



# SEXUAL HARASSMENT

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## **I. AUTHORITY**

Discrimination based on race, color, religion, sex, national origin, ancestry, age, marital status or physical or mental impairment is prohibited by federal and state law. (Title VII of the Civil Rights Act of 1964; Maryland Human Relations and Discrimination Laws Article 49B, Annotated Code of Maryland; Anne Arundel County Executive Regulation 92.1) Harassment based on any of these factors may constitute a violation of the law.

The Equal Employment Opportunity Commission (EEOC) requires agencies to take “affirmative steps” toward elimination of sexual harassment in the workplace by expressing strong disapproval; developing appropriate sanctions; and informing employees of their right to raise and how to raise the issue of harassment. Strong preventive and remedial action by an employer can help avoid or minimize the employer’s liability for the harassment and diminish the incidence of harassment.

## **II. POLICY**

A policy of fair practices supports the Anne Arundel County Police Department's belief that employees must treat each other with mutual trust, respect, fairness and dignity. The strength of the Anne Arundel County Police Department in accomplishing its mission depends on the ability of its employees to communicate and function effectively. A work environment that fosters respect and fairness among coworkers enhances morale and encourages similar relationships with the public.

The Anne Arundel County Police Department's position is that incidents of sexual harassment are based on prohibited factors and complaints will be taken seriously and investigated immediately.

Threats or acts of retaliation against persons or witnesses reporting, testifying, or supporting a complaint of discrimination, sexual harassment or gender bias are strictly prohibited. Violations of these prohibitions will result in disciplinary action, which may include termination.

Commanders, managers, and supervisors are obligated to report incidents of suspected sexual harassment. Complainants and/or persons who have knowledge of incidents of suspected harassment which occurs or has occurred in the workplace are encouraged to report the incident/situation.

Every employee (civilian and sworn) will receive a copy of this index code.

### **III. DEFINITIONS**

A. Sexual harassment consists of unwelcome sexual advances; requests for sexual favors; and other verbal or physical conduct of a sexual nature when:

1. Submission to such conduct is made either implicitly a term or condition of employment
2. Submission to or rejection of such conduct is used as the basis for an employment decision affecting the individual; or
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

B. Under Title VII of the Civil Rights Act of 1964, Section 703, it is "an unlawful employment practice for an employer . . . to discriminate against any individual employee, because of such individual's race, color, religion, sex, or national origin." (42 U.S.C. Sec. 2000e-2(a)(1)). Two forms of workplace sexual harassments have been held to constitute discrimination "because of" one's sex, hence to offend this statute:

1. Quid pro quo harassment, in which an employer requires sexual favors of an employee in exchange for the benefits of employment, and
2. Sexually-oriented harassment by one's fellow employees sufficiently egregious to create a "hostile work environment" that is knowingly tolerated by the employer. The work environment becomes so offensive as to adversely affect an employee's job performance.

- a. While uncommon, a single severe incident of offending behavior may be sufficient to constitute hostile work environment harassment.
- b. A hostile work environment amounts to unlawful sex discrimination even in the absence of a tangible job benefit. (U.S. Supreme Court in *Meritor Savings Bank v. Vinson*)
- c. A hostile work environment is not limited to sexual advances; it can include hostile or offensive behavior based on the person's sex (gender).
- d. What preventive and remedial measures the employer takes determines the extent of the liability.

C. A hallmark of a sexual harassment claim is that the advances are "unwelcome" which means that the person did not invite or solicit the advances. Sexual harassment is an infringement of an employee's right to work in an environment free from unwanted sexual attention and sexual pressure of any kind.

D. Sexual demands in the workplace, especially between a supervisor and a subordinate, may threaten a person's economic livelihood; create an atmosphere that is not conducive to maximum productivity; and creates morale problems.

E. Sexual harassment need not necessarily involve a male supervisor and a female subordinate.

F. Sexual harassment can be a single offense or a series of offenses. An important element in recognizing sexual harassment is understanding the perspective of the victim toward the harasser and toward the conduct.

G. The complainant need not be the person directly harassed, but could be anyone affected by the offensive conduct which occurs in the workplace.

H. The following is a partial list of the types of activities which could be considered sexual harassment depending on the facts and circumstances:

- Unwanted or offensive physical touching.
- Jokes consisting of derogatory, vulgar, and/or uncomplimentary language of a sexual nature.
- Unwanted, unwelcome, and unsolicited propositions.
- Offensive language spoken on account of sex or of a sexual nature.
- Holding up to ridicule, or otherwise abusing a member of one sex to others.
- The placement of sexually explicit material in the work areas, desks, etc.
- Notes and other messages made on account of sex or of a sexual nature either signed or anonymously placed on bulletin boards, in lockers, in desks, etc.

- The required wearing of particular types of clothing, or the inference that wearing particular types of apparel will enhance one's career.
- Attempted transfer, demotion, dismissal, etc. after refusing or resisting sexual advances.
- Requesting or ordering employees, based on gender or employees of only one gender, to perform tasks which are not part of their job specifications, such as: making coffee; obtaining lunch; doing personal shopping for supervisors.
- Demeaning comments spoken or actions made on account of sex or of a sexual nature.
- Unwanted, unwarranted and unsolicited advances, when such action relates to the employee-employer relationship.
- Nonverbal suggestive or insulting noises, leers, whistles, or gestures.

#### **IV. RESPONSIBILITY OF COMMANDERS, MANAGERS, AND SUPERVISORS**

- A. Monitor the work environment of subordinates for signs that sexual harassment may be occurring.
- B. Stop observed acts that may be considered harassment, discrimination, and/or retaliation and take appropriate steps to intervene, regardless of whether the involved members are within the line of supervision or command.
- C. Report incidents of suspected sexual harassment as outlined herein.
- D. Limit the work contact between the victim and accused while a complaint of sexual harassment or discrimination is pending resolution.

#### **V. REPORTING SEXUAL HARASSMENT INCIDENTS**

Incidents of harassment and/or retaliation for filing a complaint will be promptly reported to the *Internal Affairs Section*. Attempts will be made to address the circumstances at the lowest possible level with the intent to immediately correct the situation and prevent further occurrences. It is mandatory that commanders, managers, and supervisors contact the *Internal Affairs Section* when a complaint of sexual harassment and/or retaliation is made. The mandatory reporting requirement provides the *Internal Affairs Section* the ability to assess potential patterns of sexual harassment.

- A. While the *Internal Affairs Section* is a confidential resource with whom employees may consult in these matters, the *section* members have a legal obligation to report or take appropriate action when it is apparent or probable that prohibited conduct has occurred or is occurring, and/or that a law has been violated.
- B. Complaints, written or verbal, may be made to a supervisor (victim's, complainant's, accused's or other), a commander (victim's, complainant's, accused's, or other), a manager (victim's, complainant's, accused's, or other), or the *Internal Affairs Section*.

#### **VI. COMPLAINT PROCESSING**

- A. The commander, manager, or supervisor to whom the incident is reported will complete an inter-office correspondence and forward it directly to the *Internal Affairs Section* as soon as possible, and in no event later than seven days after the incident is reported.
- B. If detailed information about the alleged incident is not known at the time the complaint is made or filed, or at the time the incident is reported or observed, the correspondence will, nevertheless, be forwarded.
- C. No copies of the incident will be filed at the district stations.
- D. The *Internal Affairs Section* will make the appropriate inquiries into the situation upon notification of the incident or upon receipt of an inter-office correspondence, and will:
  - 1. Promptly review all incidents of alleged sexual harassment.
  - 2. Upon assessment and review of the allegation, a determination will be made as to whether the information will be presented to the Office of Law for legal interpretation and review of the facts to determine further action.

3. If the allegations are determined to be a bonafide sexual harassment complaint against a sworn officer *or civilian employee*, the Internal Affairs Section *will conduct an investigation* and ensure that the following actions are taken:
  - a. Assist the commander of the affected assignment in ensuring that there is no retaliation against the complainant and/or victim.
  - b. Maintain information obtained during the inquiry with strict confidentiality (to the extent possible).
  - c. Assure that supervisory communications with the persons involved are made to prevent a potential continuing course of unwanted conduct.
  - d. After disposition, make follow-up contact with the victim and/or complainant within 30 days, to ensure that there has not been a continuation of improper conduct, threats of retaliation, or retaliation.
- E. Any employee of the Anne Arundel County Police Department who willfully or intentionally sexually harasses another employee will be subject to stringent disciplinary actions, up to and including termination, and will be held liable for his/her conduct. Sexual harassment will not be tolerated within this agency.

**VII. DUTIES AND RESPONSIBILITIES OF THE SEXUAL HARASSMENT ADVISORY COMMITTEE**

The Sexual Harassment Advisory Committee has been established to periodically review the policy and recommend any changes and additions to the Chief of Police. Members of the committee, appointed by the Chief, are listed in Appendix "A."

**VIII. PROPONENT UNIT:** Internal Affairs Section.

**IX. CANCELLATION:** This directive cancels Index Code 717, dated 04-01-98. Prior date: 06-19-99.