

29309

**APPOINT VALERIE FIGULA AS EEO/AFFIRMATIVE ACTION OFFICER AND
DEPUTY DIRECTOR OF ACCOUNTS & FINANCE: A/F**

RESOLVED, By the City Council of the City of Bradford, that the proper officers hereby appoint Valerie Figula as Equal Employment Officer/Affirmative Action Officer and Deputy Director of Accounts and Finance.

WHEREAS, Resolution No. 21578, dated December 19, 1995 appointed Diane Martin as Deputy Director of Accounts and Finance and Resolution No. 23975 appointed Diane Martin as Equal Employment Officer/Affirmative Action Officer and,

WHEREAS, Diane Martin has tendered her notice of retirement and,

BE IT FURTHER RESOLVED that this appointment is effective March 1, 2009.

Motion by Councilmen Onuffer and Tingley for adoption.

5 Yea 0 Nay

EEO INTAKE, COMPLAINANT INVESTIGATION CONSENT & INFORMATION RELEASE

Filing a Discrimination Complaint at the City of Bradford

Time Limits

The City of Bradford's policy is to investigate and resolve your complaint within thirty days after the EEO Officer receives your signed complaint. The complaint must be timely in accordance with federal and state anti-discrimination agencies.

Time limits are:

- Equal Employment Opportunity Commission 300 days
- Pennsylvania Human Relations Commission 180 day

If your complaint can not be reasonably answered prior to reaching the close of the time limit for EEOC or PHRC you may be advised to go directly to those agencies to preserve your rights under State or Federal laws.

Filing Your Complaint with the City

Contact the Human Resources Office to file a complaint of discrimination or to report activity that appears to be in violation of the City's Equal Employment and Non-Discrimination Policy. You should file the complaint as soon as possible after the incident or incidents have occurred. A complaint alleging discrimination will be investigated based upon the information that you provide to the investigator. Be clear and specific when you report the potential violation(s). Jot down important information before you contact the EEO Officer, such as the description of the incident(s), witnesses, date and time of alleged violation(s), statements made to you or about you, etc. You will be asked to complete the **intake form** included in this packet.

As soon as practical, and not more than ten (10) working days of receiving your signed complaint the EEO Officer will notify you in writing if your complaint is accepted for investigation. Illustrative reasons for not accepting a complaint may include, but are not limited to, the following: **(Serious allegations will be investigated immediately)**

1. Not an EEO issue or the basis does not fall under non-discrimination policies.
2. Failure to provide reasonable corroborative and supportive information (information that will support your claim).
3. No identified harm or loss.
4. Referred to EEOC or PHRC due to time constraints.

EARLY RESOLUTION

With the consent and cooperation of involved parties, Mediation or Alternative Dispute Resolution (ADR) will be attempted for most complaints. Mediation and ADR are not appropriate for allegations of sexual harassment or certain forms of discrimination.

YOUR RIGHTS AND RESPONSIBILITIES

A. Your Responsibilities:

1. You must cooperate with the investigator; failure to cooperate during the investigation may result in your complaint being administratively closed by the City.
2. In order to protect the integrity of the investigation, you are asked not to discuss your case with anyone other than the assigned investigator or your personal representative until the investigation is completed.

B. Your Rights:

1. You have a right to work in a workplace free of illegal discrimination and harassment.
2. You have a right to file a complaint of discrimination if you believe you have been discriminated against based on your race, color, national origin, gender, religion, age, or disability.
3. You have a right to be free from retaliation because you participated in a matter related to a claim of discrimination or if you opposed an activity that you believed violated non-discrimination policies.
4. You have a right to confidentiality to the maximum extent possible for information you provide related to a claim of discrimination.
5. You have a right to be advised of the status of your case upon your request.
6. You have the right to rebut the respondent's information.

SIGNATURE

I hereby acknowledge that I have received a copy of the City discrimination complaint process. I understand that intentional false statements and/or allegations may be subject to corrective and/or disciplinary action.

Complainant signature

Date

Please read the following paragraphs and sign indicating that you understand.

As a complainant, I understand that when the City of Bradford EEO Officer (or the appointed investigator) investigates my complaint, it may become necessary to reveal my identity to the person(s) in the department being investigated. I also understand, that requests for related information made under the City of Bradford Open Records Act will be honored by the City which may result in disclosure of information that the City has gathered about me as part of this investigation.

I further understand that as a complainant, I am covered by the Civil Rights Act of 1964 and related laws. These laws protect individuals from any type of retaliation directed against them as a result of having made a complaint. Retaliation includes discrimination by intimidation, threats, or coercion. Also protected are persons who testify, assist, or otherwise participate in the investigation and the related hearing, proceeding, conciliation, or enforcement process.

| | |
|-------------------------|------|
| Complainant's signature | Date |
|-------------------------|------|

Equal Employment Opportunity (EEO) Investigation Interview Fact Sheet

Purpose of Investigative Interviews:

The City of Bradford investigates complaints of discrimination when those complaints are based on race, religion, color, sex, sexual orientation, physical or mental disability, marital status, age, national origin, ancestry, or any other category protected by law. This responsibility encompasses recruitment, appointment, training, promotion, retention, discipline, and any other covered aspect of employment. The City also investigates claims of retaliation in connection with the filing of discrimination complaints.

The letter you have just received with this fact sheet specifies whether you are the:

- A) complainant** – an individual who has made an informal or a formal complaint of discrimination to the City;
- B) witness** – an individual who may have information or a formal complaint of discrimination; or
- C) alleged perpetrator** – an individual accused of engaging in discriminatory conduct.

On the day of your interview you will meet with the EEO Investigator whose role is to serve as a neutral fact-finder. At the start of your interview, the investigator will explain why you have been contacted and what will be expected of you during and after the investigation (i.e. maintaining work performance standards). Specific allegations will also be discussed, and you will have an opportunity to ask questions. If you have any concerns about the investigator's ability to be fair and objective in this process, you may contact the City Clerk.

Confidentiality

This is a confidential investigation and your role in it is extremely important. Your cooperation is required so that we may properly and thoroughly investigate this complaint. To maintain the integrity of the investigation, we must limit the disclosure of information to those with a bona fide need to know. Therefore, you are not to discuss with other employees:

- 1) the existence of an investigation
- 2) the fact that you are being or have been interviewed
- 3) any information shared by or with you during this investigation

Any information that you provide will also be maintained as confidential, to the extent possible. You are advised that while investigations are confidential, the information obtained (including any tape-recorded transcripts) may be revealed under the following circumstances:

- A) the investigation results in disciplinary action;

- B) under the formal complaint process, the complainant appeals the report recommendation to a higher investigation level or to the Equal Employment Opportunity Commission.
- C) a lawsuit is filed by any of the parties involved.
- D)

Note: The above is not an all-inclusive list.

Protection from Retaliation

The City prohibits retaliation against anyone for filing a complaint, serving as a witness, or otherwise participating in an investigation. If it is alleged that you have engaged in discriminatory conduct, you must not take any action that could be perceived as retaliatory against anyone involved in the investigation. Nor should anyone retaliate against you. Retaliatory behavior should immediately be reported to the City Clerk's office.

Tape Recording

Tape recording of interviews will happen on a case-by-case basis, and only when it appears warranted to ensure truthfulness and a complete record. Please refer to your cover letter to determine if the interview will be tape recorded.

Cooperation and Truthfulness

Whether you are the complainant, the alleged perpetrator, or a witness, your cooperation is essential to this investigation. You are asked to be on time for your interview, and to answer all questions truthfully and to the best of your ability. Please note that refusal to cooperate, or failure to be truthful during the investigation may result in disciplinary action, up to and including dismissal.

Representation

Whether you are a complainant or an alleged perpetrator, you have a right to representation at any time during this process. If you are an alleged perpetrator and the allegations against you are substantiated, you may be disciplined. In the event you are not a member of a represented group, you may wish to secure representation. Please note that the City does not provide nor pay for representation for you.

Length of Investigation

This office has 10 days to investigate complaints of discrimination. Additional time may be required. You will be notified of the reason if time beyond the 10 days is necessary to complete the investigation.

Contacts:

Teri Cannon
City Administrator
(814) 362-3887

Valerie Figula
Human Resources Manager
(814) 362-3884 ext. 125



HARASSMENT POLICY (including SEXUAL HARASSMENT)

PURPOSE:

It is the policy of the **CITY OF BRADFORD** to provide all employees with a workplace that is safe, comfortable and free of harassment. It is our policy to prohibit forms of harassment at work including harassment based on age, race, color religion, sex, sexual orientation, national origin, disability or veteran status. All employees are responsible for complying with the policy against Workplace Harassment.

POLICY:

Any employee who engages in harassment on the basis of race, sex, gender, religion, color, age, disability, national origin or sexual orientation; who permits employees under his/her supervision to engage in such harassment; or who retaliates or permits retaliation against an employee who reports such harassment is guilty of misconduct and shall be subject to remedial action which may include the imposition of discipline or termination of employment.

Sexual harassment is prohibited and includes any unwelcome sexual advance, request for sexual favor and other verbal or physical conduct of a sexual nature when:

- Submission to such conduct is made, either explicitly or implicitly, as a term of employment;
- Submission to or rejection of such conduct is used as a factor in any employment decision affecting any individual; or
- such conduct has the purpose or effect of unreasonably interfering with any employee's work performance or creating an intimidating, hostile or offensive working environment.

Harassment, on the basis of protected classifications other than sexual harassment, includes slurs and other verbal or physical conduct relating to an individual's race, color, religion, sex, gender, age, disability, national origin, or being a member of another protected classification. Harassment is defined as behavior which has the purpose or effect of creating an intimidating, hostile, or offensive working environment, or has the purpose or effect of unreasonably interfering with an individual's work performance, or otherwise adversely affects an individual's employment opportunities.

Effective immediately, any employee who believes he/she is being sexually harassed should bring your concerns to the **EEO/AFFIRMATIVE ACTION OFFICER**.

Your privacy and the privacy of the person accused of sexual or other harassment will, to the extent possible, be kept strictly confidential.

At the conclusion of the investigation, the EEO/AFFIRMATIVE ACTION OFFICER will review the findings with the person(s) who made the complaint. If the investigation reveals that the complaint is factual, appropriate corrective action will be taken to prevent the harassment from occurring again, up to and including discharge of any employees believed to be guilty of sexual harassment. In any case, particularly in situations where the facts uncovered during the investigation are inconclusive or unclear, management will ensure that all parties are reacquainted with the policy prohibiting sexual or other harassment at the workplace.

CITY OF BRADFORD SEXUAL HARASSMENT POLICY

Section 1 - Statement of Policy

Title VII of the Civil Rights Act of 1964 prohibits employment discrimination on the basis of race, color, sex, age or national origin. Sexual harassment is included among the prohibitions.

Sexual harassment, according to the Federal Equal Employment Opportunity Commission (EEOC), consists of unwelcome sexual advances, request for sexual favors or other verbal or physical acts of a sexual or sex based nature where (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; (2) an employment decision is based on an individual's acceptance or rejection of such conduct; or, (3) such conduct interferes with an individual's work performance or creates an intimidating, hostile or offensive work environment.

It is also unlawful to retaliate or take reprisal in any way against anyone who has articulated any concern about sexual harassment or discrimination, whether that concern relates to harassment of or discrimination against the individual raising the concern or against another individual. Examples of conduct that would be considered sexual harassment or related retaliation are set forth in the Statement of Prohibited Conduct which follows. These examples are provided to illustrate the kind of conduct prescribed by this policy; the list is not exhaustive.

Sexual harassment is unlawful, and such prohibited conduct exposes not only the the City, but individuals involved in such conduct, to significant liability under the law. Employees at all times should treat other employees respectfully and with dignity in a manner so as not to offend the sensibilities of a co-worker. Accordingly, the City is committed to vigorously enforcing its sexual harassment policy at all levels.

Section 2 - Statement of Prohibited Conduct

The City considers the following conduct to represent some of the type of acts which violate the sexual harassment policy:

- a. Physical assaults of a sexual nature, such as:
 - (1) Rape, sexual battery, molestation or attempts to commit these assaults; and

(2) Intentional physical conduct which is sexual in nature, such as touching, pinching, patting, grabbing, brushing against another employee's body or poking another employee's body.

b. Unwanted sexual advances, propositions or other sexual comments such as:

(1) Sexually oriented gestures, noises, remarks, jokes, or comments about a person's sexuality or sexual experience directed at or made in the presence of any employee who indicates or has indicated in any way, that such conduct in his or her presence is unwelcome;

(2) Preferential treatment or promise of preferential treatment to an employee for submitting to sexual conduct, including soliciting or attempting to solicit any employee to engage in sexual activity for compensation or reward;

(3) Subjecting, or threats of subjecting, an employee to unwelcome sexual attention or conduct or intentionally making performance of the employee's job more difficult because of that employee's sex.

c. Sexual or discriminatory displays of publications in the work place, such as:

(1) Displaying pictures, posters, calendars, graffiti, objects, promotional materials, reading materials, or other materials that are sexually suggestive, sexually demeaning, or pornographic.

A picture will be presumed to be sexually suggestive if it depicts a person of either sex who is not fully clothed or in clothes that are not suited to or ordinarily accepted for the accomplishment of routine work at the City and who has posed for the obvious purpose of displaying or drawing attention to private portions of his or her body.

- (2) Displaying signs or other materials purporting to segregate an employee by sex in any area of the work place, other than restrooms and similar semi-private lockers/changing rooms.

d. Retaliation for sexual harassment complaints, such as:

- (1) Disciplining, changing work assignments of, providing inaccurate work information to, or refusing to cooperate or discuss work related matters with any employee because that employee has complained about, or resisted harassment, discrimination or retaliation; and
- (2) Intentionally pressuring, falsely denying, lying about or otherwise covering up or attempting to cover up conduct .

e. Other acts:

- (1) The above is not to be construed as an all inclusive list of prohibited acts under this policy;
- (2) Sexual harassment is unlawful and hurts other employees. Any of the prohibited conduct described here is sexual harassment of any one at whom it is directed or who is otherwise subjected to it. Each incident of harassment, moreover, contributes to a general atmosphere in which all persons who share the victim's sex suffer the consequences. Sexually oriented acts or sex based conduct have no legitimate business purpose; accordingly, the employee who engages in such conduct should be and will be made to bear the full responsibility for such unlawful conduct.

Section 3 - Penalties for Misconduct

Any employees commission of acts of sexual harassment or retaliation against a sexual harassment complainant will result in appropriate sanctions, up to and including

dismissal, against the offending employee, depending upon the nature and severity of the misconduct.

A written record of each action taken pursuant to this policy will be placed in the offending employee's personnel file. The record will reflect the conduct, or alleged conduct, and the warning given, or other discipline imposed.

Section 4 - Procedures for Making, Investigating and Resolving Sexual Harassment and Retaliation Complaints

(a) Complaints.

Complaints of acts of sexual harassment and retaliation that are in violation of the sexual harassment policy will be accepted in writing or orally, and anonymous complaints will be taken seriously and investigated. A complaint need not be limited to someone who was the target of harassment or retaliation. Anyone who has observed sexual harassment or retaliation should report it to their immediate supervisor. In the event that it would be inappropriate to report such concerns to one's immediate supervisors, the report may be made to Diane M. Martin, the EEO/Affirmative Action Officer, or John W. Peterson, City Clerk and Administrative Assistant to City Council.

Only those who have an immediate need to know, including the person to whom a report was made, the alleged target of harassment or retaliation, the alleged harasser or retaliator, and any witness will or may find out the identity of the complainant. All parties contacted in the course of an investigation will be advised that all parties involved in a charge are entitled to respect and that any retaliation or reprisal against an individual who is an alleged target of harassment or retaliation, who has made a complaint or who has provided evidence in connection with a complaint, is a separate actionable offense and subject to discipline under this policy.

(b) Cooperation.

An effective sexual harassment policy requires the support and example of personnel in positions of authority. City

agents or employees who engage in sexual harassment or retaliation or who fail to cooperate with City sponsored investigations of sexual harassment or retaliation may be severely sanctioned by suspension or dismissal. By the same token, officials who refuse to implement remedial measures, obstruct the remedial efforts of other City employees, and/or retaliate against sexual harassment complainants or witnesses may be immediately sanctioned by suspension or dismissal.

Diane Martin, EEO/Affirmative Action Officer (814)362-3884 X20

John W. Peterson, City Clerk & Admin. Assistant to
City Council (814)362-3884 Ext. 11

COMMONWEALTH NONDISCRIMINATION-CLAUSE
(All Contracts)



During the term of this contract, Contractor agrees as follows:

1. Contractor shall not discriminate against any employe, applicant for employment, independent contractor, or any other person because of race, color, religious creed, ancestry, national origin, age, or sex. Contractor shall take affirmative action to insure that applicants are employed, and that employes or agents are treated during employment, without regard to their race, color, religious creed, ancestry, national origin, age, or sex. Such affirmative action shall include, but is not limited to: employment, upgrading, demotion or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training. Contractor shall post in conspicuous places, available to employes, agents, applicants for employment, and other persons, a notice to be provided by the contracting agency setting forth the provisions of this nondiscrimination clause.
2. Contractor shall, in advertisements or requests for employment placed by it or on its behalf, state that all qualified applicants will receive consideration for employment without regard to race, color, religious creed, ancestry, national origin, age, or sex.
3. Contractor shall send each labor union or workers' representative with which it has a collective bargaining agreement or other contract or understanding, a notice advising said labor union or workers' representative of its commitment to this nondiscrimination clause. Similar notice shall be sent to every other source of recruitment regularly utilized by Contractor.
4. It shall be no defense to a finding of non-compliance with this nondiscrimination clause that Contractor had delegated some of its employment practices to any union, training program, or other source of recruitment which prevents it from meeting its obligations. However, if the evidence indicates that the Contractor was not on notice of the third-party discrimination or made a good faith effort to correct it, such factor shall be considered in mitigation in determining appropriate sanctions.
5. Where the practices of a union or any training program or other source of recruitment will result in the exclusion of minority group persons, so that Contractor will be unable to meet its obligations under this nondiscrimination clause, Contractor shall then employ and fill vacancies through other nondiscriminatory employment procedures.
6. Contractor shall comply with all state and federal laws prohibiting discrimination in hiring or employment opportunities. In the event of Contractor's non-compliance with the nondiscrimination clause of this contract or with any such laws, this contract may be terminated or suspended, in whole or in part, and Contractor may be declared temporarily ineligible for further Commonwealth contracts, and other sanctions may be imposed and remedies invoked.
7. Contractor shall furnish all necessary employment documents and records to, and permit access to its books, records, and accounts by, the contracting agency and the Office of Administration, Bureau of Affirmative Action, for purposes of investigation to ascertain compliance with the provisions of this clause. If Contractor does not possess documents or records reflecting the necessary information requested, it shall furnish such information on reporting forms supplied by the contracting agency or the Bureau of Affirmative Action.
8. Contractor shall actively recruit minority subcontractors or subcontractors with substantial minority representation among their employes.
9. Contractor shall include the provisions of this nondiscrimination clause in every subcontract, so that such provisions will be binding upon each Subcontractor.
10. Contractor obligations under this clause are limited to the Contractor's facilities within Pennsylvania or, where the contract is for purchase of goods manufactured outside of Pennsylvania, the facilities at which such goods are actually produced.

This "NONDISCRIMINATION CLAUSE" must be a part of all City contracts \$10,000 or over.