

**1-5 HARASSMENT/SEXUAL HARASSMENT IN THE WORKPLACE****1-5-1 Policy**

The Department is committed to providing a work environment free from all forms of harassment. Harassment is a prohibited form of discrimination under city, state, and federal law, and is misconduct subject to disciplinary action by the Department. All Department employees, supervisors, and managers are responsible for maintaining a work environment free of any form of harassment and will be held fully accountable for complying with this policy and taking appropriate measures to ensure that such conduct does not occur. Any Department employee found to have engaged in prohibited harassment will be subject to disciplinary action up to and including termination. This policy applies to all forms of harassment, including sexual harassment, and supplements, but does not replace, City Administrative Instruction NO. 7-18.

1-5-2 Definitions**A. Harassment**

Harassment is verbal or physical conduct that denigrates or shows hostility or aversion toward an individual because of his/her race, color, religion, gender, sex, national origin, ancestry, age, disability, medical condition, ~~or~~ sexual orientation, gender identity, or veteran status; and that has the purpose or effect of creating an intimidating, hostile or offensive work environment; and has the purpose or effect of unreasonably interfering with an individual's work performance; or otherwise adversely affects an individual's employment opportunities or ability to obtain public services.

B. Sexual Harassment

Sexual harassment is defined as any unwelcome sexual advances, requests for sexually motivated physical contact, or other verbal expression or physical conduct or communication of a sexual nature when:

1. Submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of employment or obtaining public services; or
2. Submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's employment or obtaining public services;
3. That conduct or communication has the purpose or effect of unreasonably interfering with an individual's employment or obtaining public services or creating an intimidating, hostile or offensive environment in which to work or obtain public service.
4. Criteria for the existence of sexual harassment:



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- a. Frequency of the conduct
- b. The severity of the conduct
- c. Whether the conduct unreasonably interferes with work performance
- d. Examples of harassment/sexual harassment are outlined in the City of Albuquerque Administrative Instruction [NO. 7-18](#), [which are not to be construed as an all-inclusive list of prohibited acts under this policy or Administrative Instruction NO. 7-18.](#)

5. Unwelcome verbal or physical conduct that does not rise to the level of sexual harassment may be in violation of other City policies and is prohibited.

1-5-3 Rules and Procedures

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~~A.~~ Prohibited Activity

~~A.~~

1. Harassment of any kind by Department personnel will not be tolerated.

- a. Personnel shall not either explicitly or implicitly ridicule, mock, deride or belittle any person because of their race, color, ~~sex, age,~~ religion, ~~gender, sex, ancestry,~~ national origin, ~~ancestry, age, handicap/disability, medical condition, or veteran status~~ [sexual orientation, gender identity, or veteran status](#).
- b. Personnel shall not make offensive or derogatory comments based on ~~race, color, religion, gender, sex, national origin, ancestry, age, disability, medical condition, sexual orientation, gender identity, or veteran status~~ [race, color, sex, age, religion, ancestry, national origin, physical/mental handicap or veteran status](#) either directly or indirectly to another person.
- c. Personnel shall not sexually harass any person.

N/A

B. Reporting Harassment

- 1. Personnel who believe they have been subjected to sexual or other harassment are encouraged to tell the person responsible for the behavior that his/her actions are offensive and unwelcome. Personnel should report the matter promptly to their immediate supervisor, ~~or to any supervisor, or to the Department Employee Equity Manager/Senior Personnel/Labor Relations Officer, or to the City of Albuquerque Human Resources Office,~~ [within 180 days](#).
- 2. Personnel may also pursue action through the courts, or any local (City of [Albuquerque](#), Human Rights Office), state (~~New Mexico~~ [Human Rights Commission of New Mexico](#)) or federal (Equal Employment Opportunity Commission) regulatory agency responsible for the enforcement of anti-discrimination laws.

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3. Any Department supervisor who observes or has knowledge of harassment must immediately bring the matter to the attention of the Department Chief of Staff and Department Employee Equity Manager/Senior Personnel/Labor Relations Officer or City Human Resources Office. Failure to do so may result in disciplinary action, up to and including termination.

5 4. Retaliation is prohibited against any employee for filing a harassment complaint, or assisting, testifying, or participating in the investigation of such complaint.

5. ~~Complaints of~~ employees accused of harassment may file a grievance/appeal in accordance with ~~Department City grievance~~ procedures when they disagree with the investigation or disposition of a harassment claim.

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6 C. Department Employee Equity Manager/Senior Personnel/Labor Relations Officer

1. The position responsible for coordinating employee complaints, including harassment/sexual harassment ~~and~~ is the manager of the Personnel/Payroll Management Division for APD. ~~The title for the person performing this function will be Employee Equity Manager.~~

2. The Employee Equity Manager/Senior Personnel/Labor Relations Officer will:

- a. Review all complaints and ~~arrange for investigation designate the supervisor to investigate the complaint or will personally handle the investigation.~~
- b. Inform the parties involved of the result of the investigation.
- c. Inform the Internal Affairs Unit as soon as possible, if an SOP violation exists.
- d. Immediately notify the Chief of Police and the District Attorney's Office if the complaint contains evidence of criminal activity.
- e. Include or request a determination whether other employees are being harassed by the person and whether other Department members participated in, or encouraged the harassment.
- f. Maintain a file of harassment complaints in a secure area and provide the Chief of Police and Department Chief of Staff with an annual summary of these complaints.

7 D. Supervisors

1. Each supervisor shall be responsible for preventing acts of harassment. These responsibilities include:

- a. Monitoring the unit work environment for evidence that harassment may be occurring.

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- b. Counseling all employees on the types of behavior prohibited, and the Department procedures for reporting and resolving complaints of harassment.
 - c. Stopping any observed acts that may be considered harassment and taking appropriated steps to intervene whether or not the involved employees are within his/her line of supervision.
 - d. Taking immediate and appropriate action to limit the work contact between two employees where there has been a complaint of harassment.
2. Supervisors shall assist any employee who has a complaint of harassment in documenting and filing a complaint with the Employee Equity Manager/Senior Personnel/Labor Relations Officer.
- a. The supervisor, whom a complaint is given, shall meet with the employee and document the incidents, the person(s) doing or participating in the harassment, and the dates in which it occurred.
 - b. The supervisor taking the complaint shall immediately deliver the complaint to the Employee Equity Manager/Senior Personnel/Labor Relations Officer.
 - c. Failure to take action to stop known harassment shall be grounds for discipline.
 - ~~d.~~ Failure to notify the Department Senior Personnel/Labor Relations Officer or Department Chief of Staff of a complaint of harassment shall be grounds for discipline.
 - ~~e.~~ Ensure that new employees are properly trained and receive a copy of this policy.
3. Supervisors of the complaining employee shall ~~assist the Employee Equity/Senior Personnel/Labor Relations Manager/Officer~~ cooperate in the investigation of the complaint.
4. Supervisors shall be familiar with City Administrative Instruction NO. 7-18 in its entirety.

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E. Employees

1. Each employee of the Department is responsible for assisting in the prevention of harassment through the following acts:
- a. Refraining from participation in, or encouragement of, actions that are or could be perceived as harassment.
 - b. Reports acts of harassment to a supervisor.
 - c. Assisting any employee who confides that they are being harassed by encouraging them to report it to a supervisor.
 - d. Cooperate with any investigation in response to any allegation of harassment.
 - i. Refusal to cooperate in an investigation may result in disciplinary action, up to and including termination.

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F. Confidentiality

The complaint file, including the name of the complainant as well as the names of all personnel providing statements, will be kept confidential to the extent possible, consistent with the Department's obligation to investigate promptly and thoroughly.

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