

	<b>CITY OF AUSTIN EMS DEPARTMENT POLICY MANUAL</b>		<b>208</b>
	<b>CHAPTER 2 – Code of Conduct</b>		
	<b>POLICY TITLE: General Workplace Standards – Equal Employment Opportunities (EEO), Discrimination, Harassment, Sexual Harassment, and Retaliation</b>		
	<b>APPLICATION: All Personnel</b>	<b>Effective Date:</b>	
<b>AUTHORIZED BY:</b>	<b>Rescinds:</b>		
	<b>Revision:</b>		

## 208 – General Workplace Standards – Equal Employment Opportunities (EEO), Discrimination, Harassment, Sexual Harassment, and Retaliation

### .01 Purpose

Austin-Travis County Emergency Medical Services Department (ATCEMS) is committed to provide a work environment that is free of discrimination, harassment, sexual harassment or retaliation. Discrimination, harassment, sexual harassment and retaliation based upon a protected class, in any form, as defined in federal, state or local law, will not be tolerated. Protected classes includes classes as defined by the Civil Rights Act of 1964, Title VII and the City’s Personnel Policies.

Every employee is responsible for maintaining a professional environment free of discrimination, harassment, sexual harassment and retaliation, and for bringing to the City’s attention conduct that interferes with providing a work environment free of discrimination, harassment, sexual harassment and retaliation.

The purpose of this policy is to provide guidelines and expectations for general workplace standards to further equal employment opportunities and prevent discrimination, harassment, sexual harassment or retaliation. In addition, this policy establishes guidelines in reporting concerns regarding alleged violations of City policy, or local, state or federal law.

Sustained allegations/findings of discrimination, harassment, sexual harassment or retaliation against an employee may result in discipline up to and including indefinite suspension (termination of employment) or discharge.

### .02 Exceptions / Exemptions

None

### .03 Definitions

**A. Austin-Travis County Emergency Medical Services Department (ATCEMS) Executive Management team** – ATCEMS Executive Management team includes the EMS Chief, Assistant Director, Chief of Staff, Assistant Chiefs and Division Chiefs.

**B. Chain of Command** – The order in which authority delegated within ATCEMS.

The Chain of Command is as follows:

Chain of Command (Sworn)	Chain of Command (Non-Sworn)
Chief Chief of Staff Assistant Chief Division Chief Commander Captain	Chief Assistant Director Manager Supervisor

- C. Discrimination** – The unequal or different treatment of an individual in any employment and/or personnel action on the basis of a protected status.
- D. Emergency Medical Services Department Human Resources (EMSHR)** – EMSHR receives any complaints and investigates complaints against non-sworn personnel.
- E. Human Resources Director (HR Director)** – Director of the City’s corporate Human Resources Department.
- F. Human Resources Department’s (HRD) Employee Relations (ER) Division** – A division within the City’s corporate Human Resources Department.
- G. Manager/Supervisor** – Manager/Supervisor includes, but is not limited to, Commanders, Captains and non-sworn employees who manage and supervise employees.
- H. The Office of Professional Standards (OPC)** - A unit within ATCEMS that receives complaints and conducts investigations of allegations against sworn personnel.
- I. Protected Classes** – As defined by the Civil Rights Act of 1964, Title VII and the City’s Personnel Policies, include race, color, religion, creed, sex, gender, pregnancy status, genetic profile, sexual orientation, gender identity, national origin, ethnicity, age, disability, veteran status or other legally protected class.
- J. Sexual Harassment** – A form of harassment involving unwelcome sex- or gender-based comments and/or conduct.
- K. Retaliation** – An action or inaction that adversely affects the terms and conditions of employment, and is taken in response to an employee’s good faith complaint, participation in an investigation, proceeding or hearing, or an employee’s exercise of rights or benefits authorized under these policies. An adverse employment action includes, but is not limited to, discharge, suspension, indefinite suspension (applies to sworn employees), demotion, and denial of promotional opportunity.
- L. Undue hardship** – An action requiring significant difficulty or expense.

**.04 Equal Employment Opportunity**

As an Equal Employment Opportunity (EEO) employer, ATCEMS will recruit, hire, train, compensate, discipline, provide benefits and promote without regard to an individual's protected status. The Department will employ positive business and personnel practices designed to ensure equal employment opportunity.

A. The Department will ensure:

1. Equal employment opportunities to all employees and candidates; and,
2. That employees are selected and promoted in accordance with the requirements of state civil service laws, local civil service rules, municipal civil service rules and any applicable labor agreement(s).

ATCEMS will not discriminate in employment decisions and/or personnel actions on the basis of an individual's Acquired Immunodeficiency Syndrome (AIDS), AIDS Related Complex, or Human Immunodeficiency Viruses (HIV) status; nor will the Department discriminate against individuals who are perceived to be at risk of HIV infection, or who associate with individuals who are believed to be at risk.

In addition, reasonable accommodations shall be provided for all employees and qualified applicants with a disability as defined by the Americans with Disabilities Act Amendments Act (ADAAA), provided that the individual is otherwise qualified to perform the essential functions of the job and such accommodations can be provided without undue hardship for the Department. Undue hardships will be evaluated on a case-by-case basis.

**.05 Discrimination**

The Department is committed to a work environment that is free of discrimination.

A. Examples of prohibited discriminatory conduct includes, but is not limited to:

1. Use of derogatory comments, slurs, jokes, or name-calling that are directed at an individual or group because of their protected class;
2. An individual or group is not hired due to their protected class rather than professional experience and merit.

**.06 Harassment**

The Department is committed to promoting a work environment that is free of harassment. Harassment can create a hostile work environment when unwelcome verbal or physical conduct is directed towards an individual or a group because of their protected class. Additionally when such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or otherwise adversely affects an individual's employment opportunities.

A. Examples of prohibited conduct that constitute harassment include, but are not limited to:

1. Use of epithets, innuendos, name-calling, comments, foul language or slurs because of an individual's protected class;
2. Jokes, pranks or other banter, including stereotyping based on a protected class; or,
3. Distribution, display, viewing, downloading or discussion of any written or graphic material, including online content, voicemail, e-mail, text-messages,

calendars, posters and cartoons, that are sexually suggestive or show hostility toward an individual or group based on a protected class.

Employees shall not engage in conduct, which could reasonably create a hostile work environment at any time while on duty, to include any work-related setting outside the workplace, such as traveling on City business (business trips and professional conferences, etc.).

In addition, sworn employees shall not engage in this type of conduct or at any time while on City premises, even if not on duty. The City and the Department holds all sworn employees to a high level of expectation and perception in all areas of performance and behavior. This is even greater for EMS sworn personnel because they are public safety and health care providers. Sworn personnel while on-duty and off-duty, must abide by a professional code of conduct at all times and behavior that is not consistent with the Code of Conduct Policies will not be tolerated.

#### **.07 Sexual Harassment**

The Department is committed to providing a work environment free from sexual harassment. Any employee who engages in such objectionable conduct is subject to discipline up to and including indefinite suspension (termination of employment) or discharge.

- A. Sexual harassment is a form of harassment and occurs when:
1. Submission to such conduct is made either openly or by implication as a term or condition of an individual's employment;
  2. Submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting that person; or
  3. Such conduct unreasonably interferes with the individual's work performance or creates an intimidating, hostile, or offensive working environment.

Sex or gender-based and/or sexually oriented jokes, remarks, gestures, or pictures may be offensive to other employees and will not be tolerated.

#### **.08 Retaliation**

The Department is committed to maintaining a work environment that is free of retaliation. Retaliation is an action or inaction that adversely affects the terms and conditions of employment, and is taken in response to an employee's good faith complaint, participation in an investigation, proceeding or hearing, or an employee's exercise of rights or benefits authorized under these policies.

An adverse action taken against an employee for filing a discrimination charge, testifying or participating in an investigation, proceeding, or lawsuit, or for opposing discriminatory employment practices is deemed retaliation.

- A. Examples of an adverse employment action includes, but is not limited to:
1. Discharge, suspension, indefinite suspension (termination of employment), demotion, and denial of promotional opportunity.
- B. Examples of other types of adverse actions include, but are not limited to:
1. Prohibiting an employee to exercise rights or avails themselves of any benefit authorized under the personnel policies, (such as filing a worker's

compensation claim, requesting Family and Medical Leave (FMLA), or requesting military leave).

In addition, unacceptable conduct that would likely deter an individual from reporting or supporting a claim may constitute retaliation. Retaliation can occur even if the underlying complaint is not substantiated.

**.09 Reporting Discrimination, Harassment, Sexual Harassment or Retaliation**

Employees are expected and encouraged to promptly raise questions and concerns regarding alleged violations of City or Department policy or local, state or federal laws. Employees will not be discriminated against, harassed, or retaliated against as a result of making a good faith report of such alleged violation, or for participation in the investigation of a complaint.

**A. Employee's Responsibilities**

Any employee who believes that they, or another employee, have been subjected to discrimination, harassment based on a protected class, sexual harassment, or retaliation based on a protected activity, shall report the matter with undue delay. Employees may consider the following conditions when reporting an alleged violation:

1. An employee is not required to follow the "chain of command" when reporting discrimination, harassment, sexual harassment, or retaliation, but instead may file a complaint directly to EMSHR, to the City's HR Director, or to HRD's ER Division.
2. Employees may also report complaints directly to any Manager, Supervisor, any member of the ATCEMS Executive Management team, Office of Professional Conduct (OPC), or their labor union.
3. If an employee is aware of a threat of imminent physical harm to themselves, another employee, or member of the public, the employee should attempt to remove themselves from the situation and immediately notify appropriate emergency personnel by calling "911". The employee should report this emergency call to their supervisor or management immediately.
4. Employees can also make an anonymous or named complaint to the Integrity Unit in the Office of the City Auditor.

**B. Department's Responsibilities**

The Department shall adhere to the following guidelines when processing employee complaints related to discrimination, harassment, sexual harassment, or retaliation:

1. The Chief has the authority to order an investigation alleging discrimination, harassment, or retaliation regardless of whether the conduct involves sworn or non-sworn employees.
2. Discrimination, Harassment, Sexual Harassment and Retaliation Investigations
  - i. **All employees**, particularly those in a managerial capacity (Manager, Supervisor, ATCEMS Executive Management team, OPC), when in receipt of a complaint must, without undue delay, notify EMSHR. EMSHR, without undue delay, will notify the HR Director, and/or HRD's ER Division of the circumstances surrounding any reported

- allegations, so that the complaint can be promptly addressed.  
(Appendix A)
- ii. All complaints of discrimination, harassment, and retaliation is subject to investigation by the Department's OPC, in accordance with Policy 205 - Internal Investigations **or** by EMSHR in accordance with the City's Personnel Policies.
  - iii. All complaints of sexual harassment will submitted by EMSHR to the City's HRD. HRD or a 3<sup>rd</sup> Party Investigator (at HRD's discretion) will investigate the allegations.
  - iv. The HR Director and/or the HRD's ER Division will coordinate with OPC or EMSHR to conduct promptly any investigation warranted by the circumstance. If an investigation establishes conduct in violation of this policy, Department management will take prompt and appropriate corrective action.
3. Failure by an employee, Manager, Supervisor, member of the ATCEMS Executive Management team, or OPC to notify EMSHR, or the HR Director and/or HRD's ER Division of a complaint, may result in discipline up to and including indefinite suspension (termination of employment) or discharge.
4. The Department shall:
- i. Continually monitor the work environment and strive to ensure it is free from all types of discrimination, harassment, sexual harassment or retaliation.
  - ii. Take prompt, appropriate corrective action to avoid and minimize the incidence of any form of discrimination, harassment, sexual harassment or retaliation.
  - iii. Ensure employees attend any required training on discrimination, harassment, sexual harassment, and retaliation.
  - iv. Ensure employees who make good faith complaints, raise questions or concerns regarding alleged violations of City or Department policy, or local, state or federal laws, are fully protected from retaliation and ensure such matters are kept confidential to the greatest extent possible.