



San Diego Community College District Police Department Policy and Procedures

5.04 EQUAL EMPLOYMENT OPPORUNITY

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I. PURPOSE

This Department procedure establishes guidelines for reporting and handling potential violations of the Equal Employment Opportunity (EEO) policy within the San Diego Community College District Police Department. The procedure also reaffirms and communicates the Department's commitment to the principles of Equal Employment Opportunity and a work environment free of discrimination and harassment.

II. SCOPE

This procedure applies to all members of the Department.

III. BACKGROUND

This procedure complies with the San Diego Community College District's Equal Employment Opportunity Board Policies 3410, 3420, and 3430. They define specific procedures for reports of EEO policy violations filed within the San Diego Community College District Police Department.

Reports of EEO policy violations filed with the District's Equal Employment Opportunity Program will be handled pursuant to the District's Administrative Procedures.

IV. POLICY STATEMENT

A. Members shall be permitted a work atmosphere free from discrimination and sexual harassment. Members shall not discriminate against, nor sexually harass other members. It shall be the responsibility of all supervisors to ensure a nondiscriminatory work environment exists.

1. The San Diego Community College District Police Department is committed to ensuring the principles of equal treatment in all aspects of employment are understood, respected, and practiced throughout the organization. The Department's policy is to hire, train, compensate, assign, and promote all persons

on the basis of merit.

2. Discrimination is unlawful. It creates a negative atmosphere that reduces work productivity and morale, undermines the integrity of the workplace, and destroys professionalism. The Department does not tolerate discrimination or harassment in any form.
3. Federal and state law makes it illegal to discriminate on the basis of race, color, gender, creed, religion, national origin, age, marital status, ancestry, medical condition (history of cancer), pregnancy, disability, transgender status, or sexual orientation. The Department's EEO policy builds upon this foundation and extends to every employee our commitment to provide a workplace that is consistent with the law and actively supports and implements behavior that reflects our Vision, Values and Mission Statement.
4. Employees are expected to adhere to a higher standard of conduct than defined by law, as further defined in this procedure. While some types of behavior may not rise to the level of a federal or state violation, they may nevertheless violate the Department's EEO policy.

V. DISCRIMINATION AND HARASSMENT

A. Equal Treatment

All employees shall be treated equally without regard to race, color, gender, creed, religion, national origin, age, marital status, ancestry, medical condition (history of cancer), pregnancy, disability, transgender status, or sexual orientation in all employment matters, including, but not limited to, promotions, transfers, job rotation, training, work assignments, hiring, merit increases, overtime, awards, and discipline.

B. Harassment-Free Work Environment

1. All employees shall be provided a work environment free from harassment. Behavior constitutes harassment, as defined by this policy, when it is unwelcome and unsolicited, offends or otherwise causes distress, and is undertaken because of a person's race, color, gender, creed, religion, national origin, age, marital status, ancestry, medical condition, disability, pregnancy, transgender status or sexual orientation. Examples include the use of derogatory comments, slurs, jokes, or derogatory pictures, cartoons, or posters.
2. The Department prohibits any harassment of employees, as defined above, and actively responds to all allegations of violations of this procedure. Such inappropriate conduct may be in violation of this policy and result in discipline the

first time such behavior occurs. Prior incidents of harassment can be considered when assessing the facts and circumstances of a later complaint.

3. Whether an alleged action constitutes harassment will be determined on a case-by-case basis by assessing the entire record and the totality of the circumstances. Factors, such as the nature of the behavior and the context in which the alleged incidents occurred, will be considered in assessing the allegations and in determining the appropriate resolution.

C. Sexual Harassment

1. Sexual harassment is a form of illegal gender discrimination. It is defined by law as unwelcome sexual advances, requests for sexual favors, and other verbal, visual or physical conduct of a sexual nature when:
 - a. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
 - b. Submission to, or rejection of, such conduct is used as the basis for employment decisions affecting that employee; or,
 - c. Such conduct has the effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.
2. Unwelcome is used in the sense that the offended employee did not solicit or incite the conduct and regarded it as undesirable or offensive.
3. The following are examples of sexual harassment. Behavior that constitutes sexual harassment as defined by this policy is not limited to these examples:
 - a. Verbal harassment - sexual innuendo, sexually suggestive comments, jokes, teasing of a sexual nature, discussing sexual exploits, spreading rumors of a sexual connotation, or continued requests for social or sexual contact.
 - b. Physical harassment - unwelcome contact, touching, or impeding movement.
 - c. Visual harassment - sexually suggestive or derogatory posters, videos, cartoons, drawings, documents, writings, electronic mail, staring, or leering.
 - d. Sexual favors - unwanted sexual advances or conditioning an employment benefit on an exchange of sexual favors.

4. Whether or not harassment occurred depends not on whether the act was intended to cause harm, but on the impact of the act on the individual's employment or work environment. For example, a person who teases in a sexual manner or tells sexual jokes may create an offensive work environment for another worker even though the person intended such actions merely to be "good fun." This applies to field as well as office jobs. If one's behavior is harassing to an individual or a group of individuals, it will not suffice that the harasser failed to recognize the behavior as harassing.
5. It is not a requirement that the complainant be the intended target of the offensive conduct. Witnessing offensive behavior between other employees may be grounds for complaint.
6. This policy does not prohibit mutually welcome social relationships between employees. Persons involved in consensual relationships must exercise caution to prevent harassing behavior from developing, or use of authority inappropriately. However, if the consensual relationship changes and is no longer mutual, conduct once welcome by both individuals may become offensive to one.

D. Discrimination

Discrimination shall mean discrimination on the basis of ethnicity, race, color, sex, age, religion, marital status, disability, sexual orientation, national origin, medical conditions, ancestry, or political or organizational affiliation.

E. Family/Medical/Pregnancy Leave

Employees have specific rights under the Pregnancy Disability Act (PDA), the California Family Rights Act (CFRA) and the Family and Medical Leave Act (FMLA). These Acts may interact with the ADA and the Fair Employment and Housing Act (FEHA). An employee may not be subjected to discrimination, harassment, or retaliation for exercising his or her rights under any of these Acts. Employees seeking family care leave are advised to contact the District's Human Resources for further explanation of this Act and how it applies to their individual situation.

F. Retaliation

1. Retaliation is defined as an adverse employment action taken against an employee because that employee complained of discrimination or participated in an EEO investigation.
2. An adverse employment action can include, but is not limited to, unwanted

transfers, change in work assignment or location, denial of leave requests, demotions, negative performance evaluations, unsupported discipline, ostracism, harassment, or other actions that adversely affect the work environment.

3. Retaliation is illegal and should be reported immediately. The Department will not tolerate retaliation. Any employee found to have retaliated against another Department member would be subject to discipline.

VI. PROCEDURAL RESPONSIBILITIES

- A. Employee responsibility – the following suggestions are intended to aid all employees in establishing and maintaining a professional and healthy working environment, while preventing discrimination, which includes sexual harassment:
 1. Employees must set an example of acceptable conduct by not participating in or provoking behavior that is discriminatory, harassing, or retaliatory;
 2. Make it absolutely clear you are not interested in uninvited sexual advances, and find discriminatory behavior offensive;
 3. Warn the offender the particular behavior is offensive and unwelcome. Be specific in advising that person what conduct is offensive and unwelcome. Make it clear you will take official action if the conduct continues;
 4. If the discriminatory or harassing behavior continues, notify any supervisor immediately; and,
 5. Maintain confidentiality when participating in an investigation as a witness, subject, or complainant.
- B. Supervisory responsibility – it is the responsibility of all supervisors to establish and maintain a non-hostile, non-discriminatory work environment free from intimidation, ridicule, or insult. Specifically, supervisors shall:
 1. Monitor the workplace for actual or potential violations of EEO policy and procedure;
 2. Stop behavior in violation of this policy when directly observed or upon obtaining direct knowledge thereof;
 3. Notify the District's Equal Employment Liaison Officer (EELO) of suspected cases of discrimination or sexual harassment, unless circumstances exist which necessitate reporting the conduct directly to the Department's EEO and Diversity

Officer;

4. Manage the effect of an EEO complaint in the workplace by protecting confidentiality, discouraging rumors, and ensuring participants are not subjected to retaliation; and,
5. Follow through with all complaints of discrimination and harassment by taking immediate, documented, and corrective action.

VII. COMPLAINT PROCEDURE

A. Report Origination –if an employee believes that a violation of EEO policy has occurred, he or she is encouraged to report these instances immediately to any of the following (the employee does not have to follow the Department chain of command):

1. The employee’s supervisor.
2. Another supervisor within or outside the employee’s chain of command.
3. The District’s EEO & Diversity Officer at the District Office.
4. The State of California Department of Fair Employment and Housing (DFEH):

350 West Ash Street, Suite 950
San Diego, CA 92101
(800) 884-1684

5. U.S. Equal Employment Opportunity Commission (EEOC):

401 B Street, Suite 1550
San Diego, CA 92101
(619) 557-7235

6. Complaints filed with the DFEH or EEOC will be subject to the procedures of the respective agencies. The time frame for filing DFEH complaints is one year from the date of the most recent alleged act. The time frame for filing US EEOC complaints is generally 300 days from the date of the most recent alleged act.

B. Complaint Intake – supervisors shall contact the District’s EEO & Diversity Officer in any of the following instances:

1. When a Department member expresses a desire to file a complaint of a potential EEO policy violation;

2. Discussions with the member leads the supervisor to believe that an EEO Policy violation has occurred, whether or not the employee wishes to file a complaint; or,
3. A supervisor determines that observed employee behavior is contrary to EEO policies and procedures.

C. Fact-Finding Sequence of Events

1. Initial action on the complaint shall be the joint responsibility of the Chief of Police and the EEO & Diversity Site Compliance Officer.
2. Reasonable cause for action shall be determined during the coordination between the Chief of Police and the EEO & Diversity Site Compliance Officer. If reasonable cause for action is determined, then:
 - a. An agreement of resolution shall be developed in writing by the Chief of Police and the EEO & Diversity Site Compliance Officer for resolution satisfactory to the complainant.
 - b. This agreement must be signed by the alleged offender, and forwarded to the District EEO & Diversity Officer with a copy of the Alleged Discrimination Complaint Form.
3. If there is reasonable cause for action, but resolution satisfactory to the complainant is not reached, a charge shall be processed pursuant to employee disciplinary procedures.
4. If there is a determination that there is not a reasonable cause for action, notice in writing shall be given to the complainant, including the information that the complainant may object to the determination by filing said objections with the District's governing board and the State Chancellor's Office.

D. Discipline

The Department will take appropriate disciplinary measures against any member who violates this procedure or retaliates against another member because they reported perceived discrimination. Discipline resulting from violations of this policy will be considered, consistent with the Department's Discipline Manual and the subject member's applicable collective bargaining agreement. More serious disciplinary action, up to and including termination, may result from violations of this policy. Appropriate disciplinary action will also be taken against any employee who knowingly files a false complaint of discrimination or harassment. The final

determination of disciplinary action rests with the Chief of Police.

- E. For further information regarding San Diego Community College District Procedures for Investigation and Resolution of Complaints of Unlawful Discrimination, personnel may contact the District's EEO & Diversity office.