



NORTH MIAMI POLICE DEPARTMENT

STANDARD OPERATING PROCEDURES



ANTI-HARASSMENT AND DISCRIMINATION 200.01

EFFECTIVE DATE: 03-02-21

APPROVED:


Chief of Police

SUPERSEDES: 07-28-20

CFA: 7.07

CONTENTS:

- | | |
|-----------------|--------------------|
| I. Purpose | V. Prohibited Acts |
| II. Policy | VI. Procedures |
| III. Scope | VII. Training |
| IV. Definitions | |

I. PURPOSE

The purpose of this policy is to foster a healthy work environment in which all individuals are treated with respect and dignity. Also, to provide procedures for reporting, investigating, and resolving complaints of harassment, discrimination and unprofessional conduct, regardless of the source. All employees have the right to work in an environment free of harassment and discrimination.

II. POLICY

It is the Department's policy that employees shall not engage in any acts that threaten, intimidate, harass, demean, or torment fellow employees. The Department considers unprofessional conduct, harassment, discrimination, bullying, and retaliation of others to be serious employee misconduct. Employees who have been exposed to, or experienced harassment or discrimination, are encouraged to report the incident, in accordance with this policy. **CFA 7.07**

III. SCOPE

This policy applies to all members of the Department.

IV. DEFINITIONS

- A. **Bullying:** Repeated inappropriate behavior, abuse, or mistreatment conducted by one or more persons against another or others in the course of employment and involves a real or perceived power imbalance. Bullying includes behavior, either direct or indirect, that demeans, embarrasses, humiliates, persistently annoys, alarms, or verbally abuses a person.
- B. **Discrimination:** To treat a person differently, or less favorably, because of their race, color, religion, sex (including pregnancy, gender identity, and sexual orientation), national origin, disability, age, or genetic information.
- C. **Harassment:** Unwanted, unwelcome, or uninvited conduct that demeans, threatens, or offends another person. Harassment becomes unlawful where (1) enduring the offensive conduct becomes a condition of continued employment, or (2) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive.
- D. **Hostile Work Environment Harassment:** Speech or conduct based on race, color, religion, sex, age, national origin, marital status, political affiliation, handicap, disability, sexual orientation, or personal appearance, that is unwelcome, and sufficiently severe or pervasive as to significantly interfere with a member's work performance or work environment.
- E. **Office of Professional Compliance (OPC):** The agency unit/function responsible for monitoring adherence of employees to agency policy, procedures and rules, and for conducting investigations of employee misconduct.
- F. **Retaliatory Conduct:** Conduct or action designed to serve as retribution against an employee who, in good faith, has reported or otherwise provided information regarding misconduct against another employee.
- G. **Sexual Harassment:** Unwelcome sexual advances, requests for sexual favors, and any other physical, verbal, or visual conduct of a sexual nature when any of the following exist:
 - 1. Submission to such conduct is made either explicitly or implicitly as a condition of employment.
 - 2. Submission to, or rejection of, such conduct by an individual is used as a basis for employment decisions affecting the individual.

3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance and/or creating an intimidating, hostile, or offensive working environment.
- H. Sex-Based Discrimination: Involves treating someone (an applicant or employee) unfavorably because of that person's sex. This includes discrimination against an individual because of gender identity, including transgender status, or because of their sexual orientation pursuant to Title VII.
- I. Language Clarification:
- Should: Indicates a general or expected action, absent a rational basis for failing to conform.
 - Shall or Will: Indicates a mandatory action.

V. PROHIBITED ACTS

- A. Either men or women may be violators or victims of harassment and discrimination. Employees who violate Departmental policy prohibiting harassment and discrimination are subject to disciplinary action.
- B. Members of the Department will not engage in the following unprofessional conduct, harassment, discrimination, bullying and retaliation of others by:
1. Threatening or implying, either explicitly or implicitly, that an employee's refusal to submit to unwelcomed advances may adversely affect the employee's employment, performance evaluations, wages, promotion, assigned duties, shifts, or any other condition of employment or career development.
 2. Threatening or implying, either explicitly or implicitly, that a job applicant's refusal to submit to advances may adversely affect employability.
 3. Creating a harassing, or sexual harassment environment by such unwelcomed actions as:
 - a. Offensive sexual flirtations;
 - b. Advances and/or propositions;

- c. Verbal abuse of a sexual nature (i.e., jokes or innuendos intended for, and directed to, other employees);
 - d. Displays of sexually graphic material, cartoons or suggestive objects;
 - e. Graphic verbal commentaries about an individual's body;
 - f. Sexually degrading words or gestures;
 - g. Remarks concerning sexual preference or gender identity;
 - h. Physical contact such as patting, grabbing, pinching, hugging, kissing or brushing against another's body;
 - i. Explicit or implicit ridiculing, mocking, deriding, bullying or belittling any person; and
 - j. Any other such objectively offensive conduct that has the purpose or effect of interfering with either an individual's work performance or creating an intimidating, hostile, or offensive working environment.
- 4. Taking retaliatory action of any kind against any employee as a result of that persons seeking redress for, or complaining of, harassment or discrimination.
 - 5. Perform an objectively unreasonable act or discriminate upon any employee based upon that employee's perceived protected class status.
 - 6. Use of blogs, social networking sites, or other Internet communication devices, whether directly or indirectly, to harass another employee. This prohibition includes the employee's use of Internet or social networking sites outside the workplace.
 - 7. Exhibiting any other behavior that falls within the definitions of harassment and discrimination.

VI. PROCEDURES

A. **Supervisors' Responsibilities:**

- 1. It will be the responsibility of each supervisor to monitor and maintain his/her work place free of harassment and/or discrimination. Supervisors learning of an incident of harassment or discrimination have a duty to report it to the Office of Professional Compliance via memorandum. Failure to take action to stop known harassment shall be grounds for discipline.

2. Supervisors are responsible for stopping any observed acts that may be considered harassment or discrimination and taking the appropriate steps to intervene, regardless of whether the involved members are within the supervisor's chain of command.
3. If an employee files a complaint, the supervisor will report the incident in a memorandum and forward it to the Office of Professional Compliance. The report will include:
 - a. The incident(s) complained of;
 - b. The person(s) performing or participating in the prohibited action;
 - c. Any witnesses to the incident(s); and
 - d. The date(s) on which it occurred.
4. Each department supervisor is responsible for:
 - a. Reviewing the Department's Anti-Harassment and Discrimination policy with employees;
 - b. Assuring employees they need not endure insulting, degrading, or exploitive treatment of any nature;
 - c. Informing employees of their right to file a complaint for offensive conduct prohibited in this policy and the procedures for reporting said complaint;
 - d. Assuring employees that such investigations will be handled in accordance with applicable confidentiality provisions; and
 - e. Notifying the Chief of Police, or his designee, of actions taken relating to the complaint.

B. Employee Responsibilities:

1. Each employee is responsible for assisting in the prevention of unprofessional conduct, harassment, bullying, and discrimination by:
 - a. Not participating in or encouraging any action that could be perceived as unprofessional conduct, harassment, bullying, or discrimination;
 - b. Reporting observed acts of unprofessional conduct, harassment, bullying, or discrimination to a supervisor; and

- c. Encouraging any employee who confides that they are being treated unprofessionally, harassed, bullied, or discriminated against to report these acts to a supervisor.
2. Failure of any employee to carry out their responsibilities as defined in this policy will be considered in any performance evaluation and may be grounds for discipline.

C. Complaint Procedures: CFA 7.07

1. Prior to making a harassment complaint, the employee encountering the prohibited actions should take the following steps:
 - a. Make it clear to the harassing party that the activity is unwelcomed and ask for it to stop.
 - b. The employee should document incidents of harassment, including dates, times, place of occurrence, names of witnesses, and nature of the incident.
 - c. If the personal attempt to resolve the problem fails, a complaint must be made to the appropriate authority as listed below so that steps may be taken to protect the employee from further actions in violation of this policy and so that appropriate investigative and disciplinary measures may be initiated.
2. Employees may file a complaint directly with one or more of the following, as the employee deems appropriate, such as when the immediate supervisor is involved in the prohibited action:
 - a. Any Supervisor in the affected member's Chain-of-Command;
 - b. The Chief of Police;
 - c. Florida Commission on Human Relations; and
 - d. Equal Employment Opportunity Commission (EEOC).
3. False Claims: While every effort will be made to investigate and resolve complaints lodged in good faith by members, the Department prohibits claims that a member knows are false, spurious, or made with the intent to take revenge against or otherwise harm a fellow member. Members, who make such

accusations, knowing that they are not justified by the facts, are subject to disciplinary action.

4. Retaliation: There will be no retaliation against any member for filing a harassment and/or discrimination complaint, or assisting, testifying, or participating in the investigation of such complaint. Any subsequent conduct by members toward any affected party, which is negative and retaliatory, should be reported for investigation and an appropriate response.

E. Office of Professional Compliance Responsibilities:

1. The OPC, upon receipt of a complaint alleging a violation of any part of this policy, shall make notification to the Chief of Police, or his/her designee, as soon as possible for a determination as to how to proceed. If a complaint contains evidence of criminal activity, such as battery, rape, or attempted rape, notification to the Chief of Police, or his/her designee, shall be immediate.
2. Whether a complaint is assigned to the OPC to investigate as an Internal Affairs or an Administrative Review, or routed to the concerned unit for investigation as a Unit Complaint, the concerned supervisor assigned to investigate the case shall investigate whether other employees are being harassed or discriminated against by the subject employee. Also, whether other agency members participated in, or encouraged the harassment or discrimination.
3. The supervisor handling the investigation shall inform the parties involved of the outcome of the investigation.
4. Case files of harassment and discrimination complaints shall be maintained in a secure location by the investigative supervisor, whether an OPC or unit supervisor.
5. The complaining party's confidentiality will be maintained throughout the investigatory process to the extent practical and appropriate under the circumstances.

F. Corrective Actions:

The concerned Section Major, with approval of the Chief of Police, may

take any of the following actions to ensure an investigation of the complaint can proceed without conflict between the involved parties:

1. Issue written orders to the involved parties, directing them to avoid contact pending the investigation.
2. Have all parties remain in their current assignment pending the investigation.
3. Reassign one or more of the involved parties to a different assignment to improve the working environment pending the investigation. The complainant will not be reassigned unless exigent circumstances exist and approval has been granted by the Chief of Police. If the complainant submits an unsolicited request for a transfer, it will be considered.
4. Place the accused party on temporary administrative leave until the investigation has progressed to a point where the concerned Major can determine the best course of action to take regarding assignment of the involved parties.
5. Take corrective action in accordance with the EEOC, North Miami Police Department policy, current case law, or any other action deemed appropriate by the Chief of Police.

VII. TRAINING

- A. Newly hired members, sworn and civilian, shall receive training on the procedures listed in this policy.
- B. All other members will receive refresher training periodically, not to exceed three years.