

# LOS ANGELES FIRE COMMISSION

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May 9, 2022

BOARD OF FIRE COMMISSIONERS  
FILE NO. BFC 22- 046

TO: Board of Fire Commissioners

FROM: Independent Assessor

SUBJECT: ASSESSMENT OF LOS ANGELES FIRE DEPARTMENT EQUAL EMPLOYMENT OPPORTUNITY COMPLAINTS

FINAL ACTION: ☐ Approved  
☐ Denied

☐ Approved w/Corrections  
☐ Received & Filed

☐ Withdrawn  
☐ Other

## SUMMARY

The Board of Fire Commissioners (Commission) directed the Office of the Independent Assessor (OIA) to conduct an assessment of Los Angeles Fire Department (LAFD or Department) Equal Employment Opportunity (EEO or equity) complaints. The Commission was particularly interested in knowing whether the increase in women on the Department correlated with an increase in sexual harassment complaints.

## RECOMMENDATIONS

That the Board:

1. Approve the OIA's Assessment of Los Angeles Fire Department Equal Employment Opportunity Complaints.
2. Adopt the OIA's recommendations.

## DISCUSSION

For this assessment, the OIA examined 459 equity complaints, made findings and related recommendations.

The OIA considered an equity case one that implicated policies in the Department's Discrimination Prevention Policy Handbook (DPPH); Discrimination, Harassment, Sexual Harassment, Hostile Work Environment, Retaliation, and Hazing. The OIA also included allegations of sexual misconduct and workplace violence.

The OIA determined the number of equity complaints filed each year from January 2013 through June 30, 2021; the percentage of equity complaints filed compared to the overall number of complaints filed each year; the type of equity complaint (race, gender, religion, etc.); the gender of complainants and subjects; whether a complaint was filed by an LAFD employee, a person from outside the Department or anonymously; the number of women on the Department each year and the number of sexual harassment and gender discrimination complaints filed; and the complaint adjudication.

The OIA also determined whether sustained cases were adjudicated in accordance with EEO policies, and whether the final discipline was the same as the originally imposed penalty.

I am available to provide any additional information the Commission may require.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Sue Stengel", written in a cursive style.

SUE STENGEL

Independent Assessor

Board of Fire Commissioners

Attachment

c: Kristin Crowley, Fire Chief

**LOS ANGELES  
BOARD OF FIRE COMMISSIONERS**



**ASSESSMENT OF  
LOS ANGELES FIRE DEPARTMENT  
EQUAL EMPLOYMENT OPPORTUNITY  
COMPLAINTS**



**OFFICE OF THE INDEPENDENT ASSESSOR  
SUE STENGEL**

Independent Assessor

May 9, 2022

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## 1. INTRODUCTION

The Los Angeles Board of Fire Commissioners (BOFC or Commission) directed the Office of the Independent Assessor (OIA) to conduct an audit of Equal Employment Opportunity (EEO or equity) cases. In particular, the Commission was interested in sexual harassment complaints dating back to 2013, the year a majority of them began their terms. The Commission specifically asked the OIA to determine if the increase in women on the Department impacted the number of sexual harassment cases filed.

For purposes of this report, an EEO case was one that implicated policies in the Department's Discrimination Prevention Policy Handbook (DPPH); Discrimination, Harassment, Sexual Harassment, Hostile Work Environment, Retaliation, and Hazing.<sup>1</sup> The OIA also included allegations of sexual misconduct and workplace violence. For purposes of discrimination, harassment, and hostile work environment allegations, the DPPH articulates protected classes as:

- Race
- Color
- Religion
- National Origin
- Sex (including sexual harassment and gender identity or expression, which includes actual or perceived transgender status)
- Age

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<sup>1</sup> Definitions from the DPPH:

**Discrimination:** Treating an individual differently in any employment practice or decision which intentionally or unintentionally results in unequal treatment on the basis of the individual's membership in a protected class.

**Harassment:** Unsolicited and/or unwelcome verbal or physical conduct directed to an individual based on membership in a protected class when, 1) Submission to such conduct is explicitly or implicitly made a term or condition of employment; 2) Submission to or rejection of this conduct is used as a basis for an employment decision affecting the member; 3) Such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment.

**Sexual Harassment:** Unsolicited, unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature directed at a person of the same or of the opposite sex when, 1) Submission to such conduct is explicitly or implicitly made a term or condition of employment; 2) Submission to or rejection of this conduct is used as a basis for an employment decision affecting the member; 3) Such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment.

**Hostile Work Environment:** A work atmosphere contaminated by a pattern of offensive and unwelcome conduct directed at an individual's protected class status. Conduct of a verbal or physical nature that is sufficiently severe or pervasive so as to have the purpose or effect of unreasonably interfering with work performance or creating an intimidating, hostile or offensive working environment.

**Retaliation:** An adverse employment action taken as a result of a member participating in a protected activity, including "whistleblowing."

**Hazing:** Any action taken or situation created in the workplace which causes or is likely to cause bodily danger, physical harm, or personal degradation or disgrace resulting in physical or mental harm to another member.

- Disability
- Marital status
- Sexual Orientation
- Creed
- Ancestry
- Medical Condition
- HIV/AIDS (acquired or perceived)

Hazing does not require a member to be targeted because of their membership (or perceived membership) in a protected class.

The OIA would like to thank the Department for its cooperation, and attorneys in the Office of the City Attorney for their counsel.

## **2. PURPOSE**

The purpose of this report was to assess equity complaints filed between January 1, 2013 and June 30, 2021, and present related findings.

## **3. OBJECTIVES**

- a. Determine the number of equity complaints filed each year, between January 1, 2013 and June 30, 2021.
  1. Determine the percentage of equity cases compared to all cases filed each year.
  2. Determine the type of the equity allegations.
  3. Determine the gender of the complainant and the subject.
  4. Determine whether the complaint was filed by an LAFD employee (internal), an external complainant, or anonymously.
  5. Determine the adjudication.
- b. Determine the number of sexual harassment and gender discrimination cases filed January 1, 2013 through June 30, 2021 and determine the number of women on the Department in each year 2013 through 2021.
- c. Determine the status of sustained cases.
  1. Assess whether adjudications were analyzed in accordance with EEO policies.
  2. Determine whether the final penalty was the same as the original, or was the penalty ultimately reduced or the case dismissed.

## **4. SCOPE AND METHODOLOGY**

a. Searching the Complaint Tracking System for EEO cases  
 In previous reports, the OIA wrote about shortcomings of the Complaint Tracking System (CTS) and the difficulties the Department and the OIA encounter when attempting to extract accurate statistics. Searching for EEO complaints amplified these problems. The OIA searched more than 20 combinations of data attempting to gather all EEO cases filed



during the designated time period. This included searching combinations of fields available in CTS, as well as searching keywords such as discrimination, harassment, and hostile work environment. The OIA also included cases of hazing, sexual misconduct, workplace violence, and those that were referred to the Department's EEO coordinator for evaluation, in the audit's population.

The lists of cases generated from the searches were merged and duplicates deleted. This process yielded 495 cases.

After further review of each individual case, the OIA removed additional cases from the population, like those that did not involve an LAFD employee or were duplicates that were not marked as such. Still, not all EEO cases were produced by these searches.<sup>2</sup>

This audit's population consists of 459 equity cases that were filed between January 1, 2013 and June 30, 2021.

#### b. Categorizing/Coding Complaints

In past reports, the OIA wrote about the inconsistent ways complaints were categorized (coded) in CTS, resulting in the inability to gather accurate numbers of types of cases. The Department has been rectifying this issue with policies intended to make coding more uniform and consistent. In 2019, the Department created a policy for uniformly coding EEO cases. One important change was that EEO complaints were coded based on the allegations made at the time the case was filed, rather than coding EEO cases based on what was proved by the investigation.

Because of the way the OIA searched for and gathered the cases for this report, the change in the policy should not have impacted the audit population. Searching for key terms such as discrimination, hostile work environment, and others, should have captured the majority of cases not coded EEO before the 2019 policy was implemented.

#### c. CTS Shortcomings Impacting Statistical Analysis

The OIA has mentioned on numerous occasions that inconsistencies and deficiencies in CTS force reviewers to manually inspect all CTS entries identified for reports to ensure accuracy in the final information. For example, each entry was examined to determine the true subject and complainant, and whether the complaint was made by a Department employee (internal) or an external source.

The OIA has repeatedly reported the confusion in CTS between the complainant and the person reporting the complaint. For example, if female member A reports sexual harassment to male supervisor B, who then enters the case into CTS, male supervisor B, more likely than not, will appear as the complainant, rather than member A. This skews the data to show the supervisor (a male) as the complainant, rather than the female member. A similar issue arises when the complainant is not a Department employee, but complains to a member who then enters the complaint into the system.

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<sup>2</sup> The OIA knew of at least two cases from past audits that were not captured in these searches (neither had been categorized by the Department as equity cases).



CTS has a location for identifying the person who completed the entry in CTS. However, this function is almost never used. The Department explained that there may be limitations in the technology that render this function unavailable to some people accessing CTS.

Furthermore, neither the gender nor race of subjects and complainants were available in CTS. To determine this information, the reviewer has to make a determination by examining each individual case and then consulting additional Department databases. At this time, CTS automatically populates limited information about Department employees (subjects, complainants and witnesses).

The OIA recommends the Department configure CTS to automatically populate, at minimum, the race, gender, and rank of employees; whether they are complainants, subjects, or witnesses.<sup>3</sup>

Additionally, the OIA recommends the Department configure CTS so that the function in CTS for the "Person Completing this Form" is available and used by everyone entering complaints; and train members to use it. This should also have an auto-populate function for Department members. Further, the Department should train members to correctly identify and enter complainants into the appropriate location in CTS.

The cumulative effect of these shortcomings (and many others the Department and OIA have identified over the years) is that accurate statistics cannot be gathered without painstaking effort, which takes months to accomplish. The Department should be able to run statistical information quickly and have confidence the results are accurate. Without this, data provided to the BOFC, elected officials, and the public is not reliable and the ability to improve operations may also be impacted.

**RECOMMENDATION NO. 1:** The OIA recommends the Department configure CTS to automatically populate, at minimum, the race, gender, and rank of employees, whether they are complainants, subjects, or witnesses.

**RECOMMENDATION NO. 2:** The OIA recommends the Department configure CTS to ensure that the function in CTS for the "Person Completing this Form" is available and used by everyone entering complaints. This should also have an auto-populate function for Department members. Further, the Department should train members to correctly identify and enter complainants into the appropriate locations in CTS.

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<sup>3</sup> The information would be automatically populated from other Department personnel databases. Therefore, race and gender information would be what members self-reported when hired, in accordance with the options given employees by the City.

## 5. DEFINITIONS

### a. Type of EEO Complaint

CTS allows for a complaint to be categorized by type of EEO complaint; such as discrimination, retaliation, hostile work environment, etc. The Department can further identify whether the allegations were related to the complainant's gender, race, religion, disability, etc. However, this was not done in all cases in this audit's population. In order to be accurate and thorough, the OIA determined this, based on the initial complaint allegations, in order to complete this review.<sup>4</sup>

### b. "Department" as subject or complainant

*Department as complainant:* The OIA identified the Department as the complainant in cases where the OIA believed the Department had an interest in initiating a complaint of misconduct, as compared to cases where one individual felt wronged by another. For example, in a case where two members were engaged in horseplay with each other and neither filed the complaint, the OIA identified the Department as the complainant.

*Department as subject:* The OIA identified the Department as the subject in cases where the complainant made broad, non-specific claims. For example, the OIA identified the Department as the subject in a case where the complainant alleged that male employees are treated differently than female employees, and therefore, males are subjected to disparate treatment.

### c. "Multiple" designation for subjects and complainants

The OIA identified the gender of subjects and complainants.<sup>5</sup> In cases with more than one complainant or subject of the same gender (male or female), the OIA designated these by the one gender. However, in cases with more than one subject or complainant that were males and females, the OIA designated these as "multiple."

### d. "Multiple" designation for EEO allegations

If a complaint was based on more than one type of EEO allegation, then the OIA designated these as "Multiple." For example, if a complainant alleged they were subjected to racial discrimination and retaliation, then the type was designated as "multiple." However, in Section 6.f., where sexual harassment cases were discussed, the OIA considered any case that had a sexual harassment or gender discrimination allegation, even if other allegations were made as well.

### e. "EEO Unknown - Referred to EEO Invest"

The Department has an internal process through which a complaint can be referred to the EEO coordinator for review. Generally, when this occurs a case is designated as "Referred to EEO Invest," in CTS. The OIA determined that there were complaints for which this occurred, but the Department did not identify the type of EEO complaint, and the OIA also was unable to identify the type of EEO complaint. When this was the situation, the OIA considered these cases: "EEO Unknown - Referred to EEO Invest."

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<sup>4</sup> The OIA made this determination for approximately 30% of the cases in the audit population.

<sup>5</sup> The LAFD does not provide for non-binary gender designations.

For example, a case in which a member engaged in improper behavior, foul language and was insubordinate to a supervisor, was referred to the EEO coordinator. The case did not contain any information indicating the subject's behavior was based on a protected class.

f. Discrimination Prevention Policy Handbook (DPPH)

Issued to all members by the Fire Chief on December 6, 2012, the DPPH is a "ready reference and a summary of the Fire Department's policies, complaint procedures, and guidelines for maintaining a discrimination free workplace." The DPPH facilitates members' familiarity with, and understanding of, their role in stopping, preventing, reporting and resolving potential incidents of discrimination, harassment, retaliation, and hazing.<sup>6</sup> The Department uses the DPPH as its reference to determine if allegations meet EEO standards. The DPPH also defines hazing and related prohibited behaviors.

g. Penalty Guidelines

Through the labor negotiation process, the LAFD and United Firefighters of Los Angeles City (UFLAC) agreed on a set of penalty guidelines, "LAFD Penalty Guidelines for Sworn Members" (Penalty Guidelines), dated October 28, 2008. They established a range of discipline for acts of misconduct, which are classified by type, and generally provide for escalating penalties for second and third offenses. Penalties range from a verbal warning to a Board of Rights.

The penalty guidelines include penalties for EEO offenses and hazing offenses.

The Department reported that when considering the appropriate discipline for a UFLAC member, the calculation begins at the one-third point of the penalty guideline range and then is adjusted depending on mitigating and aggravating circumstances.

The Chief Officers Association (COA) has not formally agreed to the October 28, 2008 guidelines; however, the Department reported that the same guidelines are followed for chief officers, with the exception that the Department begins the calculation at the midway point of the penalty guideline range rather than the one-third point.

h. Investigating Officer (I/O) and Investigative Report

After a complaint is entered into CTS, an investigator is assigned to conduct the formal investigation of an employee's alleged misconduct. The Investigating Officer (I/O) can be a Fire Special Investigator or Captain assigned to the Professional Standards Division (PSD), or another supervisor in the subject employee's chain of command.<sup>7</sup> Upon completion of the investigation, the I/O prepares a report of the investigation.

i. Adjudicator's (XO) report

Upon completion of an investigation, the investigative report and supporting materials are reviewed and a determination is made as to whether the evidence collected during the investigation proved, by a preponderance of the evidence, that the subject violated a

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<sup>6</sup> There are also other equity issues addressed in the DPPH, such as the Department's lactation policy.

<sup>7</sup> If the subject is a chief officer, then another chief officer is also assigned to assist with the investigation.

Department policy, rule, law, or regulation. A report is prepared by the Assistant Commanding Officer of PSD (XO), the adjudicator (a Battalion Chief), and includes the Battalion Chief's written conclusions and analyses of the evidence presented in the investigative report and supporting materials.

## 6. FINDINGS

### a. Equity Cases Filed January 1, 2013 through June 30, 2021

459 equity complaints were filed in CTS from January 1, 2013 through June 30, 2021.

- Chart A shows the number of equity cases filed each year.
- Chart B shows the number of equity cases filed each year compared to all cases filed that year.
- Table 1 shows the number and percentage of equity cases filed compared to the total number of cases filed each year.

#### Analysis

- The number of equity cases filed was highest in 2013 and 2014.
- Fewer equity cases were filed in 2015, and then there was a sharp drop in equity cases filed in 2016 and 2017.
- The fewest equity cases were filed in 2016 and 2017, and began to rise again in 2018.
- Although equity cases began to rise again in 2018 through 2020, they were far fewer than the 2013 and 2014 numbers.

CHART A: EQUITY CASES FILED JANUARY 2013-JUNE 2021

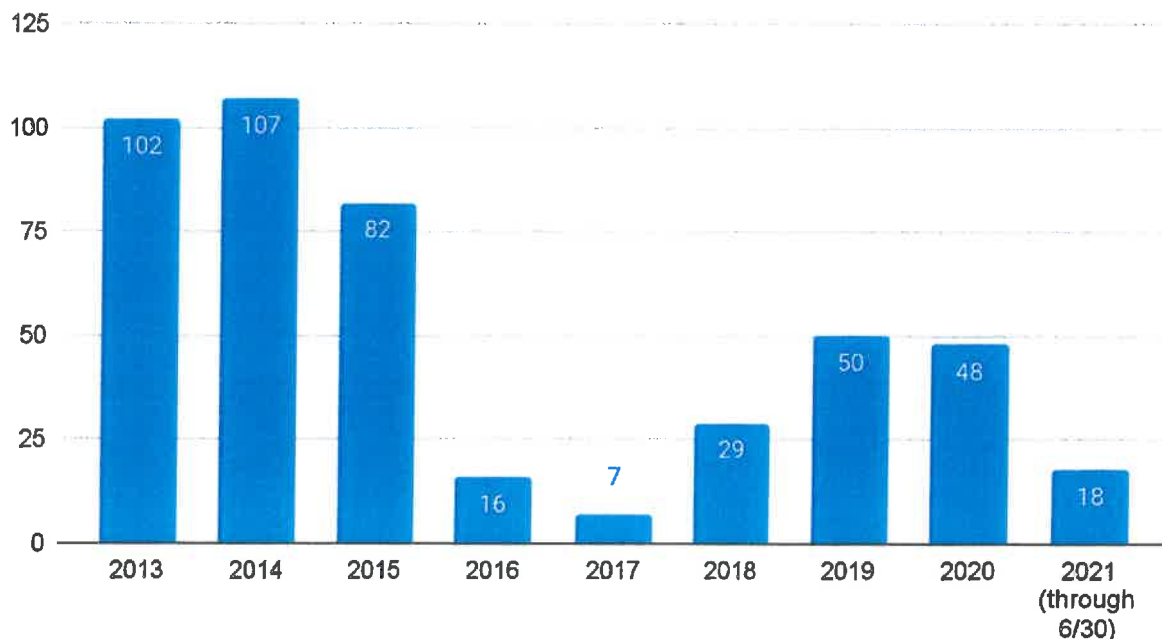


CHART B: COMPARISON - EQUITY CASES FILED AND ALL CASES FILED

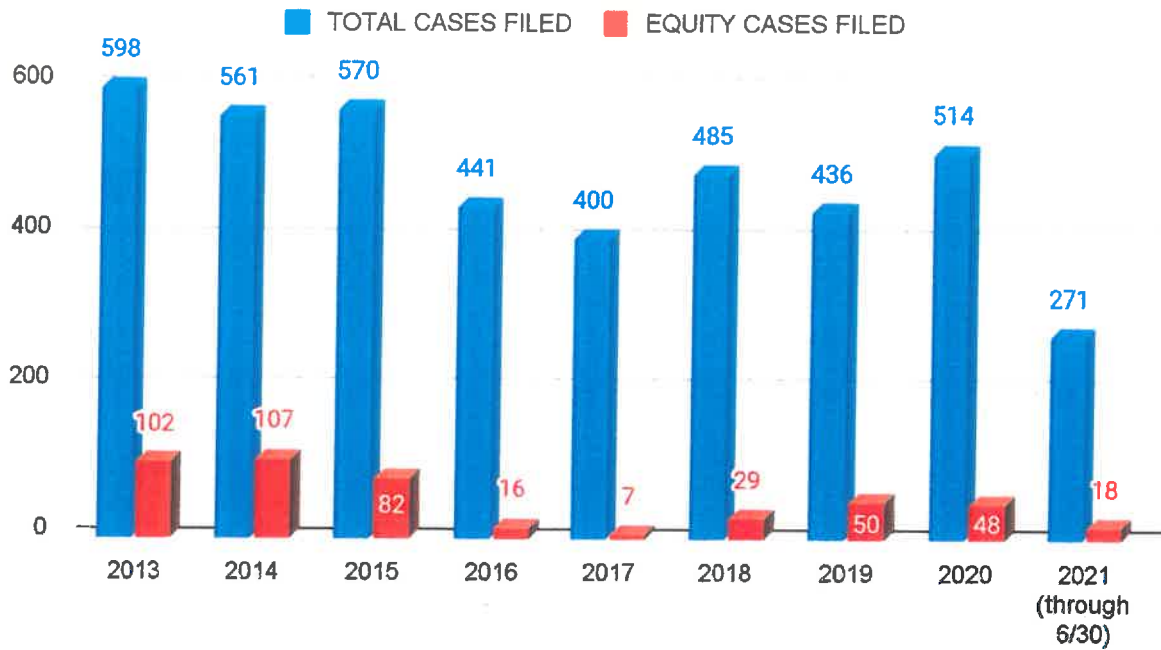


TABLE 1: EQUITY CASES FILED AS A PERCENTAGE OF ALL CASES FILED

YEAR	TOTAL CASES FILED	EEO CASES FILED	PERCENTAGE
2013	598	102	17.10%
2014	561	107	19.10%
2015	570	82	14.40%
2016	441	16	3.60%
2017	400	7	1.70%
2018	485	29	6.0%
2019	436	50	11.50%
2020	514	48	9.30%
2021 (through 6/30)	271	18	6.60%

b. Type of EEO Allegations Filed January 1, 2013 through June 30, 2021

- Chart C shows all EEO allegations by type/category.
- Table 2 breaks down the allegations by type and by the year the case was filed.

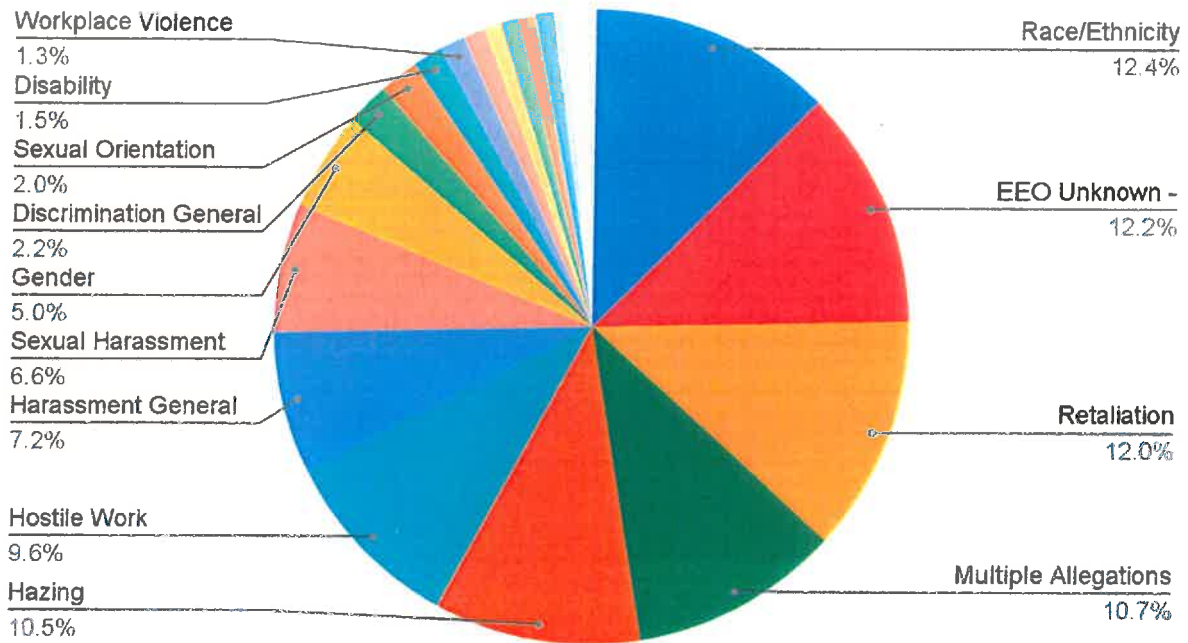
Analysis

- Although complaints based on race and ethnicity dominated, these cases significantly decreased beginning in 2016.



- The overall number of retaliation cases was high, but the Department witnessed a significant reduction after 2015.
- Cases in which multiple types of allegations were reported were highest in 2013, but have since fluctuated.
- Hazing allegations fluctuated by year, but the highest number was in 2019.
- Gender discrimination cases were highest in 2013, and then decreased over the remaining years.
- Sexual harassment cases have fluctuated over the years, but the highest number was in 2013.

CHART C: EQUITY ALLEGATIONS BY TYPE



EQUITY ALLEGATION TYPE	NO. OF CASES FILED
Race/Ethnicity	57
EEO Unknown - Referred to EEO Unit	56
Retaliation	55
Multiple Allegations	49
Hazing	48
Hostile Work Environment - NFI	44
Harassment General	33
Sexual Harassment	30
Gender	23
Discrimination General	10
Sexual Orientation	9
Disability	7
Workplace Violence	6
Sexual Assault	5
Age	4
Disparate Treatment	4
National Origin	4
Religion	4
Hostile Work Environment - Gender	3
Shunning	3
Hostile Work Environment - Race/Ethnicity	2
Hostile Work Environment - Religion	1
Inappropriate Statements	1
Weight <sup>8</sup>	1

<sup>8</sup> Although weight is a category provided in CTS for the Department to use when identifying the basis for complaints, weight is not a legally protected class.



**TABLE 2: EQUITY ALLEGATIONS BY TYPE AND YEAR**

<b>ALLEGATIONS BY EQUITY TYPE</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021 (through June 30)</b>
Age	2	0	0	0	0	0	0	2	0
Disability	1	3	2	0	0	0	0	1	0
Discrimination General	2	1	2	0	0	0	3	2	0
Disparate Treatment	3	1	0	0	0	0	0	0	0
EEO Unknown - Referred to EEO Invest Unit	3	16	25	3	0	2	1	4	2
Gender	11	4	2	0	1	4	0	0	1
Harassment General	6	8	4	1		2	5	4	3
Hazing	8	8	4	3	1	2	13	8	1
Hostile Work Environment - NFI	7	12	7	2	1	0	6	7	2
Hostile Work Environment - Gender	0	1	0	0	0	2	0	0	0
Hostile Work Environment - Race/Ethnicity	0	1	1	0	0	0	0	0	0
Hostile Work Environment - Religion	1	0	0	0	0	0	0	0	0
Inappropriate Statements	0	1	0	0	0	0	0	0	0
Multiple Allegations	13	8	6	2	0	8	9	2	1
National Origin	1	2	1	0	0	0	0	0	0
Race/Ethnicity	16	18	8	1	0	2	3	7	2
Religion	1	2	1	0	0	0	0	0	0
Retaliation	15	13	10	2	0	4	4	5	2
Sexual Orientation	3	1	2	0	1	1	1	0	0
Sexual Harassment	8	3	2	1	0	2	5	5	4
Sexual Assault	0	0	1	0	3	0	0	1	0
Shunning	0	1	2	0	0	0	0	0	0
Weight	0	0	0	1	0	0	0	0	0
Workplace Violence	1	3	2	0	0	0	0	0	0

c. Complainants and Subjects

1. Tables 3 and 4 show the overall numbers related to complainants and subjects.

**TABLE 3: GENDER OF COMPLAINANTS**

COMPLAINANT	NUMBER	PERCENTAGE <sup>9</sup>
Male	287	62.5%
Female	115	25.0%
Multiple	23	5.0%
Department	18	3.9%
Anonymous	16	3.5%

**TABLE 4: GENDER OF SUBJECTS**

SUBJECT	NUMBER	PERCENTAGE <sup>10</sup>
Male	340	74%
Female	41	9%
Department	29	6.35%
Unknown	28	6.15%
Multiple	21	4.65%

2. Table 5 shows the combinations of subjects and complainants.

Analysis

- Females complained against sworn males in 15% of the cases.
- Males complained against sworn males in 46% of the cases.
- Sworn males were subjects in 62% of the cases.
- Sworn females were subjects in 4% of the cases.

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<sup>9</sup> Percentage of the 459 EEO complaints in this audit's population.

<sup>10</sup> Id.

**TABLE 5: COMBINATION OF SUBJECTS AND COMPLAINANTS**

<b>SUBJECT</b>	<b>COMPLAINANT</b>	<b>NO. OF COMPLAINTS</b>
Sworn Male	Male	211
Sworn Male	Female	71
Unknown	Male	24
Civilian Male	Male	17
Sworn Female	Male	13
Sworn Male	Multiple	13
Sworn Male	Anonymous	11
Sworn Male	Department	11
Civilian Female	Female	10
Sworn Unknown	Male	8
Unknown	Female	11
Multiple	Female	7
Civilian Female	Male	6
Multiple	Male	6
Sworn Female	Female	6
Sworn Unknown	Female	6
Civilian Male	Female	4
Multiple	Multiple	4
Unknown	Male	4
Multiple	Department	3
Sworn Female	Anonymous	2
Sworn Female	Multiple	2
Civilian Female	Anonymous	1
Civilian Male	Department	1
Unknown	Anonymous	1
Unknown	Department	1
Multiple	Anonymous	1
Sworn Female	Department	1
Sworn Unknown	Multiple	1
Unknown	Department	1
Civilian Male	Multiple	1

- d. EEO Cases filed by Department Employees (Internal), External Complainants or Anonymous Complainants

**TABLE 6: CASES FILED BY INTERNAL, EXTERNAL OR ANONYMOUS COMPLAINANTS**

YEAR	INTERNAL	EXTERNAL	ANONYMOUS
2013	79	14	9
2014	87	6	15
2015	63	10	8
2016	13	2	1
2017	3	3	1
2018	26	2	1
2019	46	2	2
2020	44	3	1
2021 (through June 30)	12	5	1
<b>TOTAL</b>	<b>373</b>	<b>47</b>	<b>39</b>

Equity laws and policies, as confirmed by the DPPH, generally address the work environment and the way employees treat each other. However, there are instances when patients, hospital personnel, or other people with whom members come in contact during the course of their duties, allege that an LAFD employee engaged in behavior toward them that was discriminatory (racist, sexist, etc.) or harassing. For example, a patient may complain that they received substandard medical care because of their race. Or, a nurse at a hospital emergency room may allege she was sexually harassed by a member. For a number of years, the OIA has encouraged the Department to adopt a method to capture and track these cases in a manner that is separate from the general employee/workplace equity framework.

This report determined that 47 (10%) cases were filed by an external complainant. As mentioned above, without examining each complaint individually, the Department and OIA are unable to easily determine (using current categorization methods) which complaints and how many were filed by people outside the Department.

**RECOMMENDATION NO. 3:** The OIA recommends that the Department adopt a policy for categorizing complaints which include allegations based on protected classes made by non-LAFD employees.

e. EEO Categories by Disposition

Table 7 shows the disposition of equity allegations.

- Forty-three cases were sustained with discipline imposed; less than 10% of the 459 complaints filed.<sup>11</sup>
- Thirty-five cases (7.6%) were sustained without discipline (Sustained Non-Punitive).
  - Allegations were sustained in a total of 78 cases (17%).
- Seventeen cases were determined to be out of statute (3.7%).
- The investigation was still pending in 43 cases (9.7%).
- All the remaining cases were determined to be Unfounded, Not Sustained, or Exonerated.

**TABLE 7: DISPOSITION OF EQUITY CASES<sup>12</sup>**

EEO CATEGORY	Exonerated	Non-Disciplinary	Not Sustained	Out of Statute	Sustained Non-Punitive	Sustained	Unfounded	Case Still Open
Age	0	0	2	0	0	0	0	2
Disability	0	0	5	0	0	0	1	1
Discrimination General	0	1	7	0	1	1	0	0
Disparate Treatment	0	0	3	1	0	0	0	0
EEO Unknown - Referred to EEO Unit	1	6	24	2	8	5	7	3
Gender	0	0	18	2	0	2	0	1
Harassment General	0	2	19	3	2	2	0	5
Hazing	0	3	20	0	8	13	1	3
Hostile Work Environment - NFI	0	0	33	1	1	3	0	6
Hostile Work Environment - Gender	0	1	2	0	0	0	0	0
Hostile Work Environment - Race/Ethnicity	0	0	0	0	2	0	0	0
Hostile Work Environment - Religion	0	0	1	0	0	0	0	0

<sup>11</sup> Not all sustained cases were sustained as EEO cases. This is discussed further in Section 6.g.1.

<sup>12</sup> This represents the final adjudication of the case. It does not include whether the adjudication was related to the EEO allegation or not. Please see Section 6.g. for a discussion of sustained allegations.

EEO CATEGORY	Exonerated	Non-Disciplinary	Not Sustained	Out of Statute	Sustained Non-Punitive	Sustained	Unfounded	Case Still Open
Inappropriate Statements	0	1	0	0	0	0	0	0
Multiple Allegations	0	2	36	1	3	1	2	4
National Origin	0	1	2	1	0	0	0	0
Race/Ethnicity	0	5	36	1	4	4	1	6
Religion	0	0	4	0	0	0	0	0
Retaliation	0	1	43	3	0	2	1	5
Sexual Orientation	0	0	5	1	1	2	0	0
Sexual Harassment	0	2	11	1	4	5	0	7
Sexual Assault	0	0	3	0	0	0	2	0
Shunning	0	1	2	0	0	0	0	0
Weight	0	0	1	0	0	0	0	0
Workplace Violence	0	0	2	0	1	3	0	0
<b>TOTAL</b>	<b>1</b>	<b>26</b>	<b>279</b>	<b>17</b>	<b>35</b>	<b>43</b>	<b>15</b>	<b>43</b>
<b>PERCENTAGE</b>	<b>0.2%</b>	<b>5.7%</b>	<b>60.8%</b>	<b>3.7%</b>	<b>7.6%</b>	<b>9.4%</b>	<b>3.3%</b>	<b>9.4%</b>

f. Number of Sexual Harassment/Gender Discrimination Cases<sup>13</sup> and the Number of Women on the Department<sup>14</sup>

The Commission asked the OIA to examine whether the increase in the number of women on the Department, reflected a rise in the number of sexual harassment (and gender discrimination) complaints. Based on the data examined, no correlation exists.

Table 8 shows the number of cases filed annually since 2013 that contained one or more allegations of sexual harassment or gender discrimination, shown by the gender of the complainant.

Unlike Chart C and Table 2 (type of equity complaints) above, the information in Table 8 includes all cases that had one or more allegations related to sexual harassment or gender discrimination. For example, a case identified as having “multiple” allegations in the earlier charts was included in Table 8 as related to sexual harassment or gender discrimination, if one of the multiple allegations was sexual harassment or gender

<sup>13</sup> The OIA included cases that had a component of sexual harassment and/or gender discrimination in the initial allegations.

<sup>14</sup> This information was provided by the Department from Quarterly Diversity Reports.

discrimination. Table 8 provides a more comprehensive picture of complaints containing these allegations.

Table 9 shows the number of women on the Department each year since 2013.

- The total number of women on the Department has risen since 2015, with a slight dip in 2018.
- The number of sworn women on the Department has increased since 2013 with a slight dip in 2014 and 2015.
- The number of sexual harassment and gender discrimination complaints was highest in 2013 and 2014. Since then, they have fluctuated, but remain lower than in 2013 and 2014. However, it is possible the numbers may have risen again in 2021 based on the number of complaints from the first half of the year.

**TABLE 8: GENDER OF COMPLAINANT IN SEXUAL HARASSMENT/GENDER DISCRIMINATION CASES**

<b>NO. OF SEXUAL HARASSMENT/GENDER DISCRIMINATION CASES BY COMPLAINANT</b>						
<b>YEAR</b>	<b>FEMALE</b>	<b>MALE</b>	<b>MULTIPLE</b>	<b>ANONYMOUS</b>	<b>DEPARTMENT</b>	<b>TOTAL</b>
2013	11	8	0	0	1	20
2014	11	1	2	0	1	15
2015	2	2	0	0	0	4
2016	2	0	0	0	0	2
2017	4	1	0	0	0	5
2018	5	3	0	0	0	8
2019	7	1	0	0	0	8
2020	4	0	1	0	0	5
2021 (through 6/30)	3	2	1	0	0	6
<b>TOTAL</b>	<b>49</b>	<b>18</b>	<b>4</b>	<b>0</b>	<b>2</b>	<b>73</b>



TABLE 9: NUMBER OF WOMEN ON THE DEPARTMENT<sup>15</sup>

Year	No. of Sworn Women	Percentage of Department	Percentage of Sworn	No. of Civilian Women	Percentage of Department	Percentage of Civilians	Total No. of Women	Percentage of Department
2013	92	2.62	2.86	158	4.5	52.67	250	7.12
2014	91	2.6	2.83	149	4.24	50.34	240	6.84
2015	89	2.55	2.79	150	4.29	49.34	239	6.84
2016	93	2.59	2.87	157	4.37	45.11	250	6.96
2017	100	2.73	3.02	158	4.worst	44.89	258	7.05
2018	109	2.9	3.2	153	4.07	42.98	262	6.97
2019	119	3.14	3.49	155	4.09	41.67	274	7.24
2020	123	3.28	3.65	159	4.24	41.95	282	7.52
2021	115	3.41	3.48	157	4.65	45.11	272	7.46

#### g. Status of Sustained Cases

##### 1. Sustained Cases with Discipline

In all the cases discussed in this section, the Department's investigation determined, by a preponderance of the evidence, that at least one allegation was sustained and discipline was imposed.<sup>16</sup> However, the sustained allegations were not all EEO-related.

The Department engaged in a three-step process to determine whether EEO-related charges should be sustained and an EEO penalty imposed.

**STEP ONE:** The Department conducted an analysis of whether the misconduct met the standards in the DPPH. This analysis was articulated in the investigating officer's (I/O) report or in the adjudicator's (XO) report.

**STEP TWO:** The Department determined which section(s) of the Rules and Regulations were violated by the misconduct.

**STEP THREE:** Finally, if the misconduct was prohibited by the policies in the DPPH, the Department turned to the EEO-related penalty guidelines (or hazing penalty guidelines) to determine appropriate discipline. If it was decided the misconduct was not prohibited by the DPPH, but was misconduct nonetheless, the discipline was based on a non-EEO-related penalty guideline. Either way, the

<sup>15</sup> This information was gathered from the Department's Quarterly Diversity Reports.

<sup>16</sup> As mentioned above, there were 35 cases in which the allegations were determined to be true, but the Department decided the circumstances did not warrant discipline. Those cases were adjudicated, Sustained, Non-Punitive.

penalty guideline and discipline recommendations were presented in the XO's report.<sup>17</sup>

Importantly, the XO's report was the most reliable and accurate information related to EEO charges and penalties, creating a burdensome process by which one could determine how many and which cases contained a sustained EEO allegation.

Except for hazing cases,<sup>18</sup> the charges themselves did not always provide information as to whether the Department considered a case EEO or not. For example, in Case No. 31 below, the member was charged with making an inappropriate comment on-scene of an incident. From the language of the charge, it was impossible to determine whether it was EEO-related. However, the remark was sexual in nature and the Department correctly used an EEO guideline for determining the penalty.

The XO reports included the 1) sustained charge(s), 2) the section(s) of the Rules and Regulations violated by the misconduct, 3) the penalty guideline used to determine the penalty, and 4) the recommended penalty. Figures 1 and 2 below provide examples.

If the Fire Chief adopted the XO's recommendation, the member was served with charging documents (see Figure 3) that listed the section(s) of the Rules and Regulations violated and the charge(s). These documents do not indicate whether the Department determined a case to be an EEO violation.

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<sup>17</sup> In one case (Case No. 35), the XO's report did not include this information.

<sup>18</sup> Hazing policies, although unrelated to an individual's membership (or perceived membership) in a protected class, are addressed in the DPPH. Therefore, the OIA considered these EEO cases for purposes of this report. Similarly, the charges articulated in the penalty guidelines, also are unrelated to protected classes and are not grouped with the other EEO charges in the penalty guidelines. Nevertheless, the OIA considered these EEO cases and charges, because of their inclusion in the DPPH and the impact on members and the work environment.

FIGURE 1 - XO REPORT EEO CHARGE/PENALTY GUIDELINE:

<p><u>RECOMMENDATION</u></p> <p>It is recommended that a Pre-Disciplinary Hearing be held and that a 15-calendar-day suspension be considered for [REDACTED] violation of Sections 10(f), 10(h), 13(a), and 13(d) of the Rules and Regulations:</p>		<p>↓ PENALTY RECOMMENDATION</p>
<p>→ CHARGE</p>	<p><u>Charge No. 1</u> – Sections 10(f), 10(h), 13(a), and 13(d) In that he did on or about [REDACTED] physically and verbally harass fellow members by inappropriately touching them and making inappropriate comments to them.</p>	<p>← RULES AND REGULATIONS VIOLATED</p>
<p><u>PENALTY RATIONALE</u></p>		
<p>D8(B-E) Unwelcome touching, rubbing, or any type of physical contact and/or conduct toward other employees, which is sexually suggestive</p>		
<p>↑ EEO PENALTY GUIDELINE</p>		<p>(B) 6-10 day suspension (C) 11-15 day suspension (D) 16-30 day suspension (E) Board Of Rights</p>

FIGURE 2: XO REPORT NON-EEO CHARGE/PENALTY GUIDELINE:

<p><u>RECOMMENDATION</u></p> <p>It is recommended that Firefighter [REDACTED] receive an F-1104/Reprimand for violation of Section 10(f) and (h) of the Rules and Regulations:</p>		<p>↓ PENALTY RECOMMENDATION</p>
<p>→ CHARGE</p>	<p><u>Charge No. 1</u> – Section 10(f) and (h) In that he did, on various dates prior to [REDACTED] use inappropriate nicknames/comments towards other members.</p>	<p>← SECTIONS OF RULES AND REGULATIONS</p>
<p><u>PENALTY RATIONALE (First Offense)</u></p>		
<p>R3 (A-B) Violation of Department or City work rule or policy</p>		
<p>↑ NON-EEO PENALTY GUIDELINE</p>		<p>(A) Reprimand to 5-day suspension (B) 6-10 day suspension</p>

FIGURE 3: CHARGING DOCUMENTS

(Name)	(Rank)	(EID)	(S S N.)	(Assignment)
a regular member of the Los Angeles Fire Department, in detail as follows				
For violation of Sections 10(f), 10(h), 13(a), and 13(d) of the Rules and Regulations governing the Los Angeles Fire Department.				
Section 10.	All members shall:			
f.	Familiarize themselves with and be obedient to the rules, regulations, practice and procedures of the Department.			
h.	Be courteous and respectful in their relations with other members.			
Section 13.	All members shall:			
a.	Be governed by the ordinary and reasonable rules of behavior observed by law-abiding and self-respecting citizens, and no member shall commit any act tending to bring discredit upon the Department or its members.			
d.	Conduct themselves in a manner, which will not tend to impair the good order and discipline of the Department.			
<b>Charge No. 1 – Sections 10(f), 10(h), 13(a), and 13(d)</b>				
In that he did, on or about [redacted] physically and verbally harass fellow members by inappropriately touching them and making inappropriate comments to them.				

## 2. Differences between EEO Penalty Guidelines and Non-EEO Penalty Guidelines.

As mentioned above, in all of the cases discussed in this section, the member was disciplined. However, the discipline was not always based on the EEO-related penalty guideline. There are differences between the EEO-related and non-EEO-related penalty guidelines.

### a. EEO penalty guidelines can have a higher maximum penalty.

Of the 12 EEO-related penalty guidelines, 11 have a maximum penalty of a Board of Rights, even for a first offense. Although the minimum for all is a Reprimand (the lowest form of discipline possible), the range of discipline options is generally more robust than for non-EEO guidelines. When the Department engages in the penalty calculation, the resulting penalty will likely be higher when an EEO penalty guideline is used rather than a non-EEO-related guideline.<sup>19</sup>

### b. There is no time limit for using a prior EEO offense to increase the penalty for a subsequent EEO offense.

The penalty guidelines provide a range of discipline options for first, second, and third offenses. A second or third offense for the same misconduct results in a more severe penalty. However, for most offenses, a "prior offense" will be considered a prior offense for only five years from the first offense. This was negotiated between the Department

<sup>19</sup> As noted in Section 5.g., the penalty calculation begins at 1/3 of the penalty range for captains and below, and 1/2 when chief officers are involved.

and the employee bargaining unit at the time the guidelines were negotiated and agreed upon.

For EEO offenses, a “prior offense” can always be used. There is no time limit for considering the previous misconduct and increasing the penalty for the subsequent offense based on the previous conduct.<sup>20</sup>

### 3. Assessment of Whether Adjudications Were Analyzed in Accordance with EEO Policies

APPENDIX A shows the 43 sustained cases that resulted in discipline, and includes the original allegations, the sustained charge(s), whether the case was determined by the Department to be an EEO case, the original discipline imposed, and the final or current status of the case.

- Fifteen (of 43) were sustained as an EEO case (35%).
- Twenty-five were sustained, but not as EEO (58%).
- In three cases, the OIA was unable to determine whether the case was considered by the Department as EEO or not (7%).
  - In one case, the Department did not have any information about the charges.
  - In two others, the Department did not do an EEO analysis.

Employers have the right to discipline employees for unacceptable and inappropriate conduct that may not be against the law. Employers require employees to meet standards of conduct that reflect the values and expectations of the organization. When an employee deviates from these standards, an employer can discipline the employee, even if the misconduct does not violate the law. Employers have a legal obligation to prevent and stop unacceptable EEO-related behaviors.

The Department and the City have many policies which address conduct prohibited in the workplace that may not violate the law.<sup>21</sup> The DPPH is filled with examples of behaviors prohibited by LAFD; making derogatory comments, slurs, jokes, remarks, rumors, or epithets; displaying objects, cartoons, pictures or posters of a derogatory or discriminatory nature; and hazing of employees, to name a few. Further, the City’s discipline guidelines for civilian employees are also clear about conduct that will not be tolerated in the workplace, such as demonstrating insensitivity to others by making derogatory comments, epithets, jokes, teasing, remarks, or slurs; or making suggestive gestures, or displaying images or written material that derogatorily depict or demean people.

These acts are prohibited whether or not the circumstances under which they occur

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<sup>20</sup> There are some offenses in the penalty guidelines that have a ten-year time limit for using a prior offense. However, this does not apply to EEO cases.

<sup>21</sup> Effective March 30, 2022, the City adopted a new Workplace Equity policy.

violate the law.

However, when the Department analyzed misconduct in accordance with the DPPH (Step One), the Department failed to find EEO violations unless the misconduct was also forbidden by law. Examples are provided in Section 6.3.i. below.

This interpretation is erroneous. The results were that some cases of misconduct related to protected classes or hazing were not considered EEO violations, nor was an EEO penalty guideline considered for discipline (Step Two).

Comprehensive legal analysis is not required to determine that misconduct targeting a protected class is prohibited in the workplace, *and* should be addressed in accordance with EEO policies and penalty guidelines.

Furthermore, the Department and bargaining units, through great effort, negotiated, agreed upon, and created the penalty guidelines. The Department should be using the relevant guidelines when behaviors target protected classes.

Additionally, the City recently issued a new Workplace Equity Policy, along with Mayor Eric Garcetti's Executive Directive 34, elevating the City's commitment to diversity, equity and inclusion.<sup>22</sup> These policies took effect on March 30, 2022. The new policies have a number of provisions that are not currently in the DPPH, such as additional protected classes, bystander harassment, and abusive conduct/bullying. The OIA and the Department agree the DPPH is due for an update.

**RECOMMENDATION NO. 4:** Revise the Department's DPPH to reflect the City's updated policies and laws.

The City's civilian guidelines do not require any legal analysis. The prohibited activities are articulated and the penalty range provided. For example:

*Demonstrating insensitivity to others by making derogatory comments, epithets, jokes, teasing, remarks, or slurs, or making suggestive gestures or displaying images or written material that derogatorily depict or demean people.*

*FIRST OFFENSE: 5-day suspension to discharge.*

*SECOND OFFENSE: Discharge.*

Further, the Department reported that when analyzing penalties in discipline cases, the most serious penalty guideline is selected. However, the cases discussed below show a different tactic, using a less serious penalty guideline than the EEO guidelines.

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<sup>22</sup> <https://www.lamayor.org/photo-release-mayor-garcetti-signs-executive-directive-34-deepening-citys-commitment-workplace>. Accessed April 28, 2022.

Using the EEO guidelines with higher penalties, not only results in more significant discipline, it also sends a message to the perpetrators and the rest of the Department that EEO-related misconduct is taken seriously and will command the most severe penalties. Failing to discipline in accordance with the EEO penalties dilutes the discipline and the message.

*a. Cases the Department Did Not Consider As EEO-related*

<b>Case No. 12<sup>23</sup></b>
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A firefighter was charged with making an inappropriate remark for using the acronym “BFZ,” meaning Black Free Zone and/or Brother Free Zone during two separate conversations with two different African American firefighters (FFs).<sup>24</sup> This was not considered an EEO case. The XO reasoned that this did not meet the criteria for an EEO case because, among other things, the African American FFs did not provide evidence that the comment impacted their ability to perform their work, or obtain scheduled overtime duty (SOD) days or trade days (the legal standard). However, this is not the standard for applying the DPPH.

The subject was served with a 10-day suspension, the maximum penalty for the guideline used (G1: Figure 4). If the Department had used the more serious EEO penalty guideline (D6: Figure 5), then ostensibly, the penalty would have been more severe given the Department's usual calculation and analysis (see Definitions in Section 5.g.).

The member requested a Board of Rights, the suspension dates were rescinded<sup>25</sup> and the BOR hearing has been pending for seven years.<sup>26</sup>

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<sup>23</sup> Case numbers refer to the chart of sustained cases in Attachment A.

<sup>24</sup> Two charges were also sustained against the firefighter for giving false or misleading statements during the investigatory interview.

<sup>25</sup> Suspension dates are rescinded when a member requests a hearing before a Board of Rights. See Section 6.h.1. for a further explanation of the process.

<sup>26</sup> The subject was also recently promoted.



FIGURE 4 - NON-EEO PENALTY RANGE

<u>PENALTY RATIONALE</u>		
G1:(A-B)		
Improper remark/abusive language/gesture directed to fellow Department member	(A)	Reprimand to 5-day suspension
	(B)	6-10 day suspension

FIGURE 5 - EEO PENALTY RANGE

<u>PENALTY RATIONALE</u>	
D6 Used derogatory term to Department member in violation of EEO policies * A-E	
A - Reprimand to 5 Day Suspension	
B - 6 – 10 day suspension	
C - 11–15 Day Suspension	
D - 16–30 Day Suspension	
E - Board Of Rights (Suspension–Termination)	

**Case No. 32**

The subject admitted to calling co-workers by nicknames the subject gave them. Some of these nicknames were based on the race, or ethnicity of the member. For example, Hispanics were called "Telemundo," "Fat Mexican," and "Little Chihuahua." African American coworkers were called "Darkness." The investigation found that this occurred *more than 10 times* [emphasis added]. Although the allegations were sustained, the Department did not assess the penalty in accordance with an EEO penalty guideline. Rather, the penalty was determined using the guideline for violating a Department or City work rule or policy. The subject was given the lowest penalty, a Reprimand.

In the investigator's EEO analysis, they said, "though there is sufficient evidence that some [nicknames] were directed at members' protected classes, the investigation found insufficient evidence that any of the recipients or witnesses to the nicknames found them hostile, intimidating or offensive;"<sup>27</sup> concluding that the conduct might not rise to the level of a hostile work environment, the legal standard. However, the reactions of recipients and/or witnesses does not change the standards or DPPH policy.

The subject was charged with one count of violating a Department or City work rule, a non-EEO Guideline; R3 (Figure 6). Although the subject used the nicknames on at least 10 occasions, and toward at least seven different members, the Department charged the

<sup>27</sup> The anonymous complainant in this case explicitly said that the nicknames were creating a hostile work environment.

subject with only one charge. The Department also failed to consider the 10 occasions as aggravating circumstances to increase the penalty (for that one charge) beyond the minimum.

If the Department had engaged in the appropriate calculation using the EEO guideline, the subject would have received more than a reprimand for the misconduct.

**FIGURE 6: NON-EEO PENALTY GUIDELINE:**

<u>PENALTY RATIONALE</u> (First Offense)		
R3 (A-B) Violation of Department or City work rule or policy	(A)	Reprimand to 5-day suspension
	(B)	6–10 day suspension

**FIGURE 7: EEO GUIDELINE:**

<u>PENALTY RATIONALE</u>	
D6	Used derogatory term to Department member in violation of EEO policies * A-E
A - Reprimand to 5 Day Suspension	
B - 6 – 10 day suspension	
C - 11–15 Day Suspension	
D - 16–30 Day Suspension	
E - Board Of Rights (Suspension–Termination)	

**RECOMMENDATION NO. 5:** The OIA recommends that the Department use the EEO penalty guidelines in all cases that include sustained allegations implicating protected classes and/or hazing and horseplay.

*b. Cases in which the Department did not conduct an EEO analysis or the analysis was incomplete.*

In these cases, the Department either did not conduct an EEO analysis or the analysis was incomplete, and the Department did not consider them equity cases.

**Case No. 36**

The investigation determined, by a preponderance of the evidence, that a captain recorded a video of a female probationary firefighter (PFF)<sup>28</sup> struggling during a ladder

<sup>28</sup> After graduating LAFD's recruit academy, new firefighters are on probation for 12 months, during which they rotate through three fire stations.

drill, and inappropriately shared the video with the crew and others on the Department. The video was accompanied by a text saying, "Everyone has something to learn, even the guy filming it, no shots fired, just good learning. Thanks for the hard work..." The PFF said she was embarrassed by this and felt betrayed and was afraid to report the incident for fear of earning a bad reputation.<sup>29</sup>

The adjudicator appropriately recognized that the captain's behavior was not meant as a legitimate training exercise, noting "This type of conduct by an officer brings no value to creating a cohesive and professional working environment and can give way to hearsay and tarnishing other members' reputation." The subject was charged with forwarding and sharing the video which created a disruptive work environment and impaired the good order of the Department.

A second charge in the case was also sustained; that the same captain sent a text message to the crew with a photo of a person who appeared to be of Asian descent with numerous deceased dogs, some hanging from strings attached to a pole. The captain added the word "yum" to the text message. According to the Urban Dictionary, it is derogatory to say that people of Asian descent eat dogs.<sup>30</sup>

The subject was served with a four-day suspension and asked for a hearing before a Board of Rights. The suspension dates were rescinded. The member has yet to serve the suspension and the Board of Rights has been pending for two years.

In the XO report, the adjudicator wrote, "There was no EEO component to this case."

The OIA believed this to be an EEO case, and identified several sections of the DPPH that applied to this case. None were considered by the Department for analysis.

For the photo:

- Displaying objects, cartoons, pictures or posters of a derogatory or discriminatory in nature are examples of discrimination.
- Displaying, transmitting, sharing or forwarding Internet materials or materials shared through any device including cell phones, which are discriminatory and/or offensive in nature.
- Responsibilities of managers (supervisors): Managers and supervisors are expected to perform their duties in a manner that fosters a professional and discrimination-free workplace and will be held accountable for maintaining such an environment.
- The DPPH includes the City's Discrimination Free Workplace Policy. It states, "All employees and non-employees are responsible to NOT engage in any discriminatory activities while in the workplace, including, but not limited to... cartoons or images that derogatorily depict or describe differences associated

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<sup>29</sup> The incident was reported by a member to whom the captain showed the video and who was not part of the crew.

<sup>30</sup> <https://www.urbandictionary.com/define.php?term=DOG%20EATER>, accessed November 22, 2021.

with..., nationalities. Employees who are found to be participating in this type of activity at work will be disciplined for violating City affirmative action/equal employment opportunity policies.”

For the video:

- Hazing: Any action taken or situation created in the workplace, which causes or is likely to cause ... personal degradation or disgrace resulting in physical or mental harm to another employee... Some examples of conduct that may constitute hazing, when used to ... ridicule, ... embarrass, cause undue stress or humiliate the participant. Hazing also includes activities meant to demean members when they make mistakes.

The Department assessed the penalty, a four-day suspension, by applying the penalty guideline “Improper remark/abusive language/gesture” (G1). The penalty range is reprimand to 10-day suspension. Had the Department determined this to be an EEO case and used an EEO penalty guideline, such as “Displayed inappropriate photos/cartoons, books, magazines, etc. in the workplace” (D10), the maximum penalty would have been a Board of Rights. Using the Department’s penalty calculation, it is likely the subject would have received a higher penalty.

<b>Case No. 35</b>
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A tenured member yelled at and directed profanity toward a probationary firefighter on multiple occasions; specifically calling the PFF a “fucking idiot and a worthless piece of shit.” The XO conducted an EEO analysis and determined this did not create a hostile work environment. However, the Department failed to determine whether this was hazing. The complainant said he felt bullied by the subject. The subject admitted he told the PFF, “When I tell you to fucking do something, do it.”<sup>31</sup>

The subject was charged with acting in an uncivil and unprofessional manner when the subject scolded, yelled, and directed profanity toward the PFF on multiple occasions. The subject was given a reprimand.

This case should have been considered hazing and the Department should have assessed the penalty accordingly. Hazing is defined in the DPPH as “any action taken or situation created in a workplace, which causes or is likely to cause bodily danger, physical harm, or personal degradation or disgrace resulting in physical or mental harm to another member... Hazing consists of a broad range of behaviors or activities that demonstrate disregard for another person’s dignity or well-being...” An example of hazing provided in the DPPH is “Verbally addressing any member in a demeaning manner.” The PFF said that they felt embarrassed and belittled by the subject’s actions. They also said they felt “kinda” bullied and like they were being scolded. The maximum penalty for hazing is a 15-

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<sup>31</sup> Although the charges were sustained in this case, the XO’s report did not indicate which statements were found to be true (proved by a preponderance of evidence) in the investigation.

day suspension. Using the Department's usual calculation, this case should have resulted in more than a reprimand.

Furthermore, the XO's report did not articulate the penalty guideline which was used to determine the discipline in this case.<sup>32</sup> However, since the subject was given a reprimand, the lowest penalty, it was evident that the Department did not consider "multiple occasions" as an aggravating factor, whatever the penalty guideline that was used.

#### **Case No. 30**

There were two separate allegations related to inappropriate comments a member directed toward a probationary firefighter on two different days; "Hey Cap, this is the worst rookie in the City," and "This is the worst rookie in the LAFD." The Department adjudicated one allegation only, and never addressed the other. The behavior was not considered hazing.<sup>33</sup>

In their report, the investigator discussed the possibility that this was a case of hazing, but left it to the adjudicator to decide. The adjudicator said that the investigator had analyzed the hazing issue, but that was not true. As a result, there was no analysis of whether the PFF was hazed.

The Department sustained one allegation for improper remark/abusive language/gesture directed to a fellow Department member; a non-EEO charge accompanied by a non-EEO related penalty. The subject was given a written reprimand and requested an appeal. The reprimand was eventually dismissed as part of the deal with the unions to implement an appeals process (see the discussion in Section 6.h.).

#### **Case No. 42**

A male recruit allegedly said to a female probationary firefighter (PFF), "Not to be rude, but female firefighters have it way easier on probation." A short time later, he also made the comment to her, "When you get off probation, don't be a dick year and a day firefighter." The subject was charged with making inappropriate and unprofessional comments to [a PFF]. This was not considered an EEO case. In a memo to the Fire Chief, the Commanding Officer of PSD said that the case had been forwarded to the EEO coordinator for analysis, but no analysis was in the file. The subject, a recruit, resigned in lieu of termination.<sup>34</sup>

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<sup>32</sup> It was clear that hazing was not considered, since all cases in this audit that resulted in a charge for hazing specifically stated this in the charge.

<sup>33</sup> According to the DPPH, hazing includes "verbally addressing probationary members in a demeaning manner."

<sup>34</sup> A recruit has fewer protections than tenured firefighters when being investigated and/or disciplined for misconduct. The Department has more leeway to terminate employment without the robust due process

#### 4. Original Discipline Rarely Imposed

APPENDIX A shows the original discipline and final status of the 43 sustained cases.

- Subject members accepted the original discipline in 10 sustained cases (23%). This included a member who accepted an early settlement agreement and another who resigned in lieu of termination. In all other cases, the discipline was reduced or never imposed on the member.<sup>35,36</sup>
- In nine sustained cases (21%) in this report, the member received a reprimand and asked for an appeal. The Department reported that these reprimands were eventually dismissed, because, at the time, the Department did not have an appeal process for reprimands. Once the appeal process was finalized with the unions, the reprimands that were pending were dismissed as part of the agreement to move forward.<sup>37</sup>
- A settlement agreement was executed in 10 cases (23%), reducing the original discipline in exchange for Education-Based Discipline (EBD); a process agreed upon by the OIA and approved by the BOFC.
- In another 10 cases (23%), the member requested a hearing before a Board of Rights. In those cases, the suspension dates were rescinded and the member either retired before the hearing commenced,<sup>38</sup> or the case is still pending. Therefore, discipline was never imposed.

##### a. Original Discipline Not Imposed or Not Yet Imposed

- In 67% of sustained cases, the original discipline was not or has not been imposed.
- When settlement agreements were removed from this population, the original discipline was not or has not been imposed in 63% of sustained cases.<sup>39</sup>
- When cases with reprimands were removed from the population, discipline was not or has not yet been imposed in 30% of sustained cases.
  - In two remaining cases, the discipline was never decided. In one case, the subject retired before discipline was decided, and in the second, the Department has no record of the case beyond sustaining the allegations.

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rights afforded tenured members. Therefore, resignations in lieu of termination are common, saving the recruit the embarrassment and future ramifications of termination.

<sup>35</sup> In one case, the Department was unable to locate any information related to discipline.

<sup>36</sup> One case was dismissed because the Department determined a due process violation had occurred. The OIA disagreed with this determination and discussed this in a previous report, BFC No. 17-050.

<sup>37</sup> The Department reported that, overall, approximately 50 reprimands were dismissed as part of the agreement with the unions.

<sup>38</sup> In one case, the Department executed an unenforceable settlement agreement because the member retired before signing the agreement.

<sup>39</sup> This includes one case in which the member was directed to a BOR, but retired before the BOR commenced.

- Five of the 43 sustained cases are awaiting a BOR hearing (11%). The oldest has been pending for seven years.<sup>40</sup>

b. Hearings Pending a Hearing Before a BOR

For years, this office has been writing about pending Boards of Rights hearings; the large number and the length of time it takes for the Department to initiate the selection process<sup>41</sup> and convene a hearing.

Pursuant to the City Charter, when the Department seeks to discipline a member by suspending the member without pay, the member has a right to appeal their discipline at a hearing before a BOR. When the Department decides to impose discipline in the form of suspension days, the member is served with documents detailing the discipline. The information includes the dates the member is to be suspended (see Figure 8).

**FIGURE 8: SUSPENSION DOCUMENT**

By virtue of the power and authority conferred upon me by Section 1060 of the Charter of the City of		
Los Angeles, I hereby suspend you from duty in your position of	<u>Firefighter III</u>	
in the Los Angeles Fire Department, with a loss of pay for a period of	<u>two (2) working days</u>	
effective beginning at	<u>May 3, 2015</u> (Date)	<u>0800 Hours</u> (Time)
ending at	<u>May 4, 2015</u> (Date)	<u>0800 Hours</u> (Time)

Once a member exercises their right to appeal the discipline by requesting a hearing before a BOR, the Fire Chief's practice has been to rescind the suspension dates, freeing the subject member from discipline until the BOR hearing, which may be years in the future. Furthermore, the years-long delays are depriving members of their rights provided by the Charter. But, because the member avoids discipline while the hearing before the BOR is pending, there is no incentive for the member to demand the hearing be held. The Department's failure to conduct hearings within a reasonable time frame, often results in no discipline actually being imposed and may incentivize members to request a hearing before a BOR, merely to delay imposition of penalties.

The current process can particularly motivate members who are close to retiring to request a hearing before a BOR. This affords them the opportunity to "wait it out" until they retire, forever avoiding discipline. This occurred in three cases<sup>42</sup> in this audit's

<sup>40</sup> This does not take into consideration any other cases awaiting a BOR hearing that were not part of this audit.

<sup>41</sup> The selection of the members of the BOR is governed by the Charter and begins a Charter-mandated timeline for the hearing to begin.

<sup>42</sup> Two cases (involving one member) were consolidated.



population. Arguably, this does not discourage misconduct in more tenured members, knowing they may never be held accountable for their actions.

The City Charter states,

“[i]n the event the member files an application for a hearing before a Board of Rights as provided in this section, the suspension *shall automatically become a temporary relief* from duty pending hearing and decision by the Board of Rights...”<sup>43</sup> (emphasis added)

The Fire Chief then has the option to:

“Cancel such temporary relief from duty, or following such relief from duty, restore the member to duty with or without restrictions pending a hearing before a Board of Rights.”<sup>44</sup>

The Charter *requires* that once a member requests a hearing before a BOR the suspension becomes a temporary relief from duty. Therefore, the Fire Chief should relieve that member from duty (without pay) for the period of time equivalent to the number of suspension days imposed. Once that period of time is over, the Fire Chief can cancel the temporary relief from duty, restore the member to duty (with or without restrictions), and then hold the BOR hearing when ready.<sup>45</sup>

Alternatively, the Department must conduct BOR hearings in a timelier manner. An argument can be made that the Charter actually requires that a BOR be chosen at the time the member appeals the discipline; triggering the timelines in the Charter to commence the hearing (between five and ten days from when the BOR is chosen). Therefore, hearings before BORs would commence within approximately 15 days after the member is served with discipline.<sup>46</sup> Reportedly, the Department does not have the personnel to be able to meet these timelines.

**RECOMMENDATION No. 6:** The OIA recommends the Fire Chief implement Charter Sections 1060 b.2 and b.3 and relieve members from duty for the number of days equivalent to the suspension, then return the member to duty to await the hearing before a BOR.

Timely discipline serves important interests in a Fire Department.

“Discipline is used to maintain appropriate conduct in the work

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<sup>43</sup> Charter Section 1060(b)(2).

<sup>44</sup> Charter section 1060(b)(3).

<sup>45</sup> If the subject prevails at the BOR hearing, or the BOR decides to impose fewer suspension days than originally imposed, the subject is entitled to back pay for the time spent relieved from duty without pay.

<sup>46</sup> The Charter requires that a member request a hearing before a BOR within five days of being served with discipline. If the BOR was chosen at or around that time, a hearing must convene no more than 10 days from when the BOR is selected.

environment. . . When a firefighter is not disciplined for an infraction of the rules, he or she quickly learns that this rule, and possibly others, are not important: there is no consequence for disobeying. This leads to flaunting authority and freelancing. Other firefighters who have continued to obey the rules begin to feel discriminated against, questioning whether they would have been disciplined in the same situation. In addition, they have been shown that following the rules doesn't matter, and their motivation to continue to do so has been greatly decreased. Respect for rules – and for officers – begins to diminish. These departments develop low morale and low performance standards.”<sup>47</sup>

Further, Justice Powell, in his concurring decision in *Arnett v. Kennedy*, 416 U.S. 134, 168 (1974), said, “Prolonged retention of a disruptive or otherwise unsatisfactory employee can adversely affect discipline and morale in the workplace, foster disharmony, and ultimately impair the efficiency of an office or agency.”

The length of time it takes to bring final resolution to cases, and retirements before discipline is imposed, give the appearance that individuals who engage in misconduct are not being held accountable. This sentiment was evident in the recent LAFD Current State Organizational and Training Assessment conducted by Deloitte. BFC No. 21-126, Highlighted in the study was this quote:

*“Do a better job holding members accountable for their actions. The lack of accountability is a large source of conflict within individual stations.”*

In 2016, the OIA made the same recommendation related to relieving members from duty who were suspended.<sup>48</sup> At that time, the Department faced a backlog of 56 cases that were awaiting a hearing before a BOR. Many were settled or dismissed<sup>49</sup> and the Department reduced the number down to approximately 20. Since then, that number has been relatively consistent. However, as a result of the vaccine mandate, the number of pending hearings before BORs will potentially increase to more than 40. Indeed, there are cases that have been waiting for a hearing before a BOR for almost ten years.

The extraordinary length of time it takes the Department to convene hearings also impacts cases in which the member was directed to a hearing before a BOR. These are the most serious cases. This was evident in Case No. 40, in which the member was charged with committing many acts of sexual harassment and was directed to a BOR hearing by the Fire Chief. The member retired as the hearing was about to convene. While he was waiting for the Department to convene the BOR hearing (approximately one year) he remained in the field, working. He was briefly (30 days) detailed out of his regular assignment and sent to another station until the probationary firefighter finished her

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<sup>47</sup> Grant, Nancy, Ph.D. and Hoover, David, Ph.D., *Fire Service Administration*, National Fire Protection Service (1994) 179-181.

<sup>48</sup> BFC No. 16-015.

<sup>49</sup> The OIA assessed the way the Department handled these cases in BFC No. 17-050.

rotation at his regularly assigned station. Then he was returned to his regular assignment. Throughout, he remained working in the field until he retired.

The Department never had the capacity to handle the large number of pending BOR hearings and may never be able to without additional resources. The OIA is renewing its previous recommendation to relieve members from duty once they opt for a BOR. If the Department is serious about using discipline to modify behavior, then members should actually be disciplined. Furthermore, this will send a message to members that when misconduct results in discipline, the Department actually believes in that discipline and will enforce it at the time the discipline is given. The current situation does not instill confidence in the discipline system because it does not hold people accountable for failing to uphold the standards required for members of the Department.

Members retain their right to appeal suspensions through the BOR hearing process. However, if members serve their suspension immediately, this would remove any incentive members may have to request a BOR hearing solely to defer (or avoid entirely) the discipline.

Furthermore, the Department has several programs which help to foster an environment of accountability; Mediation, Early Resolution Settlement Agreements, and other settlement agreements. These initiatives also will increase accountability on the Department.

#### i. Designating Cases as "EEO Sustained" or "EEO Not Sustained" in CTS

As mentioned above, the only way to make an accurate assessment of whether or not a case contained a sustained EEO allegation was to review the XO report. One reason for this was because the Department was not consistently nor accurately marking cases as "EEO Sustained" in CTS. While there is a simple "check the box" function in the system, the Department is not using this or is marking cases incorrectly.

The OIA identified 23 cases in which the box in CTS was not marked and one case in which the wrong box was checked (Case No. 9). In that case, the Department sustained the EEO allegation, but marked it as "EEO Not Sustained." Also, hazing cases are not consistently marked as EEO cases, whether sustained or not. The OIA believes that since hazing is addressed in the DPPH and is a workplace environment issue, it is and should be considered EEO.

**RECOMMENDATION NO. 7:** The OIA recommends the Department consistently and accurately mark the EEO Sustained or EEO Not Sustained boxes in CTS, including in hazing cases.

This is a critical component for enabling the Department and OIA to gather reliable statistics from CTS.

## 7. RECOMMENDATIONS

The OIA recommends that the Department:

1. Configure CTS to capture and automatically populate the race, gender, and rank of employees (subjects, complainants and witnesses).
2. Ensure (and train members to use) the function in CTS for the "Person Completing this Form" is available and is used for every complaint. It should also capture and automatically populate the race, gender, and rank of employees.
3. Adopt a policy for categorizing complaints made by non-LAFD employees, which include allegations based on protected classes.
4. Revise the Department's DPPH to reflect the City's updated policies and laws.
5. Use the EEO penalty guidelines in all cases that include sustained allegations implicating protected classes and/or hazing and horseplay.
6. Implement Charter Section 1060 and discontinue the practice of revoking suspension days when members request a hearing before a Board of Rights.
7. Consistently and accurately mark the EEO Sustained or EEO Not Sustained boxes in CTS, including for hazing cases.

# **ATTACHMENT A**

Case No.	Original Complaint	Charge(s) as written by the Department	EEO Penalty Guideline?	Original Discipline	Sustained Allegation EEO?	EEO Disposition in CTS?	BOR Requested?	Final Discipline
<b>Case No. 1</b>	Member felt threatened when another member displayed dangerous behavior (including waving, pointing, slashing, slicing, thrusting and cutting motions) towards him with knives.	Subject engaged in an act of hazing or horseplay.	Yes	Four-day suspension	Yes Hazing	Yes	No	Four-day suspension

Case No.	Original Complaint	Charge(s) as written by the Department	EEO Penalty Guideline?	Original Discipline	Sustained Allegation EEO?	EEO Disposition in CTS?	BOR Requested?	Final Discipline
<b>Case No. 2</b>	Complainant alleged more than 20 incidents of cigar smoking at the fire station. Also, gambling and creating a negative divisive culture between firefighters (FF) and paramedics.	Two subjects were charged with violating the Department's prohibition against using tobacco.	No	Both subjects were given a Reprimand	No	No	N/A <sup>50</sup>	Reprimands Dismissed
<b>Case No. 3</b>	Complainant alleged a member said "The President [Obama] needs a bullet in his head."	Subject made an improper remark when stating, "The President needs a bullet in his head," referring to President Barack Obama.	No	Reprimand	No	No	N/A	Reprimand dismissed.

<sup>50</sup> A Reprimand cannot be appealed through the BOR process.

Case No.	Original Complaint	Charge(s) as written by the Department	EEO Penalty Guideline?	Original Discipline	Sustained Allegation EEO?	EEO Disposition in CTS?	BOR Requested?	Final Discipline
<b>Case No. 4</b>	Two firefighters were involved in horseplay which ended in a minor injury to one.	Subject participated in an act of hazing or horseplay and was injured.	Yes	12-day suspension	Yes Hazing	No designation	Yes	Settlement Agreement
<b>Case No. 5</b>	A member was engaged in improper behavior, foul language and was insubordinate with a supervisor.	Subject was charged with discourteous conduct and inappropriate remark for calling a supervisor "asshole."	No	Notice to Correct	No	No designation	N/A <sup>51</sup>	Notice to Correct

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<sup>51</sup> This was a civilian member. Civilians do not have a right to a BOR. There is a different appeals process for them. This member did not appeal the discipline.



Case No. 6	<p>Complainant alleged that the subject boiled water, then placed a metal meat thermometer in the boiling water, removed it after heating it, walked to the complainant and pressed it against complainant's neck. Complainant alleged the subject was holding the thermometer and laughing. Earlier, another subject had pressed a sharp knife to complainant's hand and back of complainant's neck. Other members who were present confirmed the complainant had been burned by the thermometer. Complainant further alleged that the first subject exhibits unprofessional behavior, displays favoritism, makes poor decisions, and borders incompetence.</p>	Subject participated in an act of hazing or horseplay and set a bad example for subordinates when participating in an act of hazing or horseplay in front of subordinates.	Yes	20-day suspension.	Yes Hazing	EEO Sustained	Yes	Settlement Agreement
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Case No.	Original Complaint	Charge(s) as written by the Department	EEO Penalty Guideline?	Original Discipline	Sustained Allegation EEO?	EEO Disposition in CTS?	BOR Requested?	Final Discipline
<b>Case No. 7</b>	In the midst of a conflict between members, the subject allegedly said, "oh nice, you are picking on the white guy." And then, "there are two Mexican guys and a black guy."	Subject was charged with making an inappropriate remark that was offensive and referenced other members' race and national origin with no job-related purpose.	No	Reprimand	No	EEO Not sustained	N/A	Reprimand dismissed
<b>Case No. 8</b>	While engaging in horseplay, one member put another in a chokehold, causing the member to lose consciousness and choke on food.	Subject placed another member in a chokehold in an act of horseplay, rendering that member unconscious.	Yes	13-day suspension	Yes Horseplay (hazing)	No designation	No	13-day suspension

<b>Case No. 9</b>	Member A alleged that the subject grabbed or touched his buttocks. Member B alleged the subject grabbed or slapped his buttocks and did it again later the same day, after Member B told the subject to stop. Later the same evening while Member A was in bed, subject began rubbing Member A's head and asking if Member A needed to be "tucked in" and if Member A needed a kiss.	Subject physically and verbally harassed other members by inappropriately touching them and making inappropriate comments.	Yes	15-day suspension	Yes	EEO Not sustained	Yes	Case dismissed - Skelly Violation <sup>52</sup>
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<sup>52</sup> The OIA believed the remedy in this case should not have been dismissal.

Case No.	Original Complaint	Charge(s) as written by the Department	EEO Penalty Guideline?	Original Discipline	Sustained Allegation EEO?	EEO Disposition in CTS?	BOR Requested?	Final Discipline
<b>Case No. 10</b>	It was alleged the subject said, "Try not to pull your hair out when I bend you over."	Subject made the following statements to another member: "Try not to pull your hair out when I bend you over," and, "You'll be pulling your hair out when I bend you over."	Yes	4-day suspension	Yes	EEO Sustained	Yes	Unenforceable Settlement Agreement - signed after subject retired.
<b>Case No. 11</b>	Complainant alleged the subject harassed, hazed and retaliated against him when the subject announced that the complainant did not know how to read numbers.	Subject made an inappropriate remark.	No	Reprimand	No	No designation	N/A	Reprimand dismissed

Case No. 12	<p>It was alleged that the subject told an African American firefighter that the subject was surprised to see the member working there because it was a "BFZ" Black or Brother Free Zone. The subject allegedly said this to a second African American member on a separate occasion. The complaint alleged that the fire station where the subject worked prided itself on not having African American members.</p>	<p>Four charges:  Subject made an inappropriate remark when he used the acronym "BFZ" and/or the term "Black Free Zone, or "Brother Free Zone" toward two other [African American] members.  Subject made false or misleading statements about each incident during the investigatory interview.</p>	No	10-day suspension	No	EEO Not sustained	Yes	Board of Rights hearing pending (seven years).
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Case No. 13	<p>Complainant alleged that subject behaved in a "threatening, harming and bullying" manner. Subject allegedly self-assigned a specific parking space and humiliated members who did not abide by this parking mandate; subject took this parking space to park a personal RV/Motorhome; that subject humiliated and belittled members, created a hostile work environment, abused authority, made false statements, made threats of retaliation, engaged in conduct unbecoming an officer, and inappropriate behavior.</p>	<p>Subject abused authority as a supervisor by making improper and abusive remarks and threatened members during line-up, and engaged in conduct unbecoming an officer when singling out a member during a meeting by directing certain comments to the member, and blocked the personal vehicle of a member preventing the member from leaving the station, and blocked the personal vehicle of another member.</p>	No	Eight-day suspension	No	No designation	Yes	Settlement Agreement
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Case No. 14	<p>Member A put a hand on Member B's shoulder and another hand on Member B's arm (apparently in a joking manner, as if to wrestle). Member B spun Member A around into a chokehold for 15 minutes and Member A went limp in an effort to get Member B to release. When Member A stood up, Member B allegedly said, "I don't do that shit. Don't touch me" or something along those lines. Member B also said he had done this before and broke a guy's tooth. Member A complained of some pain in his neck.</p>	Subject engaged in an act of hazing or horseplay.	Yes	Two-day suspension	Yes	No designation	Yes, but the request was denied because it was untimely.	Two-day suspension
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Case No.	Original Complaint	Charge(s) as written by the Department	EEO Penalty Guideline?	Original Discipline	Sustained Allegation EEO?	EEO Disposition in CTS?	BOR Requested?	Final Discipline
<b>Case No. 15</b>	Two members engaged in a physical altercation on duty.	Two subjects. First subject charged with engaging in a verbal altercation with another member, and engaging in a physical altercation with another member.  Second subject charged with acting in an inappropriate manner when engaging in an argument with the first subject.	No	Two subjects  Subject one: 11-day suspension.  Subject two: Reprimand	Workplace violence	No designation	Yes	First subject: Settlement Agreement  Second subject: Reprimand dismissed.



Case No.	Original Complaint	Charge(s) as written by the Department	EEO Penalty Guideline?	Original Discipline	Sustained Allegation EEO?	EEO Disposition in CTS?	BOR Requested?	Final Discipline
Case No. 16	It was alleged that the subject has a problem with anger and displayed aggression on several occasions.	Two subjects. First Subject charged with engaging in a verbal altercation with another member, engaging in a physical altercation with another member, making an inappropriate comment when calling another member a "little bitch."  Second subject charged with engaging in a verbal altercation and engaging in a physical altercation.	No	Two subjects Subject one: Two-day suspension. Subject two: Two-day suspension.	Workplace Violence	No designation	N/A	Both subjects: The Department reconsidered the discipline. Suspension days rescinded. Replaced with a Reprimand.

Case No.	Original Complaint	Charge(s) as written by the Department	EEO Penalty Guideline?	Original Discipline	Sustained Allegation EEO?	EEO Disposition in CTS?	BOR Requested?	Final Discipline
<b>Case No. 17</b>	It was alleged that the subject humiliates and belittles members in an offensive and intimidating manner and that there is violence in the workplace.	Subject charged with improperly accusing a member of going home sick when the member had been detailed to another station, made inappropriate comments to a second member in front of the crew, yelled at a member, made inappropriate comments to a member about filing a complaint about that member in CTS.	No	Two-day suspension	Workplace Violence	No designation	Yes	None. Member requested a Board of Rights and retired before the hearing.
<b>Case No. 18</b>	Complainant alleged that a detail was done in retaliation.	Subject failed to follow directions regarding reporting for a detail.	No	Two-day suspension	No	EEO Not sustained	Yes	Case dismissed. Department and subject agreed case would be dismissed. Justification not

Case No.	Original Complaint	Charge(s) as written by the Department	EEO Penalty Guideline?	Original Discipline	Sustained Allegation EEO?	EEO Disposition in CTS?	BOR Requested?	Final Discipline
								documented in file.
<b>Case No. 19</b>	Complainant alleged the subject was harassing and singling out complainant, wrongly accused complainant, and tarnished complainant's reputation.	This case was combined with Case No. 17.	No	Two-day suspension	No	No designation	Yes	Subject requested a Board of Rights and retired before the hearing.
<b>Case No. 20</b>	Subject allegedly rendered improper patient care and may have accused complainant of being a racist.	Subject was discourteous to a member of the public, was rude and disrespectful to Department members, and was rude and disrespectful to a Department supervisor.	No	Six-day suspension	No	EEO Not sustained	Yes	Subject requested a Board of Rights and retired before the hearing.

Case No.	Original Complaint	Charge(s) as written by the Department	EEO Penalty Guideline?	Original Discipline	Sustained Allegation EEO?	EEO Disposition in CTS?	BOR Requested?	Final Discipline
<b>Case No. 21</b>	A pregnant member, in concert with another member, initiated a prank in which she pretended that her water broke. The prank resulted in an ALS rescue response to the work location.	Two subjects. Both were charged with being involved in a prank that caused a rescue ambulance to respond to a false incident.	No	Two subjects Subject One: Two-day suspension Subject Two: Reprimand	No	No designation	Yes, Subject One	Subject One - Settlement Agreement Subject Two: Reprimand dismissed
<b>Case No. 22</b>	Subject "bucketed" another member.	The subject threw a bucket of water from an upper deck onto another member.	Yes	Two-day suspension	Yes	No designation	No	Two-day suspension
<b>Case No. 23</b>	Subject "bucketed" another member.	Subject participated in an act of horseplay.	Yes Hazing	Reprimand	Yes	No designation	No	Reprimand dismissed

Case No.	Original Complaint	Charge(s) as written by the Department	EEO Penalty Guideline?	Original Discipline	Sustained Allegation EEO?	EEO Disposition in CTS?	BOR Requested?	Final Discipline
Case No. 24	Member A and Member B had an argument over timekeeping. Member A walked away, but returned later. Member A said to Member B in an elevated and threatening manner, "I hate you" and then repeated slowly while pointing to Member A "I HAAATE YOU," and "you hate me too." Member B was shaking in fear, embarrassment and disbelief. A supervisor stood by while this occurred.	Subject (supervisor) mismanaged and ignored the situation when Member A confronted and spoke in an inappropriate and loud manner to Member B, and intimidated Member B after Member B reported the incident to a different member.	No	Three-day suspension	No	EEO Not sustained	Yes	Case dismissed

Case No.	Original Complaint	Charge(s) as written by the Department	EEO Penalty Guideline?	Original Discipline	Sustained Allegation EEO?	EEO Disposition in CTS?	BOR Requested?	Final Discipline
Case No. 25	It was alleged that on a PFF's first day at a station, the PFF was asked to put on a sombrero, stand on a table and introduce themselves. It was also alleged that the same PFF was asked to video record a toilet paper fight in the dorm with the on-duty members and some of their kids who were allowed to spend the night.	Two subjects  Subject one: Allowed an act of hazing to occur against a PFF.  Subject two: Allowed an act of hazing to occur against a PFF, and failed to perform supervisory duties.	No	Reprimand - both subjects	Yes	EEO Sustained	N/A	Reprimands dismissed

Case No. 26	<p>During a meeting, Subject allegedly stated to a member, "Ok I understand you're female and female members are emotional and need to be treated differently." After being instructed that it was an inappropriate comment, the subject went on to say, "I know you're an emotional person and you can be loud." If you're talking and you don't respect my signals, then I will raise my voice. I will get my respect. If I don't get the support of my management I will fight. I know how to fight and I will." The subject allegedly made other inappropriate comments during the meeting.</p>	No information. The Department does not have any information about discipline in this case.	No information	No information	No information	No designation	N/A	No information
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Case No. 27	<p>A patient was in distress in the back of an ambulance. Subject (male) told complainant, "Hey we need to put her [patient] back on the monitor. We need to patch her up!" Subject was very excited and animated. Complainant (female member) grabbed the monitor and before she could move it, subject allegedly put his hand on it and held it down, preventing her from moving it. Subject got up from his seat to go to the opposite side of the RA to grab the monitor. He yelled at complainant saying, "Give me it!" and "I'm going to patch her up." Subject allegedly yelled loudly as he tugged the monitor and said to complainant, "You're in the way!! You're in the way!!" A third member told complainant to give subject the monitor. The other member interjected and told the members to female and female members stop it and "we have to work together.</p>	While on an incident, subject engaged in inappropriate conduct toward another member.	No	Reprimand	No	EEO Not sustained	N/A	Reprimand dismissed
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	<p>The patient is our priority right now." Then subject said, "I've never had to deal with this before!"</p>								

Case No. 28	<p>Member A, a supervisor was "working down" on a SOD day and told a subordinate which apparatus to work on that day. The subject, the station supervisor, told Member A "Who the fuck told you to put [a member] on the engine. You don't put anyone on my fucking engine without my say so." Member A told subject that this was done according to the F11. Subject allegedly said "I don't give a fuck; you don't put anyone on my engine". Member A alleged that subject's behavior was one of many numerous incidents in which subject allegedly was controlling, condescending, overbearing, publicly humiliating the members in front of others and intimidating. Later, Member A called subject and Member B (as a witness) into the rec room to advise subject that the behavior/bullying is unacceptable and will not be tolerated. Subject told</p>	Two charges that Subject yelled at, berated and used profanity toward a [supervisor].	No	Reprimand	No	No designation	N/A	Reprimand
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Member C to leave the room. Member A asked Member C to stay. Subject got up and allegedly said "get out of my fucking face" and began to leave. Member A told subject that this matter is going to CTS, Battalion, and the EEO (sic). Subject allegedly said "go ahead, I don't give a fuck".

Case No.	Original Complaint	Charge(s) as written by the Department	EEO Penalty Guideline?	Original Discipline	Sustained Allegation EEO?	EEO Disposition in CTS?	BOR Requested?	Final Discipline
Case No. 29	Subject wrote "fag" on a Styrofoam cup, below the name of another member.	Subject wrote the word "fag" on the cup of a firefighter.	Yes	Four-day suspension	Yes	EEO Sustained	Yes - denied	Settlement Agreement

Case No.	Original Complaint	Charge(s) as written by the Department	EEO Penalty Guideline?	Original Discipline	Sustained Allegation EEO?	EEO Disposition in CTS?	BOR Requested?	Final Discipline
Case No. 30	Subject was working with a PFF on a call. Subject allegedly said to the PFF, "I'm not talking to you, I'm talking to your partner." Later, subject allegedly shouted (loud enough for the patient and entire crew to hear) "Hey Capt., over there is the worst rookie on the LAFD." It was also alleged that subject criticized the PFF for not covering tattoos. All this allegedly impacted the PFF's work performance.	Subject made an inappropriate comment about another firefighter.	No	Reprimand	No analysis	No designation	N/A	Reprimand dismissed

Case No. 31	<p>Complainant alleged that the subject, a female supervisor, was trying to convince members to secure a dead body in the RA until the coroner or mortuary arrived. Subject offered the crew lunch, then drinks, but no one volunteered. Subject then offered to get a firefighter a "blow job" from a female or a transgendered person standing near the scene. It was also alleged that the subject tried to convince the firefighter not to put a complaint in CTS, saying that males on the job say things like that all the time.</p>	<p>Subject made an inappropriate comment to another member while on-scene of an incident.</p>	Yes	Six-day suspension	Yes	No designation	Yes	BOR pending. (Almost six years)
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Case No.	Original Complaint	Charge(s) as written by the Department	EEO Penalty Guideline?	Original Discipline	Sustained Allegation EEO?	EEO Disposition in CTS?	BOR Requested?	Final Discipline
<b>Case No. 32</b>	Complainant alleged that the subject made racial comments to members.	Subject used inappropriate names/nicknames toward other members.	No	Reprimand	No.	EEO Not sustained	N/A	Reprimand dismissed
<b>Case No. 33</b>	Subject allegedly put a picture of a male Firefighter's face on a picture of a female Police Officer's picture from the monthly magazine.	Subject participated in an act of hazing by affixing the photo of a member's face onto a photo of a female police officer.	Yes	Four-day suspension	Yes	No designation	Yes	Settlement Agreement

Case No.	Original Complaint	Charge(s) as written by the Department	EEO Penalty Guideline?	Original Discipline	Sustained Allegation EEO?	EEO Disposition in CTS?	BOR Requested?	Final Discipline
<b>Case No. 34</b>	A male member alleged a female member made threatening comments like 'if he was a girl, she would kick his ass; and she was going to sock him in the face'.	Subject made a threat of violence gesture by balling their fist and stating their intent to sock a [named] member in the face.	No	Reprimand	No	EEO Not sustained	N/A	Reprimand



Case No.	Original Complaint	Charge(s) as written by the Department	EEO Penalty Guideline?	Original Discipline	Sustained Allegation EEO?	EEO Disposition in CTS?	BOR Requested?	Final Discipline
Case No. 35	Complainant alleged subject used inappropriate language in belittling a PFF, calling him "a fucking idiot, worthless piece of shit." Complainant also alleged that other members (who were reluctant to come forward) said that the subject displays unacceptable behavior toward the PFF. The PFF was fearful of retaliation if these incidents were reported.	Subject was charged with acting in an uncivil and unprofessional manner when they scolded, yelled at, and directed profanity toward a PFF on multiple occasions.	No	Reprimand	No	EEO Not sustained	N/A	Reprimand

Case No. 36	<p>Subject (a supervisor) allegedly video recorded a female PFF struggling during a ladder drill. Subject later shared this video with the entire crew as well as other Department members. No other videos of any other drills were shared. The PFF reportedly was embarrassed, felt betrayed, and stated that they felt trapped working for the subject. PFF also allegedly said they were afraid to file a complaint, wanted to reach out for help to QA, but did not want a bad reputation. The PFF also reported other inappropriate behaviors of the subject, such as sending texts of dead dogs, and inappropriate comments about the other two females at the station while they were not in attendance.</p>	<p>Subject was charged with forwarding and sharing a video the subject made of members during a training operation which created a disruptive work environment and impaired the good order of the Department, and sending an inappropriate picture and text message in a group text of a picture of a man who appeared to be of Asian descent with numerous deceased dogs, some hanging from strings attached to a pole. The subject accompanied the photo with the word "yum."</p>	No	Four-day suspension	No	EEO Not sustained	Yes	Board of Rights hearing pending (two years).
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Case No. 37	<p>Complainant alleged subject was involved in four inappropriate incidents. First, subject allegedly scheduled complainant to work as a guarantor for subject against the wishes of complainant. When complainant did not agree to be a guarantor, subject allegedly said, "well let me tell you what the books say..." and continued to talk. When complainant disagreed, subject snapped at complainant and said "Hey! I'm trying to teach you something here, you want to listen to me or not?" And began screaming and yelling in the apparatus bay, calling complainant a "boot-ass, year and a day mfer". Next, subject allegedly claimed the complainant left the RA in a messy condition. Also, when complainant pulled a car up to the apparatus bay to load up gear, subject yelled, "HEY!" from across the app bay. "Why the hell do you park your car so close to the app</p>	Subject falsely reported that a firefighter was rude to a patient.	No	Eight-day suspension	No	No designation	Yes	Board of Rights hearing pending (two years).
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bay?" When complainant suggested subject tell "the front office," subject repeatedly yelled, "Don't tell me what to do, you don't know anything" over and over. The third incident occurred when subject accused complainant of being rude to a patient, without providing any additional details. Fourth, subject allegedly floored the gas pedal causing tires to screech, then proceeded to drive at a high speed at a very close distance (<2 feet) to complainant's vehicle in what is a very large parking lot with ample room.

Case No.	Original Complaint	Charge(s) as written by the Department	EEO Penalty Guideline?	Original Discipline	Sustained Allegation EEO?	EEO Disposition in CTS?	BOR Requested?	Final Discipline
Case No. 38	Member A was struck in the head with a ladder by Member B. Member B apologized for the incident. Member A alleged the incident was retaliation for a previous incident.	Subject used inappropriate language when they sent a group text to other members stating they were going to "stick a boot up [a member's] ass." And, used inappropriate language toward another member when the subject referred to the member as "a piece of shit."	No	Reprimand	No	No designation	N/A	Reprimand

Case No.	Original Complaint	Charge(s) as written by the Department	EEO Penalty Guideline?	Original Discipline	Sustained Allegation EEO?	EEO Disposition in CTS?	BOR Requested?	Final Discipline
Case No. 39	Two captains had an argument related to a move-up. When Complainant decided to walk away, subject yelled multiple times to "take you and your fag firemen and get the fuck out of my Fire Station." And "don't worry, I'll remember you all. Just wait. I'll see you out there."	Subject directed profanity and derogatory remarks to another member.	Unknown	None - Early Resolution Settlement Agreement	Unknown	EEO Not sustained	N/A	Early Settlement Agreement

Case No. 40	It was alleged a male subject made inappropriate comments and inappropriately touched a female PFF.	Subject engaged in inappropriate conduct and made inappropriate statements to [PFF], and failed to conduct themselves in a manner that fostered a workplace environment free from hostile, offensive, threatening and/or intimidating conduct toward a PFF, and failed to foster a discrimination free workplace environment as a result of the subject's inappropriate conduct and statements to [a PFF].	Yes	Directed to a hearing before a BOR	Yes	EEO Sustained	Directed	Member retired before the BOR hearing commenced.
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Case No.	Original Complaint	Charge(s) as written by the Department	EEO Penalty Guideline?	Original Discipline	Sustained Allegation EEO?	EEO Disposition in CTS?	BOR Requested?	Final Discipline
<b>Case No. 41</b>	A captain allegedly failed to report the allegations in Case No. 40, when learning about them.	Subject failed in supervisory duties when subject did not properly report allegations of discriminatory actions or conduct of [another member] toward [a PFF].	Yes	20-day suspension	Yes	EEO Sustained	Yes	Settlement Agreement



Case No.	Original Complaint	Charge(s) as written by the Department	EEO Penalty Guideline?	Original Discipline	Sustained Allegation EEO?	EEO Disposition in CTS?	BOR Requested?	Final Discipline
<b>Case No. 42</b>	A male recruit allegedly said to a female PFF, "Not to be rude but female firefighters have it way easier on probation." A short time later, he also made the comment to her, "When you get off probation, don't be a dick year and a day firefighter."	Subject [a recruit] made inappropriate and unprofessional comments to [a PFF].	N/A	Subject resigned in lieu of termination.	Unknown	No designation	N/A	Member (recruit) resigned in lieu of termination.
<b>Case No. 43</b>	A firefighter alleged a captain attempted to create a negative work environment to force the FF to transfer out of the station.	Subject continuously treated a member under their command in a negative manner and differently from other members.	No	Four-day suspension	No	EEO Not sustained	Yes	Board of Rights hearing pending (four months).