
Discriminatory Harassment

1404.1 PURPOSE AND SCOPE

The purpose of this policy is to prevent office personnel from being subjected to discriminatory harassment, including sexual harassment and retaliation. Nothing in this policy is intended to create a legal or employment right or duty that is not created by law.

1404.2 POLICY

The Montgomery County Sheriff's Office is an equal opportunity employer and is committed to creating and maintaining a work environment that is free of all forms of discriminatory harassment, including sexual harassment and retaliation. The Office will not tolerate discrimination against any employee in hiring, promotion, discharge, compensation, fringe benefits and other privileges of employment. The Office will take preventive and corrective action to address any behavior that violates this policy or the rights and privileges it is designed to protect.

The nondiscrimination policies of the Office may be more comprehensive than State or federal law. Conduct that violates this policy may not violate State or federal law but still could subject a member to discipline.

1404.3 DEFINITIONS

Definitions related to this policy include:

1404.3.1 DISCRIMINATION AND DISCRIMINATORY HARASSMENT

The Office prohibits all forms of discrimination, including any employment-related action by an employee that adversely affects an applicant or employee and is based on race, color, religion, sex, age, national origin or ancestry, genetic information, disability, military service, sexual orientation and other classifications protected by law.

Discriminatory harassment, including sexual harassment, is verbal or physical conduct that demeans or shows hostility or aversion toward an individual based upon that individual's protected class. It has the effect of interfering with an individual's work performance or creating a hostile or abusive work environment.

Conduct that may, under certain circumstances, constitute discriminatory harassment, can include making derogatory comments, crude and offensive statements or remarks, making slurs or off-color jokes, stereotyping, engaging in threatening acts, making indecent gestures, pictures, cartoons, posters or material, making inappropriate physical contact, or using written material or office equipment and/or systems to transmit or receive offensive material, statements or pictures. Such conduct is contrary to office policy and to a work environment that is free of discrimination.

1404.3.2 RETALIATION

Retaliation is treating a person differently or engaging in acts of reprisal or intimidation against the person because he/she has engaged in protected activity, filed a charge of discrimination,

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participated in an investigation or opposed a discriminatory practice. Retaliation will not be tolerated.

1404.3.3 SEXUAL HARASSMENT

The Office prohibits all forms of discrimination and discriminatory harassment, including sexual harassment. It is unlawful to harass an applicant, any employee or volunteer, because of that person's sex.

Sexual harassment includes, but is not limited to, unwelcome sexual advances, requests for sexual favors or other verbal, visual or physical conduct of a sexual nature when:

- (a) Submission to such conduct is made either explicitly or implicitly as a term or condition of employment, position or compensation.
- (b) Submission to, or rejection of, such conduct is used as the basis for any employment decisions affecting the member.
- (c) Such conduct has the purpose or effect of substantially interfering with a member's work performance or creating an intimidating, hostile, or offensive work environment.

1404.3.4 ADDITIONAL CONSIDERATIONS

Discrimination and discriminatory harassment do not include actions that are in accordance with established rules, principles or standards, including:

- (a) Acts or omission of acts based solely upon qualifications reasonably necessary to the operation of the Office. This includes bona fide occupational qualifications under the Equal Employment Opportunity Commission and the North Carolina Department of Labor guidelines.
- (b) Bona fide requests or demands by a supervisor that a member improve his/her work quality or output, that the member report to the job site on time, that the employee comply with county or office rules or regulations, or any other appropriate work-related communication between supervisor and employee.

1404.4 RESPONSIBILITIES

This policy applies to all office members, who shall follow the intent of these guidelines in a manner that reflects office policy, professional law enforcement standards and the best interest of the Office and its mission.

Members are encouraged to promptly report any discriminatory, retaliatory or harassing conduct or known violations of this policy to a supervisor. Any member who is not comfortable with reporting violations of this policy to his/her immediate supervisor may bypass the chain of command and make the report to a higher ranking supervisor or manager. Complaints may also be filed with the Sheriff, and under certain conditions potentially the Personnel Director or the Sheriff.

Any member who believes, in good faith, that he/she has been discriminated against, harassed, subjected to retaliation, or who has observed harassment, discrimination or retaliation, is

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encouraged to promptly report such conduct in accordance with the procedures set forth in this policy.

Supervisors and managers receiving information regarding alleged violations of this policy shall determine if there is any basis for the allegation and shall proceed with resolution as stated below.

1404.4.1 QUESTIONS OR CLARIFICATION

Members with questions regarding what constitutes discrimination, sexual harassment or retaliation are encouraged to contact a supervisor or manager, and under certain conditions potentially the Sheriff, for further information direction or clarification.

1404.4.2 SUPERVISOR RESPONSIBILITIES

The responsibilities of each supervisor and manager shall include, but are not limited to:

- (a) Continually monitoring the work environment and striving to ensure that it is free from all types of unlawful discrimination, including harassment or retaliation.
- (b) Taking prompt, appropriate action within their Division to avoid and minimize the incidence of any form of discrimination, harassment or retaliation.
- (c) Ensuring that their subordinates understand their responsibilities under this policy.
- (d) Ensuring that members who make complaints or who oppose any unlawful employment practices are protected from retaliation and that such matters are kept confidential to the extent possible.
- (e) Making a determination regarding the substance of any allegation based upon all available facts and recommend action appropriate to the determination.
- (f) Notifying the Sheriff or a Supervisor in writing of the circumstances surrounding any reported allegations or observed acts of discrimination, harassment or retaliation no later than the next business day.

1404.4.3 SUPERVISOR'S ROLE

Because of differences in individual values, supervisors and managers may find it difficult to recognize that their behavior or the behavior of others is discriminatory, harassing or retaliatory. Supervisors and managers shall be aware of the following:

- (a) Behavior of supervisors and managers should represent the values of the Office and professional law enforcement standards including the Law Enforcement Code of Ethics.
- (b) False or mistaken accusations of discrimination, harassment or retaliation can have negative effects on the careers of innocent members.

Nothing in this section shall be construed to prevent supervisors or managers from discharging supervisory or management responsibilities, such as determining duty assignments, evaluating or counseling members or issuing discipline in a manner that is consistent with established procedures.

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1404.5 INVESTIGATION OF COMPLAINTS

Various methods of resolution exist. During the pendency of any such investigation, the supervisor of the involved member should take prompt and reasonable steps to mitigate or eliminate any alleged, or continuing, abusive or hostile work environment. It is the policy of the Montgomery County Sheriff's Office that all complaints of discrimination, retaliation or harassment shall be fully documented and promptly and thoroughly investigated.

1404.5.1 SUPERVISORY RESOLUTION

Members who believe they are experiencing discrimination, harassment or retaliation should be encouraged to inform the individual that his/her behavior is unwelcome, offensive, unprofessional or inappropriate. However, if the member feels uncomfortable, threatened or has difficulty expressing his/her concern, or if this does not resolve the concern, assistance should be sought from a supervisor or manager who is a rank higher than the alleged transgressor. Supervisory resolutions are subject to the requirements set forth under Supervisor Responsibilities within this Policy.

1404.5.2 FORMAL INVESTIGATION

If the complaint cannot be satisfactorily resolved through the supervisory resolution process, a formal investigation will be conducted.

The person assigned to investigate the complaint will have full authority to investigate all aspects of the complaint. Investigative authority includes access to records and the cooperation of any members involved. No influence will be used to suppress any complaint and no member will be subject to retaliation or reprisal for filing a complaint, encouraging others to file a complaint or for offering testimony or evidence in any investigation.

Formal investigation of the complaint will be confidential to the extent possible and will include, but not be limited to, details of the specific incident, frequency dates of occurrences and names of any witnesses. Witnesses will be advised regarding the prohibition against retaliation, and that a disciplinary process, up to and including termination, may result if retaliation occurs.

Members who believe they have been discriminated against, harassed or retaliated against because of their protected status are encouraged to follow the chain of command but may also file a complaint directly with the Sheriff.

1404.5.3 ALTERNATIVE COMPLAINT PROCESS

No provision of this policy supplants any other redress available under State or federal law.

1404.6 DOCUMENTATION OF COMPLAINTS

All complaints or allegations shall be thoroughly documented and in a manner designated by the Sheriff. The outcome of all reports shall be:

- (a) Approved by the Sheriff, or the Division Director, depending on the ranks of the involved parties.
- (b) Maintained in accordance with the established records retention schedule.

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1404.6.1 NOTIFICATION OF DISPOSITION

The complainant and/or victim will be notified in writing of the disposition of the investigation and the actions taken to remedy or address the circumstances giving rise to the complaint.