Legislation Details (With Text)

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Title:	Amending Chapter 2, Code of Ordinances, by amending Sections 2-362, 2-367, 2-1111, 2-1112, 2-1113, and 2-1114 to authorize the director of human resources to take disciplinary action when the city's equal employment opportunity policy is violated, to change the members of the EEO review committee, and to provide regular employees subject to various discipline and suspension pending completion of an investigation a predetermination hearing.				
Sponsors:	Melissa Robinson, Ryana Parks-Shaw				
Indexes:					
Code sections:					
Attachments:	1. 210502 Fact Sheet, 2. 210502 Fiscal Note EEO Policy, 3. Authenticated Ordinance 210502 As Amended				

Date	Ver.	Action By	Action	Result
10/14/2021	1	Council	Move to Amend	Pass
10/14/2021	1	Council	Move to Advance	Pass
10/14/2021	1	Council	Passed as Amended	Pass
10/7/2021	1	Council	Held on Docket	Pass
9/30/2021	1	Council	Assigned to Third Read Calendar	
9/29/2021	1	Finance, Governance and Public Safety Committee		
9/15/2021	1	Finance, Governance and Public Safety Committee		
8/25/2021	1	Finance, Governance and Public Safety Committee		
8/11/2021	1	Finance, Governance and Public Safety Committee		
6/10/2021	1	Council	referred	

ORDINANCE NO. 210502, AS AMENDED

Amending Chapter 2, Code of Ordinances, by amending Sections 2-362, 2-367, 2-1111, 2-1112, 2-1113, and 2-1114 to authorize the director of human resources to take disciplinary action when the city's equal employment opportunity policy is violated, to change the members of the EEO review committee, and to provide regular employees subject to various discipline and suspension pending completion of an investigation a predetermination hearing.

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. That Chapter 2, Code of Ordinances, entitled "Administration," is hereby amended by repealing Sections 2-362, 2-367, 2-1111, 2-1112, 2-1113, and 2-1114 and enacting in lieu thereof a new section

of like number and subject matter to read as follows:

Sec. 2-362. Powers and duties of director.

(a) *Charter.* The director of human resources shall perform and exercise the duties and powers provided by the Charter to be by the director performed or exercised. All duties and powers set forth in the Charter for the director of personnel shall accrue to the director of human resources.

(b) Collective Bargaining Agreement. The authority of the human resources director to perform and exercise the above-referenced duties must be exercised consistent with the rights and benefits arising under any of the collective bargaining agreements to which the City is a party. If there is a conflict, the provisions of the collective bargaining agreement will take precedent.

Sec. 2-367. Complaints.

(a) The office of equal employment opportunity/diversity will oversee and keep records on the enforcement of the city's EEO policy.

(b) Any employee who alleges that he or she is being treated unfairly because of his or her race, religion, color, ancestry, sex, (including pregnancy), national origin, age (over 40), disability, marital status, genetic information, gender identity, or sexual orientation, or who alleges that another person has otherwise violated the city's EEO policy may file a written complaint with the office of equal employment opportunity/diversity on forms provided by the office which shall set forth the particulars thereof and any such other information that may be required by the EEO office.

(c) Employees are urged to promptly report violations of the city's EEO policy. Complaints of violations of the city’s EEO policy shall be filed no later than 180 days from the last act of prohibited conduct. Any supervisory employee who receives a complaint or who observes or otherwise becomes aware of any such conduct shall promptly report it to the EEO office.

(d) During the period beginning with the filing of such complaint, the office of equal opportunity/diversity may recommend conciliation/mediation to seek to resolve the complaint.

(e) Investigations of complaints of an alleged violation of the EEO policy. Upon receiving a complaint or report, the human resources director shall immediately take whatever action is necessary to protect the person making the complaint from any continued or additional inappropriate conduct. The EEO office will conduct an initial inquiry into the complaint to determine if the complaint warrants further investigation. If further investigation is required, the EEO office will investigate the complaint or assist the department from which the complaint came to investigate the complaint, if appropriate. Those assigned to investigate complaints will prepare a finding of facts and present these findings to a committee made up of the director of human resources or designee, assistant city manager and chief equity officer or city manager designee. This committee will review the findings of fact and issue a determination. If it is found that a violation of the harassment policies has occurred, the committee will recommend corrective or disciplinary action to the human resources director in an effort to end or to prevent the recurrence of any harassment. The human resources director shall not enact corrective or disciplinary measures that would conflict with the committee recommendation without city manager approval.

(f) Complaints to outside agencies. City employees may make any complaints of discrimination and harassment to the Equal Employment Opportunity Commission or the Missouri Commission on Human Rights

in accordance with the procedures and limitations applicable to those agencies. In the event an employee files a complaint alleging the same act or practice with an outside agency, the EEO office shall continue its investigation. In the event an employee elects to file a complaint only with an outside agency, the EEO office shall allow the outside agency to conduct the investigation.

Sec. 2-1111. Reprimands.

Except as otherwise provided in this code, a department head may reprimand any employee for cause. Such reprimand shall be in writing and addressed to the employee. A signed copy shall be delivered to the human resources department for inclusion in the employee's personnel file. Reprimands may not be appealed to the human resources board. However, the employee may file a letter to respond to the reprimand which shall be attached to the reprimand in his personnel file.

Sec. 2-1112. Suspension.

(a) *Generally.* Except as otherwise provided in this code, a department head may for cause issue to an employee a disciplinary suspension without pay for a period or periods not exceeding 30 calendar days in any 12 months; however, no single suspension shall be for more than 15 calendar days. The department head shall notify the employee concerned and the director of human resources in writing not later than one day after the date the suspension is made effective. Such notice shall include the reasons for and the duration of the suspension. Any permanent employee who is suspended may appeal for a hearing in writing to the human resources board within ten calendar days of notice of suspension.

(b) *Suspension pending investigation/predetermination hearing*. In order to protect the city's interests, a department head may remove an employee from the workplace and place the employee on suspension without pay pending the completion of an internal investigation or predetermination hearing. Such suspensions shall not be the normal course of business and should be utilized only when necessary to prevent the destruction of evidence/property, protect citizens or employees from harm/intimidation, or to protect the public's interest and confidence in city government. The department head shall notify the employee concerned and the director of human resources in writing not later than one day after the date the suspension is made effective. Such notice shall include the reasons for and the anticipated duration of the suspension. No suspension pending an investigation shall exceed 15 calendar days without prior approval from the city manager. Any permanent employee who is suspended pending an investigation will be provided a predetermination hearing as authorized by this code and may appeal for a hearing in writing to the human resources board within ten calendar days of the predetermination hearing answer. Permanent employees placed on suspension pending an investigation may also, at their request, utilize their free day, and/or accrued vacation and compensatory leave time. If the investigation finds that a suspension or the length of the suspension was not warranted, the employee shall be entitled to receive full back-pay.

(c) *Effect of arrest or conviction.* Any employee who is arrested for a felony or Missouri class A misdemeanor charge or its equivalent or an ordinance or statutory violation alleging bodily harm or threat thereof, and has a trial pending shall have his case reviewed by the department head or designee. It is the employee's responsibility to notify his or her department head of such charges. The department head, or designee, taking into consideration the duties and service of the employee, shall have the authority to reassign the employee to a less sensitive position or to suspend the employee until such time as a judgment is rendered by the court. If the employee either pleads guilty, no contest or the equivalent, or is subsequently convicted of a felony or Missouri class A misdemeanor charge or its equivalent or an ordinance or statutory violation involving bodily harm or threat thereof, including but not limited to a reduced charge as a result of a plea bargain, he or she may be removed from the municipal service. If the suspended employee is found not guilty

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and is released by the court, he or she shall be reinstated to the former position with pay upon the employee's furnishing the department head, or designee, proper documentation regarding other employment, if any, for all time he was suspended as a result of such charges. However, any earnings of a suspended employee from another employer during the period of suspension shall be offset against the back pay with the city. It is the employee's responsibility to keep his or her department head aware of any pending charges, and the outcome of the charges against him or her.

Sec. 2-1113. Demotion.

Except as otherwise provided in this code, a department head may demote any employee for cause. A written statement of the reasons for any such action shall be furnished to the employee and a copy filed with the director of human resources at least seven (7) calendar days prior to the effective date of the action. No demotion shall be made as a disciplinary action unless the employee to be demoted is eligible for employment in the lower class. Any regular employee who is demoted shall receive a predetermination hearing and as provided in this code may appeal for a hearing in writing to the human resources board within ten days of receipt of written notice of such action.

Sec. 2-1114. Dismissal.

(a) *Generally.* Except as otherwise provided in this code, a department head may dismiss for cause any regular employee under his jurisdiction by delivering, at least seven (7) calendar days before the effective date thereof, a written statement of reasons to the employee concerned and to the director of human resources.

(b) *Suspension pending discharge.* If the department head, because of the reasons for the discharge, desires to make an immediate separation from the service, he may make a suspension without pay pending discharge by so notifying the director of human resources in writing of the recommendation and the reasons therefore. Suspensions pending discharge shall not be subject to the limitations of suspension length provided in other sections of this article.

(c) *Appeal.* Any regular employee so dismissed shall receive a predetermination hearing and have the right to appeal in writing within ten days of the dismissal to the human resources board and shall be granted a hearing as provided for in section 907 of the Charter.

Approved as to form and legality:

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Lana K. Torczon
Assistant City Attorney