

# Ellicott Creek Volunteer Fire Company Prohibited Harassment and Sexual Harassment Policy

Ellicott Creek Volunteer Fire Company is committed to maintaining a workplace free from discrimination, harassment and sexual harassment. Harassment and sexual harassment are forms of workplace discrimination, and harassment because of and discrimination against persons in all protected classes is prohibited.

Our different identities impact our understanding of the world and how others perceive us. For example, an individual's race, ability, or immigration status may impact their experience with discrimination in the workplace. The purpose of this policy is to teach members to recognize discrimination and harassment and provide the tools to take action when it occurs.

All ECVFC members are required to work in a manner that prevents discrimination, harassment or sexual harassment in the workplace. This policy is one component of ECVFC's commitment to a discrimination-free work environment.

## ***Goals of this Policy***

This policy will describe what harassment and discrimination look like, what actions members can take to prevent and report harassment, and how they are protected from retaliation after taking action. The policy will also explain the investigation process into any claims of harassment. Members are encouraged to report sexual harassment or discrimination by filing a complaint internally with ECVFC. Members can also file a complaint with a government agency or in court under federal, state, or local antidiscrimination laws.

## ***Policy***

1. ECVFC's policy applies to all members, applicants for membership, volunteers, contractors, subcontractors, vendors, consultants, or anyone providing services in the ECVFC workplace, such as independent contractors or temporary workers. This policy also applies to beneficiaries of Fire Company services. Throughout this policy, the term "covered individual" refers to these individuals who are not direct members of the Fire Company.
2. Harassment and sexual harassment are unacceptable and will not be tolerated. Any member or covered individual who engages in discrimination, harassment, sexual harassment or retaliation will be subject to action, including appropriate discipline for members. In NY, harassment does not need to be severe or pervasive to be illegal. Members and covered individuals should not feel discouraged from reporting harassment because they do not believe it is bad enough, or conversely because they do not want to see a member receive discipline. Just as harassment can happen in different degrees, potential discipline for engaging in sexual harassment will depend on the degree of harassment and might include education and counseling. It may lead to suspension or termination when appropriate.
3. Any member or covered individual who reports an incident of harassment, sexual harassment, or discrimination, provides information, or otherwise assists in any investigation of a harassment or discrimination complaint is protected from retaliation. No one should fear reporting sexual harassment if they believe it has occurred. So long as a person reasonably believes that they have witnessed or experienced such behavior, they are protected from retaliation. Any member who retaliates against anyone involved in a harassment or discrimination investigation will face disciplinary action, up to and including termination of membership. All members and covered individuals who believe they have been subject to such retaliation should inform a Board member, officer, or Human Resources. All members and

covered individuals who believe they have been a target of retaliation may also seek relief from government agencies, as explained below in the section on Legal Protections.

4. Discrimination of any kind, including harassment and sexual harassment, is a violation of our policies, is unlawful, and subjects ECVFC to liability for the harm experienced by targets of discrimination. Harassers may also be individually subject to liability and supervisors or officers who fail to report or act on harassment may be liable for aiding and abetting such behavior. Members who engage in discrimination, harassment or sexual harassment, including supervisors or officers who engage in harassment or sexual harassment or who allow such behavior to continue, will be penalized for such misconduct.
5. ECVFC will conduct a prompt and thorough investigation that is fair to all parties. An investigation will happen whenever management receives a complaint about discrimination or harassment, or when it otherwise knows of possible discrimination or harassment occurring. ECVFC will keep the investigation confidential to the extent possible. If an investigation ends with the finding that discrimination or harassment occurred, ECVFC will act as required. In addition to any required discipline, ECVFC will also take steps to ensure a safe work environment for the member(s) who experienced the discrimination or harassment. All members are required to cooperate with any internal investigation of discrimination or sexual harassment.
6. All members and covered individuals are encouraged to report any harassment or behaviors that violate this policy. All members will have access to a complaint form to report harassment and file complaints. Use of this form is not required. For anyone who would rather make a complaint verbally, or by email, these complaints will be treated with equal priority. A member or covered individual who prefers not to report harassment to their supervisor/officer/HR/employer may instead report harassment to the New York State Division of Human Rights and/or the United States Equal Employment Opportunity Commission. Complaints may be made to both ECVFC and a government agency.
7. Managers and officers are **required** to report any complaint that they receive, or any harassment that they observe or become aware of to Human Resources.
8. This policy applies to all members and covered individuals, and all must follow and uphold this policy. This policy must be provided to all members, and will be posted prominently in all work locations.

### ***Harassment Definition and Examples***

Harassment occurs when (1) a member is subjected to unwelcome conduct, (2) that is motivated by the member's membership in a protected category, and (3) which either affects a term or condition of membership, and/or has the purpose or effect of unreasonably interfering with the member's work performance, and/or creates a hostile, intimidating or abusive work environment.

Federal and State law protected categories include:

- Race (including traits historically associated with race)
- Color
- Sex
- Age
- Disability
- Religion (including religious clothing, attire, and facial hair)
- Creed
- National origin
- Citizenship or immigration status
- Genetic information or predisposition
- Marital status
- Familial status
- Pregnancy-related condition
- Sexual orientation
- Gender identity or expression
- Political belief or activity
- Military and Veteran status
- Victims of domestic violence status
- Association
- Reproductive health decision making

ECVFC also prohibits discrimination and harassment against members and covered individuals, including program beneficiaries, who have limited English proficiency.

### ***Examples of Harassment***

Although not a complete list, below are examples of conduct that could constitute harassment:

- Use of demeaning names and/or references to race as a part of an insult
- Cartoons, jokes and emails with discriminatory themes
- Comments, gestures, or pictures containing insulting stereotypes
- Assigning workers with disabilities tasks beyond physical limitations
- Destroying or damaging someone's work area property
- Verbal threats or physical attacks (such as hitting, pushing or kicking)
- Unwelcome comments about a person's religion or religious garments

### ***Sexual Harassment Definition and Examples***

Sexual harassment is a form of gender-based workplace discrimination that subjects a member to inferior terms, conditions, or privileges of membership due to their sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity and the status of being transgender. It is unlawful under federal and state law. Sexual harassment includes all forms of sex and gender discrimination, including gender role stereotyping and treating members differently because of their sex or gender. Understanding gender diversity is essential to recognizing sexual harassment because discrimination based on sex stereotypes, gender expression and perceived identity are all forms of sexual harassment.

Harassment does not need to be severe or pervasive to be illegal. It can be any harassing behavior that rises above petty slights or trivial inconveniences. Every instance of harassment is unique to those experiencing it, and there is no single boundary between petty slights and harassing behavior. However, the Human Rights Law specifies that whether harassing conduct is considered petty or trivial is to be viewed from the standpoint of a reasonable victim of discrimination with the same protected characteristics. Generally, any behavior in which a member or covered individual is treated worse because of their gender (perceived or actual), sexual orientation, or gender expression is considered a violation of this policy. The intent of the behavior, for example, making a joke, does not neutralize a harassment claim. Not intending to harass is not a defense. The impact of the behavior on a person is what counts.

Sexual harassment includes any unwelcome conduct which is either directed at an individual because of that individual's gender identity or expression (perceived or actual), or is of a sexual nature when:

- The purpose or effect of this behavior unreasonably interferes with an individual's work performance or creates an intimidating, hostile or offensive work environment. The impacted person does not need to be the intended target of the sexual harassment;
- Membership depends implicitly or explicitly on accepting such unwelcome behavior; or
- Decisions regarding an individual's membership are based on an individual's acceptance to or rejection of such behavior. Such decisions can include what shifts and how many hours a member might work, project assignments, as well as promotion decisions.

There are two main types of sexual harassment:

- Behaviors that contribute to a hostile work environment include, but are not limited to, words, signs, jokes, pranks, intimidation, or physical violence which are of a sexual nature, or which are directed at an individual because of that individual's sex, gender identity, or gender expression. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit

derogatory, or discriminatory statements which an member finds offensive or objectionable, causes an member discomfort or humiliation, or interferes with the member's job performance.

- Sexual harassment also occurs when a person in authority tries to trade job benefits for sexual favors. This can include hiring, promotion, continued membership or any other terms, conditions, or privileges of membership. This is also called pro quo harassment.

Any member or covered individual who feels harassed is encouraged to report the behavior so that any violation of this policy can be corrected promptly. Any harassing conduct, even a single incident, can be discrimination and is covered by this policy.

### **Examples of Sexual Harassment**

The following describes some of the types of acts that may be unlawful sexual harassment and that are strictly prohibited. This list is just a sample of behaviors and should not be considered exhaustive.

- Physical acts of a sexual nature, such as touching, pinching, patting, kissing, hugging, grabbing, poking, or brushing against another member's body.
- Physical acts such as rape, sexual battery, molestation, or attempts to commit these assaults, which may be considered criminal conduct outside the scope of this policy (please contact local law enforcement if you wish to pursue criminal charges).
- Unwanted sexual comments, advances, or propositions, such as requests for sexual favors accompanied by implied or overt threats concerning the target's job performance evaluation, a promotion, or other job benefits.
- Subtle or obvious pressure for unwelcome sexual activities, or repeated requests for dates or romantic gestures, including gift-giving.
- Sexually oriented gestures, noises, remarks or jokes, or questions and comments about a person's sexuality, sexual experience, or romantic history which create a hostile work environment. Remarks made over virtual platforms and in messaging apps can create a similarly hostile work environment.
- Sex stereotyping, which occurs when someone's conduct or personality traits are judged based on other people's ideas or perceptions about how individuals of a particular sex should act or look, such as:
  - Remarks regarding a member's gender expression, such as wearing a garment typically associated with a different gender identity; or
  - Asking members to take on traditionally gendered roles, such as asking a woman to serve meeting refreshments when it is not part of, or appropriate to, her job duties.
- Sexual or discriminatory displays or publications anywhere in the workplace, such as displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials, or other materials that are sexually demeaning or pornographic. This includes such sexual displays on workplace computers or cell phones and sharing such displays while in the workplace.
- Hostile actions taken against an individual because of that individual's sex, sexual orientation, gender identity, or gender expression, such as:
  - Interfering with, destroying, or damaging a person's workstation, tools or equipment, or otherwise interfering with the individual's ability to perform the job;
  - Bullying, yelling, or name-calling;
  - Intentional misuse of an individual's preferred pronouns; or
  - Creating different expectations for individuals based on their sex or gender.

### ***Who can be a target of harassment or sexual harassment?***

Harassment or sexual harassment can occur between any individuals, regardless of their sex or gender. Harassment does not have to be between members of the opposite sex or gender. New York Law protects members and all covered individuals described earlier in the policy. Harassers can be anyone in the workplace. A supervisor, an officer, or a member can all be harassers. Anyone else in the workplace can also be harassers including an independent contractor, contract worker, vendor, or visitor.

Sexual harassment does not happen in a vacuum and discrimination experienced by a member can be impacted by biases and identities beyond an individual's gender. For example:

- Placing different demands or expectations on black women members than white women members can be both racial and gender discrimination;
- An individual's immigration status may lead to perceptions of vulnerability and increased concerns around illegal retaliation for reporting sexual harassment; or
- Past experiences as a survivor of domestic or sexual violence may lead an individual to feel re-traumatized by someone's behaviors in the workplace.

Individuals bring personal history with them to the workplace that might impact how they interact with certain behavior. It is especially important for all members to be aware of how words or actions might impact someone with a different experience than their own in the interest of creating a safe and equitable workplace.

### ***Where can harassment or sexual harassment occur?***

Unlawful harassment or sexual harassment is not limited to the physical workplace. It can occur while members are traveling for business or at Fire Company or industry sponsored events or parties. Inappropriate calls, texts, emails, and social media usage by members or covered individuals can constitute unlawful workplace harassment, even if they occur away from the workplace premises, on personal devices, or during non-work hours.

Any behaviors outlined above that leave a member feeling uncomfortable, humiliated, or unable to meet their job requirements may constitute harassment even if the member or covered individual is not on site when the harassment occurs. Harassment can happen on virtual meeting platforms, in messaging apps, and after working hours between personal cell phones.

### ***Retaliation***

Retaliation is unlawful and is any action by a supervisor or officer that punishes an individual upon learning of a harassment claim, that seeks to discourage a worker or covered individual, including program beneficiaries, from making a formal complaint or supporting a harassment, sexual harassment or discrimination claim, or that punishes those who have come forward. These actions need not be job-related or occur in the workplace to constitute unlawful retaliation. For example, threats of physical violence outside of work hours or disparaging someone on social media would be covered as retaliation under this policy.

Examples of retaliation may include, but are not limited to:

- Demotion, termination, reduced hours, or the assignment of less desirable shifts;
- Publicly releasing personnel files;
- Providing an unwarranted negative reference; or
- Reducing work responsibilities or passing over for a promotion.

The NYS Human Rights Law protects any individual who has engaged in “protected activity.”

Protected activity occurs when a person has:

- Made a complaint of harassment, sexual harassment or discrimination, either internally or with any government agency;
- Testified or assisted in a proceeding involving harassment, sexual harassment or discrimination;
- Opposed harassment, sexual harassment or discrimination by making a verbal or written complaint to management, or by informing a supervisor or manager of suspected harassment;
- Reported that another member has been harassed or discriminated against; or
- Encouraged a fellow member to report harassment.

Even if the alleged harassment does not turn out to rise to the level of a violation of law, the individual is protected from retaliation if the person had a good faith belief that the practices were unlawful. However, the retaliation provision is not intended to protect persons making intentionally false charges of harassment.

### ***Reporting Harassment or Sexual Harassment***

**Everyone must work toward preventing harassment and sexual harassment.** Any member or covered individual, including program beneficiaries, is encouraged to report harassing or discriminatory behavior they experience, witness or become aware of to a Board member, officer, or to Human Resources.

Reports of harassment or sexual harassment may be made verbally or in writing. A written complaint form is provided in Section VII if a member would like to use it, but the complaint form is not required. Members who are reporting harassment or sexual harassment on behalf of other members may use the complaint form and should note that it is on another member’s behalf. A verbal or otherwise written complaint (such as an email) on behalf of oneself or another member is also acceptable.

Should a member or officer become aware of a complaint from a program beneficiary, the member or officer shall complete a complaint form on behalf of the program beneficiary and provide that report to Human Resources.

### ***Supervisory Responsibilities***

Supervisors and officers have a responsibility to prevent discrimination, harassment and sexual harassment. All supervisors and officers who receive a complaint or information about suspected discrimination, harassment or sexual harassment, observe what may be harassing or discriminatory behavior, or for any reason suspect that harassment or discrimination is occurring, are required to report such suspected harassment to Human Resources. Supervisors and officers should not be passive and wait for a member to make a claim of harassment. If they observe such behavior, they must act.

Supervisors and officers can be disciplined if they engage in harassing or discriminatory behavior themselves. Supervisors and officers can also be disciplined for failing to report suspected harassment or allowing harassment to continue after they know about it. Supervisors and officers will also be subject to discipline for engaging in any retaliation.

While supervisors and officers have a responsibility to report harassment and discrimination, they must be mindful of the impact that harassment and a subsequent investigation has on victims. Being identified as a possible victim of harassment and questioned about harassment and discrimination can be intimidating, uncomfortable and re-traumatizing for individuals. Supervisors and officers must accommodate the needs of individuals who have experienced harassment to ensure the workplace is safe, supportive, and free from retaliation for them during and after any investigation.

### ***Bystander Intervention***

Any member witnessing harassment as a bystander is encouraged to report it. A supervisor or officer that is a bystander to harassment is **required** to report it. Although dependent upon the circumstances, there are a few standard methods of bystander intervention that can be used when anyone witnesses harassment or discrimination and wants to help.

1. A bystander can interrupt the harassment by engaging with the individual being harassed and distracting them from the harassing behavior;
2. A bystander who feels unsafe interrupting on their own can ask a third party to help intervene in the harassment;
3. A bystander can take notes on the harassment incident to benefit a future investigation;
4. A bystander might check in with the person who has been harassed after the incident, see how they are feeling and let them know the behavior was not okay; and
5. If a bystander feels safe, they can confront the harassers and name the behavior as inappropriate. When confronting harassment, physically assaulting an individual is never an appropriate response.

### ***Complaints and Investigations of Harassment and Sexual Harassment***

*All* complaints or information about suspected harassment or sexual harassment will be investigated, whether that information was reported in verbal or written form. An investigation of any complaint, information or knowledge of suspected harassment or sexual harassment will be prompt, thorough, and started and completed as soon as possible. The investigation will be kept confidential to the extent possible. All persons involved, including those making a harassment claim, witnesses and alleged harassers deserve a fair and impartial investigation.

Any member may be required to cooperate as needed in an investigation of suspected harassment or sexual harassment. ECVFC will take disciplinary action against anyone engaging in retaliation against members who file complaints, support another's complaint, or participate in harassment investigations.

ECVFC recognizes that participating in a harassment investigation can be uncomfortable. Those receiving claims and leading investigations will handle complaints and questions with sensitivity toward those participating.

While the process may vary from case to case, investigations should be done in accordance with the following steps. Upon receipt of a complaint, Human Resources or designee:

- Will conduct a prompt review of the allegations, assess the appropriate scope of the investigation, and take any interim actions (for example, instructing the individual(s) about whom the complaint was made to refrain from communications with the individual(s) who reported the harassment), as appropriate. If complaint is verbal, request that the individual completes the complaint form in writing. If the person reporting prefers not to fill out the form, Human Resources will prepare a complaint form or equivalent documentation based on the verbal report.
- Will take steps to obtain, review, and preserve documents sufficient to assess the allegations, including documents, electronic communications, emails or phone records that may be relevant to the investigation.
- Will seek to interview all parties involved, including any relevant witnesses;

- Will create a written documentation of the investigation (such as a letter, memo or email), which contains the following:
  - A list of all documents reviewed, along with a detailed summary of relevant documents;
  - A list of names of those interviewed, along with a detailed summary of their statements;
  - A timeline of events;
  - A summary of any prior relevant incidents disclosed in the investigation, reported or unreported; and
  - The basis for the decision and final resolution of the complaint, together with any corrective actions action(s).
- Will keep the written documentation and associated documents in a secure and confidential location.
- Will promptly notify the individual(s) who reported and the individual(s) about whom the complaint was made that the investigation has been completed and implement any corrective actions identified in the written document.
- Will inform the individual(s) who reported of the right to file a complaint or charge externally as outlined in the next section.

### ***Legal Protections and External Remedies***

Harassment and sexual harassment are not only prohibited by ECVFC but are also prohibited by Federal and State law. The internal process outlined in this policy is one way for members to report harassment or sexual harassment. Members and covered individuals may also choose to pursue legal remedies with the following governmental entities. While a private attorney is not required to file a complaint with a governmental agency, you may also seek the legal advice of an attorney.

### ***New York State Division of Human Rights***

The New York State Human Rights Law (HRL), N.Y. Executive Law, art. 15, § 290 *et seq.*, applies to all employers in NYS and protects members and covered individuals, regardless of immigration status. A complaint alleging violation of the Human Rights Law may be filed either with the NYS Division of Human Rights (DHR) or in NYS Supreme Court. You do not need an attorney to file a complaint with DHR, and there is no cost to file with DHR.

Complaints of sexual harassment filed with DHR may be submitted any time within three years of the harassment. If an individual does not file a complaint with DHR, they can bring a lawsuit directly in state court under the Human Rights Law, within three years of the alleged sexual harassment. An individual may not file with DHR if they have already filed a HRL complaint in state court. Complaining internally to ECVFC does not extend your time to file with DHR or in court. The three years are counted from the date of the most recent incident of harassment.

DHR's main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, New York 10458. You may call (718) 741-8400 or visit: [www.dhr.ny.gov](http://www.dhr.ny.gov).

Go to [dhr.ny.gov/complaint](http://dhr.ny.gov/complaint) for more information about filing a complaint with DHR. The website has a digital complaint process that can be completed on your computer or mobile device from start to finish. The website has a complaint form that can be downloaded, filled out, and mailed to DHR as well as a form that can be submitted online. The website also contains contact information for DHR's regional offices across New York State.

Call the DHR sexual harassment hotline at 1(800) HARASS3 for more information about filing a sexual harassment complaint. This hotline can also provide you with a referral to a volunteer attorney experienced in sexual harassment matters who can provide you with limited free assistance and counsel over the phone.

### ***The US Equal Employment Opportunity Commission***

The US Equal Employment Opportunity Commission (EEOC) enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act, 42 U.S.C. § 2000e *et seq.* An individual can file a complaint with the EEOC anytime within 300 days from the most recent incident of harassment. There is no cost to file a complaint with the EEOC.

Individuals may obtain relief in mediation, settlement or conciliation. In addition, federal courts may award remedies if discrimination is found to have occurred. In general, private employers must have at least 15 members to come within the jurisdiction of the EEOC.

A member alleging discrimination at work can file a “Charge of Discrimination.” The EEOC has district, area, and field offices where complaints can be filed. Contact the EEOC by calling 1-800-669-4000 (TTY: 1-800-669-6820), visiting their website at [www.eeoc.gov](http://www.eeoc.gov) or via email at [info@eeoc.gov](mailto:info@eeoc.gov).

If an individual filed an administrative complaint with the NYS Division of Human Rights, DHR will automatically file the complaint with the EEOC to preserve the right to proceed in federal court.

### ***Local Protections***

Many localities enforce laws protecting individuals from discrimination, harassment or sexual harassment and discrimination. An individual should contact the county, city or town in which they live to find out if such a law exists.

If the harassment involves unwanted physical touching, coerced physical confinement, or coerced sex acts, the conduct may constitute a crime. Those wishing to pursue criminal charges are encouraged to contact their local police department.

### ***Conclusion***

The policy outlined above is aimed at providing members and covered individuals an understanding of their right to a discrimination and harassment free workplace. All members should feel safe at work.