

EQUAL EMPLOYMENT OPPORTUNITY (EEO) POLICY	Operations Order 3.14
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1. GENERAL INFORMATION

- A. Equal Employment Opportunity (EEO) regulations are intended to ensure equal employment opportunities and conditions to all persons.
- B. Employees of this department **will not engage in acts of general harassment (discrimination) or sexual harassment.**

2. PURPOSE STATEMENT

- A. All employees are entitled to a work atmosphere free from discrimination and sexual harassment.
- B. Employees will not discriminate against, nor will they sexually harass other employees.
- C. It is the responsibility of all supervisors to ensure a non-discriminatory work environment.
- D. The Phoenix Police Department is committed to ensuring that the principles of equal treatment in all aspects of employment are understood, respected, and practiced throughout the organization.
- E. It is our policy to hire, train, compensate, assign, and promote all persons equally and fairly.
- F. Discrimination and harassment is unlawful, it creates a negative atmosphere that reduces work productivity and morale, undermines the integrity of the workplace, and destroys professionalism.
- The department **will not tolerate discrimination or harassment in any form.**
- G. The policy in this order builds upon this foundation and extends to every employee our commitment to provide a workplace that is consistent with the law and actively supports and implements behavior that reflects our Visions, Values and Mission Statement.
- H. Employees are expected to adhere to a higher standard of conduct than defined by law. As further defined in this policy, we acknowledge that some types of behavior may not rise to the level of a federal or state violation, however, they may violate the department's EEO Policy.

3. DISCRIMINATION AND HARASSMENT

- A. Discrimination - It is illegal to discriminate on the basis of race, color, gender, creed, religion, national origin, age, marital status, ancestry, medical condition, pregnancy, disability, or sexual orientation, based on federal laws, state laws, City of Phoenix ordinances, and City rules and regulations.
- B. Equal Treatment - All employees will be treated equally without regard to race, color, gender, creed, religion, national origin, age, marital status, ancestry, medical condition, pregnancy, disability, or sexual orientation in all employment matters, including, but not limited, to, promotions, transfers, job rotation, training, work assignments, hiring, merit increases, overtime, awards, and discipline.

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3. C. Harassment-Free Work Environment - Harassment is defined as behavior that is unwelcome and unsolicited, offends or otherwise causes distress, and is undertaken because of a person's race, color, gender, creed, religion, national origin, age, marital status, ancestry, medical condition, disability, pregnancy, or sexual orientation.
- (1) All employees will be provided a work environment free from harassment.
 - (2) Examples of harassment may include the use of derogatory comments, slurs, jokes, or derogatory pictures, cartoons, or posters.
 - (3) The Phoenix Police Department has a Zero Tolerance Policy on harassment and prohibits any harassment of employees.
 - (4) Inappropriate conduct that is in violation of this policy may result in discipline the first time such behavior occurs.
 - Prior incidents of harassment may be considered when assessing the facts and circumstances of a later complaint.
 - (5) As to whether an alleged action constitutes harassment, each situation will be determined on a case-by-case basis by assessing the entire record and the totality of the circumstances.
 - Factors such as the nature of the behavior and the context in which the alleged incidents occurred will be considered in assessing the allegations and in determining the appropriate resolution.
- D. Sexual Harassment - Is a form of illegal gender discrimination, it is defined by law as unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical 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, or
 - (2) Submission to, or rejection of, such conduct is used as the basis for employment decisions affecting that employee, or
 - (3) Such conduct has the effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.
 - (4) Unwelcome is defined in that the offended employee did not solicit or incite the conduct and regarded it as undesirable or offensive.
 - (5) Behavior that constitutes sexual harassment as defined by this policy includes but is not limited to the following:
 - (a) Verbal Harassment: Sexual innuendo, sexually suggestive comments, jokes, teasing of a sexual nature, discussing sexual exploits, spreading rumors of a sexual connotation, or continued requests for social or sexual contact.
 - (b) Physical Harassment: Unwelcome contact, touching, or impeding movement.

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3. D. (5) (c) Visual Harassment: Sexually suggestive or derogatory posters, videos, cartoons, drawings, documents, writings, electronic mail, staring, or leering.
- (d) Sexual Favors - Unwanted sexual advances in exchange for employment benefits which constitute advancement, assignment preference, job duty preference, or employment benefits for or in exchange of sexual favors.
- (6) Whether or not harassment occurred depends not on whether the act was intended to cause harm but on the impact of the act on the complainant's employment or work environment.
- A person who teases in a sexual manner or tells sexual jokes may create an offensive work environment for another worker, even though the person intended such actions merely to be "good fun."
- (7) If one's behavior is harassing to an individual or a group of individuals, it will not suffice that the harasser failed to recognize the behavior as harassing.
- (8) It is not a requirement that the complainant be the intended target of the offensive conduct. Witnessing offensive behavior between other employees may be grounds for complaint.
- (9) This policy does not prohibit mutually welcome social relationships between employees.
- City policy does prohibit employees from supervising or influencing employment decisions associated with employees of their immediate family and relatives, see also A.R. 2.91.
- (10) Persons involved in consensual relationships must exercise caution to prevent harassing behavior from developing or the using authority inappropriately.
- If the consensual relationship changes and is no longer mutual, conduct once welcome by both individuals may become offensive to one or the other.

E. Age Discrimination

- (1) Derogatory comments regarding a person's age may be considered unlawful harassment.
- (2) It is not age discrimination when retirement is considered for employees that can no longer perform the duties of his or her job classification.

F. Disability Discrimination

- (1) Derogatory comments regarding a person's disability or medical condition will not be tolerated.
- Under the Americans With Disabilities Act (ADA), the department is required to make reasonable accommodations to a qualified individual with a disability (as defined by the ADA) who can perform the essential functions of the job.
- (2) An employee may not be subjected to discrimination, harassment, or retaliation for exercising his or her rights under the ADA.
- (3) Employees seeking accommodation under the ADA should contact Police or City Personnel for further information.

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3. G. Discrimination Based on Religion

- (1) Derogatory comments regarding a person's religious beliefs or lack thereof will not be tolerated.
- (2) The department is required to reasonably accommodate an employee's religious practices provided it does not create an undue hardship in light of the public health, safety, and welfare considerations associated with police work.

H. Family/Medical/Pregnancy Leave

- (1) Employees have specific rights under the Family Medical Leave Act; this act may also interact with ADA provisions.
- (2) An employee will not be subjected to discrimination, harassment, or retaliation for exercising his or her rights under any of these acts.

I. Retaliation

- (1) Retaliation is defined as an adverse employment action taken against an employee because that employee complained of discrimination or participated in an internal investigation.
- (2) An adverse employment action can include, but is not limited to, unwanted transfers, change in work assignment or location, denial of leave requests, demotions, negative performance evaluations, unsupported discipline, ostracism, or other actions that adversely affect the work environment.
- (3) Retaliation is illegal and will not be tolerated. Any incidents of retaliation should be reported immediately.
- (4) An employee found to have retaliated against another employee/volunteer is subject to discipline.

4. PROCEDURAL RESPONSIBILITIES

A. General Supervisor Responsibilities - It is the responsibility of all supervisors to establish and maintain a non-hostile, non-discriminatory work environment free from intimidation, ridicule, or insult, supervisors will:

- (1) Educate and train employees on EEO policy and ensure they are aware of the procedures for reporting potential violations.
- (2) Monitor the workplace for actual or potential violations of EEO policy and procedure.
- (3) Stop behavior in violation of this policy when directly observed or upon obtaining direct knowledge thereof.
- (4) Manage the effect in the workplace of EEO complaints by maximizing confidentiality and ensuring participants are not subjected to retaliation.

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4. A. (5) Follow through with all complaints of discrimination and harassment by taking immediate, documented, and corrective action.
- The complaint will be handled in accordance with the "Informal Reporting Process" or the "Formal Investigative Process" as set forth in paragraph 5 below of this policy.
- (6) When necessary, supervisors may consult with the EEO Liaison in the Fiscal Management Bureau (FMB) for assistance in making the determination as to the appropriate handling of an EEO issue.
- Supervisors who fail to take appropriate action may be subject to discipline.

5. **COMPLAINT PROCEDURE**

- A. Reporting - If an employee believes that a violation of EEO policy has occurred, he/she is encouraged to report these instances immediately to any of the below-listed agencies (the employee does not have to follow the department or divisional chain of command).
- B. Complaints must be filed within 180 days of the alleged acts to any of the following; however, there is no time limit for complaints filed with the City.

Chain of Command	The employee's supervisor Another supervisor within or outside of the employee's chain of command The EEO Liaison Officer in Fiscal Management Bureau The City's Equal Opportunity Department, as outlined in <u>A.R. 2.35</u> , <u>A.R. 2.35A</u> , and <u>A.R. 2.35B</u>
City Equal Opportunity Department	Calvin G. Goode Building 251 West Washington Street, 7th Floor Phoenix, AZ 85003-2295 (602) 262-7716/voice or (602) 534-1557/TTY
Arizona Civil Rights Division of the Attorney Generals Office	Attorney General's Office 1275 West Washington Street Phoenix, AZ 85003 (602) 542-5263
United States Equal Employment Opportunity Commission	Equal Employment Opportunity Commission 3300 North Central Avenue, Suite 690 Phoenix, AZ 85012 (602) 640-5000/voice or (602) 640-5072/TTY

C. Supervisor Responsibilities

- (1) Supervisors will complete and forward to their commander/administrator a Discrimination/Harassment Control Form (80-553D) in any of the following instances:
- (a) When an employee expresses a desire to file a complaint of a potential EEO policy violation regardless of whether it is addressed formally or informally.
 - (b) When an internal investigation is initiated.
- (2) The Discrimination/Harassment Control Form will be completed whether or not the situation was resolved with coaching or a formal investigation.
- (3) Supervisors will notify the Professional Standards Bureau (PSB) of suspected cases of discrimination or sexual harassment.
- PSB is the coordination point for EEO complaints for the Police Department.

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5. C. (4) Ensure the report is documented on an Administrative Complaint Control Form.
- (5) Procedures
- (a) When completing the EEO Control Form (80-552D), supervisors will also inform the complainant of the alternate reporting avenues listed in paragraph 5.B of this policy.
- (b) Supervisors will advise the employee that confidentiality will be maintained to the highest degree possible, but it cannot be guaranteed.
- (c) Supervisors will advise the employee that he/she will be officially notified of complaint results.
- (d) The supervisor will also emphasize that if the employee feels he/she is being retaliated against, he/she should immediately notify any of the individuals listed in paragraph 5.B above.
- These points are summarized on the Control Form Receipt, which can be found on the Citywide Templates under "EEO Control Forms."
- (e) The supervisor and employee will sign the EEO Control Form Receipt.
- A copy will be given to the employee.
 - The original form will be sent to PSB with the Discrimination/Harassment Control Form.
- D. Discrimination/Harassment Control Form Review and Delegation for Action
- (1) The employee's commander/administrator will review the Discrimination/Harassment Report Control Form with PSB to determine whether the complaint will be handled through informal reporting or through a formal investigation and who will handle the investigation.
- (2) If the complaint is handled by the employee's chain of command, the affected commander/administrator will route the paperwork to PSB through confidential transmittal and refer, if appropriate, the reported issue/s to the delegated supervisor for resolution via the informal reporting process.
- (3) If PSB handles the complaint, the assigned investigator will complete the required forms, and the PSB commander will ensure a formal investigation is completed.
- E. Informal Reporting Process
- (1) The emphasis of the informal reporting process is on mediation and resolution of the problem with the intent to prevent or stop harassment or discrimination without entering into the formal investigative process.
- (2) Through the informal reporting process, the department accepts complaints and concerns about harassment and discrimination from employees and takes prompt action in response, without engaging in the formal investigative process.

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5. E. (3) If the complainant requests the matter be handled informally, the request will be reviewed by the PSB commander and the EEO Liaison to determine whether informal handling is appropriate.

- Complaints of a criminal nature, allegations of serious misconduct, or repeated violations must be investigated using the Formal Investigative Process.

- (a) If the PSB commander and the EEO Liaison concur on informal resolution, and if the complainant agrees, the complaint may be handled using the Informal Reporting Process.
- (b) The supervisor receiving the complaint will discuss the situation with the complainant and determine the nature of the complaint.
- (c) Only those individuals who have a need to know about the incident for purposes of resolving the issues will be informed of the complaint.
- (d) The complainant will be encouraged to suggest a course of action to remedy the problem or complaint.
- (e) Immediate corrective action to ensure cessation of the offensive behavior will be initiated.
- (f) The reporting employee's supervisor attempting to resolve the complaint will use the Discrimination/Harassment Control Form to document the complaint, corrective action taken, and proposed additional corrective action, if appropriate.
- (g) The unit handling the complaint (chain of command or PSB) will ensure that the complainant is notified that corrective action has occurred and/or that the complainant is satisfied with the resolution of the complaint obtained through the Informal Reporting Process.
- (h) This notification will be documented on the Discrimination/Harassment Control Form
 - The completed form will be approved by the PSB commander and filed in PSB for EEO use only.
- (i) The Control Form will not be duplicated, nor will it be placed in any divisional or personnel files.
- (j) If by use of the Informal Reporting Process, the complaint cannot be properly resolved, the complaint will be referred for investigation in accordance with the Formal Investigative Process.
- (k) The supervisor will follow up with the complainant within 30-60 days from the final resolution of a complaint resolved through the Informal Reporting Process to ensure the offending behavior has ceased and that there has been no retaliation.

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5. F. Formal Investigative Process - Any supervisor receiving a complaint of sexual harassment or discrimination via the "Formal Investigative Process" will ensure the following guidelines are followed:
- (1) Once a determination is made that a case should be formally investigated, the PSB commander and the EEO Liaison will determine whether the chain of command, PSB, or an outside agency will conduct the investigation.
 - (2) Factors to be considered include the complainant's preference, the nature and complexity of the allegations, employee morale, and any potential conflicts of interest between the investigator and the employees involved in the case.
 - (a) An employee may report a formal complaint of harassment or discrimination to PSB either directly or through his or her chain of command.
 - (b) An employee may meet with the investigator during regular business working hours.
 - Requests for a non-business hours meeting with PSB will be approved by the employee's supervisor, unless extenuating circumstances exist.
 - (c) The employee under investigation is entitled to representation consistent with his/her MOU during the investigation.
 - (d) When a formal investigation is handled by the employee's chain of command, the chain of command will immediately deliver the completed investigation to PSB.
 - (e) Formal investigations will be completed within 90 days, absent extenuating circumstances.
 - (3) The findings of formal EEO investigations will be classified as outlined in Operations Order 3.19, Misconduct Investigations:
 - (4) Report Determination and Close Out
 - (a) The EEO Liaison and the division chief of the subject employee's command will review all completed formal EEO investigations.
 - (b) The unit investigating the complaint will notify the complainant of the results of the investigation.
 - (c) The subject employee's chain of command will notify the subject of the results of the investigation.
 - (d) The notification dates will be recorded on the Discrimination/Harassment Control Form.
 - (5) PSB will be the central repository for all discrimination complaint investigations.
- G. Discipline - See Operations Order 3.18, Discipline Procedures and Review Boards, for considerations regarding discipline.
- Appropriate disciplinary action will also be taken against any employee who knowingly files a false complaint of discrimination or harassment.

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5. H. EEO Records Maintenance

- (1) PSB will keep records of the Discrimination/Harassment Control Form, informal reports, and formal investigations, including corrective action taken.
- (2) The records will be used for tracking and research purposes only and will not be a part of the employee's department or division personnel files.
- (3) Formal investigations resulting in disciplinary action will be filed in the same manner as all other department investigations.

6. AFFIRMATIVE ACTION PLAN

- A. On an annual basis, the Fiscal Management Bureau will prepare an Affirmative Action Plan and an Affirmative Action Progress Report to document the department's efforts to achieve parity in the labor force, promotional training, and purchasing practices.
- B. Affirmative Action Progress Reports will be retained on file for a minimum of five years.