

Discriminatory Harassment

315.1 PURPOSE AND SCOPE

The purpose of this policy is to prevent department members from being subjected to discriminatory harassment, including sexual harassment and retaliation. Nothing in this policy is intended to create a legal or employment right or duty that is not created by law.

315.2 POLICY

The Iowa City Police Department is an equal opportunity employer and is committed to creating and maintaining a work environment that is free of all forms of discriminatory harassment, including sexual harassment and retaliation. The Department will not tolerate discrimination against a member in hiring, promotion, discharge, compensation, fringe benefits and other privileges of employment. The Department will take preventive and corrective action to address any behavior that violates this policy or the rights and privileges it is designed to protect.

The nondiscrimination policies of the Department may be more comprehensive than state or federal law. Conduct that violates this policy may not violate state or federal law but still could subject a member to discipline. Consequently, any employee who engages in prohibited conduct will be subject to disciplinary action, up to and including termination of employment.

315.3 DEFINITIONS

Definitions related to this policy include:

315.3.1 DISCRIMINATION

The Department prohibits all forms of discrimination, including any employment-related action by a member that adversely affects an applicant or member and is based on actual or perceived race, creed, color, national origin, religion, sex, sexual orientation, gender identity, age, mental or physical disability, pregnancy, genetic information, veteran status, marital status, and any other classification or status protected by law (Iowa Code § 216.6).

Harassment may take many forms, including behaviors that are overt or subtle. Harassment may occur between or among members of the same or opposite sex or gender identity, employees and the public, contractors or vendors, co-workers, or subordinates and supervisors. Harassing behavior of any nature can have the effect of creating a hostile or offensive work environment and is prohibited. This can include conduct occurring outside of the workplace which has an impact on the work environment.

For the purposes of this policy, harassment is any verbal or physical conduct that threatens, intimidates, demeans, humiliates, or coerces an employee or any person working for or on behalf of the City. Verbal taunting that impairs an individual's ability to perform their job is included in the definition of harassment.

Harassment may take the form of, but is not limited to:

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- Comments that are offensive or unwelcome regarding a person's race, creed, color, sex, national origin, religion, age, sexual orientation, gender identity, marital status, mental or physical disability, genetic information, veteran status, or other class/category protected by federal, state, or local law, body, or appearance including epithets, slurs, and negative stereotyping.
- Abusive and offensive language, insults, teasing, name-calling, spreading rumor and innuendo, unreasonable criticism, isolating people from normal work interaction, excessive demands, and practical jokes.

Sexual Harassment is defined as unwelcome conduct that affects terms or conditions of employment or creates an intimidating, hostile, or offensive work environment. Such harassment is prohibited for all employees, regardless of status, including supervisors, subordinates, administrators, and co-workers. No employee, regardless of gender identity, should be subjected to such conduct. Sexual harassment may also occur between same sex employees.

It is a violation of Department policy to discriminate in the provision of employment opportunities. It is a violation of Department policy to discriminate in the provision of employment opportunities, benefits or privileges; to create discriminatory work conditions; or to use evaluative standards that discriminate, in whole or in part, based on a person's race, creed, color, sex, national origin, religion, age, sexual orientation, gender identity, marital status, mental or physical disability, genetic information, veteran status, or other class/category protected by federal, state, or local law. Discrimination of this kind may also be prohibited by federal, state, or local laws, including Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1975, and the Americans with Disabilities Act of 1990. This policy is intended to comply with these laws.

315.3.2 RETALIATION

Retaliation against any person for filing or responding to a complaint either formally or informally, for participating in the complaint and investigation process, or for participating as a witness in an investigation is prohibited and will be considered a violation of this policy. Members who believe they are being retaliated against in violation of this policy should follow the reporting process outlined below. The Department will thoroughly investigate claims of retaliation. Any member who is found to have engaged in retaliation in violation of this policy will be subject to disciplinary action up to and including termination of employment.

315.3.3 SEXUAL HARASSMENT

Sexual harassment may take the form of, but is not limited to the following and may include more subtle actions :

- a. Deliberate or repeated unsolicited verbal comments, questions, representations, or physical conduct of a sexual nature that is unwelcome to the recipient.

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b. Making or threatening to make decisions affecting an employee's job on the basis of the acceptance or refusal of a request for sexual intimacy.

c. Unwelcome sexually explicit, lewd, threatening or vulgar language, sexual jokes, innuendo, or propositions; suggestive comments; lewd gestures; requests for any type of sexual behavior (including repeated, unwelcome requests for dates); and verbal abuse or "kidding" that is oriented toward a prohibitive form of harassment, including that which is sexual in nature.

d. Distribution, display or discussion of any written, electronic or graphic material, including calendars, posters, cartoons, that are sexually suggestive or show hostility toward an individual or group because of sex, suggestive or insulting sounds; leering, staring; whistling; content in letters and notes, facsimiles, e-mails, photos, text messages, Internet/social media postings; or other form of communication that is sexual in nature and offensive.

e. Unwelcome, unwanted physical contact including touching, tickling, pinching, patting, brushing up against, hugging, cornering, kissing and fondling and forced sexual intercourse or assault.

315.3.4 ADDITIONAL CONSIDERATIONS

Discrimination and discriminatory harassment do not include actions that are in accordance with established rules, principles, or standards, including:

- (a) Acts or omission of acts based solely upon bona fide occupational qualifications under the Equal Employment Opportunity Commission and the Iowa State Civil Rights Commission guidelines.
- (b) Bona fide requests or demands by a supervisor that the member improve the member's work quality or output, that the member report to the job site on time, that the member comply with city or department rules or regulations, or any other appropriate work-related communication between supervisor and member.

315.4 RESPONSIBILITIES

This policy applies to all department members, who shall follow the intent of these guidelines in a manner that reflects department policy, professional standards, and the best interest of the Department and its mission.

Members who believe they are experiencing discrimination, harassment, or retaliation should be encouraged to inform the individual that the behavior is unwelcome, offensive, unprofessional, or inappropriate, unless they feel uncomfortable or threatened.

Members are encouraged to promptly report any discriminatory, retaliatory, or harassing conduct or known violations of this policy to a supervisor. Any member who is not comfortable with reporting violations of this policy to the member's immediate supervisor may bypass the chain of command

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and make the report to a higher-ranking supervisor. Complaints may also be filed with the Chief of Police, the Human Resources Administrator, the City Attorney's Office or the City Manager.

All members have an affirmative duty to prevent harassment and discrimination in the workplace by supporting an environment that discourages harassment or discrimination of any kind and which promotes and supports respect, diversity and inclusivity in the workplace and community. This includes reporting any conduct that may constitute harassment, discrimination, or denial of civil rights to a department supervisor, the Human Resources Administrator or the City Attorney's Office. Supervisors are required to forward all reports to Human Resources or the City Attorney's Office to ensure appropriate follow-up and investigation.

Throughout the complaint process, the confidentiality of the information received, the privacy of the individuals involved, and the wishes of the complaining member will be protected to the extent possible, while allowing the City to meet its obligation to investigate such complaints. The expressed wishes of the complaining member for confidentiality will be considered in the context of the City's legal obligation to act on the complaint and the right of the respondent to obtain information.

Supervisors receiving information regarding alleged violations of this policy shall complete a report of inquiry form and forward it to the Commander of Field Operations.

315.4.1 QUESTIONS OR CLARIFICATION

Members with questions regarding what constitutes discrimination, sexual harassment, or retaliation are encouraged to contact a supervisor, the City Attorney's Office, the Chief of Police, the Human Resources Administrator, or the City Manager for further information, direction, or clarification.

315.4.2 SUPERVISOR RESPONSIBILITIES

The responsibilities of supervisors shall include but are not limited to:

- (a) Continually monitoring the work environment and striving to ensure that it is free from all types of unlawful discrimination, including harassment or retaliation.
- (b) Taking prompt, appropriate action within their work units to avoid and minimize the incidence of any form of discrimination, harassment, or retaliation.
- (c) Ensuring that their subordinates understand their responsibilities under this policy.
- (d) Ensuring that members who make complaints or who oppose any unlawful employment practices are protected from retaliation and that such matters are kept confidential to the extent possible.
- (e) Notifying command staff and the Human Resources Administrator as soon as possible of the circumstances surrounding any reported allegations or observed acts of discrimination, harassment, or retaliation no later than the next business day.

315.4.3 SUPERVISOR'S ROLE

Supervisors shall be aware of the following:

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- (a) Behavior of supervisors and managers should represent the values of the Department and professional standards.
- (b) False or mistaken accusations of discrimination, harassment, or retaliation can have negative effects on the careers of innocent members.

Nothing in this section shall be construed to prevent supervisors from discharging supervisory or management responsibilities, such as determining duty assignments, evaluating or counseling members, or issuing discipline in a manner that is consistent with established procedures.

315.5 INVESTIGATION OF COMPLAINTS

Various methods of resolution exist. During the pendency of any such investigation, the supervisor of the involved member should take prompt and reasonable steps to mitigate or eliminate any continuing abusive or hostile work environment. It is the policy of the Department that all complaints of discrimination, retaliation, or harassment shall be fully documented, and promptly and thoroughly investigated.

315.5.1 FORMAL INVESTIGATION

The person assigned to investigate the complaint will have full authority to investigate all aspects of the complaint. Investigative authority includes access to records and the cooperation of any members involved. No influence will be used to suppress any complaint and no member will be subject to retaliation or reprisal for filing a complaint, encouraging others to file a complaint, or for offering testimony or evidence in an investigation.

Formal investigation of the complaint will be confidential to the extent possible and will include but is not limited to details of the specific incident, frequency and dates of occurrences, and names of any witnesses. Witnesses will be advised regarding the prohibition against retaliation, and that a disciplinary process, up to and including termination, may result if retaliation occurs.

315.5.2 ALTERNATIVE COMPLAINT PROCESS

No provision of this policy shall be construed to prevent any member from seeking legal redress outside the Department. Members who believe that they have been harassed, discriminated against, or retaliated against are entitled to bring complaints of employment discrimination to federal, state, and/or local agencies responsible for investigating such allegations. Specific time limitations apply to the filing of such charges. Members are advised that proceeding with complaints under the provisions of this policy does not in any way affect those filing requirements.

315.6 DOCUMENTATION OF COMPLAINTS

All complaints or allegations shall be thoroughly documented on the appropriate forms and in a manner designated by the Chief of Police. The outcome of all reports shall be:

- (a) Approved by the Chief of Police, the City Manager, or the Human Resources Administrator, depending on the ranks of the involved parties.

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- (b) Maintained in accordance with the established records retention schedule.

315.7 TRAINING

All new members shall be provided with a copy of this policy as part of their orientation. The policy shall be reviewed with each new member. The member shall certify by electronic acknowledgement or signing the prescribed form that the member has been advised of this policy, is aware of and understands its contents, and agrees to abide by its provisions during the member's term with the Department.

All members shall receive annual training on the requirements of this policy and shall certify by electronic acknowledgment or by signing the prescribed form that they have reviewed the policy, understand its contents, and agree that they will continue to abide by its provisions.