



# MUNICIPALITY OF ANCHORAGE

## ASSEMBLY INFORMATION MEMORANDUM

No. AIM 172-2023

Meeting Date: September 12, 2023

1 **From: Assembly Chair Constant**

2  
3 **Subject: Memorandum regarding OEO compliance with legal requirements**  
4 **for investigation of employee complaints.**

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6 In April 2023, the Legislative Branch awarded a contract (RFP 2023P009) to Birch,  
7 Horton, Bittner & Cherot (BHBC) to review and analyze the current processes for  
8 handling employee complaints received by the Office of Equal Opportunity (OEO) and  
9 whether the MOA is meeting the requirements of federal, state, and local law.

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11 Attached is BHBC's report.


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13 Prepared by: Desirea C. Camacho, Assembly Budget Analyst

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15 Respectfully submitted: Christopher Constant, Assembly Chair  
16 District 1, North Anchorage

## MEMORANDUM

**TO:** ANCHORAGE ASSEMBLY

**THROUGH:** ASSEMBLY CHAIR CHRISTOPHER CONSTANT

**FROM:** WILLIAM A. EARNHART 

**RE:** OEO COMPLIANCE WITH LEGAL REQUIREMENTS FOR  
INVESTIGATION OF EMPLOYEE COMPLAINTS

**CLIENT:** MUNICIPALITY OF ANCHORAGE

**FILE NO.:** 507,137.3

**DATE:** AUGUST 30, 2023

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### INTRODUCTION

**Question Presented:** Review and analyze the current processes for handling employee complaints received by the Office of Equal Opportunity (OEO) and whether the Municipality of Anchorage (MOA) is meeting the requirements of federal, state, and local law.

**Short Answer:** The MOA is meeting the requirements of federal, state, and local law governing the employee complaints regarding discrimination as, strictly speaking, there are no “legal” requirements for specifically the OEO Director (EEO Officer) to investigate employee complaints. The OEO Director is responsible for monitoring compliance with non-discrimination statutes and policies. Previous Code and current policy require the OEO Director to attempt informal resolution of employee discrimination complaints, a duty not listed in the current Code, AMC 3.20.140. However, the OEO currently provides for the informal resolution process under P&P 40-38.

While MOA policy provides a minimum policy to provide an affirmative defense to discrimination lawsuits by employees, it is not sufficient to meet the EEOC’s regulatory expectations. The role of the OEO officer in employee complaints has been a source of confusion as to the role and responsibilities of the Director, enforcement powers of the OEO, and expectations of employee confidentiality during and after the complaint process. Further, given the extensive compliance duties of the office, and historically a lack of training in regard to investigatory procedures, the ability of the OEO to competently handle these matters has been repeatedly called into question. Outside of being the contact point for EEO plans and reporting on the Disadvantaged and Woman-owned

Business Enterprise program, the specific role of the Office of Equity and Justice, along with the OEO, has not been well-defined, undoubtedly leading to confusion regarding the obligations and responsibilities of that office.

I have revised both MOA policies and law to provide clarity and specificity regarding the role of the Office of Equity and Justice and the OEO. Specifically, the following are attached to this memorandum:

(1) a draft revised policy on filing employee complaints and suggested Code revisions clarifying the role of the OEO and bringing municipal policy up to EEOC expectations; and

(2) a draft ordinance requiring an annual “equity” report allowing the public to gauge the effectiveness of the Office of Equity and Justice and whether the City is complying with federal contracting requirements.

### **BACKGROUND**

A standalone OEO position under the Mayor was officially created in 2004. Prior to AO No. 2004-132, EEO officers in various forms had existed within Employee Relations, now the Human Resources (HR) Department. Since the position was created, the Code has been amended several times. In 2009, the Code was amended to move the OEO position under the Director of Employee Relations (AO 2009-101). In 2011, the Code was revised to clarify that the OEO reported directly to the Mayor (AO 2011-22(S)). In 2013, the reporting procedure was revised to require the OEO to report directly to the Mayor under the auspices of the Municipal Manager (AO 2013-34). Most recently, in 2020, the OEO position was again moved, now falling under the Office of Equity and Justice (AO 2020-79(S); AO2021-114).

The City, as a grant recipient, is required to have a designated named individual to manage its EEO program. The Department of Transportation, through compliance audits, has taken the position that the EEO office must report directly or have “dotted line” access to bypass managers to report to the Chief Executive Officer, in this case the Mayor, and not through either HR or the legal department to avoid conflicts of interest. Federal Transit Administration enhanced compliance manual FY2020.

The current Code is inconsistent. The executive branch organization, the Office of Equity and Justice, is to include a director and two additional positions (OEO Director and DBE Compliance Officer) (AMC 3.20.070). While within AMC 3.20.140, the Department has only a director and an Equal Opportunity Director. It is clear the OEO Director is responsible for directly or indirectly overseeing DBE compliance under both sections, thus the Code complies with federal grant requirements of an EEO Director.

By policy, P&P 40-38, the OEO Director (EEO Officer) is charged with attempting to resolve complaints informally. Historically, that duty has presented a number of issues as to the role of the OEO, employee confidentiality, and the powers of the OEO Director. Attempts at informal resolution of employee discrimination complaints is a reasonable goal and consistent with the policy of resolving matters at the lowest level. However, the

role of the OEO is not defined, causing employees to believe reports to the OEO would remain confidential from the Human Resources Department and creating frustration. The lack of definition has the OEO Director lead separate investigations of claims of discrimination. These investigations conflict with the duties of the Human Resources Department, the lack of enforcement power in the OEO, and the fact that the EEO Officer has not had training nor has the resources for employee investigations.

The City, to protect its own interests, must have a clear policy for safe harbor from vicarious liability resulting from hostile environment claims against a supervisory employee. The employer must satisfy two elements to successfully assert this defense: “(a) that the employer exercised reasonable care to prevent and promptly correct any sexually harassing behavior, and (b) that the employee unreasonably failed to take advantage of any preventive or corrective opportunities provided by the employer or to avoid harm otherwise.” *Faragher v. City of Boca Raton*, 118 S.Ct. 2275 (June 26, 1998); *Burlington Industries, Inc. v. Ellerth*, 118 S.Ct. 2257 (June 26, 1998). These policy minimum requirements are met in the current Human Resources policies.

### **MUNICIPAL OEO OFFICER LEGAL RESPONSIBILITIES**

The municipal OEO is primarily responsible for assuring contractual compliance with EEO policy objectives on federal grant projects. This duty does not directly include a duty to investigate individual claims of discrimination. The office is charged under municipal policy to review discrimination complaints and attempt to resolve the same. P&P 40-38, Section 6(b). The duties of the OEO (EEO) officer as outlined in federal regulations include:

- Serving as the City's liaison with federal agencies in regard to DBE and discrimination plans;
- Monitoring and investigating the City's activities, and the activities of the entities that receive grant funding from the City, to assure compliance with nondiscrimination and equal opportunity obligations under grant requirements and other federal laws. This includes monitoring the collection of data to ensure compliance with nondiscrimination and equal opportunity requirements;
- Reviewing written policies to make sure those policies are nondiscriminatory;
- Developing and publishing procedures for processing discrimination complaints, including tracking discrimination complaints, developing procedures for investigating and resolving discrimination complaints, making sure those procedures are followed, and making available to the public, in appropriate languages and formats, the procedures for filing a complaint;
- Conducting outreach and education about equal opportunity and nondiscrimination requirements and how an individual may file a complaint; and
- If applicable, overseeing the development and implementation of the City DBE and EEO plans.

It is necessary to distinguish between EEO policy objectives, which include the participation by disadvantaged groups, such as race, gender, disability, etc., under Title VI of the Civil Rights Act in the workplace and the EEO's role in the investigation and enforcement of complaints of conduct in the workplace that constitute unlawful discrimination under federal or state law. While EEO officers are charged with developing, promoting, and monitoring policies and have a duty to investigate complaints and deficiencies in implementing these policies and goals, statutorily, the OEO is not involved in employee complaints of discrimination and is, instead, charged under AMC 7.50.060 with attempting to resolve complaints regarding only *purchasing and contracting*. Further, the EEO officers' attempts at resolution are limited to the informal resolution process and do not include formal disposition or investigation of the complaint process, even in the purchasing and contracting arena. While auditing the OEO's efforts to assure contractual compliance is beyond the scope of the assignment, updating and tracking the City's affirmative action plan, monitoring contractor DBE compliance, and collecting statistical information on both is essential to continued federal funding.

OEO records show only five employee complaints were made to that office between June 2022 and July 2023. Further, OEO has no policies in regard to employee complaints beyond P&P 40-38 and the municipal EEO/Affirmative Action statement, neither of which provide any guidance beyond what claims should be reported.<sup>1</sup> OEO's varying responsibilities and a lack of clear policy on employee discrimination complaints, combined with the fact that OEO has no enforcement power, has led to confusion within the office and with employees.

Many employees and, at times, OEO Directors have perceived the office as an investigating and advocacy agency for employee discrimination complaints, similar to the Anchorage Equal Rights Commission (AERC)<sup>2</sup>. However, as noted above, this is not an area of OEO responsibility, and, as an office in the executive branch, OEO does not have the ability to keep its files confidential from Human Resources or the municipal Legal Department. When an employee complains to OEO, they often are not aware that OEO is not their individual representative or advocate.

## **RELEVANT STATUTES**

### **1. Federal**

Non-discrimination in the workplace is directed by the Civil Rights Act of 1964, the Age Discrimination in Employment Act, the Americans with Disabilities Act, the Pregnancy Discrimination Act the Equal Pay Act of 1963 (EPA), the Genetic Information Nondiscrimination Act of 2008 (GINA), and the Pregnant Workers Fairness Act of 2022

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<sup>1</sup> The Office of Equal Opportunity declined to cooperate with outside counsel. OEO policies and records were collected by public records request dated May 26, 2023, attached hereto.

<sup>2</sup> The AERC, although created and funded by the Municipality is an independent governmental compliance agency and does not function as an internal investigatory, disciplinary or policy agent for the City.

(PWFA). The provisions of these acts have been amended, interpreted, and implemented through numerous statutes, regulations, and executive orders as well as agency guidance and practice. For the sake of brevity, the primary federal statutes are:

- Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq.
- Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq.
- Americans with Disabilities Act of 1990, Pub. L. No. 101-336, § 2, 104 Stat. 328 (1991)
- Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101
- 40 U.S.C. § 476 (prohibiting sex discrimination in any program or activity carried on or receiving Federal Assistance under Title 40 United States Code (Public Buildings, Property, and Works))
- 49 U.S.C. §§ 47113, 47107, and 47123 (formerly § 505(f), 511(a)(17), and 520 of the Airport and Airway Improvement Act of 1982, as amended)
- Federal-Aid Highway Act, as amended, 23 U.S.C. §§ 140 and 324
- 49 U.S.C. § 306 (duties of the Secretary of Transportation to prohibit discrimination)

2. State

- Alaska Human Rights Act, Alaska Statute 18.80.010 et seq.
- Alaska Administrative Code, 6.30.011 et seq.

3. Municipal

*3.20.070 – Executive branch organization.*

B. Office of equity and justice. The chief equity officer shall be director of the office of equity and justice and is responsible for developing, supporting, and implementing the municipality's equity agenda pursuant to AMC 3.20.140. Within the office of equity and justice are the following offices:

1. Office of Equal Opportunity (OEO) director. The OEO director is responsible for municipal civil rights compliance and the Disadvantaged Business Enterprise (DBE) program. The director also serves as the DBE Liaison Officer, Title VI program coordinator, Equal Employment Opportunity (EEO) officer, and is responsible for the implementation and continued development of the municipal small business program.

2. DBE compliance officer. The DBE compliance officer works under the supervision of the OEO director in implementing the DBE program and meeting DBE reporting requirements.

*3.20.140 - Office of equity and justice.*

- A. There is established an office of equity and justice including a chief equity officer, office of equal opportunity director, and disadvantaged business enterprise compliance officer.

1. *Chief equity officer.*

- a. The chief equity officer shall be appointed by the mayor with the concurrence of a majority of the assembly.
- b. After the initial appointment effective immediately, the term of office for the chief equity officer shall be four years, ending on December 31, effective with appointment to the term beginning January 1, 2021.
- c. The chief equity officer may be dismissed by the mayor only for cause shown, and only with the concurrence of a majority of the assembly.

2. *Office of equal opportunity director.*

- a. On program and policy matters relating to minority business and contract compliance and equal employment opportunity, the director of the office of equal opportunity shall have direct and independent access to the mayor.

- B. The office of equity and justice shall have such assistants and employees as are necessary to perform all required duties.

*3.100.020 - Implementation of affirmative action plan.*

- A. As provided by subsection 3.20.060C.1.2a., the department of human resources shall be responsible for the preparation, implementation, and periodic review of the affirmative action plan required under section 3.100.010 of this chapter.

*7.50.010 - Policy.*

It is the policy of the municipality to promote equality of opportunity and to prevent discrimination on the basis of race, color, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, marital status, or physical or mental disability in the awarding of municipal contracts, and in the conduct of those awarded municipal contracts.

*7.50.060 - Complaints.*

Complaints alleging violations of this chapter shall be referred for informal resolution with the Office of Equal Opportunity or filed with the applicable municipal, state, or federal compliance agency.

*7.60.030 - Disadvantaged and woman-owned business enterprise program office.*

There is in the office of equal opportunity the disadvantaged and woman-owned business enterprise program office (D/WBE office), which shall administer this chapter.

*7.60.040 - Powers and duties of disadvantaged and woman-owned business enterprise officer.*

The D/WBE office shall be administered by the D/WBE officer, who shall have the following authority and responsibilities:

- A. To develop and administer plans, procedures and techniques for aiding and assisting socially and economically disadvantaged business enterprises (DBEs) and woman-owned business enterprises (WBEs) within the municipality in accordance with the policy and intent of this chapter;
- B. To develop and administer an affirmative action DBE and WBE plan for the municipality to implement the policy and intent of this chapter. As part of the D/WBE office's affirmative action plan, the D/WBE officer shall perform the following functions:
  1. Make information available to qualified DBEs and WBEs concerning securing management and technical assistance for the establishment, expansion and overall development of DBEs and WBEs, and obtaining necessary financial support and service bonding.
  2. Inform DBEs and WBEs of the disadvantaged and woman-owned business enterprise program and of bidding, contract and performance opportunities and requirements.
  3. Make information available concerning the arrangement of joint ventures between DBEs and/or WBEs and non-DBE and non-WBE businesses, or between two or more DBEs and WBEs.
  4. Assist in reviewing bids or proposals when appropriate.
  5. Disseminate information concerning DBEs and WBEs and their utilization to municipal departments.
  6. Maintain a directory of certified DBEs and WBEs and records of DBEs and WBE participation in federally assisted contracts.



7. Actively solicit bids from DBEs and WBEs, publicize opportunities in minority publications and identify subcontracting areas for DBE and WBE participation.
- C. To propose goals for participation by DBEs and WBEs in federally funded municipal contracts in accordance with the policy and intent of this chapter;
- D. To identify goals for DBE and WBE participation in federally assisted municipal contracts for those fields of endeavor in which DBEs and WBEs exist and are certified.

*7.60.090 - Investigation of complaints.*

- A. Upon receipt of an allegation that a violation of this chapter has occurred, or upon his or her own initiative, the D/WBE officer may conduct an impartial investigation of the administration of a federally assisted municipal contract involving DBEs or WBEs, contractors, or subcontractors and develop and preserve a complete record of such investigation. The purpose of such an investigation is to verify whether or not a violation exists. In aid of its investigation, the disadvantages and woman-owned business enterprise program office may issue subpoenas to compel the attendance of witnesses and the production of books and records.
- B. If an investigation establishes probable cause to believe that a violation of this chapter has occurred, the D/WBE officer shall attempt to resolve the matter by informal means. Such informal means may include a conference at which the person or representative of the business charged with a violation may present such testimony, statements, documents or other evidence in his, her or its behalf as he or she may wish. If no probable cause to support an alleged violation is found to exist, the complaint shall be dismissed.
- C. If an investigation cannot be resolved by informal means, the D/WBE officer shall proceed in accordance with section 7.60.100 below.
- D. For reasonable cause shown, the D/WBE officer may reconsider or cause to be reconsidered any matter.

### **RECOMMENDATIONS**

We recommend directing the Mayor to amend and submit to the Assembly for information and review P&P 40-38, clarifying that the OEO does not have a role in investigating employee complaints of discrimination and clarifying the investigatory process in the HR Department to comply with federal guidelines. The current OEO website will also need to be revised.

We also recommend a Code change requiring the Office of Equity and Justice and the OEO to provide an annual report that includes progress on the City's affirmative action

goals, all DBE reports of federal agencies, current DBE/WBE goals, a statistical summary of any DBE contracting complaints and resolutions, and a statistical summary of employee discrimination complaints and resolutions.

WAE/KAT

<b>MUNICIPALITY OF ANCHORAGE MAYOR'S DIRECTIVE</b>	P&P No. <b>40-38</b>	<b>Page 1 of 6</b>
	Effective Date:	
Subject: <b>Unlawful Discrimination and Harassment</b>	Supersedes No.	Dated:
	Approved by:	

1. PURPOSE

To **prevent, prohibit, and address** ~~the policy regarding~~ unlawful discrimination and harassment by Municipal employees towards other Municipal employees.

2. POLICY

It is the policy of the Municipality to provide a **professional** ~~harmonious~~ work environment free from discrimination or harassment. Discriminating against or harassing employees, applicants, or interns because of their race, color, religion, national origin, age, sex, sexual orientation, gender identity, marital status, or physical or mental disability, or other protected class under **federal, state, or Anchorage municipal** ~~the~~ law is prohibited and unlawful.

~~The Municipality expects any employee~~ **Employees** who believes they are being discriminated against or harassed in the workplace by another employee, or any employee who observes such behavior, ~~to~~ **should** promptly report **the discriminating or harassing conduct** ~~it~~ to any supervisor, the Office of Equal Opportunity (OEO), **and/or Human Resources** ~~Employee Relations~~.

**Retaliation is prohibited against an employee for reporting such incidents or participating in an investigation.**

3. ORGANIZATIONS AFFECTED

All Municipal Agencies.

4. REFERENCES

- a. Municipality of Anchorage EEO/AA Policy Statement.
- b. Municipal Operating Policy/Procedure 40-37, Policy Against Workplace Bullying.
- c. Anchorage Municipal Code 3.30, Personnel Rules.
- d. Anchorage Municipal Code 5, Equal Rights.

5. DEFINITIONS

- a. **Employee**: any person in the employ of the Municipality who is subject to the personnel rules, has been hired in accordance with those rules, and whose activities are directed

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by the Municipality. For the purpose of this policy only, the term "employee" includes unpaid interns and volunteers.

- b. Discrimination: the unequal treatment of employees with respect to the terms and conditions of their employment, based on their membership in a protected class.
- c. Harassment: unwelcome visual, verbal, or physical conduct engaged in on account of a person's actual or perceived membership in a protected class.
- d. Sexual Harassment: unwelcome **verbal or physical behavior based on a person's gender, including** sexual advances, requests for sexual favors, and other verbal or physical harassment of a sexual nature.

~~Both victim and the harasser can be either a woman or a man, and the victim and harasser can be the same sex.~~

Although ~~single or infrequent incidents of the law doesn't prohibit simple~~ teasing or, offhand comments, ~~or isolated incidents may not constitute a violation of law, that are not very serious, harassment is illegal when it is so~~ **repeated, frequent, or severe incidents** that ~~it~~ creates a hostile ~~or offense~~ work environment or **incidents that when it results** in an adverse employment decision (such as the victim being fired or demoted) **may constitute such a violation.**

- e. Retaliation: materially adverse action taken against an employee who is reasonably opposing unlawful discrimination, harassment, or retaliation or because the employee has made a charge, testified, assisted, or participated in an investigation, proceeding, or hearing concerning illegal discrimination, harassment or retaliation.
- f. Office of Equal Opportunity (OEO): a Municipal Office which **assures contractual compliance in regard to equal opportunity and collects data on compliance and municipal employee discrimination claims** ~~provides information and assistance to employees who believe they have been discriminated against or harassed by another employee.~~ OEO is a part of the Municipality and is not a Compliance Agency.
- g. Compliance Agency: a local, state, or federal agency empowered by statutes, ordinances or regulations to investigate complaints of discrimination.

The following are Compliance Agencies: the Alaska State Commission for Human Rights (ASCHR); the Anchorage Equal Rights Commission (AERC); the Federal Equal Employment Opportunity Commission (EEOC); and, the Office of Federal Contract Compliance Programs (OFCCP). Other federal agencies have certain investigative responsibilities on matters relating to grants or programs that they administer.

- h. Complaint: **an allegation of discriminatory conduct by another employee or supervisor** ~~Complaint filed with a Compliance Agency.~~

## 6. RESPONSIBILITIES

### a. Each agency head shall:

- i. Ensure that all employees are familiar with this policy.
- ii. Report allegations of discrimination or harassment to the Human Resources Employee Relations Department.

### b. OEO shall:

- i. Catalogue all formal complaints of discrimination.
- ii. Direct employees to the appropriate department or agency for investigation of complaints of discrimination or harassment.
- iii. Provide employees with information on municipal, state, and federal anti-discrimination agencies and processes.
- ~~i. Assist employees in informally resolving allegations of discrimination or harassment. If an allegation of discrimination or harassment cannot be resolved informally within 30 calendar days of the employee bringing the matter to OEO, then the jurisdiction of OEO terminates. Absent resolution, OEO will promptly notify the Employee Relations Department or the Municipal Attorney of the alleged discrimination or harassment.~~
- iv. Assist the Employee Relations Department of Human Resources with investigations of alleged discrimination or harassment upon notification by the Human Resources Employee Relations Department.

### c. The ~~Employee Relations~~ Department of Human Resources shall:

- i. Review allegations of discrimination or harassment and, ~~D~~ determine if investigation is necessary and whether or not the investigation warrants assistance of the OEO, and investigate when appropriate with the assistance of OEO. When the allegation is against the Human Resources Department, the matter will be referred to the Legal Department for investigation.
- ii. Report all complaints of discrimination, including results, to OEO regardless of whether the complaint is actually investigated.

### d. The Municipal Attorney's Office shall:

- i. Assist the Employee Relations Department of Human Resources and OEO with allegations of discrimination or harassment upon request.

ii. Be responsible for any Complaints received from Compliance Agencies.

**iii. Report all complaints of discrimination, including results, to OEO.**

## 7. DUTY TO REPORT

- a. Employees: All employees ~~must be expected to~~ report conduct believed to constitute discriminatory, harassing, or retaliatory behavior by one employee towards another employee, including instances directed at them or instances directed at co-workers, to their supervisor, OEO, or to the ~~Employee Relations~~ Human Resources Department.
- b. Supervisor: If an allegation is made to a supervisor, or if a supervisor becomes aware of ~~conduct that may constitute potential~~ discrimination, harassment, or retaliation, the supervisor must promptly report it to the ~~Employee Relations~~ Human Resources Department.
- c. Retaliation: Retaliation against an employee who reports, files a Complaint of, or otherwise opposes conduct the employee reasonably believes to be unlawful discrimination, harassment, or retaliation, or assists in the investigation of a Complaint, is prohibited.
- d. Leave: A request to use leave must be made to the employee's supervisor before the employee reports the allegations ~~to OEO~~ if made during the employee's scheduled work hours. An employee may request administrative leave to report allegations of discrimination or harassment ~~to OEO~~. The Human Resources ~~Employee Relations~~ Director and the OEO Director will work together to determine the appropriate amount of administrative leave.
- e. Confidentiality: OEO statistical information will not contain identifying information. However, investigatory and disciplinary materials will be maintained by Human Resources as in any disciplinary matter. The identities of witnesses and complainants as well as accused employees are not public record and will not be disclosed beyond what is necessary for investigatory or disciplinary purposes.

## 8. INVESTIGATION PROCEDURE

The City of Anchorage takes allegations of harassment or discrimination seriously and Human Resources will respond promptly to all such complaints. The complaint procedure is designed to facilitate a prompt internal review of the allegations and a fair and equitable resolution of the situation.

The investigation procedure generally involves the following steps:

### Initial assessment and informal resolution:

- a. A complaint may be resolved informally at any point if it is apparent the alleged conduct is not of an illegal or continuing nature or is the result of a

misunderstanding, and the complainant agrees with the resolution.

- b. “Not of an illegal nature” means an isolated incident of simple teasing or an offhand comment which the alleged harasser agrees is inappropriate and will not happen again. Physical assault or severe or repeated conduct are not subject to informal resolution.**

**Fact gathering:**

- a. Compiling written or oral statements from all involved in the situation, including witnesses,**
- b. Collecting personnel records that may establish facts (which may include pay records, job assignments, promotions, transfers, working hours, performance appraisals, etc.),**
- c. Interviewing privately the person filing the complaint, witnesses, and the person alleged to have committed the harassment.**

**A complaint may be determined to be:**

- a. Resolved informally:**
- i. if the facts as determined by investigation show that the matter is clearly the result of a misunderstanding and not the result of intentional discrimination; and**
- ii. the complaining employee is agreeable.**
- b. Founded - the incident occurred as charged**
- c. Unfounded - the incident is not harassment**
- d. Inconclusive - there is insufficient evidence to make a ruling either way.**

**Resolution: We will, to the extent appropriate, inform the person filing the complaint and the person alleged to have committed the conduct of the results of the investigation. Any employee who is found after an investigation to have harassed and/or discriminated against another in the workplace will be subject to disciplinary action up to and including termination.**

**Other resolutions may also be considered, including but not limited to training and re-assignments.**

**9. COMPLIANCE AGENCIES**

Employees have the option to file a Complaint with a Compliance Agency. Contact the Compliance Agencies for information about Complaint procedures and filing deadlines.

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If an employee files a Complaint with a Compliance Agency, the Municipal Attorney's Office will be responsible for responding to the Complaint and working with the Compliance Agency to resolve the matter.

Employees will not be granted administrative leave to file a Complaint with a Compliance Agency. The employee will also not be granted administrative leave for any subsequent meetings, fact-findings, mediations, or other matters related to their Complaint.

**910.**      ANNUAL REVIEW DATE/LEAD REVIEW AGENCY

The ~~Employee Relations~~ Department of Human Resources will review this document annually.



Submitted by:  
Prepared by:  
For reading:

**ANCHORAGE, ALASKA**  
**AO No. 2023-\_\_\_\_\_**

**AN ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY AMENDING ANCHORAGE MUNICIPAL CODE SECTION 3.20.140 TO REQUIRE THE OFFICE OF EQUITY AND JUSTICE TO PREPARE AND SUBMIT ANNUAL REPORTS TO THE ASSEMBLY REGARDING MUNICIPAL EQUAL EMPLOYMENT OPPORTUNITY COMPLIANCE.**

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**WHEREAS**, promoting diversity to provide a workforce reflective of the Anchorage population is an essential goal of the Municipality of Anchorage; and

**WHEREAS**, Municipal contract compliance is critical to the Municipality's receipt of federal funds from various sources; and

**WHEREAS**, the role of the Equal Opportunity Director has been unclear at times; now, therefore,

**THE ANCHORAGE ASSEMBLY ORDAINS:**

**Section 1.** Anchorage Municipal Code section 3.20.140 is hereby amended to read as follows (the remainder of the section is not affected and therefore not set out):

**3.20.140 - Office of equity and justice.**

A. There is established an office of equity and justice including a chief equity officer, office of equal opportunity director, and disadvantaged business enterprise compliance officer.

1. *Chief equity officer.*

- a. The chief equity officer shall be appointed by the mayor with the concurrence of a majority of the assembly.
- b. After the initial appointment effective immediately, the term of office for the chief equity officer shall be four years, ending on December 31, effective with appointment to the term beginning January 1, 2021.
- c. The chief equity officer may be dismissed by the mayor only for cause shown, and only with the concurrence of a majority of the assembly.

2. *Office of equal opportunity director.*

- a. On program and policy matters relating to minority business and contract compliance and equal employment opportunity, the director of the office of equal opportunity shall have direct and independent access to the mayor.

B. The office of equity and justice shall have such assistants and employees as are necessary to perform all required duties.

**C. The Chief Equity Officer and Equal Opportunity Director must annually provide reports to the Assembly outlining the goals and progress of their offices.**

- 1. **The Chief Equity Officer will report on the City’s affirmative action plan and progress toward achieving the goals of the plan, increasing diversity in the municipal workforce and improving municipal personnel practices.**
- 2. **The Equal Opportunity Director will report on municipal and contractor minority business and EEO contract compliance, the results of any agency audits since the last report to the assembly, and statistical data, without individual employee identifying information, as to the number and resolution of employee discrimination claims, including the types of discrimination claimed and whether the claims were filed with a state or federal agency or in court.**

**“Discrimination claims” for purposes of this chapter includes any formal complaint by an employee investigated by the City or filed with another agency or court that alleges discrimination based on race, religion, color, natural origin, age, gender, physical or mental disability, or veteran status. It does not include verbal complaints resolved informally within a department.**

( AO No. 2020-79(S), § 3, 8-26-20; AO No. 2021-114, § 2, 1-31-22)

**Section 2.** This ordinance shall be effective immediately upon passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this \_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Chair

ATTEST:

\_\_\_\_\_  
Municipal Clerk



# MUNICIPALITY OF ANCHORAGE

## Public Records Request/Freedom of Information Act (FOIA) Requests

Department/Office that holds the records: Office of the Municipal Manager/Office of Equal Opportunity

This is a request to:

- Receive a copy of municipal record(s)
- Inspect a municipal record

- This request relates to pending litigation
- The Municipality of Anchorage is a named party  
Case number: \_\_\_\_\_

Requestor's Name	William A. Earnhart	Phone	907-276-1550
Business	Birch Horton Bittner & Cherot	Fax	907-276-3680
Street	510 L Street, Suite 700	Email	wearnhart@bhb.com
City/State/Zip	Anchorage, AK 99501		

Describe the public record(s) request as specifically as possible (include document titles, dates, parties, addresses, etc.):

1. All current policies and procedures for the Office of Equal Opportunity (OEO).
2. All statistical information and reports in regard to employee discrimination claims filed with OEO for the last five years.
3. With redaction of identify information, all discrimination complaints filed with OEO by employees for the last five years, and all documents evidencing the resolution of each complaint.
For any responsive documents not produced, please specify the specific exception in AMC Chapter 3.90.040.

I understand that certain municipal records are exempt from disclosure. See [AMC 3.90.040](#) for more information.

I understand that I may be charged a fee for copying public records. The Municipality will respond with an estimated charge. This is an estimate only. Fees are set by code which requires that requests resulting in 5 pages or less and requiring no more than 15 minutes of employee time are \$6. Requests resulting in more than 5 pages and/or more than 15 minutes of employee time are \$0.30/page plus employee time (\$40/hour). See [AMCR 3.90](#) for more information.

Requestor's Signature 	Date 8/26/23
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Send your request to the appropriate municipal office or department.  
Contact information available at: <http://www.muni.org/departments/>

