

ANTI-HARASSMENT AND DISCRIMINATION

POLICY & PROCEDURE NO. <div style="border: 1px solid black; padding: 5px; margin: 10px auto; width: 80%;"> <p style="text-align: center;">26.1.3</p> <p>MPAC Ref: 26.1.3, 31.2.3</p> </div>	ISSUE DATE: <u>January 31, 2003</u>
	EFFECTIVE DATE: <u>July 28, 2021</u>
Approved: <u><i>Ralph P. Pistone</i></u> <p style="text-align: center;">Chief of Police</p> Date: <u>July 28, 2021</u>	REVISION DATE: <u>July 28, 2021</u>
<input type="checkbox"/> NEW <input checked="" type="checkbox"/> AMENDS <input type="checkbox"/> RESCINDS	

I. PURPOSE AND SCOPE

The Haverhill Police Department is an equal opportunity employer. It is committed to promoting, creating, and maintaining a workplace that is free of sexual harassment and harassment based on a person's age, national origin, race, religion, sexual orientation, or disability. Harassment of employees in the workplace or in work-related settings is unlawful and will not be tolerated by this organization. It is also unlawful to retaliate against individuals who complain about harassment or cooperate with harassment investigations. This, too, will not be tolerated by the Haverhill Police. Conduct that violates this anti-harassment policy will be dealt with swiftly and decisively in accordance with the procedures described here. Corrective action that may include discipline or termination are potential penalties for those who violate the proscriptions of this policy. **31.2.3**

While this policy sets forth our goal of promoting a workplace that is free of harassment, it is not designed or intended to limit our authority to discipline or take remedial action for workplace conduct that we deem unacceptable, regardless of whether that conduct satisfies the definition of harassment. At all times, such discretion remains solely with the Department.

II. DEFINITIONS

Definitions related to this policy include:

Discrimination: Discrimination includes any employment-related action or treatment that affects the compensation, terms, or condition of employment of an employee and is based on race, color, religion, sex, age, national origin or ancestry, genetic information, disability, military service, gender identity, sexual orientation and other classifications protected by law. Any unequal treatment of individuals that is based on any of these characteristics may be considered discriminatory.

Retaliation: Retaliation is treating a person differently or engaging in acts of reprisal or intimidation against the person because he/she has engaged in protected activity, filed a charge of discrimination,

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participated in an investigation, or opposed a discriminatory practice. Retaliation is unlawful and will not be tolerated.

Sexual Harassment: The Department prohibits all forms of discrimination and discriminatory harassment, including sexual harassment. It is unlawful to harass an applicant or an employee because of that person's sex.

The legal definition for sexual harassment is this:

Sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- a. Submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of employment or as a basis for employment decisions; or
- b. Such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individual's work performance by creating an intimidating, hostile, humiliating or sexually offensive work environment.

Under this definition, direct or implied requests by a supervisor for sexual favors in exchange for actual or promised job benefits such as favorable reviews, salary increases, promotions, increased benefits, or continued employment constitutes sexual harassment.

The legal definition of sexual harassment is broad. In addition to the above examples, other sexually oriented conduct, whether intentional or not, that is unwelcome and creates a hostile, offensive, intimidating, or humiliating workplace environment for male or female workers may also constitute sexual harassment.

It is not possible to list all circumstances that constitute sexual harassment. What follows are a few examples of conduct that, if unwelcome, could constitute sexual harassment. In determining whether conduct is sexually improper, the Department will consider its severity, pervasiveness, and all other relevant circumstances.

Examples of Improper Sexual Conduct

1. Unwelcome sexual advances, whether they involve physical touching or not. This does not mean that two consenting adults who happen to work for the Haverhill Police Department cannot see each other socially outside the workplace. It does mean that all employees must respect each other sexually and physically. Repeated sexual advances after initial rejection, is one example of disrespect that will violate this policy. ANY non-consensual touching of another is also improper.
2. Sexual epithets, jokes, written or oral references to sexual conduct, gossip regarding one's sex life, comments on an individual's body, comments about an individual's sexual activity, deficiencies, or prowess. Any and all of this conduct is improper in ALL circumstances
3. Displays of sexually suggestive objects, pictures, cartoons, and the like.
4. Unwelcome leering, whistling, brushing against the body, sexual gestures, and suggestive or insulting comments of a sexual nature.
5. Inquiries into a person's sexual experiences.
6. Discussion of or inquiry into a person's sexual activities.

All employees should take special note that, as stated above, retaliation against an individual who

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has complained about sexual harassment and retaliation against individuals for cooperating with an investigation of a harassment complaint is unlawful and will not be tolerated by this organization.

Other Forms of Harassment

Harassment based on a person's age, national origin, ancestry, race, color, religion, sexual orientation, gender identity, genetic information, or disability also violates this policy. Conduct is harassing on any of these bases if, as in the case of sexual harassment, it has the purpose or effect of unreasonably interfering with an individual's work performance by creating an intimidating, hostile, humiliating or offensive work environment. It is equally improper to harass an individual based on age, etc., as it is to do so based on gender.

Just as with sexual harassment, it is impossible to describe with particularity every circumstance that might constitute harassment based on age national origin, ancestry, race, color, religion, sexual orientation, gender identity, genetic information, or disability. Employees must remember that unwelcome comments or actions that relate to one of the categories listed here are improper. Epithets, jokes, written or oral references to a person's age, etc., gossip regarding any of these characteristics, any other overt or covert reference to a person's age, national origin, ancestry, race, color, religion, sexual orientation, gender identity, genetic information, or disability are improper. This does not mean that consenting, reasonable people are forbidden from discussing these topics. It does mean that unwelcome references of these types are improper and should be avoided in all cases. When in doubt, employees should refrain from such references. All should also remember that one person's joke is another's offensive comment. Even friendly jocularly concerning age, etc., is improper. Displays of objects, pictures, cartoons and the like that are suggestive of age, national origin, ancestry, race, color, religion, sexual orientation, gender identity, genetic information, or disability are also improper and should be avoided at all times.

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 Massachusetts Commission Against Discrimination guidelines.
- b. Bona fide requests or demands by a supervisor that a member improve his/her work quality or output, that the member report to the job site on time, that the member comply with State or department rules or regulations, or any other appropriate work-related communication between supervisor and member.

III. COMPLAINTS

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

Employees are encouraged to promptly report any discriminatory, retaliatory, or harassing conduct or known violations of this policy to a supervisor. Any employee who is not comfortable with reporting violations of this policy to his/her immediate supervisor may bypass the chain of command and make the report to a higher-ranking supervisor or manager. Complaints may also be filed with the Chief of Police, the Director of Human Resources, or the Mayor.

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Chief of Police – 40 Bailey Blvd. – Telephone # (978) 722-1502

Director of Human Resources – 4 Summer St. Rm 306 – Tel. (978) 374-2357

Office of the Mayor – 4 Summer St. Rm. 100 – Tel. # (978) 374-2300

The Department will treat all such report seriously and will take appropriate action on each in accordance with this policy.

Supervisors and managers receiving information regarding alleged violations of this policy shall report any and all such information to the Chief of Police immediately.

A. Questions or Clarification

Members with questions regarding what constitutes discrimination, sexual harassment or retaliation are encouraged to contact a supervisor, a manager, the Chief of Police or the Director of Human Resources for further information, direction, or clarification.

B. Supervisor Responsibilities

The responsibilities of each supervisor and manager 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 his/her 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. Taking timely action as instructed by the Chief of Police regarding the substance of any allegation based upon all available facts.
- f. Notifying the Chief of Police or Director or Human Resources in writing of the circumstances surrounding any reported allegations or observed acts of discrimination, harassment, or retaliation no later than the next business day

IV. INVESTIGATION OF COMPLAINTS

When we receive a complaint, we will promptly investigate it in a fair and expeditious manner. The investigation will be conducted in such a way as to maintain confidentiality to the extent practicable under the circumstances. Our investigation will include a private interview with the person filing the complaint and with witnesses. We will also interview the person alleged to have committed the harassment. When we have completed our investigation, we will, to the extent appropriate, inform the person filing the complaint and the person alleged to have committed the conduct of the results of that investigation.

If it is determined that inappropriate conduct has occurred, we will act promptly to eliminate the offending conduct, and where it is appropriate, we will also impose disciplinary action.

During the pendency of an investigation, supervisors will take prompt and reasonable steps as may be required to ensure that inappropriate workplace conduct does not occur.

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The person assigned to investigate the complaint will have full authority to do so. Investigative authority includes access to records and the cooperation of any employees who may possess pertinent information. Failure or refusal to cooperate with an investigation shall be grounds for discipline up to and including termination of employment. No influence will be used to suppress any complaint and no employee will be subject to retaliation or reprisal for acting in good faith to file a complaint, encourage others to file a complaint, or provide testimony or evidence in any investigation.

No provision of this policy shall prevent any employee from seeking legal redress outside the Department. Those who believe that they have been harassed, discriminated, or retaliated against are entitled to bring complaints of employment discrimination to the United States Equal Employment Opportunity Commission (EEOC), the Massachusetts Commission Against Discrimination (MCAD) and/or local agencies responsible for investigating such allegations.

A complaint may be filed with one or both of the following:

United States Equal Employment Opportunity Commission (EEOC)
John F. Kennedy Federal Building Government Center Room 475
Boston, MA 02203
(617) 565-3200

Massachusetts Commission Against Discrimination (MCAD)	
Boston Office:	Springfield Office:
One Ashburton Place, Rm. 601	State Office Building
Boston, MA 02108	436 Dwight St., Rm. 220
(617) 727-3990	Springfield, MA 01103 (413) 739-2145

V. 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 Mayor, or the Director of Human Resources, depending on the ranks of the involved parties.
- b. Maintained in accordance with the established records retention schedule.

To the greatest extent possible under the circumstances, the parties involved in a complaint will be notified of the disposition of the investigation and the actions taken to remedy or address the circumstances giving rise to the complaint.

VI. 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 signing the prescribed form that he/she has been advised of this policy, is aware of and understands its contents and agrees to abide by its provisions during his/her term with the Department. All employees shall receive annual training on the requirements of this policy and shall certify 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.

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VII. Police Reform 2020

“No officer or employee of the commonwealth or of any county, city, town or district shall discharge an officer or employee, change their official rank, grade or compensation, deny a promotion or take any such action for providing information to the commission or testifying in any commission proceeding”