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SUBJECT: EMPLOYMENT DISCRIMINATION/ EQUAL EMPLOYMENT OPPORTUNITY (EEO) - RESPONSIBILITIES AND HOW TO FILE A COMPLAINT

1. POLICY

- A. The Philadelphia Police Department maintains an employer/employee working environment free of discrimination and/or harassment, including that of discrimination/harassment which is based on race, ethnicity, color, sex, sexual orientation, gender identity, religion, national origin, ancestry, age, physical or mental disability (or a perception of such disabilities), marital status, familial status, genetic information, or domestic or sexual violence victim status or because of an association with a member of any of these protected classes. All actions and deeds by members of this Department shall be consistent with all laws, Civil Service Regulations, and mandates of the Constitution of the United States, the Commonwealth of Pennsylvania, the City of Philadelphia Home Rule Charter and the Philadelphia Police Department concerning equal employment issues.
- B. Appropriate disciplinary action will be taken, up to and including dismissal, against any employee, supervisor, or administrator who engages in such prohibited conduct. Disciplinary action will also be taken against any supervisor or administrator who allows such conduct to occur without taking appropriate action.
- C. All police and civilian personnel shall report any instances of discrimination, sexual harassment, or other equal employment opportunity-related misconduct existing within the Department. This encompasses both personal incidents and those that are observed.
- D. The Police Department Office of Professional Responsibility (OPR) is the central control agency and repository in all cases involving employment discrimination/equal employment opportunity-related complaints.
- E. The Commanding Officer, Internal Affairs Division, is the designated Equal Employment Opportunity (EEO) Officer for the Department and responsible for evaluating all employment discrimination/equal employment opportunity related complaints received by the Department.

- F. All records pertaining to equal employment complaints are confidential, and access to such records will only be permitted with the approval of the Police Commissioner. Every effort will be made to keep the investigation confidential. However, there are occasions when confidentiality cannot be maintained because of discovery issues regarding disciplinary action, court subpoenas, etc. There are specific laws and procedures that require disclosure of this information.
 - G. The complaint procedure is not to be used as a means of initiating inquiries which are groundless, or which maliciously slander another member of the Department.
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2. DEFINITIONS

A. **Protected Class or Group:**

A group of people qualified for special protection against discrimination by law, policy, or similar authority. In Philadelphia, this includes groups based upon race, ethnicity, color, sex, sexual orientation, gender identity, religion, national origin, ancestry, age, disability, marital status, source of income, familial status, genetic information, or domestic or sexual violence victim status.

B. **Employment/Employee Discrimination:**

Discrimination that occurs when an employee or job applicant is treated unfairly based on their status as a member of a protected class or group.

C. **Harassment:**

In general, this is a form of discrimination where unwelcome conduct, based upon being a member of a protected class or group, creates an intimidating, hostile, or offensive work environment.

1. **Sexual Harassment:**

A specific form of discrimination that occurs when unwelcome/unwanted sexual advances, attention or acts are made to an employee and submission to such unwelcomed/unwanted conduct by the employee is made either explicitly or implicitly as a term or condition of the employee's employment OR when submission to or rejection of such sexual advances, attention or acts is used as a basis for adverse employment actions affecting the employee. These unwelcomed sexual advances, attention or acts can be verbal, non-verbal or physical.

2. **Hostile Work Environment Harassment:**

A specific form of discrimination that is created when an employee is subjected to unwelcome/unwanted attention or acts that is/are based upon an employee being a member of a protected class that is so severe or pervasive that it has the purpose and effect of unreasonably interfering with an individual's work performance or creating an intimidating or offensive work environment.

D. **Retaliation:**

Any adverse action that an employer takes against an employee/complainant because the employee has filed a complaint or reported any employment discrimination and/or harassment. Retaliation also occurs when adverse actions are taken against other employees, such as witnesses, who participate in the investigation that arose from a complaint.

NOTE: Retaliation can also be established if an employer takes any adverse action against the complainant's family members, friends or associates based solely upon the employee/complainant filing a complaint or complaint or reporting any employment discrimination and/or harassment.

1. **Adverse Action:**

Any action by an employer that has a negative impact on the employee if that action was taken solely as a result of the employee's complaint or any other employee's involvement (i.e., witnesses etc.) in the subsequent investigation, such as, but not limited to, unit reassignment, shift changes, denial of overtime, etc.

3. **PROHIBITED CONDUCT**

A. **All employees, regardless of rank or supervisory level, are strictly prohibited from engaging in any form of employment discrimination, harassment, sexual harassment, creating and/or maintaining any hostile workplace, or retaliation, as defined in this directive.**

B. Examples of prohibited conduct include, but are not limited to:

1. Intentional physical conduct which is sexual in nature, such as touching, pinching, patting, rubbing, grabbing, brushing against another employee's body, poking another employee's body, or touching the clothing covering the immediate area of the complainant's intimate parts.
2. Sexually oriented gestures, sounds, remarks, jokes, stories, or comments about a person's sexuality or sexual experience made in the presence of any employee. This includes whistling, exposing one's self or sexually explicit comments.

3. Derisive, demeaning, or belittling remarks, jokes, stories, or comments about a person's race, ethnicity, color, sex, sexual orientation, gender identity, religion, national origin, ancestry, age, disability (or a perception of such disabilities), marital status, familial status, genetic information, or domestic/sexual violence victim status made in the presence of any employee.
4. Preferential treatment or promise of preferential treatment for submitting to sexual conduct, including soliciting and attempting to solicit any employee to engage in sexual activity for compensation or reward
5. Subjecting or threatening to subject an employee to unwelcome sexual attention or conduct or intentionally making job performance more difficult because of the employee's race, ethnicity, color, sex, sexual orientation, gender identity, religion, national origin, ancestry, age, disability (or a perception of such disabilities), marital status, familial status, genetic information, or domestic or sexual violence victim status.
6. Subjecting an employee to a demeaning job assignment or depriving an employee from assignment because of a person's race, ethnicity, color, sex, sexual orientation, gender identity, religion, national origin, ancestry, age, disability (or a perception of such disabilities), marital status, familial status, genetic information, or domestic or sexual violence victim status.
7. Continuing to invite an individual to engage in social or sexual activities after being informed that the individual is not interested. Example: Repeatedly asking an employee or co-worker out for a date after rejection.
8. Displaying or publicizing in the work environment, material that is in any way, sexually revealing, sexually suggestive, sexually demeaning, or pornographic. This includes photographs of men or women in revealing clothing or sexually implicit poses, which have no legitimate business purpose.
9. Displaying signs or other materials purporting to segregate any employee by gender or race in any area of the workplace (other than signs designating rest rooms or similar private locker/changing rooms).
10. Displaying or publicizing, in the work environment, materials that are in any way, demeaning to an individual's race, ethnicity, color, sex, sexual orientation, gender identity, religion, national origin, ancestry, age, disability (or a perception of such disabilities), marital status, familial status, genetic information, or domestic/sexual violence victim status, such as cartoons, drawings, posters, etc.

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NOTE: Intelligence and/or investigative information may contain demeaning comments, offensive statements, words or pictures. If there is a legitimate law enforcement reason for sharing such information, the employee receiving the information will redact any demeaning comments, offensive statements, words or pictures before dissemination to any other employees. If this is impossible, the employee will summarize the relevant intelligence and/or investigative information and only disseminate the summary.

11. Reprisal for having filed a complaint or cooperated in an investigation of discrimination and/or sexual harassment. This includes but is not limited to, harassment, discipline, demotion or discharge because of a charge being filed, testifying, assisting, or participating in an investigation, proceeding, or hearing.
12. Disqualifying personnel for promotion, transfer, and/or other personnel action requests due to the individual's age, eligibility for retirement, or nearness to such eligibility for retirement.

4. EMPLOYEE RESPONSIBILITIES AND COMPLAINT PROCEDURES

- A. All employees, regardless of rank or supervisory level, are strictly **prohibited from engaging in any form of employment discrimination, harassment, sexual harassment, creating and/or maintaining any hostile workplace, or retaliation, as defined in this Directive.**
- B. All employees SHALL report any violations of this Directive to their supervisor/ commander or directly to the Office of Professional Responsibility.
- C. In any instance where an employee is reluctant, hesitant or otherwise uncomfortable reporting any employment discrimination, harassment or retaliation to a supervisor or Commanding Officer, the employee shall make the report directly to the EEO Officer via:
 1. The Intranet portal;
 2. Email to: Police.EEO@Phila.gov;
 3. U.S. Mail addressed to: "Commanding Officer, Internal Affairs Division," Internal Affairs, 7790 Dungan Road, Philadelphia, PA 19111; or
 4. In person at the front desk of Internal Affairs, 7790 Dungan Road, Philadelphia, PA 19111.

- D. All employees who believe they are a victim of employment discrimination, harassment or retaliation may also file their complaint with the Philadelphia Commission on Human Relations, the Pennsylvania Human Relations Commission or the Federal Equal Employment Opportunity Commission (EEOC) to satisfy their responsibilities accordingly, to this Directive. Access to these agencies can be made through the PPD Intranet Homepage. Contact information is also provided in Section 9.

NOTE: Employees should be aware that EEO complaints filed with external agencies may be referred back to the City of Philadelphia to conduct the investigation.

- E. All employees are required to cooperate fully in any investigation and appear promptly for any scheduled interviews. Lack of cooperation in an EEO investigation may be grounds for disciplinary action.
- F. Employees are not to use this internal investigative process as an excuse for disregarding any legal order given by any superior. Disobedience of orders will result in disciplinary action regardless of any complaint filed. Furthermore, an EEO investigation will not impact or delay disciplinary action for violations of departmental policy.
- G. Employees are reminded they have three hundred (300) calendar days to file an EEO complaint from the date of the alleged act of harm (discriminatory action or incident).

5. SUPERVISOR RESPONSIBILITIES

- A. Supervisors have a legal responsibility to ensure that their areas of supervision are free from employment discrimination, harassment and retaliation and to safeguard their subordinates from such prohibited conduct. Therefore, supervisors shall be held to a higher standard when facing discipline and/or demotion as a result of any violation of this directive and/or failure to take necessary actions to address such prohibited conduct.
- B. Supervisors are not only accountable for themselves with respect to this Directive, but also for the prohibited conduct of their subordinates, other supervisors and non-employees present in the workplace and during any work related party, gathering or other event where they know, or SHOULD HAVE KNOWN, prohibited conduct was occurring.
- C. Supervisors are responsible for monitoring compliance with this policy and to take immediate action to remove any objectionable materials in the workplace and to take immediate action to abate any prohibited conduct among subordinates while on duty or at any work related party, gathering or other event.

D. Supervisors who have any questions regarding their responsibilities pertaining to employment discrimination, harassment or retaliation or need assistance evaluating whether certain conduct is or is not a violation of this Directive, shall contact the EEO Officer or designee directly, regardless of rank, at: Police.EEO@Phila.gov.

E. FILING COMPLAINTS to the EEO OFFICER

1. Supervisors shall accept a complaint from ANY EMPLOYEE, regardless of assignment and will:
 - a. Treat all complainants with courtesy and respect and presume the complaint has merit.
 - b. Collect all relevant information from the complainant.
 - c. Advise the complainant that they will be making notification to the EEO Officer, ensure the complainant has the most current version of this directive and answer any questions from the complainant.
 - d. Submit the information to the EEO Officer through the PPD Homepage Intranet Portal (Click on the “*Employment Discrimination/EEO*” then click “*FILE COMPLAINT,*” then click “*File Complaint with City of Philadelphia.*” to submit the complaint (File Complaint with City of Philadelphia Tab).
 - e. Notify the employee’s Commanding Officer through the chain of command.

NOTE: If the Commanding Officer is the subject of the complaint, the next highest rank in the chain of command will be notified.

2. Supervisors shall initiate a complaint/report to the EEO Officer, anytime they believe an employee, regardless of assignment, is experiencing or possibly experiencing any form of employment discrimination, harassment or retaliation from any member of the department, regardless of rank or assignment. The same procedure will be used to file the complaint as referenced above in Section 1(d).

NOTE: Employment discrimination is a violation of both federal and state law. Therefore, supervisors shall submit an EEO complaint/report, regardless of whether the employee desires to officially file a complaint.

F. Complaints received from persons who wish to remain anonymous will include all specific facts relative to the complaint, (i.e., identity of discriminating person, rank district and EEO issues), and will be processed in the same manner as other complaints. The subject matter of the complaint must allege an EEO violation.

6. COMMANDER RESPONSIBILITIES

- A. Commanders have a legal responsibility to ensure their commands are free from employment discrimination, harassment and retaliation and a duty to safeguard their subordinates from prohibited conduct. Therefore, Commanders shall be held to a higher standard when facing discipline and/or demotion as a result of any violation of this directive and/or failure to take necessary actions to address such prohibited conduct.
- B. Commanders are not only accountable for themselves with respect to this Directive, but also for the prohibited conduct of their subordinates, other commanders and non-employees present in the workplace and during any work related party, gathering or other event where they know, or SHOULD HAVE KNOWN, prohibited conduct was occurring.
- C. Commanders shall continuously monitor their commands to ensure compliance with this policy and to take immediate action to remove any objectionable materials in the workplace and/or abate any inappropriate conduct among subordinates while on duty or at any work related party, gathering or other event. These actions will be documented on the Sending and Receiving Report (S&R).
1. At a minimum, Commanders **will conduct weekly inspections** of their command to ensure that any inappropriate visuals are removed and disciplinary action taken. These inspections and any necessary actions taken will be documented on the S&R.
 2. While not required by the Department's Records Retention Policy, it is strongly recommended that Commanders make copies of this documentation and personally retain for a minimum of five (5) years, even if transferred to a new command. This will allow Commanders to efficiently and effectively defend against allegations and any employment discrimination based litigation.

NOTE: Commanders set the tone for acceptable behavior in any district or unit. Failure to continuously monitor a command for employment discrimination, harassment or retaliation violations, can be perceived by subordinates that such behavior is not a priority of the department and possibly acceptable.

D. FILING COMPLAINTS TO THE EEO OFFICER

1. Commanders shall have the same responsibility to file a complaint/report to the EEO Officer when they directly receive a complaint from an employee or to self-initiate a complaint to the EEO Officer anytime they believe an employee, regardless of assignment, is possibly experiencing any form of employment discrimination, harassment or retaliation from any member of the Department,

regardless of rank or assignment. The same procedure will be used to file the complaint as referenced above in section 5(E)(1)(d). THIS RESPONSIBILITY SHALL NOT BE DELEGATED TO A SUBORDINATE SUPERVISOR.

- E. Complaints received from persons who wish to remain anonymous will include all specific facts relative to the complaint, (i.e., identity of discriminating person, rank district and EEO issues), and will be processed in the same manner as other complaints. The subject matter of the complaint must allege an EEO violation.
- F. The City has produced an EEOC poster that is required by law to be placed in all workplaces in the city. These posters are available from the Graphic Arts Unit. Commanders shall ensure that a minimum of three (3) posters are displayed in their district/unit. One shall be placed in the male and female locker rooms and one shall be placed prominently in any area regularly used for roll calls.
- G. Commanders who have any questions regarding their responsibilities pertaining to employment discrimination, harassment or retaliation, or need assistance evaluating whether certain conduct is or is not a violation of this directive, shall contact the EEO Officer or designee directly at Police.EEO@phila.gov.

7. EEO INVESTIGATIVE PROCEDURES

- A. If a complaint is designated as Employment Discrimination/EEO related in matter, it will be handled according to the following:
 - 1. Upon receiving an (EEO) complaint, the Intake Supervisor/EEO trained personnel will contact the employee and complete an EEO Initial Intake form. The EEO Officer (i.e., Commanding Officer Internal Affairs Division) will be the central agent for the distribution of EEO Initial Intake forms and will also maintain the EEO Complaint Report Log. The Initial Intake form is not to be considered the complainant's interview, but rather a skeletal information base. After the intake form is completed in its entirety, the Intake Supervisor will assign a control number which will be noted on the log. All intake forms will be signed and dated by both the complainant and EEO trained personnel who received the initial complaint. The complainant will be given a copy of this Initial Intake form.

NOTE: Electronic versions of the Initial Intake forms may also be completed and submitted by an employee through the PPD Intranet Homepage. The Intake Supervisor/EEO trained personnel will contact the employee and confirm the information provided, add any additional information necessary and ensure the proper signature is included.

2. The Intake Supervisor/EEO trained personnel completing the Intake form will complete a cover white paper and attach it to the package to be forwarded to the EEO Officer. The EEO Officer/designee will review and affix their stamp designating the assigned squad for investigation. The Internal Affairs Captain supervising the designated squad will identify the EEO trained personnel assigned to complete the investigation.
 3. After completion of the above steps, the package (complaint) will be returned to the Data Center for entry into the IAPro database. Due to the sensitive nature of an EEO complaint, the highest level of confidentiality will be maintained. Access to the EEO database will be limited and the review of active or previous EEO investigations will be permitted only with the approval of the EEO Officer.
 4. EEO trained personnel will ensure the confidentiality of all complainants, witnesses and alleged discriminating parties where possible, provided that the investigation is not impeded by such confidentiality.
 5. Upon completion of the investigation, the supervising IAD Captain will review and forward to the EEO Officer for approval. Upon approval, the EEO Officer will forward the completed copy of the investigative report to the Chief Inspector, Office of Professional Responsibility no later than one hundred (100) days after the receipt of the complaint, unless circumstances require additional time.
 6. The completed investigation will then be forwarded, through the chain of command, to the Police Commissioner for final disposition. After review by the Police Commissioner, the Deputy Commissioner, Office of Professional Responsibility will then notify the complainant and the accused in writing via certified mail of the results of the investigation.
- B. If a complaint is NOT designated as Employment Discrimination/EEO matter, it will be handled as follows:
1. The proper notifications will be made to the complainant and the chain of command.
 2. The case will be referred by the EEO Officer to the appropriate person or unit for mediation, counseling and/or supervisory training to address the underlying employee/management conflict.
 3. All mediation counseling and/or supervisory training will be documented in the IAPro System.
- C. Distribution of Investigative Reports

1. The original copy of the investigative report will be submitted to the Police Commissioner through the Deputy Commissioner, Office of Professional Responsibility. A cover memorandum to the Police Commissioner will be attached indicating the results of the investigation.
 - a. Original copy - Deputy Commissioner, Office of Professional Responsibility
 - b. First copy - Equal Employment Opportunity file.
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8. STANDARDS AND ACCOUNTABILITY

- A. Standards & Accountability shall audit all districts and units, at least annually, to ensure compliance with this Directive. Such audits shall include, but not limited to, the presence and condition of required EEO posters and a review of the district/unit S&R.
 - B. The outcome of this annual audit will be placed into a report and submitted to the Police Commissioner through the chain of command.
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9. OUTSIDE AGENCIES

- A. Employees also have the option of filing their complaints with one of the following external agencies:
 1. Employee Relations Unit, Mayor's Office of Labor Relations, 15th Floor of the Municipal Services Building, 1401 JFK Boulevard, (215) XXX-XXXX.
 2. Philadelphia Commission on Human Relations, Suite 300 South inside of the Curtis Center, 601 Walnut Street, (215) XXX-XXXX
 3. Pennsylvania Human Relations Commission, Philadelphia Regional Office, Suite 501, 110 North 8th Street, (215) XXX-XXXX
 4. U. S. Equal Employment Opportunity Commission, Philadelphia District Office, Suite 1300, 801 Market Street, (800) XXX-XXXX.
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10. TRAINING AND EDUCATION SERVICES - MANDATORY TRAINING

- A. Before graduating from the Police Academy, all recruits shall receive a course of instruction regarding employment discrimination, sexual harassment and retaliation approved by the Philadelphia Office of Human Resources.

- B. Upon promotion, all employees shall undergo a rank-appropriate course of instruction regarding employment discrimination, sexual harassment and retaliation approved by the Philadelphia Office of Human Resources.
- *1 C. Annually, all officers and employees shall undergo a course of instruction regarding employment discrimination, sexual harassment and retaliation approved by the Philadelphia Office of Human Resources.
- *1 D. Annually, all sworn supervisors below the rank of Captain and all civilian supervisors shall undergo a course of instruction regarding employment discrimination, sexual harassment and retaliation that is specifically designed for supervisors and approved by the Philadelphia Office of Human Resources.
- E. Annually, all commanders with the rank of Captain and above shall undergo a course of instruction regarding employment discrimination, sexual harassment and retaliation that is specifically designed for commanders and approved by the Philadelphia Office of Human Resources.
- F. Prior to the implementation of any mandatory training on employment discrimination, sexual harassment and retaliation required in sections A through D, The Chief Inspector of Training and Education Services shall coordinate with the EEO Officer and the Philadelphia Office of Human Resources to update the existing curricula.
- G. A copy of the approved and updated curriculum for each rank shall be forwarded to the Office of Special Advisor to be archived for discovery purposes.

BY COMMAND OF THE POLICE COMMISSIONER

<u>FOOTNOTE</u>	<u>GENERAL #</u>	<u>DATE SENT</u>	<u>REMARKS</u>
*1	#5844	06-29-20	ADD/DELETIONS
*2	#5553	02-05-25	ADDITION