

NON-DISCRIMINATION OR HARASSMENT

1413

(No. 1 May 2015)

[Government Code § 19572; Government Code § 12940](#)

[Title VII, U.S. Civil Rights Act of 1964 as amended in 1972 and 1991 \(42 U.S.C. §2000e et seq.\)](#)

[Age Discrimination in Employment Act of 1967 and 1978 \(29 U.S.C § 621 et seq.\)](#)

[Rehabilitation Act of 1973 \(29 U.S.C. § 791et seq\)](#)

[Pregnancy Discrimination Act of 1978 \(42 U.S.C. § 2000e\(k\)\)](#)

[Americans with Disabilities Act of 1990 \(42 U.S.C. § 12101 et seq.\)](#)

[Article I, Section 31, California Constitution \(Proposition 209 – Prohibits granting of preferences based on race, ethnicity and gender in public employment, contracting and education\)](#)

[California Fair Employment and Housing Act \(Gov. Code, §§12900-12996\)](#)

No employee, volunteer, or applicant shall be subject to, and the Department policy prohibits, any form of discrimination. Discrimination occurs when an unfair or adverse employment decision is made, in whole or part, due to the employee's actual or perceived protected characteristic. CAL FIRE policies prohibiting discrimination were established to ensure that all persons have the same basic right to gainful employment, i.e., fair, non-disparate working conditions, and opportunities that allow advancement in accordance with one's ability that are based on merit.

It is the Department's policy that all employment decisions shall be made on the basis of merit and/or legitimate business need. Employment decisions such as hiring or promotion practices, conditions of employment, disciplinary actions, or any other aspect of employment such as testing, selection, placement, employee development, training and/or advancement shall NOT be made in whole or part due to a protected characteristic. (See CAL FIRE policy section 1414 – Basis of Discrimination or Harassment for a list of protected characteristics.)

No employee, volunteer, or applicant shall be subject to, and the Department policy prohibits, any form of harassment. Harassment is defined as behavior where an individual verbally, physically, or visually harasses another individual based on a protected characteristic. Harassment may have many forms and is not limited to, teasing, jokes, insults, or gossip regarding an individual's sex life, sexual orientation, an individual's body, sexual activity, or any protected characteristic. Harassment may also include abusive, defamatory and or derogatory phrases such as name calling, comments, or remarks based on a protected characteristic that are used to humiliate or harm another.

Physical harassment may include physical assaults, threats, or the use of one's body to physically intimidate another that is motivated in whole or part on a protected characteristic. Visual displays of harassment may include lewd or obscene gestures,

screen savers or printed media material in the workplace that are sexually explicit, derogatory, or demeaning of a particular protected characteristic.

No person shall be denied the benefits of or excluded from participation in the programs which the Department administers due to discrimination based on a protected characteristic.

CAL FIRE has a zero tolerance policy for discriminatory or harassing behavior or practices. All employees of the Department shall maintain a work environment free from discrimination and harassment.

The victim does not have to be the person discriminated against or harassed, but can be anyone affected by the offensive conduct or behavior. Any action by any Department employee that is in any way contrary to this policy is unacceptable and grounds for disciplinary action. One act of harassing conduct and or discriminatory actions may constitute a violation of this policy.

All employees are responsible for ensuring they are aware of the Department's EEO policy and for understanding what conduct constitutes discrimination, harassment and sexual harassment policy violations.

Under State and federal law, liability and monetary damages may be ascribed to the harasser, the harasser's supervisor, and the Department. CAL FIRE may (and has) filed lawsuits against employees to recover monetary damage awards assessed against it for actions or omissions by staff members.

[\(see Next Section\)](#)

[\(see Handbook Table of Contents\)](#)

[\(see Forms and Form Samples\)](#)