



INFORMATION REPORT

COUNCIL MEETING

2/26, 2019

DATE: February 15, 2019

TO: City Manager

DEPARTMENT: Human Resources

SUBJECT: Equal Employment Opportunity Committee Annual Report
For Calendar Year 2018 (HR FYI 036)

APPROVED:

DATE:

2/19/19

The City of Santa Cruz Equal Employment Opportunity Committee's Annual Report for Calendar Year 2018 is attached.

Submitted by:

Joe McMullen, EEO Committee Staff Liaison
Principal Human Resources Analyst

Attachments: Equal Employment Opportunity Committee's Annual Report for Calendar Year 2018



Equal Employment Opportunity Committee

2018 Annual Report

February 14, 2019

City of Santa Cruz Equal Employment Opportunity Committee 2018 Annual Report

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EEO Committee Members and Staff – 2018



Amy Chirman, 9/30/15
City Manager's Appointment



Katherine Donovan, 3/27/12
Management Association Appointment
(OE3 Mid-Management Employees)



Jim Frawley, 7/1/15
City Manager's Appointment (Director)



Tremain Hedden-Jones, 6/20/17
City Manager's Appointment



Dara Herrick, 8/15/16
Non-Management Association Appointment
(Fire)



Dorah Shuey, 5/31/18
SEIU Local #521 Appointment



Valerie Simmons, 9/10/13
City Council Appointment



Adam Spickler, 7/22/14
City Council Appointment



Beth Tobey, 6/30/18
City Manager's Appointment

Staff Support (not pictured)

Nico Megevand, Human Resources Analyst

Melody Whinnery, Human Resources Administrative Assistant

Joe McMullen, Principal Human Resources Analyst

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*The 2018 Equal Employment Opportunity Committee Annual Report was created by
Amy Chirman, Tremain Hedden-Jones, Joe McMullen, Nico Megevand, Valerie Simmons, and Beth Tobey
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Section 1: Overview of Committee and 2018 Activities

Amy Chirman, Library Learning Systems Coordinator – EEO Committee Chair

The purpose of the Equal Employment Opportunity (“EEO”) Committee is to serve as a communication channel between City employees, the community, the City Manager, the City Council and the EEO Coordinator on equal employment opportunity concerns. The EEO Committee meets quarterly on the second Thursday of February, May, September, and November at 1:30 pm in the City Council Chambers. The EEO Committee consists of nine members. The City Council appoints two members of the public; the City Manager appoints one executive and three employee representatives; the service employees bargaining unit (SEIU Local 521) appoints one member; and the other bargaining units take turns appointing two members.

During 2018, the EEO Committee continued its work on salary demographics to determine whether there is a gender pay gap at the City. The study, which was begun in 2014, is the first time the City has looked at the question of compensation differences between men and women. The study mirrors a climate in California emphasizing equal pay in the workplace as the "California Fair Pay Act" (SB 358) was signed into law and became effective on January 1, 2016. Effective in 2017, two additional changes expanded the principles of the law - first, the Fair Pay Act was expanded to also cover compensation differences between members of one race or ethnicity and those of another; second, the law now explicitly prohibits an employer from justifying an otherwise unlawful difference in pay based on an employee’s or applicant’s prior salary alone. Effective in 2018, California employers were prohibited from asking for prior salary information altogether.

The Committee has continued to study data within and across various job classifications. This effort was led by a Sub-Committee comprised of members Valerie Simmons, Amy Chirman, Tremain Hedden-Jones, and Adam Spickler. 2018 saw the conclusion of the study, which was wrapped up by providing a number of recommendations to the City’s Director of Human Resources, the application of which will further enable the practice of fair pay as required by law (Appendix 5.6).

In 2018 the EEO Committee continued to do outreach to City staff, promoting the Respectful Workplace Policy through the distribution of a poster designed by member Spickler, describing the Respectful Workplace Conduct APO (Poster is Appendix 5.4; APO is Appendix 5.5).

The Committee welcomed the appointment of Beth Tobey (Economic Development) to serve as an appointed City Manager’s representative and Dorah Shuey (Library) to serve as the SEIU appointed representative. The Committee accepted the resignation of member Ashlyn Adams

(Library) who departed the City for other ventures, and wished former Chair Heather Sawyer (Parking) good luck as she departed the Committee having reached her term limit.

In conclusion, the EEO Committee would like to thank the Human Resources Department for the administrative and logistical support they have provided.

City Contact and EEO Committee Coordinator:

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Section 2: Statement of EEO Committee 2019 Goals & Objectives

Goal #1: The EEOC will be vigilant and committed to a non-discriminatory and respectful work environment.

Objective(s):

- Review and make recommendations from City's Discrimination/Harassment Complaint logs to address recurring issues.
- Maintain a full membership and attendance of the Committee.
- Remain current in knowing EEO-related city, state, and federal laws and policies.
- Maintain and evaluate the effectiveness of the new Respectful Workplace Conduct policy.

Goal #2: The EEOC will continue to raise awareness about all types of discrimination and equal employment opportunity issues within the City of Santa Cruz workplace and community.

Objective(s):

- Post EEO-related information and updates to the City's intranet and public website to share awareness regarding the EEOC's focus.
- Reach out to departments, at least once annually, to determine if any EEO-related issues of concern have arisen, if there is a need for awareness, training, or to provide state and/or federal updates that are relevant to the EEOC's focus.
- Provide workshops, speakers, and other forms of communications at EEO Committee meetings and other City events to provide state and/or federal updates of relevance, as well as EEOC updates.
- Work with partnering agencies, vendors, and the community to raise awareness of the EEOC and its policies.

Goal #3: The EEOC will help the City ensure pay equity is realized for all its employees.

Objective(s):

- Continue to refine and develop a research methodology for pay equity data analysis including the factors of sex, age, race, and ethnicity, and accounting for starting pay, education, experience, and length of time in position (with the potential of exploring for the future the inclusion of other marginalized groups as described in State anti-discrimination law).
- Explore the City's current and historical methods of setting salaries for new positions.
- Make policy recommendations to the City Council on addressing pay equity issues.
- Continue to monitor State and Federal legislation on Pay Equity and its impacts on the City.

Activities Planned in Support of Goals & Objectives

ACTIONS	WHO	TIMELINE
E-mail complaint logs to Committee members with Agendas. (<u>Goal #1</u>)	Staff	Two weeks prior to regular Committee meetings
Discuss issues on Complaint Logs. (<u>Goal #1</u>)	All	At regular Committee meetings
Meet deadline to fill any Committee vacancy. (<u>Goal #1</u>)	All	By subsequent meeting held
Provide EEOC update at Supervisors/Managers quarterly meeting. (<u>Goal #2</u>)	Rotating	At least once a year
Select Subcommittee members and develop Annual Report. (<u>Goal #2</u>)	Annual Report Ad Hoc Subcommittee	Draft to Committee in November; Final approval by Committee in February; FYI to City Council in March
Offer resources to present at EEOC meetings. (<u>Goals #1 & #2</u>)	All	Ongoing
Inform members of updated EEO laws, support members in educating City leaders where appropriate. (<u>Goals #1 & #2</u>)	Staff	Ongoing
Review Committee's Goals and Action Items (<u>Goals #1, #2, & #3</u>); Conduct outreach to departments (<u>Goal #2</u>)	All	September and November meetings
Conduct research on gender/race/ethnicity and pay equity over time within each individual job classification. (<u>Goal #3</u>)	Salary Demographics Sub-Committee	Ongoing
Support the City HR Department in revising job descriptions utilizing inclusion of the tools recommended in section 1.b. of the 9/29/2018 Salary Demographics Sub-Committee Memo to the Director of HR. (<u>Goal #3</u>)	Salary Demographics Sub-Committee	Ongoing
Support the City HR Department in developing and implementing a City staff step pay tracking procedure. (<u>Goal #3</u>)	Salary Demographics Sub-Committee	Ongoing

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Section 3: Training & Employee Development

Nicolas Megevand, Human Resources Analyst

The City's training programs are administered in the Human Resources Department. The EEO Committee has an interest in all of the training programs because they all contribute to a more positive working environment in some way.

In order to comply with City requirements and State mandates, the City continues to provide Harassment Prevention and Cultural Diversity trainings to employees, including elected officials (Councilmembers). Both of these trainings are provided twice a year in classroom format, and Harassment Prevention training is also offered in webinar format.

Harassment Prevention Training

Employees who are newly hired or have never met their initial Harassment Prevention Training requirements are provided with three-hour 'live' classroom training. The curriculum is designed to satisfy the requirements of AB1825 (enacted 2004-supervisory initial and refresher training required), AB2053 (enacted 2014-supervisory training must include a component on the prevention of abusive conduct), AB1661 (enacted 2016-local agency elected officials are required to attend training), and Santa Cruz City Council Policy 25.2-*Discrimination, Harassment, Retaliation, and Respectful Workplace Conduct Policy*. City Council Members imposed a training requirement on themselves in 2007.

We also offer the required two-year refresher training in an online format presented by TargetSolutions as an alternative option to live classroom training. Their two-hour online course, "Sexual Harassment for Supervisors" meets the State mandate for two-year refresher training for Councilmembers, managers, and supervisors and all other employees with ongoing supervisorial responsibilities.

In 2018, One-Hundred-Seven (107) employees attended the live training; fifty-eight (58) employees completed an online training.

Cultural Diversity Training

Four live sessions of Cultural Diversity training are offered annually, presented by Patty Sapone, retired Deputy Police Chief for the City of Santa Cruz. Ninety-three (93) employees attended in 2018.

Employee Training Calendar

The Human Resources Department provided a 2018 Training Calendar to all City employees with a variety of training opportunities in several categories, including “Mandatory Training for New Employees” (Harassment Prevention and Cultural Diversity), “Professional Development,” “In the Workplace,” “Communication Skills,” and “Technical Training.” Classes were led by instructors from Cabrillo Community College Corporate Training, City staff, and trainers provided by Optum, the City’s Employee Assistance Program (EAP). The calendar also incorporated courses offered by the Monterey Bay Employment Relations Consortium (ERC).

Not accounting for multiple-session attendance, eight-hundred-thirty-one (831) employees attended a training class in 2018 (not including Harassment Prevention and Cultural Diversity).

Employee and Leadership Development Program

The Human Resources Department further strengthened the Employee and Leadership Development (E&LD) Program, one of the major components of the City’s Succession Planning Program, by offering a wider variety of classes. The E&LD Program is comprised of a series of class modules designed to develop participants’ leadership skills and job competencies. Upon completion of eight qualifying classes, participants receive a Certificate of Completion that counts toward one year of supervisory experience in meeting the minimum qualifications for internal job opportunities.

This Program continues to be an important component of the City’s succession planning efforts in that it will help employees grow both personally and professionally and provide tools designed to help prepare them for supervisory and management roles. Even if participants have no desire to become supervisors or managers, many of these courses are geared toward developing personal effectiveness and leadership skills. The City recognizes that leadership occurs at all levels, and this Program is designed to maintain leadership continuity throughout the organization as a whole. Department Heads, Mid-Managers, and Supervisors are now expected to attend an Introduction to Leadership Class along with two leadership classes annually from the E&LD series.

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Section 4: Sub-Committee Reports

4.1 Salary Demographics Sub-Committee

4.2 Respectful Workplace Policy Development Sub-Committee

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Section 4.1: Salary Demographics Standing Sub-Committee
Tremain Hedden-Jones

The EEOC sub-committee on salary demographics and gender pay equity includes Members Amy Chirman, Valerie Simmons, Adam Spickler, and Tremain Hedden-Jones. Over the course of 2018 the sub-committee had several priorities including:

1. Clarifying the language in California's Equal Pay Act amendment (SB 358, the California Fair Pay Act of 2016)¹
2. Providing guidance to City Council and the Human Resources Director as how to comply with SB 358
3. Completing an ongoing analysis of job classifications that compared pay equity by gender
4. Formalized recommendations to the Human Resources Director based on the analysis of job classifications and gender pay (Appendix 5.6)²

As continued from the 2017 initiative, the sub-committee compared salary data among and across various classifications and found that while there are differences in salaries amongst employees, it was difficult to positively correlate these pay differences using gender as the primary factor. This was in part due to the lack of consistent documentation on the determining factors for hiring, promotion and merit increases in personnel records; nonconforming position classifications based on available job descriptions; and the aforementioned lack of clarity as to legal definition of "substantially similar" work.

It should be noted that further analysis of current rates of pay and salary over time are needed to draw a conclusion as to the reasons for differences in pay. With this end in mind, the sub-committee directed its attention in 2018 to studying the following within the City's salary demographics, pay rate structure, and job classifications:

- Adding education, experience, and the length of time an employee has worked in their current classification, as well as classification history, to the data points to be analyzed along with current pay rate structure and job classifications;

¹ SB 358 amended California's labor code requiring men and women working at the same location to receive equal pay for "equal work" across gender, race, and ethnicity. The Equal Pay Act replaced the term "equal work" with "substantially similar work," ("...when viewed as a composite of skill, effort, responsibility, and performed under similar working conditions") without clarifying how the law requires CA employers to define or analyze equal pay data, and without a definition for "substantially similar."

² Memorandum on Recommendations Related to Recently Completed Pay Equity Analysis 2018.

- Requesting a report to analyze the pool of City of Santa Cruz job applicants over the 2016-17 fiscal year, to compare it with a snapshot of our current employee population, to analyze applicant pool outcomes by gender, race, and ethnicity;
- Using current demographic data on gender, race, and ethnicity for City of Santa Cruz job applicants in the 2016-17 fiscal year to compare the diversity of applicants to the diversity of the total population of the City of Santa Cruz and the County of Santa Cruz;
- Reviewing policy changes recently made by the City and County of San Francisco to bolster pay equity, including removing the salary history question from their employment application forms³;
- Recommend policies that will enable a “Best Practices” approach and require the measurement and analysis of starting pay and merit increases for all employees (see Appendix 5.6).

Conclusion:

The Fair Pay Act now requires that men and women receive equal pay for *substantially similar work*, but does not provide guidance on defining “substantially similar” as a measurement for equal pay data.

At the recommendation of the full EEOC, the City Council has requested clarification through California’s Office of Legislative Counsel, and until such time that the State Legislature better defines “substantially similar,” or precedence for clarification is determined in a court of law, the EEOC’s Salary Demographics Sub-Committee will utilize a pay rate / job classification grouping approach to further analyze and compare job positions held by City employees for pay equity by gender, race, and ethnicity.

Any analysis and recommendations regarding these new areas of focus will be shared by the EEOC with the City Council for review, feedback, and other considerations.

³ Governor Brown has signed AB168 (effective January 1, 2018) which prohibits all California employers from inquiring about a job applicant’s prior private sector salary.

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Section 4.2: Respectful Workplace Ad Hoc Sub-Committee

Amy Chirman, Beth Tobey, Tremain Hedden-Jones

At its May 10, 2018 regular meeting, the EEOC moved to form an ad hoc sub-committee on how to incorporate the principles of the Respectful Workplace Conduct policy¹ into a working program through citywide initiatives. The subcommittee was tasked to generate ideas with the aim of creating a lasting practice by employees. While the sub-committee has yet to officially convene, members of the sub-committee actively worked with and received counsel from community partners and experts in the fields of inclusivity and racial equity.

As defined in the policy, disrespectful conduct consists of:

Any one or all of the following as perceived by a reasonable person:

- 1) Use of language that is intended to be, or perceived by a reasonable person to be, demeaning, berating, humiliating, threatening, bullying, offensive, insulting, slanderous, or malicious rumor-spreading;
- 2) Conduct that a reasonable person would find disruptive, abusive, threatening, intimidating, aggressive, or insubordinate; and/or
- 3) Acts to undermine or interfere with an employee's work performance.

A single act shall not constitute disrespectful conduct unless especially severe and egregious.

To that end, the sub-committee sought to proactively engage the workforce with the goals of the following:

- Establish "October is Respectful Workplace Month" in order to promote improved workplace relationships and reduce conscious and unconscious bias;
- Develop curriculum on creating inclusive spaces in the work environment and understanding racial equity;
- Evaluate complaints brought on the Respectful Workplace Policy in order to establish benchmarks and develop a best practices platform for managers and supervisors (See Appendix 5.4 and 5.5).

Conclusion:

Much of the work tied to the ad hoc sub-committee is expected to be performed in 2019 with regular updates reported back to the full committee when made available.

¹ City of Santa Cruz Administrative Procedure Order II-1B – Respectful Workplace Conduct effective April 2017.

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Section 5: Appendices

- 5.1 Calendar Year 2018 Harassment/Discrimination Complaints
- 5.2 Fiscal Year 2018 City Workforce & Census Demographics Analysis
- 5.3 United States Department of Labor Federal Contractor Program Veterans' Employment Report ("VETS-4212 Report")
- 5.4 Respectful Workplace Poster
- 5.5 Administrative Procedure Order (APO) II-1b *Respectful Workplace Conduct Policy*
- 5.6 Salary Demographics Sub-Committee Memorandum to City of Santa Cruz Human Resources Director - *Recommendations*

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Appendix 5.1: Calendar Year 2018 Harassment/Discrimination Complaints

Valerie Simmons

All complaints from 2017 were resolved. The City received two complaints during 2018, both for harassment based on sex. Both complaints were investigated and found to constitute policy violations. One complaint resulted in intended disciplinary action; the other complaint resulted in disciplinary action. Both complaints are now closed.

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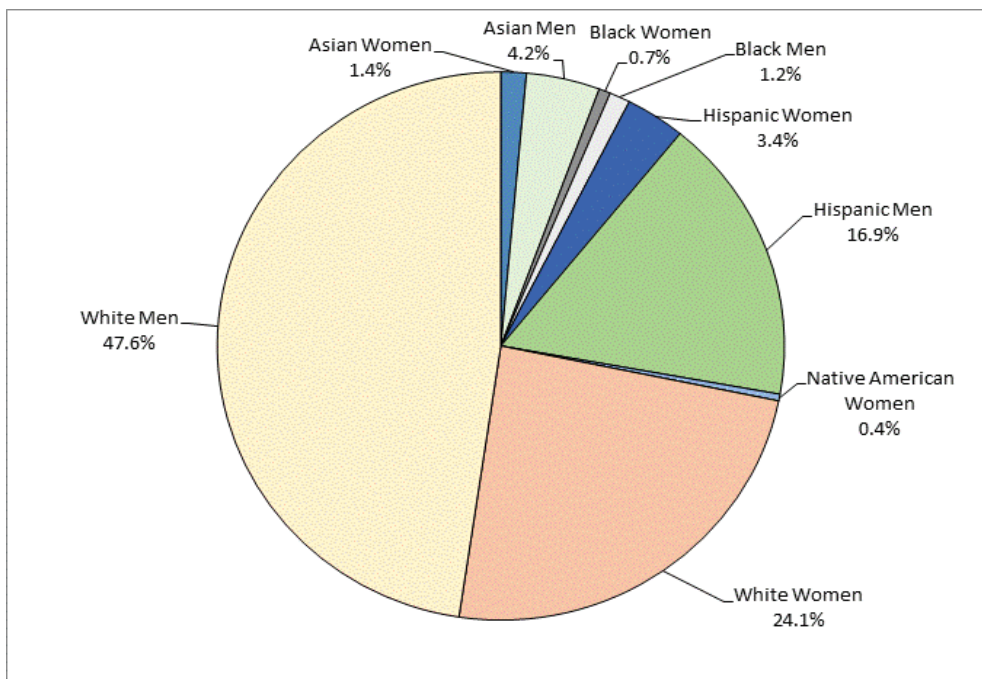
Appendix 5.2: Fiscal Year 2018 City Workforce & Census Demographics Analysis

Valerie Simmons

The City's workforce, as of July, 2018, was 6 people larger than in 2017, for a total of 766. There was very little change in the percentages of ethnic groups. The proportion of white male employees increased slightly; white female employees decreased slightly. The proportion of Hispanic/Latino male employees increased slightly. There were slight changes in the proportions of other sex/ethnic combinations.

Chart 1

Sex and Ethnic Diversity of the City Full-time Workforce, July 1, 2018



Note: Full-time employees exclude elected and limited-term employees. Percentages exclude four employees who reported no ethnicity or multiple ethnicities.

Table 1

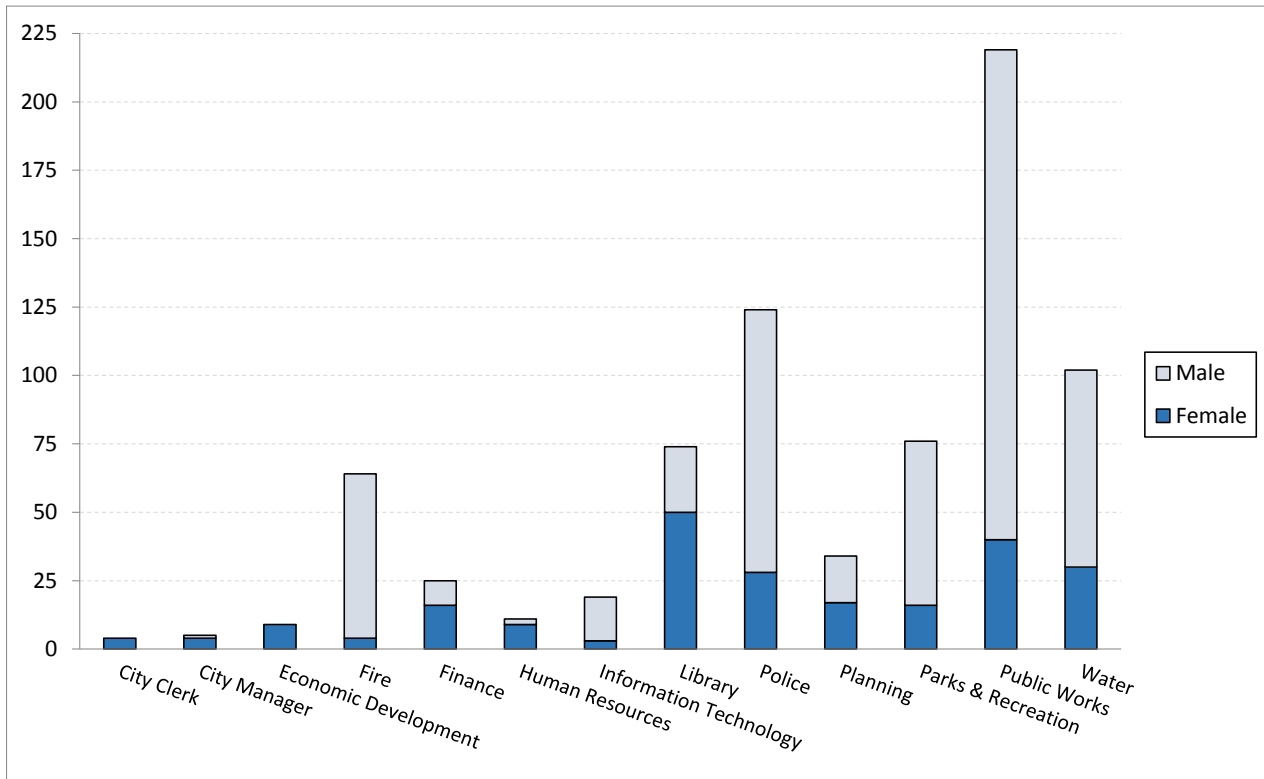
Full-time Employees by Department, Sex, and Ethnicity

Department	Asian American		Black		Hispanic		Native American		White		Total	
	F	M	F	M	F	M	F	M	F	M	F	M
City Clerk	0	0	0	0	0	0	0	0	4	0	4	0
City Manager	0	0	0	0	0	1	0	0	4	0	4	1
Economic Development	1	0	0	0	0	0	0	0	8	0	9	0
Fire	0	2	0	3	0	6	0	0	4	49	4	60
Finance	0	2	1	0	3	1	1	0	11	6	16	9
Human Resources	0	0	0	0	0	0	0	0	8	2	8	2
Information Technology	1	3	0	0	1	2	0	0	1	11	3	16
Library	2	0	1	1	2	6	0	0	45	17	50	24
Police	1	9	1	0	3	20	1	0	21	67	27	96
Planning	2	0	0	0	3	4	0	0	12	13	17	17
Parks & Recreation	1	5	0	2	1	14	0	0	14	39	16	60
Public Works	2	8	2	3	7	62	0	0	29	104	40	177
Water	1	3	0	0	5	14	1	0	23	55	30	72
Total	11	32	5	9	25	130	3	0	184	363	228	534

Note Full-time employees exclude elected and limited term employees
Numbers exclude four employees who reported no ethnicity or multiple ethnicities

Chart 2

Full-time Department Employees by Sex



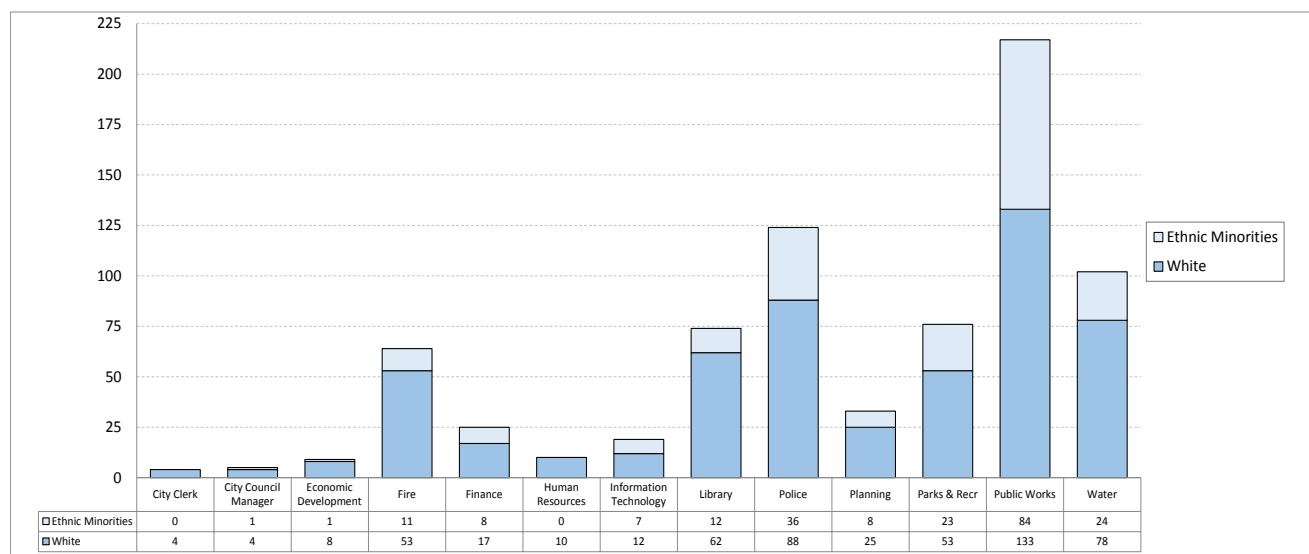
As was true last year, women are concentrated in the Library, Public Works, Water, and Police. The largest majorities of men are in Public Works, Police, Fire, Parks & Recreation, and Water. Overall, the proportion of men increased slightly from last year.

Table 2
Sex of Employees by EEO-4 Job Category

EEO-4 Job Category	Total		Men		Women	
Officials/Administrators	38	5.0%	19	50.0%	19	50.0%
Professionals	179	23.4%	93	52.0%	86	48.0%
Technicians	26	3.4%	22	84.6%	4	15.4%
Protective Service	127	16.6%	114	89.8%	13	10.2%
Para-professionals	57	7.4%	33	57.9%	24	42.1%
Administrative Support	77	10.1%	13	16.9%	64	83.1%
Skilled Crafts	123	16.1%	118	95.9%	5	4.1%
Service/Maintenance	139	18.1%	124	89.2%	15	10.8%
Total	766		536		230	
Percent of Total			70.0%		30.0%	

This year, there were more men in professional positions than last year. A larger percentage of women hold para-professional jobs. Men and women hold equal numbers of jobs in Officials and Administrators. Men dominate in technical jobs, protective service, skilled crafts, and service/maintenance. As is ever true, women hold the great majority of administrative support jobs.

Chart 3
Department Employees by Ethnicity



As was true last year, the largest concentrations of ethnic minority employees are in Public Works, Police, Parks & Recreation, and Water.

Table 3

New Full-time Hires (July1, 2017 to June 30, 2018)

Department	Men	Women	Asian	Black	Hispanic	Nat. Amer	White	Two/More
Economic Development		2					2	
Fire	4	1		1			4	
Finance	1	2			1		2	
Human Resources		3					2	1
Information Technology	2	1	1				2	
Library Systems & Services	3	1			2		2	
Police	11	2	1	1	3		8	
Planning	5	5	1		2	1	6	
Parks & Recreation	5	1			3		3	
Public Works	20	2	2	1	5		13	1
Water	7	6	1		3		9	
Total	58	26	6	3	19	1	53	2
Percent	69.0%	31.0%	7.1%	3.6%	22.6%	1.2%	63.1%	2.4%

New full-time hires were 69% male and 63.1% white, bringing no change to the overall composition of the City workforce..

Table 4

Full-time Separations (July 1, 2017 to June 30, 2018)

Department	Men	Women	Asian	Black	Hispanic	Nat. Amer	White	Two/More
City Manager	2	1					3	
Economic Development	1	1	1				1	
Fire	8						8	
Finance		1			1			
Information Technology		2					2	
Library Systems & Services		3				2	1	
Police	11	3		2	4	1	7	
Planning	6	5	1		2	1	6	1
Parks & Recreation	7	2			3		6	
Public Works	20	4	1	2	6		15	
Water	6	11	1		3		13	
Total	59	32	4	4	19	4	59	1
Percent of Total	64.8%	35.2%	4.4%	4.4%	20.9%	4.4%	64.8%	1.1%

Full-time separations were 64.8% male and 64.8% white, again bringing no change to the overall composition of the City workforce.

Reference Groups

To further evaluate the City's EEO efforts, the diversity of the City workforce should be compared to meaningful reference groups.

Table 5

City Employees Compared to Reference Group Diversity

Group	Women	Men	White	Black	Hispanic	Asian	Nat Amer
City Employees, 2018	30.0%	70.0%	71.7%	1.9%	20.3%	5.6%	0.4%
City Population	49.9%	50.1%	74.5%	1.8%	19.4%	7.8%	0.7%
County Employees, 2014	59.0%	41.0%	58.0%	2.0%	34.0%	5.0%	0.1%
County Population, 2016	50.4%	49.6%	57.6%	1.0%	33.5%	4.9%	0.9%
State Population	50.3%	49.7%	66.2%	0.6%	37.6%	13.0%	0.0%

Reference groups are counted differently (e.g., Hispanic only vs. Hispanic with a race), so these reference group comparisons are only roughly comparable. Statistics are from Suburbanstats.org, 2017-2018.

The City workforce has a lower percentage of women than the city population, county employees, the county population, and the state population. The City workforce has about the same percentage of Hispanics as the population of Santa Cruz but less than the county and the state population. The City has a lower percentage of Asian/Pacific Islanders than the city population and state population, but higher than the county population and county employees. Native American employees in the City workforce are higher than county employees and the state population, but lower than the city population and county population.

* The best comparison of the City's EEO efforts is the diversity of the actual applicant pools. The EEOC is working toward accurate applicant tracking data, to compare the diversity of applicant pools with the diversity of hires from those pools.

Table 6
Average Salaries by Department and Sex

Department	Average Wage		Number	
	Women	Men	Women	Men
City Clerk	29.81		4	0
City Manager	41.02		3	0
Economic Development	41.16		8	0
Fire	30.18	42.15	4	59
Finance	38.62	28.43	16	8
Human Resources	39.35	41.91	8	2
Information Technology	42.61	47.74	2	16
Library	32.75	28.44	49	24
Police	34.43	46.02	28	95
Planning	39.92	46.79	17	16
Parks & Recreation	32.69	27.56	16	60
Public Works	31.19	31.49	40	178
Water	33.17	37.91	29	72

Note: Executives' salaries are not included in this table

Men earn more than women in seven of the City's 13 departments. However, the EEOC Salary Demographics sub-committee has determined that a meaningful analysis would also need to be done using specific job categories and that any average salary differences may be due to some employees having longer job tenure and other factors. Without a more detailed analysis, it is impossible to attribute the differences to sex alone.

Table 7
Full-time Employees' Average Salaries by Bargaining Unit, Sex, and Ethnicity

Bargaining Unit	Asian American		Black		Hispanic		Native American		White		Total	
	Women	Men	Women	Men	Women	Men	Women	Men	Women	Men	Women	Men
Executive	92.49	101.47				107.96			95.22	95.91	94.77	98.84
Fire		58.60		34.84		36.54			44.37		44.37	42.24
Management	42.32	44.98	45.17	62.58	46.05	55.96			45.93	52.99	45.72	52.80
Police		44.91			47.39	50.88			41.55	47.64	42.53	48.07
Service	24.97	30.01	21.75	25.64	24.68	25.66	26.47		26.99	27.95	26.36	27.23
Supervisor		45.93		34.88	38.68	38.61			33.13	38.68	33.41	38.72
Average	37.42	40.19	31.12	35.89	28.61	33.23	26.47		37.16	38.50	35.91	37.21
Number	11	32	5	9	26	129	3		184	363	230	536

Note Total averages include employees who reported multiple ethnicities or no ethnicity

When considered by bargaining unit, men earn more than women in six of the seven bargaining units.

The Salary Demographics sub-committee will continue to pursue a method that takes job content (skill, effort, responsibility, and working conditions) into consideration, as well as job tenure. Only this method can show whether women earn less than men for “substantially similar” work.

Appendix 5.3

FEDERAL CONTRACTOR VETERANS' EMPLOYMENT REPORT VETS-4212

OMB NO:1293-0005

Expires:

Persons are not required to respond to this collection of information unless it displays a valid OMB number. It is mandatory for a covered Federal contractor respond to this information collection. See 38 U.S.C. § 4212(d) and "Who Must File" section of instructions.

RETURN COMPLETED REPORT TO:

VETS-4212 Submission
VETERANS' EMPLOYMENT AND TRAINING SERVICE (VETS)
Service Center
In care of: Department of Labor National Contact Center (DOL-NCC)
15000 Conference Center Drive, Suite B0132
Chantilly, VA 20151

ATTN: Human Resource/EEO Department

TYPE OF REPORTING ORGANIZATION (Check one or both, as applicable)	TYPE OF FORM (Check only one)
<input checked="" type="checkbox"/> Prime Contractor	<input checked="" type="checkbox"/> Single Establishment
<input type="checkbox"/> Subcontractor	<input type="checkbox"/> Multiple Establishment-Headquarters
	<input type="checkbox"/> Multiple Establishment-Hiring Location
	<input type="checkbox"/> Multiple Establishment-State Consolidated (specify number of locations) (MSC)

COMPANY IDENTIFICATION INFORMATION (Omit if items preprinted above-ADD Company Contact Information Below)

COMPANY No: V041555		TWELVE MONTH PERIOD ENDING: 8/24/2018	
NAME OF PARENT COMPANY: CITY OF SANTA CRUZ		ADDRESS (NUMBER AND STREET): 877 CEDAR ST SUITE 100	
CITY: SANTA CRUZ	COUNTY: 	STATE: CA	ZIP CODE: 95060
NAME OF COMPANY CONTACT: LEVY, DEBBIE A		TELEPHONE FOR CONTACT: (831) 420-5048	EMAIL: dlevy@cityofsantacruz.com

NAME OF HIRING LOCATION: Same		ADDRESS (NUMBER AND STREET): 	
CITY: 	COUNTY: 	STATE: 	ZIP CODE:

NAICS: 921110	DUNS: 050515881	EMPLOYER ID: (IRS TAX No.) 946000427
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INFORMATION ON EMPLOYEES

REPORT THE TOTAL NUMBER OF EMPLOYEES AND NEW HIRES WHO ARE PROTECTED VETERANS, AS DEFINED IN THE INSTRUCTIONS. DATA ON NUMBER OF EMPLOYEES ARE TO BE ENTERED IN COLUMN A AND B, LINES 1.1 THROUGH 9. DATA FOR NEW HIRES ARE ENTERED IN COLUMNS C AND D. LINE 10 IS TOTAL OF EACH COLUMN. ENTRIES IN COLUMNS C AND D, LINES 1.1 THROUGH 9 (GRAY SHADED AREAS) ARE OPTIONAL. ENTER THE MAXIMUM AND MINIMUM NUMBER OF EMPLOYEES.

JOB CATEGORIES		NUMBER OF EMPLOYEES		NEW HIRES (PREVIOUS 12 MONTHS)	
		PROTECTED VETERANS (A)	TOTAL EMPLOYEES (B)	PROTECTED VETERANS (C)	TOTAL NEW HIRES (D)
EXECUTIVE/SENIOR LEVEL OFFICIALS AND MANAGERS	1.1		16	0	0
FIRST/MID LEVEL OFFICIALS AND MANAGERS	1.2	1	67	0	7
PROFESSIONALS	2		80	0	11
TECHNICIANS	3		59	0	13
SALES WORKERS	4		45	0	12
ADMINISTRATIVE SUPPORT WORKERS	5	2	134	0	17
CRAFT WORKERS	6	5	77	0	7
OPERATIVES	7	1	91	0	10
LABORERS/HELPERS	8	1	182	0	77
SERVICE WORKERS	9	2	374	0	88
TOTAL EMPLOYEES	10	12	1,125	0	242

Report the total maximum and minimum number of permanent employees during the period covered by this report.

Maximum Number	Minimum Number
1,295	1,068

RESPECTFUL WORKPLACE CONDUCT

The City of Santa Cruz is committed to maintaining and promoting a respectful work environment where employees, volunteers, councilmembers, commissioners, our customers, contractors, and visitors all enjoy a positive, respectful, and productive work environment.

COLLEGIALITY

Demonstrating and promoting good will and respect among colleagues.

CIVILITY

Acting toward others with respect, courtesy and politeness.

RESPECTFUL CONDUCT

Behavior that expresses consideration of others' identities, viewpoints and beliefs.



City of Santa Cruz
Administrative Procedure Order
Section II, #1B (Effective April 2017)

II-1B

TO: Department Heads

SUBJECT: RESPECTFUL WORKPLACE CONDUCT

PURPOSE

The City of Santa Cruz is committed to maintaining and promoting a respectful work environment. Council Policy 25.2 (*Discrimination and Harassment Policy*), Administrative Procedure Order II-1A (*Discrimination/Harassment Policy Implementation and Complaint Procedure*), and this Administrative Procedure Order establish behavioral and workplace standards to support a culture of collaboration, inclusion, and productivity.

POLICY

It is the intent of the City of Santa Cruz that all employees, volunteers, Councilmembers, Commissioners, customers, contractors, and visitors to the City's worksites or places where City work is conducted enjoy a positive, respectful, and productive work environment free from behavior, actions, or language constituting a violation of this Respectful Workplace Conduct Policy. Such conduct may include, but is not limited to, the following as perceived by a reasonable person: repeated infliction of verbal, written, or social media abuse such as the use of derogatory remarks, epithets, or insults; physical conduct that is threatening, intimidating, bullying, or humiliating; or the sabotage or undermining of a person's work performance. Incorporated by reference in this policy is the amendment to §12950.1 of the California Government Code created by Assembly Bill 2053 (effective January 1, 2015) adding to the supervisory training requirement the subject matter "prevention of abusive conduct."

Employees found to have participated in actions constituting a violation of this policy shall be subject to disciplinary action up to and including termination. Volunteers found to have participated in actions constituting a violation of this policy may be subject to termination of their volunteer relationship with the City. If a complaint involves the conduct of a contractor, Human Resources will inform the contractor of the behavior and request prompt, appropriate action. The City reserves the right to prohibit a contractor's individual employee(s) from entering City-owned property/premises. Councilmembers, Commissioners, customers, and visitors who engage in conduct in violation of this policy are subject to action on the part of the City intended to stop the conduct and protect others. Executives, managers, and supervisors who know or should know of conduct in violation of this policy and who fail to report such behavior or fail to take prompt, appropriate action when such conduct is observed or reported may be subject to disciplinary action up to and including termination. In implementing the policy, the rights of free speech and association shall be accommodated in a manner consistent with applicable Federal and State law and in a manner consistent with the intent of the policy.

All employees shall receive a copy of this policy when they receive Council Policy 25.2 (*Discrimination and Harassment Policy*) and Administrative Procedure Order II-1A (*Discrimination/Harassment Policy Implementation and Complaint Procedure*).

I. **Definition**

Disrespectful Conduct: Any one or all of the following as perceived by a reasonable person:

- 1) Use of language that is intended to be, or perceived by a reasonable person to be, demeaning, berating, humiliating, threatening, bullying, offensive, insulting, slanderous, or malicious rumor-spreading;
- 2) Conduct that a reasonable person would find disruptive, abusive, threatening, intimidating, aggressive, or insubordinate; and/or
- 3) Acts to undermine or interfere with an employee's work performance.

A single act shall not constitute disrespectful conduct unless especially severe and egregious.

II. **Responsibilities**

- a. **Employees, Volunteers, Councilmembers, Commissioners, Customers, Contractors, and Visitors:** All persons are required to behave respectfully and to refrain from disrespectful behaviors, and are expected to:
 - Recognize when they or others are being subjected to disrespectful conduct and not condone or ignore it;
 - Bring the situation to the attention of a supervisor or the next person in the chain of command, department director, or Human Resources Department, or where physical safety is concerned, contact emergency services (9-1-1);
 - Understand that someone's intent does not excuse otherwise disrespectful conduct and/or relieve them from being held accountable for their actions; and
 - Address, if possible, inappropriate behavior directly with the person engaging in such conduct in a professional and nonconfrontational manner.
- b. **Executives, Managers, and Supervisors:** Executives, managers, and supervisors are responsible for demonstrating respectful personal behavior towards all coworkers and visitors, as well as to set an example of respectful behavior as a model for City employees, volunteers, and visitors. In addition to this responsibility and the expectations listed above, executives, managers, and supervisors are expected to:
 - Maintain a level of awareness with their staff sufficient to know if disrespectful behavior is occurring; and
 - Maintain a level of open communication with their staff that encourages them to report instances of disrespectful behavior that have occurred;

- Encourage the reporting of instances of disrespectful behavior by making this policy known to all employees;
- Promptly address all observed disrespectful behavior;
- Take reports and complaints of disrespectful behavior seriously and, if deemed appropriate following consultation with their immediate supervisor, attempt to independently confirm whether or not the reported behavior occurred or is occurring, without divulging the identity of the reporting party; and
- Promptly report complaints to a supervisor, the department director, and Human Resources Department.

III. Retaliation

The City maintains a strict stance of no tolerance for retaliation against anyone for bringing a complaint or participating in an investigation. Under no circumstances will anyone be disciplined, demoted, or otherwise retaliated against for reporting, disclosing, or bringing a Respectful Workplace Conduct complaint to the attention of the City. Employees found to have participated in retaliatory action in contravention of this policy shall, therefore, be subject to disciplinary action up to and including termination.

- a. Anyone who believes they have been retaliated against because they filed a complaint, participated in an investigation, or reported observing a violation of the Respectful Workplace Conduct Policy should report this behavior to their supervisor, department director, or Human Resources Department.
- b. Complaints of retaliation will be investigated promptly.

PROCEDURE

I. Filing a Respectful Workplace Conduct Complaint

Any person who observes or perceives they have been subjected to conduct by another person believed to be a violation of this policy may initiate the complaint process by notifying their immediate supervisor, department director, or Human Resources Department.

- a. Complaints may be submitted to an employee's immediate supervisor, any supervisor or manager within or outside the department, the department director, or Human Resources Department within thirty (30) days of the date the alleged action occurred. Any City of Santa Cruz supervisor, manager, or department director who receives a complaint shall notify an appropriate supervisor/manager/director and Human Resources upon receipt of the complaint.
- b. If a complainant wishes to file the complaint in person and receive assistance, they may contact the Human Resources Department to schedule an appointment.
- c. Written complaints should include the following information (it is recommended but not required to use the "Respectful Workplace Conduct Complaint Form");

- The name, address, and telephone number of the complainant.
- The specific disrespectful practice(s) or incident(s) that have occurred, including retaliation.
- The names of any persons thought to be responsible for the disrespectful behavior.
- The remedy the complainant is seeking as a result of the complaint.
- The name, address, and telephone number of the complainant's representative, if any.

II. Investigation

After reviewing the information contained in the complaint, the staff member who received the complaint within the department of the complainant will, in consultation with his or her immediate supervisor, determine if the complaint can be resolved within the department or if there is sufficient complexity to warrant a formal investigation. If so determined, the department director will be consulted and the Human Resources Department will coordinate and conduct (or delegate responsibility for coordinating and conducting) an investigation. The investigation will proceed within the following guidelines:

- a. Steps will be taken to ensure employees are protected from further violations.
- b. Complaints will be dealt with in a discreet and confidential manner, to the extent possible.
- c. All parties are expected to cooperate with the investigation and are required to keep information regarding the investigation confidential. Failure to cooperate or maintain confidentiality could result in disciplinary action up to and including termination.
- d. Employees who are the subject of an investigation into actions constituting a possible violation of this policy may request to have representation. The right to representation may be required for members of the Police and Fire bargaining units.
- e. The complainant, the employee subject to the investigation, and all witnesses will be informed that retaliating against a person for making a complaint and/or participating in an investigation will not be tolerated and could result in disciplinary action up to and including termination.

III. Resolution of the Complaint

If a complaint is substantiated, the employee subject to the investigation will be notified of the appropriate disciplinary action that will be taken.

- a. The complainant will be notified if any part of a complaint is substantiated and if action has been taken. The complainant will not be told the details of the action, including discipline.

- b. Both the complainant and the employee subject to the investigation will be notified if a complaint is not substantiated.

IV. **Withdrawal of Complaint**

The complaint or any part of the complaint may be withdrawn at any time by the complainant; however, the request for such withdrawal must be in writing and state the reasons for the request. The Human Resources Department will review the request for withdrawal in order to determine whether or not it was the result of restraint, interference, coercion, discrimination, retaliation, or reprisal. An investigation may still proceed if a complaint is withdrawn.

V. **Records**

All records of complaints and investigations, whether substantiated, unsubstantiated, or withdrawn, will be maintained in confidence by the Human Resources Department.

Only documentation of disciplinary action imposed as a result of a sustained complaint is maintained in the employee's personnel file.

DEFINITIONS OF TERMINOLOGY

Abusive Conduct: Conduct of an employer or employee in the workplace or on social media, undertaken with malice that a reasonable person would find hostile or offensive and unrelated to an employer's legitimate business interests. Abusive conduct may include repeated infliction of written or verbal abuse, including the use of social media, such as the use of derogatory remarks, insults, and epithets, verbal or physical conduct that a reasonable person would find threatening, intimidating, or humiliating, or the sabotage or undermining of a person's work performance. A single act shall not constitute abusive conduct, unless especially severe and egregious.

Aggressive: Demonstrating unduly forceful behavior.

Bullying: Conduct, either direct or indirect, that harms one or more individuals, not limited to behaviors that cause physical harm. Bullying may be verbal (including oral and written language as well as the use of social media) or nonverbal, may involve a real or perceived imbalance of power, and often includes behaviors described above as *Abusive Conduct*.

Derogatory: Behavior that is disparaging or belittling in attitude that aims to detract or diminish.

Disrespectful Conduct:

- 1) Use of language that is intended to be, or would be perceived by a reasonable person to be, demeaning, berating, humiliating, threatening, rude, bullying, offensive, insulting, slanderous, or malicious rumor-spreading;
- 2) Conduct that a reasonable person would find disruptive, abusive, threatening, intimidating, aggressive, or insubordinate; and
- 3) Acts to undermine or interfere with an employee's work performance.

A single act shall not constitute disrespectful conduct, unless especially severe and egregious.

Epithet: A word or phrase meant to characterize a person or thing, particularly in a negative or derogatory manner.

Humiliate: To disgrace, belittle, or make another appear foolish.

Insolent: Speaking or behaving in a way that is disrespectful or insulting.

Insult: To use offensive or disrespectful epithets towards others.

Intimidate: To behave in a manner that would cause a reasonable person to fear physical or emotional damage or harm.

Malice: A willful and conscious disregard of the feelings, rights, or safety of others.

Respectful Conduct: Behavior that expresses consideration of others' identities, viewpoints, and beliefs; restraint from behaviors that would be considered disrespectful conduct.

Retaliation: Verbal, nonverbal, or physical conduct or actions including the use of social media intended to injure or harm someone as a response to an action taken or perceived to have been taken; revenge.

Sabotage: The deliberate undermining of a person's work performance.

Threatening: Acting in a deliberately frightening quality or manner.

EXAMPLES OF BEHAVIORS

I. Examples of Respectful Behavior:

Every person is expected to abide by these values and standards of respectful interpersonal behavior, communication, and professionalism:

- We respect and value the contributions of all members of our community;
- We listen first and take responsibility for all our behaviors, including all verbal and nonverbal actions;
- We treat coworkers and others with respect, civility, and courtesy;
- We work honestly, effectively, and collegially;
- We respond promptly, courteously, and appropriately to requests for assistance or information;
- We use conflict management skills, together with respectful and courteous verbal communication, to effectively manage disagreements;
- We encourage and support all coworkers and others in developing their individual conflict management skills and talents;

- We have an open and cooperative approach in dealings with employees, recognizing and embracing individual differences;
- We recognize that differing social and cultural standards may mean that behavior that is acceptable to some may be perceived as unacceptable or unreasonable to others;
- We abide by all applicable rules, regulations, and policies and address any dissatisfaction with, or violation of, policies and procedures through appropriate channels;
- We demonstrate commitment to a culture where all coworkers cooperate and collaborate in using best practices to achieve positive work-related outcomes; and
- We are responsible stewards of resources and human assets to achieve excellence and innovation in the service to our community.

II. **Examples of Disrespectful Behavior**

Every person is expected to refrain from exhibiting disrespectful behavior. Examples of disrespectful behavior can include, but are not limited to, the following:

- Use of threatening or abusive language, or language that is intended to be, or is perceived by others to be, demeaning, berating, humiliating, or offensive;
- Intentionally ignoring someone, picking on an individual or group, or bullying;
- Making threats of violence, retribution, or financial harm; shouting or engaging in other speech, conduct, or behaviors that are reasonably perceived by others to represent intimidation;
- Using racial or ethnic slurs; demonstrating racial, gender, sexual orientation, or cultural bias (see also 1) City Council of Santa Cruz Policy 25.2 (*Discrimination and Harassment Policy*), and 2) Administrative Procedure Order II-1A, (*Discrimination/Harassment Policy Implementation and Complaint Procedure*));
- Making or telling jokes that are intended to be or that are reasonably perceived by others to be derogatory, crude, or offensive; teasing, name-calling, insulting, ridiculing, or making someone the brunt of pranks or practical jokes;
- Using sarcasm or cynicism directed as a personal attack on others;
- Spreading malicious rumors or gossip;
- Throwing instruments, tools, office equipment, or other items as an expression of anger, criticism, or threat, or in an otherwise disrespectful or abusive manner;
- Making comments or engaging in behavior that is untruthful or directed as a dishonest personal attack on the professional or personal conduct of others;
- Retaliation;
- Sabotage; and
- Insubordination: Not submitting to authority; being disobedient to proper direction from an organizational superior, including, but not limited to, refusal to do an assigned job, refusal to render assistance, refusal to work overtime when mandatory, insolent response to a work order, or unreasonable delay in carrying out an assignment.



RESPECTFUL WORKPLACE CONDUCT COMPLAINT FORM

SECTION I. Complainant Information (Person filing this complaint)

Name: _____

Address: _____

Phone: _____

Position: _____

Supervisor: _____

SECTION II. Respondent Information (Person this complaint is being filed against)

Name: _____

Job Title: _____

Department: _____

SECTION III. Description of Complaint

Date and Time of Incident: _____

Location of Incident: _____

1. Please provide a description of the incident(s) constituting the alleged violation. Include the person(s) involved, and the name(s), and contact information of any person(s) who may have knowledge of the incident(s). (Attach additional sheets if necessary.)

2. What is the remedy being sought for this complaint?

SECTION IV. Confidentiality

To the extent possible, it is the intention of the City to protect the confidentiality of any person who contacts the City for the purpose of seeking information, assistance, or counseling regarding this Policy. Information given to the City in the course of an internal investigation is not confidential; however, except as required by Public Records laws or the requirements of a thorough investigation, the City will release information only on a “need-to-know” basis. If you have questions about personal safety or personal privacy, you should discuss these questions with the Human Resources Department, your union representative, or your own attorney prior to providing information.

I have read and understand the City’s Respectful Workplace Conduct Policy and declare that the information contained herein is true and correct.

Signature of Complainant

Date

Internal Use Only:

Complaint Received by: _____

Signature: _____

Date Received: _____



EQUAL EMPLOYMENT OPPORTUNITY COMMITTEE

A Santa Cruz City Council Advisory Body

CONFIDENTIAL MEMORANDUM

TO: Lisa Murphy, Director of Human Resources
FROM: Equal Employment Opportunity Committee
DATE: December 13, 2018
SUBJECT: Recommendations Related to Recently Completed Pay Equity Analysis

Background

The Salary Demographics Sub-Committee of the Equal Employment Opportunity Committee (a Santa Cruz City Council Advisory Body) began analyzing City of Santa Cruz employee pay data in 2014 in an attempt to determine if these data show pay disparities based on sex and, if so, whether there were any discernable trends to evaluate.

Tracking each new piece of legislation governing pay equity in California, for the past four years the group has gone from attempting to broadly analyze and compare all City job classifications and pay ranges using the parameters in state law (“...substantially similar work when viewed as a composite of skill, effort, responsibility, and performed under similar working conditions...” – see attached Labor Code 1197.5) to narrowly comparing the pay of individual employees within single classifications based on education and work experience to find out if there might be differences in pay based on sex. The Sub-Committee found no pay differences it could attribute solely to sex. Rather, the Sub-Committee found there were many differences between the pay of men and women across seemingly similar types of jobs and with seemingly similar education and experience. The Sub-Committee was unable to attribute reasons for these differences because the available data lacks information on starting compensation decisions, salaries, and tenure, and does not conform easily to the state’s “substantially similar” guidance for comparing job descriptions. It is also very difficult to objectively quantify education and experience to make valid comparisons and draw valid conclusions.

The primary trend the group observed was of the need for relevant data. Job descriptions are inconsistent and therefore do not provide the data needed to accurately compare using state law parameters on the legal context of “substantially similar.” Additionally, records are not kept of compensation decisions which leaves one guessing as to the reason(s) for differences in compensation.

Recommendations

For the above reasons, the Sub-Committee recommends that the following practices be adopted by the City’s Human Resources Department with respect to job descriptions and compensation decisions:

1. Redesign of the City’s job descriptions so they are consistent with respect to how the characteristics, duties, knowledge/skills/abilities, and minimum qualifications are expressed to facilitate accurate comparison of jobs in the legal context of “substantially similar.”
 - a. Modify the City’s job description format to describe job duties within the four categories in the Equal Pay Act: (1) Skill, (2) Effort, (3) Responsibility, (4) Working Conditions.
 - b. Clarify the phrase found in many job descriptions “Other duties as assigned” to read “Other similar and comparable duties that relate to the duties described herein as assigned.”

- c. Resources for ongoing review/update of job descriptions on a more frequent scheduled/regular basis to ensure they continue to accurately describe the duties currently performed. Tools available for use in this process include:
 - i. EEOC Instruction Booklet for completing form EEO-4, Appendix 3 “Description of Job Categories:” <https://www.eeoc.gov/employers/eeo4survey/e4instruct.cfm>
 - ii. US DOL Bureau of Labor Statistics Standard Occupational Classification home page (includes classification principles and coding guidelines): <https://www.bls.gov/soc/>
 - iii. California EDD Standard Occupational Classification Codes: <https://www.labormarketinfo.edd.ca.gov/OccGuides/SOCJOBFamily.aspx?Geography=0604000073>
 - iv. Occupational Information Network (O-NET OnLine): <https://www.onetonline.org/>
2. Comprehensive prior review, HR approval, and documented tracking of the reasons for all starting salaries above the first pay step of any salary range (new hires) and/or above the minimum salary increase amount required by the relevant Memorandum of Understanding (promotions).
3. Comprehensive prior review, HR approval, and documented tracking of the reasons for all merit increases greater than one pay step, including the number of evaluation ratings above “successful,” and comparing the evaluation to the provisions of APO II-41 *Exceptional Performance Merit Pay*.
4. Similar to oral board scoring records, retain records from selection interviews that clearly describe the factors used to select the final candidate.

Supporting a goal of eliminating bias in the hiring process, the Sub-Committee also encourages Human Resources to provide training to all decision makers involved in the hiring process in unconscious bias, selecting diverse oral boards/interview panels, and using interview questions free of unintentional bias. This training could take many forms and possibly include a video, an instruction sheet, and/or coaching that would be provided prior to the start of a recruitment.

The Equal Employment Opportunity Committee appreciates your consideration of these recommendations and requests a response at your convenience. We are happy to answer any clarifying questions you may have and to meet with you in person to discuss these topics if you wish.

cc: City Council
Cathy Bonino, Principal Human Resources Analyst for Recruitment, Classification, and Compensation

Attachments:

1. California Labor Code 1197.5

LABOR CODE - LAB

DIVISION 2. EMPLOYMENT REGULATION AND SUPERVISION [200 - 2699.5]

(Division 2 enacted by Stats. 1937, Ch. 90.)

PART 4. EMPLOYEES [1171 - 1408]

(Heading of Part 4 amended by Stats. 1972, Ch. 1122.)

CHAPTER 1. Wages, Hours and Working Conditions [1171 - 1206]

(Chapter 1 enacted by Stats. 1937, Ch. 90.)

1197.5.

(a) An employer shall not pay any of its employees at wage rates less than the rates paid to employees of the opposite sex for substantially similar work, when viewed as a composite of skill, effort, and responsibility, and performed under similar working conditions, except where the employer demonstrates:

(1) The wage differential is based upon one or more of the following factors:

(A) A seniority system.

(B) A merit system.

(C) A system that measures earnings by quantity or quality of production.

(D) A bona fide factor other than sex, such as education, training, or experience. This factor shall apply only if the employer demonstrates that the factor is not based on or derived from a sex-based differential in compensation, is job related with respect to the position in question, and is consistent with a business necessity. For purposes of this subparagraph, "business necessity" means an overriding legitimate business purpose such that the factor relied upon effectively fulfills the business purpose it is supposed to serve. This defense shall not apply if the employee demonstrates that an alternative business practice exists that would serve the same business purpose without producing the wage differential.

(2) Each factor relied upon is applied reasonably.

(3) The one or more factors relied upon account for the entire wage differential.

(b) Any employer who violates subdivision (a) is liable to the employee affected in the amount of the wages, and interest thereon, of which the employee is deprived by reason of the violation, and an additional equal amount as liquidated damages.

(c) The Division of Labor Standards Enforcement shall administer and enforce this section. If the division finds that an employer has violated this section, it may supervise the payment of wages and interest found to be due and unpaid to employees under subdivision (a). Acceptance of payment in full made by an employer and approved by the division shall constitute a waiver on the part of the employee of the employee's cause of action under subdivision (g).

(d) Every employer shall maintain records of the wages and wage rates, job classifications, and other terms and conditions of employment of the persons employed by the employer. All of the records shall be kept on file for a period of three years.

(e) Any employee may file a complaint with the division that the wages paid are less than the wages to which the employee is entitled under subdivision (a) or that the employer is in violation of subdivision (j).

The complaint shall be investigated as provided in subdivision (b) of Section 98.7. The division shall keep confidential the name of any employee who submits to the division a complaint regarding an alleged violation of subdivision (a) or (j) until the division establishes the validity of the complaint, unless the division must abridge confidentiality to investigate the complaint. The name of the complaining employee shall remain confidential if the complaint is withdrawn before the confidentiality is abridged by the division. The division shall take all proceedings necessary to enforce the payment of any sums found to be due and unpaid to these employees.

(f) The department or division may commence and prosecute, unless otherwise requested by the employee or affected group of employees, a civil action on behalf of the employee and on behalf of a similarly affected group of employees to recover unpaid wages and liquidated damages under subdivision (a), and in addition shall be entitled to recover costs of suit. The consent of any employee to the bringing of any action shall constitute a waiver on the part of the employee of the employee's cause of action under subdivision (g) unless the action is dismissed without prejudice by the department or the division, except that the employee may intervene in the suit or may initiate independent action if the suit has not been determined within 180 days from the date of the filing of the complaint.

(g) Any employee receiving less than the wage to which the employee is entitled under this section may recover in a civil action the balance of the wages, including interest thereon, and an equal amount as liquidated damages, together with the costs of the suit and reasonable attorney's fees, notwithstanding any agreement to work for a lesser wage.

(h) A civil action to recover wages under subdivision (a) may be commenced no later than two years after the cause of action occurs, except that a cause of action arising out of a willful violation may be commenced no later than three years after the cause of action occurs.

(i) If an employee recovers amounts due the employee under subdivision (b), and also files a complaint or brings an action under subdivision (d) of Section 206 of Title 29 of the United States Code which results in an additional recovery under federal law for the same violation, the employee shall return to the employer the amounts recovered under subdivision (b), or the amounts recovered under federal law, whichever is less.

(j) (1) An employer shall not discharge, or in any manner discriminate or retaliate against, any employee by reason of any action taken by the employee to invoke or assist in any manner the enforcement of this section. An employer shall not prohibit an employee from disclosing the employee's own wages, discussing the wages of others, inquiring about another employee's wages, or aiding or encouraging any other employee to exercise his or her rights under this section. Nothing in this section creates an obligation to disclose wages.

(2) Any employee who has been discharged, discriminated or retaliated against, in the terms and conditions of his or her employment because the employee engaged in any conduct delineated in this section may recover in a civil action reinstatement and reimbursement for lost wages and work benefits caused by the acts of the employer, including interest thereon, as well as appropriate equitable relief.

(3) A civil action brought under this subdivision may be commenced no later than one year after the cause of action occurs.

(Amended by Stats. 2015, Ch. 546, Sec. 2. Effective January 1, 2016.)

