**IACP Law Enforcement Policy Center**

HARASSMENT, DISCRIMINATION, AND UNPROFESSIONAL CONDUCT

# Model Policy

# May 2019

1. **PURPOSE**

The purpose of this policy is to foster a healthy work environment in which all individuals are treated with respect and dignity and to provide procedures for reporting, investigating, and resolving complaints of harassment and discrimination, and unprofessional conduct. All employees have the right to work in an environment free of harassment and discrimination.[[1]](#footnote-2)

1. **POLICY**

It is the policy of this law enforcement agency that all employees shall not engage in any acts that threaten, intimidate, harass, demean, or torment fellow employees. This agency considers unprofessional conduct, harassment, discrimination, bullying, and retaliation of others to be serious employee misconduct. Any prohibited conduct covered by this policy that comes to the attention of a supervisor shall result in an investigation.

1. **DEFINITIONS**

 *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.

 *Discrimination:* Unfair or unequal treatment of an individual or group based on protected class status.[[2]](#footnote-3)

 *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.[[3]](#footnote-4)

 *Office of Professional Standards (OPS):* The designated employee(s) or unit, which may be external to the agency, with primary responsibility for monitoring adherence of employees to agency policy, procedures, and rules and for conducting investigations of allegations of employee misconduct.[[4]](#footnote-5)

 *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. In the context of this policy, retaliatory conduct includes any deliberate, purposeful actions or failures to act directed against employees that cause or that could reasonably be expected to cause physical harm, property damage, significant emotional stress, or other serious negative effect on another employee; designed to ridicule or embarrass; or could seriously impair the efficiency, safety, or effectiveness of that employee, this agency, or both. Such conduct may take many forms, including, but not limited to, bullying; persistent offensive comments, threats, or intimidation; false accusations; isolation; ostracism; posting of secure or personal information on the Internet; or acts that malign or disparage an individual’s reputation.[[5]](#footnote-6)

 *Sexual Harassment:* Unwelcome sexual advances, requests for sexual favors, and other verbal or physical offensive conduct of a sexual nature that explicitly or implicitly affects employment; unreasonably interferes with work performance; or creates an intimidating, hostile, or offensive working environment.[[6]](#footnote-7)

1. **PROHIBITED ACTIVITIES**
	1. Unprofessional Conduct
		1. No employee shall treat another employee with disrespect or discourtesy. Employees shall be civil and professional in their dealings with one another at all times.
		2. No employee shall either explicitly or implicitly ridicule, mock, deride, bully, or belittle any fellow employee.
	2. Discriminatory Treatment

No employee shall treat any employee differently based on a protected class status.

* 1. Prohibited Harassment

No employee shall

* + 1. Make offensive or derogatory comments to any person, either directly or indirectly, whether verbally, in writing, or through the use of electronic devices or Internet services.
		2. Engage in activity such as slander, sabotage, ostracism, badgering, withholding resources, disruptive treatment and/or conduct that intimidates or is hostile. Nor shall any employee allow non-employees who conduct business with this law enforcement agency to engage in such activity. All prohibited acts of these types will be judged on the basis of conduct that is “objectively reasonable.”
		3. Perform an objectively unreasonable act upon any employee based upon that employee’s perceived protected class status.
		4. Use blogs, social networking sites, or other Internet communication devices to harass another employee. This prohibition includes the employee’s use of Internet or social networking sites outside the workplace.
	1. Sexual Harassment

No employee shall engage in sexual harassment in any manner, to include verbal, nonverbal, or physical behavior of a sexual nature.

1. **PROCEDURES**
	1. Supervisors’ Responsibilities
		1. Supervisors shall be responsible for
			1. advising employees on the types of behavior prohibited and the agency procedures for reporting and resolving complaints of unprofessional conduct, harassment, bullying, and discrimination;
			2. monitoring the work environment on a daily basis for signs that unprofessional conduct, harassment, bullying, or discrimination may be occurring;
			3. stopping any observed acts that may be considered unprofessional conduct, harassment, bullying, or discrimination, and taking appropriate steps to intervene, whether or not the involved employees are under their supervision;
			4. utilizing all reasonable means to prevent a prohibited act from occurring when they know or should know that an employee will or may perform such an activity; and
			5. taking immediate action to prevent retaliatory conduct toward the complaining party and to eliminate the hostile work environment where there has been a complaint of harassment and/or discrimination.
				1. If a situation requires separation of the parties, care should be taken to avoid action that punishes or appears to punish the complainant.
				2. Transfer or reassignment of any of the parties involved should be voluntary if possible and, if non-voluntary, should not be taken against the wishes of the complaining party.
		2. No supervisor shall make any employment decision that affects the terms, conditions, or privileges of an individual’s employment based on the basis of that person’s protected class status.
		3. Supervisors shall take action to notify the appropriate authority, such as OPS, any supervisor, or the agency’s human resources function, of any prohibited activities that are brought to their attention.
		4. Once a supervisor receives information regarding conduct that may violate this policy, they are responsible for taking action, regardless of whether the reporting employee wants any action taken on their behalf. Circumstances in which the victim is under age require immediate, emergency notification.
		5. Each supervisor has the responsibility to assist any employee in documenting and filing a complaint of unprofessional conduct, bullying, harassment, or discrimination with OPS.
	2. Employee Responsibilities
		1. Each employee of this agency is responsible for assisting in the prevention of unprofessional conduct, harassment, bullying, and discrimination by
			1. not participating in or encouraging any action that could be perceived as unprofessional conduct, harassment, bullying, or discrimination;
			2. reporting observed acts of unprofessional conduct, harassment, bullying, or discrimination to a supervisor; and
			3. encouraging any employee who confides that they are being treated unprofessionally, harassed, bullied, or discriminated against to report these acts to a supervisor.[[7]](#footnote-8)
		2. Failure of any employee to carry out their responsibilities as defined in this policy will be considered in any performance evaluation or promotional decision and may be grounds for discipline.
	3. Complaint Procedures
		1. Any employee encountering unprofessional conduct, harassment, bullying, and/or discrimination is encouraged to
			1. inform the person that their actions are unwelcome and offensive; and
			2. immediately document all incidents in order to provide the details for investigation.
		2. Any employee who believes that they are being treated unprofessionally, harassed, bullied, or discriminated against shall report the incident(s) as soon as possible to a supervisor or OPS 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. Where the immediate supervisor is involved in the prohibited action, the employee may waive filing a complaint with that supervisor and may proceed to a supervisor higher in the chain of command or an employee in OPS.
		3. Employees who falsely accusing another as a means of harassing or bullying shall be disciplined.[[8]](#footnote-9)
		4. The supervisor or other person to whom a complaint is given shall meet with the employee and document
			1. the incident(s) complained of;
			2. the person(s) performing or participating in the prohibited action;
			3. any witnesses to the incident(s); and
			4. the date(s) on which it occurred.
		5. The employee taking the complaint shall promptly submit a confidential memorandum documenting the complaint to OPS and/or the agency’s human resources function.
		6. Unless otherwise specified, OPS shall be responsible for investigating any complaint alleging a violation of this policy and shall
			1. immediately notify the chief executive officer if the complaint contains evidence of criminal activity;
			2. include a determination as to whether a violation of this policy occurred and whether other agency members participated in or encouraged the harassment or discrimination;
			3. inform the parties involved and the chief executive or the chief’s designee of the outcome of the investigation;
			4. maintain a file of complaints in a secure location; and
			5. provide the chief executive officer with an annual summary of these complaints.
		7. The complaining party’s confidentiality shall be maintained throughout the investigatory process to the extent practical and appropriate under the circumstances and controlling law.
		8. This policy does not preclude any employee from filing a complaint or grievance with an appropriate outside agency.[[9]](#footnote-10)
	4. Retaliatory Conduct

Retaliatory conduct against any employee for filing an unprofessional conduct, bullying, harassment, or discrimination complaint or for assisting, testifying, or participating in the investigation of such a complaint is prohibited by this agency.

* 1. Training

This agency shall provide regular and refresher training concerning the nature of unprofessional conduct, bullying, harassment, and discrimination in the workplace and prohibitions on such actions defined in the policy. Training should be tailored to specific sections within the agency, recognizing that middle- and first-line supervisors are of particular importance in preventing, identifying, and responding effectively to unprofessional conduct, bullying, harassment, and discrimination.

Every effort has been made to ensure that this document incorporates the most current information and contemporary professional judgment on this issue. Readers outside of the United States should note that, while this document promotes procedures reflective of a democratic society, its legal basis follows United States Supreme Court rulings and other federal laws and statutes.

Law enforcement administrators should be cautioned that each law enforcement agency operates in a unique environment of court rulings, state laws, local ordinances, regulations, judicial and administrative decisions and collective bargaining agreements that must be considered, and should therefore consult its legal advisor before implementing any policy.

This document is not intended to be a national standard.

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1. Individuals covered under this policy include agency members defined as employees and applicants for employment with the agency, whether sworn, regular, reserve, or civilian; all volunteers; interns; cadets; Police Explorers, or any individual engaged in agency-sponsored mentoring activities. [↑](#footnote-ref-2)
2. Protected class status may include, but is not limited to, race, sex, national origin, color, religion, age, or disability. Additionally, some locations may consider sexual orientation, gender identity, pregnancy, and marital status as protected classes. [↑](#footnote-ref-3)
3. Equal Employment Opportunity Commission (EEOC), “Harassment,” <https://www.eeoc.gov/laws/types/harassment.cfm>. [↑](#footnote-ref-4)
4. This may also be referred to as internal affairs or professional responsibility. [↑](#footnote-ref-5)
5. For more information, please see the IACP Policy Center documents on Retaliatory Conduct available at <https://www.theiacp.org/resources/policy-center-resource/retaliatory-conduct>. [↑](#footnote-ref-6)
6. Sexual harassment includes, but is not limited to, “offensive jokes, slurs, epithets or name calling, undue attention, physical assaults or threats, unwelcomed touching or contact, intimidation, ridicule or mockery, insults or put-downs, constant or unwelcomed questions about an individual’s identity, and offensive objects or pictures.” See Chai R. Feldblum & Victoria A. Lipnic, *Select Task Force on the Study of Harassment in the Workplace Report* (EEOC, June 2016), <https://www.eeoc.gov/eeoc/task_force/harassment/report.cfm>. [↑](#footnote-ref-7)
7. In states with mandatory reporting laws and where the agency employs individuals under the age of 18, any employee who becomes aware of or is confided in regarding harassment and discrimination of these underage individuals must take action to report. [↑](#footnote-ref-8)
8. This does not refer to charges made in good faith that cannot be proven. [↑](#footnote-ref-9)
9. In the United States, this may include a state agency of the federal Equal Employment Opportunity Commission (EEOC). [↑](#footnote-ref-10)