discrimination, or retaliation up to one year after the date of**  
10 **the alleged incident.**

11 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.  
12 **Additions to Codes** are in *single-underline italics Times New Roman font*.  
13 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.  
14 **Board amendment additions** are in double-underlined Arial font.  
15 **Board amendment deletions** are in ~~strikethrough Arial font~~.  
16 **Asterisks (\* \* \* \*)** indicate the omission of unchanged Code  
17 subsections or parts of tables.

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

19 Section 1. Article 1 of Chapter 16 of the Administrative Code is hereby amended by  
20 adding Section 16.9-27, to read as follows:

21 **SEC. 16.9-27. HARASSMENT PREVENTION TRAINING AND REPORTING.**

22 **(a) Findings and Purpose.**

23 (1) In federal Fiscal Year 2017, over 84,000 workplace discrimination charges were  
24 filed with the U.S. Equal Employment Opportunity Commission (“EEOC”), approximately 30% of  
25 those charges were related to sex discrimination, and over 6,500 of those charges were for sexual  
harassment.

1           (2) A 2016 EEOC Report by the Select Task Force on the Study of Harassment in the  
2 Workplace concluded that workplace harassment remains a persistent problem, particularly sex-based  
3 harassment. The vast majority, as much as 70%, of individuals who experience workplace harassment,  
4 never report or discuss the harassment with a superior. Even fewer individuals among the minority who  
5 report or discuss harassment with a supervisor file a formal complaint.

6           (3) Harassment in the workplace results in physical and emotional harm to employees  
7 who experience the harassment directly as well as to those who witness the harassment. Additionally,  
8 employers suffer as a result of workplace harassment, which causes decreased productivity and  
9 imposes financial costs on employers.

10           (4) Under California Government Code Section 12950.1, all supervisors and managers  
11 are required to complete a biennial online harassment prevention training, which is provided by the  
12 Department of Human Resources ("DHR"). By February 2018, DHR had trained nearly 12,000  
13 employees in Fiscal Year 2016-2017. Expanding this requirement to all City employees –  
14 approximately 34,000 as of 2018 – would significantly expand the training's reach and impact.

15           (5) In February 2018, DHR projected receiving an increased number of sexual  
16 harassment complaints in Fiscal Year 2017-2018 as compared to prior fiscal years because the existing  
17 required harassment prevention training has increased awareness among employees of their obligation  
18 to report harassment and their right to a harassment-free workplace, and has deepened their  
19 understanding of what constitutes workplace harassment.

20           (6) Administrative Code Section 16.9-25(e)(2) requires DHR to provide an annual  
21 report on the number of sexual harassment claims filed by City employees, including information as to  
22 number of claims pending, and the City departments in which claims have been filed. Expanding this  
23 reporting requirement to include all forms of harassment complaints, not only sexual harassment  
24 claims, will provide increased transparency and accountability for addressing harassment in the  
25 workplace.

1           **(b) Definitions.** For purposes of this Section 16.9-27, the following definitions apply:

2           “City” means the City and County of San Francisco.

3           “Covered Employee” means the following:

4           (1) An individual appointed to a permanent or exempt position with the City with a  
5 regular schedule of at least 20 hours per week; or

6           (2) An individual appointed to a provisional or temporary position with the City  
7 where there is a reasonable expectation that the employee will work at least 960 hours over a fiscal  
8 year or where the employee does work at least 960 hours over a fiscal year.

9           “EEO Complaint” means a complaint filed by a City employee, an applicant for City  
10 employment, a person providing services to the City by contract, an intern, or a volunteer claiming a  
11 violation of the City’s Equal Employment Opportunity Policy , which prohibits discrimination and  
12 harassment on the basis of characteristics protected by federal law, state law, or ordinance, and  
13 further prohibits retaliation against an individual who reports, files a complaint of, or otherwise  
14 opposes, conduct he or she reasonably believes to be unlawful discrimination, harassment, or  
15 retaliation, or assists in the investigation of a complaint.

16           **(c) Training.** All Covered Employees shall participate in harassment prevention training  
17 annually. The harassment prevention training shall educate Covered Employees on City policies  
18 prohibiting harassment. The harassment prevention training shall include bystander intervention  
19 training that will teach employees how to intervene and address harassment that they may observe in  
20 the workplace.

21           (1) The requirement that Covered Employees participate in harassment prevention  
22 training shall begin in Fiscal Year 2019-2020 unless the Board of Supervisors appropriates money for  
23 the training in Fiscal Year 2018-2019 and the Controller certifies the departments have sufficient funds  
24 to provide the training.

25           (2) Once the City begins providing harassment prevention training to Covered

1 Employees, a Covered Employee shall participate in harassment prevention training within 30 days of  
2 the date the Covered Employee begins working.

3 (3) DHR shall prepare and administer the harassment prevention training program.

4 (4) Training that meets the requirements of California Government Code Section  
5 12950.1 shall satisfy this Section 16.9-27, provided that the training includes bystander intervention  
6 training. Training under Section 16.9-27 shall satisfy the City entities' obligations under Section 16.9-  
7 25(d) to provide education and training to supervisors regarding the prevention of sexual harassment.

8 (6) This Section 16.9-27 does not preclude any board, commission, department, or  
9 other City entity or official from taking additional reasonable steps to train City managers, officials,  
10 and/or employees regarding the City's sexual harassment policy and issues pertaining to sexual  
11 harassment, in accordance with Section 16.9-25(a)(4).

12 (d) **Reports.**

13 (1) Annual Reports on Training. Beginning January 1, 2019, DHR shall annually  
14 post on its website the number of employees in each department who have completed harassment  
15 prevention training.

16 (2) Quarterly and Annual Reports on Harassment Complaints. Beginning January  
17 1, 2019, DHR shall post on its website on a quarterly and annual basis a report on the number of  
18 harassment complaints filed with DHR, including the number of complaints for each department in  
19 which the alleged harassment occurred. The report shall also include information on the dispositions  
20 of complaints that have been concluded and the status of complaints that are pending, both composite  
21 numbers and numbers as to each department in which the alleged harassment occurred. The reports  
22 shall not include names or other individually identifying information disclosed in the complaints or  
23 subsequent investigations.

24 (3) Annual Reports of Settlements. Beginning on January 1, 2019, the City Attorney  
25 shall annually report the settlements of harassment cases to the Department on the Status of Women (“

1 DOSW” ). The reports shall not include names or other individually identifying information from the  
2 cases.

3 (4) Posting Reports. DOSW shall post to its website the quarterly and annual  
4 reports regarding complaints described in subsection (d)(2), and the reports of harassment settlements  
5 described in subsection (d)(3).

6 (5) This Section 16.9-27 does not relieve DHR of its reporting requirements under  
7 Section 16.9-25(e) regarding sexual harassment.

8 (e) **Undertaking for the General Welfare.** In enacting and implementing this Section 16.9-  
9 27, the City is assuming an undertaking only to promote the general welfare. It is not assuming, nor is  
10 it imposing on its officers and employees, an obligation for breach of which it is liable in money  
11 damages to any person who claims that such breach proximately caused injury.

12 (f) **No Conflict with Federal or State Law.** Nothing in this Section 16.9-27 shall be  
13 interpreted or applied so as to create any requirement, power, or duty in conflict with any federal or  
14 state law, or any provision of the City Charter.

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16  
17 Section 2. Consistent with the press release entitled New Recommendations on  
18 Strengthening Sexual Harassment Prevention and Response issued March 1, 2018 by the  
19 Department on the Status of Women, the Board of Supervisors urges the Civil Service  
20 Commission to adopt a rule requiring the Department of Human Resources to accept EEO  
21 Complaints, for up to one year after the date of the last alleged incident of the harassment,  
22 discrimination, or retaliation.

1 Section 3. Effective Date. This ordinance shall become effective 30 days after  
2 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
3 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
4 of Supervisors overrides the Mayor's veto of the ordinance.

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

9 By: \_\_\_\_\_  
10 JENNIFER DONNELLAN  
11 Deputy City Attorney

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