



# MEMORANDUM

Office of the City Attorney

070418  
Phone: 334-5011/Fax 334-2229  
Box 46

**TO:** Mayor and City Commissioners

**DATE:** September 10, 2007

**FROM:** City Attorney

**CONSENT**

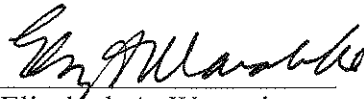
**SUBJECT:** EEOC Charge No. 510-2007-02665  
Joseph M. Weeks vs. the City of Gainesville

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Recommendation: The City Commission authorize the City Attorney, to represent the City in the case styled Joseph M. Weeks vs. the City of Gainesville; EEOC Charge No.: 510-2007-02665.

On August 23, 2007, the City of Gainesville received a Notice of Charge of Discrimination from the U.S. Equal Employment Opportunity Commission. Mr. Joseph M. Weeks alleges retaliation and harassment for the filing of an EEOC complaint and being a witness in another EEOC Charge.

Prepared by:

  
Elizabeth A. Waratuke,  
Litigation Attorney

Submitted by:

  
Marion J. Radson,  
City Attorney

EAW/klm



## U.S. Equal Employment Opportunity Commission

Mr. Russell Blackburn  
 Director of Human Resources  
 CITY OF GAINESVILLE-CITY HALL  
 200 E. University Avenue  
 Gainesville, FL 32602

## PERSON FILING CHARGE

Joseph M. Weeks

THIS PERSON (check one or both)



Claims To Be Aggrieved



Is Filing on Behalf of Other(s)

EEOC CHARGE NO.

510-2007-02665

## NOTICE OF CHARGE OF DISCRIMINATION

(See the enclosed for additional information)

This is notice that a charge of employment discrimination has been filed against your organization under:



Title VII of the Civil Rights Act



The Americans with Disabilities Act



The Age Discrimination in Employment Act



The Equal Pay Act

The boxes checked below apply to our handling of this charge:

1. ☐ No action is required by you at this time.
2. ☐ Please call the EEOC Representative listed below concerning the further handling of this charge.
3. ☒ Please provide by **20-SEP-07** a statement of your position on the issues covered by this charge, with copies of any supporting documentation to the EEOC Representative listed below. Your response will be placed in the file and considered as we investigate the charge. A prompt response to this request will make it easier to conclude our investigation.
4. ☒ Please respond fully by **20-SEP-07** to the enclosed request for information and send your response to the EEOC Representative listed below. Your response will be placed in the file and considered as we investigate the charge. A prompt response to this request will make it easier to conclude our investigation.
5. ☐ EEOC has a Mediation program that gives parties an opportunity to resolve the issues of a charge without extensive investigation or expenditure of resources. If you would like to participate, please say so on the enclosed form and respond by to

If you **DO NOT** wish to try Mediation, you must respond to any request(s) made above by the date(s) specified there.

For further inquiry on this matter, please use the charge number shown above. Your position statement, your response to our request for information, or any inquiry you may have should be directed to:

Juan Gonzalez,  
 Enforcement Supervisor

EEOC Representative

Telephone (305) 808-1762

Miami District Office  
 2 South Biscayne Blvd  
 Suite 2700  
 Miami, FL 33131

Enclosure(s):



Copy of Charge

## CIRCUMSTANCES OF ALLEGED DISCRIMINATION

☐ RACE ☐ COLOR ☐ SEX ☐ RELIGION ☐ NATIONAL ORIGIN ☐ AGE ☐ DISABILITY ☒ RETALIATION ☐ OTHER

See enclosed copy of charge of discrimination.

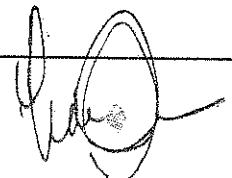
Date

August 20, 2007

Name / Title of Authorized Official

Federico Costales,  
 District Director

Signature



## INFORMATION ON CHARGES OF DISCRIMINATION

### EEOC RULES AND REGULATIONS

Section 1601.15 of EEOC's regulations provides that persons or organizations charged with employment discrimination may submit a statement of position or evidence regarding the issues covered by this charge.

EEOC's recordkeeping and reporting requirements are found at Title 29, Code of Federal Regulations (29 CFR): 29 CFR Part 1602 (see particularly Sec. 1602.14 below) for Title VII and the ADA; 29 CFR Part 1620 for the EPA; and 29 CFR Part 1627, for the ADEA. These regulations generally require respondents to preserve payroll and personnel records relevant to a charge of discrimination until disposition of the charge or litigation relating to the charge. (For ADEA charges, this notice is the written requirement described in Part 1627, Sec. 1627.3(b)(3), .4(a)(2) or .5(c), for respondents to preserve records relevant to the charge – the records to be retained, and for how long, are as described in Sec. 1602.14, as set out below). Parts 1602, 1620 and 1627 also prescribe record retention periods – generally, three years for basic payroll records and one year for personnel records. Questions about retention periods and the types of records to be retained should be resolved by referring to the regulations.

**Section 1602.14 Preservation of records made or kept.** . . . . Where a charge ... has been filed, or an action brought by the Commission or the Attorney General, against an employer under Title VII or the ADA, the respondent ... shall preserve all personnel records relevant to the charge or the action until final disposition of the charge or action. The term *personnel records relevant to the charge*, for example, would include personnel or employment records relating to the aggrieved person and to all other aggrieved employees holding positions similar to that held or sought by the aggrieved person and application forms or test papers completed by an unsuccessful applicant and by all other candidates or the same position as that for which the aggrieved person applied and was rejected. The date of *final disposition of the charge or the action* means the date of expiration of the statutory period within which the aggrieved person may bring [a lawsuit] or, where an action is brought against an employer either by the aggrieved person, the Commission, or the Attorney General, the date on which such litigation is terminated.


### NOTICE OF NON-RETALIATION REQUIREMENTS

Section 704(a) of Title VII, Section 4(d) of the ADEA, and Section 503(a) of the ADA provide that it is an unlawful employment practice for an employer to discriminate against present or former employees or job applicants, for an employment agency to discriminate against any individual, or for a union to discriminate against its members or applicants for membership, because they have opposed any practice made an unlawful employment practice by the statutes, or because they have made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under the statutes. The Equal Pay Act contains similar provisions. Additionally, Section 503(b) of the ADA prohibits coercion, intimidation, threats, or interference with anyone because they have exercised or enjoyed, or aided or encouraged others in their exercise or enjoyment, of rights under the Act.

Persons filing charges of discrimination are advised of these Non-Retaliation Requirements and are instructed to notify EEOC if any attempt at retaliation is made. Please note that the Civil Rights Act of 1991 provides substantial additional monetary provisions to remedy instances of retaliation or other discrimination, including, for example, to remedy the emotional harm caused by on-the-job harassment.

### NOTICE REGARDING REPRESENTATION BY ATTORNEYS

Although you do not have to be represented by an attorney while we handle this charge, you have a right, and may wish to retain an attorney to represent you. If you do retain an attorney, please give us your attorney's name, address and phone number, and ask your attorney to write us confirming such representation.

<b>CHARGE OF DISCRIMINATION</b>		AGENCY <input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC	CHARGE NUMBER 510-2007-02555
This form is affected by the Privacy Act of 1974. See Privacy Act Statement before completing this form.			
Florida Commission on Human Rights		and EEOC	
State or Local Agency, if any			
NAME (Indicate Mr., Ms., Mrs.) Mr. Joseph Weeks	HOME TELEPHONE (Include Area Code) (804) 533-2147		
STREET ADDRESS 6321 Johnston Avenue	CITY, STATE AND ZIP CODE Starke, FL 32091		DATE OF BIRTH 11-25-70
NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below)			
NAME City of Gainesville	NUMBER OF EMPLOYEES, MEMBERS Over 15 Employees	TELEPHONE (Include Area Code) (352) 334-5077	
STREET ADDRESS 222 E University Avenue	CITY, STATE AND ZIP CODE Gainesville, FL 32602	COUNTY Alachua	
NAME	TELEPHONE NUMBER (Include Area Code)		
STREET ADDRESS	CITY, STATE AND ZIP CODE	COUNTY	
CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es)) <input type="checkbox"/> RACE <input type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN <input checked="" type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> OTHER (Specify)		DATE DISCRIMINATION TOOK PLACE EARLIEST 09-22-06 LATEST Approx 11-01-06 <input checked="" type="checkbox"/> CONTINUING ACTION	
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)): I began my employment with the above-named employer on May 29, 2001. On September 22, 2006 I was given a five (5) day suspension (without pay). I am currently still employed, by Respondent, as a Instrument Control and Electric Technician. I believe that I have been subjected to retaliation, by Respondent, as a result of my being a witness on another EEOC investigation involving EEOC Charge No. 151-2004-00294, 150-2004-02878 (filed by Denise Burns) and 150-2004-02881 (which I filed with the Miami District Office). I have been subjected to continuous harassment by management. I was threatened by Asst. General Manager, Chip Allen (during the second and third step grievance proceedings). On or about November 1, 2006 Mr. Allen told me (in the presence of other officials) that he wanted to retroactively apply a five (5) day suspension to other employees that I have used in my defense to prove disparate treatment. Plant Manager, Doug Beck, also threatened me when he told me "it's going to be extremely hard to keep your job here at Deer Haven or the Kelly Plant" (he made this threat, to me, on August 22, 2006 in the presence of company officials). The offense I was charged with continuously affects me. First, it can affect me with respect to any decision for advancement. Secondly, it can be utilized to terminate my employment if I get disciplined again. This action is a blemish that has continuous circumstances attached to it. Furthermore, during the second step meeting (during the grievance procedure - on or about November 22, 2006, Sandy Bernard, the Hr Director, also told me that she was holding me to a "higher standard" than other employees.  I believe that the harassment, discipline and continued threats are in violation of Section 704(a) of Title VII of the Civil Rights Act of 1964, as amended.			
I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or telephone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.		NOTARY - (When necessary for State and Local Requirements) I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.	
I declare under penalty of perjury that the foregoing is true and correct. 8.14.07		SIGNATURE OF COMPLAINANT  SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (Day, month, and year)	
Date		Charge Party (Signature)	



**U.S. Equal Employment Opportunity Commission  
Miami District Office**

2 South Biscayne Blvd  
Suite 2700  
Miami, FL 33131  
(305) 808-1851  
TTY (305) 808-1742  
FAX (305) 808-1855

Charging Party: Joseph M. Weeks  
EEOC Charge No.: 510-2007-02665

, 2007

Mr. Russell Blackburn  
Director of Human Resources  
CITY OF GAINESVILLE-CITY HALL  
200 E. University Avenue  
Gainesville, FL 32602

Dear Mr. Blackburn:

Your organization is hereby requested to submit information and records relevant to the subject charge of discrimination. The Commission is required by law to investigate charges filed with it, and the enclosed request for information does not necessarily represent the entire body of evidence which we need to obtain from your organization in order that a proper determination as to merits of the charge can be made. Please submit a response to the requested information by the deadline cited below.

The information will only be disclosed in accordance with 29 C.F.R. 1601.22, or otherwise made public if the charge results in litigation.

Sincerely,

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Juan Gonzalez  
Enforcement Supervisor

Response Deadline Date: , 2007

The following dates are considered to be the "relevant period" for the attached Request for Information:  
June 1, 2006 - August 31, 2007

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**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**

**REQUEST FOR INFORMATION**

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Charging Party: Joseph M. Weeks  
Respondent: CITY OF GAINESVILLE  
EEOC Charge No.: 510-2007-02665

1. Give the correct name and address of the facility named in the charge.
2. State the total number of persons who were employed by your organization during the relevant period. Include both full and part-time employees. How many employees are employed by your organization at the present time?
3. Supply an organizational chart, statement, or documents which describe your structure, indicating, if any, the relationship between it and superior and subordinate establishments within the organization.
4. Supply a statement or documents which identify the principal product or service of the named facility.
5. State the legal status of your organization, i.e., corporation, partnership, tax-exempt non-profit, etc. If incorporated, identify the state of incorporation.
6. State whether your organization has a contract with any agency of the federal government or is a subcontractor on a project which receives federal funding. Is your organization covered by the provisions of Executive Order 11246? If your answer is yes, has your organization been the subject of a compliance review by the OFCCP at any time during the past two years?
7. Submit a written position statement on each of the allegations of the charge, accompanied by documentary evidence and/or written statements, where appropriate. Also include any additional information and explanation you deem relevant to the charge.
8. Submit a complete copy of the Charging Party's personnel file and disciplinary file (if maintained separately).
9. Submit the name, title, date of hire and present employment status of each individual that was subjected to the same disciplinary action as the Charging Party alleges that he was subjected to in the instant charge (include the Charging Party in the list being submitted). In addition, submit the name, title, date of hire and present employment status of each official that was involved in the decision making.
10. Submit copies of Respondent's disciplinary and progressive discipline, policies and procedures relating to the issue(s) raised in the charge (in effect from January 1, 2006 through August 31, 2007). If such does not exist in written form, explain the rules, policies and procedures.

## Issue: DISCIPLINE

1. Submit copies of and/or explain all written rules relating to employee duties, conduct, and discipline for the charging party's job classification or department during the relevant period of time. Explain how an employee learns the contents of the rules and disciplinary procedure. If the disciplinary system is progressive, explain its structure, penalties, and mode of operation.
2. Submit copies of all records considered in taking this most recent disciplinary action against the charging party. If an action is not documented by a written record, state the offense and the resulting action, and explain why it was not recorded. For each disciplinary action taken against the charging party for the relevant period, explain in detail when, how, and by whom the charging party was notified of each action, the nature of the action, dates, and reasons why action was taken. State the name, and position of the person responsible for taking each action.
3. List all employees who received disciplinary action during the relevant period in the charging party's job classification or department. Include employee's name, date of hire, whether probationary or not. For each person listed, describe each disciplinary action by:
  - a. date of the disciplinary action(s)
  - b. reason for disciplinary action(s),
  - c. type of disciplinary action(s) taken,
  - d. disciplinary record of employee prior to the instant issue, and
  - e. person imposing the penalty, include name, position titleSubmit all documents which relate to any and all of the above disciplinary actions taken against the individuals listed above.

## Issue: HARASSMENT

1. State whether your organization has adopted any procedure by which an employee may register a complaint of harassment by co-workers or supervisors. If your answer is yes, describe and, if written, submit a copy of such procedures. Explain how these procedures are communicated to employees and supervisory personnel.
2. State whether the charging party complained to any supervisor or manager regarding the conduct described in the Charge of Discrimination. If your answer is yes, identify the person or persons with whom the complaint was registered and describe each and every action taken by your organization in response to that complaint. Provide a copy of any written document which reflects the complaint and the action taken as a result of the complaint.
3. State whether any other individual has complained to any supervisor or manager concerning the conduct described in the Charge of Discrimination. If the answer is yes, please list the following:
  - a. name, position, of individual placing the complaint,
  - b. name, position, of supervisor or manager, and
  - c. any actions taken by your organization in response to the complaint.Provide a copy of any written document which reflects the complaint and the action taken as a result of the complaint.
4. Identify every individual who, to your knowledge, has information relevant to the allegations. For each such individual, provide the following:
  - a. name, position,
  - b. whether a present or former employee (if applicable), and
  - c. address and telephone number.
5. Identify the other employees who worked with the charging party during the relevant period. Include:
  - a. name, position,
  - b. last known address and telephone.



nit copies of daily assignment sheets, time cards, attendance and payroll records for the individuals listed in #5, including the charging party.

3: RETALIATION

st by name, and position all officials of your organization who have been informed of, or knew of all allegations of discrimination made by the Charging Party, if any. For each person listed, state the such notification was received, the nature of the notification, and the person's response to it. nit all documents which state, describe, reference, or relate to the notification of the Charging y's complaint.

2. Describe any personnel action(s) involving Charging Party taken after the earliest date any person in your organization had knowledge of Charging Party's allegation(s) of discrimination. Submit all documents which state, describe, reference, or relate to these personnel actions.

