

	Administrative General Order	2.06 Prohibition of Discrimination and Harassment	PAGE 1 OF 5
	SUBJECT		EFFECTIVE DATE
	<b>Virginia Beach Police Department General Order</b> <b>Chapter 2 - Personnel Information</b>		<b>06/18/2018</b>
			ORIGINATOR/REVIEW
DISTRIBUTION	CALEA: 26.1.3, 31.2.3, 34.1.3		Chief's Staff
ALL			
BY THE AUTHORITY OF THE CHIEF OF POLICE:		<i>James A. Coonan</i>	

## Purpose

To establish our commitment to a workplace free of discrimination and/or harassment based on race, ethnicity, color, religion, age, sex, national origin, disability, gender, sexual orientation, gender identity/expression, pregnancy or childbirth, military service, genetic information, immigration status, housing status, occupation, language fluency or any other basis protected by federal, state, or local laws. To inform all employees of departmental procedures for addressing complaints of discrimination and/or harassment; and to hold all employees accountable for the prevention of illegal discrimination or harassment, by communicating this policy to every employee.

## Definitions

**Discrimination** – an illegal practice, procedure or treatment of a person, or group of persons based on factors that are prohibited by federal, state, or local law, including race, color, religion, age, sex, national origin, disability, sexual orientation, gender identity, pregnancy or childbirth, military service, immigration status, housing status, occupation, language fluency, or marital status.

**Harassment** – a type of discrimination which may occur when an employee is subjected to unwelcome conduct that is based on a factor prohibited by federal, state, or local law, such as race, ethnicity, color, religion, age, sex, national origin, disability, gender, sexual orientation, gender identity/expression, pregnancy or childbirth, genetic information, or military service, genetic information, immigration status, housing status, occupation, language fluency where the offensive conduct has the purpose or effect of interfering with the employee’s work performance or creates an intimidating, hostile, or offensive work environment. Prohibited behavior can be verbal, visual, or physical and may occur between coworkers, a superior and a subordinate, or an employee and a non-employee.

**Sexual Harassment** – a type of discrimination which occurs when an employee is subjected to unwelcome sexual advances, requests for sexual favors, or any other conduct of a sexual nature when submission to the conduct is a condition of employment, an employee’s reaction to the conduct is used as a basis for employment decisions affecting that employee and/or the conduct has the purpose or effect of interfering with the employee’s work performance or creating an intimidating, hostile or offensive work environment.

**Retaliation** – a type of discrimination due to adverse action or treatment taken against an employee for filing a charge of discrimination/harassment, participating in an investigation, formally or informally opposing discriminatory practices; or being related to an employee who files a charge of discrimination/harassment. Examples of retaliatory actions include, but are not limited to: dismissal, demotion, transfer, denial of promotion, suspension, taking away job duties, or poor performance evaluations.

**Policy (CALEA 26.1.3, 31.2.3, 34.1.3)**

The Virginia Beach Police Department prohibits and will not tolerate, does not condone, discrimination or harassment of any employee by any other person with whom that individual comes in contact as part of their work environment. No employee will be the target of unwelcome discrimination or harassment, verbal, visual, or physical. Any activity of this type shall be treated as misconduct and appropriate disciplinary action(s) shall be imposed up to and including dismissal. All employees are expected to treat each other with courtesy and respect, and to refrain from any behavior which may be offensive to a reasonable person.

In addition, if a supervisor allows discrimination or harassment to occur or condones it when he/she knows it is taking place or reasonably ought to know it is taking place, it is also considered misconduct. Supervisors are required to stop all conduct which may be offensive to a reasonable person. Examples of discrimination and harassment include, but are not limited to: (1) unwelcome requests or demands for sexual favors; (2) unwelcome touching of an individual; (3) basing the granting or withholding of a term or condition of employment on sexual favors; (4) sexual oriented kidding, teasing and jokes; (5) verbal abuse of a sexual nature; (6) graphic or degrading comments, insults, put downs about an individual or his/her appearance; (7) displaying, posting, sharing, faxing, emailing, texting and/or any other form of social media of sexually suggestive, racial or otherwise offensive jokes, objects, pictures, cartoons, drawings, videos, movies, cards, and/or photographs; (8) verbal description or discussion, implied or explicit, of sexual acts, conduct, content; and/or (9) physical gestures of a sexual or offensive nature. Note that conduct is prohibited and may be considered misconduct even though the person engaging in the conduct was not intentionally directing it towards the person who is offended. For example, Employee A tells an improper joke to Employee B but Employee C is within earshot. Employee B is not offended by the joke but Employee C is. Employee A may be disciplined for misconduct, even though he/she was not directing the joke towards Employee C.

**Procedure**

1. Each individual command will post in at least one central location within its work environment:  
(a) the Equal Employment Opportunity is THE LAW poster and the U. S. Department of Labor Employment Standards: [Wage & Hour Publication 1420](#) (these may be combined into one poster),  
(b) a copy of this general order, and (c) the current memorandum from the Chief of Police designating persons to whom complaints can be directly delivered.
2. Employees who believe discrimination or harassment may be occurring are encouraged to report the conduct to their immediate supervisor or other designated persons as described in the below complaint procedure.
3. At the time of orientation, all employees will receive training on the City policies concerning this issue. Sworn Police Officers and Animal Control Officers shall also receive training in the academy on this general order and City Policy 6.06, Equal Employment Opportunity Policy and Complaint Procedure. Supervisors and managers will receive additional training on this topic. (Additional retraining requirements are referenced in City Policy 6.06, Equal Employment Opportunity Policy and Complaint Procedure.)
4. Any allegation of discrimination/harassment shall be promptly investigated pursuant to the process set forth in Human Resources Equal Employment Opportunity Policy and Complaint Procedure, No. 6.06. Confidentiality will be maintained throughout the investigatory process to the extent practical and appropriate under the circumstances.

5. Each supervisor is responsible for preventing acts of harassment and discrimination. This responsibility includes:
  - a. Monitoring the work environment on a daily basis for signs that discrimination/harassment may be occurring.
  - b. Counseling all employees on the types of behavior prohibited and the agency procedures for reporting and resolving complaints of discrimination/harassment.
  - c. Stopping any observed acts that may be considered discriminatory and/or harassing and taking appropriate steps to intervene whether or not the involved employees are within his/her line of supervision
  - d. Taking immediate action to prevent retaliation against a complaining party or person assisting in an investigation and to eliminate any discovered violations of this policy.
  - e. Failure to carry out these responsibilities will be considered in evaluation or promotional decisions and may be grounds for discipline up to and including dismissal.
6. Each supervisor has the responsibility to assist any employee of this agency who comes to that supervisor with a complaint of discrimination/harassment in documenting and filing a complaint as described below.
7. Each employee of this department is responsible for assisting in the prevention of discrimination/harassment by taking, at a minimum, the following actions:
  - a. Refraining from participation in or encouragement of actions that could be perceived as discrimination/harassment
  - b. Encouraging any employee who confides that he or she is the subject of discrimination/harassment to report these acts to a supervisor or other appropriate individual

Failure of an employee to carry out the responsibilities delineated in this policy may result in disciplinary action up to and including dismissal.

### **Complaint Procedure**

Any employee who believes he or she is the subject of discrimination/harassment in any manner described above should:

1. Make the individual aware that his/her behavior is offensive. If for any reason the employee is unable to do this, he or she should report the behavior using one of the below described methods.
2. It is strongly recommended that the employee immediately document the incident and include dates, times, places, persons involved, and a description of the behavior and response.
3. Report the incident as soon as possible utilizing at least one of the below choices:
  - a. The complainant employee may contact his or her immediate supervisor or any department supervisor and make either an oral or written statement as to the circumstances of the incident(s)

- b. The complainant employee may go directly to any of the designated department discrimination/harassment persons as posted within each command (and listed in #4 below) and make either an oral or written complaint
  - c. The complainant employee may file a formal complaint with the City's Employee Relations Manager or her designee and be governed by all reporting requirements and timetables as set forth in City Policy [6.06](#) (Equal Employment Opportunity Policy and Complaint Procedure). The complainant employee may also use the Employee Grievance Procedure, if applicable; however, an employee shall not be entitled to use both procedures for the same issue.
  - d. If the complainant employee's initial contact is with Internal Affairs, the Chief's executive aide, the commanding officer of a precinct or bureau or the departmental EEO resource officer, then an Internal Affairs file will be initiated. In these cases, Internal Affairs will be responsible for determining basic facts so that the case may be screened by Human Resources before Human Resources proceeds with a full investigation. EEO investigations shall be conducted by the Department of Human Resources, Employee Relations Manager as required by City Policy 6.06, Equal Employment Opportunity Policy and Complaint Procedure.
4. The below listed individuals have been particularly designated to accept such complaints:
- a. Commanding Officer of any precinct bureau or division
  - b. Police Department's Human Resources Coordinator
  - c. Office of Internal Affairs
  - d. Chief of Police Executive Aide
  - e. Employee Relations Manager, Department of Human Resources
  - f. MPO serving as the Liaison Officer (designated by the Chief of Police)
5. This general order does not preclude any employee from filing a complaint or grievance with an appropriate outside agency.

### **Protection Against Retaliation**

1. Retaliation against any employee for filing a harassment/discrimination complaint, intervening in an incident of harassment/discrimination, assisting, testifying, or participating in the investigation of such a complaint; or against an employee who is related to another employee filing a harassment/discrimination complaint is illegal and is prohibited by this department, the City, and by federal statutes.
2. Retaliation is a form of employee misconduct. Any evidence of retaliation shall be considered a separate violation of this policy and shall be handled in accordance with the same complaint procedures established for harassment and discrimination complaints. If such a complaint is sustained the accused is subject to discipline up to and including dismissal.
3. Monitoring to ensure that retaliation does not occur is the responsibility of every department supervisor as well as the appropriate internal investigative authority.
4. Employees who believe retaliation may be occurring are encouraged to report the conduct to their immediate supervisor or other designated persons as described in the complaint procedure.

If any employee has any questions about this policy, he/she should contact his or her supervisor, the Human Resources Department, the Liaison Officer or any of the individuals named above in item 4 under Complaint Procedure.