

## Discriminatory Harassment

### **313.1 PURPOSE AND SCOPE**

The purpose of this policy is to prevent department members 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.

### **313.2 POLICY**

The Basehor Police Department 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 Department will not tolerate discrimination against a member in hiring, promotion, discharge, compensation, fringe benefits and other privileges of employment. The Department 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 Department 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.

#### **313.2.1 NOTICE OF PROHIBITED DISCRIMINATION**

It is the policy of the Basehor Police Department that all individuals have the right to participate in employment, programs, and activities operated by the Basehor Police Department regardless of age and perceived or actual race, color, national origin, sex, religion, sexual orientation, gender identity, and disability. As a condition of state and/or federal grant funding, the Basehor Police Department agrees to operate in compliance with the following statutes and regulations and all other regulations implementing the same:

- Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color or national origin in the delivery of services and which entails taking reasonable steps to ensure that persons with Limited English Proficiency (LEP) have meaningful access to funded programs or activities. An LEP person is one whose first language is not English and who has a limited ability to read, write, speak, or understand English. (42 U.S.C. § 2000d), and the Department of Justice (DOJ) implementing regulations at 28 C.F.R. Part 42, Subpart C;
- The Omnibus Crime Control and Safe Streets Act of 1968, which prohibits discrimination on the basis of race, color, national origin, religion, or sex in the delivery of services and employment practices (34 U.S.C. § 10228 (c)(1)), and the DOJ implementing regulations at 28 C.F.R. Part 42, Subpart D;
- Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of disability in the delivery of services and employment practices (29 U.S.C. § 794), and the DOJ implementing regulations at 28 C.F.R. Part 42, Subpart G;
- Title II of the Americans with Disabilities Act of 1990, which prohibits discrimination on the basis of disability in the delivery of services and employment practices (42 U.S.C. § 12132), and the DOJ implementing regulations at 28 C.F.R. Part 35;

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- Title IX of the Education Amendments of 1972, which prohibit discrimination on the basis of sex in educational programs (20 U.S.C. § 1681), and the DOJ implementing regulations at 28 C.F.R. Part 54;
- The Age Discrimination Act of 1975, which prohibits discrimination on the basis of age in the delivery of services (42 U.S.C. § 6102), and the DOJ implementing regulations at 28 C.F.R. Part 42, Subpart I;
- Executive Order 13,559, amending Executive Order 13,279, and the DOJ implementing regulation, Partnerships with Faith-Based and Other Neighborhood Organizations 28 C.F.R. pt. 38

(prohibiting discrimination in federally assisted social service programs based on religion in the delivery of services or benefits);

- The Victims of Crime Act (VOCA) of 1984, which prohibits discrimination on the basis of race, color, national origin, religion, sex, or disability (34 U.S.C. § 20110(e) .);
- The Juvenile Justice and Delinquency Prevention Act of 2002 (34 U.S.C. § 11131); and
- Violence Against Women Act (VAWA) of 1994, as amended, 34 U.S.C. § 12291(b)(13) (prohibiting discrimination in programs either funded under the statute or administered by the Office on Violence Against Women, both in employment and in the delivery of services or benefits, based on actual or perceived race, color, national origin, sex, religion, disability, sexual orientation, and gender identity) (referring to the Safe Streets Act for enforcement).

The Basehor Police Department complies with all gubernatorial executive orders including but not limited to the following.

([EO 19-02](#)) expressly requires all hiring must be on the basis of individual merit and qualifications and expressly prohibits discrimination based on race, color, gender, sexual orientation, gender identity or expression, religion, national origin, ancestry, age, military or veteran status, disability status, marital or family status, genetic information, or political affiliation that is unrelated to the person's ability to reasonably perform the duties of a particular job or position.

[EO 18-04](#) ) requires state agencies comply with all state and federal employment discrimination laws prohibiting sexual harassment and retaliation in the workplace; establish agency policies regarding sexual harassment, discrimination, retaliation, confidentiality and anonymous reporting, applicability to intern positions, and training of the policy; and conduct annual mandatory training seminars for all staff, employees, and interns in regard to the office regarding the policy against sexual harassment, discrimination, and retaliation, and shall maintain a record of attendance.

In addition to the protections listed above, these laws prohibit the Basehor Police Department from retaliating against an individual for taking action or participating in action to secure rights protected by these laws.

### **313.3 DEFINITIONS**

Definitions related to this policy include:

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#### 313.3.1 DISCRIMINATION

The Department prohibits all forms of discrimination, including any employment-related action by a member that adversely affects an applicant or member and is based on actual or perceived race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, pregnancy, genetic information, veteran status, marital status, and any other classification or status 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; making 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 department equipment and/or systems to transmit or receive offensive material, statements, or pictures. Such conduct is contrary to department policy and to a work environment that is free of discrimination.

#### 313.3.2 RETALIATION

Retaliation is treating a person differently or engaging in acts of reprisal or intimidation against the person because the person has engaged in protected activity, filed a charge of discrimination, participated in an investigation, or opposed a discriminatory practice. Retaliation will not be tolerated.

#### 313.3.3 SEXUAL HARASSMENT

The Department prohibits all forms of discrimination and discriminatory harassment, including sexual harassment. It is unlawful to harass an applicant or a member 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.

#### 313.3.4 ADDITIONAL CONSIDERATIONS

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

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- (a) Acts or omission of acts based solely upon bona fide occupational qualifications under the Equal Employment Opportunity Commission and the Kansas Human Rights Commission guidelines.
- (b) Bona fide requests or demands by a supervisor that the member improve the member's work quality or output, that the member report to the job site on time, that the member comply with city or department rules or regulations, or any other appropriate work-related communication between supervisor and member.

#### **313.4 RESPONSIBILITIES**

This policy applies to all department members, who shall follow the intent of these guidelines in a manner that reflects department policy, professional standards, and the best interest of the Department 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 the member's 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 Chief of Police, the Personnel Manager, or the City Administrator.

Any member who believes, in good faith, that the member has been discriminated against, harassed, or subjected to retaliation, or who has observed harassment, discrimination, or retaliation, is 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 a resolution as stated below.

##### **313.4.1 QUESTIONS OR CLARIFICATION**

Members with questions regarding what constitutes discrimination, sexual harassment, or retaliation are encouraged to contact a supervisor, a manager, the Chief of Police, the Personnel Manager, or the City Administrator for further information, direction, or clarification.

##### **313.4.2 SUPERVISOR RESPONSIBILITIES**

The responsibilities of supervisors and managers 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 work units 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.

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- (e) Making a timely determination regarding the substance of any allegation based upon all available facts.
- (f) Notifying the Chief of Police or the Personnel Manager in writing of the circumstances surrounding any reported allegations or observed acts of discrimination, harassment, or retaliation no later than the next business day.

#### **313.4.3 SUPERVISOR'S ROLE**

Supervisors and managers shall be aware of the following:

- (a) Behavior of supervisors and managers should represent the values of the Department and professional standards.
- (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.

### **313.5 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 continuing abusive or hostile work environment. It is the policy of the Department that all complaints of discrimination, retaliation, or harassment shall be fully documented, and promptly and thoroughly investigated.

#### **313.5.1 SUPERVISOR RESOLUTION**

Members who believe they are experiencing discrimination, harassment, or retaliation should be encouraged to inform the individual that the behavior is unwelcome, offensive, unprofessional, or inappropriate. However, if the member feels uncomfortable or threatened or has difficulty expressing the member's 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.

#### **313.5.2 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 an investigation.

Formal investigation of the complaint will be confidential to the extent possible and will include but is not limited to details of the specific incident, frequency and dates of occurrences, and names

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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 Chief of Police, the Personnel Manager, or the City Administrator.

#### **313.5.3 ALTERNATIVE COMPLAINT PROCESS**

No provision of this policy shall be construed to prevent any member from seeking legal redress outside the Department. Members who believe that they have been harassed, discriminated against, or retaliated against are entitled to bring complaints of employment discrimination to federal, state, and/or local agencies responsible for investigating such allegations. Specific time limitations apply to the filing of such charges. Members are advised that proceeding with complaints under the provisions of this policy does not in any way affect those filing requirements.

#### **313.6 DOCUMENTATION OF COMPLAINTS**

All complaints or allegations shall be thoroughly documented on the appropriate forms and in a manner designated by the Chief of Police. The outcome of all reports shall be:

- (a) Approved by the Chief of Police, the City Administrator, or the Personnel Manager, depending on the ranks of the involved parties.
- (b) Maintained in accordance with the established records retention schedule.

#### **313.6.1 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.

#### **313.7 TRAINING**

All new members shall be provided with a copy of this policy as part of their orientation. The policy shall be reviewed with each new member. The member shall certify by signing the prescribed form that the member has been advised of this policy, is aware of and understands its contents, and agrees to abide by its provisions during the member's term with the Department.

All members shall receive annual training on the requirements of this policy and shall certify by signing the prescribed form that they have reviewed the policy, understand its contents, and agree that they will continue to abide by its provisions. Training attendance will be noted in the employee's personal file.

#### **313.8 HOW TO FILE A COMPLAINT**

If anyone believes the Basehor Police Department has discriminated against an employee, a client, a customer or a program participant, or anyone else, and/or if an employee receives a complaint of alleged discrimination, please notify the City of Basehor's complaint coordinator by e-mail, letter, or telephone:

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Kathy Renn

2620 155<sup>th</sup> St Basehor KS 66007

Telephone: (913)724-1370

Email: [krenn@cityofbasehor.org](mailto:krenn@cityofbasehor.org)

Or notify:

Kansas Governor's Grants Program Civil rights liaison

900 SW Jackson St.

Landon State Office Building, Room 304 North Topeka, KS 66612

Telephone: 785-291-3205

Fax: 785-291-3204

e-mail: [KGGP@KS.GOV](mailto:KGGP@KS.GOV)

Or:

Office of Justice Programs Office for Civil Rights

810 7<sup>th</sup> Street NW Washington, DC 20531

Telephone: 202-307-0690

Fax: 202-616-9865

TTY: 202-307-2027

The City of Basehor's civil rights liaison will provide written acknowledgment of receiving the complaint, will coordinate the complaint process, and will urge the charging party to file a complaint with the Kansas Human Rights Commission (KHRC) and/or for employment discrimination claims, the Equal Employment Opportunity Commission (EEOC) and the Office for Civil Rights (OCR). Additionally, the City of Basehor's civil rights liaison will advise the charging party that a complaint must be filed with KHRC and EEOC within either 180 days or one year from the date of the alleged violation, depending on the relevant statute, in order to protect the charging party's rights.

The City of Basehor's civil rights liaison will request the charging party to provide the following information when making a complaint:

- (a) Date of alleged discrimination;
- (b) Protected class claimed;

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- (c) Written detail of the alleged discrimination; and
- (d) A signature attesting to the facts alleged.

In no later than five business days after receiving a complaint in the form described above, the City of Basehor's civil rights liaison will refer the complaint in writing to the KHRC and/or for employment discrimination claims, the EEOC, and/or the OCR depending on the nature of the complaint. The City of Basehor will not conduct an independent investigation but will assist the relevant investigative agency/agencies in the investigation as requested.

The City of Basehor will report any findings of discrimination to the OCR and the KGGP.

### **313.9 PUBLIC NOTIFICATION**

The Basehor Police Department shall make available this Non-Discrimination Policy to all Basehor Police Department staff and program beneficiaries. The policy is to be included with information materials given to all new Basehor Police Department staff, posted in the Basehor Police Department break room and front lobby, and posted to the department's city web page.