

CLARENCE FIRE DISTRICT NO. 1

SEXUAL AND OTHER HARASSMENT POLICY

A. POLICY STATEMENT

1. Harassment and more specifically sexual harassment is a form of illegal discrimination and is a violation of state and federal civil rights laws. It is the policy of the Clarence Fire District No. 1 ("Fire District") to strongly oppose and prevent any form of sexual or other harassment. The Fire District recognizes that any employee's ability to perform his or her job may be adversely affected by harassment.
2. This Policy has been prepared to aid our members in understanding and helping to prevent all forms of harassment, including sexual harassment. The Fire District is committed to maintaining a workplace free from sexual and other harassment and providing a work environment that is free of inappropriate and disrespectful conduct and communication. Consequently, in an effort to avoid even the appearance of impropriety, the Fire District's harassment policy in some respects may exceed the requirements of applicable federal and state law.
3. This Policy is one component of the Fire District's commitment to a discrimination-free work environment. Sexual harassment is against the law¹ and all members and employees have a legal right to a workplace free from all harassment, including sexual harassment, and members and employees are urged to report sexual and all forms of harassment by filing a complaint internally with the Fire District. Members and employees can also file a complaint with a government agency or in court under federal, state or local anti-discrimination laws.
4. For the purpose of this Policy, the Fire District equates membership with employment.
5. This Policy applies to employees, contractors and persons conducting business, regardless of immigration status, with the Fire District. The Policy applies to all members, officers, volunteers and employees including any supervisor, co-worker, vendor, applicants for employment or membership, interns, whether paid or unpaid, and members of the public. For the purposes of this Policy, the term "employees" refers to this collective group.
6. Sexual harassment or harassment of any form will not be tolerated. Violations of this Policy by any employee or individual covered by this Policy will be subject to appropriate remedial or corrective action to ensure compliance with this Policy including counseling, suspension, termination or removal, or otherwise.
7. Sexual or other harassment is offensive, is a violation of our policies, is unlawful, and may subject the Fire District to liability for harm to targets of sexual or other

¹ This policy specifically includes and addresses sexual harassment, any harassment because of and discrimination against persons of all protected classes is prohibited. In New York State, such classes including race, creed, color, national origin, sexual orientation, military status, sex, disability, marital status, domestic violence victim status, gender identity and criminal history.

harassment. Harassers may also be individually subject to liability. Employees of every level who engage in sexual or other harassment, including officers, managers and supervisors who engage in sexual or other harassment or who allow such behavior to continue, will be penalized for such misconduct.

8. The Fire District will conduct a prompt and thorough investigation that ensures due process for all parties, whenever management receives a complaint about sexual or other harassment, or otherwise knows of possible sexual or other harassment occurring.
9. The Fire District will keep the investigation confidential to the extent possible. Effective corrective action will be taken whenever sexual or other harassment is found to have occurred.
10. All employees, including officers, managers and supervisors, are required to cooperate with any internal investigation of sexual or other harassment.
11. All employees are encouraged to report any harassment or behaviors that violate this Policy. The Fire District will provide all employees a complaint form for employees to report harassment and file complaints.
12. Officers, managers and supervisors are required to report any complaint that they receive, or any harassment that they observe, or become aware of, to the Chairman of the Board of Fire Commissioners or Fire Chief.
13. This Policy shall be provided to all employees and shall be posted prominently in all Fire District buildings to the extent possible and be provided to employees upon hiring or approval to membership.

B. SEXUAL HARASSMENT

14. Sexual harassment is a form of sex discrimination and is unlawful under federal, state, and (where applicable) local law. Sexual harassment includes harassment on the basis of sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity and the status of being transgender.
15. Sexual harassment includes unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual's sex when:
 - a. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment, even if the reporting individual is not the intended target of the sexual harassment;
 - b. Such conduct is made either explicitly or implicitly a term or condition of employment; or

- c. Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual's employment.
- 16. A sexually harassing hostile work environment includes, but is not limited to, words, signs, jokes, pranks, intimidation or physical violence which are of a sexual nature, or which are directed at an individual because of that individual's sex.
- 17. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory statements or sexually discriminatory remarks made by someone which are offensive or objectionable to the recipient, which cause the recipient discomfort or humiliation, which interfere with the recipient's job performance.
- 18. Sexual harassment also occurs when a person in authority tries to trade job benefits for sexual favors. This can include hiring, promotion, continued employment or any other terms, conditions or privileges of employment. This is also called "quid pro quo" harassment.
- 19. Any employee who feels harassed should report so that any violation of this Policy can be corrected promptly. Any harassing conduct, even a single incident, can be addressed under this Policy.

C. EXAMPLES OF SEXUAL HARASSMENT

The following describes some of the types of acts that may be unlawful sexual harassment and that are strictly prohibited:

- 20. Physical acts of a sexual nature, such as:
 - a. Touching, pinching, patting, kissing, hugging, grabbing, brushing against another employee's body or poking another employee's body;
 - b. Rape, sexual battery, molestation or attempts to commit these assaults.
- 21. Unwanted sexual advances or propositions, such as:
 - a. Requests for sexual favors accompanied by implied or overt threats concerning the target's job performance evaluation, a promotion or other job benefits or detriments;
 - b. Subtle or obvious pressure for unwelcome sexual activities.
- 22. Sexually oriented gestures, noises, remarks or jokes, or comments about a person's sexuality or sexual experience, which create a hostile work environment.
- 23. Sex stereotyping occurs when conduct or personality traits are considered inappropriate simply because they may not conform to other people's ideas or perceptions about how individuals of a particular sex should act or look.

24. Sexual or discriminatory displays or publications anywhere in the workplace, such as:
 - a. Displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials or other materials that are sexually demeaning or pornographic. This includes such sexual displays on workplace computers or cell phones and sharing such displays while in the workplace.
25. Hostile actions taken against an individual because of that individual's sex, sexual orientation, gender identity and the status of being transgender, such as:
 - a. Interfering with, destroying or damaging a person's workstation, tools or equipment, or otherwise interfering with the individual's ability to perform the job;
 - b. Sabotaging an individual's work;
 - c. Bullying, yelling, name-calling.

D. HARASSMENT

26. Harassment includes verbal or physical conduct or graphic material that denigrates or shows hostility or aversion toward an individual because of the individual's race, color, religion, sex, national origin, age, handicap, or disability or veteran status.
27. Incidents of harassment include the creation of an offensive, intimidating, or hostile working environment that unreasonably debilitates morale or interferes with one's work performance or otherwise adversely affects an individual's employment opportunity.
28. Harassment also includes physical assault or contact, or threats of physical harm as well as communications by telephone or other mechanical or electronic means, which are likely to cause annoyance or alarm, or with no purpose of legitimate communication.
29. It does not matter whether the victim is male or female. If comments or conduct are unwelcome by an individual, they may constitute harassment. The Fire District will not accept as an excuse to a complaint of harassment that a member, officer, or employee was "ONLY JOKING" or "Didn't think the other member, officer, or employee would object".
30. This Policy is for employees and members of the Fire District and does not apply in any criminal or civil proceeding. The Fire District's Policy shall not be construed as a higher legal standard of safety or care with respect to third party claims. Violations of this directive will only form the basis for Fire District administrative sanctions. Violations of the law may form the basis for civil and criminal sanctions in a recognized judicial setting.

E. REPORTING AND INVESTIGATION

31. The Fire District cannot prevent or remedy sexual or other harassment unless it knows about it.
32. Any employee who has been subjected to behavior that may constitute sexual or other harassment is encouraged to report such behavior to an officer, supervisor, manager, the Fire Chief or Chairman of the Board of Fire Commissioners.
33. Anyone who witnesses or becomes aware of potential instances of sexual or other harassment should report such behavior to an officer, supervisor, manager, the Fire Chief or Chairman of the Board of Fire Commissioners.
34. Reports of sexual or other harassment may be made verbally or in writing.
35. A form for submission of a written complaint is attached to this Policy, and all employees are encouraged to use this complaint form. Employees who are reporting sexual or other harassment on behalf of other employees should use the complaint form and note that it is on another employee's behalf.
36. All complaints or information about sexual or other harassment will be investigated, whether that information was reported in verbal or written form. Investigations will be conducted in a timely manner, and will be confidential to the extent possible.
37. An investigation of any complaint, information or knowledge of suspected sexual or other harassment will be prompt and thorough, commenced immediately and completed as soon as possible. The investigation will be kept confidential to the extent possible. All persons involved, including complainants, witnesses and alleged harassers will be accorded due process, as outlined below, to protect their rights to a fair and impartial investigation.
38. All employees shall cooperate as needed in an investigation of suspected sexual or other harassment. The Fire District will not tolerate retaliation against employees who file complaints, support another's complaint or participate in an investigation regarding a violation of this Policy.
39. While the process may vary from case to case, investigations should be done in accordance with the following steps:
 - a. Upon receipt of complaint, the Fire Chief or Chairman of the Board of Fire Commissioners, or their designee, will conduct an immediate review of the allegations, and take any interim actions (e.g., instructing the respondent to refrain from communications with the complainant), as appropriate. If complaint is verbal, encourage the individual to complete the "Complaint Form" in writing. If the employee refuses, the Chairman of the Board of Fire Commissioners or Fire Chief or their designee shall prepare a Complaint Form based on the verbal reporting.

- b. If documents, emails or phone records are relevant to the investigation, take steps to obtain and preserve them.
- c. Request and review all relevant documents, including all electronic communications.
- d. Interview all parties involved, including any relevant witnesses.
- e. Create a written documentation of the investigation (such as a letter, memo or email), which contains the following:
 - i. A list of all documents reviewed, along with a detailed summary of relevant documents;
 - ii. A list of names of those interviewed, along with a detailed summary of their statements;
 - iii. A timeline of events;
 - iv. A summary of prior relevant incidents, reported or unreported; and
 - v. The basis for the decision and final resolution of the complaint, together with any corrective action(s).
- f. Keep the written documentation and associated documents in a secure and confidential location.
- g. Promptly notify the individual who reported and the individual(s) about whom the complaint was made of the final determination and implement any corrective actions identified in the written document.
- h. Inform the individual who reported of the right to file a complaint or charge externally as outlined in this Policy.

F. RETALIATION

- 40. Retaliation against the complainant will not be tolerated.
- 41. No person covered by this Policy shall be subject to adverse action because the employee reports an incident of sexual or other harassment, provides information, or otherwise assists in any investigation of a sexual or other harassment complaint. The Fire District will not tolerate such retaliation against anyone who, in good faith, reports or provides information about suspected sexual or other harassment.
- 42. Such retaliation is unlawful under federal, state, and (where applicable) local law. The New York State Human Rights Law protects any individual who has engaged in "protected activity." Protected activity occurs when a person has:
 - a. made a complaint of sexual or other harassment, either internally or with any anti-discrimination agency;

- b. testified or assisted in a proceeding involving sexual or other harassment under the Human Rights Law or other anti-discrimination law;
 - c. opposed sexual or other harassment by making a verbal or informal complaint to management, or by simply informing an officer, supervisor or manager of harassment;
 - d. reported that another employee has been sexually harassed; or
 - e. encouraged a fellow employee to report harassment.
43. Even if the alleged harassment does not turn out to rise to the level of a violation of law, the individual is protected from retaliation if the person had a good faith belief that the practices were unlawful. However, the retaliation provision is not intended to protect persons making intentionally false charges of harassment.
44. Any employee of the Fire District who retaliates against anyone involved in a sexual or other harassment investigation will be subjected to disciplinary action, up to and including termination or removal. All employees who believe they have been subject to such retaliation should inform a supervisor, manager, the Fire Chief or Chairman of the Board of Fire Commissioners. All employees who believe they have been a target of such retaliation may also seek relief in other available forums, as explained in the section on Legal Protections in this Policy.

G. LEGAL PROTECTIONS AND EXTERNAL REMEDIES

45. Employees who believe they have been a target of sexual or other harassment may also seek assistance in other available forums, including the New York State Division of Human Rights (“DHR”), the United States Equal Employment Opportunity Commission (“EEOC”), potentially under local law, as well as from local law enforcement when the harassment involves unwanted physical touching, coerced physical confinement or coerced sex acts, which conduct may constitute a crime.
46. A complaint alleging violation of the NYS Human Rights Law (“HRL”) may be filed either with the DHR or in New York State Supreme Court. Complaints with DHR may be filed any time within one year of the harassment. If an individual did not file at DHR, they can sue directly in state court under the HRL, within three years of the alleged sexual harassment. An individual may not file with DHR if they have already filed a HRL complaint in state court.
47. Complaining internally to the Fire District does not extend the time to file with DHR or in court. The one year or three years is counted from date of the most recent incident of harassment. A victim of sexual harassment does not need an attorney to file a complaint with DHR, and there is no cost to file with DHR.
48. DHR will investigate the complaint and determine whether there is probable cause to believe that sexual harassment has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If sexual harassment is found

after a hearing, DHR has the power to award relief, which varies but may include requiring your employer to take action to stop the harassment, or redress the damage caused, including paying of monetary damages, attorney's fees and civil fines.

49. Contact DHR at (888) 392-3644 or visit dhr.ny.gov/complaint for more information about filing a complaint. The website has a complaint form that can be downloaded, filled out, notarized and mailed to DHR.
50. A complaint alleging violation of federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act, can be filed with the EEOC anytime within 300 days from the harassment. There is no cost to file a complaint with the EEOC. The EEOC will investigate the complaint, and determine whether there is reasonable cause to believe that discrimination has occurred, at which point the EEOC will issue a Right to Sue letter permitting the individual to file a complaint in federal court.
51. The EEOC does not hold hearings or award relief, but may take other action including pursuing cases in federal court on behalf of complaining parties. Federal courts may award remedies if discrimination is found to have occurred. In general, private employers must have at least 15 employees to come within the jurisdiction of the EEOC.
52. An employee alleging discrimination at work can file a "Charge of Discrimination." The EEOC has district, area, and field offices where complaints can be filed. Contact the EEOC by calling 1-800-669-4000, at www.eeoc.gov, or via email at info@eeoc.gov.
53. If an individual filed an administrative complaint with DHR, DHR will file the complaint with the EEOC to preserve the right to proceed in federal court.

H. SUPERVISORY RESPONSIBILITIES

54. All officers, supervisors and managers who receive a complaint or information about suspected sexual or other harassment, observe what may be sexually or other harassing behavior, or for any reason suspect that sexual or other harassment is occurring, are required to report such suspected sexual or other harassment to the Fire Chief or Chairman of the Board of Fire Commissioners.
55. In addition to being subject to discipline if they engaged in sexually or other harassing conduct themselves, officers, supervisors and managers will be subject to discipline for failing to report suspected sexual or other harassment or otherwise knowingly allowing sexual or other harassment to continue.
56. Officers, supervisors and managers will also be subject to discipline for engaging in any retaliation.
57. All questions regarding this Policy shall be directed to the Fire Chief or Chairman of the Board of Fire Commissioners.

CLARENCE FIRE DISTRICT NO. 1

COMPLAINT FORM FOR REPORTING HARASSMENT

If you believe that you have been subjected to sexual or other harassment, you are encouraged to complete this form and submit it to the Clarence Fire District No. 1 Fire Chief or Chairman of the Board of Fire Commissioners. You will not be retaliated against for filing a complaint.

If you are more comfortable reporting verbally or in another manner, the Fire Chief or Chairman of the Board of Fire Commissioners should complete this form, provide you with a copy and follow the Fire District's sexual harassment prevention policy by investigating the claims as outlined in the Fire District's Harassment Policy.

COMPLAINANT INFORMATION

Name: _____

Cell or other phone: _____

Email: _____

Select Preferred Communication Method: Email Phone In Person

SUPERVISORY INFORMATION

Immediate Supervisor's Name: _____

Title: _____

Cell or other phone: _____

COMPLAINT INFORMATION

1. Your complaint of Sexual or Other Harassment is made about:

Name: _____

Title: _____

Cell or other phone: _____

Relationship to you: Supervisor Subordinate Co-Worker Other _____

2. Please describe what happened and how it is affecting you and your work. Please use additional sheets of paper if necessary and attach any relevant documents or evidence.

3. Date(s) sexual or other harassment occurred: _____

Is the sexual or other harassment continuing? Yes No

4. Please list the name and contact information of any witnesses or individuals who may have information related to your complaint: _____

This last question is optional, but may help the investigation.

5. Have you previously complained or provided information (verbal or written) about related incidents? If yes, when and to whom did you complain or provide information? _____

If you have retained legal counsel and would like us to work with them, please provide their contact information:

Signature: _____

Date: _____