

SOUTH RIVER POLICE DEPARTMENT			
VOLUME: 2	CHAPTER: 8	# OF PAGES: 7	
SUBJECT: HARASSMENT IN THE WORKPLACE			
EFFECTIVE DATE: January 3, 2010	ACCREDITATION STANDARDS: 1.4.2	REVISION DATE 02/24/14	PAGE # 5,6
BY THE ORDER OF: Chief Mark E. Tinitigan			
SUPERSEDES ORDER #:			

PURPOSE: The purpose of this directive is to establish the procedures for defining the behavior, for reporting responsibilities of personnel, investigating the complaint and training personnel on the department's policy and procedures concerning harassment in the workplace.

POLICY: It is the policy of the South River Police Department that all personnel have the right to work in an environment free of all types of harassment. The South River Police Department will not tolerate, condone, or permit harassment of or by employees, and other non-employees who conduct business with the department. Harassment and discrimination are considered forms of serious employee misconduct. The South River Police Department will take direct and immediate action to prevent such behavior and to remedy all reported instances of harassment and discrimination.

New Jersey Law Against Discrimination (LAD) prohibits employers from discriminating in any job-related action, including recruitment, interviewing, hiring, promotions, discharge, compensation and the terms, conditions and privileges of employment on the basis of any of the law's specified protected categories.

The conduct proscribed within this directive does not have to produce a concrete economic injury to be a violation. This directive forbids conduct based upon someone's protected class that interferes with the person's work or creates a hostile or offensive work environment regardless of injury.

PROCEDURE:

I. DEFINITIONS

- A. Harassment is defined as discrimination or disparate treatment against any person because of their protected class that includes: race, creed, color, national origin, ancestry, age, sex, (including pregnancy and sexual harassment), marital status, domestic partnership status, affectional or sexual orientation, atypical hereditary cellular or blood trait, genetic information liability for military service, or mental or physical disability, including AIDS and HIV related illnesses. **(N.J.S.A. 10:5-1 et seq.)**
1. The harassing conduct must be unwelcomed and coercive. Sexual harassment may be homosexual or heterosexual in nature. Gender based harassment need not be sexual in nature to violate the law. Under New Jersey law, harassment can be in the form of either sexual advances or intimidation or hostility towards a person solely because of gender.
- B. Sexual Harassment is further defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature including, but not limited to when:
1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
 2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
 3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.
 4. Sexual harassment generally falls into three categories:
 - a. Quid pro quo sexual harassment includes unwelcome sexual advances, requests for sexual favors, sexual bribery or other verbal or physical conduct based on the gender of the affected employee when submission to such conduct is made either explicitly or implicitly a term or condition of employment or submission to or rejection of such conduct by an individual is used as a basis for employment decisions.
 - b. Hostile work environment sexual harassment includes unwelcome sexual advances, sexual assault, sexual coercion, requests for sexual favors, seductive behavior and other verbal or physical conduct of a sexual nature which has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment. Gender-based harassment may give rise to a claim of a hostile environment whether or not sexual activity or language is involved, if it has the purpose or effect of abusing, devaluing or subordinating the members of one sex and it adversely affects an individual's employment opportunities.

- c. Third party sexual harassment is unwelcome behavior of a sexual nature or based on sex that is not directed at an individual but is a part of an individual's work environment.

II. AUTHORITY

- A. Authority is established under:
 - 1. Title VII of the Civil Rights Act of 1964 as amended
 - 2. N.J.S.A. 10.5-1 et seq. (New Jersey Law Against Discrimination)

III. PROHIBITED CONDUCT

- A. It is a violation of this directive for any person to use their authority to make any sexual advances toward an individual over whom the person is authorized to make, recommend or otherwise to influence personnel actions; to grant, recommend, or refuse to take personnel action on the basis of an employee's gender or sexual orientation or in exchange for sexual favors; or to take or fail to take a personnel action as reprisal against any employee for rejecting or reporting a sexual advance. Sexual advances or requests for sexual favors can be in the form of either expressed or implied comments, writings, actions, or inactions.
- B. It is a violation of this directive to engage in any employment practice that treats a person less favorably based upon their protected class.
- C. It is a violation of this policy to use derogatory or demeaning slurs to refer to a person's protected class that may have the effect of harassing a person or creating a hostile work environment. Harassment or the creation of a hostile work environment can occur even if there was no intent on the part of an individual to harass or demean another.
- D. Examples of prohibited behaviors that constitute sexual harassment include, but are not limited to:
 - 1. General or specific gender-based remarks and comments;
 - 2. Unwanted physical contact such as intentional touching, grabbing, pinching, brushing against another's body, impeding or blocking movement;
 - 3. Verbal or written sexually suggestive or obscene comments, jokes or propositions including letters, notes, e-mail, invitations, gestures or inappropriate comments about a person's clothing;
 - 4. Visual contact, such as leering or staring at another's body, gesturing, displaying sexually suggestive objects cartoons posters, magazines or pictures of scantily clad individuals;
 - 5. Explicit or implicit suggestions of sex by a supervisor or manager in return for a favorable employment action such as hiring, compensation, promotion, or retention;
 - 6. Suggesting or implying that failure to accept a request for a date or sex would result in an adverse employment consequence with respect to any

employment practice such as performance evaluations or promotional opportunity;

7. Continuing to engage in certain behaviors of a sexual nature after an objection has been raised by the target of such inappropriate behavior;
8. Retaliation because of an individual's complaint or testimony about harassment.

E. Examples of behaviors that may constitute prohibited workplace discrimination or harassment include, but are not limited to:

1. Discriminating against an individual with regard to terms and conditions of employment because of that individual's protected class;
2. Treating an individual differently because of their protected class or because an individual has the physical, cultural or linguistic characteristics of a protected class or group;
3. Treating an individual differently because of marriage to or association with persons of a protected class or group; or because an individual's name or spouse's name is associated with a protected class or group;
4. Calling another by an unwanted nickname which refers to one or more of the above characteristics, or telling ethnic, racial, etc. jokes, parables, or stories that harasses an employee or family member or create a hostile work environment;
5. Using derogatory references regarding any of protected characteristics in any job-related communication;
6. Engaging in threatening, intimidating, or hostile acts in the workplace based on the protected class;
7. Displaying or distributing material in the workplace that contains language or images that are derogatory or demeaning based upon any protected class.

IV. EMPLOYEE RESPONSIBILITIES

- A. It is the responsibility of each employee to respect the rights of co-workers
- B. Employees subjected to any form of prohibited discrimination/harassment, including sexual harassment, are encouraged, whether directly or through a third party, to notify the alleged harasser that the behavior in question is offensive and unwelcome. However, failure to do so does not preclude filing a complaint.
- C. Employees are expected to document all incidents of harassment in order to provide the fullest basis for investigation.
- D. Any employee who believes that they had been harassed or are being harassed shall report the incident(s) as soon as possible, in writing, so that the appropriate steps are taken to protect the employee from further harassment, and so that appropriate investigative measures are initiated.

- E. Any employee with knowledge of any form of prohibited harassment, whether directed at them or against others, must immediately report it in writing as indicated below.
- F. Employees should report incidents of harassment in writing on the Department's **Internal Affairs Complaint Form** through their immediate supervisor.
1. If the offending person is in the employee's chain of command, the **Internal Affairs Complaint Form** may be sent directly to the Internal Affairs Officer or Chief of Police.
 2. If the offending person is the Chief of Police, the **Internal Affairs Complaint Form** shall be forwarded to the Middlesex County Prosecutor's Office.
 3. Alternatively, the employee may report the matter verbally or in writing to the Borough Administrator. If the employee does not wish to document the harassment on the Complaint Form, verbal reports will be taken by supervisors and reported to the Chief of Police. All complaints of harassment, to the extent possible, will be investigated by Internal Affairs, the Borough Administrator or any other person or entity requested by the Borough to perform said investigation.
- G. If the **Internal Affairs Complaint Form** is submitted confidentially to the Internal Affairs Officer or Chief of Police, the person reporting should include as many facts and circumstances mentioned above.
- H. Employees who observe any behavior by another employee that constitutes prohibited harassment shall promptly report the incident. Employees who observe any condition, such as graffiti, cartoons, posters or calendars that are sexual in nature, sexually suggestive, discriminatory or harassing in nature shall promptly report the condition to their supervisor.

V. SUPERVISOR RESPONSIBILITIES

- A. In order to ensure the integrity of the work environment supervisors are required to ensure adherence to and compliance with this directive and to create an atmosphere free from harassment and to communicate the department's policy of non-discrimination to all subordinates. Upon becoming aware of possible prohibited discrimination/harassment, including sexual harassment, supervisors at all levels are required to:
1. Take appropriate immediate action to stop the harassing condition and/or behavior; and
 2. Inform the employee of their right to file a discrimination complaint; and
 3. Document and preserve any evidence/exemplars present; and
 4. Notify the Chief of Police through the chain of command of the incident and the action taken; and
 5. Submit an **Internal Affairs Investigation Report** documenting their actions and observations.

VI. SUPPLEMENTAL

A. Investigation Procedures

1. Complaints of harassment or discrimination shall be investigated by the Internal Affairs function in accordance with the department's written directive on Internal Affairs and the New Jersey Attorney General's Internal Affairs Guidelines.
 - a. This does not preclude a joint investigation conducted with the Borough Administrator or any other person or entity requested by the Borough in accordance with the department's written directive on Internal Affairs and the New Jersey Attorney General's Internal Affairs Guidelines.

B. Retaliation

1. Retaliation against any employee who alleges that they were the victim of prohibited discrimination/harassment, including sexual harassment, or against any employee who provides information in the course of the investigation into claims of prohibited discrimination/harassment, including sexual harassment in the workplace is prohibited.
2. Any employee bringing a complaint, providing information for an investigation, or testifying in any proceeding under this policy shall not be subjected to adverse employment consequences based on such involvement or be the subject of retaliation.

C. False Accusations and Information

1. Purposely or knowingly making a false accusation of unlawful discrimination/harassment, including sexual harassment, or knowingly providing false information in the course of an investigation of a complaint is grounds for criminal, civil, and administrative sanctions. However, complaints made in good faith, even if found to be unsubstantiated, will not be considered false accusations.

D. Confidentiality

1. All complaints and investigations shall be handled to the extent possible, in a manner that will protect the privacy of those involved.
2. To the extent practical and appropriate under the circumstances, confidentiality will be maintained throughout the investigatory process. In the course of an investigation it may be necessary to discuss claims with the alleged harasser or other persons who may have relevant knowledge. It is therefore, may be necessary to disclose information to persons with a legitimate need to know about the matter. All persons interviewed will be directed not to discuss any aspect of the investigation with others in light of the important privacy interests of all concerned. Failure to comply with this confidentiality directive may result in disciplinary action.

E. Training

1. Training regarding this directive shall be provided to all employees to
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ensure continued compliance.

F. Aggrieved parties may also seek remedy through:

1. There are various ways to which employees may file prohibited discrimination/harassment, including sexual harassment, complaints within the agency, either concurrently or sequentially.
 - a. U.S. Equal Employment Opportunity Commission (EEOC);
 - b. Superior Court of New Jersey;
 - c. New Jersey Division of Civil Rights;
 - d. Federal District Court.

G. Remedial Action

1. Any employee who is found to have violated this policy will be subject to appropriate disciplinary action, which may include: reprimand, suspension, counseling, training, reassignment or employment termination. In addition, the matter may be referred to another appropriate authority for review for possible violation of State and Federal statutes.