

CITY OF OAKLAND

OFFICE OF THE CITY ADMINISTRATOR

INTEROFFICE MEMORANDUM

TO: Office of the City Attorney, Equal Opportunity Programs Division

FROM: Dan Lindheim, Acting City Administrator

DATE: July 2, 2008

RE: **Role and Duties of the Equal Opportunity Programs Division and the Office of the City Attorney and Process to Address and Coordinate EEO Matters**

The purpose of this memorandum is to clarify the roles and responsibilities of the Office of the City Attorney (OCA) and the Equal Opportunity Programs Division (EOPD) regarding EEO matters/issues and to specify the process for addressing and coordinating them. As always, it is expected that all parties will cooperate and conduct their work and interactions in a professional manner. It is also understood that OCA and EOPD will safeguard confidential information and communications; all communications other than with an attorney are subject to discovery in litigation, including e-mail communications.

CITY POLICIES

OCA will update Administrative Instructions that address EEO issues (harassment, discrimination, retaliation, accommodation, etc.). A copy of the draft AI s will be provided to EOPD for review and comment prior to finalization by OCA and submission to the City Administrator for issuance.

REVIEW OF EOPD POLICIES/ PROCEDURES

No later than September 1, 2008, EOPD will provide OCA with all of its internal policies and procedures concerning complaint intake, investigation, analysis, resolution and monitoring. OCA will advise EOPD whether any internal policies or procedures require revision in order to conform to evolving legal standards.

NOTICE OF EEO COMPLAINTS, INVESTIGATIONS AND ISSUES

OCA will notify EOPD within three days of receiving notice of an EEO complaint or issue requiring an investigation by EOPD. EOPD will notify OCA within three days of receiving

TO:
FROM: Dan Lindheim, Acting City Administrator
RE: **Role and Duties of the Equal Opportunity Programs Division and the Office of the City Attorney and Process to Address and Coordinate EEO Matters**
DATE: July 2, 2008
PAGE: - 2 -

notice of an EEO complaint or issue. EOPD will advise OCA of the beginning and end of investigations, updating such information on a monthly basis.

OCA will advise EOPD of legal advice it has given regarding EEO complaints and issues.

AGENCIES AND DEPARTMENTS' RIGHT TO CONSULT COUNSEL

Agencies and departments are encouraged to consult with OCA should EEO issues arise that may require legal advice, have legal implications for the City, and/or expose the City to liability.

INVESTIGATION REPORTS

EOPD will make only factual findings and will not render legal conclusions. If EOPD determines that it is necessary to provide City agencies and departments with specific guidance as to legal issues or questions, it will consult with OCA.

REPORTS, FINDINGS, RESPONSES TO DFEH/EEOC COMPLAINTS

EOPD will provide OCA a copy of its written investigation reports as well as its responses to the DFEH and EEOC for review at least three work days prior to issuance. If OCA advises EOPD that the investigation report or DFEH/EEOC response raises legal issues, EOPD will confer with OCA prior to issuing the document.

TRAINING

Because investigations and advice from EOPD must incorporate evolving legal standards, EOPD investigators will receive training from OCA on employment case law developments on a quarterly basis.

EOPD will conduct anti-harassment and discrimination training for all City employees other than those managers, employees and officials OCA elects to train. EOPD will provide OCA its training materials for review and comment, so that the materials accurately reflect evolving legal standards. OCA will conduct training with EOPD on reasonable accommodation and other statutory obligations.

TO:
FROM: Dan Lindheim, Acting City Administrator
RE: **Role and Duties of the Equal Opportunity Programs Division and the Office of the City Attorney and Process to Address and Coordinate EEO Matters**
DATE: July 2, 2008
PAGE: - 3 -

PERIODIC REVIEW

The City Administrator, Acting City Administrator or designee, OCA and EOPD will meet at intervals to ensure that the process established by this protocol serves the interest of the City, reducing liability exposure and costs to taxpayers from pay-outs to the lowest possible level.

RECORDS RETENTION

In order to comply with legal obligations, EOPD will retain all records for a minimum of five years.