

# **EQUAL EMPLOYMENT OPPORTUNITY POLICY**

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## **Introduction**

It is the policy of the Board of Fire Commissioners and the Yaphank Fire District that the Yaphank Fire District and Yaphank Fire Department shall not discriminate against officers, employees and members, applicants for employment or membership, and persons served in any manner prohibited by federal, state and local law. In addition, the Board will endeavor to make certain that officers, employees, members, and applicants are advised of this policy and any amendments thereto.

It is our policy to embrace the diversity in the community which we serve and promote inclusion by our recruitment and retention policy and the manner in which we serve our community.

## **I. Equal Employment Opportunity Policy**

The Board of Fire Commissioners and the Fire District/Fire Department is an equal opportunity employer and prohibits discriminatory employment and membership actions against and treatment of district officers, employees, members, and applicants for employment and membership based on actual or perceived race, color, national origin, alienage or citizenship status, religion or creed, gender (including "gender identity" -- which refers to a person's actual or perceived sex, and includes self-image, appearance, behavior or expression, whether or not different from that traditionally associated with the legal sex assigned to the person at birth), disability, pregnancy, age (18 and over), military status, prior record of arrest or conviction, marital status, genetic predisposition or carrier status, sexual orientation, or status as a victim of domestic violence, a sex offense or stalking.

### **A. Types of Prohibited Conduct:**

Decisions and practices based on an individual's protected status (e.g., race, religion, age and the other categories listed above) that unlawfully affect employment or membership or the compensation, terms, conditions or privileges of an individual's employment, membership or potential employment or membership with the Fire District/Fire Department are prohibited by this policy. This includes unlawful decisions, actions and practices that occur in the course of recruitment, testing, hiring, work assignments, salary and benefits, working conditions, performance evaluations, promotions, training

opportunities, career development and advancement, transfers, discipline, discharge or any other application or selection process relating to employment.

The Fire District/Fire Department EEO Policy also prohibits sexual harassment, but that conduct is addressed in the district's sexual harassment prevention program covered under a separate policy adopted in accordance with New York law.

Harassment and/or retaliation against a person who opposes or complains about prohibited conduct or participates in any way in the complaint, investigation or reasonable accommodation processes are strictly prohibited.

This policy also prohibits the denial of reasonable accommodations (for disabilities; religious beliefs, observances, and practices; or for victims of domestic violence, sex offenses or stalking) that do not create undue hardship to the district and/ or department as an employer.

Some offensive acts or remarks may violate this policy, even if they are not so severe that they violate federal, state or local discrimination laws. The Fire District/Fire Department may discipline conduct that violates this policy even if the conduct does not violate a law prohibiting discrimination.

## **B. Applicability:**

Everyone who works or volunteers for the Fire District/Fire Department or is present at its workplaces, or who seeks employment or membership within the Fire District/Fire Department, is covered by federal, state and local employment laws and this policy. This includes all current employees, members, managers, officers (including executives and senior level staff members), supervisors, co-workers, co-members and job/ membership applicants.

This policy not only protects individuals from prohibited conduct because of their own protected status (such as their own actual or perceived race, religion, national origin or disability), but also protects individuals from conduct motivated by the actual or perceived race, religion, national origin or disability, etc., of other persons with whom they are associated. For example, this policy applies to individuals who are subjected to adverse actions because of their marriage to, or domestic partnership or association with, persons of a particular racial, religious or national origin group, or persons who have a disability. Moreover, discrimination based on an individual's name(s) or spouse's or domestic partner's name(s) that is associated with a particular racial, religious or national origin group is prohibited.

These protections apply to actions, whether or not intentionally offensive or directed at a particular person or group that violate this policy.

This policy extends to conduct which occurs at any location that could be reasonably regarded as an extension of the workplace, such as any field location, off-site business-

related social function, Fire District/Fire Department vehicle or facility where Fire District/Fire Department business is being conducted and discussed.

Fire District/Fire Department employees and members are expected to be respectful of all of their co-workers, co-volunteers and members of the public, and to be sensitive to the effects of their behavior on those around them. All employees must be trained in the requirements of this policy and must receive a copy of this EEO Policy.

## **II. Specific Protections**

The following sections are provided to enable individuals to understand the unique definitions, issues, rights and responsibilities under this policy pertaining to sexual harassment and discrimination based on disability, religion, retaliation and status as a victim of domestic violence, a sex offense or stalking.

### **A. Sexual Harassment:**

Sexual harassment is a form of employment discrimination which is prohibited by law. The federal government has created guidelines which define sexual harassment as "unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature . . . when: 1) submission to the conduct is made either explicitly or implicitly a term or condition of an individual's employment; 2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or 3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment."

Sexual harassment may involve individuals of the same or different gender(s). A broad range of behavior may be considered sexual harassment, including sexually suggestive remarks, pictures or gestures, verbal abuse or harassment of a sexual nature, subtle or direct propositions for sexual favors, and any unnecessary touching, patting, or pinching. As noted above sexual harassment is covered by a separate policy.

### **B. Disabilities:**

Discrimination against a person based on that person's actual or perceived disability, record of disability, or relationship with a person with a disability will not be tolerated by the Fire District/Fire Department. For the purpose of this policy, a disability is: 1) a physical, medical, mental or psychological impairment; 2) a history or record of such impairment; or 3) being regarded as having such impairment.

The Fire District/Fire Department will take appropriate action to provide reasonable accommodations to qualified employees, members and applicants with disabilities, unless providing such accommodations creates an undue hardship. Reasonable accommodations include the provision of equipment, changes in workplace policies and

practices, and other forms of assistance that allow people with disabilities to apply for a position, to perform their jobs, or to enjoy equal benefits and privileges of employment as are enjoyed by other similarly situated employees without disabilities.

Whether an accommodation is reasonable will depend upon the circumstances of the particular request. Some examples of accommodations that may be reasonable include: making facilities physically accessible to, and usable by, persons with disabilities; job restructuring; modifying work schedules; providing or modifying equipment or devices; providing qualified readers, interpreters, auxiliary aides and/or other support services; and providing leave and/or arranging for transfer or reassignment to a vacant position, if such transfer or reassignment does not violate the Civil Service Law or other applicable laws, regulations and/or collective bargaining agreements. The requirement that volunteer firefighters must meet certain minimum requirements at acceptance into membership in order to perform the duties of an interior structural firefighter as mandated by O.S.H.A. and New York State P.E.S.H. does not violate this policy.

Following a determination by the Workers Compensation Board, the Social Security Administration, the Civil Service Department or Commission or other recognized authority that an employee or member is permanently and totally disabled, temporarily and totally disabled and/or permanently and partially disabled under applicable laws and regulations is not a violation of this policy. Providing benefits under a program such as workers' compensation, the Volunteer Firefighters Benefits Law ["VFBL"] and/ or a Length of Service Awards Program ["LOSAP"] and/ or a resultant in a separation from service is not a violation of this policy.

Undue hardship may exist when an accommodation is significantly difficult, unduly costly, extensive, substantial, or disruptive, or would change the nature or operation of an agency's business operation.

The Fire District/Fire Department encourages employment of and promotional opportunities for qualified persons with disabilities.

### **C. Religion:**

The Fire District/Fire Department EEO Policy prohibits adverse employment or membership actions based on a person's religion. This includes discriminatory practices and decisions, harassment, hostility or other adverse actions because of a person's creed, religious affiliation, or religious beliefs, observances or practices.

In addition, depending on the circumstances, the Fire District/Fire Department will try to reasonably accommodate the religious observances, beliefs or practices of an employee or applicant, unless the accommodation creates an undue hardship. A reasonable accommodation for religion may be a change in a workplace rule or practice that allows an individual to respect his or her religious observances, beliefs or practices. The Fire District/Fire Department may be required to provide accommodations for religion such as: flexible arrival and departure times; leave; voluntary exchanges of shifts or

assignments; time and/or place to pray; accommodations relating to appearance and dress; and modifying workplace practices, policies and/or procedures.

The Fire District/Fire Department is not required to provide accommodations that are too costly or difficult to provide, that would be disruptive, that would ignore workplace safety issues or that would interfere with job performance.

#### **D. Retaliation:**

It is a violation of this policy to retaliate against or harass any person who asserts his or her rights regarding employment or membership discrimination by: 1) opposing discriminatory practices in the workplace; 2) complaining about prohibited conduct; or 3) participating in any way in the complaint, investigation or reasonable accommodation processes. It is also a violation of this policy to retaliate against or harass someone because of his or her association with such an individual.

Behaviors which may be considered retaliatory include, but are not limited to: threats, reprimands, negative evaluations, harassment, refusal to hire, denial of promotion or job benefits, demotion, suspension, discharge, negative references to prospective employers, or other actions affecting the terms, conditions or privileges of employment or membership.

Examples of behavior that is protected against retaliation under this policy include, but are not limited to: expressing an intent to file a charge or complaint alleging prohibited conduct; participating as a witness in an EEO investigation, administrative proceeding, hearing or trial; and/or seeking a reasonable accommodation.

#### **E. Domestic Violence, Sex Offenses or Stalking:**

The Fire District/Fire Department EEO policy prohibits employment or membership discrimination against persons who are victims of domestic violence, or victims of sex offenses or stalking, as defined by that law and the New York State Penal Law. The Fire District/Fire Department shall endeavor to provide reasonable accommodations that do not create undue hardship and that enable such persons to satisfy the essential requisites of a job, provided that the status as a victim of domestic violence or victim of sex offenses or stalking is known, or should have been known, by it.

### **III. Procedures**

#### **A. Reporting Violations:**

Anyone who believes that he or she has been subjected to any action, decision or harassment in violation of this policy, or who witnesses others being subjected to improper conduct, is urged to promptly report the incident(s) to his or her supervisor, manager or chief officer or directly to the Board of Fire Commissioners. Supervisors, managers, or chief officers who receive EEO complaints, or who otherwise become aware of any improper discrimination, must notify the Board of Fire Commissioners.

Supervisors, managers and chief officers should also encourage individuals who believe that the Fire District/Fire Department EEO Policy has been violated to contact the Board of Fire Commissioners.

An individual who believes that this policy has been violated must report the incident in writing. The complaint must be filed within one year of the event which is the subject of the complaint unless the law provides for a longer period to file a complaint.

If any employee or members knowingly makes a false accusation of discrimination or knowingly provides false information in the course of an investigation of a complaint, such conduct may be grounds for discipline. A complaint made in good faith, even if found to be unsubstantiated, will not be considered a false accusation.

### **B. Withdrawing Complaints:**

A complaint of discrimination may be withdrawn at any time by the person who filed the complaint. In some instances, the Board of Fire Commissioners will find it appropriate to end the investigation when the complaint is withdrawn. Prior to ending the investigation, the Board of Fire Commissioners must determine whether the agency should take corrective action to address inappropriate conduct. If the Board of Fire Commissioners determines that corrective action is required, it may be necessary for the Board of Fire Commissioners to continue the investigation or recommend action to remedy inappropriate behavior.

### **C. Concluding the Complaint Investigation:**

The Board of Fire Commissioners will advise all parties involved in writing of the outcome of a complaint. If the Board of Fire Commissioners concludes that a violation of this policy has occurred, the Board of Fire Commissioners will recommend appropriate corrective action. The Board of Fire Commissioners reserves the right to appoint an EEO Officer to fulfill these duties. The Board may appoint the special counsel, a supervisor of the district or department or a third party to act as the EEO Officer on any claim. If it does so the Board of Fire Commissioners will review the EEO Officer's report and promptly issue a determination adopting, rejecting or modifying the recommended action. Such determination shall be in writing and may be issued electronically.

Any person found to have engaged in conduct or practices in violation of this policy may be subject to discipline which may include a reprimand, suspension, probation, demotion, transfer, termination, or any other measures permitted by law and/or collective bargaining agreements. In addition to implementing such disciplinary action, the fire district will take such steps as may be necessary to address the impact that any violation of this policy has had on the complainant or within the fire district.

### **D. Other Places Where Complaints May Be Filed:**

The following federal, and state agencies enforce laws against discrimination: The New York State Division of Human Rights, the United States Equal Employment Opportunity

Commission (the "EEOC") and the Department of Justice. You may make formal complaints with these entities in addition to your right to make a complaint to the Fire District/Fire Department.

Where a person exercises his or her right to file a complaint with a federal, or state administrative agency (known as an "external complaint") based on or related to the same facts and circumstances of an internal complaint, the Board of Fire Commissioners will transfer the matter to the District's General Counsel or a third party to act as the EEO Officer, who will be responsible for any further handling of the matter. The Board of Fire Commissioners will notify the complainant and the parties who are the subject of the complaint, in writing, that the investigation by the Board of Fire Commissioners has been transferred because of the filing of the external complaint. The fire district General Counsel or a third party to act as the EEO Officer will be responsible for handling external complaints regardless of the timing of such complaints (whether filed before the internal complaint is filed, at the same time that the internal claim was filed, or after the internal complaint was filed but prior to the completion of the fire district's internal EEO procedures). The transfer of the complaint to the fire district General Counsel's Office a third party to act as the EEO Officer should in no way preclude the EEO Officer from cooperating with the General Counsel's Office with respect to the ultimate resolution of the complaint.

The Board also reserves the right to assign the matter to outside counsel or an outside investigator.

#### **E. Requests for Reasonable Accommodations:**

The Fire District/Fire Department may be required to provide reasonable accommodations, when requests are made in connection with disabilities, religion and/or to accommodate individuals who are victims of domestic violence, sex offenses or stalking. The reasonable accommodation process should be flexible and interactive, involving agency representatives who are necessary to the reasonable accommodation process and the individual who is requesting a reasonable accommodation. In all instances, the Board of Fire Commissioners should be notified of the request in order to facilitate discussions, research appropriate accommodations and assist in the resolution of the matter. O.S.H.A. safety issues cannot be ignored in order to provide accommodations.

#### **F. Confidentiality:**

All complaints, investigations, requests for accommodations and records will be handled, to the extent possible, in a manner that will protect the privacy interests of those involved. EEO matters may be discussed with other persons who may have information about a complaint or who are necessary to implement reasonable accommodations for disability, religion or based on status as a victim of domestic violence, a sex offense or stalking. Therefore, it may be necessary to disclose information to persons with a legitimate need to know about the matter.

**G. Documentation:**

All inquiries, complaints, requests, mediation efforts, investigations, requests for accommodation and their outcomes will be documented by the Board of Fire Commissioners.

**IV. Training**

We will work to develop a diversity and inclusion training program which includes training on this program so that our personnel will receive training on entering service with our Fire District and periodically thereafter.

The adoption of the foregoing policy in the form of a resolution was duly put to a vote and upon roll call the vote was as follows:

Chairman Schaaf	AYE
Commissioner Peters Jr.	AYE
Commissioner Austin	AYE
Commissioner Skidmore	AYE
Commissioner Thebold	AYE

The resolution was thereupon duly adopted.

Attest:

Paulamarie Rosso-Thompson  
District Secretary  
April 6, 2021

Policy #: 21-003

Dated: Yaphank, New York  
April 6, 2021

Re-adopted this 7<sup>th</sup> day of January 2025 by the Board of Fire Commissioners.