

	MARICOPA COUNTY SHERIFF’S OFFICE POLICY AND PROCEDURES	
	Subject WORKPLACE PROFESSIONALISM	Policy Number CP-3
		Effective Date 12-16-21
Related Information ARS 39-128 County Policy HR 2406, Prohibition Against Discrimination Harassment, and Retaliation Maricopa County Law Enforcement Officer Merit Rules GC-17, <i>Employee Disciplinary Procedures</i> GH-2, <i>Internal Investigations</i> GH-5, <i>Early Identification System</i>		Supersedes CP-3 (03-04-21)
Version	Date	Description of Review
	12-16-21	Statement of Annual Review – No Changes

PURPOSE

The Office prohibits unlawful discrimination and harassment based on an individual's membership in a category protected by federal or state law. The Office is likewise committed to preventing retaliation against employees who engage in an activity protected by federal or state laws. The Office also seeks to address wrongful conduct and behavior which, if allowed to continue, could result in a violation of one or more of these laws.

Although this Office Policy refers to employees throughout, this Office Policy also applies with equal force to all volunteers. Volunteers include, but are not limited to, reserve deputies and posse members.

POLICY

It is the policy of the Office to ensure a work environment that fosters mutual employee respect and promotes harmonious, productive working relationships. The Office believes that any type of harassment, including sexual harassment, unlawful discrimination, or retaliation in the workplace or wherever business is conducted on behalf of the Office, undermines the integrity of the employment relationship. Accordingly, the Office has established procedures for preventing, reporting, investigating, and resolving allegations of unlawful discrimination, harassment, and retaliation.

Personnel are not required to use any of the procedures, as specified in this Office Policy, before exercising their rights to file an administrative claim under state or federal discrimination laws with the Equal Employment Opportunity Commission (EEOC) or the Arizona Attorney General's Office, Civil Rights Division.

DEFINITIONS

Allegation: A claim that an employee has been subjected to unlawful or wrongful conduct.

Blue Team: The Early Identification System (EIS) application that allows employees and supervisors to record information in a database regarding incidents, performance, and conduct. The information from Blue Team is transferred to the IA Pro Early Identification case management system.

Discrimination: Different treatment in the terms, conditions, and privileges of employment because of an individual's protected characteristic.

Early Identification System (EIS): A system of electronic databases that captures and stores threshold events to help support and improve employee performance through early intervention and/or to identify problematic operating procedures, improving employee performance, identifying detrimental behavior, recognizing outstanding accomplishments, and to improve the Office's supervisory response. The computerized relational database shall collect, maintain, integrate, and retrieve information gathered in order to highlight tendencies in performance, complaints, and other activities. The database allows the Office to document appropriate identifying information for involved employees, (and members of the public when applicable), and the actions taken to address the tendencies identified. Blue Team, IAPro, and EIPro are applications of EIS.

Employee: A person currently employed by the Office in a classified, unclassified, contract, or temporary status.

Family Relationship: Relatedness or connection by blood, marriage, or adoption.

Harassment: Unwelcome sexual advances, request for sexual favors, and other conduct of a sexual nature, or treatment of an individual based on a protected characteristic that is not welcome, that is offensive, that interferes with work effectiveness or that creates an intimidating, hostile, or offensive work environment. Not all conduct that is unpleasant or upsetting constitutes harassment.

Notice of Investigation (NOI): A written notice given to an employee during an administrative investigation which identifies the employee's status in the investigation, the employee's responsibility not to discuss the investigation with anyone other than those specified, the name and rank of the assigned investigators, and the right to have an observer present at the interview.

Protected Activity: An employee's good faith expressed opposition to an employer's practice that the employee reasonably believes to be discrimination, such as complaining of alleged discrimination or harassment against oneself or another or filing a charge of discrimination. Protected activity may also include exercising legal rights, such as requesting a reasonable accommodation based on religion or disability, requesting leave under the Family Medical Leave Act, or filing a worker's compensation claim.

Protected Characteristic: All characteristics covered by applicable federal or state laws including, but not limited to, race, gender, religion, color, national origin, age, disability, sexual orientation, gender identity, including transgender status, gender expression, pregnancy, veteran status, and genetic information.

Retaliation: Subjecting an employee to adverse treatment or adverse action because the employee engaged in a protected activity. All forms of reprisal, discouragement, intimidation, coercion, or adverse action against any person, member of the public, employee because that person reports misconduct, attempts to make or makes a misconduct complaint in good faith, cooperates with an investigation of misconduct, conducts an investigation or enforces the findings of a misconduct investigation, constitute retaliation and is strictly prohibited. This also includes reports of misconduct made directly to any outside entity authorized to take corrective action.

Unlawful Conduct: Discrimination, harassment, or retaliation in violation of federal or state law.

Volunteer: A person who performs hours of service for civic, charitable, or humanitarian reasons, without promise, expectation, or receipt of compensation for services rendered. An employee may not volunteer to perform the same, similar, or related duties for the Office that the employee is normally paid to perform.

Wrongful Conduct: Conduct that, if allowed to continue, could potentially lead to unlawful discrimination, harassment, or retaliation.

PROCEDURES

1. **Wrongful Conduct:** The following are examples of conduct that could rise to the level of, or lead to discrimination or harassment:

- A. Making employment decisions such as hiring, promoting, disciplining, or terminating based on an individual's protected characteristic.
 - B. Offensive or derogatory comments directed toward a person on account of their protected characteristic.
 - C. Physical conduct such as deliberately impeding or blocking movement of another; violating an individual's "personal space" and/or unwelcomed touching, patting, pinching, or brushing parts of the body.
 - D. Visual (nonverbal) or graphic harassment such as derogatory or suggestive photographs, calendars, graffiti, posters, cartoons or drawings, sexually suggestive objects, making obscene gestures, leering, and drawing attention to suggestive or pornographic materials.
 - E. Jokes or comments based on a protected characteristic, including jokes about:
 - 1. Race or national origin;
 - 2. Someone's gender identity/expression;
 - 3. Sexual orientation;
 - 4. Transgender status;
 - 5. Genetic information;
 - 6. Age;
 - 7. Religion or religious practice or wardrobe;
 - 8. An individual's body, including jokes about a woman's body during pregnancy;
 - 9. An individual with a disability; or
 - 10. Jokes of a sexual nature.
 - F. Using stereotypes or assumptions about people based on a protected characteristic.
 - G. Using technology such as Facebook, Twitter, texting, email, and voicemail to generate, send, or display material that is considered obscene, profane, intimidating, threatening, defamatory, or which identifies or refers to a protected characteristic in derogatory or stereotypical terms. This includes material that is intended only as a joke or for amusement purposes.
2. **Reasonable Accommodation Requests:** The Office is an equal opportunity employer and shall positively address reasonable requests for disability or religious accommodations.
- A. Disability Accommodation Requests: To ensure equal employment opportunities to qualified individuals with disabilities, the Office shall make reasonable accommodations for the known physical or mental impairments of an otherwise qualified employee with a disability unless undue hardship and/or a direct threat to the health or safety of the individual or others would result. Any employee who requires an accommodation in order to perform the essential functions of the job shall contact the Leave Management Section (LMS) and request an accommodation. An individual requesting a disability accommodation should specify in writing what type of accommodation is

needed to perform the job. The Office shall take appropriate action to identify possible accommodations.

- B. **Religious Accommodation Requests:** The Office shall provide reasonable accommodation for an employee's religious observances and requirements when the employee brings such matters to the Office's attention and a reasonable accommodation can be identified. A reasonable accommodation is one that eliminates the conflict between an employee's religious observances or requirements and the employee's job responsibilities, without causing undue hardship to the Office. The Office is not legally obligated to accommodate employee preferences, optional activities, or conveniences. Any employee who perceives a conflict shall bring the request for accommodation through their chain of command to the Administrative Services Division for review and action. An employee who is not comfortable reporting the perceived conflict to anyone in their chain of command, shall report the matter directly to the Administrative Services Division.

- 3. **Workplace Relationships:** All relationships must be consensual but, even though the relationship is consensual, serious concerns about the validity of the consent, conflicts of interest, and preferential treatment may arise. The Office is further aware that when relationships end badly, the probability of workplace conflict increases. Therefore, employees are encouraged to thoughtfully consider potential consequences before entering into such a relationship.

- A. A date, entering into a romantic relationship, or having any form of sexual interaction is expressly prohibited between a supervisor and their supervised employee. One party to any of the three acts described above shall not have any professional responsibility for directing or evaluating the other's job performance. If a supervisor has any questions whether or not they have input into another's job performance, the supervisor shall discuss the situation with their commander prior to entering into the act. An employee who is promoted to a supervisory position must promptly notify their division commander of any existing romantic relationship or sexual interaction which would result in a violation of this subsection. The Office shall take the necessary steps to ensure that both employees receive objective supervision and evaluations.
- B. If a supervisor/subordinate relationship conflicts with the requirements of this Office Policy, the supervisor shall be reassigned.
- C. Employees shall not exercise direct and/or immediate supervisory authority over a family member.
- D. Employees working in the same division or building who are in a dating relationship, romantic relationship, or having any form of sexual interaction shall promptly notify their respective supervisors. Division commanders shall evaluate the overall impact on the Office and decide the most effective course of action necessary. This may result in one or both employees being transferred.

- 4. **Prevention of Unlawful Discrimination and Harassment:** While this Office Policy is intended to address conduct prohibited under state and federal discrimination laws, this Office Policy also addresses those behaviors and activities that may not meet the legal definition of harassment or unlawful discrimination but are inappropriate in a work environment.

- A. It is the responsibility of each employee, supervisor, and command staff member to actively promote the establishment and maintenance of a professional workplace that is free from discourteous treatment of others.
- B. Supervisors and command staff members shall ensure that all employees are aware of this Office Policy, the reporting structure for bringing complaints forward, and the consequences of policy violations by utilizing the following measures:

1. Ensuring that the mandatory Workplace Professionalism annual training through TheHUB is completed.
 2. Ensuring employees receive, read in a timely fashion, and comprehend *The Briefing Board* titled *Special Briefing Board – Information Every Employee Needs to Know*, which is published annually.
 3. Speaking to employees about professionalism in the workplace, how to bring concerns forward, and the consequences of policy violations.
5. **Complaint and Investigation Procedures:** This Office Policy advises employees of the avenues of action available within the Office. The Office reporting procedure provides for a prompt and thorough investigation. Following the investigation, any employee who is found to have engaged in misconduct shall be subject to appropriate disciplinary action, up to and including, dismissal from employment.
- A. Supervisors and command staff members exercise authority on behalf of the Office and must work to maintain a workplace free of unlawful and wrongful conduct. To that end, they must take each and every complaint seriously and promptly report any observed or learned violations of this Office Policy immediately to the Professional Standards Bureau (PSB) through Blue Team. The procedures for Blue Team entries, are specified in Office Policy GH-5, *Early Identification System*. A supervisor or command staff member who fails to promptly report observed unlawful or wrongful conduct or a claim of unlawful or wrongful conduct shall be subject to disciplinary action, up to and including, dismissal from employment. The presumptive discipline for a failure to report unlawful or wrongful conduct may be commensurate with the presumptive discipline for the underlying misconduct, as specified in Office Policy GC-17, *Employee Disciplinary Procedures*.
 - B. Any employee who is the subject of or engages in discrimination, harassment or wrongful conduct as specified in this Office Policy, or who observes or becomes aware of any act of misconduct by another employee shall, as soon as practicable, report the incident to a supervisor or directly to the Human Resources Bureau, Bureau of Compliance Chief, or the PSB, or to any outside entity authorized to take corrective action, without fear of retaliation. All forms of reprisal, discouragement, intimidation, coercion, or adverse action against any person, member of the public, or employee because that person reports misconduct, attempts to make or makes a misconduct complaint in good faith, cooperates with an investigation of misconduct, or conducts an investigation or enforces the findings of a misconduct investigation constitute retaliation and are strictly prohibited. This also includes reports of misconduct made directly to any outside entity authorized to take corrective action. Although the County Law Enforcement Officers Merit Rules state that matters are to be reported within 20 calendar days, the Office requires employees to bring these allegations forward promptly. Failure to report such behavior shall result in disciplinary action, up to and including, dismissal from employment.
 - C. Complaint Procedure:
 1. An employee is not required to directly confront the offender who is alleged to have engaged in unlawful or wrongful conduct. However, an employee may certainly choose to advise the person exhibiting the unwanted conduct that the behavior is unwelcome, inappropriate, unprofessional, or making them uncomfortable, and that the conduct must stop.
 - a. An employee who chooses to address the matter on their own should notify their supervisor, the Human Resources Bureau, Bureau of Compliance Chief, or the PSB of the offender's conduct, how the issue was addressed, and what resolution was reached. This does not relieve the supervisor, the Human Resources Bureau, Bureau of Compliance Chief, or the PSB from taking appropriate action, as specified in this Office Policy.

- b. An internal complaint entry shall be made into Blue Team and the complaint form (Attachment A) shall be prepared and attached.
 - c. This entry shall be received by the PSB for further review.
- 2. Any employee who believes they have been subjected to unlawful or wrongful conduct and does not wish to address the offender directly, or who is aware of others that have been subjected to this type of conduct, shall provide a verbal or written report to their supervisor immediately.
 - a. If the alleged offender is the supervisor the employee shall report the matter to the next higher level of the chain of command, or directly to the Human Resources Bureau, Bureau of Compliance Chief, or the PSB.
 - b. An employee who is not comfortable reporting the allegation to anyone in their chain of command, shall report the allegation directly to the Human Resources Bureau, Bureau of Compliance Chief, or the PSB.
 - c. The employee may report the allegation to any outside entity authorized to take correction action, without fear of retaliation.
 - d. The PSB shall issue and log an IA case number, enter the complaint information into IA Pro, notify the respective bureau chief, and prepare an Attachment A if one is not already prepared.
- 3. Employees are encouraged to formalize their complaints in writing so that an appropriate investigation can begin promptly based on the written information provided. If the employee completes Attachment A, the form shall be attached to the Blue Team internal complaint entry.
 - a. Employees are encouraged to use an Attachment A. The Attachment A should include a description of the incident, details of the incident including dates and approximate times, names of individuals involved, names of any witnesses, direct quotes when relevant, any documentary evidence such as notes, e-mails, e-mail attachments, text messages, photos, and voice mail recordings, as well as other relevant information.
 - b. If the employee declines to make a written report, the person receiving the complaint shall obtain the same information through an oral discussion with the employee and an internal complaint entry shall be made in Blue Team.
- 4. If the employee declines to document the complaint, the person receiving the complaint shall note on the Attachment A that the employee declined to provide a written report.
 - a. Based on the verbal notification from the employee, the person receiving the complaint shall prepare a memorandum documenting the information which the employee provided.
 - b. An internal complaint entry shall be made in Blue Team.
 - c. All appropriate documentation including, but not limited to, the memorandum and the Attachment A, shall be attached to the Blue Team entry.

- d. The PSB shall issue and log an IA case number, enter the complaint information into IA Pro, and notify the respective bureau chief
- 5. Once aware of an allegation, the Office has a duty to take prompt action to address and thoroughly investigate the allegation. Even if the complainant states that they “just want some advice” or “doesn’t want any action taken,” the person receiving the complaint shall advise the complainant that a supervisor is lawfully obligated to report the allegation so that the Office can take appropriate action. The complaint will be handled with confidentiality, to the greatest extent permitted by law, and retaliation is strictly prohibited as specified in this Office Policy.
- 6. In some instances, the supervisor may temporarily transfer or remove an employee who is alleged to have engaged in discriminatory, harassing, or retaliatory behavior from the workplace during the period of time necessary to complete the investigation. However, the supervisor shall ensure that the complainant is not relocated, reassigned, transferred, or given a different shift, even if the complainant requests the change, without first obtaining approval from the bureau chief. The bureau chief shall review the matter with the Human Resources Bureau, or the Bureau of Compliance Chief prior to making a determination or granting approval.

D. Investigation Procedure:

- 1. Upon receipt of a complaint of unlawful or wrongful conduct, a prompt and thorough investigation shall be conducted. The PSB Commander or designee shall direct an investigation be initiated, as specified in Office Policy GH-2, *Internal Investigations*.
 - 2. Depending on the nature of the complaint, the investigation may be conducted at the division level or by the PSB. The PSB Commander or designee shall be responsible for determining which division shall investigate the complaint. The complaint shall be investigated, as specified in Office Policy GH-2, *Internal Investigations*.
 - 3. The PSB Commander or designee shall determine if the employee, who is alleged to have engaged in unlawful conduct or wrongful conduct, should be placed on administrative leave with pay, as specified in Office Policy GC-17, *Employee Disciplinary Procedures*.
 - 4. The Office shall take appropriate corrective or disciplinary action if it is determined that unlawful or wrongful conduct has occurred, as specified in Office Policy GC-17, *Employee Disciplinary Procedures*.
 - 5. The PSB Commander, the Human Resources Bureau, or Bureau of Compliance Chief may consult with the Maricopa County Attorney’s Office Civil Division at any time during the investigation and discipline process.
 - 6. The PSB shall provide the complainant with notification that the investigation has concluded, and the principal shall be notified of the outcome of the investigation, as specified in Office Policy GH-2, *Internal Investigation*.
6. **Discipline:** The PSB Commander shall make preliminary determinations of the range of the discipline to be imposed in all cases and shall document those determinations in writing. The Office shall mandate that each act or omission that results in a sustained misconduct allegation shall be treated as a separate offense for the purposes of imposing discipline. Discipline shall be imposed, as specified in Office Policy, GC-17, *Employee Disciplinary Procedures*.

7. **Confidentiality:** Complaints under this Office Policy will be handled in a manner that shall ensure confidentiality to the extent permitted by law and consistent with a thorough investigation. To the extent possible, a limited number of individuals shall be given information regarding the complaint. Individuals with a need to know may include the Chief Deputy or designee, legal counsel, Human Resources Bureau, command staff, internal Sheriff's Office investigators, and/or certain members of management within the complainant and alleged offender's chain of command. Witnesses and witness representatives shall be given information to the extent necessary for the Office to conduct an investigation.
- A. Investigative information is not to be shared with coworkers or others not deemed appropriate, or with those who are not part of the investigation or disciplinary process.
 - B. Individuals who are interviewed as part of an investigation must keep the discussions private and confidential to the extent permitted by law and as provided in the Notice of Investigation (NOI) and shall be subject to disciplinary action, up to and including dismissal from employment, for improperly divulging information. An employee is released from their NOI when notified by the PSB that the investigation is closed, as specified in Office Policy GH-2, *Internal Investigations*.
 - C. All files, reports, tapes, electronic media, memoranda, and other forms of documentation relating to a completed administrative investigation shall be filed in the PSB and shall be securely maintained. Records retention, in accordance with ARS 39-128, requires the Office to maintain all administrative investigations for five years after an employee's separation or retirement from Office employment, as specified in Office Policy GH-2, *Internal Investigations*. All copies of documents maintained at the division level that are related to a completed administrative investigation shall be destroyed upon notification that the originals have been received by the PSB.
8. **Retaliation:**
- A. Retaliation toward any complainant or employee for reporting, filing, testifying, assisting, or participating in any manner, in any investigation, proceeding, or hearing conducted by the Maricopa County Sheriff's Office or a federal or state enforcement agency is strictly prohibited.
 - B. Retaliation for opposing, reporting, or threatening to report unlawful or wrongful conduct is strictly prohibited.
 - C. Employees are prohibited from any form of reprisal, discouragement, intimidation, coercion, or adverse action against another employee or member of the public that: reports an act of misconduct, attempts to make, or makes a misconduct complaint in good faith, cooperates with an investigation of misconduct, or conducts an investigation or enforces the findings of a misconduct investigation. This is to include all reports that are made to any outside entity authorized to take correction action.
 - D. Individuals who believe they have been the subject of retaliation should follow the complaint procedures outlined in this Office Policy and immediately report the alleged retaliation. The complaint shall be promptly and thoroughly investigated. If a retaliation complaint is substantiated, appropriate disciplinary action shall result, up to and including dismissal from employment.
9. **Pending Investigation:** An employee who has or receives an allegation of unlawful or wrongful conduct which stems from an ongoing investigation and who has been ordered not to discuss the investigation, except as specified in the NOI issued to the employee, may directly report the allegation to the PSB Commander or designee.
10. **Volunteers:** Volunteers shall be expected to comply with this Office Policy whenever representing the Office or participating in Office functions. Unlawful or wrongful conduct may be grounds for dismissal of volunteer duties.

11. **Training:** The Training Division shall be responsible for developing training programs which explain this Office Policy and the process for reporting unlawful or wrongful conduct. The Administrative Services Division shall be responsible for ensuring employees receive communication regarding this Office Policy on an annual basis.