

# City of Mission Viejo Personnel Policy

**Subject:** WORKPLACE SAFETY

**Statement of Intent:**

It is the City of Mission Viejo's policy to promote a safe environment for its employees. The City is committed to working with its employees to maintain a safe work environment free from acts of violence and threats of violence. The top priority in this process is preventing and effectively handling critical workplace incidents, especially those dealing with actual or potential violence.

This Personnel Policy shall work in conjunction with the City's Injury and Illness Prevention Program for Workplace Security to fully address the responsibilities under California Labor Code Section 6400 which requires the City to provide a safe and healthful place of employment for its employees.

**Policy:**

- 1) Acts or threats of violence, or other behavior that generates a reasonable concern for safety from violence due to its nature and severity (hereafter, "other behavior"), against or by any employee of the City or any other person are unacceptable. The City strictly prohibits employees, consultants, visitors, or anyone else while on City property or premises, and/or performing services on behalf of or for the City, from engaging in acts or threats of violence or "other behavior" while on the job or with the use of City resources, including, but not limited to: computers, telephones, fax machines, or vehicles. The City shall take all threats seriously.
- 2) The City recognizes the impact of domestic violence on the workplace. The City is committed to heightening awareness of domestic violence, providing support for victims of this violence and providing guidance for employees and management personnel to address the occurrence of domestic violence and its effects on the workplace. The City treats threats coming from an abusive personal relationship as it does all other forms of violence.

**Application:**

- 1) All employees are expected to conduct themselves in accordance with this Policy, and all other City Policies and Administrative Regulations, while the employee is on any City property or premises, and/or performing services on behalf of or for the City.
- 2) This Policy applies to all non-employees, including City elected and appointed officials, job applicants, vendors, contractors, business associates, volunteers, and members of the public, who are on any City property or premises, and/or performing services on behalf of or for the City pursuant to contracts or other arrangements. Except where the context requires otherwise, all references to employees in this Policy shall include non-employees specified in this subsection.

**Definitions:**

- 1) "*Act of Violence*" includes any act or conduct used to frighten, intimidate, kill and/or injure

another person, or to damage or destroy the property of another person or of the City regardless of whether it is intended to do so or actually does so. Violent acts include, but are not limited to:

- a. Striking, punching, slapping, or assaulting another person;
- b. Fighting or challenging another person to fight;
- c. Grabbing, pinching, or touching another person in an unwanted way, whether sexually or otherwise;
- d. Engaging in dangerous, threatening, or unwanted horseplay;
- e. Possession, use, or threat of use, of a gun or other weapon, real or perceived, of any kind on City property or premises, including parking lots, other exterior premises, City vehicles, or while performing services for or on behalf of the City in other locations, unless such possession or use is a requirement of the job, or the employee has a lawfully valid concealed weapon permit;
- f. Harming another person;
- g. Damaging or destroying the property of the City or its vendors, clients, or business associates.

2) “*Job-related*” includes, but is not limited to:

- a. While on City property or premises performing services for or on behalf of the City;
- b. While performing services for or on behalf of the City at a site or location that is not City property or premises;
- c. While representing the City during a special event, meeting, or seminar/workshop/conference, etc. whether on or off City property/premises;
- d. While driving or being transported as a passenger in a City vehicle;
- e. While wearing a City uniform.

3) “*Threat of Violence*” includes a direct or implied expression of intent, either verbally or otherwise, to frighten, intimidate, kill and/or injure another person, or to damage or destroy the property of another person or the City, regardless of whether there is an intent to carry it out, that a reasonable person would perceive as a threat to physical safety or property. The following are some examples, but not an inclusive list, of behavior that may be considered threats:

- a. Verbally spoken or written threats of violence, which include descriptions of what the speaker or writer intends to do.
- b. Threatening conduct, such as overt physical intimidation and aggression, showing off or brandishing a weapon.
- c. Statements, jokes, or other actions which threaten to frighten, intimidate, kill, and/or injure another person, or to damage or destroy the property of an another person or of the City regardless of whether there is an intent to carry it out.

4) “*Other Behavior*” includes, but is not limited to:

- a. Stalking and harassing conduct.
- b. Erratic and bizarre behavior caused, for instance, by mental illness or substance abuse.
- c. Suicidal statements from an employee who appears despondent.

5) “*Domestic Violence*” is defined as abuse committed against an adult or a minor who is a spouse, former spouse, cohabitant, former cohabitant, or person with whom the suspect has had a child, or is having or has had a dating or engagement relationship. (California Penal Code 13700)

## **Employee Responsibility, Reporting, and Response Procedure:**

### **All Employees**

- 1) All threats or acts of violence, or ““other behavior”” must be taken seriously and reported. Any employee who is the victim of violence and/or the threat of violence, or witness to such behavior, or who has received a report of such conduct, whether the perpetrator is a City employee or a non-employee, shall immediately report the incident to his/her supervisor, or any of the following:
  - a. Any supervisor or manager within, or outside, the department
  - b. Any Department Director
  - c. City Manager
  - d. Human Resources Division, or
  - e. Chief of Police Services
- 2) In an emergency, call the Orange County Sheriff’s Department or call 911.
- 3) If an individual who has allegedly made a threat and/or engaged in an act of violence or “other behavior” arrives at the workplace, the employee making the observation shall immediately notify his/her supervisor or any of the persons listed in the above section, or call the Orange County Sheriff’s Department if the circumstances warrant immediate intervention.
- 4) In the event an employee has a restraining order against another person that restricts that person from coming to the employee’s workplace, the employee must report this information to his/her supervisor and provide a certified copy of the restraining order to the Human Resources Division. A description of the individual (photograph if available) against whom the restraining order is filed should be provided to the employee’s supervisor and the Human Resources Division.
- 5) Any non-safety employee who has a permit to carry a concealed weapon must notify his/her Department Director and Human Resources Division of this approval prior to its possession on any City property or premises. Absent documented evidence of legal entitlement to carry a concealed weapon, possessing a weapon on City property or premises shall be considered a violation of this Policy.
- 6) No one, acting in good faith, who initiates a complaint or reports an incident under this Policy will be subject to retaliation or harassment.

### **Management Personnel**

- 1) All employees who are supervisors, managers, Department Directors, or in other management positions with the City, must comply with this Policy, and upon receiving notice of, or becoming aware of, a threat or act of violence, or “other behavior” shall:
  - a. In the event of risk to the safety of the victim or the safety of others, or if the situation warrants, call law enforcement for assistance. In the event of an emergency, call 911.
  - b. Immediately take steps appropriate for the situation to prevent harm to person and property.
  - c. Take reasonable steps to prevent escalation of threats and/or acts of violence, or “other behavior”.

- d. Avoid escalating the situation. Do not humiliate or make counter threats to the employee accused of threats and/or acts of violence, or “other behavior”.
- e. Immediately inform the employee who was threatened that threats and acts of violence, or “other behavior”, will not be tolerated and that an investigation will take place.
- f. Immediately inform the accused employee that threats and acts of violence, and retaliation will not be tolerated and an investigation will take place which may impose discipline.
- g. Evaluate the need to remove from the workplace the employee who allegedly made the threat(s) and/or committed the act(s) of violence or engaged in “other behavior”.
- h. Notify the Human Resources Manager or the Director of Administrative Services immediately. If the Human Resources Manager or Director of Administrative Services is alleged to have made the threat and/or engaged in an act of violence or engaged in “other behavior”, then immediately notify the City Manager or Assistant City Manager.
- i. Contact Human Resources for assistance on appropriate action to take before the employee who allegedly made a threat and/or engaged in an act of violence, or “other behavior”, is allowed to return to work.
- j. After a workplace act of violence, threat of violence, and/or “other behavior” occurs, employees should be encouraged to access the services of the Employee Assistance Program (EAP). If needed or requested, the City will provide post-event trauma counseling in the workplace to those who desire such intervention. Supervisors shall communicate the desire for such counseling services to their Department Director and the Human Resources Division. Human Resources shall identify a qualified counselor and arrange for services.

#### Human Resources Division

- 1) Pursuant to 8 CCR 14300 through 14400, the Human Resources Division shall record on the City’s OSHA 200 Log all fatalities and illnesses and specified injuries which occur as a result of workplace violence.
- 2) Those injuries which are recordable are those which result in the following:
  - a. Loss of consciousness;
  - b. Restriction of work or motion;
  - c. Transfer to another job or termination of employment; or
  - d. Medical treatment beyond first aid.
- 3) Human Resources shall assist supervisors in completing the required California Employer’s Report of Occupational Injury or Illness (Form 5020) and the Employer’s Report of Occupational Injury or Illness for every occupational injury or illness. Human Resources shall file a copy of these forms with the employer’s workers’ compensation third party administrator and retain the originals at City Hall.

- 4) Pursuant to Labor Code 6409.1(b), Human Resources shall make a telephone report to nearest Cal/OSHA District Office in every workplace violence case involving a serious injury or illness, or death.

**Investigation:**

- 1) All reports or threats of acts of violence, or “other behavior”, will be taken seriously and will be investigated promptly and thoroughly. Upon receiving a report of or becoming aware of a threat, and/or act of violence or “other behavior”, Human Resources shall conduct an investigation or authorize an investigation. If an employee in Human Resources is accused of making a threat and/or engaging in an act of violence, or “other behavior” against another person, the Director of Administrative Services or the City Manager shall conduct or authorize the investigation.
- 2) The investigating officer shall document the facts, gather information from individuals, collect written or tape-recorded verbal statements, and take pictures of any personal injury or property damage.
- 3) As part of any investigation regarding an act and/or threat of violence or “other behavior”, the City reserves the right to search, without notice and without employee consent, all areas and property in which the City maintains control or joint control with the employee. All City offices, workspace, lockers, desks, cabinets, computers, and vehicles are deemed property of the City and are subject to search without the employee’s consent by City management at any time with or without notice. Refusal to cooperate with a search may result in disciplinary action, up to and including termination. Unless directed otherwise by Human Resources, the Director of Administrative Services, or the City Manager, employees will be given the opportunity to be present when the search is conducted.
- 4) City Management shall not physically search the person of an employee, nor shall they search the employee’s personal vehicle or other possessions, without the freely written consent of, and in the presence of, the employee.
- 5) A written report covering the investigation of the act and/or threat of violence or “other behavior” and a description of the resolution, if any, shall be issued by the investigating officer to the Human Resources Manager. If the Human Resources Manager is the person targeted in the investigation, the written report shall be issued to either the Director of Administrative Services or the City Manager.
- 6) To the extent possible, the City will maintain the confidentiality of the reporting party and of the investigation. In appropriate circumstances, however, the City may deem it necessary to disclose the results of the investigation, for example, in order to protect individual safety or when required by law.

**Discipline:**

- 1) If a City employee makes a threat or engages in an act of violence or “other behavior”, which is in any way job-related or while the employee is on City property or premises, he/she may be subject to disciplinary action, up to and including termination and criminal prosecution, if applicable.
- 2) If a non-employee, while on City property or premises, and/or performing services on behalf of or for the City, makes a threat or engages in an act of violence or “other behavior”,

he/she may be subject to criminal prosecution.

- 3) The City may exercise its right to obtain a Temporary Restraining Order (TRO) on behalf of its employees when appropriate (Labor Code 6400 et seq.).

**Administration:**

In accordance with City of Mission Viejo Municipal Code chapter 2.60 "Personnel System", this Personnel Policy is deemed not to have a direct financial impact on the City. The City Manager may implement and amend this policy subject to prior City Attorney legal review and approval, and City Council review.

Implemented: Resolution No. 17-51, October 24, 2017.