



Resource Guide

APM 3-5

Prohibited Harassment and Discrimination

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Purpose:

This Resource Guide is intended to support APM 3-5 by defining terms and procedures for the processes found within APM 3-5.

The City of Madison is committed to providing equity, diversity, inclusion, and equal employment for all. It is our policy to provide a work environment free from harassment, discrimination and retaliation, for employees and members of the community.

Definitions:

Adverse Action is a negative consequence for someone such as such as harassment, recruitment/hiring, lay-offs/firings, pay, promotions/demotions, training, transfers/assignments, or leave/benefits.

Bullying is a form of harassment that includes but is not limited to a pattern of inappropriate, direct or indirect behavior that intentionally or deliberately causes fear, intimidation, emotional distress, or harm towards an individual or group of individuals.

Complainant is any person that reports a violation of or who files a complaint under this policy.

Department/Division Head is the assigned top agency official and is a member of Compensation Group 21 or Compensation Group 18.

Discrimination occurs when an adverse action affects the terms or conditions of employment, and that adverse action is motivated, at least in part, by the employee's membership in a protected class; such as recruitment/hiring, lay-offs/firings, pay, promotions/demotions, training, transfers/assignments, or leave/benefits.

Employee means any person hired by the City of Madison, or contracted to perform work for/at the City of Madison including interns, limited term, seasonal, project, permanent, probationary, students, volunteers, and contracted workers.

Harassment is unwelcome severe, pervasive, or persistent conduct that unreasonably interferes with an employee's work performance or conduct that is severe or pervasive enough to create a hostile work environment, or conduct that directly affects an employee's condition of employment.

Hazing is a form of harassment that includes but not limited to any action taken or situation created intentionally to cause embarrassment, ridicule, or to risk emotional or physical harm to members of a group or an individual, regardless of the member's or individual's willingness to participate.

Hostile Work Environment means offensive, abusive, or unwelcomed conduct which is severe or pervasive enough that it alters the conditions of employment, or creates a work environment that a reasonable person would find offensive, hostile, or intimidation.

Lead-Worker is an employee who does not have supervisory authority, but has one or more employees assigned to their area of expertise and who may direct, plan, schedule, assign, evaluate, and/or review the work of assigned employees.

Manager is an employee responsible for controlling or administering all or part of activities, tactics, or training within an agency.

Mandatory Reporter is an individual that must report, in writing, potential APM 3-5 policy violations that they witness or that are reported to them to both the Department of Civil Rights and their Department Director within 24 hours. These individuals are lead workers, supervisors, and managers.

Microaggressions or **Subtle Acts of Exclusion** are comments or actions that subtly and often unconsciously or unintentionally expresses a prejudiced attitude toward a member of a marginalized group. Microaggressions do violate this policy; however, it is not recommended that one microaggression will lead to discipline. Microaggressions that are proven should be documented through a letter of instruction for the first time, and then if behavior does not change over time a Respondent may move through the progressive discipline process. Multiple microaggressions over time may constitute prohibited harassment through the creation of a hostile work environment.

Not Sustained is a finding made by the investigators, based on the evidence, that a violation of this policy cannot be proven by a preponderance of the evidence.

Preponderance of the Evidence is the legal standard to determine if a policy violation has occurred. Under the preponderance standard, the burden of proof is met when the Complainant demonstrates enough evidence to the investigators that there is a greater than 50% chance the policy was violated.

Prohibited (Unlawful) Harassment is where enduring the offensive conduct becomes a condition of continued employment, or the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive and the conduct is motivated, at least in part, by the employee's membership in a protected class. Examples include verbal abuse, epithets, and vulgar or derogatory language, display of offensive cartoons or materials, mimicry, lewd or offensive gestures and telling of offensive jokes motivated by a person's membership in a protected class. The behavior can be any of the three following subcategories: "**quid pro quo**" the request for sexual favors in exchange for some other favorable employment action or in exchange for the promise to refrain from taking negative employment action; "**hostile environment**" coworker to coworker behavior composed of abusive and degrading conduct directed against a protected class member that is sufficient to interfere with their work or create an offensive and hostile work environment, and finally, "**Respondent superior**" which occurs whenever a Department/Division Head, manager or supervisor, engages in any act of harassment. Harassment becomes a violation of this policy whenever an employee engages in any of the activities described above or in any similar behavior based upon a person's membership in a protected class.

Protected Class means a group of natural persons, or a natural person, who may be categorized because of their ability to satisfy the definition of one or more of the following groups or classes:

Age – refers to treating someone less favorably because of their age and applies to any person 18 and over.

Arrest Record – includes, but is not limited to, information indicating that a person was questioned, apprehended, taken into custody or detention, held for investigation, arrested, charged with, indicted or tried for any felony, misdemeanor or other pursuant to any law enforcement or military authority.

Citizenship Status – means the immigration status and/or citizenship of any person.

Color – refers to a person’s skin color or pigmentation.

Conviction Record – includes, but is not limited to, information indicating that a person was convicted of a felony, misdemeanor or other offense, placed on probation, fined, imprisoned or paroled pursuant to any law enforcement or military authority

Credit History – Refers to information regarding a person's credit worthiness, standing, capacity, character, general reputation, or personal characteristics.

Disability – Having a physical or mental condition which substantially limits one or more major life activity (also protects people who have a record of such a condition, even if they currently do not have a disability). This category also includes people who do not have a disability, but are regarded as having a disability.

Domestic Partners – a person who shares a common domestic life with another individual, without a legally recognized union.

Familial Status – Means living with (or having custody of) a child or children (under the age of 18). This includes: 1. Being a parent or legal guardian with custody/physical placement of the child or children. 2. Being the designee of a parent or legal guardian 3. Being a foster parent (or other person with whom the child or children are placed by court order) 4. Being pregnant 5. Being in the process of pursuing custody/placement of a child or children

Gender Identity – The personal sense of one's own gender, which can correlate or differ from a person's biological sex. Gender expression, or the way a person reflects their gender identity (i.e., masculine, feminine, androgynous, etc.) is also protected in the category of Gender Identity.

Genetic Identity – Information revealing an individual's DNA code. This includes information gathered through genetic tests, familial genetics, and any family history of a genetic disease/disorder. The Genetic Identity category is only available for protection in the areas of housing and employment.

HIV Status – means a person who has tested positive for HIV, or the suspicion that someone may test positive for of HIV, could also easily show that an action was taken against the person because of an actual or perceived HIV status.

Homelessness – The status of lacking fixed, regular and/or adequate housing, which includes residing in a shelter or hotel that provides temporary living accommodations. This definition also protects individuals who are residing in transitional housing.

Less than Honorable Discharge from Military – means any general, undesirable, clemency, bad conduct or dishonorable discharge from the military service.

Marital Status – refers to being married, separated, divorced, widowed, or single.

Military/Veteran Status – refers to an individual’s past, present, or future military service.

National Origin/Ancestry – National origin refers to a person's country of birth. Ancestry refers to the country, nation, tribe or other group of people from which a person descends. It can also refer to an individual's physical, cultural or linguistic characteristics.

Non-Religious – Means an individual who does not identify with a religion. This may mean atheism, agnosticism, or other disbelief or lack of belief in the existence of God or gods.

Physical Appearance – means the outward appearance of any person, irrespective of sex, with regard to hairstyle, beards, manner of dress, weight, height, facial features, or other aspects of appearance. It shall not relate, however, to the requirement of cleanliness, uniforms, or prescribed attire, if and when such requirement is uniformly applied for admittance to a public accommodation or to employees in a business establishment for a reasonable business purpose.

Political Beliefs – means one's opinion, manifested in speech or association, concerning the social, economic and governmental structure of society and its institutions. This ordinance shall cover all political beliefs, the consideration of which is not preempted by state or federal law.

Race – Refers to a group of people united or classified based upon a common history, nationality or

geography. It includes all races, not just members of marginalized racial groups. Bi-racial designations are also recognized.

Religion – includes all aspects of religious observance and practice, as well as belief, unless an employer demonstrates inability to reasonably accommodate an employee's or prospective employee's religious observance or practice without undue hardship on the conduct of the employer's business.

Sex – Biological sex, typically assigned at birth based upon an individual's anatomy (such as male, female, or intersex). This protected class also includes pregnancy.

Sexual Orientation – An emotional, romantic, or sexual attraction or non-attraction to other people. Sexual orientation can be fluid and people use a variety of labels to describe their sexual orientation. Sexual orientation is the sexual or loving attraction to another person or the complete absence thereof to any other person. This attraction can span a non-static continuum from same-sex attraction at one end to opposite-sex attraction to an absolute lack of attraction to any gender.

Source of Income – is legally derived income that includes, but shall not be limited to, moneys received from public assistance, pension, and Supplementary Security Income (SSI).

Student Status – being denied employment, access, goods or services because you are enrolled in high school, college, university, technical college, accredited trade school or an apprenticeship program.

Unemployment – means that status of not having a job or employment. It does not mean, nor is it unlawful discrimination to inquire into or to consider or act upon, the facts and circumstances leading to the status or condition of unemployment.

Use or non-use of lawful products off the employer's premises during non-work hours – Choosing to use or not to use products such as tobacco or alcohol while not at work. Does not include illegal products. Does not include legally prescribed products used in a manner inconsistent with prescription directions.

Reasonable Person is one aspect of the criteria used to determine whether work environment discrimination occurred. The reasonable person standard aims to avoid the potential for parties to claim they suffered workplace discrimination when most people would not find such instances offensive if they themselves were the subject of such acts. It is an objective standard with consideration given to the context in which the alleged harassment took place and the victim's perspective.

Respondent is any person alleged to have violated this policy.

Retaliation is any adverse employment action and/or any adverse action to include any act of revenge, reprisal, intimidation or coercion directed at an employee and motivated by the belief that the employee has either opposed a violation of this policy, has filed a complaint under this policy, has participated in an investigation of a complaint filed under this policy, or has exercised any other right under this policy.

Sexual Harassment is unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature. Ex: the repeated making of unsolicited, inappropriate gestures or comments; the display of sexually graphic materials not necessary for work purposes; preferential treatment or the promise of preferential treatment in return for submitting to or engaging in sexual conduct; or repeatedly asking someone for a date after having been turned down. Such conduct is considered a violation of this policy when:

- A. Submission to such conduct is made openly or by implication a term or condition of an individual's employment; or

- B. Submission to or the rejection of such conduct by an individual is used as a basis for employment decisions affecting that person; or
- C. Such conduct is patently offensive and unreasonably interferes with the individual's work performance or creates an intimidating, hostile or offensive work environment.

Supervisor is an employee responsible for controlling or administering all or part of activities, tactics, or training within an agency.

Sustained is a finding made by the investigators, based on the evidence, that a violation of this policy can be proven by a preponderance of the evidence.

Training

APM 3-5 states the Department of Civil Rights will provide a training program under this policy. Every City of Madison employee must attend a training every three years, and Department Heads will work with their Civil Rights Coordinator to track employee training for their department.

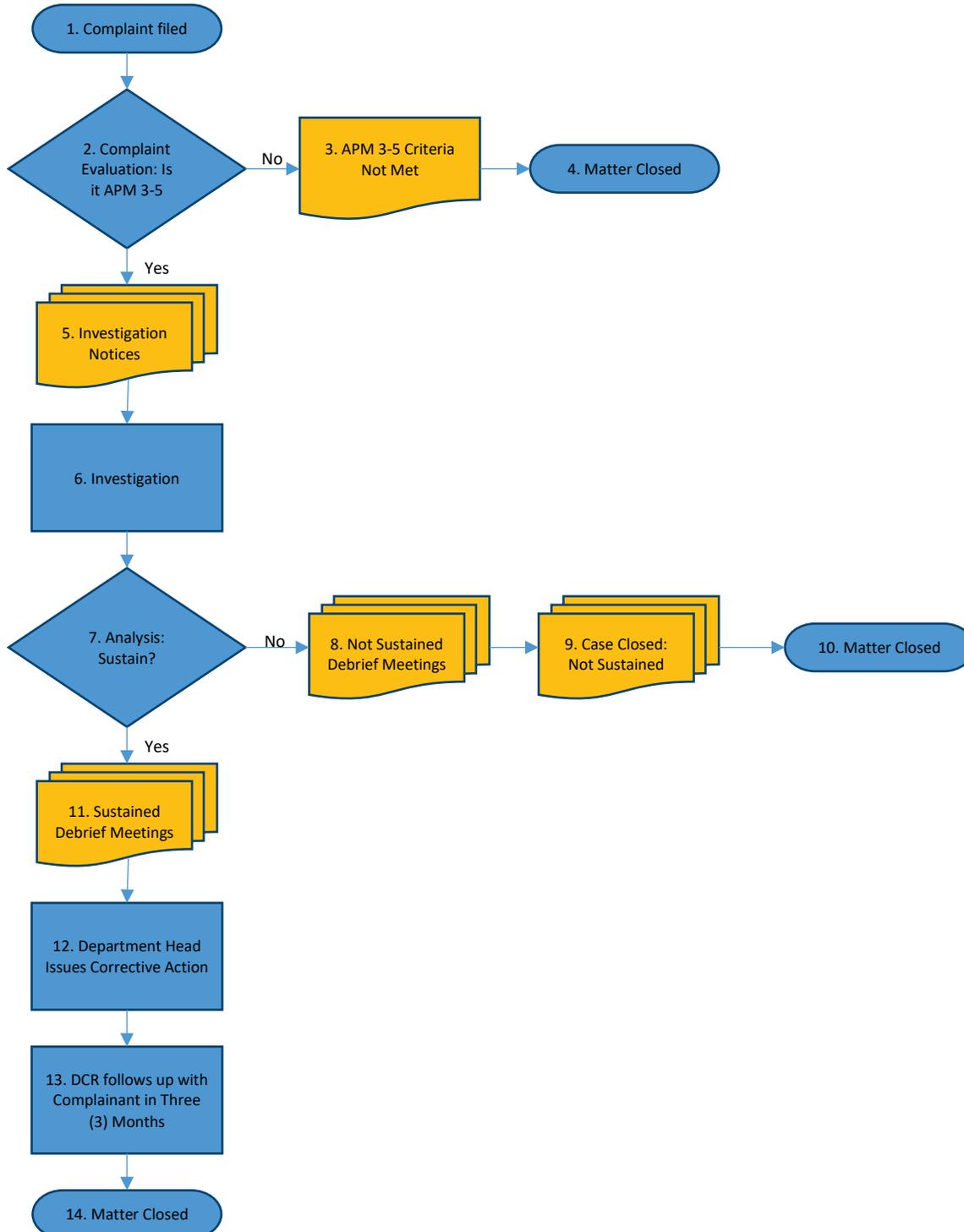
In addition, new employees must attend training within 45 days of hire. Promoted employees must attend Mandatory Reporter Training within 45 days of promotion.

Department training records may be audited by the Department of Civil Rights at any time. The Department must also be prepared to submit training records or summaries as a part of the annual Equitable Workforce Planning (Affirmative Action Planning) process.

APM 3-5 Process, Procedures, & Standards:

Investigation Process Flowchart

Please review the details and every action to be taken in each of these steps in the following sections.



All investigations are to follow these procedures. The Madison Police Department may follow their own investigation standard operating procedures, except they must notify the Department of Civil Rights within 24 hours as specified in steps one (1) and they must follow the corrective action procedures in step twelve (12) with timeline considerations differing slightly when needed due to the involvement of the Police and Fire Commission.

1. Complaint Filed

Filing a Complaint

Complaint Form: APM 3-5 states that the Department of Civil Rights will create and distribute a complaint form, which can be found online at <https://www.cityofmadison.com/civil-rights>.

Anonymous Complaints: APM 3-5 states that the anonymous complaints may be filed at any time, and the Department of Civil Rights will implement a procedure for making such claims. The procedure for filing an anonymous complaint is as follows:

Complainant fills out the online complaint form above indicating they wish to be anonymous. They will not provide contact information. In order for a complaint to be investigated, enough information must be provided to evaluate the complaint. Complaints that are not deemed to fall under APM 3-5 may be forwarded to the responsible agency, or if there is not sufficient information to investigate the case may be closed. Because the complainant will be anonymous, the Department of Civil Rights is under no obligation, nor will they be able to, respond to the Complainant with the outcome of the complaint. In these cases, great care must be taken to provide the Respondent with enough information to be able to respond to the complaint.

Mandatory Reporters: Mandatory reporters must notify the both the Department of Civil Rights and their Department Director in writing within 24 hours of becoming aware of a potential violation of this policy (during business hours on a work day and by the following work day if after business hours on a Friday or on the weekend.) It is recommended mandatory reporters email APM3-5Complaints@cityofmadison.com. If you are a mandatory reporter and unsure if a violation of this policy occurred, it is better to call and get technical assistance than not report and be in potential violation of the policy. The Department of Civil Rights can be reached at 608-266-4910.

Withdrawal of a Complaint: A complainant may withdraw their complaint at any time. However, before the City will allow a person to withdraw their complaint, the investigators must first determine that the Complainant's desire to withdraw the complaint is not motivated by a fear of retaliation or is the result of actual retaliation. The appropriate Department Head and the Department of Civil Rights Director shall jointly determine whether to discontinue the investigation at that point or continue to proceed with the investigation. In the case of a complaint against a Department/Division Head, Mayoral, and DCR staff, such determination shall be made by the Mayor.

2. Complaint Evaluation: Is it APM 3-5?

The complaint will be evaluated to see if it falls under APM 3-5. This evaluation will be conducted by the Department of Civil Rights. It may also be conducted by the Mayor's Office if the complaint is against a

Department Head or someone in the Department of Civil Rights. The following steps are a part of the evaluation:

Timing: The initial analysis will be if the date of the alleged actions in the complaint occurred within the previous 300 days.

Protected Class: Then, the determination will be made if there is a clear protected class identified in the complaint. There are unfortunately people who are disrespectful to many people, regardless of their protected classes. In these cases, the complaints will be referred to Human Resources and the Department Head. These cases are more likely to fall under the APM 2-33 Rules of Conduct Policy.

Adverse Action: Once a clear protected class is identified, the complainant will need to list a specific adverse action or negative employment consequence that has occurred against them. Adverse actions include, but are not limited to, the below list.

- » Harassment and/or the creation of a hostile work environment
- » Failure to hire
- » Failure to promote
- » Denial of a leave request
- » Unequal job assignment
- » Unequal training access
- » Unequal equipment usage
- » Undesirable reassignment
- » Reduction of hours
- » Unequal application of rules or policies
- » Discipline
- » Suspension
- » Demotion
- » Firing

Linking Adverse Action to Protected Class: Finally, the complaint must demonstrate how the actions committed against them are because of their protected class.

3. APM 3-5 Criteria Not Met, 4. Matter Closed

If any of these criteria are not met, the Department of Civil Rights or Mayor's Office will not accept the complaint for investigation and the matter will be closed. The Complainant, if contact information was provided, will receive a letter indicating an investigation could not be opened with the reason why. If the Complainant is able to respond with further information, the complaint will be further evaluated.

5. Investigation Notices

If the complaint criteria are met a final set of actions are completed by the Department of Civil Rights Affirmative Action Specialist, in consultation with the Affirmative Action Manager and/or Director of the Department of Civil Rights:

Safety Assessment: If the emotional or physical safety of any employee is at risk, or if a complaint shows severe concerns for the emotional or physical safety of any employee, the Department of Civil Rights will

work with the Department Head, Employee Assistance Program, and Human Resources to assess the need to move the alleged offender or to take other measures to provide for a safe and secure workplace environment. The Complainant should not be reassigned if at all possible. If there are severe safety concerns, complainants may be kept anonymous at the discretion of the Department of Civil Rights.

Assigning Investigators: Per the policy, after receipt of the complaint, the Department of Civil Rights will have fifteen (15) days to assign investigators. Neutral, impartial, and trained/experienced investigative teams of two people will be appointed to conduct the investigation. After consultation with the appropriate Department/Division Head, the Department of Civil Rights will appoint the investigators who will conduct an immediate investigation into alleged violations of this policy. If none of the appointed individuals are a member of the Respondent's Department/Division, the Department/Division Head will appoint someone from the Department/Division to assist the investigators with department specific information including Department organization, policies, procedures, etc. relevant to the investigation. In the case of complaints involving sworn law enforcement and firefighters, the Department of Civil Rights will assist the lead investigators from those agencies. Investigations of complaints filed under this policy must be given the highest priority. Such investigations should be promptly initiated and swiftly completed.

Investigation Briefing for Investigators: A meeting to brief the investigators on the known facts of the case will occur. The investigators will discuss their roles and responsibilities, review investigative strategy, identify witnesses, and be able to consult with the Affirmative Action Specialist before the notices are sent. Investigators will receive instruction about the investigation standards contained in this resource guide, along with all needed templates. Expectations about checking in with the Department of Civil Rights will be identified. Throughout the investigation the Department of Civil Rights may, when requested by the investigators, provide guidance regarding the structure of the investigation and/or the investigatory report, but will not advise or guide the investigators regarding the ultimate conclusion of whether or not a complaint is sustained or not sustained. Investigators are the decision makers for the investigation outcomes.

Sending Investigation Notices: Once the Investigators are comfortable with the allegations and an investigative strategy, parties will be notified that an investigation is occurring. Investigation notices will be sent to the Department Head, Complainant (if not anonymous), and Respondent. Timing of these notices may vary depending on investigative strategy. The Respondent's notice should clearly lay out the behaviors that may have violated the policy so they have time to prepare a response for the interview. If it is an anonymous complaint, it should be indicated in this notice. If there is a safety threat, that information should also be considered when deciding what to reveal to the Respondent in the notice.

Letter Templates: Investigators will use the templates in Appendix A titled Investigation Notices. There may be times when investigators combine the Investigation Notice with the Interview Letter Template, depending on investigative strategy.

6. Investigation

Letter Templates: Investigators should use the Interview Letter templates in Appendix A to schedule interviews with the parties.

Introductions: Prior to meeting with the Complainant/Respondent, the investigators should contact the parties, introduce themselves, inform the parties the decision was made to investigate the complaint and

explain the investigation process. Explain to the interviewees they will be scheduled for a fact-finding interview and that they have the option to have a support person present during the interview. Inform the interviewees they will receive a letter confirming their interview date, time, and location.

Location & Setting the Atmosphere: The investigation interview should be held in a location that provides the highest possible level of confidentiality. When the parties arrive for the interviews be cordial and polite. Try to make the parties as comfortable as possible. Start the meeting by introducing the investigators, then explain to the interviewees that violations of our policy are serious and that a complete a thorough investigation will occur before reaching any conclusions. Review the APM 3-5, and state the issues that will be investigated.

Opening Investigation Script: Investigators will follow a standard opening interview script for all of the parties:

1. [Lead investigator] will be asking most of questions/leading interview and [co-investigator] will be here to ask any follow-up questions and take notes.
2. EAP is available to you if you need it.
3. Depending on who is being interviewed:
 - a. For Complainants
 - i. As soon as we finish the investigation we will meet with you to go over our findings. You will be told if there was a policy violation or not. You will not know any personnel details as a result of the investigation because this is confidential information. Remedy of this type of complaint is typically corrective action for the individual who violated the policy. This could look like training, discipline, or another way to correct their behavior. Other remedies are not typically a part of this process, such as money or job placements. If you are not satisfied you can file with the State of Wisconsin or the Federal Government. (IF applicable: We thank your union rep for attending. We remind the union rep they are not here to participate in the interview or impede the investigation, they are here to support you.)
 - b. For Respondents
 - i. We value your side of the story and take all that you have to say into consideration during this investigation. Just because you are named a Respondent we do not automatically assume you are at fault. We are impartial and fact finders. This is not a disciplinary meeting. It is a fact finding meeting. (IF applicable: We thank your union rep for attending. We remind the union rep they are not here to participate in the interview or impede the investigation, they are here to support you.) As soon as we finish the investigation we will meet with you to go over our findings. You will be told if we found you violated policy or not. That information will be given to your department head, who will be responsible for any needed follow up or corrective action.
 - c. For Witnesses
 - i. You are NOT the subject of this investigation, and this is NOT a disciplinary meeting. It is a fact finding meeting. (IF applicable: We thank your union rep for attending. We remind the union rep they are not here to participate in the interview or impede the investigation, they are here to support you.)
4. Confidentiality is very strict.
 - a. Your co-workers will not be told specifics of what you share. We are interviewing a variety of people so there is anonymity.

- b. You may not share any of what we ask you or what you shared in this interview.
 - c. Violations of APM 2-33 (Rules of Conduct) include unauthorized disclosure of any confidential information or record. This interview is included.
 - d. If we find out that there was information sharing about this investigation outside of this meeting we will be forced to conduct another investigation to see if APM 2-33 was violated.
5. Cooperation is needed.
- a. You are expected to be fully cooperative and honest in answering questions.
 - b. If you do not provide us with honest and full information you may be violating city policy, including APM 2-33 under general conduct: "insubordination including disobedience, disrespect, failure to perform work assignments or duties, or failure to accept direction from authorized personnel." And "Failure to provide accurate and complete information whenever an authorized person requires such information."
 - c. If we find out you were not fully cooperative, we may need to conduct another investigation to see if APM 2-33 was violated.
6. Retaliation
- a. Is not permitted.
 - b. You are not allowed to hold anything against any of your co-workers and they cannot hold anything against you for participating in this interview today.
 - c. If there is retaliation we need to know about it immediately to conduct an investigation. You have our contact information.
 - d. If there are allegations of retaliation against you, we may have to conduct another investigation.
7. We have [time period, one hour, 30 minutes, etc.] scheduled for this meeting.
8. Questions?

Investigator Conduct: Gather facts and do not make judgments. At this stage, you are not determining the complaint's validity. The job at hand is to gather the facts. Stay away from comments such as, "Most people would be complimented by that" or "Maybe you shouldn't dress that way for work." Speak in a matter-of-fact, but supportive way, not one in which you appear to be "cross examining" the interviewee. This may ease the tension that is often present.

Get answers to "who, what, when, where, why, and how." Encourage the interviewee to be as specific as possible. Find out who did what to whom, when did the events happen, why and how did they occur, and were there any witnesses? Find out how they know these things – did they personally see or hear what happened or did someone else tell them about it? At this stage, it would also be wise to ask the employee if they are concerned about retaliation, which is often a concern of harassment victims.

- » Try to avoid leading questions, such as: "Did they tell offensive jokes?" Instead, ask open-ended questions, such as: "What was said?" or "Where were you touched?"
- » Getting a sense of what the interviewee feels would be important at this time. What does the interviewee want to see happen to resolve the problem?
- » If there is more than one allegation, treat each incident separately.

Union/Representative/Support Person Conduct: Respondents are entitled to representation, however, their Support Person, Association, or Union Representatives' role is very limited in the interview and investigation, and they will be required to maintain confidentiality related to the investigation. Failure to cooperate with the investigation may result in discipline. We also welcome Complainants and witnesses to bring support people to the interview, or have them waiting nearby, if they desire.

Notes: Ensure that interviews are well documented and that investigator notes are confidentially maintained. These notes are to be submitted to the Department of Civil Rights at the end of the investigation.

7. Analysis: Sustained?

Once interviews are complete, investigators should follow the following steps to analyze the case.

Analyzing the Facts: Once interviews have concluded, it is important for the investigators to independently review their notes and write down their conclusions as to not be biased by the other investigator. Investigators will use the reasonable person standard to evaluate if a policy violation occurred. They will also evaluate the evidence under the preponderance standard. A complaint is sustained when the evidence, taken as a whole, demonstrates a 51% or greater chance a violation of the policy occurred. Once each investigator feels confident in their assessment of the facts, the investigators should meet to discuss their independent conclusions and determine if, overall, there is sufficient evidence to sustain or not sustain a violation of APM 3-5.

Final Investigative Report: The Investigator(s) will prepare the final report which details the allegations made, the investigative measures undertaken, a summary of witness statements and the investigators' findings and conclusions using the draft template in Appendix B. The emphasis of this report shall be upon determining what actually happened and whether any allegations of the complaint are sustained. This report shall not make any recommendations for discipline nor for corrective action. A copy of this report will be forwarded to the City Attorney, or designee, and the Department of Civil Rights Director, or designee, who have fifteen (15) days to provide comment and review, which may include ordering additional investigation.

If the investigation involves allegations against a Department/Division Head, or a mayoral staff member, the report will be forwarded to the Mayor. A copy of this report will be forwarded to the City Attorney, or designee, and the Department of Civil Rights Director, or designee, who have fifteen (15) days to provide comment and review, which may include ordering additional investigation.

8. Not Sustained Debrief Meetings

If the allegations were Not Sustained, the investigators use the Debriefing Letters Template to notify the parties. The Investigators then meet with the Department Head, Complainant, and Respondent.

During these meetings, it is important not to break confidentiality about what was shared by specific witnesses or parties. A sample script is below:

Department Head

- Thank Department Head for the support throughout the investigation.
- After a thorough investigation, we did not sustain this complaint.
- Summarize the key findings for the Department Head, and let them know of any dynamics that are present in the workplace that you found that they should pay attention to.
- The case is now closed.

Complainant

- Thank Complainant for bringing forward complaint
- After a thorough investigation, we did not sustain the allegations in your complaint.
- Your complaint will now be closed.
- Please notify the Department of Civil Rights immediately if there are any concerns you have regarding retaliation.
- Please reach out to the Employee Assistance Program if you need support.

Respondent

- After a thorough investigation, we did not sustain the allegations in the complaint.
- The Complaint will now be closed.
- Retaliation is prohibited. Do not treat anyone negatively because of being named a Respondent in this investigation.
- Please reach out to the Employee Assistance Program if you need support.

9. Case Closed, Not Sustained; 10. Matter Closed

After the debrief meetings the case is considered closed. Investigators need to send all notes and investigation documents/evidence to the Department of Civil Rights.

11. Sustained Debrief Meetings

If the Complaint was sustained, the investigators use the Debriefing Letters Template to notify the parties. The investigators then meet with the Department Head, Complainant, and Respondent.

During these meetings, it is important not to break confidentiality about what was shared by specific witnesses or parties. It is also critically important to set reasonable expectations for the Complainant regarding the outcome and next steps. A sample script is below:

Department Head

- Thank Department Head for the support throughout the investigation.
- After a thorough investigation, we sustained this complaint.
- Summarize the key findings for the Department Head, and let them know of any dynamics that are present in the workplace that you found that they should pay attention to.
- You now have ten (10) business days to convene the Corrective Action Panel and then five (5) business days after that meeting to issue corrective action. The purpose of the meeting with the corrective action panel is to discuss a corrective plan in light of the sustained findings. Please review this part of the policy and let Civil Rights know if you have any questions on how to proceed.

Complainant

- Thank Complainant for bringing forward complaint
- After a thorough investigation, we sustained your complaint.
- Your department head will now meet with directors from the Department of Civil Rights, Human Resources, and City Attorney's Office along with the Deputy Mayor to determine a Corrective

Action Plan for the Respondent. This Corrective Action plan can range from training, coaching, a letter of instruction to progressive discipline.

- It is important to note that the corrective action will NOT be shared with you, because this is the private personnel information of the Respondent.
- Please notify the Department of Civil Rights immediately if there are any concerns you have regarding retaliation.
- Please reach out to the Employee Assistance Program if you need support.

Respondent

- After a thorough investigation, we sustained the complaint.
- Review the claims and the findings for each. Explain this is not a debate or two-way discussion but a report of the findings.
- Your department head will now meet with directors from the Department of Civil Rights, Human Resources, and City Attorney's Office along with the Deputy Mayor to determine a Corrective Action Plan for you. This Corrective Action plan can range from training, coaching, a letter of instruction to progressive discipline.
- While we tell the Complainant the investigation was sustained, they are not told about any discipline or corrective action you receive.
- Retaliation is prohibited. Do not treat anyone negatively as a result of being named a Respondent in this investigation.
- Please reach out to the Employee Assistance Program if you need support.

Notes

Remember to send all notes and documentation/evidence to the Department of Civil Rights.

12. Department Head Issues Corrective Action

Within ten (10) business days after receiving the debriefing, the Department Head or Mayor will schedule a meeting with the Corrective Action Panel (ensuring the investigators are not a part of this panel) made up of the Directors or designees from the Office of the City Attorney, Human Resources, Department of Civil Rights along with the Department's assigned Deputy Mayor. The Corrective Action Panel will make recommendations about the corrective action based on the policy violation. The ultimate decision on discipline rests with the Department/Division Head or the Mayor. If the recommendation of the panel is unanimous, or if a majority of the panel has the same recommendation, and the Department Head or the Mayor issues less severe corrective action than what the panel recommended, they must document in writing the discipline they issued, why it differs from the panel's recommendation, and send it to the director of Human Resources and the Department of Civil Rights, as well as their designee that was a member of the panel.

Within five (5) business days after meeting with the Corrective Action Panel, the Department Head or Mayor must issue the corrective action to the employee that violated the policy and submit the final corrective action plan to the Department of Civil Rights Director and the Director of Human Resources.

A Corrective Action Template is provided in Appendix C.

13. DCR follows up with Complainant in Three (3) Months

Three months following the debriefing with the Complainant, the Department of Civil Rights will follow up with the Complainant to evaluate if there are any further concerns. If there are concerns, the investigative process may begin again. If there are no concerns, the matter will close.

14. Matter Closed

Appendix A - Investigation Notices

Department/Division Head



Department of Civil Rights

Norman D. Davis, Director
City-County Building, Room 523
210 Martin Luther King, Jr. Blvd.
Madison, WI 53703
Phone: (608) 266-4910 | Fax: (608) 266-6514
dcr@cityofmadison.com
cityofmadison.com/civil-rights

**Affirmative Action Division
Disability Rights and Services Program
Equal Opportunities Division
Racial Equity and Social Justice**

**CITY OF MADISON
EMAIL CORRESPONDENCE
- Confidential-**

TO: [Name], [Agency], [Title]

FROM: [Name], [Title]

CC: [Name], Department of Civil Rights Director
[Name], Affirmative Action Division Manager
[Name], Assistant City Attorney

DATE: [Date]

SUBJECT: Notice of Investigation – Department Head

The City of Madison maintains a very strong and proactive policy supporting equal employment opportunity and prohibiting workplace discrimination.

The purpose of this correspondence is to inform you that an APM 3-5 complaint was received by the Department of Civil Rights that names a member of your department as a Respondent. We would like to meet with you to discuss the pending investigation of this complaint no. [YYYY-##], including the assignment of investigators.

Any communications made in the course of the investigation must be kept confidential and shall be disclosed only to City officials who need the disclosure in order to perform their duties.

DCR will host a debriefing meeting once the investigation is finalized, to review the findings. Please remember, if the allegations within the complaint are sustained and deemed a violation of APM 3-5, you are required to meet with the APM 3-5 advisory panel within ten (10) business days of the debriefing and submit a corrective action plan within five (5) business days of meeting with the panel to DCR and HR.

Thank you in advance.

Full text of APM 3-5: <http://www.cityofmadison.com/mayor/apm/3-5.pdf>

Complainant



Department of Civil Rights

Norman D. Davis, Director
City-County Building, Room 523
210 Martin Luther King, Jr. Blvd.
Madison, WI 53703
Phone: (608) 266-4910 | Fax: (608) 266-6514
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cityofmadison.com/civil-rights

**Affirmative Action Division
Disability Rights and Services Program
Equal Opportunities Division
Racial Equity and Social Justice**

**CITY OF MADISON
MEMO
-Confidential-**

TO: [Complainant Name], [Title], [Agency]
FROM: [Primary Investigator Name], [Title]
CC: [Secondary Investigator Name], Co-Investigator
DATE: [Date]
SUBJECT: Notice of Investigation – Complainant

The City of Madison maintains a very strong and proactive policy supporting equal employment opportunity and prohibiting workplace discrimination. Our efforts to prevent violations of the City's Administrative Procedure Memorandum No. 3.5 (APM 3-5) depend in large part the willingness of employees to report possible violations. Harassment, discrimination and retaliation are prohibited conduct and violations of this policy will not be tolerated.

The Department of Civil Rights has received your complaint. In cooperation with your department head, and the Department of Civil Rights [Co-Investigator Name] and I were assigned to conduct an immediate investigation into alleged violations of this policy. We would like to meet with you as soon as practicable. We will contact you shortly to schedule the meeting.

This investigation is highly confidential. We ask that you refrain from discussing your interview or the complaint with anyone except the investigators, your Support Person, or Representative, if any. Any communications made in the course of the investigation will be kept confidential and shall be disclosed only to City officials who need the disclosure in order to perform their duties.

Once all necessary interviews are completed, the investigators will meet with you to discuss their findings. If violations of APM 3-5 are found, you will be informed. Any corrective action(s) will be determined and implemented by your department head. You will not be informed of the nature or extent of any corrective action the Respondent(s) received.

As a reminder, the City of Madison Employee Assistance Program (EAP) is available to assist you with various workplace matters. EAP can offer a confidential place for people to talk, and EAP Counselors have

access to a variety of resources and referrals. They can be reached by calling (608) 266-6561 or www.cityofmadison.com/employee-assistance-program. Also, our external EAP vendor, FEI Behavioral Health is available 24/7 at (800) 236-7905, 855-225-1367 TTY, www.feieap.com, Group ID: Madison.

Thank you in advance for your cooperation.

Full text of APM 3-5: <http://www.cityofmadison.com/mayor/apm/3-5.pdf>

Respondent



Department of Civil Rights

Norman D. Davis, Director
City-County Building, Room 523
210 Martin Luther King, Jr. Blvd.
Madison, WI 53703
Phone: (608) 266-4910 | Fax: (608) 266-6514
dcr@cityofmadison.com
cityofmadison.com/civil-rights

Affirmative Action Division
Disability Rights and Services Program
Equal Opportunities Division
Racial Equity and Social Justice

CITY OF MADISON MEMO -Confidential-

TO: [Respondent Name], [Title], [Agency]
FROM: [Primary Investigator Name], [Title]
CC: [Secondary Investigator Name], Co-investigator
DATE: [Date]
SUBJECT: Notice of Investigation – Respondent

The City of Madison maintains a very strong and proactive policy supporting equal employment opportunity and prohibiting workplace discrimination. The Department of Civil Rights has received a complaint against you alleging possible violation(s) of Administrative Procedure Memorandum No. 3-5 (Prohibited Harassment and/or Discrimination Policy). Harassment, discrimination and retaliation are prohibited conduct and violations of this policy will not be tolerated.

In cooperation with your department head, the Department of Civil Rights has assigned [Co- Investigator Name] and myself to conduct an immediate investigation into alleged violations of this policy. We would like to meet with you as soon as practicable. We will contact you shortly to schedule the meeting.

This investigation is highly confidential. We ask that you refrain from discussing the interview or complaint with anyone except the investigators and your representative, if any. Any communications made in the course of the investigation will be kept confidential and shall be disclosed only to City officials who need the disclosure in order to perform their duties.

Once all necessary interviews are completed, Investigators will meet with you to discuss their findings. If violations of APM 3-5 are found, you will be informed. Corrective action(s) will be determined and implemented by your department head. You will not be informed of the nature or extent of any corrective measures taken against other Respondents to the complaint. You are entitled to representation, however, your Association or Union Representatives role is very limited in the interview and investigation, and they will be required to maintain confidentiality related to the investigation.

Failure to cooperate with this investigation may result in discipline.

As a reminder, the City of Madison Employee Assistance Program (EAP) is available to assist you with various workplace matters. EAP can offer a confidential place for people to talk, and EAP Counselors have access to a variety of resources and referrals. They can be reached by calling (608) 266-6561 or www.cityofmadison.com/employee-assistance-program. Also, our external EAP vendor, FEI Behavioral Health is available 24/7 at (800) 236-7905, 855-225-1367 TTY, www.feieap.com, Group ID: Madison.

Full text of APM 3-5: <http://www.cityofmadison.com/mayor/apm/3-5.pdf>

Interview Letters

Complainant



Department of Civil Rights

Norman D. Davis, Director
City-County Building, Room 523
210 Martin Luther King, Jr. Blvd.
Madison, WI 53703
Phone: (608) 266-4910 | Fax: (608) 266-6514
dcr@cityofmadison.com
cityofmadison.com/civil-rights

**Affirmative Action Division
Disability Rights and Services Program
Equal Opportunities Division
Racial Equity and Social Justice**

[Date]

[Complainant Name]
[Street Address]
[City, State, Zip]

Dear [Complainant Name]

The Department of Civil Rights has scheduled an interview for you to discuss the details of your APM 3-5 complaint no. [YYYY-##]. Arrangements were made with your Department Head for you to attend the interview at DCR 210 Martin Luther King, Jr. Blvd. Room 523, Madison, WI 53703, on [Day] [MM/DD/YYYY] at [HH:MM] [AM/PM].

This is not a disciplinary meeting. You may bring a support person, however, your support person, Association, or Union Representative role is very limited in the interview and investigation, and they will be required to maintain confidentiality related to the investigation.

The scheduled meeting is confidential. You are asked to refrain from disclosing the meeting and anything pertaining to the investigation with individuals in your workplace, other than your support person or representative, if any. If you need to change this appointment, please contact DCR at (608) 266-4910 as soon as possible.

As a reminder, the City of Madison Employee Assistance Program (EAP) is available to assist you with various workplace matters. EAP can offer a confidential place for people to talk, and EAP Counselors have access to a variety of resources and referrals. They can be reached by calling (608) 266-6561 or www.cityofmadison.com/employee-assistance-program. Also, our external EAP vendor, FEI Behavioral Health is available 24/7 at (800) 236-7905, 855-225-1367 TTY, www.feieap.com, Group ID: Madison.

Sincerely,

[Investigators]

Respondent



Department of Civil Rights

Norman D. Davis, Director
City-County Building, Room 523
210 Martin Luther King, Jr. Blvd.
Madison, WI 53703
Phone: (608) 266-4910 | Fax: (608) 266-6514
dcr@cityofmadison.com
cityofmadison.com/civil-rights

**Affirmative Action Division
Disability Rights and Services Program
Equal Opportunities Division
Racial Equity and Social Justice**

[Date]

[Respondent Name]

[Street Address]

[City, State, Zip]

Dear [Respondent Name]

The Department of Civil Rights has scheduled an interview for you to discuss the allegations made against you in relation to APM 3-5. Arrangements were made with your Department Head for you to attend the interview at DCR 210 Martin Luther King, Jr. Blvd. Room 523, Madison, WI 53703, on [Day] [MM/DD/YYYY] at [HH:MM] [AM/PM].

This is not a disciplinary hearing, but if we find violations of this policy you may be subject to progressive discipline. You are entitled to representation, however, your support person, Association, or Union Representatives role is very limited in the interview and investigation, and they will be required to maintain confidentiality related to the investigation.

Failure to cooperate with this investigation may result in discipline.

The scheduled meeting is confidential. You are asked to refrain from disclosing the meeting and anything pertaining to the investigation with individuals in your workplace, other than your support person, if any. If you need to change this appointment, please contact DCR at (608) 266-4910 as soon as possible.

As a reminder, the City of Madison Employee Assistance Program (EAP) is available to assist you with various workplace matters. EAP can offer a confidential place for people to talk, and EAP Counselors have access to a variety of resources and referrals. They can be reached by calling (608) 266-6561 or www.cityofmadison.com/employee-assistance-program. Also, our external EAP vendor, FEI Behavioral Health is available 24/7 at (800) 236-7905, 855-225-1367 TTY, www.feieap.com, Group ID: Madison.

Sincerely,

[Investigators]

Witness



Department of Civil Rights

Norman D. Davis, Director
City-County Building, Room 523
210 Martin Luther King, Jr. Blvd.
Madison, WI 53703
Phone: (608) 266-4910 | Fax: (608) 266-6514
dcr@cityofmadison.com
cityofmadison.com/civil-rights

**Affirmative Action Division
Disability Rights and Services Program
Equal Opportunities Division
Racial Equity and Social Justice**

[Date]

[Witness Name]
[Street Address]
[City, State, Zip]

Dear [Witness Name]

Your name was given as an individual who may have information regarding a complaint filed under the Prohibited Harassment and/or Discrimination policy, APM 3-5 that is being investigated by the Department of Civil Rights (DCR). Arrangements have been made with your Department Head for you to attend your interview at DCR 210 Martin Luther King, Jr. Blvd. Room 523, Madison, WI 53703, on [Day] [MM/DD/YYYY] at [HH:MM] [AM/PM].

This is a fact finding interview. You are not under investigation. You may bring a support person, however, your support person, Association, or Union Representative role is very limited in the interview and investigation, and they will be required to maintain confidentiality related to the investigation.

The scheduled meeting is confidential. You are asked to refrain from disclosing this meeting and anything pertaining to the investigation with individuals, other than the two investigators, and your representative, if any. If you need to change this appointment, please contact DCR at (608) 266-4910 to make a request.

As a reminder, the City of Madison Employee Assistance Program (EAP) is available to assist you with various workplace matters. EAP can offer a confidential place for people to talk, and EAP Counselors have access to a variety of resources and referrals. They can be reached by calling (608) 266-6561 or www.cityofmadison.com/employee-assistance-program. Also, our external EAP vendor, FEI Behavioral Health is available 24/7 at (800) 236-7905, 855-225-1367 TTY, www.feieap.com, Group ID: Madison.

Sincerely,

[Investigators]

Debriefing Letters – Not Sustained

Department Head



Department of Civil Rights

Norman D. Davis, Director
City-County Building, Room 523
210 Martin Luther King, Jr. Blvd.
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cityofmadison.com/civil-rights

**Affirmative Action Division
Disability Rights and Services Program
Equal Opportunities Division
Racial Equity and Social Justice**

**CITY OF MADISON
EMAIL CORRESPONDENCE
- Confidential-**

TO: [Name], [Agency], [Title]

FROM: [Name], [Title]

CC: [Name], Department of Civil Rights Director
[Name], Affirmative Action Division Manager
[Name], Assistant City Attorney
[Name], Co-Investigator

DATE: [Date]

SUBJECT: Debriefing Meeting - Department Head

The Department of Civil Rights has concluded the APM 3-5 investigation of complaint no. [YYYY-XX]. After a thorough investigation the complaint allegations were not sustained. However, we would like to schedule a debriefing meeting with you to share the findings and/or the themes that materialized during our investigation.

Please advise whether you would prefer an in-person or virtual debrief and your availability for scheduling. We would like to meet as soon as practicable. Once the investigation findings are shared with you, DCR will proceed with sharing the findings with the Complainant and Respondent, respectively.

Thank you for your continued assistance with this matter.

Complainant



Department of Civil Rights

Norman D. Davis, Director
City-County Building, Room 523
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Madison, WI 53703
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dcr@cityofmadison.com
cityofmadison.com/civil-rights

**Affirmative Action Division
Disability Rights and Services Program
Equal Opportunities Division
Racial Equity and Social Justice**

[Date]

[Complainant Name]

[Street Address]

[City, State, Zip]

Dear [Complainant Name]

The APM 3-5 investigation by the Department of Civil Rights has concluded. After a thorough investigation the complaint allegations were not sustained. The findings of the investigation will be shared with your Department Head. DCR has scheduled a Debriefing Meeting for you: [Day] [MM/DD/YYYY] at [HH:MM]. We will meet at DCR 210 Martin Luther King, Jr. Blvd., Room 523, Madison, WI 53703. You may have a support person or representative accompany you to this meeting.

We understand it takes courage to file a complaint of this nature. The City of Madison and DCR appreciates you for bringing your concerns forward. It is very important to continue a professional working relationship with all staff.

This investigation and the outcome remains confidential and you are to refrain from discussing any aspects of this matter with others in your workplace.

If you believe you have experienced some form of retaliation as a result of this complaint, please do not hesitate to contact your Department Head, Human Resources, or DCR. Any form of retaliation will be taken seriously and investigated.

As a reminder, the City of Madison Employee Assistance Program (EAP) is available to assist you with various workplace matters. EAP can offer a confidential place for people to talk, and EAP Counselors have access to a variety of resources and referrals. They can be reached by calling (608) 266-6561 or www.cityofmadison.com/employee-assistance-program. Also, our external EAP vendor, FEI Behavioral Health is available 24/7 at (800) 236-7905, 855-225-1367 TTY, www.feieap.com, Group ID: Madison.

Sincerely,

[Investigators]

Respondent



Department of Civil Rights

Norman D. Davis, Director
City-County Building, Room 523
210 Martin Luther King, Jr. Blvd.
Madison, WI 53703
Phone: (608) 266-4910 | Fax: (608) 266-6514
dcr@cityofmadison.com
cityofmadison.com/civil-rights

**Affirmative Action Division
Disability Rights and Services Program
Equal Opportunities Division
Racial Equity and Social Justice**

[Date]

[Respondent Name]

[Street Address]

[City, State, Zip]

Dear [Respondent Name]

The Department of Civil Rights APM 3-5 investigation in which you were named as the Respondent, has concluded. After a thorough investigation the complaint allegations were not sustained. The findings of the investigation will be shared with your Department Head. DCR has scheduled a Debriefing Meeting for you: [Day] [MM/DD/YYYY] at [HH:MM]. We will meet at the DCR 210 Martin Luther King, Jr. Blvd., Room 523 Madison, WI 53703. You may have a support person or representative accompany you to this meeting.

This investigation and the outcome remains confidential and you are to refrain from discussing any aspects of this matter with others in your workplace.

It is very important to continue a professional working relationship with all staff. Retaliation is prohibited – do not treat anyone you believe to be associated with this complaint in a negative manner.

As a reminder, the City of Madison Employee Assistance Program (EAP) is available to assist you with various workplace matters. EAP can offer a confidential place for people to talk, and EAP Counselors have access to a variety of resources and referrals. They can be reached by calling (608) 266-6561 or www.cityofmadison.com/employee-assistance-program. Also, our external EAP vendor, FEI Behavioral Health is available 24/7 at (800) 236-7905, 855-225-1367 TTY, www.feieap.com, Group ID: Madison.

Sincerely,

[Investigators]

Debriefing Letters – Sustained

Department Head



Department of Civil Rights

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**Affirmative Action Division
Disability Rights and Services Program
Equal Opportunities Division
Racial Equity and Social Justice**

**CITY OF MADISON
EMAIL CORRESPONDENCE
- Confidential-**

TO: [Name], [Agency], [Title]

FROM: [Name], [Title]

CC: [Name], Department of Civil Rights Director
[Name], Affirmative Action Division Manager
[Name], Assistant City Attorney
[Name], Co-Investigator

DATE: [Date]

SUBJECT: Debriefing Meeting - Department Head

The Department of Civil Rights has concluded the APM 3-5 investigation of complaint no. [YYYY-XX]. After a thorough investigation the complaint allegations were sustained. We would like to schedule a debriefing meeting with you to share the findings and recommendations. As you know, you must convene the APM 3-5 panel within ten (10) business days of the debriefing and file a written Corrective Action Plan with DCR and HR five (5) business days after convening the panel.

Please advise whether you would prefer an in-person or virtual debrief and your availability for scheduling. We would like to meet as soon as practicable. Once the investigation findings are shared with you, DCR will proceed with sharing the findings with the Complainant and Respondent, respectively.

Thank you for your continued assistance with this matter.

Complainant



Department of Civil Rights

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**Affirmative Action Division
Disability Rights and Services Program
Equal Opportunities Division
Racial Equity and Social Justice**

[Date]

[Complainant Name]

[Street Address]

[City, State, Zip]

Dear [Complainant Name]

The APM 3-5 investigation by the Department of Civil Rights has concluded. After a thorough investigation the complaint allegations were sustained. The findings of the investigation will be shared with your Department Head for them to determine and implement a Corrective Action plan. DCR has scheduled a Debriefing Meeting for you: [Day] [MM/DD/YYYY] at [HH:MM]. We will meet at the DCR 210 Martin Luther King, Jr. Blvd., Room 523, Madison, WI 53703. You may have a support person or representative accompany you to this meeting.

This investigation and the outcome remains confidential and you are to refrain from discussing any aspects of this matter with others in your workplace.

We understand it takes courage to file a complaint of this nature. The City of Madison and DCR appreciates you for coming forward. It is very important to continue a professional working relationship with all staff. If you believe you have experienced some form of retaliation as a result of this complaint, please do not hesitate to contact your Department Head, Labor Relations, or DCR. Any form of retaliation will be taken seriously and investigated.

As a reminder, the City of Madison Employee Assistance Program (EAP) is available to assist you with various workplace matters. EAP can offer a confidential place for people to talk, and EAP Counselors have access to a variety of resources and referrals. They can be reached by calling (608) 266-6561 or www.cityofmadison.com/employee-assistance-program. Also, our external EAP vendor, FEI Behavioral Health is available 24/7 at (800) 236-7905, 855-225-1367 TTY, www.feieap.com, Group ID: Madison.

Sincerely,

[Investigators]

Respondent



Department of Civil Rights

Norman D. Davis, Director
City-County Building, Room 523
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dcr@cityofmadison.com
cityofmadison.com/civil-rights

**Affirmative Action Division
Disability Rights and Services Program
Equal Opportunities Division
Racial Equity and Social Justice**

[Date]

[Respondent Name]

[Street Address]

[City, State, Zip]

Dear [Respondent Name]

The Department of Civil Rights APM 3-5 investigation in which you were named as the Respondent, has concluded. After a thorough investigation the complaint allegations were sustained. The findings of the investigation will be shared with your Department Head for them to determine and implement a Corrective Action Plan. DCR has scheduled a Debriefing Meeting for you: [Day] [MM/DD/YYYY] at [HH:MM]. We will meet at the DCR 210 Martin Luther King, Jr. Blvd., Room 523 Madison, WI 53703. You may have a support person or representative accompany you to this meeting.

This investigation and the outcome remains confidential and you are to refrain from discussing any aspects of this matter with others in your workplace.

It is very important to continue a professional working relationship with all staff. Retaliation is prohibited – do not treat anyone you believe to be associated with this complaint in a negative manner.

As a reminder, the City of Madison Employee Assistance Program (EAP) is available to assist you with various workplace matters. EAP can offer a confidential place for people to talk, and EAP Counselors have access to a variety of resources and referrals. They can be reached by calling (608) 266-6561 or www.cityofmadison.com/employee-assistance-program. Also, our external EAP vendor, FEI Behavioral Health is available 24/7 at (800) 236-7905, 855-225-1367 TTY, www.feieap.com, Group ID: Madison.

Sincerely,

[Investigators]

Appendix B - Final Investigative Report Template

APM 3-5 Complaint # Investigative Final Report DATE

COMPLAINANT

On what date was the complaint filed? What is the Complainant's name, relevant demographics (race, etc.), job position, dates employed with the city, and any other relevant information? If you can find out when the Complainant last took APM 3-5 training, please include that here.

Example:

Tom Jones filed a complaint on August 15, 2014. Jones is an African-American male who works in Building Inspection as an Inspector 1. He has worked for the City of Madison since January 1, 2010 and has held this most recent position since January 1, 2012. Jones last took APM 3-5 training on January 1, 2014.

RESPONDENT

Name(s), demographics, position, dates employed with the city, and any other relevant information. If there was a Respondent listed on the complaint form that turned out not to be a Respondent, detail that here. If Respondents were added, detail that here. If you can find out when the Respondent last took APM 3-5 training, please include that here.

Example:

Sally Smith is the Respondent listed on the complaint form. Smith is a white female, and her position is Building Inspector Supervisor for the Building Inspection position. She has held that position since January 1, 1999. Smith last took APM 3-5 training on January 1, 2014.

BASIS FOR COMPLAINT

Summarize the complaint, including protected classes claimed. Then provide a list of the allegations.

Example:

[TIP: After introducing someone's full name the first time, only utilize their last name in the remainder of the report]

Jones states Smith harassed him, disciplined him, and terminated him because of his race. The Complainant's specific allegations are as follows:

- A. Smith told Jones he didn't like his jacket.
- B. Smith told Jones he was disciplined on August 1, 2014.
- C. Smith fired Jones on August 4, 2014.

INVESTIGATIVE STRATEGY

Who was appointed to investigate by whom? What was the investigative strategy that was set? Who was interviewed on what dates? What are their job positions? Then provide a list of questions the investigation should answer.

Example:

Melissa Gombar, Affirmative Action Specialist was assigned to investigate the complaint with Made Up, Human Resources Analyst by Made Up, the Department Head in Building Inspection. The investigators wanted to answer the following information by conducting their investigation:

1. Did Smith create a hostile work environment for Jones?
2. Did Smith discipline Jones because of his protected classes?
3. Did Smith terminate Jones because of his protected classes?
4. Did Smith violate APM 3-5?

The following individuals were interviewed on the following dates:

Made Up, Building Inspector 1 – August 16, 2014

Made Up, Unit Supervisor – August 17, 2014

Made Up, Administrative Assistant – August 18, 2014

INVESTIGATIVE FACT FINDINGS

Provide answers to the specific allegations listed under “BASIS FOR COMPLAINT.”

Example:

The Investigators were able to determine answers to the following questions:

- A. Did Smith tell Jones he didn’t like his jacket?
Yes/No. State how you determined this to be the case, including testimony from witnesses, etc.
- B. Did Smith discipline Jones on August 1, 2014.
Yes/No. State how you determined this to be the case, including testimony from witnesses, etc.
- C. Did Smith fire Jones on August 4?
Yes/No. State how you determined this to be the case, including testimony from witnesses, etc.

CONCLUSION

Answer the questions that were set in the “INVESTIGATIVE STRATEGY” and determine if there was or was not a violation of APM 3-5, or any other city policy.

Example:

Investigators were able to determine answers to the following questions:

1. Did Smith create a hostile work environment for Jones?
Yes/No. State the reasons why.
2. Did Smith discipline Jones because of his protected classes?
Yes/No. State the reasons why.
3. Did Smith terminate Jones because of his protected classes?
Yes/No. State the reasons why.
4. Did Smith violate APM 3-5?
Yes/No. State the reasons why. State any other relevant information.

CITY OF MADISON

Corrective Action Plan

(Agency, Case, Date)

I. Purpose

The purpose of the constructive action plan is to create specific action steps aimed at remediating workplace harassment and discrimination. This plan should not only address behaviors which violate APM, it should also establish clear expectations where necessary, and create a foundation for building a workplace that is welcoming, inclusive, and free from harassment and discrimination.

II. Process

This constructive action plan includes all of the following:

- A statement of each issue with intended outcomes
- Strategies and action steps necessary to address each issue
- Accountability mechanisms to ensure completion of the plan
- A plan for review after the plan has been completed

II. Issue and Outcome Statement(s) *(add as many issues as necessary)*

Clearly state the issue that led to each sustained complaint. Issues should be clearly outlined on the investigative report.

Issue 1: (Example: RJ and LD, working in the Parks Jump Park Division, were determined to have engaged in harassing behavior based on gender when they were overheard repeatedly commenting on coworker's bodies.)

Outcome 1: (Example: All employees in the Jump Park Division understand and adhere to the requirements of APM 3-5, and create a welcoming and inclusive workplace for coworkers.)

Issue 2: (Example: Supervisor KU responded to the complainant in this case by saying, "I wouldn't make a complaint if it were me," and not forwarding the complaint on to the Department of Civil Rights. RJ and Supervisor KU were found to have not attended APM 3-5 training as required by the APM.)

Outcome 2: (Example: The Jump Park Division will have full compliance with the training components of APM 3-5, and training will be tracked in an ongoing way to ensure compliance. Supervisors will understand their role as a mandatory reporter and fulfill all responsibilities outlined in the APM.)

IV. Strategies and Action Step(s)

For each issue, develop 1-3 action steps necessary to lead to the outcome provided in Section II. For each strategy, make certain you have provided (1) the action item, (2) the individual responsible for completing it, (3) a timeline for completion. Develop as many strategies for each outcome as necessary.

Issue 1

Strategy 1: (Example: Supervisor KU will make sure that employees RJ and LD have completed APM 3-5 training within three months of the date of this plan.)

Strategy 2: (Example: Manager PK will hold pre-determination meetings for RJ and LD within two weeks from the date of this plan and will take appropriate corrective action as a result of the pre-determination hearing.)

Issue 2

Strategy 1: (Example: Manager PK will ensure Supervisor KU attends the next Prohibited Harassment Training held July 5.)

Strategy 2: (Example: Manager PK will work with an external consultant within six months from the date of this plan to co-develop standards of behavior and to facilitate a group conversation related to inclusive workplace behaviors.)

Strategy 3: (Example: Manager PK will hold pre-determination meetings for Supervisor PU within two weeks from the date of this plan and will take appropriate corrective action as a result of the pre-determination hearing.)

V. Accountability and Review Plan

The purpose of creating accountability and review steps are not only to ensure the strategies developed are completed, but are also to ensure the outcomes created in Section III have been attained. Accountability steps should outline how the Department/Division Head will ensure all strategies have been completed, and will provide a time for review of the approach with appropriate supervisors and/or HR and DCR. If new strategies are needed due to emerging or ongoing needs, they can be developed at any time.

Plan: (Example: As each item on this plan is completed, Supervisor KU and Manager PK will e-mail DDH with the date of completion. DDH and Manager PK will meet with Tracy Lomax on November 6 to review the action steps, identify if any further issues have occurred, and discuss any work culture concerns in the work unit.)

Signed:

Name/ Department or Division Head Title

Date: Click or tap to enter a date.