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| Workplace Harassment and Discrimination Policy and Complaint Procedure | Related Policies:  **Sexual Harassment and Discrimination** | |
| *This policy is for internal use only and does not enlarge an employee’s civil liability in any way. The policy should not be construed as creating a higher duty of care, in an evidentiary sense, with respect to third party civil claims against employees. A violation of this policy, if proven, can only form the basis of a complaint by this department for non-judicial administrative action in accordance with the laws governing employee discipline.* | | |
| Applicable KY Statutes: KRS Ch. 344 | | |
| OSHA: | | |
| NFPA Standard: | | |
| Date Implemented: | | Review Date: |
| **Note:** This policy is to be read in conjunction with the applicable City or Town Policy covering all forms of discrimination and harassment | | |

1. **Purpose:** The purpose of this policy is to clearly establish the 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.

This policy is intended to be complimentary to and consistent with the Sexual Harassment and Discrimination Policy.

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.

1. **Policy:** Harassment and discrimination in any form constitutes inappropriate behavior that will not be tolerated by this department. All officers are required to take pro-active steps to prevent harassment or discrimination in any form, and to take prompt corrective action should such harassment and/or discrimination occur.

Harassment and discrimination undermine the integrity of individual work relationships, adversely affects morale, and interferes with the Fire Department’s mission to provide quality services to the citizens of the community.

Therefore, it is critical that all employees treat all other employees with respect, fairness and dignity. It is the responsibility of every firefighter and officer to make sure that inappropriate behavior does not occur in the workplace, nor between employees at any time.

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 and understood by the employee.

1. **Definitions**

**Discrimination:** Treating a person differently because the individual’s race, color, religion, national origin, sex, pregnancy, marital status, sexual orientation, gender, gender identity, age forty (40) and over, because the person is a qualified individual with a disability, or because the individual is a smoker or nonsmoker, as long as the person complies with any workplace policy concerning smoking.

**Harassment:** Any conduct that meets the definition of verbal harassment, physical harassment, or visual harassment, and includes, but is not limited to sexual harassment, racial harassment, disability harassment, or religious, ethnicity or country of origin harassment.

**Verbal Harassment:** Epithets, derogatory comments, slurs, propositioning, or otherwise offensive words or comments on the basis of race, color, religion, national origin, sex, pregnancy, marital status, sexual orientation, gender, gender identity, age forty (40) and over, because the person is a qualified individual with a disability, or because the individual is a smoker or nonsmoker, as long as the person complies with any workplace policy concerning smoking, 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:

1. inappropriate sexually oriented comments on appearance, including dress or physical features;
2. discussing, telling lies or spreading rumors about the sexuality or sex life of an employee;
3. offensive, derogatory, or humiliating race oriented stories;
4. whistling or catcalling;
5. vulgar or obscene jokes or language;
6. inappropriate or offensive comments about offensive television shows, radio shows or magazine articles;
7. repeatedly asking someone for a date or romantic relationship after you have been turned down;
8. referring to someone in demeaning terms such as boy, babe, hunk, girl, honey;
9. staring or leering or “undressing the person with your eyes”;
10. recounting one’s sexual exploits in front of other people; or
11. telling or relating crude jokes.

**Physical Harassment:** Assault, battery, physical contact, threatened physical contact, 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, color, religion, national origin, sex, pregnancy, marital status, sexual orientation, gender, gender identity, age forty (40) and over, because the person is a qualified individual with a disability, or because the individual is a smoker or nonsmoker, as long as the person complies with any workplace policy concerning smoking. This includes, but is not limited to:

1. patting or pinching;
2. brushing up against someone;
3. hugging, kissing, fondling;
4. grabbing or touching clothing, hair or body parts;
5. inappropriate behavior in or near bathrooms, sleeping facilities and eating areas;
6. making explicit or implied threats or promises in return for submission to physical acts;
7. leaning over someone for a better view of body parts (down blouse, etc.);
8. soliciting or pressuring someone to sit on your knee;
9. stalking, invading someone’s personal life; or
10. revealing parts of your body in violation of common decency.

**Visual Forms of Harassment:** Derogatory, prejudicial, stereotypical or otherwise offensive posters, photographs, cartoons, notes, bulletins, drawings or pictures on the basis of race, color, religion, national origin, sex, pregnancy, marital status, sexual orientation, gender, gender identity, age forty (40) and over, because the person is a qualified individual with a disability, or because the individual is a smoker or nonsmoker, as long as the person complies with any workplace policy concerning smoking. This applies to both posted material and material maintained in or on 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:

1. making gestures with hands or through body movements (sexual or non-sexual);
2. staring at someone, making rude gestures, mimicking a disability in an attempt to intimidate or humiliate;
3. looking a person “up and down” in an offensive or aggressive manner;
4. posters, pictures or other printed forms of sexual or discriminatory subjects;
5. making facial expressions such as throwing kisses, or licking lips; or
6. displaying offensive screen savers, emails, web pages and websites;

**Sexual Harassment:** Unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct when:

1. submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment/membership;
2. submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or
3. 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.

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

1. taunting a person about their disability;
2. setting them up to fail;
3. using derogatory terms to address the person;
4. accusing them of exaggerating their disability;
5. putting false blame on them;
6. keeping them from using their aids;
7. making assumptions of or stereotyping what disabled people can or cannot do; or
8. manipulation

**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:

1. Telling racial jokes;
2. Using racial slurs to address someone;
3. Displaying offensive pictures or symbols; or
4. Referring to someone in demeaning terms such as “Boy.”

**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:

1. harassing an individual because of their religious beliefs or ethnic background. For example harassing an individual because he or she is Arab or practices Islam;
2. expressing disapproval of a person’s religion;
3. talking about religion in a negative way;
4. stating or implying someone would be treated better if he or she shared the same faith as you;
5. 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
6. 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.
7. **Procedure**
8. Harassment of an applicant, trainee, recruit, co-worker, volunteer, subordinate, superior, patient, contractor, public official, customer, or member of the public by a member of this department on the basis of race, color, religion, national origin, sex, pregnancy, marital status, sexual orientation, gender, gender identity, age forty (40) and over, because the person is a qualified individual with a disability, or because the individual is a smoker or nonsmoker, as long as the person complies with any workplace policy concerning smoking, is explicitly in violation Federal, State, or local law, and is against the policy, and rules and regulations of this Fire Department.
9. Harassment or discrimination will **not** be tolerated by the Fire Department.
10. 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**. This includes any harassment or discrimination that occurs while the member is:
11. on duty, or
12. while in uniform, or
13. while representing the Fire Department in an official capacity, or
14. while off duty if the harassing or discriminatory conduct is directed at another member of this department.
15. It is recognized that at times inappropriate interpersonal conduct may occur between co-workers, and between employees and others that is not covered by this Policy. This Policy is specifically concerned with harassment that is based on race, color, religion, national origin, sex, pregnancy, marital status, sexual orientation, gender, gender identity, age forty (40) and over, because the person is a qualified individual with a disability, or because the individual is a smoker or nonsmoker, as long as the person complies with any workplace policy concerning smoking. 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.
16. Supervisors who fail to enforce this policy, or who fail to 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.**
17. Additional information on harassment & discrimination can be found on the Equal Employment Opportunity Commission (EEOC) web site @ www.eeoc.gov.
18. **Duties/Responsibilities**
19. **Fire Chief**: It is the duty of the Fire Chief to:
20. Develop this harassment and discrimination policy, ensure it is reviewed at least annually, and keep it up to date;
21. Ensure that any violation of this policy is investigated fully and dealt with fairly, quickly, and impartially;
22. Set the proper example at all times; and
23. Ensure the development and periodic presentation of training programs to:
24. Communicate the commitment of the Fire Chief and the Department to provide a harassment-free environment for all employees;
25. Educate employees as to what constitutes harassment and discrimination;
26. Encourage employees to report all complaints of harassment and discrimination;
27. Answer questions about this harassment policy;
28. 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
29. Sensitize employees to the emotional issues involved in harassment and discrimination.
30. **Officers** It is the duty of all officers to:
31. Assist the Fire Chief with the enforcement of this policy;
32. Conduct an annual review of the policy with each employee to ensure they know and understand the policy;
33. Regularly check fire stations and Fire Department facilities to ensure the policy is being followed;
34. Immediately report violations through the chain of command; and
35. Set the proper example at all times.
36. **All Personnel**: It is the responsibility of each and every employee to know and follow this Policy.
37. Every employee is required to treat every other employee with dignity and respect so as to facilitate a sound professional work environment.
38. 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.
39. Employees are also obligated to refrain from filing bad faith complaints of harassment and discrimination.
40. **Workplace Relationships**

It is not unusual for people who work together to become romantically involved, and it is not the Department’s intent to interfere with personal relationships provided they do not interfere with department business. Relationships between employees must be voluntary and desired by both parties. Relationship problems between co-workers can interfere with the goal of having a sound professional work environment. It is not inappropriate nor prohibited for an employee to politely ask a co-worker for a date. However, if an employee is not interested in dating another employee, it is imperative that the response to any request be firm and definite. After a 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 constitutes Sexual Harassment. It is also inappropriate for any relationship to interfere with normal work operations in any manner.

Personnel who desire to have a relationship with a co-worker must be aware of, and comply with, the following guidelines:

1. There shall be neither dating activities nor intimate activities on Fire Department time or Fire Department property.
2. There shall be no use of Fire Department property to arrange dating activities.
3. All behavior between employees shall be conducive to a sound professional work environment at all times when on Fire Department property or 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 property.
4. 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 Fire Chief, or designated EEO Officer. Failure to report this relationship is a violation of this Policy. Any supervisor receiving this information shall notify the Fire Chief or designated EEO Officer.
5. 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. In addition conflict of interest regulations may require such a reassignment.
6. **Reporting Requirements**
7. All employees of the department have an obligation to promptly report violations of this policy. This includes reporting harassment, discrimination or indicators of a hostile, offensive work environment that the employee experiences, witnesses, or otherwise has knowledge of.
8. An individual employee who believes he/she is the victim of harassment or discrimination may choose act on his/her concerns directly, by addressing the other party in person, or by writing a letter to the other party describing the unwelcome behavior, its effect, and stating that the behavior must stop. An employee receiving such a request shall immediately comply with the request, and is prohibited from retaliating or causing/encouraging others to retaliate against an individual who in good faith initiates such a communication.
9. An employee seeking to report or complain about a violation of this policy should promptly inform his or her immediate supervisor. If the immediate supervisor is involved in the allegation or the employee is uncomfortable with making a report to their immediate supervisor, the employee may by-pass the chain of command in order to report the harassment or discrimination to any ranking officer, including the Fire Chief.
10. Once an allegation is made, supervisory personnel shall take steps to separate the involved employees while an investigation into the allegations is conducted. The separation should be undertaken in an equitable manner which is non-punitive in nature. In no case will the complaining employee be forced to change assignments against their choice. Supervisors are required to immediately stop any conduct which might continue or aggravate the allegation(s).
11. All allegations of harassment or discrimination received by supervisors shall be documented and forwarded up the chain of command to the Fire Chief.
12. The Fire Chief and all officers and supervisors in the chain of command shall ensure that all complaints of harassment or are immediately and thoroughly investigated.
13. The alleged victim of the harassment shall be kept informed of the progress of the investigation.
14. At the conclusion of the investigation, the alleged victim and the accused employee should be informed of the conclusions reached by the investigation.
15. Where evidence is established to sustain a violation of this policy, immediate disciplinary action shall be taken against the offending employee, up to and including termination from employment with this department.
16. No employee shall be retaliated against for reporting allegations of harassment or discrimination.
17. **Training**

The department shall provide harassment and discrimination training to all new hires, and conduct annual harassment and discrimination for all employees. The training shall include instruction on the reporting requirements of this policy. This training shall be documented to ensure that all employees received the training.

**Editor’s Note:** Kentucky law prohibits employment discrimination on the basis of “race, color, religion, national origin, sex, age forty (40) and over, because the person is a qualified individual with a disability, or because the individual is a smoker or nonsmoker, as long as the person complies with any workplace policy concerning smoking”. As written above, this policy extends protection from workplace harassment to other classes of individuals for matters such as marital status, sexual orientation and gender identity. Department’s whose charter and ordinances do not extend protection to such groups may choose to omit the terms “marital status”, “sexual orientation” and gender identity” where they appear. Failure to delete these terms may extend discrimination protection to such groups that may not otherwise exist at law in Kentucky. However, omitting these terms may expose employees within such classifications to workplace harassment. It is highly recommended that this policy be reviewed by local HR and legal counsel prior to adoption. Pregnancy discrimination is prohibited by federal law, and is considered to be within the definition of sex discrimination under Kentucky law.