


| | | |
|---|--|---------------------------------------|
|  | AUSTIN FIRE DEPARTMENT Policy and Procedure | General Order Number E202.2 |
| Subject: Harassment Prevention Policy | Effective Date: 07-05-2018 | Rescinds: E202.1 |
| Application: I. All AFD Personnel | Authorized by: Tom Dodds, Interim Fire Chief | |

I. Purpose

To define and establish the Harassment Prevention Policy for the Austin Fire Department (AFD).

II. Background

The Austin Fire Department strives to create and maintain a work environment in which people are treated with dignity, decency and respect. The environment of all workplaces within AFD should be characterized by mutual trust and the absence of intimidation, oppression and exploitation. Members should be able to work and learn in a safe, yet stimulating atmosphere. The accomplishment of this goal is essential to the mission of the AFD. For that reason, AFD will not tolerate unlawful discrimination or harassment of any kind. Through enforcement of this policy and by education of members, AFD will seek to prevent, correct and discipline behavior that violates this policy.

All members, regardless of their positions, are covered by and expected to comply with this policy and to take appropriate measures to ensure that prohibited conduct does not occur. Appropriate disciplinary action will be taken against any member who violates this policy. Based on the seriousness of the offense, disciplinary action may be taken, up to and including indefinite suspension/termination.

III. Policy

A. Definitions

1. Harassment - Abusive, obscene or threatening conduct or communication that is intended to bully, shame, injure, or instill fear in another and/or has the effect of interfering with an individual's work performance or creates an intimidating, oppressive or hostile work environment.

2. Sexual Harassment - Any unwanted sexual advance, request for sexual favors or pressure to engage in any sexual behavior, as well as any other verbal or physical conduct of a sexual nature, such that submission to, or rejection of, such conduct:
 - a. Either openly or by implication, is a term or condition of an individual's employment.
 - b. Is used as a basis for employment decisions affecting that individual.
 - c. Has the effect of interfering with an individual's work performance or creates an intimidating, oppressive or hostile work environment.
3. Assault – When a person intentionally or knowingly causes physical contact with another and the person knows or should reasonably believe that the other will regard the contact as offensive or provocative. This includes a threat of bodily harm coupled with an apparent, present ability to cause the harm.
4. Sexual Assault – Any sexual act, threat of a sexual act or contact of a sexual nature in which a person is forced, threatened or coerced to engage in against their will.
5. Hazing - the practice of rituals and other activities that potentially involve harassment, abuse or humiliation and are used as a way of initiating a person into or out of a group.

B. Harassment

1. AFD will not tolerate the hazing of members. This includes any intentional or reckless act that endangers the mental or physical health or safety of a person as well as any activity that intimidates or threatens a person with ostracism or subjects them to mental stress, shame or humiliation regardless of consent.
2. AFD will not tolerate harassment targeting the following group identities, including but not limited to: gender or gender expression, race, national origin, religion, sexual orientation, skin color, veteran status, HIV or other medical conditions, disabilities, age and/or relative rank within the fire service (e.g., cadets, probationary firefighters, rookies or junior firefighters).
3. While on duty or on City premises, AFD members, independent contractors and/or vendors shall not engage in activities that could constitute harassment and members shall report such activities if they do occur. These activities include, but are not limited to, the following behaviors:
 - a. Obscene or abusive language or offensive gestures in their communication with coworkers or members of the public such as epithets, slurs, negative stereotyping, denigrating nicknames, pet names or slang.
 - b. Oral, written, electronic or other means of communication that has the effect of threatening or intimidating co-workers or members of the public such as hostile or denigrating material placed on walls, bulletin boards, electronic devices or posted/circulated elsewhere in the workplace/cyberspace.

- c. Physically endangering, intimidating or injuring coworkers or members of the public.
4. While off duty, AFD members shall not engage in the aforementioned forms of harassment with co-workers if such conduct has the effect of interfering with an individual's subsequent work performance and/or creates an intimidating, oppressive or hostile work environment. If a member is a victim of any such conduct, or if a member witnesses an act of harassment that occurs while off duty, they shall report this immediately per the Reporting Process of this policy.
5. Harassment will not be tolerated and will result in discipline up to and including indefinite suspension/termination.
6. Harassment can be a criminal act but should not be confused with assault which is always a crime that shall be reported to the appropriate law enforcement agency.

C. Sexual Harassment

1. While on duty or on City premises, AFD members, independent contractors and/or vendors shall not engage in activities that could constitute sexual harassment and members shall report such activities if they do occur. These activities include, but are not limited to, the following behavior:
 - a. Unwanted sexual advances, requests for sexual favors or unwanted verbal or physical conduct of a sexual nature.
 - b. Sexually oriented jokes, remarks, or gestures.
 - c. Publicly displaying (making available for other members to view) sexually oriented images, movies, or pictures, including sexually explicit electronic pictures displayed on an electronic device.
2. While off duty, AFD members shall not engage in the aforementioned forms of conduct if such conduct has the effect of interfering with an individual's subsequent work performance and/or creates an intimidating, oppressive or hostile work environment. This includes harassing communications sent via email and/or through social media while off duty. Any such conduct shall be reported immediately.
3. Sexual Harassment can occur between persons of the opposite sex or of the same sex.
4. Sexual Harassment will not be tolerated and will result in discipline up to and including indefinite suspension.
5. Sexual Harassment should not be confused with sexual assault which is a crime that shall be reported to the appropriate law enforcement agency.

IV. Procedure

A. Duty to Report

1. As leaders in public safety, it is expected that ALL AFD members will immediately intervene to stop offenders from engaging in harassing behavior and shall provide assistance to individuals who are victims of harassment. If the harassing behavior continues, any member who witnesses or becomes aware of the harassing behavior has a duty to report said behavior following the process described below. This does not prohibit a member from reporting harassing behavior on first occurrence. Failure to report known offenses to the policy may lead to disciplinary action, up to and including indefinite suspension/termination.

B. Reporting Process

1. Any member that believes that they are a victim of any type of harassment or is a witness to such should immediately notify their first level supervisor. If the supervisor is the harasser or if the member feels that reporting to the first level supervisor is not a suitable or appropriate avenue for addressing the complaint, then the member is required to report the harassment to any of the following:
 - a. Any other AFD supervisor (civilian or uniformed).
 - b. AFD Professional Standards Office (PSO).
 - c. Fire Chief.
 - d. Fire Department Human Resources Manager (FDHR).
 - e. City of Austin Human Resources Department (HRD).
 - f. Electronic and Anonymous Reporting System (EARS).
2. Any supervisor that receives a report of harassment is required to relay this information, through their chain of command, to the Fire Chief or FDHR. The report will also be documented in writing by the supervisor and forwarded to the PSO and FDHR. If the harasser is in the supervisor's chain of command, the supervisor may bypass the harasser and proceed to the next level supervisor. PSO and FDHR shall notify the City of Austin HRD of the report.
3. The City of Austin HRD shall investigate all complaints of Sexual Harassment. All AFD members will be expected to cooperate fully with any investigation. When the offender and/or the victim is a uniformed member, PSO will participate as requested by HRD investigators to compel cooperation of uniformed members or assist in the fact gathering as warranted. The investigative results shall be provided to the Fire Chief and to the City Manager's office by HRD. If at any time during the course of the investigation the offense is determined to be criminal, the appropriate law enforcement agency shall be notified. If the investigation reveals that a policy

violation occurred, the Fire Chief, by civil service law, has 180 days from becoming aware of the violation to take disciplinary action (180 day rule does not apply to civilians).

4. Electronic and Anonymous Reporting System (EARS)

The Department recognizes that its members may not always feel that they can safely make a report of harassment. In an attempt to alleviate a member's concerns, the Department has identified an alternative to the aforementioned, traditional reporting mechanisms for harassment related topics.

- a. The Department will maintain an electronic reporting system that will allow members to make reports of harassment via a confidential reporting system. This reporting system will allow members to make anonymous reports regarding actions related to harassment, with the anonymity of the reporting member being protected to the extent allowed by law.
- b. When filing these reports, members will have the option of routing their report to any/all of the following:
 - i. The Fire Chief
 - ii. AFD Staff Psychologist
 - iii. AFD HR Representative
 - iv. AFD Wellness Center Peer Support Team.
 - v. AFD Professional Standards Office.
- c. Members may also include a notification to the Association, but must include at least one of the other options listed above.
- d. Members will have the option of providing contact information for follow up questions or, they may opt to use a blind-email. The blind-email option will allow the recipient of the report to ask follow up questions while maintaining the reporting member's anonymity (to the extent allowed by law). All reports of harassment will be reviewed, with appropriate feedback being given to the reporting member, if requested.
- d. Members who opt to utilize the EARS reporting system to make an anonymous report are reminded of their duty to protect their peers from any ongoing/active harm, and are strongly encouraged to consider other reporting mechanisms when situationally appropriate. Examples where other reporting mechanisms may be more appropriate include, but aren't limited to, criminal events, impending danger, personal safety concerns, and members in crisis.

C. Support for the Victim

Victims of harassment are encouraged to seek support from any or all of the following sources:

1. AFD Psychologist.
2. City of Austin Member Assistance Program (affiliated with health care program).
3. AFD Wellness Center Peer Support Team.
4. One of the AFD Chaplains.
5. Austin Police Department Victim Services.

City of Austin HRD or AFD HR can help with additional resources if needed.

D. Harassment or Discrimination Outside of This Policy

If any member feels that they have been harassed or were discriminated against in a manner not covered by this AFD policy, then they may file a complaint with the Federal Equal Employment Opportunity Commission (EEOC).

E. Retaliation Prohibited

1. No member shall be discriminated against, harassed, intimidated, nor suffer any reprisal as a result of reporting violations of this policy in good faith. Any member who experiences discrimination, harassment, intimidation, or any form of retaliation as the result of having reported harassment should immediately report such action to any of the following:
 - a. Any AFD supervisor (civilian or uniformed).
 - b. Fire Department PSO.
 - c. Fire Chief.
 - d. Fire Department Human Resources Manager.
 - e. City HRD.
2. Any member who discriminates against, harasses, intimidates or in any other way retaliates against an individual who reports a violation of this policy in good faith or cooperates in the investigation shall be subject to discipline up to and including indefinite suspension/termination.

F. Criminal Activity and Threat of Imminent Physical Harm

Criminal activity such as assault and sexual assault as defined above, and any other threat of imminent physical harm, shall be referred to the appropriate law enforcement agency. If the member is aware of a threat of imminent physical harm to themselves, another member or a member of the public, they should attempt to remove themselves from the situation and immediately notify appropriate law enforcement personnel by calling "911." Additionally, the member shall notify their coworkers who may be in peril

and report this emergency call to “911” to their supervisor or other member of management immediately.

G. Malicious Accusations

Anyone who knowingly makes a false accusation shall be subject to discipline up to, and including, indefinite suspension/termination.

H. Training

All members shall receive training as is necessary and available. It is the purpose of this provision to create a clear standard and to raise the emphasis on achieving compliance. All members will be required to participate in refresher training on a frequency to be determined by the Fire Chief.