
Discriminatory Harassment

314.1 PURPOSE AND SCOPE

The purpose of this policy is to prevent department members from being subjected to discriminatory harassment, including sexual harassment and retaliation. Nothing in this policy is intended to create a legal or employment right or duty that is not created by law.

314.2 POLICY

The Plymouth Township Police Department is an equal opportunity employer and is committed to creating and maintaining a work environment that is free of all forms of discriminatory harassment, including sexual harassment and retaliation. The Department will not tolerate discrimination against a member in hiring, promotion, discharge, compensation, fringe benefits and other privileges of employment. The Department will take preventive and corrective action to address any behavior that violates this policy or the rights and privileges it is designed to protect.

The nondiscrimination policies of the Department may be more comprehensive than state or federal law. Conduct that violates this policy may not violate state or federal law but still could subject a member to discipline.

This agency will not tolerate, condone, or allow harassment by employees (whether sworn or civilian), volunteers, or other non-employees who conduct business with this agency. This department considers harassment and discrimination of others a form of serious employee misconduct. Therefore, the agency shall take direct and immediate action to prevent such behavior and to remedy all reported instances of harassment and discrimination. Any violations of this policy can lead to discipline up to and including termination, with repeated violations, even "minor," resulting in greater levels of discipline as appropriate.

314.3 DEFINITIONS

Definitions related to this policy include:

314.3.1 DISCRIMINATION

The Department prohibits all forms of discrimination, including any employment-related action by a member that adversely affects an applicant or member and is based on actual or perceived race, color, ethnicity, religion, sex (gender, pregnancy), age, national origin or ancestry, sexual orientation, gender identity or expression, age, disability, pregnancy, genetic information, veteran status, marital status, and other classifications protected by law (43 P.S. § 955).

Discriminatory harassment, including sexual harassment, is verbal or physical conduct that demeans or shows hostility or aversion toward an individual based upon that individual's protected class. It has the effect of interfering with an individual's work performance or creating a hostile or abusive work environment.

Conduct that may, under certain circumstances, constitute discriminatory harassment can include making derogatory comments, crude and offensive statements or remarks; making slurs or

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off-color jokes; stereotyping; engaging in threatening acts; making indecent gestures, pictures, cartoons, posters or material; making inappropriate physical contact; or using written material or department equipment and/or systems to transmit or receive offensive material, statements or pictures. Such conduct is contrary to department policy and to a work environment that is free of discrimination.

314.3.2 RETALIATION

Retaliation is treating a person differently or engaging in acts of reprisal or intimidation against the person because the person has engaged in protected activity, filed a charge of discrimination, participated in an investigation, or opposed a discriminatory practice. Retaliation will not be tolerated.

314.3.3 SEXUAL HARASSMENT

The Department prohibits all forms of discrimination and discriminatory harassment, including sexual harassment. It is unlawful to harass an applicant or a member because of that person's sex.

Sexual harassment includes but is not limited to unwelcome sexual advances, requests for sexual favors, or other verbal, visual, or physical conduct of a sexual nature when:

- (a) Submission to such conduct is made either explicitly or implicitly as a term or condition of employment, position, or compensation.
- (b) Submission to, or rejection of, such conduct is used as the basis for any employment decisions affecting the member.
- (c) Such conduct has the purpose or effect of substantially interfering with a member's work performance or creating an intimidating, hostile, or offensive work environment.

314.3.4 ADDITIONAL CONSIDERATIONS

Discrimination and discriminatory harassment do not include actions that are in accordance with established rules, principles, or standards, including:

- (a) Acts or omission of acts based solely upon bona fide occupational qualifications under the Equal Employment Opportunity Commission and the Pennsylvania Human Relations Commission guidelines.
- (b) Bona fide requests or demands by a supervisor that the member improve the member's work quality or output, that the member report to the job site on time, that the member comply with township or department rules or regulations, or any other appropriate work-related communication between supervisor and member.

314.4 RESPONSIBILITIES

This policy applies to all department members, who shall follow the intent of these guidelines in a manner that reflects department policy, professional standards and the best interest of the Department and its mission.

Members are encouraged to promptly report any discriminatory, retaliatory or harassing conduct or known violations of this policy to a supervisor. Any member who is not comfortable with reporting violations of this policy to the member's immediate supervisor may bypass the chain of command

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and make the report to a higher ranking supervisor or manager. Complaints may also be filed with the Chief of Police, the Human Resources Manager or the Township Manager.

Any member who believes, in good faith, that the member has been discriminated against, harassed or subjected to retaliation, or who has observed harassment, discrimination or retaliation, shall promptly report such conduct in accordance with the procedures set forth in this policy. Failure of an employee to carry out the above responsibilities may be grounds for discipline.

Supervisors and managers receiving information regarding alleged violations of this policy shall determine if there is any basis for the allegation and shall proceed with a resolution as stated below.

314.4.1 QUESTIONS OR CLARIFICATION

Members with questions regarding what constitutes discrimination, sexual harassment, or retaliation are encouraged to contact a supervisor, a manager, the Chief of Police, the Human Resources Manager, or the Township Manager for further information, direction, or clarification.

314.4.2 SUPERVISOR RESPONSIBILITIES

The responsibilities of each supervisor and manager shall include, but are not limited to:

- (a) Continually monitoring the work environment and striving to ensure that it is free from all types of unlawful discrimination, including harassment or retaliation.
- (b) Stopping any acts that may be considered harassment, and taking appropriate steps to intervene, whether or not the involved employees are within his/her line of supervision.
- (c) Taking immediate action to prevent retaliation towards the complaining party and to eliminate the hostile work environment where there has been a complaint of harassment, pending investigation.
 1. If a situation requires separation of the parties, care should be taken to avoid actions that appear to punish the complainant.
 2. Transfer or reassignment of any of the parties involved should be voluntary pending the outcome of the investigation.
- (d) Ensuring that their subordinates understand their responsibilities under this policy.
- (e) Ensuring that members who make complaints or who oppose any unlawful employment practices are protected from retaliation and that such matters are kept confidential to the extent possible.
- (f) Making a timely determination regarding the substance of any allegation based upon all available facts.
- (g) Notifying the Chief of Police or Human Resources Manager in writing of the circumstances surrounding any reported allegations or observed acts of discrimination, harassment or retaliation no later than the next business day.

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- (h) Failure to carry out the above responsibilities may be grounds for discipline.

314.4.3 SUPERVISOR'S ROLE

Because of differences in individual values, supervisors and managers may find it difficult to recognize that their behavior or the behavior of others is discriminatory, harassing or retaliatory. Supervisors and managers shall be aware of the following:

- (a) Behavior of supervisors and managers should represent the values of the Department and professional standards.
- (b) False or mistaken accusations of discrimination, harassment or retaliation can have negative effects on the careers of innocent members.

Nothing in this section shall be construed to prevent supervisors or managers from discharging supervisory or management responsibilities, such as determining duty assignments, evaluating or counseling members or issuing discipline in a manner that is consistent with established procedures.

314.5 INVESTIGATION OF COMPLAINTS

Various methods of resolution exist. During the pendency of any such investigation, the supervisor of the involved member shall take prompt and reasonable steps to eliminate any continuing abusive or hostile work environment and notify a Lieutenant. The Lieutenant shall immediately notify the Chief of Police, who will assign the complaint to a designee to investigate. It is the policy of the Department that all complaints of discrimination, retaliation or harassment shall be fully documented and promptly and thoroughly investigated.

The District Attorney's Office shall immediately be notified if the complaint contains evidence of criminal activity.

314.5.1 SUPERVISOR RESOLUTION

Members who believe they are experiencing discrimination, harassment or retaliation should be encouraged to inform the individual that the behavior is unwelcome, offensive, unprofessional or inappropriate. The employee should also be encouraged to document all incidents of harassment in order to provide the fullest basis for investigation. However, if the member feels uncomfortable or threatened or has difficulty expressing their concern, or if this does not resolve the concern, assistance should be sought from a supervisor or manager who is a rank higher than the alleged transgressor.

314.5.2 FORMAL INVESTIGATION

The person assigned to investigate the complaint will have full authority to investigate all aspects of the complaint. Investigative authority includes access to records and the cooperation of any members involved. No influence will be used to suppress any complaint and no member will be subject to retaliation or reprisal for filing a complaint, encouraging others to file a complaint or for offering testimony or evidence in any investigation.

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The investigator shall include a determination as to whether other employees are being harassed by the person, and whether other Department members participated or encouraged the harassment.

Formal investigation of the complaint will be confidential to the extent possible and will include, but is not limited to, details of the specific incident, frequency and dates of occurrences and names of any witnesses. Witnesses will be advised regarding the prohibition against retaliation, and that a disciplinary process, up to and including termination, may result if retaliation occurs.

The complaining party's confidentiality will be maintained throughout the investigation to the extent practical and appropriate under the circumstances.

Members who believe they have been discriminated against, harassed or retaliated against are encouraged to follow the chain of command but may also file a complaint with any supervisor, any member of command staff or directly with the Chief of Police, Human Resources Manager or the Township Manager.

314.5.3 ALTERNATIVE COMPLAINT PROCESS

No provision of this policy shall be construed to prevent any member from seeking legal redress outside the Department. Members who believe that they have been harassed, discriminated against, or retaliated against are entitled to bring complaints of employment discrimination to federal, state, and/or local agencies responsible for investigating such allegations. Specific time limitations apply to the filing of such charges. Members are advised that proceeding with complaints under the provisions of this policy does not in any way affect those filing requirements.

314.6 DOCUMENTATION OF COMPLAINTS

All complaints or allegations shall be thoroughly documented in a manner designated by the Chief of Police. The outcome of all reports shall be:

- (a) Approved by the Chief of Police, the Township Manager or the Human Resources Manager, depending on the ranks of the involved parties.
- (b) Maintained in a secure location and in accordance with the established records retention schedule.

314.6.1 NOTIFICATION OF DISPOSITION

The complainant and/or victim will be notified in writing of the disposition of the investigation and the actions taken to remedy or address the circumstances giving rise to the complaint.

Complainants or employees accused of harassment may file a grievance or appeal in accordance with the Department's procedures when they disagree with the investigation or disposition of an harassment claim.

314.7 RETALIATION

- (a) Retaliation against any employee for filing a harassment or discrimination complaint, or for assisting, testifying, or participating in the investigation of such a complaint, is illegal and is prohibited by this Department and by federal statutes.

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- (b) Retaliation is a form of employee misconduct. Any evidence of retaliation shall be considered a separate violation of this policy and shall be handled by the same complaint procedures established for harassment and discrimination complaints.
- (c) Monitoring to ensure that retaliation does not occur is the responsibility of the Chief of Police, all Command personnel, and all supervisors.

314.8 TRAINING

All new members shall be provided with a copy of this policy as part of their orientation. The policy shall be reviewed with each new member. The member shall certify by signing the prescribed form that the member has been advised of this policy, is aware of and understands its contents, and agrees to abide by its provisions during the member's term with the Department.

All members shall receive annual training on the requirements of this policy and shall certify by signing the prescribed form that they have reviewed the policy, understand its contents, and agree that they will continue to abide by its provisions.