

PROHIBITING DISCRIMINATION, HARASSMENT AND RETALIATION

This Order establishes the Department’s policy prohibiting discrimination, harassment, and retaliation. This order applies to all members, sworn and civilian. All members are responsible for knowing and complying with this Order, to ensure that each member works in an environment free of discrimination, harassment, and retaliation.

This Order is not intended to limit or restrict any member’s rights under federal, state or local law, or any applicable Memorandum of Understanding.

I. POLICY

The Department values diversity in its workforce, and is committed to fair and equal treatment of all applicants for employment and all members in the terms, conditions and privileges of employment. The Department is also committed to providing a workplace where all members are treated professionally, with courtesy, dignity and respect.

It is the policy of the Department that every member has the right to work in an environment free from discrimination, harassment, and retaliation. In accord with federal, state and local law, the Department prohibits discrimination, harassment, and retaliation, and will not tolerate such conduct. This policy applies at all Department locations, Department-sponsored trainings or events, and any activities where a member represents the Department.

The Department prohibits discrimination against or harassment of a member based on the following protected categories:

- Race
- Color
- Ethnicity
- National Origin
- Ancestry
- Religion/Creed
- Sex
- Sexual Orientation
- Gender Identity
- Parental Status
- Political Affiliation
- Height/Weight
- Age
- Marital or Domestic Partner Status
- Disability
- Medical Condition (cancer related)
- AIDS/HIV or AIDS-related conditions
- Any other basis protected by law (i.e. pregnancy; veteran or military status)

The Department also prohibits discrimination against or harassment of any member because of that member's association with a person who is, or is perceived to be, a member of any of the protected categories listed above.

The Department prohibits retaliation against any member who has in good faith made any complaint regarding discrimination, harassment or retaliation, or who has assisted or participated in any manner in an investigation, proceeding, hearing, or resolution of any such complaint.

A. DISCRIMINATION

Discrimination against any job applicant or member is prohibited. Discrimination occurs when a member is subjected to an adverse employment action based on one or more of the protected categories listed above.

An adverse employment action or issue complained of may include the following:

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|---------------------------------------|------------------------|
| 1. Denial of Employment | 6. Denial of Promotion |
| 2. Denial of Reasonable Accommodation | 7. Termination |
| 3. Layoff | 8. Denial of Training |
| 4. Compensation | 9. Disciplinary Action |
| 5. Constructive Discharge | 10. Work Assignment |

B. HARASSMENT

The Department prohibits harassment of any job applicant or member. Harassment is unwelcome, offensive or intimidating conduct that is directed at an individual or group of individuals because of one or more of the protected categories listed above, and that is sufficiently severe or pervasive as to alter the condition of the individual's employment and create a hostile working environment.

Unlawful harassment may take many forms, including but not limited to:

1. **VERBAL CONDUCT** such as epithets, derogatory comments, unwelcome jokes or stories, slurs, unwelcome sexual or romantic advances or invitations, innuendoes, suggestive comments or sounds, requests for sexual favors, or harassing phone calls;
2. **VISUAL CONDUCT** such as derogatory, offensive or suggestive posters, cartoons, bulletins, drawings, photographs, magazines, written articles or stories, notes, poems, letters, screen savers, or e-mail transmissions; and/or

3. **PHYSICAL CONDUCT** such as touching, patting, pinching, grabbing, staring, leering, lewd or suggestive gestures, brushing against another's body, assault, blocking normal movement, or other physical interference with work. Sexual harassment also may include promising an individual an employment benefit in exchange for sexual or romantic favors, or threatening an employment consequence if an individual rejects a sexual or romantic request.

C. RETALIATION

The Department prohibits retaliation against any applicant or member. Retaliation against an applicant or a member for any of the following actions undertaken in good faith is prohibited:

1. Reporting discrimination, harassment or retaliation;
2. Filing a complaint of discrimination, harassment or retaliation;
3. Participating in or cooperating with an investigation of a complaint of discrimination, harassment or retaliation; and/or
4. Participating in or cooperating with the resolution of a complaint of discrimination, harassment or retaliation.

II. COMPLAINT PROCEDURE

A. FILING A COMPLAINT

1. WHO CAN FILE

- a. **MEMBERS:** Any member may make a complaint whenever the member reasonably believes that he or she has been subjected to discrimination or harassment based on one or more of the protected categories listed in this Order, or has been subjected to retaliation.
- b. **SUPERVISORS AND MANAGERS:** Supervisors and managers may learn about a discrimination, harassment or retaliation complaint directly from a complaining member, or indirectly through another member, by personal observation, or by other means. Supervisors or managers receiving a complaint from a complaining member shall report the matter, in writing, to the Risk Management Director, through the EEO Liaison, by the end of his or her tour of duty. The complaint shall be placed in a sealed envelope clearly marked "confidential." If the Risk Management Office is closed, the sealed complaint shall be placed in the mail slot of Room 513.

For discrimination, harassment or retaliation complaints, the chain of command is from the supervisory officer or manager who learns of the complaint to the Risk Management Director.

2. WHERE TO FILE

Members may file a complaint through any of the following channels:

- a. The member's supervisory officer;
- b. To any supervisory officer or manager outside the member's chain of command.
- c. Directly to the Department's EEO Liaison; or
- d. To the EEO Division in the City's Department of Human Resources (DHR).

Members who need further information regarding how to initiate a complaint may contact DHR's Harassment Helpline at (415) 557-4900 or, for individuals with a hearing impairment, (415) 775-9484 (TDD). The Harassment Helpline is staffed during normal business hours, Monday through Friday, 8 a.m. until 5 p.m.

3. TIME LIMITS

All complaints alleging discrimination, harassment or retaliation in violation of this Order shall be filed within 180 days of the alleged misconduct or within 180 days of the date the member should have first become aware of the violation. A complaint is considered filed on the date it is received by the Department or DHR.

4. COMPLAINT DESCRIPTION

A complaint of discrimination, harassment or retaliation should include the following information:

- a. Personal contact information: name and contact number;
- b. The discriminatory action, i.e. termination, denial of promotion, etc.;
- c. Basis or protected category, i.e. the reason the action occurred;
- d. The date(s) of the alleged discriminatory action(s);
- e. A detailed explanation of the sequence of events believed to be discriminatory;
- f. The names of the individuals accused of discrimination, and their work locations;
- g. The names and contact numbers of any witnesses to the alleged discriminatory action; and
- h. The specific action sought to remedy the alleged discrimination.

5. CONFIDENTIALITY

The Department and DHR will maintain the confidentiality of the complaint to the fullest extent practical, although some disclosure may be necessary to

assist in a thorough and complete investigation of the complaint and/or to take appropriate corrective or disciplinary action.

B. COMPLAINT PROCESS AND REVIEW

1. ROLE OF RISK MANAGEMENT OFFICE

The Chief of Police shall designate a member to act as a Liaison with DHR's EEO Division. To the extent needed, the Liaison will assist DHR in serving orders to appear for witness interviews.

Upon receipt of a complaint of discrimination, harassment or retaliation from a member or supervisory officer or manager, the Risk Management Director, through the EEO Liaison, shall promptly (within 5 days) forward the complaint to DHR's EEO Division.

2. DEPARTMENT OF HUMAN RESOURCES, EEO DIVISION

All complaints alleging violation of this order shall be forwarded to DHR's EEO Division for review and the undertaking of one or more of the following actions:

- a. Investigation: If a complaint is assigned for investigation, DHR EEO Division staff shall notify the Chief of Police and the Department's Risk Management Director. The purpose of the investigation is to collect facts and gather data. The investigation may include interviews; review of documents, records and data; site visits; or other activities as necessary. The Risk Management Office, through the EEO Liaison, will make materials available for review by DHR's EEO investigators.
- b. Resolution through mediation: Mediation may be pursued, with the facilitation by trained staff, if parties are willing to participate.
- c. Administrative closure for lack of jurisdiction: Closure of a complaint by DHR does not preclude review under the Department's Management Control Division for possible rule violations.

The complaining member will be notified of the action to be taken.

C. COMPLAINT RESOLUTION

1. DETERMINATION BY HUMAN RESOURCES DIRECTOR

Pursuant to the San Francisco Charter, §10.103, the City's Human Resources Director is responsible for reviewing and resolving claims of discrimination, harassment and retaliation. When a complaint has been investigated, the

Human Resources Director will review the investigation and any relevant materials, including EEO investigative reports, letters of complaint, and departmental responses. The Human Resources Director shall make a determination on the charges and shall issue a letter of determination to the complainant and the Chief of Police. This determination may take the following forms:

DHR Determination	SFPD Equivalent
Just Cause	<ul style="list-style-type: none"> • Sustained • Policy failure • Supervision failure • Training failure
Dismissed; insufficient evidence	<ul style="list-style-type: none"> • Not sustained • Proper conduct • Unfounded
Administrative closure	<ul style="list-style-type: none"> • Information only • No finding • Withdrawal

2. APPEAL OF HUMAN RESOURCES DIRECTOR ACTION

Consistent with San Francisco Charter §10.101, the decision of the Human Resources Director may be appealed to the Civil Service Commission. Appeals may be made by the complaining party, the accused and/or the Department. Under Civil Service Rule 205.12.4, appeals must be received by the Executive Officer of the Civil Service Commission within thirty (30) calendar days following the postmarked mailing date of the determination. The Civil Service Commission does not have authority to impose discipline on civilian or sworn members of the Department.

3. ENFORCEMENT OF HUMAN RESOURCES DIRECTOR ACTION

Consistent with the San Francisco Charter, the decision of the City’s Human Resources Director shall be enforced by every employee and officer, unless the decision is appealed to the Civil Service Commission, and is reversed.

Although the Human Resources Director may recommend corrective action, he/she does not have the authority to discipline members.

Following receipt of a finding of discrimination or harassment by the Human Resources Director, the Chief of Police shall initiate whatever disciplinary or

other corrective action he or she determines is appropriate. The Chief of Police may refer the matter to the Management Control Division for further investigation. If appropriate, the Chief of Police shall schedule the matter for a Chief's Hearing or file disciplinary charges with the Police Commission, consistent with General Order 2.07.

III. RESPONSIBILITIES

A. ALL MEMBERS

All members are responsible for knowing and complying with this Order to ensure that the Department maintains a work environment free of discrimination, harassment and retaliation. Members shall behave professionally and shall treat other members professionally, with courtesy, dignity and respect.

Members shall report discriminatory, harassing or retaliatory behavior, whether directed at themselves or co-workers. (See Section II, Complaint Procedure.)

Each member is prohibited from using peer pressure or otherwise attempting to discourage or dissuade any member from making a complaint under this Order.

All members are required to cooperate with the investigation of any discrimination complaint, and be truthful in such investigation. In order to maintain the integrity of each investigation, members who receive a complaint, or who participate in the investigation or resolution of any complaint, should refrain from discussing the complaint and/or the investigation except where members must consult with legal counsel or recognized representatives.

B. SUPERVISORY OFFICERS AND MANAGERS

All supervisory members are required to know, comply with, and enforce this Order. The following conduct may result in disciplinary action:

1. Direct or tacit approval of discrimination, harassment or retaliation;
2. Implementing a retaliatory transfer;
3. "Turning a blind eye" to discrimination, harassment or retaliation;
4. Treating discrimination, harassment or retaliation, or a complaint of such conduct as a joke; and/or
5. Concealing discrimination, harassment or retaliation, or a complaint of such conduct.

A supervisory officer or manager who learns of a possible discrimination, harassment or retaliation complaint shall report the complaint and take immediate corrective action to defuse the situation and provide some initial remedy, as appropriate. For assistance in determining how to take immediate corrective action, contact the EEO Liaison.

Supervisory officers and managers who learn about a discrimination, harassment or retaliation complaint, either directly or indirectly, shall report the matter, in writing to the Risk Management Director, through the EEO Liaison, by the end of his or her tour of duty. The Department will not accept or tolerate excuses to evade a supervisory member's responsibilities and duties under this Order.

C. CHIEF OF POLICE

The Chief of Police shall be responsible for enforcing the determination of the Human Resources Director and, where applicable, the decisions of the Civil Service Commission; and for initiating disciplinary or other corrective action when appropriate.

The Chief of Police shall assign a sworn member to be the Department's EEO Liaison.

IV. DISCIPLINE

Any member found to have engaged in unlawful discrimination, harassment or retaliation may be subject to disciplinary action, up to and including termination. A member may be subject to discipline for engaging in harassing conduct that does not meet the definition of harassment under state or federal law, but that, if repeated or allowed to continue, may meet that definition.

Any member who violates this Order, interferes with its implementation, fails to cooperate and/or answer truthfully during an investigation shall be subject to appropriate corrective or disciplinary action, which may include counseling, retraining, education, mediation, admonishment, demotion or discipline up to and including suspension or termination of employment.

Any supervisory officer who fails to report a complaint or who otherwise violates this Order shall be subject to appropriate corrective or disciplinary action, which may include counseling, retraining, education, mediation, admonishment, demotion, or discipline up to and including suspension or termination of employment.

Consistent with the Department's practices in all matters involving discipline, the individuals responsible for determining whether, when and to what extent a member shall be disciplined may refer to a variety of source materials, including but not limited to, Department General Orders and Bulletins, the Civil Service Rules, the applicable Memorandum of Understanding, the City Charter, and the Administrative Code.

V. RIGHT TO FILE OTHER COMPLAINTS

This policy shall not alter or affect the right of any member to file a complaint with the United States Equal Employment Opportunity Commission, the California

Department of Fair Employment and Housing, and/or to consult with a private attorney or union representative.

**VI. RESOLUTION OF COMPLAINTS FILED WITH THE DEPARTMENT
PRIOR TO EFFECTIVE DATE OF THIS GENERAL ORDER**

Complaints of discrimination, harassment or retaliation filed prior to the effective date of this Order shall be reviewed and resolved in accordance with procedures established pursuant to the Department's General Order 11.07, dated 08/10/94. The Police Commission Secretary shall take action to remove this provision of this Order upon closure of all complaints brought under DGO 11.07 dated 08/10/94.
