



KANSAS CITY MISSOURI POLICE DEPARTMENT

PERSONNEL POLICY

DATE OF ISSUE

12-26-2019

EFFECTIVE DATE

12-26-2019

NO.

310-7

SUBJECT

Policy Series 300: Employee Relations
310 - Discrimination and/or Harassment

AMENDS

REFERENCE

Age Discrimination in Employment Act
Americans with Disabilities Act
Americans with Disabilities Act, as Amended
Missouri Human Rights Act, Chapter 213 RSMo
PPBM: 233 Age Limits, 308 Internal Affairs Investigation
Title 7 Civil Rights Act of 1964
Title 29 Code of Federal Regulations (CFR)

RESCINDS

PPBM: 310-6

I. INTRODUCTION

- A. It is the policy and practice of the Board of Police Commissioners and the Kansas City Missouri Police Department (Department) to provide a work atmosphere free of actual or perceived discrimination and harassment. The Department is committed to ensuring members may submit complaints of harassment or discrimination, and participate in investigations resulting from such complaints, without retaliation.
- B. Federal and state laws prohibiting unlawful harassment, discrimination and retaliation apply to both job applicants and employees. As a result, references in this written directive to 'members' refers to both job applicants and current members of the Department.
- C. This written directive may be broader than federal or state law mandates to the benefit of members and the Department.

II. TERMINOLOGY

- A. **Age Harassment and Discrimination** – Harassment or discrimination directed toward members who are the age of 40 or older, including basing employment actions on stereotypical assumptions; however, compulsory retirement of law enforcement officers is permitted under the law enforcement officer exception to the Age Discrimination in Employment Act. For more information refer to the current written directive entitled "Age Limits." Examples may include but are not limited to the following:
 - 1. Derogatory comments/remarks related to age such as being accident-prone, unable to learn new tasks, or having geriatric-related physical afflictions.
 - 2. Age-based teasing, remarks, jokes, or threats.
 - 3. Comments emphasizing youth, freshness, vigor, energy, young blood, or needing a "younger image."

- B. **Disabilities Harassment and Discrimination** – When a qualified member’s physical or mental impairment, which substantially limits one (1) or more major life activities, contributes to unequal or unfair treatment of the member. For additional information regarding disabilities harassment and discrimination, refer to the current written directive entitled, “Americans with Disabilities Act.” Examples may include but are not limited to the following:
1. Teasing or making jokes about a member’s actual or perceived disability.
 2. Intentionally creating an environment that makes it difficult for a disabled member to perform their job functions, such as altering or removing previously approved work accommodations.
 3. Refusing to hire an applicant, promote, or transfer a member due to the applicant or member’s physical or mental impairment, despite the applicant or member’s ability to perform the essential functions of the position for which they applied, with or without a reasonable accommodation.
- C. **Gender Harassment and Discrimination** – When a member’s gender, whether of the same or opposite gender, contributes to unequal and unfair treatment (not of a sexual nature) of a member. This includes derogatory comments or remarks related to physical or work abilities of the member’s gender, marital status, pregnancy or childbirth, or gender identity. Examples may include but are not limited to the following:
1. Comments displaying gender-based stereotypes, such as, “you don’t dress like a woman,” “no man should be a single parent,” “women belong at home,” “that’s a man’s job,” or “you should wear makeup to look more feminine.”
 2. Refusing to hire an applicant, fire, or demote a member when the member’s gender contributes to the decision.
 3. Issuing an unsatisfactory performance review because a transgender member has, or may in the future, transition from their birth-gender.
- *D. **Hostile Work Environment** - When harassing conduct either creates an intimidating or offensive work environment or has the purpose or effect of unreasonably interfering with an individual’s work performance. A hostile work environment may be a result of a single severe incident or a series of pervasive incidents occurring over time.

- E. **National Origin Harassment and Discrimination** – When a member’s ancestry, heritage, or national background contributes to unequal or unfair treatment of the member. Examples may include but are not limited to the following:
1. Ethnic slurs or other verbal and physical conduct related to the members’ (or their ancestors) national origin, surname, color, accent, or manner of speaking.
 2. Derogatory comments/remarks related to ancestry, culture, birthplace, physical characteristics, citizenship, or membership or association with a specific ethnic group’s culture, language, or religious affiliation.
- F. **Race/Color Harassment and Discrimination** – When a member’s race or color contributes to the unequal or unfair treatment of the member. Examples may include but are not limited to the following:
1. Racial or ethnic jokes, racially offensive or derogatory terms or names.
 2. Displaying racially insensitive materials.
 3. Hiring, termination of employment, demotion, promotion, or transfer, where the color of the job applicant or member’s skin complexion contributed to the employment action.
- G. **Religious Harassment or Discrimination** – A member’s religious beliefs, practices or affiliation, or lack thereof, contributes to harassment or discrimination of the member. Examples may include but are not limited to the following:
1. Insisting that a member participate in religious activities or hold particular religious views as a condition of hiring or continued employment, promotion, preferred job assignments or any other benefit or privilege of employment.
 2. Insisting that a member not participate in religious activities outside the workplace or not hold particular religious views.
 3. Engaging in religious discourse or expression that could reasonably be perceived as coercive.
 4. Religiously derogatory language, such as insulting or offensive comments about a particular religious persuasion, or persons having no religious beliefs.

- H. **Retaliation** – When a member's reporting of harassment or discrimination, or participation in any investigation resulting from such a report, contributes to an unfavorable assignment, transfer, demotion, termination of employment, or other tangible or material employment action.

- I. **Sexual Harassment** – A form of sex discrimination directed toward a member of any gender, including unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature. Examples of sexual harassment may include but are not limited to the following:
 - 1. Sexually suggestive or obscene letters or notes, derogatory comments, epithets, slurs, jokes, or inappropriate language used to describe a member.
 - 2. Terminating a member's employment or refusing to allow a member to participate in a promotional or specialized selection process because of the member's actual or perceived sexual orientation.
 - 3. Inappropriate physical overtures of a sexual nature, such as physical assault, unwelcome touching, or physical interference with the performance of normal work.
 - 4. Gestures with a sexual connotation, displaying sexually suggestive or derogatory objects, pictures, cartoons, or posters.
 - 5. Threats or insinuations that lack of sexual favors will result in reprisal, withholding support for appointment, promotion, transfer, failure to pass a probationary period, punitive action, change of assignment, or a poor performance report.

III. **POLICY**

- A. All commanders and supervisors will ensure:
 - 1. That all assigned subordinates are aware of and strictly adhere to this policy.
 - 2. That any questions about this policy are clarified by directing the member to the Human Resources Division (HRD) or Office of the General Counsel (OGC).

- B. The Department will not condone or tolerate any:
1. Conduct which may be construed as unlawful discrimination and/or harassment as previously defined by this directive.
 2. Retaliation against a member who reports discrimination and/or harassment or who participates in any investigation of such a report.
 3. Conduct that compels, incites, encourages, or aids another member to discriminate, harass, or retaliate.
 4. Conduct directed toward a member because of that member's association with any other person due to the other person's age, sex, gender, race, color, religion, disabilities, gender identity, sexual orientation, or national origin.
 5. Conduct directed toward a member because of the member's association with a group or organization that promotes equal treatment of all persons, or discourages unlawful harassment, discrimination or retaliation.
- C. Relationships of a sexual or romantic nature involving members who are of different rank, title or status are:
1. **Prohibited** if they:
 - a. compromise, or appear to compromise, the integrity of the supervisory authority or the chain of command, or
 - b. cause actual or perceived partiality or unfairness, or
 - c. are, or are perceived to be, exploitative or coercive in nature, or
 - d. involve, or appear to involve, the improper use of rank or position for personal gain, or
 - e. create an actual or clearly predictable adverse impact on discipline, authority, morale, or the ability of the command to accomplish its mission or objectives, or
 - f. specifically involve a recruit and an instructor or a probationary officer and a field training officer.

2. **Not prohibited** if:
 - a. the members involved are married **and**,
 - b. the members involved are clearly within different chains of command.
- *D. Members who plan or unexpectedly find themselves involved in a **prohibited** relationship are required to immediately request a transfer from the HRD Commander.
 1. The Bureau Commander and the HRD Commander will consult to determine the transfer of one (1) or both members.
 2. The first transfer consideration will be given to the member with the higher rank, unless otherwise agreed upon by the involved members, the bureau commander and the HRD Commander.
- E. Relationships of a sexual or romantic nature that are not prohibited, but involve persons who are assigned to the same sector, unit or element, are discouraged. If such a relationship results in a work environment as described in section C, 1, a-e previously, a transfer of one (1) or both of the members may occur at the direction of the HRD Commander.
- F. Members are required to:
 1. Report incidents involving conduct that may be construed as discrimination, harassment or retaliation as previously defined in this directive.
 2. Cooperate during any investigation of discrimination, harassment or retaliation and provide a statement when directed to do so.
- G. This written directive does not preclude disciplinary action being taken against a member if the member knowingly makes a false allegation or complaint of discrimination, harassment or retaliation, or knowingly provides false information during any investigation.

IV. PROCEDURES

- A. A member wishing to report an incident of discrimination, harassment or retaliation, as previously described within this directive, may:
1. Complete an Interdepartment Communication, Form 191 P.D., detailing the incident and provide it directly to the HRD Commander, or to the member's immediate supervisor or to any other supervisor. No copies of the Form 191 P.D. will be made.
 2. Orally report the incident to the member's immediate supervisor or to any other supervisor. The supervisor will then document the information and forward the report to the HRD Commander.
 3. Email the details of the incident to **[REDACTED]** from an identifiable email account to allow the HRD Commander or designee to follow up regarding the incident. This email account will be checked on a daily basis during normal business hours by the HRD Commander or designee.
- B. The member reporting unlawful discrimination, harassment, or retaliation as defined in this directive, will be separated from the accused, as follows:
1. The Bureau Commander and HRD Commander will consult in regard to which member to transfer during the course of an investigation.
 2. Consideration will be given to the members' work schedules, assignments, and any other pertinent information.
 3. A transferred member will be notified in writing of the decision.
 4. The transfer of a member pursuant to this provision is temporary in nature and should not be construed as permanent, retaliatory, or a disciplinary action.
- C. HRD Commander or designee will:
1. Notify the Chief of Police, the Bureau Commander, and the OGC of a complaint or investigation.
 2. Review all complaints.

- *3. Determine if an investigation is warranted. If warranted:
 - a. forward the investigation to the Internal Affairs Unit (IAU), or
 - b. retain an outside contractor for the express purpose of conducting the formal investigation.
- 4. Not investigate the following, but retain for statistical and other purposes by HRD:
 - a. Anonymous complaints. Without knowing the identity of the members involved, it may not be possible for the HRD Commander to follow-up and obtain additional information about the complaint or to determine if an investigation should occur.
 - b. Complaints regarding discipline or other conduct that are neither based upon discrimination or harassment as defined by this directive nor based upon a believed retaliatory act. Complaints in this category will be referred by the HRD Commander or designee to the Bureau Commander for appropriate follow-up and disposition.
- *5. Notify the reporting and accused members in writing that the complaint will result in:
 - a. A formal investigation.
 - b. An informal resolution and referral to the Bureau Commander.
 - c. No further action.

D. During the investigation:

- 1. Members will refer to the current Memorandum of Agreement between the Board of Police Commissioners and the Fraternal Order of Police bargaining units.
- 2. Members will be provided the Garrity warning.
- *3. Members will refer to the current written directive entitled, "Internal Affairs Investigation" for guidelines involving formal investigations of complaints.

- E. Upon completion of an investigation, the outside contractor will:
1. Prepare a written investigative report with the contractor's findings.
 2. Meet with the HRD Commander and present the report and findings on or before a prescribed date.
 3. The HRD Commander will make a recommendation to the Chief of Police and Bureau Commander as to the investigation's findings and need for final disposition.

Richard C. Smith
Chief of Police

Adopted by the Board of Police Commissioners this ____ day of _____, 20__.

Nathan Garrett
Board President

DISTRIBUTION: All Department Personnel
Public View Master Index – Internet
Department Master Index – Intranet
Policy Acknowledgement SyStem (PASS)