

PHOENIX FIRE DEPARTMENT

VOLUME 1 - Operations Manual

HARASSMENT - FREE ENVIRONMENT

MP105.17 10/07 - N

A. EQUAL EMPLOYMENT OPPORTUNITY

I. STATEMENT OF COMMITMENT

The Department is committed to providing a discrimination-free environment for all employees. The Department will not tolerate prohibited discrimination in the workplace.

II. PURPOSE

This Management Procedure (“MP”) describes and defines prohibited discrimination, reaffirms the City of Phoenix’ policy (“the Policy”) prohibiting discrimination, and outlines the Department’s responsibilities for compliance with the Policy. This Procedure further sets forth the procedures available to Department employees who believe they have been discriminated against or denied equal employment opportunity in any aspect of City/Department employment because of race, color, religion, gender, age, disability, sexual orientation or national origin.

In the event there is deemed to be any conflict between this revised MP (MP 105.17, Sections A, B, and C), and the City of Phoenix Administrative Regulations or Personnel Rules, such Regulations or Rules shall control.

III. DEFINITIONS

“Discrimination” is any act taken because of race, color, religion, gender, age, disability, sexual orientation or national origin by a City employee or group of employees that adversely affects another employee or applicant in any aspect of City employment. It also includes such acts directed at an employee because of their record of a disability, because they are regarded as having a disability or have a relationship with a person who has a disability.

Discrimination can occur in any process or function in achieving or maintaining City employment such as in work assignments, working conditions, job classification, disciplinary actions, promotions, salaries, performance ratings and merit pay increases.

“Sexual orientation” refers to heterosexuality, homosexuality or bisexuality.

“Department employment” shall be defined as employment by the City of Phoenix.

IV. POLICY

Discrimination will not be tolerated in any aspect of Department employment. Supervisors, managers, and executives are *required* to take proactive steps to prevent discrimination and to take prompt corrective action wherever it occurs.

Retaliation against any employee because of that employee’s filing of a discrimination complaint is prohibited. Any Department employee found guilty of retaliation due to the filing of a discrimination complaint shall be disciplined according to the applicable Management

Procedures and/or Administrative Procedures, or such other laws or rules applicable to such violations.

Department employees are urged to raise discrimination issues promptly so that such alleged issues can be addressed and corrected as appropriate to the extent necessary to resolve such issues.

The Department shall not deny any City service to any person on the basis of such person's sexual orientation as defined above and outlined in Phoenix City Code Section 18-10.01.

V. REPORTING DISCRIMINATION

A. When/where to make a report.

1. Any employee who believes s/he has been discriminated against because of race, color, religion, gender, age, disability, sexual orientation, national origin, or any other protected basis must report it immediately. Any employee or supervisor who knows or believes that employment discrimination is occurring, or has occurred, must file a report immediately with a supervisor, Department management, Personnel Officer, Equal Opportunity Liaison, or to the Equal Opportunity Department's Compliance and Enforcement Division.

If a supervisor/manager is advised of potential discrimination that supervisor must:

- stop the action;
- investigate the incident;
- notify their supervisor/manager and/or battalion chief immediately;
- follow up with a written report of alleged actions, steps taken, etc.;
- Supervisors/managers must then report any allegations to the Fire Personnel Deputy Chief.

2. If there is uncertainty as to whether a situation or event constitutes discrimination, such employee is encouraged to discuss the matter with the Department's Personnel Officer/Equal Opportunity Liaison or the Equal Opportunity Department before filing a formal complaint.

3. An employee may choose to raise the complaint with a state or federal agency without first pursuing it through City of Phoenix or Department channels. Complaints may also be filed with the Civil Rights Division of the Arizona State Attorney General's Office or the U.S. Equal Employment Opportunity Commission.

HOW TO MAKE A REPORT

1. All employees have a right to redress for prohibited discrimination. In order to secure this right, a complaint, preferably in writing, should be filed as soon as possible to the following staff at the Department or City of Phoenix:

- a. Supervisor or another person in the chain of command;
- b. Department Personnel Officer;
- c. Department Equal Opportunity Liaison, or;
- d. The Equal Opportunity Department, Compliance and Enforcement Division.

COMPLAINTS MUST BE FILED WITHIN 180 DAYS OF THE ALLEGED ACT(S) OF DISCRIMINATION

VI. INVESTIGATION OF COMPLAINTS

Pursuant to A.R. 2.35, the following procedures will be followed when a report of discrimination is made:

1. DEPARTMENT INVESTIGATION

The Department may, if appropriate and feasible, conduct its own investigation in consultation with the Equal Opportunity Department.

2. EQUAL OPPORTUNITY DEPARTMENT (“EOD”) INVESTIGATION

When a possible discrimination concern is brought to the Equal Opportunity Department, the Compliance and Enforcement Division will evaluate the situation and decide on a proper course of action. In accordance with A.R. 2.35, the following actions can be taken:

- a. The EOD can facilitate, if it deems it appropriate, an informal resolution between the parties.
- b. If a formal complaint is filed, the EOD will:
 1. Notify the Deputy City Manager, Department Head and Equal Opportunity Liaison;
 2. Immediately initiate an investigation to obtain all relevant facts concerning the complaint.
- c. The EOD may:
 1. Schedule interviews with all relevant individuals. Such interviews may be tape-recorded or a written statement of the testimony may be provided for the signature of the witnesses.
 2. Review personnel records or other documents; and
 3. Make site visits to discover relevant facts.
- d. The EOD will work with the department(s) involved to obtain and evaluate all relevant evidence.
- e. The EOD will analyze all relevant information and evidence and will reach a conclusion as to whether or not a violation of this MP and A.R. 2.35 has occurred.
- f. Notice of the conclusion of the investigation will be given to the Complainant, the appropriate Deputy City Manager, the Department Head, the Department Equal Opportunity Liaison, and the Respondent.

3. ALL PERSONS INVOLVED IN AN INVESTIGATION OF DISCRIMINATION SHALL ATTEMPT TO KEEP THE MATTER CONFIDENTIAL.

VII. RESOLUTION OF COMPLAINTS

Any employee who engages in discrimination is acting contrary to this MP and to City of Phoenix policy and will be subject to discipline, up to and including termination of employment.

1. If this MP and City policy has been violated, the EOD will make recommendations for the resolution of the complaint.
2. Management will take prompt, corrective action. Such actions may include verbal counseling up to and including involuntary termination of employment.
3. A finding that the conduct does not constitute discrimination/Sexual Harassment/Protected Category Harassment does not limit a Department's right and responsibility to discipline or to take such remedial action for conduct deemed unacceptable which is unbecoming of a City employee or which conduct is in violation of any other MP or City Regulation or policy.

VIII. NON-DISCRIMINATION INCIDENTS

1. Other alleged acts of unfair or unequal treatment which do not involve discrimination which are not based upon an individual's gender, race, color, sexual orientation, religion, age, disability, national origin, or any other protected basis, or which does not involve sexual harassment shall be addressed pursuant to Administrative Regulation 2.61.

IX. RETALIATION

1. No supervisor, manager, executive, or coworker may retaliate against an employee who makes a report of discrimination or who otherwise cooperates with any investigation regarding alleged discrimination.
2. Retaliation is unlawful and will not be tolerated. Retaliation must be reported and addressed in the same manner as complaints of discrimination.
3. Retaliation is a serious offense that may result in discipline up to and including termination of employment.
4. A person found to have committed retaliation in response to a charge of discrimination will be subject to discipline. Exoneration of the underlying charge of discrimination will have no effect on the investigation of or possible discipline imposed for retaliation.

X. PROCESS AND PROCEDURES

1. The process and procedures described above in Paragraphs V and VI shall apply to Paragraph B and C below relating to Sexual Harassment and Protected Category Harassment as if such process and procedures were fully set forth in said Paragraphs V and VI below.

B. SEXUAL HARASSMENT

- I. The City of Phoenix is committed to providing a harassment-free environment for all employees. The City will not tolerate sexual harassment in the workplace.

II. PURPOSE

1. The purpose of this MP is to define sexual harassment, set forth the compliance policy, and procedures relating to such allegations, including investigation and complaint procedures.

III. DEFINITIONS

1. Sexual harassment is behavior directed at an individual due to gender is not welcome, offensive, demoralizing, and/or interferes with work effectiveness.

2. The prohibited conduct applies to persons of the same or opposite sex and persons who are peers or in a hierarchical relationship.

3. There are two forms of sexual harassment:

A. **QUID PRO QUO:** When a supervisor or other person in authority conditions the granting of an economic or other job benefit, such as a raise or advancement, upon the receipt of sexual favors from a subordinate, withholds such benefits, or punishes that subordinate for refusing sexual favors.

B. **HOSTILE ENVIRONMENT:** This is created by persons in the workplace through unwelcome sexual advances or other verbal or physical conduct of a sexual nature that has the purpose or effect of unreasonably interfering with an individual's work performance or job conditions.

IV. POLICY

1. The Department and the City of Phoenix will not tolerate sexual harassment in the workplace.

2. No employee of the City should be subjected to unwelcome verbal or physical conduct that is sexual in nature, shows hostility to the employee, or subjected to a hostile work environment because of the employee's gender.

3. Supervisors, managers, and executives are required to take proactive steps to prevent sexual harassment and to take prompt corrective action whenever such prohibited conduct occurs.

V. EXAMPLES:

1. Examples of conduct prohibited by this MP are set forth in City of Phoenix Administrative Regulation 2.35(A) and are incorporated herein by this reference.

VI. PROCEDURE IF SEXUAL HARASSMENT OCCURS

1. **Tell the offending person to stop.**

A. A person who receives such a request must immediately comply with the request and must not retaliate against the employee for the rejected the prohibited conduct.

2. **Duty To Report.**

A. The City requires all employees to report conduct that is prohibited by this policy,

whether or not they are personally involved. Failure to report harassment can be a serious offense and may be grounds for disciplinary action.

- B. The failure of a supervisor, manager, or executive to monitor, intervene, or report sexual harassment as set forth herein can be a serious offense and will result in discipline.

VII. REPORTING SEXUAL HARASSMENT

A. When/where to make a report.

1. Any employee who believes s/he has been sexually harassed must report it immediately. Any employee or supervisor who knows or believes that sexual harassment is occurring, or has occurred, must file a report immediately to a supervisor, Department management, Personnel Officer, Equal Opportunity Liaison, or to the Equal Opportunity Department's Compliance and Enforcement Division.

If a supervisor/manager is advised of potential sexual harassment that supervisor must:

- stop the action;
- investigate the incident;
- notify their supervisor/manager and/or battalion chief immediately;
- follow up with a written report of alleged actions, steps taken, etc.;
- Managers must then report any allegations to the Fire Personnel Deputy Chief.

2. If there is uncertainty as to whether a situation or event constitutes sexual harassment, such employee is encouraged to discuss the matter with the Department's Personnel Officer/Equal Opportunity Liaison or the Equal Opportunity Department before filing a formal complaint.

3. An employee may choose to raise the complaint with a state or federal agency without first pursuing it through City of Phoenix or Department channels. Complaints may also be filed with the Civil Rights Division of the Arizona State Attorney General's Office or the U.S. Equal Employment Opportunity Commission.

VIII. INVESTIGATION OF COMPLAINTS

1. See Paragraph I above.

2. If the Department has the resources and expertise to do so, it may conduct its own investigation in consultation with the Equal Opportunity Department.

IX. NON-SEXUAL HARASSMENT INCIDENTS

1. Alleged acts of unfair or unequal treatment that do not involve discrimination, sexual harassment, or other protected category harassment should be addressed through the established grievance procedure and other provisions outlined in Administrative Regulation 2.61.

X. RETALIATION

1. See Paragraph A. IX above.

C. PROTECTED CATEGORY HARASSMENT

I. STATEMENT OF COMMITMENT

The City of Phoenix is committed to providing an harassment-free environment for employees. The City will not tolerate prohibited harassment of any kind in the workplace.

II. PURPOSE

This MP regulates persons identified in protected categories as defined herein and also protects employees from harassment based on their record of a disability, because they are regarded as having a disability or have a relationship with a person who has a disability.

III. DEFINITIONS

1. "Protected category harassment" and "harassment" have the same meaning.
2. This type of harassment is behavior based upon an individual's gender, race, color, sexual orientation, religion, age, disability, national origin or any other legally protected basis, that is not welcome, offensive, demoralizing, and/or interferes with work effectiveness.
3. This type of harassment does not cover acts otherwise described in Paragraphs A and B above. However, such conduct at issue might nevertheless be unprofessional and inappropriate in the workplace and actionable under Administrative Regulation 2.61.
4. Protected category harassment is evaluated from the victim's perspective. What may not be offensive to one person may be offensive to another. Whether such conduct constitutes a violation depends upon the facts and context in which the conduct occurs as well as the severity or frequency of such conduct.

IV. EXAMPLES OF PROHIBITED CONDUCT

1. Examples of conduct prohibited by this MP are set forth in City of Phoenix Administrative Regulation 2.35(B) and are incorporated herein by this reference.

V. PROCESS AND PROCEDURES

1. The same process and procedures for Protected Category Harassment claims is the same as set forth for Equal Opportunity Discrimination claims as set forth in Paragraph A above.

VI. RETALIATION

1. No supervisor, manager, executive, or coworker may retaliate against an employee who makes a report of discrimination or who otherwise cooperates with any investigation regarding alleged discrimination.
2. Retaliation is unlawful and will not be tolerated. Retaliation must be reported and addressed in the same manner as complaints of discrimination.
3. Retaliation is a serious offense that may result in discipline up to and including termination of employment.

4. A person found to have committed retaliation in response to a charge of discrimination will be subject to discipline. Exoneration of the underlying charge of discrimination will have no effect on the investigation of or possible discipline imposed for retaliation.