



DISCRIMINATION PREVENTION POLICY HANDBOOK

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LAFD DISCRIMINATION PREVENTION POLICY HANDBOOK

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Sexual Harassment Discrimination Complaint Procedure (Rev. 08/2010)

Sexual Orientation, Gender Identity, and Gender Expression Discrimination Complaint Procedure (Rev. 03/2010)

Hazing Complaint Procedure (Updated 03/2010)

LAFD DISCRIMINATION PREVENTION POLICY HANDBOOK

INTRODUCTION

HOW TO USE THIS HANDBOOK

This Handbook is made available provided for ~~your~~ every members' use as a ready reference and a summary of the Fire Department's policies, internal and external complaint procedures, and guidelines for maintaining a harassment and discrimination free workplace. It is designed to acquaint members you with information that is relevant to all employees of the Department — regardless of their rank, classification and position. ~~Members You~~ will find that it is to their your advantage to read all the information in the Handbook so that you have a and gain a complete understanding of their role in preventing, reporting and resolving potential incidents of harassment, discrimination, retaliation and hazing. ~~material covered.~~

For purposes of enforcement of this Handbook the term "member" shall include both uniformed and civilian employees of the Fire Department.

Members will note that several areas of the Handbook, including the Supervisory Guides, have been significantly updated and that ~~T~~there are now five ~~four~~ parts to the Handbook, as follows:

1. LAFD Discrimination Prevention Policy and Complaint Procedures
2. LAFD Sexual Harassment Prevention Policy and Complaint Procedures
3. LAFD Disability and Reasonable Accommodation Policy and Accommodation Request Procedures
4. LAFD Lactation Accommodation Policy
5. Appendixes

It is important that all ~~member~~employees read, understand, and follow the provisions of the Handbook. Although ~~T~~this Handbook is only intended to provide guidance and direction highlights on Fire Department policies, —practices, and internal and external complaint procedures, and benefits you professionally. —I, it should not be construed as a contract or legal document.

The Board of Fire Commissioners reserves the right to amend, supplement, or rescind any provisions of this Handbook, as it deems necessary. As revisions are made, updates will be distributed through the Department's routine distribution methods.

I. DISCRIMINATION PREVENTION POLICY

A. POLICY STATEMENT

The Department maintains a zero tolerance policy toward discrimination, harassment and retaliation, which means that LAFD may take corrective actions up to and including termination when policy violations occur. The LAFD is dedicated to ensuring the fulfillment of this policy in all aspects of employment. Every employee-member in the Department is responsible for ensuring that the workplace is free of discrimination, harassment, and retaliation, and is expected to avoid any behavior or conduct that could be interpreted as such. LAFD will strictly enforce this policy because all forms of discrimination based on any of the protected classes are illegal, unprofessional and disrespectful.

The Fire Department is committed to providing a work environment in which all individuals are treated with respect and professionalism. It is the policy of this Department to provide equal employment opportunities to all employees-members and applicants on the basis of merit and to prevent discrimination, harassment, and retaliation in the workplace. In line with this policy, one of our core values states that "we always treat others as they desire to be treated". Thus, every Department uniformed and civilian member are to treat one another in ways that mirror the respect we expect for ourselves. Discrimination and harassment have an impact on our ability to carry out our LAFD Vision Statement by negatively effecting our reputation. Consequently, each uniformed and civilian member is expected to monitor your own behavior and refrain from any action that will have a negative impact on others. 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.

In keeping with this commitment, the Department complies with all local, state and federal laws that give employees-members the right to work in an environment free from discrimination. Department policies and personnel practices which include, but are not limited to, recruitment, selection, advancements, work assignments, compensation, benefits, training, discipline and terminations have been and will continue to be established and administered without regard to race, color, national origin, ancestry, sex, sexual orientation, gender identity, gender expression, age, religion, creed, marital status, disability, medical condition, including having or being perceived as having AIDS or the HIV virus, or retaliation for engaging in any protected activity. Furthermore, the Department forbids harassment against any individual based upon his or her

LAFD DISCRIMINATION PREVENTION POLICY AND COMPLAINT PROCEDURES	I. DISCRIMINATION PREVENTION POLICY A. <u>POLICY STATEMENT (cont.)</u> B. <u>DEFINITIONS</u> <u>Discrimination</u>
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membership in a protected class and further forbids retaliation against anyone who opposes or reports discrimination or harassment or who participates in any such investigation or proceeding. A complaint of retaliation may be filed and investigated even if the original allegations were unfounded.

The Fire Department recognizes that all ~~employee~~members have the right to a workplace free from discrimination, harassment, ~~and~~retaliation and hazing. Any questions concerning this policy should be directed to the Professional Standards Division's EEO Unit at (213) 978-2016 or the Fire Commission Office at (213) 978-3837.

B. DEFINITIONS

Discrimination

Discrimination is 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, including:

- Race
- Color
- Religion
- National Origin
- Sex (including sexual harassment and gender identity or expression, which includes actual or perceived transgender status)
- Age
- Disability
- Marital Status
- Sexual Orientation
- Creed
- Ancestry
- Medical condition
- HIV/AIDS – acquired or perceived
- Retaliation for having filed a discrimination complaint or participating in a protected activity

Note: It is important to note that treatment that may be perceived as "unfair" may not necessarily be unlawful or a violation of the Department's non-discrimination policies. Certain employment actions may be harsh, insensitive or unjust, but they do not become unlawful under the above laws or violate the Department's policies unless the unfair treatment is motivated in part because of a person's protected or "whistleblower" status.

Discriminatory practices include, but are not limited to:

- Harassment on the basis of membership in a protected class;
- Retaliation against an individual for filing a charge of discrimination, participating in an investigation, or opposing discriminatory practices;
- Employment decisions based on stereotypes or assumptions about the abilities, traits, or performance of individuals of a certain sex, race, age, religion, or ethnic group, or individuals with disabilities; and
- Denying employment opportunities to a person because of marriage to, or association with, an individual of a particular race, religion, national origin, or an individual with a disability.

Examples of Discrimination

While it is not possible to list all circumstances that may be considered to be discrimination or harassment, some examples of conduct that may violate the Department's Discrimination Free Workplace Policy include, but are not limited to, the following:

- Making derogatory comments, slurs, jokes, remarks, rumors, or epithets;
- Displaying objects, cartoons, pictures or posters of a derogatory or discriminatory nature;
- Hazing of employee members;
- Implying or actually withholding support for appointment, promotion, transfer, or change of assignment; initiating a rejection during probation or adverse action without a justified non-discriminatory business related reason;
- Displaying, transmitting, sharing or forwarding Internet materials s or materials received through any device including cell phones, which are of a discriminatory and/or offensive nature;
- Engaging in reprisals or threats against anyone who opposes discriminatory, harassing or offensive behavior.

Harassment

Harassment based upon membership in a protected class is a form of discrimination and is unlawful. It is generally defined as 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 employeemember; or
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 Environment

Some forms of harassment may create a hostile environment in the workplace. A hostile environment is a work atmosphere contaminated by a pattern of offensive and unwelcome conduct **directed at an individual's protected class status**. A hostile environment is 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. Anyone in the workplace might commit this type of harassment – an elected official, management employeemember, co-worker, or non-employeemember, such as a contractor, vendor or guest. The victim can be anyone affected by the conduct, not just the individual at whom the offensive conduct is directed.

Examples of actions that may create hostile environment based on sexual harassment include, but are not limited to:

- Leering, i.e., staring in a sexually suggestive manner
- Making offensive remarks about looks, clothing, body parts
- Touching in a way that may make an employeemember feel uncomfortable, such as patting, pinching or brushing against another's body
- Telling sexual or lewd jokes, hanging sexual posters, making sexual gestures, etc.
- Sending, forwarding or soliciting sexually suggestive letters, notes, emails, or images

Other actions, which may result in hostile environment harassment include, but are not limited to:

- Use of racially derogatory words, phrases, epithets
- Demonstrations of a racial or ethnic nature such as a use of gestures, pictures or drawings which would offend a particular racial or ethnic group
- Comments about an individual's skin color or other racial/ethnic characteristics
- Making disparaging remarks about an individual's gender that are not sexual in nature
- Negative comments about a person's religious beliefs (or lack of religious beliefs)
- Expressing negative stereotypes regarding someone's birthplace or ancestry
- Negative comments regarding an individual's age when referring to people 40 and over
- Derogatory or intimidating references to a person's mental or physical impairment

In summary, illegal harassment that creates a hostile work environment generally requires several elements, including:

1. The complaining party must specify the conduct was directed at a ~~be a member of a~~ protected class applicable to them;
2. ~~S/he was subjected to~~ The conduct was unwelcome ~~verbal or physical conduct related to his or her~~ membership in that protected class;
3. ~~The unwelcome conduct complained of was based on his or her membership in that protected class~~;
4. The unwelcome conduct affected a term or condition of employment and/or had the purpose or effect of unreasonably interfering with his or her work performance and/or creating an intimidating, hostile or offensive work environment.

It should be noted that anti-discrimination statutes are not a general civility code. Thus, discrimination laws do not prohibit simple teasing, offhand comments, or isolated incidents that are not extremely serious. Rather, the conduct must be so objectively offensive as to alter the conditions of the individual's employment. The conditions of employment are altered only if the harassment culminates in a significant change in employment status or are sufficiently severe or pervasive to create a hostile work environment as defined above.

Consequently, a situation, in which a supervisor or coworker is being abrasive, aggressive or rude thus affecting workplace morale, may not meet the definition of hostile environment if all the elements listed above are not met. However, this does not mean this behavior should be ignored. Although boorish behavior is not likely to

LAFD DISCRIMINATION PREVENTION POLICY AND COMPLAINT PROCEDURES

I. DISCRIMINATION PREVENTION POLICY

B. DEFINITIONS

Hostile Environment (cont.)

Retaliation

support a hostile environment harassment claim, this conduct may result in Department or personal liability for other workplace or employment claims. Therefore, it is important to eliminate the climate of fear and intimidation from the work environment by supporting professional conduct.

It should also be noted that Managers, Officers and Supervisors ~~and managers~~ are responsible for making personnel decisions in accordance with City personnel policies and procedures. These decisions include: selection of new employees; assignment of work and training opportunities; evaluation of work performance; and management of informal and formal discipline. Thus, implementing a personnel decision based on objective, job related criteria in accordance with City policy and procedure does not constitute harassment or hostile work environment.

Retaliation

Retaliation is an adverse employment action taken as a result of an employeemember participating in a protected activity, including "whistleblowing". The Department prohibits retaliation against anyone for reporting discriminatory activity or harassment, assisting in making a discrimination complaint, or cooperating in an investigation.

Recent court decisions have expanded conditions under which a member may file a claim of potential retaliation. In Thompson vs North American Stainless, L.P., 131 S. Ct. 863 (2011), the United States Supreme Court decided that a member may still have a valid claim of retaliation even if the member was not the participant of the protected activity, but had knowledge of the protected activity by another member. For example, a member may file a potential claim of retaliation if they believe such conduct is based on their knowledge of or close association with another member or that member's protected activity.

Some examples of conduct, which may violate the Department's retaliation policy include, but are not limited to the following:

- Termination, demotion, disadvantageous transfers or assignments, failure to promote, threats, reprimands, negative evaluations;
- Co-worker hostility or retaliatory harassment, to include intimidation, gossip, rumors, insults, or otherwise offensive conduct that would subject a person to public ridicule or humiliation;
- Any action or combination of actions that is reasonably likely to materially and adversely affect an employeemember's job performance or opportunity for advancement;

LAFD DISCRIMINATION PREVENTION POLICY AND COMPLAINT PROCEDURES

I. DISCRIMINATION PREVENTION POLICY

B. DEFINITIONS

Retaliation (cont.)

Hazing

- Other actions affecting employment such as threats, unjustified negative evaluations, unjustified negative references, or increased supervision;
- Any other action that is likely to deter reasonable people from pursuing their rights such as an assault or unfounded civil or criminal charges.

Adverse actions do not include negative comments in an otherwise positive or neutral evaluation or negative comments that are justified by an employee member's poor work performance or employment history. Employee Members are not excused from continuing to perform their jobs to standard or follow legitimate workplace rules just because they have filed a complaint or opposed discrimination.

Anyone experiencing or witnessing conduct they believe to be retaliation should immediately follow the complaint procedures described in this Handbook. Complaints of retaliation will be promptly investigated. If retaliation is substantiated, appropriate disciplinary action, up to and including possible dismissal, will be taken.

Hazing

BACKGROUND

Hazing is a form of harassment and is a violation of City Policy. Thus, acts of hazing are inappropriate behavior and not acceptable in the workplace. In keeping with the Department's Discrimination Prevention Policy, the Fire Department LAFD is committed to enforcing a policy of zero tolerance for any acts of hazing. This means the Department LAFD may take corrective actions up to and including termination when violations occur. Hazing is not acceptable professional behavior. Tradition or payback can no longer shield the Department from responsibility for this type of conduct.

It is important for all Fire Department LAFD employee members to comply with this policy, as it is a matter of essential risk management as well as simple decency and respect for each other. Hazing, whether physical, psychological or verbal, on the basis of race, ethnicity, gender, religion, sexual orientation, accent, age, language, or any other legislatively or judicially prohibited grounds, can cause severe legal consequences, including significant monetary liability for the creation of a hostile work environment. Therefore, all employee members and supervisors are responsible for taking measures in accordance with the policies and procedures of this Handbook to prevent, stop and discourage hazing in the workplace.

For more information on the City's zero-tolerance policy on hazing, members can refer to Executive Directive 8 and the related posting, located in the Appendix of this handbook.

DEFINITION

Hazing activities are defined as 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 **employeemember**. Hazing includes but is not limited to any form of rite of passage, horseplay, or initiation that involves: engaging in illegal, harmful, demeaning or dangerous acts that are not consistent with City policy and the performance of job-related activities.

Hazing consists of a broad range of behaviors or activities that demonstrate disregard for another person's dignity or well being, or that may place another person in danger of physical or psychological harm. These activities or behaviors do not have to be based on membership in any protected class. Even when demeaning or embarrassing behaviors do not appear overtly harmful in themselves, as where the participants appear to engage in them willingly, they may constitute hazing if they might cause humiliation or are perceived by non-participants as demeaning or degrading. Hazing also includes soliciting, directing, aiding, or otherwise participating actively or passively in activities such as those described below.

HAZING ACTIVITIES

The determination of whether a particular activity constitutes hazing will depend on the circumstances and context in which that activity occurs. Some examples of conduct that may constitute hazing, when used to mistreat, cause physical discomfort, intimidate, ridicule, frustrate, confuse, embarrass, cause undue stress or humiliate the participant, include but are not limited to the following:

- Creation of excessive fatigue;
- Forced, unnecessary exertions;
- Engaging in public stunts or buffoonery;
- Denial of food;
- Degrading or humiliating games and activities;
- Inappropriate application of substances to the body of another;
- Any type of physical activity such as sleep deprivation, exposure to the elements, confinement in a small space, or other activity that creates or results in an unreasonable risk of harm or that adversely affects the mental or physical health or safety of an individual;
- Wearing publicly any apparel which is conspicuous and not normally in good taste;

**LAFD DISCRIMINATION PREVENTION POLICY
AND COMPLAINT PROCEDURES**

I. DISCRIMINATION PREVENTION POLICY
B. DEFINITIONS
Hazing Activities (cont.)

- Acts of mental and physical abuse, including but not limited to: paddling, slapping, kicking, pushing, yelling, biting, duck-walking, gauntlets, belittling, excessive exercise, beating or physical abuse of any kind;
- Forced consumption of any food or beverage that contributes to or causes physical injury, mental harm or personal degradation;
- Encouraging or forcing use of alcohol, drugs, tobacco, or cigars;
- Stroking or physically touching in an indecent or inappropriate manner;
- Aiding or abetting theft, fraud, embezzlement of funds, destruction of public, personal or private property;
- Being required to wear odd or look-alike apparel that contributes to or causes physical injury, mental harm or personal degradation;
- Personal services that contribute to or cause physical injury, mental harm or personal degradation;
- Requiring that a person do or submit to any act that will alter his or her physical appearance in any significant degree for any substantial period of time (e.g., forcibly removing clothing; branding; tattooing; using makeup, paint, or markers on a person; or shaving the head or body);
- Requiring activities that disrupt a person's normal schedule. A normal schedule includes three reasonably spaced meals per day, the opportunity for sufficient rest at night, time required for study outside of scheduled work, and reasonable time for personal hygiene;
- Requiring a person to engage in physical activity of unusual kind or duration, such as: calisthenics, overly difficult work assignments, activities that may be excessive for a person with physical disabilities, activities that require a person to remain in a fixed position for an extended period of time, be naked, or confining a person in a room that is too hot or too cold, too noisy, or too small;
- Hitting or pretending to hit an individual;
- Performing acts that are or seem to be dangerous;
- Eating spoiled foods, raw onions, or anything a reasonable person would not eat;
- Tying a person to a chair, pole, anchor, tree, or any other object or to another person;
- Causing fatigue through physical or psychological shock;
- Pushing, shoving, tackling, or any other physical abuse not associated with work related activities;
- Throwing anything (food, garbage, water, paint, etc.) at a person or a group of people;
- Exposing oneself indecently or appearing nude or in a way that is considered by a reasonable person to be offensive;