

Discriminatory Harassment

314.1 PURPOSE AND SCOPE

This policy is intended 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.

314.2 POLICY

The Louisville 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 members 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 it is designed to protect.

The non-discrimination 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.

314.3 DEFINITIONS

Definitions related to this policy include:

314.3.1 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, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, pregnancy, genetic information, veteran status, marital status, and any other classification or status protected by law.

Discriminatory harassment, including sexual harassment, is verbal or physical conduct that demeans or shows hostility or aversion toward an individual based upon that individual's protected class. It has the effect of interfering with an individual's work performance or creating a hostile or abusive work environment.

Conduct that may, under certain circumstances, constitute discriminatory harassment can include making derogatory comments; making crude and offensive statements or remarks; making slurs or off-color jokes; stereotyping; engaging in threatening acts; making indecent gestures, pictures, cartoons, posters, or material; making inappropriate physical contact; or using written material or department equipment and/or systems to transmit or receive offensive material, statements, or pictures. Such conduct is contrary to department policy and to a work environment that is free of discrimination.

314.3.2 RETALIATION

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Retaliation is treating a person differently or engaging in acts of reprisal or intimidation against the person because the person has engaged in protected activity, filed a charge of discrimination, participated in an investigation, or opposed a discriminatory practice. Retaliation will not be tolerated.

314.3.3 SEXUAL HARASSMENT

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

Sexual harassment includes but is not limited to unwelcome sexual advances, requests for sexual favors, or other verbal, visual, or physical conduct of a sexual nature when:

- a. Submission to such conduct is made either explicitly or implicitly a term or condition of employment, position, or compensation.
- b. Submission to, or rejection of, such conduct is used as the basis for any employment decisions affecting the member.
- c. Such conduct has the purpose or effect of substantially interfering with a member's work performance or creating an intimidating, hostile, or offensive work environment.

314.3.4 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 (EEOC) and the Colorado Civil Rights Division.
- 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.

314.4 RESPONSIBILITIES

This policy applies to all department members. All members 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 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 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 City Manager.

Any member who believes, in good faith, that the member has been discriminated against, harassed, or subjected to retaliation, or who has observed harassment, discrimination, or retaliation, is encouraged to promptly report such conduct in accordance with the procedures set forth in this policy.

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Supervisors and managers receiving information regarding alleged violations of this policy shall determine if there is any basis for the allegation and shall proceed with resolution as stated below.

314.4.1 SUPERVISOR RESPONSIBILITIES

The responsibilities of supervisors and managers 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. Making a timely determination regarding the substance of any allegation based upon all available facts.
- f. Notifying the Chief of Police or the Director of 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.

314.4.2 SUPERVISOR'S ROLE

Supervisors and managers shall be aware of the following:

- 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 or managers 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.

314.4.3 RESPONSIBILITIES UPON RECEIPT OF COMPLAINT

Upon receipt or notification of a complaint filed with the Colorado Civil Rights Division, the Chief of Police or the authorized designee shall assign the complaint for action. The person assigned the complaint is responsible to ensure completion of the following (CRS § 24-34-301, et seq.):

- a. Provide a written answer to the complaint within the time required after receiving it.
- b. Supply and explain all relevant information, data, or papers upon request.
- c. Respond to all telephone or mail inquiries from the Colorado Civil Rights Division.
- d. Attend all meetings, hearings, or fact-finding conferences when requested.

314.4.4 QUESTIONS OR CLARIFICATION

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

314.5 INVESTIGATION OF COMPLAINTS

Various methods of resolution exist. During the pendency of any such investigation, the supervisor of the involved members 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.

314.5.1 SUPERVISOR RESOLUTION

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. However, if the member feels uncomfortable or threatened or has difficulty expressing the member's concern, or if this does not resolve the concern, assistance should be sought from a supervisor or manager who is a rank higher than the alleged transgressor.

314.5.2 FORMAL INVESTIGATION

If the complaint cannot be satisfactorily resolved through the process described above, a formal investigation will be conducted.

The member 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 not be 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.

Members who believe they have been discriminated against, harassed, or retaliated against because of their protected status are encouraged to follow the chain of command but may also file a complaint directly with the Chief of Police, the Director of Human Resources, or the City Manager.

314.5.3 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

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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.

314.6 DOCUMENTATION OF COMPLAINTS

All complaints or allegations shall be thoroughly documented on forms and in a manner designated by the Chief of Police (CRS § 24-34-408).

The outcome of all reports shall be:

- Approved by the Chief of Police or the authorized designee, the City Manager, or the Director of Human Resources, depending on the ranks of the involved parties.
- Maintained for a minimum of five years and in accordance with the established records retention schedule (CRS § 24-34-408).

314.6.1 NOTIFICATION OF DISPOSITION

The complainant and/or victim will be notified in writing of the disposition of the investigation and the action taken to remedy or address the circumstances giving rise to the complaint.

314.7 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 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 of employment.

All members shall receive periodic and on-going training on the requirements of this policy.

