

## **RESOLUTION NO. 2019 – 027**

### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LA QUINTA, CALIFORNIA, ADOPTING PERSONNEL POLICY FOR APPOINTED OFFICIALS**

**WHEREAS,** pursuant to accepted practices many cities follow, it is in the best interest of the City to adopt regulations applicable to all persons who are appointed by the City Council to serve on any boards, commissions, or committees established by the City (collectively, "Appointed Officials"); and

**WHEREAS,** this resolution approves a separate manual specific to Appointed Members; and

**WHEREAS,** substantively, the regulations applicable to Appointed Officials are also applicable to City employees pursuant to the City's Personnel Policies and Procedures approved by Council on June 18, 2019; and

**WHEREAS,** all prior resolutions approving personnel policies for Appointed Officials are hereby superseded by the Appointed Officials Personnel Policy attached hereto as "Exhibit A."

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of La Quinta, California, as follows:

SECTION 1. The City Council hereby adopts regulations that govern Appointed Officials as set forth in the attached City of La Quinta Appointed Officials Personnel Policy, as "Exhibit A" incorporated hereto by this reference.

SECTION 2. This resolution supersedes all prior resolutions adopting personnel policies applicable to Appointed Officials.

SECTION 3. This resolution shall go into effect upon adoption.

**PASSED, APPROVED, and ADOPTED** at a regular meeting of the La Quinta City Council held on this 2<sup>nd</sup> day of July, 2019, by the following vote:

**AYES:** Council Members Fitzpatrick, Peña, Radi, Sanchez, Mayor Evans


**NOES:** None

**ABSENT:** None

**ABSTAIN:** None

  
LINDA EVANS, Mayor  
City of La Quinta, California

**ATTEST:**

  
MONIKA RADEVA, City Clerk  
City of La Quinta, California

(CITY SEAL)

**APPROVED AS TO FORM:**

  
WILLIAM H. IHRKE, City Attorney  
City of La Quinta, California



## **CITY OF LA QUINTA**

### **APPOINTED OFFICIALS PERSONNEL POLICY**

The following regulations are applicable to all persons who are appointed by the City of La Quinta City Council to serve on any boards, commissions, or committees established by the City of La Quinta (collectively, "Appointed Officials").

#### **1.0 EQUAL EMPLOYMENT, DISCRIMINATION, HARASSMENT, AND ANTI-BULLYING POLICY**

The City prohibits any form of discrimination or harassment on the basis of membership in one or more protected categories as defined below, and as may be amended by State and Federal law. The City will NOT tolerate any unlawful harassment or discrimination. Violation of this Policy may result in censorship or removal from an appointed office or position.

Protected categories include race, religion, color, sex (including gender, gender identity, gender expression, pregnancy, and breastfeeding), sexual orientation (including heterosexuality, homosexuality, and bisexuality), national origin, ancestry, marital status, age, medical condition, genetic characteristics or information, and physical or mental disability, or any other category protected by law.

Appointed Officials are prohibited from harassing or discriminating against applicants, officers, officials, employees, or contractors because of: (1) an individual's membership in a protected category; (2) the perception that an individual is a member of a protected category; or (3) the individual's association with a person who is perceived to be a member of a protected category.

Any form of retaliation against a person for filing a complaint or participating in the complaint resolution process is prohibited. Individuals found to be retaliating in violation of this policy will be subject to appropriate sanctions.

##### **1.0.1 Definitions**

**1.0.1.1 Harassment:** Unwelcome conduct based on membership in a protected category that unreasonably interferes with an individual's job performance, or creates an intimidating, hostile or offensive work environment. Behavior that constitutes harassment may include, but is not limited to:

- a. Unwanted sexual advances, requests for sexual favors and other acts where submission is made a term or condition of employment or appointment, or where submission to or rejection of the conduct is used as the basis for employment decisions.
- b. Speech, such as epithets, derogatory comments or slurs, based on a protected category. This might include inappropriate comments on appearance, including dress or physical features, or dress consistent with gender identification, or race-oriented stories and jokes.
- c. Physical acts, such as assault, impeding or blocking movement, offensive touching, or any physical interference with normal work or movement. This includes pinching, grabbing, patting, propositioning, or leering.
- d. Visual acts, such as displaying derogatory posters or cartoons, or sending emails, pictures or drawings that are derogatory or sexually explicit.

1.0.1.2 Discrimination: Treatment or consideration of, or making a distinction in favor of or against, an individual based on membership in a protected category. Discrimination in employment applies to all aspects of employment, including hiring, firing, compensation, transfer, promotion or layoff, recruitment and testing, training and apprenticeship programs, fringe benefits, pay, retirement plans, and disability leave, as well as other terms and conditions of employment or appointment.

1.0.1.3 Retaliation: Any adverse conduct taken because an individual has reported harassment or discrimination, or has participated in the complaint and investigation process described herein. "Adverse conduct" includes, but is not limited to: taking sides because an individual has reported harassment or discrimination, shunning and avoiding an individual who reports harassment or discrimination, real or implied threats of intimidation to prevent an individual from reporting harassment or discrimination, or taking negative employment action.

## 1.0.2 Policy Dissemination

1.0.2.1 All Appointed Officials shall be informed of the City's harassment and discrimination policy and complaint process prior to their need to know, and on a regular biennial basis. Also, said policy and complaint process shall be readily available to all Appointed Officials, employees, contractors and members of the general public utilizing the City's facilities and services. All Appointed Officials shall receive training on harassment and discrimination prevention.



1.0.2.2 All new Appointed Officials shall be given a copy of the harassment and discrimination policy and complaint process upon appointment.

1.0.2.3 Appointed Officials are required to complete training on their role in preventing harassment and discrimination in the workplace. Such training shall meet the requirements of AB 1825 and AB 1661, as those laws may be amended.

### 1.0.3 Complaint Process

1.0.3.1 An individual who believes they are a victim of harassment or discrimination may make a complaint verbally or in writing with the City Manager without fear of reprisal. Where the City Manager is the alleged harasser, an Appointed Official should bring the matter to the attention of the City Attorney.

1.0.3.2 Upon receipt of notification of a harassment or discrimination complaint, the City Manager or designee shall:

- a. Authorize and supervise the timely investigation of the complaint and/or investigate the complaint. The investigation may include interviews with: (i) the complainant; (ii) the accused harasser, or the individual alleged to have committed discriminatory action(s); and (iii) other persons who have relevant knowledge concerning the allegations in the complaint.
- b. Review the factual information gathered through the investigation to determine whether the alleged conduct constitutes harassment, discrimination, or retaliation, giving consideration to all factual information, the totality of the circumstances, including the nature of the conduct, and the context in which the alleged incidents occurred.
- c. Report the findings as to whether harassment or discrimination occurred to appropriate persons, including the complainant.
- d. If the allegations are sustained, recommend or take appropriate remedial action to ensure that the behavior does not continue.

1.0.3.3 The person initiating the complaint has the right to be accompanied by an advocate(s) when discussing alleged incidents, or participating in investigatory interviews. Said person shall be advised of this right prior to the commencement of such discussions.

1.0.3.4 The City takes a proactive approach to potential policy violations and will conduct an investigation if it becomes aware that harassment, discrimination, or retaliation may be occurring, regardless of whether the recipient or third party reports a potential violation.

1.0.3.5 Individuals also may file complaints about sexual harassment or other illegal discrimination with the California Fair Employment and Housing Commission (San Francisco Office: 1390 Market Street, Suite 410, San Francisco, California 94102; Telephone: 415-557-2325), or with the California Department of Fair Employment and Housing (San Bernardino Office: 1845 S. Business Center Drive, #127, San Bernardino, California 92408-3426; Telephone: 909-383-4711).

#### 1.0.4 Confidentiality

1.0.4.1 Every possible effort will be made to ensure the confidentiality of complaints made under this policy. Complete confidentiality cannot be guaranteed, however, due to the need to fully investigate and the duty to take effective remedial action. As a result, confidentiality will be maintained to the extent possible.

1.0.4.2 An individual who is interviewed during the course of an investigation is prohibited from discussing the substance of the interview, except as otherwise directed by the City Manager or City Attorney. Any individual who discusses the content of an investigatory interview may be subject to discipline or other appropriate sanction permitted by law, including but not limited to censorship or removal from an appointed office or position.

1.0.4.3 The City will not disclose or release a completed investigation report except as it deems necessary to support a disciplinary action, to take remedial action, to defend itself in adversarial proceedings, or to comply with the law or court order.

1.0.4.4 Anti-Bullying: Every individual has the right to be treated with respect. Bullying is the use of verbal and/or physical aggression with the intention of intimidating or harming another individual. It can include any intentional written, visual, verbal, or physical act, when the act harms the individual or damages his or her property; has the effect of interfering with an employee's ability to work; is severe or pervasive; and/or creates an intimidating or threatening environment. Bullying occurs in many forms including, but not limited to, tormenting, taunting, making abusive comments, using threatening gestures, pushing, shoving, punching, unwanted physical contact or any use of violence, graffiti, name-calling, sarcasm, spreading rumors, and/or teasing, etc. Such conduct can also occur via use of electronic or telephonic communications, such as the internet, email and chat room misuse, mobile threats by text messaging or calls, or misuse of cameras and video equipment.

1.0.4.5 Any individual who believes they have been the subject of bullying should bring the matter to the attention of the City Manager

immediately, and provide a full and accurate report of the underlying facts. Where the City Manager is the alleged bully, an Appointed Official should bring the matter to the attention of the City Attorney. In all cases, individuals are free to report such problems directly to the City Manager. Upon notification of a bullying complaint, the City Manager or designee shall promptly conduct an investigation of the complaint and supervise and/or investigate the complaint and take action as deemed appropriate.

## **2.0 WORKPLACE VIOLENCE**

2.0.1 The City does not tolerate any act or behavior which can be perceived as threatening, hostile, and/or violent. No individual shall make any threat, either physical or verbal, against a city employee or official. Appointed Officials should immediately report any threats or incidents of violence to the City Manager. The City Manager or designee shall investigate incidents of violence or threats of violence.

2.0.2 The Workplace Violence Safety Act, Section 527.8 to the California Code of Civil Procedure, allows employers to seek temporary restraining orders (TRO) and injunctions to protect employees who have been the subject of actual or threatened unlawful violence in the workplace.

## **3.0 USE OF ELECTRONIC EQUIPMENT AND SYSTEMS**

These policies were created to ensure compliance with applicable law including, without limitation, the California Public Records Act ("PRA"); to protect the public welfare; to regulate Appointed Officials' electronic communications in the course of their service; to identify the circumstances when electronic communications must be preserved; and to support appropriate City business practices.

### **3.0.1 Definitions as applicable to this policy:**

3.0.1.1 "City Accounts and Devices" includes all City owned, maintained, issued, or controlled communication accounts, email addresses, devices, cell phones, computers, media, social media, messengering services, and any other form of communication account or device.

3.0.1.2 "City Business" is to be given a broad interpretation in accordance with the PRA. Appointed Officials should consult the City Clerk's Office or the City Attorney's Office if any clarification is needed regarding whether a record pertains to City Business before deleting the record.

3.0.1.3 "Private Accounts and Devices" includes all communication accounts, email addresses, devices, cell phones, computers, media, social media, messengering services, and any other form of communication account or device not City owned, maintained, issued, or controlled.

### 3.0.2 Public Records

In addition to all applicable Federal, State, and local laws and regulations, the following provisions shall apply to the use of personal accounts, devices, social media, and all other forms of media by Appointed Officials for communications regarding matters of City Business:

3.0.2.1 In general, all communications regarding City Business by Appointed Officials must be done on official City Accounts and Devices, such as Appointed Officials' assigned email address. In general, all communications regarding City Business by Appointed Officials that do not have assigned City Accounts and Devices must be done via a professional Business Account and Device.

3.0.2.2 Except in situations that are beyond the control of an Employee, all communications regarding City Business that are not from or to an official City Account and Device, or not otherwise exempt from disclosure under the PRA, need to carbon copy ("CC") or blind carbon copy ("BCC") the City Records email.

3.0.2.3 All communications and records regarding City Business—even on private accounts and devices—are public records. The owner of the private account and device containing the public records is the custodian of those records, and is subject to all laws applicable to custodians of public records. Possible forms of these public records include, but are not limited to, emails, text messages, voicemails, call logs, instant messenger communications, social media posts and communications, or any other form of communication.

3.0.2.4 Responsibility for maintaining custodianship of public records on private accounts and devices may be transferred to the appropriate City employee responsible for the subject area by emailing the record to the responsible employee, and including a detailed description of the record in the body of the email. If a particular type of record cannot be easily forwarded to the responsible employee's email, then screen shots adequately capturing the image of the record may be sent to the responsible employee's email address; however, in such circumstances, the images must be clear and complete, and a detailed explanation of the record and the content of the record must be provided in the body of the email so that the record can be found in a relevant search. Failure to comply with these requirements will result in the individual remaining the custodian of the public record.

3.0.2.5 All public records on private accounts and devices must be retained unless custodianship has been transferred to the City in accordance with this Policy and the City's Records Retention Schedule.

3.0.2.6 Upon leaving office, all Appointed Officials must provide a declaration in the form required by the City declaring that they have

provided the Clerk's Office with all records regarding City Business under the PRA within three days from the date of leaving office.

3.0.2.7 Failure to comply with the requirements of this Policy may result in public censorship or removal from an appointed position.

3.0.2.8 These requirements are State law requirements, and they survive the Termination of any individual's appointment or office with the City.

3.0.2.9 Failure to comply with the custodianship requirements for public records in accordance with the PRA may result in personal liability, civil penalties, and criminal prosecution. Destruction of a public record is a felony pursuant to Government Code section 6200.

### 3.0.3 Personal Use

3.0.3.1 Although limited and incidental personal use of electronic communications may be acceptable, City Business accounts and communication devices remain public property and are to be used for public purposes. Users may use City Business accounts and devices for incidental personal use that does not interfere or conflict with City Business. Incidental means infrequent usage. Personal use of the City's Information Systems is at the users' own risk and may be accessed, reviewed, copied, deleted or disclosed by the City.

3.0.3.2 Prohibited uses of City-provided communication equipment and software, or personal equipment used on City Business, include, but are not limited to, the following:

- a. Uses that violate any local, State, or Federal law;
- b. Uses violating any part of an MOU or City Policy;
- c. Uses relating to a user's private commercial activities including, without limitation, advertising and consulting;
- d. Accessing and distributing computer games;
- e. Fundraising or public relations activities outside the scope of City Business;
- f. Political activities;
- g. Religious activities;
- h. Unauthorized access to systems, software or data;
- i. Creating or propagating viruses;
- j. Disrupting services;
- k. Intentionally destroying or damaging equipment, software, or data;
- l. Use of non-business software, e.g. entertainment software or applications;
- m. Threats;
- n. Harassment or bullying;
- o. Defamation;

- p. Slander; and
- q. Access to, or communication of, material or graphic images which are pornographic, violent, offensive, threatening, disturbing, obscene or profane.

3.0.3.3 Social networks and related electronic discussion groups are specialized resources on the internet for sharing information with other professionals. Appointed Officials are prohibited from publishing official positions or opinions of the City, or publishing statements which could be construed as positions or opinions of the City, via the internet, text or e-mail without prior authorization. All authorized participation in such forums must include the following disclaimer: "Views expressed by the author do not necessarily represent those of the City of La Quinta." Failure to include the required disclaimer may result in revocation of access privileges.

#### **4.0 FRAUD IN THE WORKPLACE POLICY**

The City is committed to protecting its assets against the risk of loss or misuse. Accordingly, it is the Policy of the City to identify and promptly investigate any possibility of fraudulent or related dishonest activities against the City and, when appropriate, to pursue legal remedies available under the law.

4.0.1 "Fraud" is defined as an intentional deception, misappropriation of resources or the manipulation of data to gain financial or other benefits. Fraud and other similar improprieties include, but are not limited to:

- a. Claim for reimbursement of expenses that are not made for the exclusive benefit of the City;
- b. Forgery or alteration of documents (checks, promissory notes, time sheets, independent contractor agreements, purchase orders, etc.);
- c. Misappropriation of City assets (funds, securities, supplies, furniture, equipment, etc.);
- d. Improprieties in the handling or reporting of money transactions;
- e. Authorizing or receiving payment for goods not received or services not performed;
- f. Misrepresentation of information on documents; or
- g. Computer-related activity involving unauthorized alteration, destruction, forgery, or manipulation of data or misappropriation of City-owned software.

4.0.2 It is the City's intent to fully investigate any suspected acts of fraud, misappropriation, or other similar irregularity. An objective and impartial investigation will be conducted regardless of length of service or relationship with the City.

4.0.3 The City Manager or designee, in conjunction with the City Attorney, has the primary responsibility for the investigation of all Fraud as defined in this Policy.

4.0.4 Individuals will be granted whistle-blower protection when reporting any acts of suspected Fraud in accordance with this Policy. When informed of a suspected impropriety, neither the City nor any person acting on behalf of the City shall:

- a. Take adverse action or threaten adverse action against the reporting individual;
- b. Impose any penalty upon the reporting individual; or
- c. Intimidate or coerce the reporting individual.

4.0.5 The City will pursue every reasonable effort, including court-ordered restitution, to obtain recovery of City losses from the offender, or other appropriate sources.

## **5.0 TRAVEL AND EXPENSE POLICY**

### **5.0.1 Responsibility**

5.0.1.1 The expenditure of travel and expense funds shall be in accordance with appropriations in the annual adopted budget for Appointed Officials.

5.0.1.2 Personal and City travel must not be commingled in such a manner as to increase allowable expense or otherwise affect adversely the interest of the City.

### **5.0.2 Travel Authorization**

5.0.1.1 Appointed Official travel requires prior written authorization by the City Manager. The City Form, "Travel Request and/or Advance," shall be used to document authorization, and may be obtained in the Finance Department.

5.0.1.2 Travel trips of one day or less shall not require a pre-approved "Travel Request and/or Advance" if no advance is requested, but the second part of the Form covering conference update reporting must be completed, if applicable, upon return.

5.0.3 Travel Expenses. Appointed officials may provide their own funding and file claims for reimbursement, or may apply for an advance of public funds by utilizing the "Travel Request and/or Advance" Form. All requests for advance of travel funds are to be submitted through the approving authority to the Finance Department at least five (5) working days before the intended date of departure. All advances must be properly accounted for based on actual and necessary expenses incurred, upon termination of travel for which the advance



was made. Advance payments do not constitute approval to spend the entire amount advanced. Only actual and necessary expenses, as further limited by the specific provisions of this Policy, will be paid from City funds.

5.0.4. Transportation. Appointed Officials should attempt to travel by the means most economical to the City, consistent with scheduling needs and cargo space. In selecting a particular method of transportation, consideration shall be given for the total cost to the City which will result, including actual transportation costs. In the event that a more expensive transportation form is used, the cost borne by the City will be limited to the cost of the most economical, direct, efficient and reasonable transportation form, unless otherwise approved. Government and group rates must be used when available.

#### 5.0.4.1 Air Travel and Automobile Rental

- a. Coach Class Air Travel. Reimbursement shall be made for coach air travel if the cost of such air travel is competitive with other passenger airlines' coach fares.
- b. Rail Travel. Reimbursement shall be made for coach rail travel if the cost of such rail travel is competitive with other coach rail travel fares.
- c. Taxi/Ride-hailing Service. Charges for taxi/Uber/Lyft service are reimbursable if such transportation is the most economical, practicable and efficient mode of transportation available under the circumstances. Portions of taxi charges that are related to excessive tips (i.e., in excess of 15%) will not be reimbursed.
- d. Shuttle Service. Charges for shuttle service are reimbursable if such transportation is the most economical, practicable and efficient mode of transportation available under the circumstances.
- e. Bus Fare. Charges for bus service are reimbursable if such transportation is the most economical, practicable and efficient mode of transportation available under the circumstances.
- f. Vehicle Rental. Charges for vehicle rental are reimbursable if such transportation is the most economical, practicable and efficient mode of transportation available under the circumstances. When determining the type of rental car to be used, consideration should be given to the economic standards set forth in this policy and the appropriate use and stewardship of City funds.
- g. Chartered Travel. Use of chartered travel shall be reimbursable if such transportation is the most economical, practicable and efficient mode of transportation available under the circumstances.
- h. Airport parking may be used during travel on official City Business and is reimbursable with receipts.



5.0.5. Lodging. Appointed Official lodging expenses will be reimbursed or paid when travel associated with training or related activities reasonably requires an overnight stay. Lodging shall be obtained at the most economical rate available for safe, clean, convenient, and quality accommodations. If such lodging is in connection with a conference, lodging expenses must not exceed the group rate published by the conference sponsor for the meeting in question if such rates are available at the time of booking. Travelers must request government rates, when available.

5.0.6 Meals. Meals are allowable at actual costs, including reasonable tips and room service charges not to exceed \$75 per day.

5.0.6.1 Expense claims for meals shall include the following information:

- a. Date expense incurred;
- b. Name of the Appointed Official; and
- c. Purpose of the meeting.

5.0.6.2 Itemized meal receipts are required.

5.0.7 Other Allowable Expenses. The following expenses shall be permissible, subject to other provisions of this policy to the extent that they are actual and necessary:

- a. Incidental transportation expenses, such as ferry fares; bridge, toll road and vehicle parking fees;
- b. Telephone, facsimile charges, and business center use for official City Business; and
- c. Reasonable fees and tips paid to waiters, porters, baggage handlers, bellhops, hotel maids, and other service personnel.

5.0.8 Non-Allowable Expenses. Personal expenses are not allowable, and will not be reimbursed. These may include, but are not limited to:

- a. Fines for traffic violations;
- b. Private automobile repairs;
- c. Expenses of any persons accompanying the person subject to this Policy on the trip;
- d. Purchase of personal items;
- e. Fitness/Health Facilities; and
- f. Alcohol.

5.0.9 Settlement of Expenses. Appointed Officials are responsible for the accurate preparation of their claims, and the responsibility of omission or commission cannot be shifted to another individual. A "Travel Expense Report" (obtainable in the Finance Department) substantiated by receipts which verify the claimed expenditures as being an actual expense, must be submitted to

the City Manager within ten (10) days of the expense being incurred, or the end of the trip, whichever is later. Inability to provide such documentation in a timely fashion may result in the expense being borne by the Appointed Official. All expenses are subject to verification that they comply with this Policy.

Pursuant to state law, Travel Expense Reports are public records.