

**Orleans Public Defenders**  
**Policy # 37 Discrimination, Harassment and Retaliation**

**PURPOSE:**

The OPD is committed to providing its applicants and employees with a professional work environment, free of discrimination, harassment and retaliation.

**POLICY:**

1. It is the policy of the OPD that it will not tolerate discrimination, harassment or retaliation by any individual, including any manager, supervisor, coworker, vendor, contractor or other visitor of OPD, directed at any applicant, employee, vendor, contractor or other visitor of OPD.

2. Discrimination

A. Discrimination against any individual in any aspect of his or her employment because of his or her race, color, creed, religion, gender, national origin, age, disability, veteran's or military status, sexual orientation or any other protected classification under applicable federal, state or local law is against OPD policy and will not be tolerated.

3. Sexual Harassment

A. It is the policy of the OPD that it will not tolerate verbal or physical conduct by any employee which harasses disrupts or interferes with another's work performance or which creates an intimidating, offensive or hostile work environment.

B. While all forms of harassment are prohibited, it is the OPD's policy to emphasize that sexual harassment is specifically prohibited.

C. Each supervisor has a responsibility to maintain the workplace free of any form of sexual harassment.

D. No supervisor shall threaten or insinuate, either explicitly or implicitly, that an employee's refusal to submit to sexual advances will adversely affect the employee's employment, evaluation, wages, advancement, assigned duties, shifts, or any other condition of employment or career development.

E. Other sexually harassing conduct in the workplace, whether committed by supervisors or non-supervisory personnel, is also prohibited. Such conduct includes, but is not limited to:

(1) Unwelcome sexual advances, touching or propositions;

(2) Unwelcome requests or demands for sexual favors;

(3) Graphic or suggestive comments, jokes or references about an individual's dress or body, sexual conduct, inquiries or comments about an individual's sexual activities, deficiencies, or prowess;

(4) Sexually degrading words to describe an individual;

(5) The display in the workplace of sexually suggestive objects, photographs, pictures, or cartoons, including via facsimile, e-mail, the Internet or text messages; or

(6) Unwelcome leering, whistling, brushing against the body; sexual gestures; or suggestive or insulting comments.

F. Although the intent of the person engaging in the conduct may be harmless or even friendly, it is whether the recipient welcomes the conduct, not the intent of the person engaging in the conduct that determines whether the conduct is harassment.

G. Unwanted sexual conduct may not always be apparent. "Putting up with" or submission to sexual conduct does not necessarily mean the conduct is welcome.

H. Other unwelcome conduct directed at an individual because of his or her gender may also be deemed to be sexual harassment under this policy.

I. Sexual harassment under this policy may occur even in relationships involving mutual consent.

#### 4. Harassment Based on Other Protected Categories

A. Each supervisor, administrative and leadership level employee has a responsibility to maintain the workplace free of any form of harassment based on race, color, creed, religion, national origin, citizenship, age, disability, veteran's or military status, sexual orientation or any other protected classification under applicable federal, state or local law.

B. Harassment based on any of these categories may include verbal, nonverbal, visual or physical conduct.

C. Harassment in violation of this policy may include, but is not limited to:

(1) Racial or ethnic slurs, epithets, jokes or negative stereotyping;

(2) Taunting, displaying or distributing written materials or communications that demonstrate hostility toward an individual because of his or her race, color, creed, religion, national origin, citizenship, age, disability, veteran's or military status, sexual orientation or any other protected category.

D. Any employee who believes that the actions or words of a supervisor or fellow employee constitute unwelcome harassment has a responsibility to report or complain as soon as possible to his/her supervisor and to the Chief Defender, or to the Chief Defender alone if the complaint involves the supervisor. If the complaint involves the Chief Defender, then the complaint should go to the state Chief Defender.

#### 5. Retaliation

A. The OPD will not condone or authorize any kind of retaliation against any applicant or employee who has:

(1) Made a good faith report of conduct which he or she believes may constitute harassment, discrimination or retaliation;

(2) Opposed any prohibited discriminatory practice in violation of this policy; or

(3) Has participated in any manner in an investigation or other proceeding about a prohibited discriminatory practice in violation of this policy.

B. Employment decisions at OPD are based only on legitimate business considerations.

C. The fact that an employee or applicant has submitted a complaint pursuant to this policy has no bearing on the employment decisions OPD makes concerning that employee.

D. Discriminatory verbal, nonverbal, or physical conduct may not be directed at any applicant or employee because of participation in any protected activity.

#### 6. Complaint Procedure

A. All OPD employees are required to help ensure that OPD maintains a workplace free of discrimination, harassment and retaliation.

B. If an employee has been, or has witnessed another individual, subjected to any conduct that may constitute discrimination, harassment or retaliation in violation of this policy, the employee has an obligation to immediately report that conduct in writing, or verbally if necessary, to his or her supervisor, OPD management or Human Resources.

C. If an employee is not provided with a prompt response to his or her complaint, the employee must advise Human Resources.

D. All complaints of discrimination, harassment and retaliation will be investigated thoroughly, promptly and impartially by the Chief Defender with advice of legal counsel.

E. OPD will keep complaints in as confidential a manner as possible.

F. Retaliation against an employee who reports discrimination or harassment will not be tolerated.

G. In all cases, the employee is to be advised of the OPD's findings and conclusion.

#### 7. Violations and Sanctions

A. Any employee, supervisor or manager who is found after appropriate investigation to have engaged in discrimination, harassment or retaliation will be subject to appropriate corrective and disciplinary action, up to and including termination.