

Anne Arundel County Fire Department

Established December 15, 2006

WORKPLACE HARASSMENT AND DISCRIMINATION POLICY AND COMPLAINT PROCEDURE

PURPOSE

The purpose of this policy is to clearly establish the Anne Arundel County Fire Department's commitment to provide a work environment free from discriminatory harassment, to define discriminatory harassment, and to set forth the procedure for investigating and resolving internal complaints of harassment. Because of the tremendous importance of having a workplace free from harassment, **this policy shall be reviewed by each supervisor with his or her personnel on an annual basis during the month of March.** Additionally, during each employee's annual performance evaluation, supervisors shall discuss this policy with each employee to ensure that its contents are known by the employee.

Harassment and discrimination undermine the integrity of individual work relationships, adversely affects the morale of the entire workforce, and interferes with the Fire Department's mission to provide quality services to the citizens of Anne Arundel County. Therefore, it is critical that all employees treat all other employees with mutual trust, respect, fairness and dignity. Because of the unique circumstances present in many Fire Department jobs, it is the responsibility of each and every employee, supervisor and manager to make sure that there is no inappropriate behavior occurring in the workplace. Inappropriate behavior which impacts the workplace, or has the potential to impact the workplace will **not** be tolerated.

This Policy applies to all terms and conditions of employment, including, but not limited to hiring, promotion, disciplinary action, layoff, reinstatement, leave of absence, compensation and training.

I. POLICY

- I.A This policy applies to all career and volunteer members of the Anne Arundel County Fire Department. Harassment of an applicant, client, contractor, business invitee, customer or employee (career or volunteer) by a supervisor, employee (career or volunteer), or co-worker on the basis of race, religion, color, national origin, ancestry, disability, medical condition, marital status, pregnancy, sexual orientation, gender, gender identity or age is explicitly in violation Federal, State and/or County Law and County policy. Harassment or discrimination will **not** be tolerated by the Anne Arundel County Fire Department.

Employees found to be participating in **any** form of job based harassment or discrimination and/or **retaliating** against another employee for filing

harassment or discrimination complaint(s) shall be subject to progressive disciplinary action up to and including **termination from employment**.

- I.B It is recognized that at times inappropriate interpersonal conduct may occur between employees and others that is not covered by this Policy. This Policy is specifically concerned with harassment that is occurring based on one of the statuses stated above, race, religion, color, national origin, ancestry, disability, medical condition, marital status, pregnancy, sexual orientation, gender, gender identity, or age. Forms of misconduct or harassment not covered by this policy may be addressed under conduct unbecoming standards or other rules and regulations of the Fire Department and County.
- I.C Supervisors that fail to enforce this policy or report complaints of harassment or discrimination in accordance with the procedures contained in this policy shall be subject to progressive disciplinary action up to and including **termination from employment**.
- I.D Additional information on harassment & discrimination can be found in the Fire Department Rules & Regulations, the Anne Arundel County Employees Relations Manual and the Equal Employment Opportunity Commission (EEOC) web site @ www.eeoc.gov

II. EQUAL EMPLOYMENT OPPORTUNITY OFFICER

- II. A The Fire Chief shall appoint a Fire Department Equal Employment Opportunity Officer to oversee all matters regarding harassment and discrimination. The EEO Officer shall be responsible for the following duties:
 - a. Coordinating the investigation of all harassment and discrimination complaints;
 - b. Acting as custodian of all documents and records of harassment and/or discrimination complaints;
 - c. Recommending disciplinary action for offenses;
 - d. Establishing and overseeing a Sexual Harassment & Discrimination Advisory Committee to periodically (at least annually) review the sexual harassment policy for updates and revisions;
 - e. Reviewing trends in sexual harassment and discrimination complaints in order to initiate training, policy and/or procedure changes to reduce further occurrences;
 - f. Serving as a liaison with the Office of Law and Personnel on matters of harassment & discrimination and;
 - g. Developing & maintaining a team of trained harassment/discrimination investigators

III. DUTIES / RESPONSIBILITIES

III. A Command Staff: It is the duty of the Fire Department command staff to:

- a. Develop this policy and keep the policy up to date;
- b. Ensure that any violation of this policy brought to their attention is dealt with fairly, quickly, and impartially;
- c. Set the proper example at all times; and
- d. Oversee the development and periodic presentation of training programs to:
 1. Communicate the commitment of the Fire Chief to provide a harassment-free environment for all employees;
 2. Educate employees as to what constitutes harassment and discrimination;
 3. Encourage employees to report all complaints of harassment and discrimination;
 4. Answer questions about this harassment policy;
 5. Explain to supervisors their responsibility to enforce this written policy and make sure that an “informal” policy of harassment or discrimination does not exist in their office or station; and
 6. Sensitize employees to the emotional issues involved in harassment and discrimination.

III. B Manager/Supervisors: (Officers) It is the duty of all officers to:

- a. Enforce this Policy;
- b. Conduct an annual review of the policy with each employee to ensure they know this Policy;
- c. Regularly check the workplace and environs to ensure the policy is being followed;
- d. Immediately report the infraction to the EEO Officer when a deviation from this Policy is noted or reported; and
- e. Set the proper example at all times.

III. C All Personnel: It is the responsibility of each and every employee to know and follow this Policy. It is imperative that every employee treat every other employee with dignity and respect so as to facilitate a sound professional work environment.

Employees are obligated to report instances of harassment or discrimination and cooperate in an investigation of harassment and discrimination, including, but not limited to, coming forward with evidence both favorable and unfavorable to a person accused of harassment or discrimination. Employees are also obligated to refrain from filing bad faith complaints of harassment and discrimination.

IV. DEFINITIONS

For purposes of clarification, harassment and discrimination includes, but is not limited to the following behaviors;

- IV.A. **Verbal Harassment** - Epithets, derogatory comments, slurs, propositioning, or otherwise offensive words or comments on the basis of race, religious creed, color, national origin, ancestry, disability, medical condition, marital status, pregnancy, sexual orientation, gender, gender identity or age, whether made in general, directed to an individual, or to a group of people regardless of whether the behavior was intended to harass. This includes, but is not limited to:
- a. inappropriate sexually oriented comments on appearance, including dress or physical features;
 - b. telling lies or spreading rumors about the sexuality or sex life of an employee;
 - c. race oriented stories;
 - d. whistling or catcalling;
 - e. vulgar or obscene jokes or language;
 - f. comments about offensive television shows, radio shows or magazine articles;
 - g. repeatedly asking someone for a date after you have been turned down;
 - h. referring to someone in demeaning terms such as boy, babe, hunk, girl, honey;
 - i. leering or “undressing the person with your eyes”;
 - j. recounting one’s sexual exploits in front of other people; or
 - k. telling or relating crude jokes.
- IV.B **Physical Harassment** – Assault, impeding or blocking movement, leering, or the physical interference with normal work, privacy or movement when directed at an individual on the basis of race, religious creed, color, national origin, ancestry, disability, medical condition, marital status, pregnancy, sexual orientation, gender, gender identity or age. This includes, but is not limited to:
- a. patting or pinching;
 - b. brushing up against someone;
 - c. hugging, kissing, fondling;
 - d. grabbing or touching clothing, hair or body parts;
 - e. inappropriate behavior in or near bathrooms, sleeping facilities and eating areas;
 - f. making explicit or implied threats or promises in return for submission to physical acts;
 - g. leaning over someone for a better view of body parts (down blouse, etc.);
 - h. soliciting or pressuring someone to sit on your knee;
 - i. stalking, invading someone’s personal life; or
 - j. revealing parts of your body in violation of common decency.
- IV.C **Visual Forms of Harassment** - Derogatory, prejudicial, stereotypical or otherwise offensive posters, photographs, cartoons, notes, bulletins,

drawings or pictures on the basis of race, religious creed, color, national origin, ancestry, disability, medical condition, marital status, pregnancy, sexual orientation, gender, gender identity or age. This applies to both posted material and material maintained in or on Anne Arundel County Fire Department property, equipment/apparatus, computers, bulletin boards, volunteer stations, or personal property in the workplace. Cable TV shows and personal video tapes that contain offensive material shall not be viewed by Fire Department personnel while on duty. Visual forms of harassment include but are not limited to:

- a. making gestures with hands or through body movements (sexual or non-sexual);
- b. staring at someone, making rude gestures, mimicking a disability
- c. looking a person “up and down”;
- d. posters, pictures or other printed forms of sexual or discriminatory subjects;
- e. making facial expressions such as throwing kisses, or licking lips; or
- f. displaying offensive screen savers, emails, web pages and websites;

IV.D **Sexual Harassment** - Any act which is sexual in nature and is made explicitly or implicitly a term or condition of employment, is used as the basis of an employment decision, unreasonably interferes with an individual's work performance or creates an intimidating, hostile or offensive work environment.

IV.E. **Disability Harassment** – People with physical and mental disabilities are protected under the Americans Disability Act (ADA). Forms of disability harassment include, but are not limited to:

- a. taunting a person about their disability;
- b. setting them up to fail;
- c. using derogatory terms to address the person;
- d. accusing them of exaggerating their disability;
- e. putting false blame on them;
- f. keeping them from using their aids;
- g. making assumptions of or stereotyping what disabled people can or cannot do; or
- h. manipulation

IV.F **Racial Harassment** - Discrimination against any individual with respect to their compensation, terms, conditions or privileges of employment because of an individual's race or color. Forms of racial harassment include, but are not limited to:

- a. Telling racial jokes;
- b. Using racial slurs to address someone;
- c. Displaying offensive pictures or symbols; or
- d. Referring to someone in demeaning terms such as “Boy.”

IV.G **Religious, Ethnicity or Country of Origin Harassment** - Harassing or otherwise discriminating because an individual is affiliated with a

particular religious or ethnic group. Forms of religious, ethnic or country of origin harassment includes but are not limited to:

- a. harassing an individual because of their religious beliefs or ethnic background. Fire example harassing an individual because he or she is Arab or practices Islam;
- b. expressing disapproval of religion;
- c. talking about religion in a negative way;
- d. implying someone would be treated better if he or she shared the same faith as you;
- e. harassing or otherwise discriminating because of physical, cultural, or linguistic characteristics, such as accent or dress associated with a particular religion, ethnicity, or country of origin. For example, harassing a woman wearing a hijab(a body covering and/or head-scarf worn by some Muslims); or
- f. harassing or otherwise discriminating because of an individual's association with a person or organization of a particular religion or ethnicity. For example, harassing an employee whose husband is from Afghanistan.

V. HARASSMENT AND DISCRIMINATION FACTS

- V.A The victim as well as the harasser may be a woman or a man. The victim does not have to be of the opposite sex.
- V.B The harasser can be the victim's supervisor, a representative of the County, a supervisor in another area, a co-worker, or non-employee.
- V.C The victim does not have to be the person harassed but could be anyone affected by the offensive conduct. Behavior that is unwelcome to persons who see or hear it, even though the actions may not be directed at them. (third party harassment)
- V.D Typically, questionable conduct must be unwelcome to be considered harassment. However, a number of forms of harassment by their nature will be presumed to be unwelcome and offensive. In addition, just because a person does not say anything or object, does not mean that he or she is welcoming the conduct.
- V.E An important element in recognizing harassment and discrimination is understanding the perspective of the victim toward the harasser and toward the conduct.
- V.F Maryland State Law prohibits harassment or discrimination based upon sexual orientation or marital status. ("sexual orientation" means the identification of an individual as to male or female homosexuality, heterosexuality, or bisexuality).

VI. WORKPLACE RELATIONSHIP

VI.A It is natural for people who meet in the workplace to sometimes become romantically involved, and it is not the Department's intent to interfere with any dating relationship to the extent it does not interfere with County business. Involvement between employees must be voluntary and desired by both parties. However, many problems have developed in fire departments when relationships interfere with the goal of having a sound professional work environment. It is not inappropriate for a person to politely ask out a co-worker. However, if you do not want to go out with another employee, it is imperative that your response to the request is firm and definite. After this firm, definite response has been made, it is inappropriate for the requesting party to make any further attempt to initiate a dating relationship. Repeated requests for a dating relationship constitute Sexual Harassment. It is also inappropriate for any relationship to interfere with normal work operations in any manner.

VI.B Personnel who desire to become involved with someone in the workplace must be aware of the following guidelines.

- a. There shall be no dating /intimate activities on Fire Department/County time or Fire Department/County property.
- b. There shall be no use of Fire Department property to arrange dating activities.
- c. All behavior between employees shall be conducive to a sound professional work environment at all times when on County property or County time. Hand holding, kissing, hugging, sexual comments, and other behavior generally associated with a dating relationship are inappropriate while on-duty or on Fire Department (including volunteer owned stations) property.
- d. Any relationship involving personnel at different levels in the chain of command (or where one party has functional supervision over another) shall be reported, by the persons involved to the EEO Officer. Failure to report this relationship is a violation of this Policy. A supervisor receiving this information shall notify the EEO Officer.
- e. The Department recognizes that there are many situations where two individuals who have a personal relationship may appropriately be allowed to work in the same station, battalion, division or bureau without adverse impact. However, under circumstances where work, safety, morale or impartial supervision is or could be adversely impacted by a personal relationship the affected employees may be reassigned.

VII. COMPLAINT PROCEDURES

VII. A Supervisors and Employee Obligations

Supervisors and employees are obligated to report incidents of suspected harassment or discrimination. Victims and/or persons who have knowledge of incidents of suspected harassment or discrimination which occurs or has occurred in the workplace are encouraged to report the incident.

Employees shall be aware that the County has a legal obligation to investigate all allegations of harassment or discrimination. This includes the “this isn’t a complaint” situation in which an individual notifies a supervisor of a harassment or discrimination incident, but does not want the supervisor to take any action taken. Inaction by the supervisor in such circumstances could lead to employer liability and the supervisor could face disciplinary action. In this situation, the supervisor must inform the complainant that they have a legal duty to take action and report the incident to the EEO Officer.

VII. B Confrontation

If any person feels he or she is a victim of any form of harassment, they should clearly inform the person(s) participating in this behavior that he/she finds it offensive. This one on one communication can be an effective way to end harassing behaviors. Whether or not the inappropriate behaviors stop, the offended employee can initiate either an informal or formal complaint as described below. Because confrontation is difficult for some people and because of the complex nature of harassment, employees are not required to confront an offending party prior to initiating this complaint procedure.

VII. C Informal Complaints

Any employee (career or volunteer) contractor, customer or job applicant who believes he or she is a victim of discriminatory workplace harassment should make a complaint orally or in writing to any of the following individuals:

- a. Immediate supervisor (station officer or battalion chief).
- b. Any supervisor within the Fire Department.
- c. Any supervisor within Anne Arundel County (any County supervisor)
- d. Fire Department Human Resource Manager
- e. Fire Department EEO Officer
- f. The County Human Relations Officer (410-222-1200)
- g. The Office of Personnel (410-222-7595)
- h. The Fire Chief

VII. D Guidelines for Complaints Involving Volunteer Personnel

Harassment complaints involving volunteer personnel shall be handled in accordance with the Reciprocity Agreement between Anne Arundel County and the Volunteer Fire Company as per section “a” and “b” below:

- a. If the alleged unlawful or discriminatory complaint involves only volunteer personnel, the County Fire Chief shall immediately refer the matter to the President of the Volunteer Company for all further action.
- b. If the alleged unlawful or discriminatory complaint is volunteer to career directed or vice versa, the President of the Volunteer Company and the County Fire Chief will each appoint two personnel to constitute a review panel. This panel will investigate the situation and make a written recommendation to the County Fire Chief within 10 (ten) working days of the panel appointment.
- c. Career supervisors that witness inappropriate behavior and/or receive a harassment or discrimination complaint involving volunteer personnel shall immediately notify the EEO Officer. The EEO Officer shall notify the County Fire Chief of the alleged conduct.
- d. Volunteer supervisors that witness inappropriate behavior and/or receive a harassment or discrimination complaint involving volunteer or career personnel shall immediately notify their respective volunteer station commander or company president. The volunteer station commander or president shall immediately notify the career battalion chief if the allegations involve a career employee. The career battalion chief shall notify the EEO Officer.

VII.E Guidelines for Complaints Involving Career Personnel

- VII.E.1 Volunteer supervisors that witness inappropriate behavior and/or receive a harassment or discrimination complaint involving career personnel shall immediately notify their respective volunteer station commander or company president. The volunteer station commander or president shall immediately notify the career battalion chief of the allegations. The career battalion chief shall notify the EEO Officer.
- VII.E.2 Career supervisors that witness inappropriate behavior and/or receive a harassment or discrimination complaint shall complete a ***Supervisors Complaint Form*** and ensure the procedures noted below are completed. Once this task is completed (within hours) the officer shall notify the EEO Officer for guidance on managing the complaint.

NOTE: The Supervisors Complaint Form is also available in the forms folder on the Fire Department intranet (www.web.fire).

1. Advise the employee that the Department takes allegations of harassment or discrimination very seriously and an investigation will be conducted.
2. Advise the employee of his or her right to file a formal complaint under Executive Regulation 92.1.
3. Do not promise employee confidentiality. Advise the employee the complaint must be investigated and that the information must be shared to conduct the investigation. However, the information will only be shared with those individuals that have a need to know.
4. Assure the employee that no retaliation for lodging the complaint will be tolerated and that such conduct should be reported immediately.
5. Provide the complainant with a contact person and phone number (EEO Officer) should they have any questions or concerns.
6. Ask the complainant whether there are any interim measures that should be taken pending the outcome of the investigation. (see below)
7. Ask the complainant how they would to see the situation resolved? What remedy are they seeking? (transfer, just wants to be left alone, etc)
8. The supervisor and/or complainant should be prepared to provide the following information:
 - a. Exactly what happened?
 - b. When did it happen?
 - c. Where did it happen?
 - d. Who did what?
 - e. Did the complainant take any action to stop the harassment?
 - f. Did the complainant say or do anything?
 - g. Who was present? (witnesses) Anyone that may have heard or saw something?
 - h. Who else may have relevant information? (Did they tell anyone?)
 - i. Is this a single isolated incident, or has it happened before?

- j. If it has happened before, when and was it reported?
If reported to whom? What actions were taken?

VII.F Interim Measures

After the receipt of a complaint, the EEO Officer may recommend interim measures to stabilize the work environment pending the investigation:

These may include, but are not limited to:

- a. Temporary transfers;
- b. Referrals to EAP;
- c. Establishing a contact for additional issues or concerns;
- d. Notifying the police for cases involving criminal activity (assaults, threats);
- e. Recommending administrative leave for the complainant; and
- f. Implementing certain safety or security precautions.

VIII. FORMAL COMPLAINTS

Any employee or applicant for employment may file a discrimination complaint in writing to the County Human Relations Officer within one hundred eighty (180) days of the date of occurrence. The complaint must be signed, be specific, inclusive of names of persons, contain a statement regarding the alleged act, and other pertinent data as appropriate for the complaint.

Upon the filing of the complaint, the Human Relations Officer will complete a preliminary investigation within fifteen (15) days of the receipt of the complaint and submit a written report to the Chief Administrative Officer (CAO) including a recommendation to resolve the matter preliminarily or to refer it to a Fact Finding Panel. The Fact Finding Panel is convened by the CAO and includes the Human Relations Officer, the Appointing Authority (or designee) and a designee of the CAO.

The Fact Finding Panel, upon receipt of the documents and recommendation, determines whether or not further action is required and informs the CAO of its decision within fifteen (15) days.

If the Fact Finding Panel determines that further action is warranted, it will conduct a thorough investigation and present its decision in writing to the CAO within forty-five (45) days.

The Fact Finding Panel's decision is binding on the Appointing Authority.

IX. INVESTIGATION PROCEDURES

IX.A Each complaint of harassment or discrimination shall be fully and completely investigated by the Departmental EEO Officer or his or her designees. The investigation shall be initiated as soon as practical once the complaint is lodged.

- ***Harassment & discrimination investigations must be given a high priority and initiated within hours and days, not weeks or months.***

IX.B All investigations shall be handled with discretion; sensitivity and due concern for the dignity of those involved. The investigation will be as thorough as necessary. An informal resolution will be attempted whenever appropriate. If the informal resolution process is unsuccessful, the complainant may direct a formal complaint to the Human Relations Officer or the Office of Personnel.

IX.C The complaining party and accused shall be notified in writing of the outcome of the investigation and updated as necessary. If discipline is imposed, the nature and extent of the discipline will not be divulged to the complainant, because it concerns the personnel record of another employee. If ordered by an administrative body or court the nature and extent of the discipline may be disclosed.

IX.D **Investigation procedures for employees represented by a collective bargaining agreement:**

The following procedures shall be followed when conducting an investigation of personnel represented by a collective bargaining agreement (Union).

- a. The following procedures shall be followed when conducting an investigation of personnel represented by a collective bargaining agreement (Union).
- b. Employees shall have the right to be accompanied to any interview that could result in discipline either of that employee or in the discipline of another member of the Fire department, or in criminal jeopardy, by a union representative.
- c. An employee who is called for an interview in connection with an investigation that could result in discipline either of that employee or in discipline of another member of the Fire Department shall be advised about the subject matter or purpose of the investigation when the interview is scheduled and before it is begun.
- d. If an employee has been identified as the target of an investigation that could result either in discipline or criminal jeopardy, the employee who is the target of the investigation shall be so advised when an interview is scheduled and before it is begun.

X. DISCIPLINARY ACTION

Employment discrimination and sexual harassment are serious forms of misconduct that will not be tolerated. The Fire Chief and Anne Arundel County will act positively to effectively remedy valid claims of such conduct. An employee (career or volunteer) who is found to have harassed or discriminated against another person in the course of employment with the County shall be appropriately disciplined. The discipline will be commensurate with the severity of the offense, up to and including termination from employment. If discipline is imposed, the nature and extent of the discipline will not be divulged to the complainant, because it concerns the personnel record of another employee. If ordered by an administrative body or court the nature and extent of the discipline may be disclosed.

XI. NO RETALIATION

The Fire Chief and the Office of Personnel will take reasonable steps to protect the victim and other potential victims from further harassment, and to protect the victim from any retaliation as a result of communicating a harassment or discrimination complaint. Retaliation in any manner against a person for filing a harassment charge or initiating a harassment complaint, testifying in an investigation, providing information or assisting in an investigation, is expressly prohibited and in direct violation of Federal, State and County law. Violators are subject to disciplinary action up to and including termination.

XII. CONFIDENTIALITY

XII.A All employees shall cooperate in the investigation of complaints of harassment and discrimination.

XII.B The nature of harassment violations, particularly those involving sexual harassment, requires a high degree of confidentiality. Confidentiality will be maintained to the fullest extent possible in accordance with applicable federal, state and local law.

XII.C Employees interviewed or questioned as part of any harassment or discrimination investigation will be required to sign a confidentiality statement. All employees shall keep their communications in such investigations confidential and follow all orders (directives) regarding confidentiality.

XII.D If discipline is imposed as the result of a harassment or discrimination complaint, the nature and extent of the discipline will not be divulged to the complainant because it concerns the personnel record of another employee. If ordered by an administrative body or court the nature and extent of the discipline may be disclosed.

XIII. FALSE COMPLAINTS

Any complaint made by an employee (career or volunteer) of the Anne Arundel County Fire Department regarding job based harassment which is conclusively proven to be false, shall result in discipline. This discipline may include dismissal from employment or removal from volunteer riding database. This section is not intended to discourage employees from making complaints regarding job based harassment.

Note: This document was reviewed by the Office of Law (Julie Sweeney, Esquire) for legal content on 9/15/06 and by the Office of Personnel (Anna Baron) for compliance with Personnel Procedures on 9/20/06.

