

# PHILADELPHIA POLICE DEPARTMENT

**DIRECTIVE 8.7** 

SUBJECT: EQUAL EMPLOYMENT COMPLAINT PROCEDURES

### 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 are encouraged to 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 witnessed.
- D. The Police Department Office of Professional Responsibility (OPR) is the central control agency and repository in all cases involving equal employment opportunity-related complaints.
- E. The Administrative Inspector, Internal Affairs Division (IAD), or designee, is responsible for evaluating all complaints, subject to this directive, 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.

### 2. PROHIBITED CONDUCT

- A. All members of the Philadelphia Police Department are strictly prohibited from engaging in any act, action, or course of conduct which is discriminatory, and based upon 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 or because of an association with a member of any of these protected classes.
  - 1. Discriminatory Action or Conduct: For the purpose of this directive, discriminatory action or conduct is <u>any</u> act, action or course of conduct which interferes with another employee's terms and conditions of employment, (i.e., interference with an employee's rights and entitlements or responsibilities), because of the employee's membership in one of the protected classes or groups as listed in the preceding paragraph.
  - 2. Sexual Harassment: Employees are explicitly prohibited from engaging in any conduct that would violate the City's Sexual Harassment Policy. Sexual harassment is not limited to the actual commission of a sexual act. It is sexual harassment if one employee attempts to impose their sexual desires, will or wish, fantasy or preference on another employee through an offensive act, deed, gesture, or comment and such conduct interferes with the employee's terms or conditions of employment.
  - 3. Retaliation: For the purposes of this directive, retaliation is <u>any</u> act, action, or course of conduct taken against an employee which interferes with an employee's terms, conditions, rights, entitlements, or responsibilities of employment because the individual has opposed any unlawful employment practice, made a charge, testified, or assisted in any manner, in any investigation, proceeding, or hearing under local, state, or federal discrimination laws.

- B. Examples of prohibited conduct include, but are <u>not limited</u> 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 or 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 in any area of the workplace (other than the rest rooms and 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 or sexual violence victim status, such as cartoons, drawings, posters, etc.
- 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.

### 3. PROCEDURES

- A. If a complaint is designated Equal Employment Opportunity (EEO) in nature it will be handled according to the following:
  - 1. Upon receiving an Equal Employment Opportunity (EEO) complaint, an EEO initial Intake form will be completed. The Administrative Inspector, Internal Affairs Division (IAD), or designee, will be the central agent for the distribution of EEO complaint Initial Intake forms and will also maintain the EEO Complaint Report Log. The Intake form is not to be considered the complainant's interview, but rather a skeletal information base. After the intake form is completed in totality, 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.
  - 2. The Intake Supervisor/EEO trained personnel receiving the Intake form will complete a cover white paper and attach it to the package to be forwarded to the Administrative Inspector, IAD. The Administrative Inspector/designee will review and affix their stamp designating the assigned squad for investigation. The IAD 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 Command Center for entry into the IA-PRO 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 Commanding Officer, IAD.
- 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 Administrative Inspector, IAD for approval. Upon approval, the Administrative Inspector will forward the completed copy of the investigative report to the Deputy Commissioner, Office of Professional Responsibility no later than seventy-five (75) 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 the results of the investigation.

### 4. EMPLOYEE RESPONSIBILITY

- A. All employees are prohibited from participating in any conduct involving discrimination or harassment.
- B. All employees of the Philadelphia Police Department are encouraged to report any violations of this directive to their supervisor/commander or the Office of Professional Responsibility.
- C. In instances where a supervisor other than the commanding officer is the alleged discriminating party, the complainant will contact the commanding officer directly or the Office of Professional Responsibility.
- D. In instances when the commanding officer is the alleged discriminating party, the complainant will contact the next level of command directly, or the Office of Professional Responsibility.

**NOTE**: Equal Employment Opportunity (EEO) allegations are handled by the Administrative Inspector, Internal Affairs, located at 7790 Dungan Road, (215) xxx-xxxx, [**REDACTED**].

- 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. Supervisors are not only accountable for themselves, but also for the conduct and/or actions of their subordinates and non-employees present in the workplace about which they know or should have known. Supervisors will be held to a higher standard for violation of this directive and/or failure to take necessary and appropriate action.
- H. Supervisors/commanders are responsible for implementing and monitoring compliance with this policy.
- I. 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.
- J. Supervisors who become aware of an EEO complaint from any source must report this to the Office of Professional Responsibility regardless of whether the complainant desires to pursue the complaint.
- K. Employees are reminded they have (365) days to file an EEO complaint from the date of the alleged act of harm (discriminatory action or incident).

#### 5. COMMANDERS' RESPONSIBILITY

- A. Any commander who becomes aware of an incident will provide the complainant an EEO Complaint Initial Intake form. This form is available through the office of the Administrative Inspector, Internal Affairs.
- B. Commanders will conduct weekly inspections of their command to ensure that any inappropriate visuals are removed and disciplinary action taken. Document this inspection on the S&R.

#### 6. DISTRIBUTION OF REPORTS

A. Investigative Report:

- 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.

### 7. OUTSIDE AGENCIES

- A. Employees also have the option of filing their complaints with one of the following external agencies:
  - 1. EEO/AA Unit, City of Philadelphia, Office of Human Resources, 15<sup>th</sup> 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, [REDACTED].
  - 3. Pennsylvania Human Relations Commission, Philadelphia Regional Office, Suite 501, 110 North 8<sup>th</sup> Street, (215) xxx-xxxx.
  - 4. U. S. Equal Employment Opportunity Commission, Philadelphia District Office, Suite 1300, 801 Market Street, (800) xxx-xxxx.

## BY COMMAND OF THE POLICE COMMISSIONER