

**Station 341**



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**Office of the Chief of the Department  
Policy Memorandum**

**Policy #:** 2002-08      **Date Issued:** 10/7/2002      **Revised:**  
**Issued by:** Dan Paolini, Chief      **Effective:** Immediately  
**Subject:** Harassment and Discrimination

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The Eastampton Fire-Rescue Department is committed to providing every member with a workplace free from unlawful discrimination. All forms of unlawful discrimination based upon race, creed, color, national origin, ancestry, age, sex, marital status, familial status, religion, affectional or sexual orientation, atypical hereditary cellular or blood trait, genetic information or disability are prohibited and will not be tolerated. Sexual harassment is a form of unlawful gender discrimination and, likewise, will not be tolerated.

Unlawful discrimination/harassment undermines the integrity of the department's community relations, compromises equal opportunity, debilitates morale and interferes with work productivity. This policy applies to all members. The Eastampton Fire-Rescue Department will not tolerate harassment or discrimination by any department member. This policy applies to conduct which occurs at the fire station and also extends to conduct which occurs at any location that can be reasonably regarded as a fire department activity, including emergency incidents, off-site department-related social functions, training activities, or any place where department business is being conducted and discussed.

This policy also applies to third party harassment. Third party harassment is unwelcome behavior of a sexual, racial or derogatory nature regarding any protected category that is not directed at an individual but is a part of that individual's work environment. Third party harassment based upon any of the aforementioned protected categories is prohibited by this policy.

**DISCRIMINATION/NON-SEXUAL HARRASSMENT PROHIBITED**

It is a violation of this policy to engage in any practice or procedure which treats a member less favorably based upon a person's race, gender, national origin or ancestry, religion, age, disability, affectional or sexual orientation, marital status, familial status, atypical hereditary cellular or blood trait, or genetic information.

It is also a violation of this policy to use derogatory or demeaning slurs to refer to any person's race, gender, age, religion, disability, affectional or sexual orientation, or ethnic background that have the effect of harassing a member or creating a hostile work environment. Harassment or the creation of a hostile work environment can occur even if there was no intent on the part of an individual to harass or demean another.

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Examples of Behaviors That May Constitute Prohibited Workplace Discrimination or Harassment Include, But Are Not Limited To:

- Discriminating against an individual with regard to terms and conditions of membership because of that individual's race, gender, age, religion, disability, affectional or sexual orientation, place of origin, or his or her ancestor's place of origin.
- Treating an individual differently because of race, gender, age, religion, disability, affectional or sexual orientation, place of origin, or his or her ancestors' place of origin, or because an individual has the physical, cultural or linguistic characteristics of a racial or national origin group.
- Treating an individual differently because of marriage to or association with persons of a racial, religious or national origin group; or due to membership in or association with an organization identified with the interests of a racial, religious or national origin group; or because an individual's name or spouse's name is associated with a racial, religious or national origin group.
- Calling another by an unwanted nickname which refers to one or more of the above characteristics, or telling ethnic jokes which harass a member or create a hostile work environment.
- Using derogatory references regarding any of the above characteristics in any department communication.
- Engaging in threatening, intimidating, or hostile acts, in the workplace, based on the foregoing classifications.
- Displaying or distributing material in the workplace that contains language or images that are derogatory or demeaning, based upon any of the foregoing classifications.

## **SEXUAL HARASSMENT PROHIBITED**

It is a violation of this policy to engage in sexual harassment of any kind. For the purposes of this policy, sexual harassment, with or without sexual conduct, is defined, as in the Equal Employment Opportunity Commission Guidelines, as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when, for example:

- submission to such conduct is made either explicitly or implicitly a term or condition of an individual's membership;

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- submission to or rejection of such conduct by an individual is used as the basis for department-related decisions affecting such individual; or
- such conduct has the purpose or effect of unreasonably interfering with a member's performance or creating an intimidating, hostile or offensive working environment.

Sexual Harassment generally falls into two categories: quid pro quo and hostile work environment harassment:

**Quid Pro Quo Sexual Harassment** is a form of harassment that may include unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct based on the gender of the affected member when: (a) submission to such conduct is made either explicitly or implicitly a term or condition of membership; or (b) submission to or rejection of such conduct by an individual is used as a basis for department-related decisions.

It shall be a violation of this policy for any person to use his or her authority to make any sexual advance toward an individual over whom the person is authorized to make, recommend or otherwise to influence personnel actions; to grant, recommend, or refuse to take personnel action on the basis of a member's gender or sexual orientation or in exchange for sexual favors; or to take or fail to take a personnel action as reprisal against any member for rejecting or reporting a sexual advance. Sexual advances or requests for sexual favors can be in the form of either expressed or implied comments, writings, or actions.

**Hostile Work Environment Sexual Harassment** is a form of harassment that may include unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature which has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment. Gender-based harassment may give rise to a claim of a hostile environment whether or not sexual activity or language is involved, if it has the purpose or effect of abusing, devaluing or subordinating the members of one sex and it adversely affects an individual's membership opportunities.

**Third party sexual harassment** is unwelcome behavior of a sexual nature or based on sex that is not directed at an individual but is a part of an individual's work environment.

# Station 341



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Examples of Prohibited Behaviors That May Constitute Sexual Harassment Include, But Are Not Limited To:

- Generalized gender-based remarks and comments.
- Unwanted physical contact such as intentional touching, grabbing, pinching, brushing against another's body or impeding or blocking movement.
- Verbal or written sexually suggestive or obscene comments, jokes or propositions including letters, notes, e-mail, invitations, gestures or inappropriate comments about a person's clothing.
- Visual contact, such as leering or staring at another's body, gesturing, or displaying sexually suggestive objects, cartoons, posters, magazines or pictures of scantily-clad individuals.
- Continuing to engage in certain behaviors of a sexual nature after an objection has been raised by the target of such inappropriate behavior.

## **MEMBER RESPONSIBILITIES**

Any member who believes that she or he has been subjected to any form of prohibited discrimination/harassment, including sexual harassment, or who witnesses others being subjected to such harassment or discrimination is encouraged to promptly report the incident(s) to the member's station Deputy Chief. If the incident(s) involve that Deputy Chief, the member shall report the incident(s) to the Department Chief. If the incident(s) involve the Department Chief, the member shall report the incident(s) to the Clerk of the Board of Fire Commissioners. All members are expected to cooperate with investigations undertaken pursuant to this policy. Failure to cooperate in an investigation may result in disciplinary action, up to and including discharge from membership.

## **CHIEF AND LINE OFFICER RESPONSIBILITIES**

Officers should make every effort to maintain a work environment that is free from any form of prohibited discrimination/harassment. Officers are expected to take all allegations of discrimination/harassment, including sexual harassment, seriously, and to immediately refer the matter to the individual(s) responsible for receiving such complaints. All complaints will be reviewed and prompt and appropriate remedial action will be taken to address any substantiated claim. All officers receiving complaints of unlawful discrimination/harassment must immediately advise the appropriate individual(s) of the complaint.

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## COMPLAINT PROCESS

All complaints received by a designated individual shall be documented in writing, whether received in writing or verbally. Written records shall be maintained as confidential records to the extent practicable and appropriate.

All investigations of discrimination/harassment claims shall be conducted in a way that respects, to the extent possible, the privacy of all the persons involved. The investigations shall be conducted in a prompt, thorough and impartial manner. The results of the investigation shall be forwarded to the Board of Fire Commissioners to make a final decision as to whether a violation of the policy has been substantiated.

Where discrimination/harassment is found to have occurred, the department shall take prompt and appropriate remedial action to stop the discrimination/harassment and deter its reoccurrence.

The remedial action taken may include counseling, training, intervention, mediation, and/or the initiation of disciplinary action up to and including discharge from membership.

## PROHIBITION AGAINST RETALIATION

Retaliation against any member who alleges that she or he was the victim of discrimination or harassment, or against any member who provides information in the course of an investigation into claims of unlawful discrimination or harassment in the workplace is prohibited by this policy. Any member bringing a complaint, providing information for an investigation, or testifying in any proceeding under this policy shall not be subjected to adverse consequences based upon such involvement or be the subject of retaliation.

## FALSE ACCUSATIONS AND INFORMATION

If any member knowingly makes a false accusation of unlawful discrimination/harassment or knowingly provides false information in the course of an investigation of a complaint, such conduct may be grounds for discipline. Complaints made in good faith, however, even if found to be unsubstantiated, shall not be considered a false accusation.

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### **CONFIDENTIALITY**

All complaints and investigations shall be handled, to the extent possible, in a manner that will protect the privacy interests of those involved. To the extent practical and appropriate under the circumstances, confidentiality shall be maintained throughout the investigatory process. In the course of an investigation it may be necessary to discuss the claims with the alleged harasser and other persons who may have relevant knowledge. Therefore, it may be necessary to disclose information to persons with a legitimate need to know about the matter. All persons interviewed shall be directed not to discuss any aspect of the investigation with others in light of the important privacy interests of all concerned. Failure to comply with this confidentiality directive may result in disciplinary action.

### **DISCIPLINARY ACTION**

Any member found to have violated this policy may be subject to appropriate disciplinary action which may include: reprimand, suspension, or discharge from membership. Referral to another appropriate authority for review for possible violation of State and Federal statutes may also be appropriate.