Disclaimer – This model policy does not constitute legal advice. Fire Departments using this policy as a model should consult with your department’s attorney for applicability in your state and to conform to and not conflict with existing companion policies or existing State or Federal laws.

Contributor – Eastside Fire & Rescue, Issaquah, Washington State

SUBJECT: HARASSMENT & HOSTILE BEHAVIOR IN THE WORKPLACE

1 Purpose
   1.1 To clearly establish ___________ the Fire Departments commitment to provide a work environment free from unlawful harassment and hostile behavior, based on a protected status; and to provide guidance to any employee who believes they have been a victim of such behavior based on race/color, religion, sex, sexual orientation, national origin, age, disability, marital status, or any other status protected by applicable Federal, State, or Local law.

2 Reference
   2.1 PLACE YOUR APPLICABLE STATE STATUE IN THIS SPACE FOR REFERENCE
   2.4 Title VII of the Civil Rights Act of 1964
   2.5 EEOC “Guidelines on Discrimination Because of Sex”
   2.7 ADEA of 1967
   2.8 ADA of 1990

3 Responsibility
   3.1 Management: Management is responsible to follow, maintain, enforce, and ensure that any known violation of this policy is dealt with fairly, quickly, and impartially. When a violation of this policy is suspected, noted, or reported, managers shall promptly notify their direct supervisor, the HR Manager, or the Fire Chief, verbally or in writing.
   3.2 Supervisors: Supervisors are responsible to follow and enforce the policy. Supervisors are to conduct an annual review of the policy with each employee they supervise to ensure they understand the policy and to regularly inspect the workplace to ensure that the policy is being followed. When a violation of this policy is suspected, noted, or reported, supervisors shall promptly notify their direct supervisor, the HR Manager, or the Fire Chief, verbally or in writing.
   3.3 Employees: Employees have the responsibility to understand and follow the policy. Every employee, including management and supervisors, shall treat every other employee with dignity and respect in regards to this policy. When a violation of this policy is suspected, noted or reported, employees shall promptly notify their direct supervisor, the HR Manager, or the Fire Chief, verbally or in writing of the alleged incident.
4 Policy

4.1 ______________________ Fire Department will not tolerate harassing or hostile behavior, based on a protected status, extending to all agency-related on and off-site activities while on duty.

5 Procedures/Guidelines

5.1 This policy shall be reviewed by each supervisor or manager with personnel they supervise on an annual basis during the annual personnel evaluation process to ensure that its contents are understood.

5.2 This policy applies to all terms and conditions of employment, including but not limited to hiring, placement, promotion, disciplinary action, layoff, reinstatement, transfer, leave of absence, compensation, and training.

5.3 Harassment and/or hostile behavior, based on a protected status, directed at an employee, applicant, client, contractor, business invitee, or customer, by any employee or official of the agency is in violation of State and/or Federal law and will not be tolerated by the agency.

5.4 Employees found to be participating in any form of harassment, any form of hostile behavior, or retaliating against another employee for reporting such behavior shall be subject to disciplinary action.

DIFFUSION/PROBLEM SOLVING

5.5 Employees may but are not required to directly confront any person(s) who are the source of the problem or closely associated with the person who is the source of the problem. Instead, employees may utilize any of the other various avenues of internal complaint. Employees are required to make a reasonable effort to bring forward any allegations of unlawful harassment and/or hostility so the ___________________ Fire Department may stop such wrongdoing and prevent future occurrences.

COMPLAINT

5.6 Complaints of harassment or hostile behavior will be handled with sensitivity, discretion, and confidentiality. Allegations of harassment or hostile behavior, based on a protected status, are confidentially shared with individuals on a “need to know” basis so that the agency can conduct an investigation, and take appropriate action to prevent any further violations of this policy.

5.7 As outlined in Section 3.3 above, any employee who believes they are a victim of harassment or hostile behavior, based on a protected status, shall make the complaint in writing, or verbally and promptly submit it to their direct supervisor, the HR Manager, or the Fire Chief.

5.8 Any supervisor or manager who observes inappropriate behavior or receives a harassment complaint must promptly notify their direct supervisor, the HR Manager, and/or the Fire Chief of the incident.
INVESTIGATION PROCEDURE

5.9 HR, Fire Chief, Deputy or Assistant Chief or designee receives a written complaint and determines what actions between the involved parties have been taken to resolve the matter(s). HR evaluates the claim and determines the merit of the complaint. If the claim is determined to not have merit HR will inform the complainant within 5 days.

5.10 HR, Fire Chief, Deputy or Assistant Chief or designee determines where merit exists, the process to investigate.

5.11 HR, Fire Chief, Deputy or Assistant Chief or designee may assign an internal investigator, contract for an outside investigator, or conduct the investigation.

5.12 HR, Deputy or Assistant Chief or designee notifies the Fire Chief of an ongoing investigation and may recommend a change in supervisors, workplace assignment, or placement on administrative leave if warranted during the investigation.

5.13 HR, Fire Chief, Deputy or Assistant Chief or designee establishes a written schedule for the entire investigation and monitors the progress, based on target dates for certain task completion. The following are guidelines to be used in establishing the schedule:

5.13.1 Assign an investigator after determining the merit of the complaint. The investigator may be replaced if extenuating circumstances prevent a timely investigation.

5.13.2 Schedule assigned tasks within two working days of the receipt of complaint/charges.

5.13.3 The investigator shall:

5.13.3.1 Interview those filing the complaints or charges and those being charged or complained against within five working days after assigned by HR, Fire Chief, Deputy or Assistant Chief or designee;

5.13.3.2 Outline a series of questions pertinent to the complaint, interview the parties involved and any witnesses, document the responses and those interviewed shall review their responses for accuracy and sign the document;

5.13.3.3 Conclude the interviews within 20 working days after assignment by HR, Fire Chief, Deputy or Assistant Chief or designee;

5.13.3.4 A written report of the investigation, with findings, conclusions, and recommendations shall be submitted to HR and the Fire Chief within 30 days of the investigation assignment. Due to conditions beyond the control of the investigative process, this timeline may be extended.

5.14 HR will notify those parties directly involved in the complaint of the findings of the investigation.
5.15 Documents pertinent to the complaint and the investigation shall be sealed and locked in storage, and may be forwarded to legal counsel for storage.

5.16 The file may be accessed to defend against liability or if there are links to another related complaint or charge based upon receipt of proper documentation.

5.17 Should the HR Manager be involved in the charges/complaint, the Fire Chief shall assign a Deputy Chief to fill the role of the HR Manager in the related process.

5.18 Should the Chief be involved in the complaint/charges, the Board Chair of the elected officials (or members of the city council) or City Manager or Mayor)) will be notified of the complaint/charges.

5.19 Should a Board Member of the elected officials (or member of the City council) be involved in the charges/complaint, the Chief of the Department shall notify the remainder of the Board (or City Manager or Mayor)

RETAILIATION

5.20 No action will be taken against any employee who in good faith files a complaint or report of harassment or hostile behavior, based on a protected status, or employees who assist in the investigation of such complaint or report.

CONFIDENTIALITY

5.21 Confidentiality will be maintained to the fullest extent possible in accordance with applicable Federal, State and Local law.

FALSE COMPLAINTS

5.22 Any complaint made by an employee of the agency regarding harassment or hostile behavior, based on a protected status, which is conclusively proven to be false and made in bad faith, shall result in discipline.

LIMITATIONS

5.23 The use of this procedure is limited to complaints related to workplace harassment or hostile behavior on the basis of race/color, religion, sex, sexual orientation, national origin, age, disability, marital status, or any other basis prohibited by Federal, State or Local law.

DEFINITIONS

6.1 Verbal Harassment: Epithets, derogatory comments, slurs, propositioning, or otherwise offensive words or comments on the basis of race/color, religion, sex, national origin, age, disability, marital status, or any other protected status whether made in general, directed to an individual, or to a group of people, regardless of whether the behavior was intended to harass. This includes but is not limited to inappropriate gender or sexually-oriented comments on appearance, including dress or physical features, sexual rumors, code words, and race-oriented stories.

6.2 Hostile Behavior: Ongoing hostile behavior, based on a person’s protected status that unreasonably interferes with an individual’s work performance, or creating an intimidating, hostile, or offensive work environment.

6.3 Physical Harassment: Inappropriate touching, assault, impeding or blocking movement, leering, or the physical interference with normal work,
privacy or movement when directed at an individual on the basis of race/color, religion, sex, national origin, age, disability, marital status, or any other protected status. This includes pinching, patting, grabbing, and inappropriate behavior, or making explicit or implied threats or promises in return for submission to physical acts.

6.4 **Visual Forms of Harassment**: Derogatory, prejudicial, stereotypical or otherwise offensive posters, photographs, cartoons, notes, bulletins, drawings or pictures on the basis of race/color, religion, sex, sexual orientation, national origin, age, disability, marital status, or any other protected status. This applies to either posted material or material maintained in or on agency equipment or personal property in the workplace.

6.5 **Sexual Harassment**: Generally defined as unwelcome or unwanted sexual advances, requests for sexual favors, or other visual, verbal, or physical conduct when: (1) submission to such conduct is made either explicitly or implicitly a term or condition of employment; (2) submission to or rejection of such conduct affects employment opportunities; (3) the conduct interferes with an employee’s work or creates an intimidating, hostile, or offensive work environment.

6.5.1 Sexual harassment includes, but is not limited to, any deliberate or repeated unsolicited verbal comments, gestures or physical contact of a sexual nature by any employee which are unwelcome to the recipient or which causes the recipient discomfort or humiliation. Any incident or explicit coercive sexual behavior to control, influence, or affect the career, salary, or employment of another employee or prospective employee.

6.5.2 Examples of sexual harassment include, but are not limited to:

6.5.2.1 Remarks or jokes about a person’s clothing; body or sexual gestures; unwanted touching, patting or brushing against a person; verbal abuse or pressure for sexual activity.

6.5.2.2 Direct or implied threats that submission to sexual advances will be a condition of employment or continued service with the fire department.

6.5.2.3 Sexually related material such as pornography, objects, or pictures, or Internet sites.

6.5.2.4 Unwelcome verbal or visual conduct of a sexual nature such as comments, innuendoes, jokes, e-mail, voice mail messages, gestures, leering or stalking.

6.5.2.5 Unwelcome physical sexual contact such as grabbing, groping, pinching, patting, massaging someone’s neck or shoulders, pulling against another’s body, rape molestation, or any attempts to commit such wrongdoing.

6.5.2.6 Any act which is sexual in nature and is made explicitly or implicitly a term or condition of employment, is used as the basis of an employment decision, unreasonably
interferes with an individual’s work performance or creates an intimidating, hostile, or offensive work environment.

7 Violations
7.1 Any violations of this policy may cause the firefighter to be disciplined by the provisions found in the Discipline Policy which may include suspension or termination.