

Discriminatory Harassment

1014.1 PURPOSE AND SCOPE

This policy is intended to prevent District members from being subjected to discrimination or sexual harassment (Government Code § 12940(k); 2 CCR 11023). Nothing in this policy is intended to create a legal or employment right or duty that is not created by law.

1014.2 POLICY

The Fresno County Fire Protection District is an equal opportunity employer and is committed to creating and maintaining a work environment that is free of all forms of discriminatory harassment, including sexual harassment and retaliation. The District will not tolerate discrimination against a member in hiring, promotion, discharge, compensation, fringe benefits, and other privileges of employment. The District will take preventive and corrective action to address any behavior that violates this policy or the rights it is designed to protect.

The nondiscrimination policies of the District may be more comprehensive than state or federal law. Conduct that violates this policy may not violate state or federal law but still could subject a member to discipline.

1014.3 DISCRIMINATION PROHIBITED

1014.3.1 DISCRIMINATION

The District prohibits all forms of discrimination, including any employment-related action by a member that adversely affects an applicant or member and is based on the actual or perceived race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, pregnancy, genetic information, veteran status, marital status, and any other classification or status protected by law.

Discriminatory harassment, including sexual harassment, is verbal or physical conduct that demeans or shows hostility or aversion toward an individual based upon that individual's protected class. It has the effect of interfering with an individual's work performance or creating a hostile or abusive work environment.

Conduct that may, under certain circumstances, constitute discriminatory harassment can include making derogatory comments or crude and offensive statements or remarks; making slurs or off-color jokes; stereotyping; engaging in threatening acts; making indecent gestures, pictures, cartoons, posters, or material; making inappropriate physical contact; or using written material or District equipment and/or systems to transmit or receive offensive material, statements, or pictures. Such conduct is contrary to District policy and to the District's commitment to a discrimination-free work environment.

1014.3.2 RETALIATION

Retaliation is treating a person differently or engaging in acts of reprisal or intimidation against the person because he/she has engaged in protected activity, filed a charge of discrimination,

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participated in an investigation, or opposed a discriminatory practice. Retaliation will not be tolerated (see the Anti-Retaliation Policy).

1014.3.3 SEXUAL HARASSMENT

The District prohibits all forms of discrimination and discriminatory harassment, including sexual harassment. It is unlawful to harass an applicant or a member because of that person's sex.

Sexual harassment includes but is not limited to unwelcome sexual advances, requests for sexual favors, or other verbal, visual, or physical conduct of a sexual nature when any of the following occur:

- (a) Submission to such conduct is made either explicitly or implicitly a term or condition of employment, position, or compensation.
- (b) Submission to, or rejection of, such conduct is used as the basis for any employment decisions affecting the member.
- (c) A reasonable person subjected to the allegedly discriminatory conduct would find the harassment so altered working conditions as to make it more difficult to do the job.

1014.3.4 ADDITIONAL CONSIDERATIONS

Discrimination and discriminatory harassment do not include actions that are in accordance with established rules, principles, or standards, including:

- (a) Acts or omission of acts based solely upon bona fide occupational qualifications under Equal Employment Opportunity Commission and the California Department of Fair Employment and Housing guidelines.
- (b) Bona fide requests or demands by a supervisor that a member improve his/her work quality or output, that the member report to the job site on time, that the member comply with District rules or regulations, or any other appropriate work-related communication between supervisor and member.

1014.4 RESPONSIBILITIES

This policy applies to all District members. All members shall follow the intent of these guidelines in a manner that reflects District policy and the best interest of the Fresno County Fire Protection District and its mission.

Members are encouraged to promptly report any discriminatory, retaliatory, or harassing conduct or known violations of this policy to a supervisor. Any member who is not comfortable with reporting violations of this policy to his/her immediate supervisor may bypass the chain of command and make the report to a higher-ranking supervisor or manager. Complaints may also be filed with the Fire Chief, the Administrative Assistant Chief, or the Board President.

Any member who believes, in good faith, that he/she has been discriminated against, harassed, or subjected to retaliation, or who has observed harassment or discrimination, is encouraged to promptly report such conduct in accordance with the procedures set forth in this policy.

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Supervisors and managers receiving information regarding alleged violations of this policy shall determine if there is any basis for the allegation and shall proceed with resolution as stated below.

1014.4.1 QUESTIONS OR CLARIFICATION

Members with questions regarding discrimination or sexual harassment are encouraged to contact a supervisor, a manager, the Fire Chief, the Administrative Assistant Chief, or the Board President for further information, direction, or clarification.

1014.4.2 SUPERVISOR RESPONSIBILITY

Each supervisor and manager shall:

- (a) Continually monitor the work environment and strive to ensure that it is free from all types of unlawful discrimination, including harassment or retaliation.
- (b) Take prompt, appropriate action within their work units to avoid and minimize the incidence of any form of discrimination, harassment, or retaliation.
- (c) Ensure that their subordinates understand their responsibilities under this policy.
- (d) Ensure that members who make complaints or who oppose any unlawful employment practices are protected from retaliation and that such matters are kept confidential to the extent possible.
- (e) Notify the Fire Chief or Administrative Assistant Chief in writing of the circumstances surrounding any reported allegations or observed acts of discrimination, harassment, or retaliation no later than the next business day.

1014.4.3 SUPERVISOR'S ROLE

Because of differences in individual values, supervisors and managers may find it difficult to recognize that their behavior or the behavior of others is discriminatory, harassing, or retaliatory. Supervisors and managers shall be aware of the following considerations:

- (a) Behavior of supervisors and managers should represent the values of the District.
- (b) False or mistaken accusations of discrimination, harassment, or retaliation can have negative effects on the careers of innocent members.
- (c) Supervisors and managers must act promptly and responsibly in the resolution of such situations.
- (d) Supervisors and managers shall make a timely determination regarding the substance of any allegation based upon all available facts.

Nothing in this section shall be construed to prevent supervisors or managers from discharging supervisory or management responsibilities, such as determining duty assignments, evaluating or counseling members, or issuing discipline, in a manner that is consistent with established procedures.

1014.5 INVESTIGATION OF COMPLAINTS

Various methods of resolution exist. During the pendency of any such investigation, the supervisor of the involved member or members should take prompt and reasonable steps to mitigate or

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eliminate any continuing abusive or hostile work environment. It is the policy of the Fresno County Fire Protection District that all complaints of discrimination or harassment shall be fully documented and promptly and thoroughly investigated. The participating or opposing member should be protected against retaliation, and the complaint and related investigation should be kept confidential to the extent possible.

1014.5.1 SUPERVISORY RESOLUTION

Members who believe they are experiencing discrimination, harassment, or retaliation should be encouraged to inform the individual that his/her behavior is unwelcome, offensive, unprofessional, or highly inappropriate. However, if the member feels uncomfortable, threatened, or has difficulty expressing his/her concern, or if this does not resolve the concern, assistance should be sought from a supervisor or manager who is a rank higher than the alleged transgressor.

1014.5.2 FORMAL INVESTIGATION

If the complaint cannot be satisfactorily resolved through the process described above, a formal investigation will be conducted.

The member assigned to investigate the complaint will have full authority to investigate all aspects of the complaint. Investigative authority includes access to records and the cooperation of any members involved. No influence will be used to suppress any complaint, and no member will be subject to retaliation or reprisal for filing a complaint, encouraging others to file a complaint, or offering testimony or evidence in any investigation.

Formal investigation of the complaint will be confidential to the extent possible and will include but is not limited to details of the specific incident, frequency, dates of occurrences, and names of any witnesses. Witnesses will be advised regarding the prohibition against retaliation, and that a disciplinary process, up to and including termination, may result if retaliation occurs.

Members who believe they have been discriminated against, harassed, or retaliated against because of their protected status are encouraged to follow the chain of command but may also file a complaint directly with the Fire Chief, Administrative Assistant Chief, or the Board President.

1014.5.3 ALTERNATIVE COMPLAINT PROCESS

No provision of this policy shall be construed to prevent any member from seeking legal redress outside the District. Members who believe that they have been harassed, discriminated against, or retaliated against are entitled to bring complaints of employment discrimination to federal, state, and/or local agencies responsible for investigating such allegations. Specific time limitations apply to the filing of such charges. Members are advised that proceeding with complaints under the provisions of this policy does not in any way affect those filing requirements.

1014.6 DOCUMENTATION OF COMPLAINTS

All complaints or allegations shall be thoroughly documented on forms and in a manner designated by the Fire Chief. The outcome of all reports shall be:

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- Approved by the Fire Chief, the Board President, or the Administrative Assistant Chief, as deemed appropriate.
- Maintained for the period established in the District's records retention schedule.

1014.6.1 NOTIFICATION OF DISPOSITION

The complainant and/or victim will be notified in writing of the investigative findings pertaining to their complaint.

1014.7 TRAINING

All new members shall be provided with a copy of this policy as part of their orientation. The policy shall be reviewed with each new member. The member shall certify by signing the prescribed form that he/she has been advised of this policy, is aware of and understands its contents, and agrees to abide by its provisions during his/her term of employment with the District.

All members shall receive annual training on the requirements of this policy and shall certify by signing the prescribed form that they have reviewed the policy, understand its contents, and agree that they will continue to abide by its provisions.

1014.7.1 SUPERVISOR TRAINING

All supervisors shall receive specific training and education regarding sexual harassment, prevention of abusive conduct, and harassment based on gender identity, gender expression, and sexual orientation within six months of assuming a supervisory position. Refresher training shall be provided every two years thereafter (Government Code § 12950.1; 2 CCR 11024).

1014.7.2 TRAINING RECORDS

The Training Chief shall be responsible for maintaining records of all discriminatory harassment training provided to members. Records shall be retained in accordance with established records retention schedules and for a minimum of two years (2 CCR 11024).

1014.8 REQUIRED POSTERS

The District shall display the required poster regarding discrimination, harassment, and transgender rights in a prominent and accessible location for members (Government Code § 12950).