
Discriminatory Harassment

1015.1 PURPOSE AND SCOPE

This policy is intended to prevent district members from being subjected to discrimination, including sexual harassment (La. R.S. 42:342). Nothing in this policy is intended to create a legal or employment right or duty that is not created by law.

1015.2 POLICY

The Mandeville Fire/EMS is an equal opportunity employer and is committed to creating and maintaining a work environment that is free of all forms of discriminatory harassment, including sexual harassment and retaliation. The District will not tolerate discrimination against a member in hiring, promotion, discharge, compensation, fringe benefits, and other privileges of employment. The District will take preventive and corrective action to address any behavior that violates this policy or the rights it is designed to protect.

The nondiscrimination policies of the District may be more comprehensive than state or federal law. Conduct that violates this policy may not violate state or federal law but still could subject a member to discipline.

1015.3 DEFINITIONS

Definitions related to this policy include:

1015.3.1 DISCRIMINATION

The District prohibits all forms of discrimination, including any employment-related action by a member that adversely affects an applicant or member and is based on actual or perceived race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, pregnancy, genetic information, veteran status, marital status, and any other classifications protected by law, including sickle cell trait, and discrimination with regard to veterans attending certain required medical appointments (42 USC § 2000e et seq.; La. R.S. 23:301 et seq.).

Discriminatory harassment, including sexual harassment, is verbal or physical conduct that demeans or shows hostility or aversion toward an individual based upon that individual's protected class. It has the effect of interfering with an individual's work performance or creating a hostile or abusive work environment.

Conduct that may, under certain circumstances, constitute discriminatory harassment can include: making derogatory comments, crude and offensive statements or remarks; making slurs or off-color jokes; stereotyping; engaging in threatening acts; making indecent gestures, pictures, cartoons, posters, or material; making inappropriate physical contact; or using written material or district equipment and/or systems to transmit or receive offensive material, statements, or pictures. Such conduct is contrary to district policy and to a work environment that is free of discrimination.

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1015.3.2 RETALIATION

Retaliation is treating a person differently or engaging in acts of reprisal or intimidation against the person because he/she has engaged in protected activity, filed a charge of discrimination, participated in an investigation, or opposed a discriminatory practice.

Retaliation will not be tolerated (see the Anti-Retaliation Policy).

1015.3.3 SEXUAL HARASSMENT

The District prohibits all forms of discrimination and discriminatory harassment, including sexual harassment (La. R.S. 42:342). It is unlawful to harass an applicant or a member because of that person's sex.

Sexual harassment includes but is not limited to unwelcome sexual advances, requests for sexual favors, or other verbal, visual, or physical conduct of a sexual nature when (La. R.S. 42:342):

- (a) Submission to such conduct is made either explicitly or implicitly a term or condition of employment, position, or compensation.
- (b) Submission to, or rejection of, such conduct is used as the basis for any employment decisions affecting the member.
- (c) Such conduct has the purpose or effect of substantially interfering with a member's work performance or creating an intimidating, hostile, or offensive work environment.

1015.3.4 ADDITIONAL CONSIDERATIONS

Discrimination and discriminatory harassment do not include actions that are in accordance with established rules, principles, or standards, including:

- (a) Acts or omission of acts based solely upon bona fide occupational qualifications under the Equal Employment Opportunity Commission guidelines and Louisiana Employment Discrimination Law (La. R.S. 23:301 et seq.).
- (b) Bona fide requests or demands by a supervisor that a member improve his/her work quality or output, that the member report to the job site on time, that the member comply with District or district rules or regulations, or any other appropriate work-related communication between supervisor and member.

1015.4 RESPONSIBILITIES

This policy applies to all district members who shall follow the intent of these guidelines in a manner that reflects district policy and the best interest of the Mandeville Fire/EMS and its mission.

Members are encouraged to promptly report any discriminatory, retaliatory, or harassing conduct or known violations of this policy to a supervisor. Any member who is not comfortable with reporting violations of this policy to his/her immediate supervisor may bypass the chain of command and make the report to a higher ranking supervisor or manager. Complaints may also be filed with the Fire Chief, the Human Resources Officer, or the Board of Commissioners.

Any member who believes, in good faith, that he/she has been discriminated against, harassed, or subjected to retaliation, or who has observed harassment or discrimination, is encouraged to promptly report such conduct in accordance with the procedures set forth in this policy.

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Supervisors and managers receiving information regarding alleged violations of this policy shall determine if there is any basis for the allegation and shall proceed with resolution as stated below.

1015.4.1 QUESTIONS OR CLARIFICATION

Members with questions regarding discrimination or sexual harassment are encouraged to contact a supervisor, a manager, the Fire Chief, the Human Resources Officer, or the Board of Commissioners for further information, direction, or clarification.

1015.4.2 SUPERVISOR RESPONSIBILITIES

Each supervisor and manager shall:

- (a) Continually monitor the work environment and strive to ensure that it is free from all types of unlawful discrimination, including harassment or retaliation.
- (b) Take prompt, appropriate action within their work units to avoid and minimize the incidence of any form of discrimination, harassment, or retaliation.
- (c) Ensure that subordinates understand their responsibilities under this policy.
- (d) Ensure that members who make complaints or who oppose any unlawful employment practices are protected from retaliation and that such matters are kept confidential to the extent possible.
- (e) Make a timely determination regarding the substance of any allegation based upon all available facts.
- (f) Notify the Fire Chief or Human Resources Officer in writing of the circumstances surrounding any reported allegations or observed acts of discrimination, harassment, or retaliation no later than the next business day.

1015.4.3 SUPERVISOR'S ROLE

Supervisors and managers shall be aware of the following considerations:

- (a) Behavior of supervisors and managers should represent the values of the District.
- (b) False or mistaken accusations of discrimination, harassment, or retaliation can have negative effects on the careers of innocent members.

Nothing in this section shall be construed to prevent supervisors or managers from discharging supervisory or management responsibilities, such as determining duty assignments, evaluating or counseling members, or issuing discipline in a manner that is consistent with established procedures.

1015.5 INVESTIGATION OF COMPLAINTS

Various methods of resolution exist. During the pendency of any such investigation, the supervisor of the involved member or members should take prompt and reasonable steps to mitigate or eliminate any continuing abusive or hostile work environment. It is the policy of the Mandeville Fire/EMS that all complaints of discrimination, retaliation, or harassment shall be fully documented and promptly and thoroughly investigated.

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1015.5.1 SUPERVISORY RESOLUTION

Members who believe they are experiencing discrimination, harassment, or retaliation should be encouraged to inform the individual that his/her behavior is unwelcome, offensive, unprofessional, or inappropriate. However, if the member feels uncomfortable or threatened or has difficulty expressing his/her concern, or if this does not resolve the concern, assistance should be sought from a supervisor or manager who is a rank higher than the alleged transgressor.

1015.5.2 FORMAL INVESTIGATION

If the complaint cannot be satisfactorily resolved through the supervisory resolution process, a formal investigation will be conducted.

The person assigned to investigate the complaint will have full authority to investigate all aspects of the complaint. Investigative authority includes access to records and the cooperation of any members involved. No influence will be used to suppress any complaint and no member will be subject to retaliation or reprisal for filing a complaint, encouraging others to file a complaint, or offering testimony or evidence in any investigation.

Formal investigation of the complaint will be confidential to the extent possible and will include but is not limited to details of the specific incident, frequency, dates of occurrences, and names of any witnesses. Witnesses will be advised regarding the prohibition against retaliation, and that a disciplinary process, up to and including termination, may result if retaliation occurs.

Members who believe they have been discriminated against, harassed, or retaliated against because of their protected status are encouraged to follow the chain of command but may also file a complaint directly with the Fire Chief, the Human Resources Officer, or the Board of Commissioners.

1015.5.3 ALTERNATIVE COMPLAINT PROCESS

No provision of this policy shall be construed to prevent any member from seeking legal redress outside the District. Members who believe that they have been harassed, discriminated or retaliated against are entitled to bring complaints of employment discrimination to federal, state, and/or local agencies responsible for investigating such allegations. Specific time limitations apply to the filing of such charges.

Members are advised that proceeding with complaints under the provisions of this policy does not in any way affect those filing requirements.

1015.5.4 REQUIREMENTS FOR SEXUAL HARASSMENT INVESTIGATIONS

The following additional requirements apply to any investigation process related to sexual harassment complaints (La. R.S. 42:342):

- (a) A complainant and the accused member are required to participate in the investigation process.
- (b) Upon conclusion of the investigation, any disciplinary action taken against an involved member, including against a complainant if applicable, will be administered in accordance with the Personnel Complaints Policy.

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1015.6 DOCUMENTATION OF COMPLAINTS

All complaints or allegations shall be thoroughly documented on forms and in a manner designated by the Fire Chief. The outcome of all reports shall be:

- (a) Approved by the Fire Chief, the Board of Commissioners, or the Human Resources Officer, as deemed appropriate.
- (b) Maintained for the period established in the district's records retention schedule.

1015.6.1 NOTIFICATION OF DISPOSITION

The complainant and/or victim will be notified in writing of the disposition of the investigation and the action taken to remedy or address the circumstances giving rise to the complaint.

1015.7 TRAINING

All new members shall be provided with a copy of this policy as part of their orientation. The policy shall be reviewed with each new member. The member shall certify by signing the prescribed form that he/she has been advised of this policy, is aware of and understands its contents, and agrees to abide by its provisions during his/her term with the District.

All members shall receive annual training on the requirements of this policy and shall certify by signing the prescribed form that they have reviewed the policy, understand its contents, and agree that they will continue to abide by its provisions.

1015.7.1 SEXUAL HARASSMENT PREVENTION TRAINING

The Human Resources Officer shall ensure that all members participate annually in 1 hour of sexual harassment prevention training as required by La. R.S. 42:343. Supervisors and district members who are designated to accept or investigate complaints of sexual harassment should receive 1 hour of additional training as prescribed by the Fire Chief (La. R.S. 42:343).

1015.8 POSTING

This policy and the district compliant procedure should be made available on the district website or as a posted notice that includes how to obtain the information in each Mandeville Fire/EMS office (La. R.S. 42:343).

1015.9 ANNUAL REPORT

The Fire Chief Division is responsible for compiling information to demonstrate the district's compliance with Title 42, Chapter 6 (Prevention of Sexual Harassment) in the time frame prescribed by La. R.S. 42:344.