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Chief of Police

ALBANY, NEW YORK
POLICE DEPARTMENT
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1789

HARASSMENT IN THE WORKPLACE
GENERAL ORDER NO: 2.2.15

Issue Date: April 6, 2017	Effective Date: March 1998
Revision Date: March 1998	NYSLEAP: 14.7
Volume 2: Logistics	Chapter 2: Discipline
Distribution: All Personnel	Page: 1 of 5
Issuing Authority: Chief Eric Hawkins	

PURPOSE: The purpose of this policy is to protect the rights of all employees and to provide and maintain a work environment which is free from unlawful discrimination based on sex (with or without sexual conduct), race, color, religion, national origin, age, disability, sexual orientation and any other class protected by law (collectively referred to as “discriminatory harassment” or “harassment”). Harassment based on these characteristics is a form of unlawful discrimination and is prohibited in the work environment and in situations which directly impact the work environment. No person shall be required to work in an environment where they feel threatened, intimidated, or obligated to act or react in a specific manner relating to their gender, sex or any other protected class status, as defined by Federal, New York State, City of Albany or other applicable laws or policies. This policy shall also provide a means by which all types of workplace harassment can be reported; including a means of reporting harassment when the offending party is in the complainant’s chain of command.

POLICY: It is the policy of the Albany Police Department to prohibit all forms of discriminatory harassment in the workplace and to provide a means by which harassment can be reported. No employee shall ever feel as though they have to provide a sexual act in order to be able to work, and all employees shall have the right to be free from any form of harassment relative to their employment with this department. This policy applies to all applicants and employees of the Albany Police Department, and prohibits harassment, discrimination, and retaliation whether engaged in by fellow employees, by a supervisor or manager, or by someone not directly connected to the department (e.g., an outside vendor or consultant). Conduct prohibited by this policy is unacceptable in the workplace and in any work-related setting outside the workplace.

DEFINITIONS: **Sexual Harassment** – Sexual harassment means any form of harassment that is gender-based discrimination prohibited by Title VII of the Civil Rights Act of 1964, the New York State Human Rights Law, or the policies and procedures of this department. It is defined as unwelcomed sexual advances, requests for sexual favors, and other verbal physical, or visual conduct of a sexual nature when: (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment (e.g., promotion, training, assignments, etc.); (2) submission to or rejection of such conduct by an individual is used as

the basis for employment decisions (e.g., hiring, firing, promotion, etc.) 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.

Other Unlawful Harassment – Other unlawful harassment means harassment on the basis of any other protected class characteristic that is also prohibited. Under this policy, unlawful harassment means conduct that is offensive to or shows hostility or aversion toward an individual because of his/her race, color, creed, national origin, religion, gender, age, disability, military status, sexual orientation, marital or domestic partner status, pre-disposing genetic characteristics (and any other class protected by law), and that has: (1) the purpose or effect of creating an intimidating, hostile, or offensive working environment; (2) has the purpose or effect of unreasonably interfering with an individual's work performance; or (3) otherwise adversely affects an individual's employment opportunities. Harassing conduct includes, but is not limited to, the use of obscenities, profanity or other words or negative stereotyping, gestures and actions, the circulation of written or graphic material, or any other threatening, intimidating or hostile acts that denigrates or shows hostility or aversion toward an individual or group, based on an individual's protected class status.

Other Unacceptable Conduct – Other unacceptable conduct means prohibited conduct of one employee toward another that may not rise to the level of discrimination or harassment in violation of the law, but nonetheless creates a degree of hostility or intimidation that adversely affects the work environment. Teasing, ridicule, and other conduct intended to annoy, personally attack, belittle or embarrass another individual is inappropriate and also unacceptable in the workplace. Therefore, the department encourages the use of its complaint procedure by employees who believe they have been subject to inappropriate conduct by another employee, even if such conduct may not be harassment or discrimination per se. The department endeavors to create an environment in which employees may feel free to raise concerns and are confident that those concerns will be addressed.

I. UNLAWFUL HARASSMENT

- A.** The Albany Police Department prohibits harassment based on protected class status in the workplace and will, consistent with Civil Service Laws and/or collectively negotiated agreements, initiate disciplinary proceedings seeking, up to and including, discharge for anyone found to have violated this policy.
- B.** Prohibited and unlawful harassment can take many forms, including but not limited to the following:
 - 1.** Telling jokes that include references to people's religion, race, national origin, color, gender, or sex;
 - 2.** Mimicking or imitating someone with a disability; or
 - 3.** Using obscenities or profanity or making negative comments to someone about their age.

- a. These examples of harassment are not intended to be an all-inclusive list of behavior that may be considered harassment, and are for illustrative purposes only.
- C. This policy applies to all employees of this department. Supervisory personnel and department heads are responsible for ensuring a workplace free from harassment. Department heads and supervisors must take immediate corrective action when allegations of harassment come to their attention and otherwise ensure compliance with this policy.

II. SEXUAL HARASSMENT

- A. It is strictly forbidden for any employee of this department to violate Title VII of the Civil Rights Act of 1964, the New York State Human Rights Law, and this policy; including violations that can be described as sexual harassment, as defined above.
 - 1. Sexual harassment is gender neutral and may involve members of the same or different gender.
- B. No employee shall touch, speak, imply, or discriminate against any person in any manner related to an individual's sex or gender, for sexual favors, or in any manner that is or might be offensive to another person, in any way related to the work place as detailed in this policy. There are no exceptions to this rule.
- C. Sexual harassment takes many forms. Examples of specific behaviors that may be considered sexual harassment include, but are not limited to the following:
 - 1. Making employment, promotion, or some other job benefit contingent upon consenting to sex or the performance of sexual acts;
 - 2. Unwelcomed sexual advances, request for sexual favors or other verbal or physical conduct of a sexual nature;
 - 3. Making jokes or comments of a sexual nature, and making sexual comments or requests in a joking or demeaning manner;
 - 4. Commenting on a person's body or appearance, commenting on the bodies or appearance of other people, or the use of obscene language in a manner that is offensive to a co-worker who can hear you; and
 - 5. Displaying obscene, nude or pornographic photographs, pictures, magazines, art or other similar materials which may create a hostile work environment.
 - a. A hostile working environment is a form of sexual harassment. Displaying these materials in City buildings and facilities, on City job sites or in City vehicles is prohibited.
 - b. These examples of sexual harassment are not intended to be an all-inclusive list of behavior that may be considered sexual harassment and are for illustrative purposes only.

III. COMPLAINT PROCEDURES

- A. If an employee is subjected to a situation which he/she believes that they have been harassed or if they are offended by sexual or sexually oriented conduct constitutes discriminatory harassment in violation of this policy, of an employee of this department

that person is encouraged to submit a report, in writing, via an Intra-Departmental Correspondence ([IDC](#)). The IDC shall be submitted through the employee's chain of command to the Chief of Police, unless the offending party is within the complainant's chain of command. If this is the case, the employee is encouraged and justified in delivering their report directly to the Office of the Chief of Police. This report should be made as soon as possible and shall include the following information:

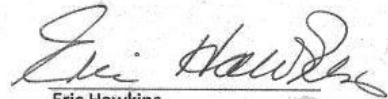
1. The facts stating the nature of the harassment;
 2. The specific words or acts that offended the person; and/or
 3. A statement of how the person feels they were or are being discriminated against based on their gender, sex, or other protected class status, if applicable.
 - a. If a victim/employee does not report their complaint, the likelihood that the behavior will stop is severely diminished.
- B.** Upon receipt of a complaint alleging discriminatory harassment, the Chief of Police shall direct the Office of Professional Standards (OPS) to immediately conduct a thorough internal investigation.
1. It shall be the responsibility of OPS to determine the facts of the case.
 2. The investigation shall be conducted as any other internal investigation.
 3. Upon completion of the investigation, OPS shall submit a written report to the Chief of Police describing their findings and outcome.
- C.** The Commander of the Office of Professional Standards shall meet with the complainant to explain the procedure set up to investigate the incident. Other options, such as filing a complaint with state and/or federal compliance agencies shall also be explained.
- D.** This policy or any actions taken by the Chief of Police are not to be considered the sole remedy of the victim. The victim has the legal right to file civil action against the alleged offender, and/or file a complaint through the U.S. Equal Employment Opportunity Commission or the New York State Department of Human Rights, or pursue any other rights or remedies, as permitted by applicable law.
- E.** If the victim/employee believes that personnel in his/her chain of command are involved in the alleged misconduct, the report shall be made directly to the Office of Professional Standards.
- F.** No person shall file a sexual harassment report or complaint of discriminatory harassment relating to this policy, which is known by the writer or complainant to be false or inaccurate.
- G.** An employee, who participates in this procedure as a complainant or a witness, may do so without the fear of retaliation. Retaliation against someone who has filed a complaint, or otherwise participated in this procedure, is prohibited by Federal and New York State law, as well as this policy, and may result in disciplinary action.

IV. SANCTIONS:

- A.** Any employee, who is found to have unlawfully harassed another employee committed

under this policy, as outlined above, shall be subject to discipline, up to and including termination from employment, in accordance with lawful procedures.

- B.** Supervisors who fail to act after having received a complaint, in any form, from an employee who claims to be unlawfully or sexually harassed in violation of this policy, may also be subject to discipline.
- C.** Any employee found to have engaged in any form of unlawful or sexual harassment, or who submits a false report related to this policy, may be disciplined up to and including termination from employment, in accordance with lawful procedures.
 - 1. Employees who are not represented by a union may retain counsel to represent them in this process.
 - 2. In the case of a complaint against a unionized employee, the complaint will be investigated and the employee will be subject to discipline imposed in accordance with all applicable laws, rules, policies, and Collective Bargaining Agreements.



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