

	DELMAR POLICE DEPARTMENT	
	Policy 2.3 Sexual or Other Illegal Harassment	
	Effective Date: 01/01/15	Replaces: 1-8
	Approved: <u>Ivan Barkley</u> Chief of Police	
	Reference: DPAC: 1.8.2	

I. POLICY

The department's policy is to provide a professional, businesslike work environment free from all forms of employee discrimination including incidents of sexual or other forms of illegal harassment. No employee shall be subjected to unsolicited or un-welcomed sexual overtures or conduct either verbal or physical. The harassing behavior, to be subject to this order, need not occur only during work hours on agency premises, but may occur before or after work at other locations. Sexual or other unlawful harassment is misconduct and the department shall apply appropriate disciplinary sanctions.

II. PURPOSE

To define and give examples of sexual harassment, outline prohibited behavior, and describe reporting procedures.

III. DEFINITIONS

A. Sexual harassment

The Civil Rights Act of 1964 prohibits discrimination based on color, race, religion, age, national origin, and sex. Sexual harassment is a form of sex discrimination, defined as unwelcome sexual advances, requests for favors, and other verbal or physical conduct that enters into employment decisions, or conduct that unreasonably interferes with an employee's work performance or which creates an intimidating, hostile, or offensive working environment. Two kinds of sexual harassment apply; quid pro quo harassment and hostile work environment harassment, defined below. The two forms of harassment may overlap.

B. Quid pro quo harassment

This form of harassment occurs when an employee is being pressured to engage in sexual conduct or else lose a tangible job benefit. (Quid pro quo means "something for something.") This form of harassment usually occurs between a supervisor and a subordinate where the harasser has power to control the employee's work benefits or

conditions. Note that this form of harassment is not limited to express demands for sexual favors, but may be implied by circumstances (e.g., offering an employee sexually explicit material).

Examples of this form of harassment include a request for sexual favors, accompanied by implied or overt threats concerning a person's employment status, or promise of preferential treatment in terms of benefits or status; granting job favors to those who participate in consensual sexual activity while penalizing those who refuse to participate; unwanted, intentional touching (patting, massaging, rubbing, hugging, pinching); telephoning, texting or following an employee, during work hours or not, and either harassing the employee or requesting sexual favors.

C. Hostile work environment harassment

This form of harassment is unwelcome conduct that is so severe or pervasive as to change the conditions of the victim's employment, thus creating an intimidating, hostile, or offensive work environment.

A hostile environment exists when the employer tolerates unwelcome, pervasive conduct including sexual comments of a provocative or suggestive nature; jokes or innuendos intended for and directed to another employee; leaving sexually explicit books, magazines, photographs where employees will find them; unwelcome demeaning comments (such as talking about physical attributes), ridicule, offensive language, propositions or other similar actions; unwanted, unwarranted, unsolicited off-duty telephone calls, texting and contact; signed or anonymous notes or drawings placed on or in desks, bulletin boards, or in lockers; deliberately singling out women in front of men co-workers (or vice versa) and subjecting them to demeaning or derogatory remarks.

IV. PROHIBITED CONDUCT

- A. Employees shall not commit or participate in any form of sexual or other illegal harassment.
- B. Every employee and supervisor is responsible for creating and maintaining a positive and productive work environment free of sexual harassment and will do so by being an example of courteous and professional behavior. Employees are discouraged from engaging in intimate personal relationships with each other. The Chief of Police, command level officers and supervisors are prohibited from engaging in intimate personal relationships with their subordinates or any department employee.
- C. Supervisors shall ensure that pornographic or suggestive photographs, illustrations, or cartoons shall not be posted or kept in any area of the department including locker rooms, desks, offices or other locations. Materials of this kind used for investigative purposes shall be properly secured according to evidentiary standards.

- D. Supervisors shall order employees on department premises who are making sexually hostile comments, or degrading remarks about other persons of the same or opposite sex to cease doing so or face discipline.
- E. Employees shall avoid inappropriate physical contact with one another unless required by a training situation or police procedure. Kissing, back rubbing, embracing, and other unnecessary touching are prohibited on department premises or while on duty.
- F. Personnel shall not retaliate against any person for reporting sexual harassment, giving testimony, or participating in the investigation. Retaliation in any form shall result in discipline.

V. PROCEDURES

A. Employee Responsibilities

1. An employee who believes he or she has been sexually harassed should first tell the offender to cease the inappropriate behavior, although circumstances may not always allow the complainant to make this request. If the conduct does not stop, or if the complainant is unable to confront the offender, the complainant shall contact his or her own immediate supervisor. The employee or supervisor shall immediately submit a memorandum to the Chief of Police through the chain of command detailing circumstances. Employees may also report incidents of harassment directly to the Chief of Police, Town Manager or Human Resources Manager if the offender is a higher ranking member of the department. If a supervisor learns of an incident of harassment, he or she shall report the matter to the Chief of Police even if the victim did not submit a complaint.
2. If the complainant is not an employee of the department, the complaint itself is considered no less valid and shall be investigated according to the procedures set forth in this order and in Policy 2.4.
3. Employees must understand that sexual harassment can become a criminal matter. Allegations of stalking, assault, and sexual assault shall be handled immediately as criminal investigations.
4. Each employee of this agency is responsible for assisting in the prevention of harassment and discrimination by:
 - a. refraining from participation in or encouragement of action that could be perceived as harassment and discrimination;
 - b. reporting observed acts of harassment and discrimination to a supervisor, and
 - c. encouraging any employee who confides that he or she is being harassed or discriminated against to report these acts to a supervisor.

5. 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.
6. Employees are required to fully cooperate with any investigation of a complaint of sexual harassment whether directly involved in the incident or as a witness. Employees are also required to provide written documentation of any and all relevant details of the incident as required by an investigator.

B. Supervisor Responsibilities:

1. Although all employees shall be responsible for preventing harassment and/or discrimination, supervisors shall be responsible for:
 - a. advising employees on the types of behavior prohibited and the agency procedures for reporting and resolving complaints of harassment and discrimination;
 - b. monitoring the work environment on a daily basis for signs that harassment and discrimination may be occurring; stopping any observed acts that may be considered harassment and discrimination, and
 - c. taking appropriate steps to intervene, whether or not the involved employees are within his/her line of supervision;
 - d. utilizing all reasonable means to prevent a prohibited act from occurring when he or she knows or should know that an employee will or may perform such an activity; and
 - e. 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 and/or discrimination.
2. No supervisor shall make any employment decision that affects the terms, conditions, or privileges or responsibilities of an individual's employment based on the basis of that person's race, sex, religion, national origin, color, sexual orientation, age or disability.
3. If a situation requires separation of the parties, care should be taken to avoid action that punishes or appears to punish the complainant. Transfer or reassignment of any of the parties involved should be voluntary if possible and, if non-voluntary, should be temporary pending the outcome of the investigation.

4. Any proscribed conduct covered by this policy that comes to the attention of a supervisor shall result in an investigation.
 5. Each supervisor has the responsibility to assist any employee of this agency who comes to that supervisor with a complaint of harassment and discrimination in documenting and filing a complaint.
- C. When an employee reports an allegation of sexual harassment, a confidential internal investigation shall begin immediately.
1. The Chief of Police shall immediately take action to limit the concerned employees from any further work contact with the alleged offender.
 2. The Chief of Police shall conduct an investigation pursuant to the provisions of Policy 2.4.
 3. If the sexual harassment allegation is not resolved to the satisfaction of the complainant by the department, employees may submit a grievance to the Chief of Police. If the grievance is against the Chief of Police, the grievance shall be submitted to the Human Resource Manager for submission to the Town Manager for a determination.
- D. The Chief of Police shall report all forms of harassment allegations to the Town Manager without delay.

VI. TRAINING

The department will provide ongoing training, at least annually, on sexual and other unlawful harassment, reporting, and investigation procedures.