



PRESENTATION REGARDING HARASSMENT
FIRE COMMISSION MEETING
NOVEMBER 9, 2016

INTRODUCTION:

- Since Chief Hayes-White's tenure began in January 2004, the Department has issued two General Orders regarding the Department's and the City's EEO Policy and Complaint Procedure. The two General Orders were 09 A-58 and 15 A-43, which is the current version.
- Under the previous Fire Chief, a General Order regarding the Department's EEO Policy and Complaint Procedure was issued in October 2003. Thus, there was no need for an update during the early years of Chief Hayes-White's tenure.

INTRODUCTION

- In addition to the General Orders, the Department has always had a provision regarding the prohibition of discrimination and harassment in the workplace in its Rules and Regulations. In the 1997 edition of the Rules and Regulations, this was addressed in Article 3958. In the current edition, it is found in Article 3911.
- Besides the specific articles mentioned above, the sections for Division Chief, Battalion Chief and Captain in both editions of the Rules and Regulations address each Officer's responsibility to maintain a work environment that is free from discrimination, harassment and retaliation.

CA ASSEMBLY BILL 1825

- CA State Law AB 1825, which is part of the Fair Employment Housing Act, first became effective on August 17, 2007.
- It has been codified in the new California Government Code Section 12950.1. This law mandates training and education of supervisors in sexual harassment prevention in the workplace every two years for employers with 50 employees or more.
- Since 2007, the Department has complied with the training requirement for the following years: 2007, 2009, 2011, 2013, 2015

DEPARTMENT TRAINING

- In addition to the training requirement under AB 1825, the Department conducts its own training regarding the Department's EEO Policy and Complaint procedure.
- This training is conducted for all entry-level uniformed classes.
- A similar training is also provided either live or online video to new Lieutenants and new Battalion Chiefs, with emphasis on Officer Responsibilities.

DEPARTMENT TRAINING

- Since there is a current General Order (15-A-43) regarding the Department's EEO Policy and Complaint Procedure, it is included in the Annual Daily Drill Schedule for Officers to discuss with their members.

HARASSMENT DEFINED

Two Theories:

- Quid pro quo - complainant is subject to a request of a sexual nature as a condition of employment
- Hostile Work Environment - may be based on any protected category; may take many forms including, but not limited to, verbal, visual or physical, unwelcome conduct on account of the complainant's membership in a protected category, which is so severe or pervasive as to alter the condition of the complainant's employment and create an abusive working environment.

HARASSMENT – QUID PRO QUO

- The complainant is subject to a request of a sexual nature;
- The request is unwelcome; and
- The request is a condition of employment.

HARASSMENT – HOSTILE WORK ENVIRONMENT

- The complainant is subject to physical, verbal or visual conduct on account of the complainant's membership in a protected category;
- The conduct is unwelcome; and
- The conduct is sufficiently severe or pervasive as to alter the condition of the complainant's employment and create an abusive working environment.

PROTECTED CATEGORIES

- Race
- Color
- Religion
- Creed
- Sex
- National Origin
- Ethnicity
- Age
- Disability or Medical Condition
- AIDS/HIV or Aids-Related Conditions
- Political Affiliations
- Sexual Orientation
- Ancestry
- Marital or Domestic Partner Status
- Gender Identity
- Parental Status
- Other non-merit factors or any category provided for by ordinance

FORMS OF UNLAWFUL HARASSMENT

- Physical conduct – such as assault, blocking normal movement, leering or lewd gestures, or physical interference with work
- Verbal conduct – epithets, derogatory comments, unwelcome jokes or stories, slurs, unwelcome advances or invitations, harassing phone calls
- Visual conduct – such as derogatory or offensive posters, cartoons, bulletins or drawings, or electronic mail transmissions. This includes the use of Department equipment and any equipment physically located at stations.

OTHER CONSIDERATIONS FOR HARASSMENT

- For Quid Pro Quo Harassment, there has to be a disparity in power. Thus, allegations under this theory always involve a subordinate complaining about a supervisor or higher authority who is accused of making requests of a sexual nature in exchange for a condition in the subordinate's employment.
- What is offensive is in the eye of the beholder
- Either gender or any sexual orientation can be harassed or be a harasser