



Division 11 Personnel Management

Chapter 06 – Equal Employment Opportunity Policy

February 2009

POLICY

To ensure all members (career, civilian, and volunteer) of the Prince George's County Fire/Emergency Medical Services (EMS) Department work in an environment that is free of discrimination, harassment, intimidation, and/or retaliation.

DEFINITIONS

Discrimination – an action, practice, or policy, however neutral in intent and impartial in administration, which has a disparate impact or results in disparate treatment because of race, sex, sexual orientation, color, religion, creed, country of national origin, age, disability, retaliation, marital status, physical appearance, or political opinion.

Member – is defined as all career, volunteer, and civilian employees of the Prince George's County Fire/Emergency Medical Services (EMS) Department.

Prohibited Conduct – verbal or physical behavior that changes the conditions of a person's employment, or creates an intimidating, hostile, or offensive working environment.

Retaliation – an illegal employment action which adversely affects the terms and conditions of employment of an individual because that individual has opposed any practice he or she reasonably believes violates Title VII or made a formal or informal complaint or charge, testified, assisted, or participated in any manner in a

formal or informal investigation, proceeding or hearing relating to a practice alleged to violate Title VII. Retaliation is specifically prohibited by Federal, State, and County law and will not be tolerated.

Sexual Harassment – is a form of sex discrimination and is a violation of Title VII of the Civil Rights Act of 1964, as amended. "Sexual Harassment" includes, but is not limited to: unwelcome sexual advances, requests for sexual favors, verbal, physical or other conduct of a sexual nature, or acts of animosity or hostility based on sex/gender (whether or not sexual in nature), any of which creates or tends to create a hostile work environment.

PROCEDURES

1. General Provisions

All members shall conduct themselves within the boundaries of all laws and statutes, established by and in accordance with, the provisions of the Equal Employment Opportunity Policy, Title VII of the Civil Rights Act of 1964 and 1991, Article 498 of the Annotated Code of Maryland, and the Human Relations Act for Prince George's County, Maryland.

The Department will maintain a “zero tolerance” policy. Any actions or conduct that constitutes discrimination, including sexual harassment and retaliation, shall be grounds for disciplinary action up to and including dismissal.



Discrimination is a violation of Title VII of the Civil Rights Act of 1964, as amended, and is prohibited within the Prince George's County Fire/Emergency Medical Services (EMS) Department, and any of its organizations, sections, divisions, and affiliations including volunteer corporations.

All managers and supervisors have a responsibility to provide and ensure a workplace committed to fairness and equity.

2. Prohibited Conduct

Examples of prohibited conduct include, but are not limited to:

- Deliberate and/or repeated jokes, remarks stories, gestures, slurs or conversations which are offensive or derogatory with respect to race, color, creed, national origin, age, sex, marital status, disability, political affiliation, and volunteer or union affiliation.
- The display or circulation of graphic, electronic, or written materials that is offensive or derogatory with respect to race, color, religion, creed, national origin, age, sex, marital status, disability, political affiliation, and volunteer or union affiliation; and
- Acts of retaliation against a member for reporting, participating in an investigation, or complaining of discriminatory behavior or acts.

3. Retaliation and Sexual Harassment

Examples of retaliation may include, but are not limited to:

- Taking any adverse action, including disciplining a member or

operationally suspending a member as a result of filing a lawful complaint and/or participating in an investigation.

- Transfer of an employee to an assignment that would adversely affect the conditions of their employment.
- Loss of pay or overtime work opportunities to an employee because the employee has opposed any practice he or she reasonably believes violates Title VII.

As used herein, the terms “less serious” or “minor” incident of sexual harassment or retaliation include, but are not limited to:

- An isolated joke, comment or remark, whether verbal, written, drawn, or disseminated electronically, that is of a sexual nature or is offensive or disparaging on the basis of gender.
- An isolated incident involving a display of sexually explicit materials.
- An isolated negative or derogatory comment based on an individual's past complaint of sexual harassment or discrimination.

As used herein, the terms “more serious” or “major” incident of sexual harassment or retaliation may include, but are not limited to:

- Repeated jokes, comments or remarks, whether verbal, written, drawn, or disseminated electronically, that are of a sexual nature or are offensive or disparaging on the basis of gender.
- Repeated displays of sexually explicit materials.



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- Unwelcome physical conduct of a sexual nature, including physical assaults or threats of physical assault.
- Request for sexual favors and other verbal or physical conduct of a sexual nature when:
- Submission to such conduct is made explicitly or implicitly a term or condition of an individual's employment.
- Submission to or rejection of such conduct by an individual is used as the basis for an employment decision affecting the individual.
- Repeated incidents of negative or derogatory comments based on an individual's past complaint of sexual harassment or discrimination.
- Any denial of a tangible job benefit, or any act or omission with respect to the complaint that puts or could put the safety of the complainant or others at risk, based on his or her past complaints of sexual harassment or discrimination.

The Department shall have discretion to determine whether an incident (or allegation thereof) is more serious or major based on a reasonable complaint standard and the parameters established by law.

Sexual harassment can occur in a variety of circumstances, including but not limited to the following:

- 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.
- A harasser can be a victim's supervisor, a supervisor in another area, a co-worker, non-employee, or anyone with whom the member interacts with on the job.

- A victim may include others affected by the offensive conduct.
- A harasser's conduct (offensive, threatening or humiliating) must be unwelcome.

Examples of sexual harassment may include, but are not limited to:

- Harassing conduct can include not only conduct that is sexual in nature, but also conduct that is directed towards someone because of his or her gender.
- Foul, obscene language or gestures.
- Sexual propositioning.
- Sexual innuendo.
- Deliberate or repeated sexually suggestive comments.
- Sexually oriented "kidding" or "hazing/teasing," or "hazing/teasing" directed at a member because of their sex.
- Jokes referring to gender specific traits.
- Displays of obscene printed visual material.
- Physical contact such as patting, pinching, brushing against another's body.
- Blocking the path of another.
- Accessing and/or displaying pornographic Internet sites
- Sexually explicit electronic mail, telephone calls, or facsimiles
- Sexually suggestive screen savers
- Subtle or overt pressure for sexual favors.

4. Complaints

In the event that a member believes that he or she has been a victim of discrimination, the individual shall contact the EEO Officer, EEO Investigator, or the EEO Counselor



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within twenty-four (24) hours of the alleged incident, or as soon as practical under the circumstances.

When supervisors, acting supervisors, or officers witness, recognize, or are otherwise notified of an alleged incident, they shall immediately make contact and speak with the EEO Officer, EEO Investigator, or EEO Counselor (not to exceed twenty-four (24) hours) to receive direction.

Until contact is made with the EEO Officer, EEO Investigator, or EEO Counselor and directions are received regarding further procedures to be followed, supervisors or acting supervisors shall only take those actions necessary to ensure the immediate safety of those involved in the incident or to prevent the destruction of relevant evidence.

Complaints may be submitted internally or externally using the following process:

- Members may file an internal complaint with the Prince George's County Fire/EMS Department:
- The complainant should contact the Office of Professional Standards and make notification to the EEO Officer, EEO Investigator, or EEO Counselor.
- Upon receipt of the formal complaint or notification of an alleged incident, an investigation shall be conducted by the EEO Officer, EEO Investigator or EEO Counselor.
- Upon completion of the investigation, the EEO Officer shall forward the findings to the County Fire Chief.
- The County Fire Chief shall review the EEO Officer's facts and make a determination.

Career and civilian members may also file an internal-complaint with:

**PRINCE GEORGE'S COUNTY
HUMAN RELATIONS COMMISSION**
1400 McCormick Drive, Suite 245
Largo, MD 20774

Dr. William A. Welch, Sr., Executive Director
Tel: (301) 883-6170
Fax: (301) 883-6262
TDD: (301) 925-5167

The Commission investigates complaints of discrimination based on race, religion, color, sex, national origin, age, occupation, marital status, political opinion, personal appearance, sexual orientation, physical or mental handicap, or familial status in employment, education, financial lending, commercial real estate, housing, law enforcement, and public accommodations.

An external complaint may be filed with:

**MARYLAND COMMISSION ON
HUMAN RELATIONS**
6 St. Paul Street, 9th Floor, Suite 900
Baltimore, MD 21202-2274

Henry B. Ford, Acting Executive Director
Tel: (410) 767-8600
Fax: (410) 333-1841
TDD: None

The Commission enforces a State law that forbids discrimination in housing, public accommodations, and employment. In addition to the federally protected classes, discrimination on the basis of marital status is illegal. The Commission accepts complaints of discrimination, conducts investigations, and issues determinations of probable cause. If conciliation fails, a public hearing is held.



An external complaint may also be filed with the Equal Employment Opportunity Commission:

United States Equal Employment
Opportunity Commission Baltimore District
Office
10 South Howard Street, 1st Floor
Baltimore, MD 21201
410-962-3932

Complaint Notification, Investigation and Resolution Process may be investigated and resolved using the following three step informal process.

Step One

- Efforts should be made to resolve the complaint with or through the complainant's immediate supervisor, unless the immediate supervisor is the alleged respondent.
- The complainant has the option of approaching his/her supervisor and/or notifying an EEO representative of his/her choice within the Department.
- The complainant is not required to notify the supervisor, but shall notify the EEO Officer, EEO Investigator, or EEO Counselor within twenty-four (24) hours of the alleged incident.
- If the complainant approaches his/her supervisor, the supervisor or member shall make contact and speak with the EEO Officer, EEO Investigator or EEO Counselor within twenty-four (24) hours.
- When notified, the EEO Officer, EEO Investigator or EEO Counselor shall contact the complainant, and will determine whether contact with the immediate supervisor is appropriate at this step.

Step Two

- A meeting (s) shall be held with the complainant, the alleged respondent, the EEO Officer, EEO Investigator or EEO Counselor, and a supervisor, individually or together if appropriate. If the EEO Counseling process cannot resolve the complaint, or if it would otherwise be inappropriate to handle the complaint informally, the complainant has the option to proceed with the formal complaint process.
- Testimonial and documentary evidence shall be gathered confidentially and held in confidence to the extent possible.
- The EEO Officer, EEO Investigator or EEO Counselor shall review all available documents associated with the position of each party.
- The EEO Officer, EEO Investigator or EEO Counselor shall take steps to ensure that each party is aware of the facts established.
- In this informal stage, the EEO Officer, EEO Investigator or EEO Counselor is to inquire informally and attempt to resolve the matter through mutual agreement.
- If the informal resolution fails or is deemed inappropriate, the EEO Officer or EEO Investigator will proceed with the formal investigation.

Step Three

- If an EEO Counselor has been handling the process, the EEO Counselor shall provide a completed intake form and resolution agreement to the EEO Officer as soon as possible.



- A formal process will be used for investigating complaints that cannot be resolved informally.
- A member may choose to file a complaint with the Prince George's County Fire/EMS Department or with the Office of Human Relations Commission, which will be considered as internal complaints and investigated by those entities.
- A member may choose to file an external complaint with the Human Relations Commission ("HRC") or Equal Employment Opportunity Commission ("EEOC"), a Federal agency.
- A member need not file an internal complaint before filing a charge with HRC or EEOC because these complaints are filed with independent agencies and are considered to be external complaints of discrimination and will be investigated by those entities.
- Upon receipt of an internal complaint, the EEO Officer, EEO Investigator or EEO Counselor shall advise the complainant of his/her rights to file an external complaint with HRC or EEOC.

Procedural Guarantees

While addressing complaints of alleged discrimination, every effort shall be made to ensure confidentiality and due process to protect the rights of all parties involved. EEO complaint investigations will be done in compliance with all Federal, State, and County Laws. Any notification to a member to meet with an EEO Officer EEO Investigator, or EEO Counselor is a direct order from the County Fire Chief. A member who disobeys a direct order to cooperate with the investigation may result in disciplinary action. Upon notification of a

request for a meeting, a member will have forty-eight (48) hours to contact and schedule an interview with the EEO Officer, EEO Investigator, or EEO Counselor. In dealing with complaints of sexual harassment, due process will be observed and the rights of all parties, including the accused as well as the accuser, will be protected.

The following procedures shall be followed pending the outcome of a complaint investigation:

- A member who makes an informal or formal complaint of either sexual harassment or retaliation will not be transferred to another station or work site because of that complaint unless the employee voluntarily requests a transfer.
- The Department will first explain to the complainant the steps that the Department is willing and able to take that would alleviate the need for a transfer.
- If, after the investigation is conducted, the complainant nevertheless insists upon a transfer to another station or work site as a means of resolving the complaint, the Department shall transfer the complainant to the same type of work, i.e., shift work or day work that the complainant has at the time of the complaint, to the closest station or work site practicable under the circumstances, unless no such assignment is available.
- The Department has discretion to transfer employees unrelated to a complaint based on the Department's operational need.

The following procedures shall be followed during the investigation of a complaint of



alleged harassment or retaliation by a career/civilian member:

- If the complaint of a career/civilian member relates to alleged physical contact, or involves conduct of a serious nature (including retaliatory harassment), and the alleged harasser is a career/civilian member, the complainant and the alleged harasser shall be separated through their assignment to different shifts within the same fire station pending the resolution of the complaint.
- The complainant may only be transferred to the same type of work or shift, i.e., day work or shift work that he or she had at the time of the complaint. To the maximum extent possible, the alleged harasser also should be maintained in the same type of work that he or she had at the time of the complaint.
- If, after an investigation is conducted, a career/civilian member is determined to have engaged in sexual harassment or retaliation, in addition to any other appropriate disciplinary measures imposed, that career/civilian member will be maintained on a separate shift or transferred if it is determined that permanent separation of the career/civilian member and victim is necessary.
- If the complaint against a volunteer member concerns physical contact or harassment of a serious nature (including retaliatory harassment), the County shall limit the volunteer member accused of harassment to providing volunteer services only during hours other than the scheduled working hours or shift of the complainant pending the investigation and resolution of the complaint.
- The alleged harasser shall not be permitted to be present at the fire station during the scheduled working hours or shift of the complainant. The alleged harasser shall not be permitted to be present at any Fire/EMS Departmental events and activities, calls, or any reasonably considered being occupied by Fire/EMS Department personnel/member during the scheduled working hours or shift of the complainant.
- When an investigation of a complaint (as described above) is pending, and that volunteer member can demonstrate that the volunteer company to which he or she belongs is the sole residence, and that exclusion from the station during the scheduled working hours or shift of the complainant would present an undue hardship, the Department may temporarily effectuate a separation of the volunteer member and the complainant, as long as the change does not result in any loss of pay or overtime work opportunities for the complainant.
- If a volunteer member, whose service and presence at the fire station is limited, refuses to absent himself/herself from the station

The following procedures shall be followed during the investigation of a complaint when the complainant is a career/civilian member but the person alleged to have engaged in sexual harassment or retaliation is a volunteer member. These steps shall apply to volunteer members accused of sexual harassment and/or retaliation in the Department during the investigation of a complaint:



during the complainant's scheduled shift or hours, or if it is determined that the volunteer member was present at the station during the scheduled hours of the complainant, the County Fire Chief, or his/her designee, shall request in writing that the Volunteer Chief of that station immediately enforce the ban of the alleged harasser from the premises during the complainant's scheduled hours.

- If, following a request to the Volunteer Chief (noted above), the volunteer member nevertheless remains present at the station during the scheduled shift of the complainant, the County Fire Chief, or his/her designee, shall remove the operational authority of both the alleged harasser and the Volunteer Chief for a thirty-day period.
- If the alleged harasser violates the terms of his/her removal of operational authority, or if the alleged harasser is found to be present at the station during the thirty-day period, the County shall impose a permanent removal of operational authority on him/her and will suspend dispersal of any discretionary funds allocated by the County to the volunteer fire company of which the alleged harasser is a volunteer member for a six-month period.
- If the Volunteer Chief violates the terms of an operational removal, that Volunteer Chief shall remain in a non-operational status for an additional six (6) months, and the County shall suspend dispersal of any discretionary funds allocated by the County to the volunteer fire company of which the Volunteer

Chief is a member for a six-month period,

- If, after all of the previous steps outlined have been undertaken, the volunteer member nevertheless remains present at the station during the scheduled shift of the complainant, the Department must consider the removal of all career members from the station as a first option.
- If removal of all career members from the station cannot be achieved due to a good faith determination that such removal would create a substantial risk to public safety, then the Department will offer the complainant the option of either remaining in the station at issue or, if he/she does not prefer this option, the Department shall offer him/her a minimum of three (3) alternative choices of stations to which he/she may transfer.
- Each of the alternative transfers offered to the complainant shall be to the same type of work, i.e., shift work or day work that the complainant has at the time of the complaint, and shall be to the closest station practicable under the circumstances.

Reporting

Upon completion of the investigation, a final report shall be prepared that includes the items shown below:

- Summary of events.
- Disposition of the investigation, i.e., resolution, discipline administered.
- Recommendations, where appropriate, as to modification of Department rules, directives,



policies, established practices, and training.

- Classification of the findings into one of the following:
 - Unfounded
 - The alleged act did not occur.
 - Exonerated
 - The act occurred but was justified, lawful and proper.
 - Not Sustained
 - The investigation produced information insufficient to prove or disprove the allegation.
 - Sustained

All or part of the act occurred as alleged. (A finding of "Sustained" must be based on the existence of substantial fact in support of reasonable proof.)

Each allegation of sexual harassment, discrimination, or other misconduct that is investigated pursuant to this General Order shall be classified. Upon classification as "sustained," appropriate disciplinary action shall be taken. The results of the investigation shall be released only to the County Fire Chief, or to persons designated by the County Fire Chief as identified below:

- EEO Officer or the EEO Officer's designated representative as authorized by the County Fire Chief
- Department of Justice, in accordance with this Department's reporting obligations.
- Other investigating authorities such as, the OHRM, HRC, or the EEOC.

5. Department Disciplinary Coordinator (DDC)

All disciplinary actions which constitutes an adverse action as defined in the Prince George's County Code, Personnel Law, Section 16-102(a)(1) will be forwarded to the DDC for final disposition to ensure compliance with the Prince George's County Code, Subtitle 16, Personnel Law, Section 16-197, and the current Labor Agreement with the IAFF Local 1619, If applicable.

The complainant and the respondent shall be provided with a copy of the findings in the investigation, in writing, as they pertain to the individuals. A "Letter of Determination" will be used for this purpose.

6. Disciplinary Action Upon Determination of a Violation

All members are subject to discipline as stipulated in County guidelines or any other Departmental rules and regulations career and volunteer management may collectively agree on the appropriate disciplinary action to be taken if a volunteer member is found to be in violation.

As part of the disciplinary measures imposed by the Department on career/civilian members who are determined to have engaged in violation of this General order, or other applicable sexual harassment and retaliation policies or procedures, after such a determination of a violation is made, those career/civilian members shall not be eligible for promotion to a higher rank for a six-month period if a minor violation has occurred, and a one-year period if a more serious violation has occurred, and shall not be eligible to receive any type of performance award for the one-year period, including annual leave awards or incentive awards.

Where the Department has determined that a volunteer member has engaged in sexual



harassment or retaliation after having conducted an investigation, the Department shall take the following steps:

- Imposition of appropriate disciplinary measures, including removal of operational authority of the volunteer member, of the type and duration commensurate with the disciplinary actions that would be imposed on a career/civilian member under similar circumstances.
- If the volunteer member does not comply with the operational removal or other disciplinary measures, the Department shall follow the steps delineated above.
- If permanent separation of the complainant and the volunteer member is deemed necessary by the Department or is requested by the complainant, the Department also shall provide the options outlined above to the complainant.
- If there are more than three (3) violations of this General Order by one or more volunteer members of the same volunteer company or station during a one-year period, the Department shall remove the operational authority of the Volunteer Chief of that volunteer company from his or her position as Volunteer Chief for at least a one year period, and shall suspend the dispersal of discretionary funds to that volunteer company or station for a six-month period.
- Without superseding any provisions noted above, herein regarding transfers of complainants and/or volunteer members, the Department generally reserves the right to engage in transfers of Fire/EMS Department personnel required by demonstrated operational needs. However, a

complaint of sexual harassment and/or retaliation shall not constitute an operational need that would justify transfer of a complainant.

7. Follow Up on the Complaint

After a complaint has been settled, whether formally or informally, it is the Department's responsibility to ensure that corrective action is promptly taken to eliminate future complaints. If the complaint was found to be "not sustained," steps shall be taken to clarify the applicable EEO rules, policies and procedures to the complainant and to the alleged respondent. EEO investigative information, including mandatory training, referrals, and counseling, will be maintained in a confidential EEO file in accordance with all Federal, State, and local laws.

8. Responsibilities

All Members

All members shall be responsible for:

- Ensuring that a non-discriminatory work environment exists. An individual's responsibilities include appropriate personal conduct and reporting inappropriate behavior to supervisory personnel and/or the EEO Officer, EEO Investigator, or EEO Counselor.
- Making it clear to the offending person that inappropriate and/or discriminating behavior is offensive and upon its occurrence or repetition shall bring the matter to the attention of appropriate officials. (Do not send "mixed signals" that could be misinterpreted as accepting the offensive conduct. Direct action in some cases can stop the conduct.)



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- Reporting alleged harassment to the EEO Officer, EEO Investigator, EEO Counselor, or the superior of an immediate supervisor when that individual is carrying out the alleged harassment.
- Reporting alleged sexual harassment or discrimination by contacting the Office of Professional Standards and speaking with a EEO Officer, EEO Investigator, or EEO Counselor that the County may designate.
- Fully cooperating with the EEO Officer or EEO Investigator assigned to conduct an investigation, including any EEO Counselors.
- Answering all questions asked by the investigating authority pertaining to the investigation or subsequent violation fully and truthfully.
- Providing a written statement during the course of an investigation concerning his or her conduct, adherence to Departmental rules and regulations, or suspected misconduct. If a member refuses to answer questions relating to an investigation, or is untruthful in answering questions, the person shall be subject to charges of insubordination and/or falsification of documents which could result in disciplinary action up to and including dismissal.
- Taking corrective actions to ensure that discriminatory behavior or acts do not occur and/or are not repeated.
- Providing each member with a copy of this General Order and training, in addition to any other policies prohibiting sexual harassment and retaliation
- Ensuring that all members sign an acknowledgement receipt, which will be forwarded to the EEO Officer.
- Posting copies of this General Order in conspicuous places, i.e., employee bulletin boards, administrative offices, etc.
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Supervisors

Supervisors shall be responsible for:

- Immediately responding to any allegation or act of sexual harassment or discrimination of which they become aware, and shall immediately notify the EEO Officer.

EEO Officer

- EEO Officer shall be responsible for:
- Oversight of the Department's compliance with Federal, State, and County regulations prohibiting discrimination.
- Analyzing discrimination complaints, planning and conducting investigations, collecting and analyzing evidence and statistical data, and preparing investigative reports.
- Coordinating the EEO Counselor Program.
- Providing training in areas of discrimination and harassment.

EEO Investigator

- Assists the EEO Officer with the Department's EEO Program
- Assists with EEO Counseling
- Establishes a process that is impartial and consistent for ensuring documents related to EEO are in



compliance with established laws, rules, and regulations.

N/A

- Maintains a database for the handling of all EEO actions and mediation sessions.
- Conducts interviews and investigations in relation to EEO complaints or as deemed necessary by the EEO Officer.
- Acts as the EEO Officer in his/her absence.

EEO Counselor

EEO Counselor shall be responsible for:

- Serving as a role model and that of a mediator and fact-finder during the processing of a complaint. The EEO counselor is not a representative for the complainant, supervisor, or management.
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- Serving as a role model and that of a mediator and fact-finder during the processing of a complaint. The EEO counselor is not a representative for the complainant, supervisor, or management.
- Responding to and addressing informal complaints and the proceedings to defuse and resolve complaints.
- Assisting in the implementation of the EEO action plan.
- Educating supervisors and employees on the EEO program's goals and objectives.

REFERENCES

N/A

FORMS/ATTACHMENTS