

BERKELEY POLICE DEPARTMENT

DATE ISSUED: March 1, 2000

GENERAL ORDER H-7

SUBJECT: HARASSMENT PREVENTION POLICY - CITY OF BERKELEY

PURPOSE

- 1 - The purpose of this General Order is to establish our commitment to providing a work environment for all employees which is fair, humane and respectful, where all personnel can work together in an atmosphere free from all harassment, including the more hidden or subtle forms of sexual harassment, by adhering to the City of Berkeley Harassment Prevention Policy as outlined below.

DEPARTMENT POLICY

- 2 - The Berkeley Police Department will adhere to the City of Berkeley policy that is outlined below.
 - (a) The Police Regulations and General Orders are consistent with this City Policy.
 - (b) In addition to following the City policy, supervisors shall inform their superior officers of any violations of this policy so that appropriate actions can be taken by their Chain of Command.
 - (c) In addition to any actions taken by the City's Equal Employment Opportunity & Diversity (EEO) Officer in response to violations, the Department may initiate a complaint and investigation as outlined in General Order P-26.

CITY POLICY

- 3 - It is the policy of the City of Berkeley that harassment on the basis of race, color, religion, ancestry, national origin, age, sexual orientation, marital status, political affiliation, family care leave status, physical or mental disability or medical condition, as well as sexual harassment based on gender will not be condoned or tolerated. All employees are guaranteed the right to a work place free of hostility and intimidation. The City will neither tolerate nor condone harassment of employees by managers, supervisors, coworkers, or non-employees with whom City employees have a business, service, or professional relationship. Retaliation against an employee who complains or reports any act of harassment in violation of this policy is prohibited. The City is committed to ensuring and providing a work place free of harassment. The City will take **disciplinary action***, up to and including termination, against an employee who violates this policy.

LEGAL DEFINITION OF SEXUAL HARASSMENT

- 4 - Sexual harassment as defined by law is any unwanted sexual advances, requests for sexual favors or visual, verbal or physical conduct of a sexual nature when:

* Highlighted text is new

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GENERAL ORDER H-7

- (a) Submission to such conduct is made a term or condition of employment; or
- (b) Submission to or rejection of such conduct is used as a basis for employment decisions affecting the individual; or
- (c) Such conduct has the purpose or effect of unreasonably interfering with an employee's work performance or creating an intimidating, hostile or offensive working environment because of the severe and pervasive nature of the conduct.

CONDUCT PROHIBITED UNDER THE CITY'S POLICY

- 5 - In order to ensure that such offensive conduct does not rise to the level of conduct which is illegal, the City has a zero tolerance policy toward a single instance of any such conduct which either by itself or when repeated would constitute sexual harassment. Specifically, the City will not tolerate employees engaging in any of the conduct listed below:
- (a) Unwanted sexual advances.
 - (b) Offering employment benefits in exchange for sexual favors
 - (c) Making or threatening retaliation after a negative response to sexual advances.
 - (d) Visual conduct such as leering, making sexual gestures, displaying sexually suggestive objects or pictures, cartoons, calendars or posters.
 - (e) Verbal conduct such as making or using derogatory comments, epithets, slurs, sexually explicit jokes, derogatory or suggestive comments about a person's body or dress.
 - (f) Written communications of a sexual nature distributed in hard copy or via a computer network.
 - (g) **Unwelcomed*** verbal sexual advances or propositions.
 - (h) Verbal abuse of a sexual nature, graphic verbal commentary about an individual's body, sexually degrading words to describe an individual, suggestive or obscene letters, notes or invitations.
 - (i) Physical conduct such as touching, assault, impeding or blocking movements.
 - (j) Retaliation for making harassment reports or threatening to report harassment:

BERKELEY POLICE DEPARTMENT

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GENERAL ORDER H-7

- 6 - An employee engaging in such prohibited conduct shall be subject' to **appropriate*** disciplinary action, up to and including termination, regardless of whether the employee engages in the prohibited conduct only once. **In addition, any employee who engages in any inappropriate conduct based on or directed at a person's gender will be subject to appropriate disciplinary action, up to and including termination of employment.***
- 7 - Sexual harassment can occur between employees of the same sex. The City's policy prohibits males from sexually harassing females or other males, and females from sexually harassing males or other females:

FRIENDLY INTERACTION OR SEXUAL HARASSMENT

- 8 - There is a clear line in most cases between mutual attraction and a consensual exchange and unwelcome behavior or pressure for an intimate relationship. A friendly interaction between two persons who are receptive to one another is not considered unwelcome or harassment. Employees are free to form social relationships of their own choosing. However, when one worker is pursuing or forcing a relationship upon another who does not like or want it, regardless of friendly intentions, the behavior is unwelcome sexual behavior. An employee confronted with these actions by a co-worker should inform the harasser that such behavior is offensive and tell the harasser to stop. You should assume that sexual comments are unwelcome unless you have clear unequivocal indications to the contrary. In other words, another person does not have to tell you to stop for your conduct to be harassment and unwelcome.
- 9 - Certainly if you are advised by a co-worker that your behavior is offensive, you must immediately stop the behavior, regardless of whether you agree with the person's perception of your intentions.

OTHER TYPES OF HARASSMENT PROHIBITED BY THE MY'S POLICY

- 10 - The City's policy also prohibits harassment on the basis of race, color, national origin, sexual orientation, religion, physical or mental disability, age, veteran status, or any other characteristic protected by applicable law. The City will not tolerate an employee engaging in any of the conduct listed below:
 - (a) Verbal conduct such as threats, epithets, derogatory comments or slurs.
 - (b) Visual conduct such as derogatory posters, photographs, cartoons, drawings or gestures.
 - (c) Written communications containing statements which may be offensive to individuals in a particular protected group, such as racial or ethnic stereotypes or caricatures.
 - (d) Physical conduct such as assault, unwanted touching or blocking normal movement.

BERKELEY POLICE DEPARTMENT

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GENERAL ORDER H-7

- (e) Retaliation for making or threatening to make harassment reports to the City, or for participating in an investigation into harassment allegations.
- 11 - An employee engaging in conduct prohibited by this policy shall be subject to **appropriate*** disciplinary action, up to and including termination, regardless of whether the employee engages in the prohibited conduct only once and even if the employee's conduct does not rise to the legal definition of harassment on the basis of race, color, national origin, sexual orientation, disability, age, or other characteristics prohibited under federal and state anti-discrimination statutes.

EMPLOYEES' RESPONSIBILITIES WHEN SUBJECTED TO HARASSMENT

- 12 - Any employee who believes he or she has been subjected to harassment prohibited by this policy should immediately tell the harasser to stop his/her unwanted behavior and immediately report that behavior to his or her supervisor or to the City's Equal Employment Opportunity & Diversity (EEO) Officer. An employee is not required to complain first to his or her supervisor if that supervisor is the individual engaging in the unwanted behavior. Employees may report any incidents directly to the EEO Officer, who is located in the City's Personnel Department and can be reached at (510) 665-7611,

SUPERVISORS' RESPONSIBILITIES

- 13 - Supervisors are responsible for enforcing the City's harassment prevention policy. Supervisors must ensure that all employees are aware of the City's policy through open discussion of the policy at staff meetings and by posting the policy in a conspicuous location accessible to all staff members. Supervisors should be cognizant of employees' behavior and shall not permit any employee under his/her authority to be subject to or engage in any conduct prohibited by the City's policy. Supervisors who receive complaints or who observe conduct prohibited by this policy should tell the employee to cease the conduct immediately and should inform the EEO Officer. The EEO Officer is available to provide guidance, training and assistance as required. The City will take disciplinary action, up to and including termination, against any supervisor who fails in his/her responsibility to take immediate action in response to an employee's complaint of harassment or to stop harassing conduct committed in his/her presence or to stop harassing conduct about which the supervisor has knowledge.
 - (a) In addition to following the City policy, supervisors shall inform their superior officers of any violations of this policy so that appropriate actions can be taken by their Chain of Command.
- 14 - The City does not consider conduct in violation of this policy to be within the course and scope of employment and does not sanction such conduct on the part of any employee, including supervisory and management employees,

BERKELEY POLICE DEPARTMENT

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ENFORCEMENT RESPONSIBILITIES

- 15 - The City's harassment policy will be enforced by the City Manager, all Department Heads, and the EEO Officer. The EEO Officer is responsible for investigating complaints. Each reported incident will be investigated promptly, impartially and in a confidential manner, accompanied by disciplinary action as appropriate. It is reiterated that the City will take severe disciplinary action, up to and including termination for any substantiated violations of this policy. Persons reporting false charges will be subject to appropriate disciplinary actions also.

OUTSIDE AGENCIES

- 16 - In addition to notifying the City about harassment or retaliation complaints, affected employees may also direct their complaints to the following agencies:
- (a) California Department of Fair Employment and Housing
1515 Clay Street, Suite 701*
Oakland, CA 94612-2512
(510) 286-4095
 - (b) Equal Employment Opportunity Commission
Oakland Local Office,
Oakland Federal Building
1301 Clay Street, Suite 1170, North Tower
Oakland, CA 94612-5217
(510) 637-3230
- 17 - There are time limits for filing complaints with the DFEH and EEOC. Employees are advised to contact the DFEH or EEOC directly to obtain information on the time limits for filing complaints with these agencies.
- 18 - If you have any questions or need information regarding your protections under pertinent laws regarding harassment or your rights regarding complaint filing with the above compliance agencies, you may contact the City's EEO OFFICER for assistance at (510) 665-7611.

References: CALEA Standards
General Order P-26
Police Regulation 237, 238, 239, 240
Training and Information Bulletin #275*