

International Association of Fire Fighters

HUMAN RELATIONS MANUAL



INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS

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www.iaff.org

INTRODUCTION

The policy of the International Association of Fire Fighters (IAFF) concerning discrimination and harassment is clear and unambiguous. The IAFF is opposed to any kind of discrimination or harassment based on race, color, creed, national origin, gender, sexual orientation, gender identity or reason of disability.

Even though the IAFF's position on human rights is spelled out in its Constitution and By-Laws, it is a more difficult and complex task to make sure the intent of this policy and the intent of federal laws are carried out in the day-to-day operations of each union. It is for this reason that this manual has been developed.

The IAFF Human Relations Manual is designed to provide guidelines for assisting locals in making informed decisions on matters pertaining to discrimination and harassment. Invariably, new and unique issues will arise that are not specifically covered in this document. However, this manual should assist local affiliates in determining appropriate action when matters pertaining to discrimination and/or harassment occur.

Contained in this manual is information dealing with a variety of topics relating to human rights, including: federal, state and provincial laws aimed at preventing discrimination and harassment; assistance that can be obtained when seeking relief from human rights violations; and guidance on the duties and responsibilities that each IAFF affiliate and every IAFF member has towards preventing discrimination and harassment in the fire service.

The goal of the IAFF in developing this manual is to assist each local in handling human relations and civil rights matters as they relate to union activity, fire fighting, EMS, and related services. However, it is up to you and your local to take the steps necessary to safeguard the rights of others and to prevent and fight discrimination and harassment wherever and whenever it occurs.

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Ricky J. Walsh, Chairperson

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- Robert "Bo" Chaney, Rockford, Illinois, Local 413
- Leroy Heyward, Boston, Massachusetts, Local 718

Representing Canadian (2021-2025)

- Katrina Davison, Vancouver, British Columbia, Local 18
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Representing Caucasian/White

- Thomas Donovan, Cincinnati, Ohio, Local 48
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- Barry Stafford, Boston, Massachusetts, Local 718
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Representing Female

- Audrey Owczarzak, Newport, Kentucky, Local 45
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- Cristian Cruz, Albuquerque, New Mexico, Local 244
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Representing Other than Already Represented

- David Bautista, Orange County, California, Local 3631
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- Jorge Pena, New York, New York, Local 94

IAFF HUMAN RELATIONS

WHAT ARE CIVIL RIGHTS AND EQUITY?

Civil rights are those rights described in the United States and Canadian Constitutions.

Even though our Constitution's guarantee each of us specific civil rights, these rights can be denied us in our everyday life. If an individual's (or group's) civil rights as guaranteed in the Constitution are violated, they may seek relief through the courts.

In the United States, the Supreme Court can ultimately decide if, in fact, the individual's (or group's) rights have been violated. The great majority of civil rights cases brought to the Supreme Court are based on violations of the 14th and 15th Amendments to the Constitution.

The 14th Amendment guarantees citizenship for former slaves and prohibits states from depriving persons of due process and equal protection under the law. The 15th Amendment prohibits denying anyone the right to vote because of "race, color or previous condition of servitude."

The Civil Rights Act of 1964 (which includes Title VII) and the 1965 Voting Rights Act are examples of civil rights legislation that strengthened our rights. Yet they were challenged in the Supreme Court, which found both pieces of legislation to be constitutional and within the powers of Congress.

Legislation and Executive Orders have strengthened and supplemented our civil rights protections. But here again, the courts have the final word and can decide that specific civil rights legislation or Executive Orders are unconstitutional and therefore invalid.

In Canada, the state of individual rights has evolved over time. This evolution was codified with the entrenchment of a bill of rights in the Canadian Constitution in 1982. The Canadian Charter of Rights and Freedoms guarantees each Canadian certain specific rights. Federal and provincial human rights legislation must now comply with the Charter and Canadian courts have been given the task of interpreting and applying the Charter.

In the work setting, perhaps the most important guarantee found in the Charter is the guarantee of equality of treatment under the law. Section 15 states that:

"Every individual is equal before and under the law and has the right to equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, color, gender, sexual orientation, religion, age or mental or physical disability."

In addition, there are similar protections within the applicable federal and provincial rights legislation.

If an individual's (or group's) Charter rights have been violated, then recourse is available through the court system. There are occasions in which similar remedies are available through the human rights process and grievance arbitration route.

Most of us would prefer to believe that our countries are free from discrimination and prejudice. Yet we all know that workers are denied equal opportunities by employers because they are minorities, women, gay, older, worship differently or are disabled.

The struggle for equal treatment has been waged by many groups – African Americans, women, Native Americans, Jews, senior citizens, the disabled/handicapped, LGBTQ, Hispanics, Asians and other minority groups. Each of these struggles represents an attempt by a group to be treated fairly and equitably.

One of the battlegrounds for this ongoing struggle is the workplace. Workers must demand that both management and the union establish and adhere to hiring and employment practices and procedures which measure the value of workers by job performance—and ignore their race, color, creed, national origin, gender, sexual orientation or by reason of disability.

Key legislation would include the Equal Pay Act of 1963, the Age Discrimination Act of 1967 and the Americans with Disabilities Act of 1990. Canadian legislation includes Employment Equity Act of 1986, the Canadian Human Rights Act of 1977 and the Canadian Multiculturalism Act of 1988.

DIVERSITY IN THE UNITED STATES AND CANADA

This manual is an opportunity to explore diversity across the communities, towns, cities, states, provinces and countries where IAFF members live, work and flourish.

As our communities become more diverse, so does the fire service. Interpersonal skills are emerging as the most important skills a first responder can bring to the job. As public safety and public service organizations, our fire departments need to better understand, communicate with and enlist the cooperation of the multi-cultural communities we serve. Equally important is a similar attitude brought to every shift and every fire house.

The IAFF believes that discrimination and harassment can be stopped in both its open and hidden forms by encouraging all people to live by the basic principle of respect and that every person is entitled to the same basic rights regardless of race, color, creed, national origin, gender, sexual orientation or reason of disability. Diversity is everyone's issue. It is crucial that leadership makes this a goal—both union leadership and department leadership.

To achieve this goal, there are steps to consider in different aspects of a department:

- Build relationships in community
- Set up conflict resolution
- Expand involvement and opportunities for women and minorities
- Reduce barriers to involvement
- Increase empowerment and interpersonal skills for everyone

You will find the resources to accomplish these factors in this manual and at the IAFF Human Relations homepage at www.iaff.org/human-relations/

HUMAN RELATIONS AT THE IAFF

The International Association of Fire Fighters is an organization of men and women whose sole responsibility is the safety and protection of rights for thousands of fire fighters, emergency medical and rescue personnel and providers of related services in the United States and Canada.

The Constitution and By-Laws that have been adopted by the IAFF provide the precepts necessary for governing these IAFF members, as well as IAFF officers and subordinate bodies.

The IAFF continues its commitment to improving human relations through education, research and communication.

ELECTED HUMAN RELATIONS COMMITTEE

It is the mission of the IAFF Elected Human Relations Committee to develop and recommend policies and procedures for local, state and provincial affiliates to use as guidelines, relative to human relations issues within the fire service. Furthermore, it is the mission of the IAFF Elected Human Relations Committee to assist our IAFF membership in improving relationships, as well as promoting understanding among all brother and sister members. It is the objective of the IAFF Elected Human Relations Committee to educate the IAFF membership regarding human relations issues within the fire service and encourage greater involvement of all members, in recognition of our diversity as it is an important component to the continued success of our International Union.

HUMAN RELATIONS CONFERENCE

The Ernest A. "Buddy" Mass Human Relations Conference is held every two years in conjunction with the Affiliate Leadership Training Summit and offers workshops and speakers on human relations and related topics.

HUMAN RELATIONS MANUAL

This Human Relations Manual is designed to provide affiliates of the IAFF with information on addressing and preventing discrimination and harassment in the fire, EMS and relate services. Guidelines and recommendations for assisting affiliates in the development of local policies and procedures that aid in the resolution and elimination of discrimination and harassment are presented as well.

TECHNICAL ASSISTANCE

The Elected Human Relations Committee provides technical assistance to affiliates on discrimination issues and other human relations related topics. The committee counsels and advises locals through meetings with IAFF members and/or local committees and management.

DIVERSITY INITIATIVE

To assist in our efforts to build a more inclusive union and diversify the fire service, the IAFF conducted a national study of best practices in the recruitment of women and minorities. This study, as part of the IAFF Diversity Initiative, identified the best practices in the recruitment, selection and retention of women and minorities in the fire service. Thirty-one departments participated in the comprehensive survey and over eighty were interviewed. The study report is available on the IAFF Human Relations website at www.iaff.org/human-relations/.

EDUCATIONAL RESOURCES

The IAFF has a variety of learning modules, web links and instructional websites dedicated to improving human relations in the fire service. Visit www.iaff.org/human-relations/.

WHERE TO FIND MORE INFORMATION ONLINE

In addition to the IAFF's Human Relations homepage at www.iaff.org/human-relations/, visit the IAFF's "Human Relations Resources" page for an extensive list of informational sites at www.iaff.org/human-relations/#resources.

LEGAL INFORMATION

For legal assistance, IAFF leaders should contact their District Vice President.

COMPLAINTS

Complaints of civil rights violations should always be initiated and pursued at the local level. Preferably, a grievance procedure should be used to obtain a resolution of the issue. However, if this type of process is unavailable to a member, then the member should seek assistance from his local officers.

The IAFF acknowledges the fact that not all locals have the resources available to them to resolve all acts of discrimination and harassment. However, every local union has the option of seeking additional assistance. The IAFF provides Technical Assistance in these instances. Learn more on page 14 of this manual.

EDUCATION PROGRAMS

The IAFF provides workshops on human relations topics, including:

- *Human Relations at the IAFF*
- *Local Human Relations Committees: Getting Started*
- *Local Human Relations Committees: Next Steps*
- *Teamwork and Inclusion*
- *Building an Inclusive Workforce: Reflecting the Communities We Serve*
- *Understanding Pregnancy and Parental Rights & Accommodations*
- *Addressing Work/Family Balance*

These workshops can be brought to your local by contacting your state association, who will coordinate the workshop through the IAFF's Partnership in Education (PEP) program. These programs are also taught at the IAFF Ernest A. "Buddy" Mass Human Relations Conference, held every two years.

Visit www.iaff.org/human-relations/#resources for educational web resources on human relations topics, including diverse recruitment at www.iaff.org/human-relations/#page=diverserecruitment.

PRINCIPLES AND POLICIES OF THE IAFF

The IAFF stands unequivocally opposed to discrimination and harassment in all of its forms and in all types of environments. Specifically, the IAFF opposes discrimination in hiring, promoting and discharging employees, as well as in all other employment related conditions. The IAFF also opposes all forms of harassment because of race, color, creed, national origin, gender, sexual orientation, gender identity, or by reason of disability.

PRINCIPLES

The IAFF believes that discrimination and harassment can best be stopped in both its open and hidden forms by encouraging all people to live by the basic principle of respect and that every person is entitled to the same basic rights regardless of race, color, creed, national origin, gender, sexual orientation, gender identity, or reason of disability. Furthermore, the IAFF believes that all individuals are entitled to full equality under the law whether or not they are IAFF members.

The IAFF is committed to the opposition of discrimination and harassment in the workplace and within our union. The U.S. Supreme Court, the lower federal courts and the National Labor Relations Board (NLRB) have all held that it is a union's legal duty to represent every employee in the union fairly and equally, and in such a manner that no discrimination results.

Not only does it violate the principles of the IAFF, but it is a clear violation of the law for any IAFF affiliate to agree to any collective bargaining agreement, memorandums of understanding or any other employment policies that either by their terms or actual operation deny certain opportunities to employees on the basis of race, creed, color, national origin, gender, sexual orientation or disability.

Discrimination or harassment on the job are objectionable acts and illegal whether they are practiced directly or indirectly. Therefore, even though employment related rules and policies may appear fair at face value, they must not be administered in such a way that discrimination or harassment in job-related activities takes place.

Furthermore, any IAFF affiliate that engages in or permits discrimination or harassment may be held liable for damages to the members discriminated against or harassed.

The IAFF firmly believes that it cannot operate effectively as an organization unless it commits itself to eliminating the practice of discrimination and harassment in the fire service. The IAFF further believes that its affiliates should have the same commitment. It is up to us, as fire fighters, paramedics, and union officials to keep these principles in mind.

IAFF Policy is an overall plan that comprises the general goals and acceptable procedures of the governing body of the IAFF. International policy is agreed upon after examining a number of alternatives in light of given conditions. Its purpose is to guide IAFF officers and members in determining their present and future decisions.

WHO MAKES IAFF POLICY?

As stated in Article I, Section 4 of the IAFF Constitution and By-Laws:

"The delegates assembled at International Conventions shall be the supreme authority of this association and shall constitute its highest legislative, executive and judicial body."

Since it is the membership of each local union that selects the delegates to represent their affiliates at conventions, it is the membership of the IAFF that governs and directs the policy of the International. The Constitution and By-Laws further states under the Article 1, Section 4:

"All decisions and actions of the delegates at conventions shall be binding upon all officers, members and subordinate bodies of this Association."

It also states that:

“Between conventions of the International all administrative, executive and judicial powers of the association shall be vested in the Executive Board except as otherwise expressly provided in this Constitution and By-Laws.”

Consequently, IAFF policy is made either through IAFF Convention action or through actions by the IAFF Executive Board. Any new policies created are noted at the time of the convention and after IAFF Executive Board meetings. The International has compiled a book of all existing IAFF Convention and IAFF Executive Board policies currently in effect. These “Policy Books” are available to all affiliated locals and state and provincial associations upon request by a local officer. (August 1976, Res. #56)*

Furthermore, as stated in Article I, Section 2 of the IAFF Constitution and By-Laws:

“The International and its subordinate affiliates are separate and autonomous bodies. As such, liability for the conduct of any subordinate organization shall not be imputed to this International by reason of affiliation between the subordinate organization and the International.”

*See Appendix F for Convention Resolutions.

POLICY ON DISCRIMINATION

The IAFF’s basic policy on discrimination is stated in its Constitution and By-Laws, Article III, Membership. It reads as follows:

“Section 1. Active.

Any person of good moral character who at the time of making application is engaged in service within the jurisdiction of this Association as set forth in Article II of this Constitution and By-Laws will be eligible for active membership in this Association through its chartered locals, state or provincial associations and joint councils.

Anyone eligible for membership in the Association shall not be refused membership or, upon acceptance, be discriminated against because of race, color, creed, national origin, gender, sexual orientation, or by reason of disability. Local unions are urged to propose amendments to their own constitution and/or by-laws to reflect the same prohibitions against discrimination.”

It is the obligation and responsibility of all IAFF members to respect these principles and carry them out while performing their duties and responsibilities as members of the IAFF.

POLICY ON AFFIRMATIVE ACTION

Affirmative action often has varying definitions depending upon the individual defining it. Affirmative action is generally considered a term which broadly encompasses any measure (beyond simple termination of a discriminatory practice), adopted to correct or compensate for past or present discrimination or to prevent discrimination from recurring in the future.

Over the past several decades, the IAFF has adopted various Convention Resolutions reaffirming its commitment to fighting discrimination in hiring, promoting, and laying-off of employees, as well as in all other employment related conditions. For example:

- The IAFF stands in support of affirmative action programs dealing with recruitment and tutoring for protected classes. (1984-91)*
- The IAFF seeks federal funding and/or grants to re-institute a program of recruitment and training so that qualified minority and women candidates can be properly trained for the fire service. That in the absence of federal funding, the funds to sponsor such a program be provided by the IAFF and be a dedicated amount to be used for no other line item. That this resolution reflects the IAFF policy concerning discrimination, minority hiring, and unbiased promotional systems. (2000-90)*
- The IAFF supports and advocates for the hiring and promotion of fire fighters on the basis of their skill and ability in the technical and demanding work of fire fighters without regard to race, religion, sex or national origin, and will continue to seek, by all appropriate means, the employment of fire fighters at all levels on the basis of their qualifications for such employment. (1976-152)*

*See Appendix F for Convention Resolutions.

Even though employment related rules and policies appear fair at face value, the IAFF concurs they cannot be administered in such a way that violates or fails to live up to this obligation and permits discrimination or harassment.

Sometimes employers use unlawful quotas, usually out of ignorance or an unwillingness to take the time to prepare an appropriate and permissible affirmative action plan. If employers hire women or minorities strictly by the numbers, regardless of qualifications, they are violating the law. The solution for such situations is for the law to be properly enforced.

Affirmative action does not and was not meant to mean 'quotas.' The IAFF stands unequivocally opposed to unjust employment practices which promote quotas or discrimination under the guise of affirmative action. The IAFF stands strongly in support of hiring and promotion practices on the basis of skill, ability and merit. The IAFF membership has adopted various Convention Resolutions stating this. For example:

- The IAFF stands opposed to affirmative action plans or to any action by any group or any court, which in any way discriminates against any person because of race, creed, color, sex, or national origin, or the lowering of medical standards. The IAFF supports and will seek legislation to eliminate all laws which in any way discriminate against any person because of race, creed, color, sex, or national origin. (1972-7; 1976-162)*
- The IAFF states its opposition to extremism whether it be from the left or right, and pledges its utmost efforts to insure that organized fire fighters and all other working people of the nation will have a clear understanding of this issue of extremism as it affects their own interest and will stand and fight such reactionary philosophies threatening freedom and democracy. (1964-82)
- The IAFF will take all reasonable and appropriate measures to develop and support legislation in opposition to the utilization of quotas as a remedy to civil rights legislation. (1982 -100)

The IAFF continues to stand strongly in support of the hiring and promotion of fire fighters on the basis of their skill, ability and merit. The courts have said repeatedly that the purpose is to create "an environment where merit can prevail"¹ and that "if a party is not qualified for a position in the first instance, affirmative action considerations do not come into play"².

*See Appendix F for Convention Resolutions.

POLICY ON ASSISTANCE

As it pertains to civil rights, the responsibility of the IAFF is to meet the needs of its members by consistently providing support for quick and just resolutions of acts of discrimination and harassment that arise within its affiliates.

The role of the IAFF General President in matters concerning civil rights is to provide the coordination necessary for resolving discrimination and harassment issues as they arise, and the IAFF District Vice Presidents provide assistance to IAFF affiliates within their districts on issues concerning discrimination and harassment.

Under the direction of the General President, IAFF departments can provide various types of assistance in the elimination of civil rights violations from the fire service as well. The Department of Technical Assistance and Information Resource assists locals in negotiating nondiscriminatory contracts. The Department of Health, Safety and Medicine provides affiliates with information dealing with pregnancy and other gender specific health issues. The Department of Governmental, Political and Public Affairs is committed to obtaining federal legislation that ensures the rights of all IAFF members. The Department of Education, Training and Human Relations develops, promotes and publicizes materials and conferences necessary for assisting locals and members in their endeavors to eliminate discrimination and harassment on the job.

LOCAL AUTONOMY

It is important to remember that Article I, Section 2 of the IAFF Constitution and By-Laws states that:

"The International and its subordinate affiliates are separate and autonomous bodies. As such, liability for the conduct of any subordinate organization shall not be imputed to this International by reason of affiliation between the subordinate organization and the International."

1. Bratton v. City of Detroit, 704 F.2d 878, 892 (6th Cir.1983)
2. NAACP v. Allen, 493 F.2d 614, 621 (5th Cir. 1974)

ROLE OF THE LOCAL UNION

It is vital to the success of every IAFF local union to provide an environment free from harassment, intimidation, insults and ridicule based on any type of discrimination. Responsibilities of IAFF affiliates, with respect to minority affairs, include:

- Bargaining for the elimination of discriminatory employment practices;
- Opposing any unlawful employment practices currently in existence;
- Processing complaints of discrimination and harassment filed by members; and
- Providing equal opportunities for employment, election or appointment to local union office, or designation to positions of local union responsibility.

DUTY OF FAIR REPRESENTATION

Every affiliate of the International is required to represent all IAFF members with full equality regardless of individual differences of race, color, creed, national origin, gender, sexual orientation or disability. This principle is known as “duty of fair representation” and is a legal obligation created under the National Labor Relations Act and by various state statutes or PERB decisions.

“Duty of fair representation” requires every local union to represent all its members in a fair and nondiscriminatory manner. When a complaint charging discrimination or harassment is filed with a local union, it is the legal duty of the local to handle the allegation on its individual merits and not drop the charge because of prejudice towards the member lodging the complaint.

For an IAFF affiliate to avoid violating its “duty of fair representation,” it must keep the member making the allegation informed of the status of the complaint. In many instances, a fair representation suit is filed against a local union simply because the member did not know about the local’s efforts on the member’s behalf.

When a complaint is dropped, the member should be told of the local’s position and the reasons for making the decision. The member should also be given an opportunity by the local to present any additional

evidence or arguments that may support the member’s complaint. By doing this, an IAFF affiliate can avoid being accused of treating a complaint in a discriminatory manner.

A local is not required to process every complaint a member believes shows that a civil rights violation has occurred. However, unless the complaint clearly has no merit, the best thing to do is file the complaint for the member, investigate the facts and then withdraw the complaint with notice to the member if the allegation lacks merit.

Obviously, it is to the advantage of each IAFF affiliate to avoid any possibility of being sued for breach of “duty of fair representation.” Court costs are always substantial even when the local wins. Therefore, the IAFF believes that it is to the best advantage of all IAFF affiliates to handle every discrimination and harassment complaint filed by IAFF members as ethically, thoroughly and promptly as possible.

ESTABLISHING A LOCAL HUMAN RELATIONS COMMITTEE

It is the recommendation of the IAFF that, whenever possible, an IAFF affiliate should establish a Human Relations Committee within its local union.

Following are several guidelines that should be observed and may prove helpful when forming a Local Human Relations Committee.

1. Members

- The number of members to serve on the committee should be determined.
- Members should either be elected by the membership or appointed by the local union president.
- The committee should be reflective, as much as possible, of all members by race, color, creed, national origin, gender, sexual orientation and disability.
- The local union president and chairperson of the grievance committee (if one exists) should be members of the committee as well.

2. Responsibilities

- Committee members should acquaint themselves with the contract (if one exists), work rules, policy and procedures, and the city's hiring and promotional policies.
- A rapport with various groups and governmental agencies at the local, state/provincial and federal levels should be established and used as resources.
- The committee should familiarize itself with the procedures for filing complaints with city, state/provincial and federal agencies.
- The committee should not separate itself from the activities of other local union committees and should maintain continuous communication with the grievance committee (if one exists).

3. Paperwork

- A budget, if needed, should be established by the committee.
- Accurate minutes of all committee meetings should be kept on file.
- The committee should submit regular reports of its activities to the principal officers, the local union executive board, and the membership (whichever is appropriate or in compliance with local bylaws or policy).
- The committee should maintain effective communications with the local union president concerning all action reviewed by the committee.

4. Meetings

- The committee should meet on a regularly scheduled basis.
- Meetings should be open to all members, with ample notice given.

5. Complaints

- The committee should concern itself primarily with allegations of discrimination in employment practices.
- Meetings with members should be held upon initiation of a complaint.
- All relative facts should be investigated to determine the validity of the complaint.
- The committee should be honest, sincere and tactful in dealing with members who initiate complaints.
- The committee should never infringe upon the duties and responsibilities of the grievance committee.

For assistance, the IAFF provides online and classroom programs on starting a local human relations committee.

Visit www.iaff.org/human-relationships/ for more information.

STRATEGIES IN HUMAN RELATIONS

AFL-CIO RESOLUTION 2

“Building a stronger union movement to improve the lives of working families will require all of us, working together. If we fail to hear every voice and to speak for every worker, we all are weakened.”

These are the words of an AFL-CIO resolution that is being declared one of the most important landmarks for the union movement in a generation. Adopted at the 2005 AFL-CIO Convention, Resolution 2 calls for all unions to reflect the diverse communities they serve—both in membership and leadership. Resolution 2 marks an important commitment for labor unions to promote inclusion and reflection in an increasingly diverse nation.

On April 11, 2007, General President Harold Schaitberger formally signed the IAFF’s pledge to diversity, committing to promote diversity in leadership and implementing this commitment through education and outreach. See Figure 1.

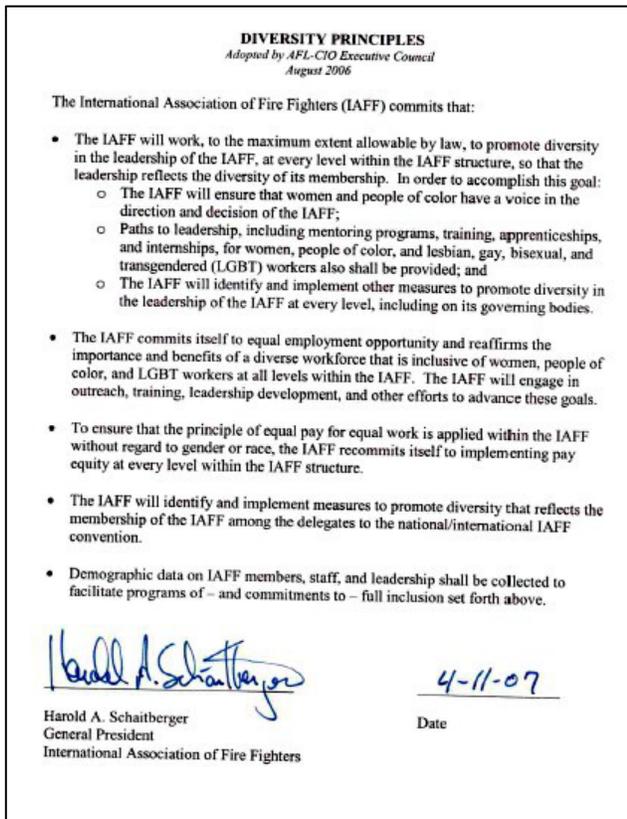


Figure 1.

Resolution 2 is a first step in formally recognizing that the labor movement must actively include all workers as part of an active membership and leadership in order to remain united and maintain all that its members have gained. Resolution 2 outlines the importance of uniting: “America’s union movement must stand as a model of full inclusion. We cannot ask more of broader society than we are willing and able to do ourselves.”

Learn more and read the full letter at www.iaff.org/human-relations/#resources

RELIEF THROUGH COLLECTIVE BARGAINING

The IAFF firmly believes that a charge of discrimination or harassment should be settled in the shortest time possible. All IAFF members are encouraged to exercise their rights under their local union constitution and by-laws, use the provisions of their contracts or work-related polices, and seek assistance from the IAFF before resorting to governmental agencies and litigation for resolving discrimination or harassment violations. The IAFF feels that issues of discrimination and harassment can be solved more quickly at the local level simply because the trends of agencies and courts are to take two or more years before resolving a complaint.

The first step toward obtaining remedies to acts of discrimination and harassment is to secure contracts that contain clauses preventing such occurrences from ever taking place. It is imperative that all IAFF affiliates work toward developing employment related polices that will accomplish the same objectives. Once obtained, it is the responsibility of each affiliate to see that each clause and/or policy is vigorously enforced to ensure all IAFF members of fair and equal treatment on the job.

CONTRACT CLAUSES

Legally and ethically, all IAFF affiliates that operate under collective bargaining agreements must negotiate contracts that ban discrimination on the basis of race, color, creed, national origin, gender, sexual orientation or disability.

A nondiscrimination clause helps to satisfy this requirement and should be included in every contract negotiated. An example is as follows:

Neither the City nor the Union shall unlawfully discriminate against any employee because of race, color, creed, national origin, gender, sexual orientation, or reason of disability.

To prevent an employee from being denied benefits due to the use of words denoting gender, an effective contract should also contain the following or similar clause:

The use of the masculine or feminine gender or titles in this Agreement shall be construed as including both genders and not as gender limitations unless the Agreement clearly requires a different construction.

Wage clauses that are based on objective standards and not on prejudices should also be secured. Every IAFF affiliate has a continuing responsibility to ensure that wages paid to IAFF members are applicable to the value of their jobs and not based on discriminatory considerations.

Job assignments, promotions, transfers and layoffs of all IAFF members must also be made on a nondiscriminatory basis. No member should be entitled to special consideration by virtue of race, color, creed, national origin, gender, sexual orientation or disability. Equally, no member should be denied equal opportunity for the same reasons. Seniority clauses can be used as a method of ensuring that these principles are followed and that all IAFF members have equal opportunity for advancement and pay.

GRIEVANCES

Securing appropriate contract clauses is the first step towards eliminating discrimination and harassment in the workplace. The second step is to ensure compliance with these clauses in a nondiscriminatory manner. IAFF members who operate under collective bargaining agreements should use their agreements' grievance procedure to correct any violation of the contract, including practices of discrimination and harassment.

Because the grievance procedure is the heart of all collective bargaining agreements, it is the position of the IAFF that any member who has full use of a grievance procedure should use this process to seek resolutions of all grievances involving discrimination and harassment. The IAFF firmly believes that the grievance procedure can be used to provide a speedy, equitable and just resolution of disputes concerning complaints of civil rights violations. IAFF members are urged not to ignore or avoid these procedures.

SAMPLE POLICIES IN HUMAN RELATIONS

The IAFF can integrate certain human relations issues into a contract or bargaining agreement. Work/family issues, pregnancy/maternity leave and labor-management programs are outlined in the contract. Disability policies, diversity training, recruitment and promotions are department policies. The IAFF local should be the sole representative for working conditions, benefits and wages.

SAMPLE MATERNITY/PREGNANCY POLICIES

San Francisco Fire Fighters, Local 798

FAMILY CARE AND MATERNITY/PATERNITY LEAVE

Maternity and paternity leave is the right of every member in accordance with Civil Service Commission Rules.

- 30.2 The starting date for maternity leave is a decision of the member and her doctor.
- 30.3 The return date from maternity leave is a decision of the member and her doctor.
- 30.4 The member has the right to include vacation time, sick leave and/or any other accrued leave in maternity leave.
- 30.5 All bargaining unit members who have one or more years of continuous service in the San Francisco Fire Department shall be granted up to one year of unpaid family care leave for the following reasons:
 - 1. The birth of a biological child of the employee;
 - 2. The assumption by the employee of parenting or child rearing responsibilities. Family care leave does not apply to an employee who temporarily cares for a child for compensation, such as a paid childcare worker;
 - 3. The serious illness or health condition of a family member of the employee, the employee's spouse or domestic partner, the biological or adoptive child of the employee, or a child for whom the employee has parenting or child rearing responsibilities; or
 - 4. The mental or physical impairment of a family member of the employee, the employee's spouse or domestic partner, a parent of the employee or the employee's spouse or domestic partner, the biological or adoptive child of the employee, or a child for whom the employee has parenting or child rearing responsibilities, which impairment renders that person incapable of self-care.

- 30.6 Bargaining unit members shall also be entitled to use accrued vacation time, sick leave, and/or any other accrued leave for family care leave.
- 30.7 Any member in a Non-Suppression position working a 40-hour work week shall be granted paid release time to attend parent teacher conferences of up to four (4) hours per fiscal year (for children in kindergarten or grades 1 to 12).
- 30.8 In addition, any member in a Non-Suppression position working a 40-hour work week who is a parent or who has child rearing responsibilities (including domestic partners, but excluding paid child care workers) of one or more children in kindergarten or grades 1 to 12 shall be granted unpaid release time of up to forty (40) hours each fiscal year, not to exceed eight (8) hours in any calendar month of the fiscal year, to participate in the activities of the school of any child of the employee, provided that the employee, prior to taking the time off, gives reasonable notice of the planned absence. The employee may use vacation, floating holiday hours, or compensatory time off during the planned absence.
- 30.9 The City shall continue to provide health and dental care benefits for employees and their dependents while employees are absent from work on unpaid family care leave as provided in this section.
- 30.10 When a female member returns to work from maternity leave, she will be reinstated in her original assignment if possible, otherwise to a comparable assignment, provided, however, that a female member returning to work from maternity leave may elect to work for a period of up to six (6) weeks in a temporary modified duty assignment as determined to be appropriate by the Department Physician before being reinstated to her original assignment or a comparable assignment.

Palm Harbor (FL) Fire Fighters, Local 2980

MATERNITY LEAVE AND ASSIGNMENT DUTIES DURING PREGNANCY

Section 1.

The employee must be a permanent employee to be granted maternity leave or assignment during pregnancy, unless otherwise authorized by the District.

Section 2.

Employee will provide the Department with verification from a physician of employee's pregnancy and ability to continue normal duties. The employee will be permitted to continue normal working duties unless otherwise advised by her physician.

Section 3.

At the employees' request or at the direction of their attending physician, the affected employee will be placed on "Light Duty", if available. Light Duty will consist of:

- A. Work hours consisting of Monday through Friday, 0800- 1700 or as assigned by the supervisor and approved by the Fire Chief.
- B. Miscellaneous Fire Department duties, none of which will consist of duties as restricted by the employee's physician.

Section 4.

Employee will be allowed to continue working Light Duty, without reduction in regular pay including incentives, up to her delivery date unless otherwise advised by her physician. Employee will be converted to 40-hour employee for accrual and use of vacation and sick time.

Section 5.

Upon date of delivery, or sooner on physician's advice, employee will be permitted to use first her accumulated sick leave and then her accumulated annual leave, for up to a twelve (12) week period as per the Family Medical Leave Act. During this period of time, employee will retain all rights and benefits contractually due her.

Section 6.

Should employee not have enough accumulated sick or annual leave to cover her maternity leave, the District may elect to grant said employee "Leave of Absence", without pay, for the remaining time left of employees' maternity leave. The employee will continue to receive all other benefits due her during the leave of absence.

Section 7.

Upon returning to work, employee must present a statement from her physician indicating that she is physically able to return to work without limitation, excluding light duty.

Section 8.

Any employee whose wife gives birth will be granted paternity leave up to a twelve (12) week period as per the Family Medical Leave Act.

LABOR/MANAGEMENT RELATIONS

Baltimore County, Maryland, Local 1311

Section 14.1 - Labor/Management Relations.

- A. The Employer and the Association recognize that cooperation between labor and management is indispensable to the accomplishment of sound harmonious labor relations and agree to jointly maintain and support a Labor-Management Committee.
- B. The Committee shall consider and may recommend to the Fire Chief changes in the working conditions of the employees. Matters subject to the grievance procedure contained in this agreement shall be appropriate items for consideration by the Committee, but submission of a matter to the Committee shall not affect the right to grieve the matter.
- C. The Committee shall consist of six (6) members. The Fire Chief and the President of the Association shall each select three (3) members and may designate an alternate for each member authorized to act in the absence of a member. Members shall serve for the term of this Agreement, provided, however, that the appointing party may remove members he has appointed at any time. Vacancies shall be filled by the appointing party.
- D. The Committee shall select a Chairperson from among its members at each meeting.

The Chairperson of the Committee shall alternate between the members designed by the Fire Chief and the members designated by the President of the Association. A quorum shall consist of a majority of the total membership of the Committee. The Committee shall meet at the call of either the Association or the Management, at times mutually agreeable to both parties. A written agenda of the matters to be discussed shall be provided by the party calling the meeting at least one week in advance of the meeting, and the other party shall provide any additions to the agenda at least one day in advance. Minutes shall be kept of each meeting with responsibility for keeping minutes alternating between the members designated by each of the parties. Copies of the minutes shall be typed and promptly distributed to all members of the Committee.

- E. Each Fire Station, Fire Prevention Branch and Training Branch of the Division shall have a complete Operations Procedures Manual and it will be available for inspection by station personnel who shall be responsible for the knowledge of its contents. Employees disciplined as a result of failure to adhere to the rules and regulations in the Operations Procedures Manual shall have the provisions in the Grievance and Arbitration procedure Article available to them.

DIVERSITY POLICIES

Cincinnati, Ohio, Local 48

ARTICLE 40 DIVERSITY GOALS

The City of Cincinnati and the Union support racial and ethnic diversity and acceptance throughout the City. The Union supports the Cincinnati Fire Department's efforts to increase racial and ethnic diversity within each fire station. The Cincinnati Fire Department and the Union have undertaken efforts to achieve diversity, such as incentive transfers.

The Cincinnati Fire Department and the Union remain committed to ensuring that diversity is promoted, valued, and supported within the Fire Department, as there is a direct relationship between the human composition of these institutions and the attitudes and image regarding the City of Cincinnati. The City of Cincinnati and the Union recognize the intrinsic value and social benefit of racially balanced public service institutions and urges the continued commitment to pursuing this balance whenever possible.

STATION ACCOMMODATIONS

Broward County (FL) Fire Fighters, Local 3333

QUARTERS

A. The County agrees to provide and maintain station quarters and furnishings in accordance with Division Operational Procedures Manual. The County reserves the right to continuously upgrade the provisions of the Operating Procedures Manual relating to station quarters and furnishings. Should the Division Director, or his/her designee, determine that a serious safety and health hazard exists in any station quarters/equipment, the Division Director or his/her designee may make temporary arrangements (e.g. relocation) in order to alleviate such hazards and/or properly correct same. The determination of whether serious safety and

health hazards exist, as well as what temporary arrangements, if any, are appropriate, shall remain with the Division Director or his/her designee.

B. The employer agrees to furnish suitable space for the Union to erect a bulletin board in the Fire Stations, Fire Prevention Branch and Training Branch to be used by the Union. Only authorized Union Representatives will post or take down articles. Such articles shall be related to official union business and activities.

Visit the Labor Issues and Collective Bargaining at the IAFF web site for more information.

TECHNICAL ASSISTANCE FROM THE IAFF

Complaints of civil rights violations should always be initiated and pursued at the local level. Preferably, a grievance procedure should be used to obtain a resolution of the issue. However, if this type of process is unavailable to a member, then he/she should seek assistance from his/her local officers.

The IAFF acknowledges that not all locals have the resources available to them to resolve all acts of discrimination and harassment. However, every local union has the option to seek additional assistance. When an IAFF member has a human relations complaint, Article XIII, Section 22 of the IAFF Constitution and By-Laws and IAFF Executive Board Policy provide the following system for resolution:

1. All requests for Human Relations Technical Assistance must be channeled through the proper chain of command. (See IAFF Constitution and By-Laws, Article XIII, Section 22.)
2. The IAFF General President will offer the services of the Elected Human Relations Committee to affiliates who have member(s) involved in discrimination or harassment disputes. Human Relations Technical Assistance will be provided with proper authorization of the General President.
3. The IAFF General President will assign committee members for a technical assistance request.

4. Only assigned IAFF Elected Human Relations Committee members or individuals assigned by the General President will provide (and participate in) a technical assistance assignment.
5. When conducting a technical assistance project, the committee member will be responsible for asking appropriate questions and gathering information.
6. A written report and recommendations will be prepared by the assigned Elected Human Relations Committee members. The written report will be delivered directly to the General President with a copy to the appropriate District Vice President.
7. A final recommendation to the requesting local will come from the Office of the General President only. The Elected Human Relations Committee members will not provide a report or recommendations directly to the local.
8. Following the Technical Assistance, the affected District Vice President will be contacted by IAFF staff on a routine schedule (30/60/90 days) within the first six months following the Assistance to determine if additional assistance is needed by the Elected Human Relations Committee.

A local union president should not hesitate to contact the IAFF District Vice President for help in resolving a dispute. If necessary, the IAFF District Vice President can then seek help from the IAFF General President.

Offers of assistance are subject to the individual local's acceptance of the assistance as required by the IAFF Constitution and By-Laws. Furthermore, Article VI, Section 9, Authorization to Represent the IAFF, states that:

"Without prior written approval of the General President, no IAFF member or officer may represent the IAFF in any legal, administrative, or International union proceeding or any forum or proceedings whatsoever; provided, however, that nothing therein shall alter the authority and duties of the General Secretary-Treasurer, Vice Presidents, or Trustees, as set forth in this Constitution and By-Laws."

GOVERNMENT ASSISTANCE

The IAFF encourages its affiliates and/or members to obtain relief from discrimination or harassment either through an established grievance procedure or assistance from the IAFF. However, it needs to be noted that every IAFF affiliate and/or member has the right to seek assistance from an appropriate government agency at any and all times. Each IAFF affiliate and/or member has a duty to insist on compliance with the law and is encouraged to seek governmental assistance if compliance is not forthcoming.

All IAFF members who believe they have been harassed or discriminated against because of race, color, creed, national origin, gender, sexual orientation or disability, can file a charge of a civil rights violation with either the Equal Employment Opportunity Commission (EEOC) or the U.S. Commission on Civil Rights.

EEOC web site: www.eeoc.gov.

EEOC Field Offices web site:
www.eeoc.gov/field/index.cfm

The EEOC is considered the lead agency in most equal employment opportunity matters, including harassment and discrimination. The EEOC's authority includes the enforcement of Title VII of the Civil Rights Act, the Age Discrimination in Employment Act, the Americans with Disabilities Act and the Equal Pay Act. EEOC responsibilities include:

- Interpreting laws through established guidelines that have the same effect of law;
- Processing charges of harassment and discrimination; and
- Filing lawsuits on behalf of alleged victims of civil rights violations.

The U.S. Commission on Civil Rights was established by Congress to investigate complaints concerning the withholding of the right to vote by reason of race, color, religion, gender, age, disability or national origin, or by reasons of fraudulent practices. The Commission also:

- Studies and collects information concerning legal developments constituting discrimination;
- Appraises federal laws and policies with respect to equal protection of all citizens under the laws of the Constitution;
- Serves as a national clearinghouse for information with respect to discrimination or denials of equal protection; and
- Submits reports, findings and recommendations to the President and the Congress of the United States.

Web site: www.usccr.gov

In most cases, any IAFF affiliate and/or member who wishes to file a charge of discrimination or harassment must do so within 180 days of the alleged act, or 300 days in "deferral" states. The charging party signs a formal complaint form allowing the EEOC or the U.S. Commission on Civil Rights to investigate the case.

** For further information on Enforcement Procedures of the EEOC, see Appendix E.*

RETALIATION

Any adverse action taken against an individual because he/she filed a charge of discrimination, cooperated in an investigation or opposed an unlawful employment practice, is a violation of the law. Section 704(a) of the Civil Rights Act of 1964, as amended, prohibits such reprisal, and is intended to provide exceptionally broad coverage for victims of discrimination.

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APPENDIX A: CIVIL RIGHTS LEGISLATION

The federal government has enacted several pieces of legislation and standards promoting equality in the application of civil rights to all individuals, especially in the terms and conditions of employment. This compilation shows some of the basic legislation and enforcement guidelines that currently exist. The IAFF is committed to upholding these and all other laws designed to treat all persons with dignity and respect.

TITLE VII OF THE 1964 CIVIL RIGHTS ACT

Title VII of the 1964 Civil Rights Act prohibits discrimination in any employment condition on the basis of race, color, national origin, religion or gender. Title VII applies to all employers and unions (international, national and local) having fifteen (15) or more employees or members.

Title VII makes it unlawful for an employer to:

- Discriminate against any individual with respect to conditions or terms of employment, such as hire, discharge and compensation;
- Segregate, limit or classify employees or applicants for employment in any way that would tend to discriminate; and
- Establish a seniority system that in any way can be used as an excuse to segregate employees or to restrict minority groups or women to certain jobs.

Title VII also makes it unlawful for a union to:

- Discriminate against any individual with respect to membership;
- Classify members or applicants for membership in any way that would tend to discriminate; or
- Cause or attempt to cause employers to discriminate.

Discrimination in apprenticeship or other training programs is prohibited by employers, unions and joint labor-management committees under Title VII of the Civil Rights Act as well.

To assist in the application of Title VII, the courts have developed and observe two standards of discrimination. The first is disparate treatment and the other is disparate impact.

Disparate treatment occurs under Title VII if individuals are treated differently because of race, color, national origin, religion, or gender, and if it can be shown that there was an intent to discriminate. Disparate impact occurs under Title VII if policies that appear to be neutral lead to different impacts by race, color, national origin, religion, or gender.

Title VII has been amended several times since its adoption. In 1972, amendments were added that strengthened its enforcement and expanded coverage to include employees of government and educational institutions, as well as private employers of more than fifteen (15) persons. The pregnancy amendment of 1978 makes it illegal to discriminate because of pregnancy, childbirth or related conditions. Most recently, amendments were made in 1991 that provide for awards of compensatory and punitive damages in discrimination cases and the right to a jury trial for plaintiffs alleging intentional violations of Title VII.

For the document:

www.eeoc.gov/laws/statutes/titlevii.cfm

SEXUAL HARASSMENT

While Title VII of the Civil Rights Act makes it unlawful for an employer to discriminate against any person with respect to the terms, conditions, or privileges of employment because of gender, there is no explicit language prohibiting sexual harassment. However, the courts have accepted that sexual harassment is a form of sexual discrimination.

The Equal Employment Opportunity Commission (EEOC) has furthered legislation on sexual harassment by establishing guidelines for understanding its relationship with Title VII. As defined by the EEOC, unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature constitute sexual harassment when one of the following three conditions occur.

1. Whether made explicitly or implicitly, a term or condition of an individual's employment is based on the individual's submission to sexual requests. Example: An employee is promised overtime or a better position in exchange for a sexual relationship or favor.
2. Submission to or rejection of sexual conduct by an individual is used as a basis for employment decisions affecting the individual. Example: After an employee refuses a superior's sexual requests, the employee's performance is poorly evaluated, despite having previously been considered an above-average worker.
3. When certain conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment it can be judged as sexual harassment. Example: Jokes, pinups, calendars, graffiti, vulgar statements, abusive language, innuendoes, references to sexual activity, or overt sexual conduct by coworkers and superiors can be judged as unlawful sex discrimination.

The main point to keep in mind concerning sexual harassment is that any unwanted abusive conduct directed towards one gender in the work place can be construed as sexual harassment. The activity does not necessarily have to be related to the actual act of sex. Increasingly, more subtle forms of sexual harassment are being identified by the courts because there is a growing awareness of the wide range of activity that can be labeled sexual harassment.

Moreover, the Supreme Court has recognized a legal cause of action for same-sex sexual harassment, where the conduct at issue is overtly sexual or where the victim is subjected to harassment because of his or her gender. The Supreme Court has also held that an employer can assert an affirmative defense to a hostile environment sexual harassment claim, but only if the employer can demonstrate that it exercised reasonable care to prevent and promptly correct the harassment (i.e. that it established and implemented a sexual harassment policy), and that the employee unreasonably failed to utilize the employer's preventative measures.

EQUAL PAY ACT OF 1963

Technically, the Equal Pay Act of 1963 is an amendment to the Fair Labor Standards Act. It overturned "protective" laws that limited women's total hours of work and prohibited them from working at night, lifting heavy objects and working during pregnancy.

The law embodies the principle of equal pay for equal work for women. Equal work is defined by four factors: (1) equal skill, (2) equal effort, (3) equal responsibility, and (4) equal working conditions. However, the law permits pay differences between men and women engaged in equal work if there are differences in: seniority; quality or performance; quality or quantity of production or some factor other than gender.

For the document:
www.eeoc.gov/policy/epa.html

AMERICANS WITH DISABILITIES ACT (ADA)

The Americans with Disabilities Act (ADA) prohibits employers from discriminating in employment decisions against qualified individuals with disabilities. The final EEOC ADA regulations were issued on July 26, 1991, and the law is expected to reach 15 million handicapped individuals employed by covered employers who are not already subject to Section 503 of the Rehabilitation Act or similar state statutes.

The Act requires an employer to make reasonable accommodations to known limitations of a disabled applicant or employee who is qualified for a job. This may include: making job facilities more accessible; restructuring a specific job; creating part-time or modified work schedules; reassigning an individual to a vacant position; buying or modifying equipment or devices; adjusting or modifying examinations, training materials, and policies; or providing qualified readers or sign interpreters.

However, reasonable accommodation does not apply to the employer if the employer can demonstrate that the accommodation would impose an undue hardship on the operation of the employer's business. It also does not require the employer to create jobs to accommodate a disabled employee.

It should be noted that the ADA is not an affirmative action statute. First, it offers no hiring preferences for disabled persons, and second, it applies only to persons who are otherwise qualified (with or without accommodation) to perform the essential functions of the job and who have been denied employment or advancement.

The EEOC has stated that it is irrelevant whether an individual developed an impairment through some volitional act. As such, a smoker who has lung cancer is still disabled even if he or she developed the illness by smoking. Moreover, the ADA also protects individuals who are discriminated against because they have a record of impairment or because they are merely perceived as being impaired, e.g., individuals who are severely scarred or individuals falsely accused of suffering from AIDS.

On the other hand, the Supreme Court has held that to determine whether a specific physical or mental condition qualifies as a disability under the ADA, one must look at the condition in its "mitigated" state (i.e. by taking into account the effects of medication, prophylactics, or treatment for the condition). Accordingly, if an individual is not substantially limited in one or more major life activities when medicated or being treated for an otherwise disabling condition, he or she would not be entitled to protection under the ADA, even if discriminated against by an employer on the basis of that condition. Moreover, a short-term, temporary condition (for instance, a condition lasting only a few months) is generally not covered under the ADA.

One impact of the ADA on fire fighters concerns the use of medical examinations. Under the Act, an employer must make a contingent offer to hire an applicant before it can give the individual a medical examination. Before the ADA became law, the IAFF along with public employers argued that physical agility tests of applicants for employment are necessary in the fire service due to the strenuous nature of the work. The EEOC agreed with these comments and stated that physical agility testing should not be a prohibited medical examination for fire fighters.

For additional information concerning the impact of the ADA on the fire service, see Appendix D. The document, Americans with Disabilities Act: An IAFF Analysis is also available to all International affiliates. To obtain a copy of this document, simply contact IAFF Headquarters in Washington, D.C.

For the document: www.ada.gov/

AGE DISCRIMINATION IN EMPLOYMENT ACT (ADEA)

After numerous studies, reports and testimony, Congress made the following conclusions in 1967:

- Older workers find themselves disadvantaged in their efforts to retain employment or regain employment when displaced from their jobs;
- The setting of age limits, regardless of potential for job performance, has become common practice and may work to the disadvantage of older persons; and
- Incidents of unemployment with a deterioration of skill, morale and employer acceptability is high among older workers.

To correct these problems and to prevent discrimination because of age, Congress passed the Age Discrimination in Employment Act (ADEA). This law became effective in 1968 and protects individuals above the age of forty years against discrimination in employment practices. Additional purposes of the ADEA are to:

- Promote employment of older individuals based on their ability rather than age; and
- Help employers find ways of meeting problems arising from the impact of age on employment.

The Act makes it unlawful for an employer to:

- Force an individual to retire because of age;
- Classify or limit employees in any way that would adversely affect their status because of age; or
- Discriminate in compensation or terms of employment because of age.

The Act also affects unions by making it unlawful for a union to exclude or expel from its membership, or otherwise discriminate against any individual because of age.

The ADEA was amended in 1990 when the U.S. Congress passed the Older Workers Benefit Protection Act, which overturned the Supreme Court decision of Public Employees Retirement System of Ohio vs. Betts and provided equal retirement and other benefits to older workers.

This amendment protects older workers from denials or reductions of their employment benefits (such as insurance coverage or severance payments) because of their age. Under the amendment, an employer may reduce the benefits to older workers only if the cost of providing the reduced benefits to older workers is the same as the cost of providing the benefits to younger workers.

All aspects of the ADEA are applicable to IAFF members with one important exception. Under Section 4(j), state and local governments have the option to utilize mandatory retirement and/or maximum entry age limits for their fire fighters and law enforcement officers. The one limitation on this exemption is that jurisdictions without a retirement age in place in 1993 may not institute a new retirement age that is lower than age 55.

For the document:

www.eeoc.gov/policy/adea.html

REPRODUCTIVE HAZARDS

In *Auto Workers vs. Johnson Controls* (1991) the U.S. Supreme Court held that female employees had been wrongfully denied access to certain battery-making jobs by their employer due to the employer's fetal protection policy. Johnson Controls had implemented a policy excluding all fertile female employees from certain jobs because of its concern about reproductive hazards to female employees who might conceive. This exclusionary policy stated that women who were capable of bearing children would not be placed into jobs that could expose them to lead. Several employees filed a class action suit claiming that the new policy constituted sex discrimination in violation of Title VII of the Civil Rights Act.

The Court held that Johnson Control's policy was discriminatory because, despite evidence of the debilitating effect of lead exposure on the male reproductive system, the policy required only female employees to prove infertility as a condition of assignment to the job. The Court noted that because the Johnson Controls policy explicitly classified on the basis of potential for pregnancy, that such a classification must be regarded in the same light as sexual discrimination. The Court concluded that an employer cannot discriminate against a woman because of her capacity to become pregnant unless her reproductive potential prevents her from performing the duties of her job.

Section 703(a) of the Civil Rights Act of 1964, as amended, prohibits gender-based classifications in terms and conditions of employment, hiring, and discharging decisions and other decisions that

adversely affect an employee's status. Also, the Pregnancy Discrimination Act of 1978 provides that for purposes of Title VII, discrimination "on the basis of sex" includes discrimination "because of or on the basis of pregnancy, childbirth, or related medical conditions."

This statute has been interpreted to mean that employers must treat pregnancy and pregnancy-related medical conditions the same way it treats a medical disability, for purposes of compensation, leave and other benefits. For instance, a pregnant worker who has taken leave is entitled to return to her job without any loss of seniority or pension credits if similar benefits would be afforded to workers who had taken disability leave.

Some states have enacted laws that require employers to provide additional protection to pregnant women even if such protection is not otherwise offered by the employer to employees out on disability leave.

The IAFF Executive Board Policy on Reproductive Hazards appears in Figure A-1 on page 23.

The IAFF Executive Board supports the NFPA 1582, Standard on Medical Requirements for Fire Fighters (2007 Edition), relating to reproduction hazards of firefighters. Most importantly, the IAFF believes that fire fighters that are pregnant should not be treated any differently from other medical conditions that may inhibit their abilities to perform their jobs. The IAFF further recognizes that the employer may legally do more and provide pregnancy benefits greater than those provided for other off-the-job injuries. The fire department should have an officially designated physician who must be responsible for guiding, directing, and advising all fire fighters regarding their reproductive health and suitability for various duties. The IAFF believes that the fire department has the responsibility to counsel all employees – male and female – about the potential reproductive risks to themselves and the health risks to their potential offspring. Any fire fighter who becomes pregnant must be offered the opportunity at any time during the pregnancy to be voluntarily removed from fire fighting duties and other duties involving the hazards or physical stress that might endanger the fetus and be reassigned to other duties without loss of pay or benefits. When fire fighters can no longer be medically certified as being capable of performing fire fighter duties, the fire fighter should be reassigned to other duties. When the fire fighter is no longer pregnant, the fire fighter must be reinstated to the position held before being pregnant.

Figure A-1.

CANADIAN HUMAN RIGHTS ACT

The Canadian Human Rights Act states that every individual should have an equal opportunity with other individuals to make for himself or herself the life that he or she is able and wishes to have, consistent with his or her duties and obligations as a member of society, without being hindered in or prevented from doing so by discriminatory practices based on race, national or ethnic origin, color, religion, age, gender or marital status, or conviction for an offense for which a pardon has been granted or by discriminatory employment practices based on physical disability.

The Act applies to all federal government departments and agencies and crown corporations and to business and industry under the jurisdiction of the Parliament of Canada in their employment policies as well as in their dealings with the public. In areas not under federal jurisdiction, protection is given by provincial human rights laws. Each of the ten Canadian provinces has its own anti-discrimination laws that are broadly similar to the federal law.

For the document:

laws-lois.justice.gc.ca/eng/acts/h-6/

OTHER CANADIAN LEGISLATION

Canadian legislation includes Employment Equity Act of 1986, the Canadian Human Rights Act of 1977 and the Canadian Multicultural Act of 1988.

Canadian Employment Equity Act
laws-lois.justice.gc.ca/eng/acts/E-5.401/

Canadian Human Rights Code
laws-lois.justice.gc.ca/eng/acts/h-6/

Canadian Multicultural Act
laws-lois.justice.gc.ca/eng/acts/c-18.7/

APPENDIX B: THE IAFF HUMAN RELATIONS COMMITTEE

To assist the International in carrying out its responsibilities in the area of human relations, the IAFF created the Committee on Civil Rights at its 39th Biennial Convention (1988) in Miami, Florida. The name "Civil Rights" was dropped in favor of "Human Relations" at the 40th Biennial Convention in St. Louis, Missouri. The committee is now known as the IAFF Human Relations Committee.

HISTORY

A number of important convention actions regarding minority affairs of fire and rescue service personnel have been acted upon by the IAFF. For example, in 1982 and 1984, convention delegates adopted resolutions amending the IAFF Constitution and By-Laws regarding discrimination of members. Because of this action, Article III, Section 1, regarding eligible members now more clearly prohibits discrimination based on "sex" and "by reason of disability."

By 1986, IAFF convention delegates had come to recognize that in many places minority fire fighters, especially African-Americans, Hispanics and women were not joining the IAFF because they believed that their needs and problems were not being properly addressed. Convention delegates at the 38th Biennial Convention (1986) of the IAFF recognized these concerns and adopted Resolution #47 in hopes that the International would take a more active role in human relations. This resolution states:

WHEREAS, the members of the IAFF are representatives of all cultural and ethnic groups in the United States and Canada; and

WHEREAS, it is to the advantage of all members of the IAFF when any of its members actively participate in the labor movement; and

WHEREAS, the A. Philip Randolph Institute, The Labor Council for Latin American Advancement and The Coalition of Labor Union Women are three AFL-CIO programs developed to address the needs and problems of trade union activists; therefore, be it **RESOLVED**, that the IAFF encourage its local affiliates to participate in the local chapters of APRI, LCLAA and CLUW; and be it further

RESOLVED, that the IAFF sponsor, at minimal cost, an annual conference for local IAFF union delegates to these three AFL-CIO organizations; and be it further

RESOLVED, that two delegates, recommended by the Executive Board Civil Rights Committee to the President, be selected to represent the IAFF at the national conference of each of the three AFL-CIO organizations; and be it further

RESOLVED, that the IAFF provide the standard expense and per diem allowance while these delegates are so representing the IAFF, provided that these delegates represent the IAFF consistent with all existing IAFF policies; and be it further

RESOLVED, that the funds to sponsor such programs be a dedicated amount to be used for no other line item.

Part of Resolution #47 calls for the IAFF to sponsor an annual conference for local IAFF union delegates that explores and discusses issues of importance to minority fire fighters. Over the past several years this conference has evolved immensely and is known today as the IAFF Human Relations Conference. At each conference a variety of minority affairs topics are covered, including how to deal with discrimination, prevent sexual harassment and develop better race relations. These conferences began in 1986 and over a period of a few years have brought members of the fire service closer to a better understanding of one another.

The IAFF's involvement in human relations continued to grow and at its 39th Biennial Convention in Miami, Florida the IAFF adopted a number of resolutions designed to improve minority affairs within its affiliates. Resolution #59 was passed condemning sexual harassment in all its forms. The convention delegates also adopted Resolution #103 requiring the IAFF to provide a manual to all local, state and provincial presidents that set forth the legal and moral responsibilities of each local in matters pertaining to civil rights. More importantly, IAFF convention delegates adopted Resolution #61 calling for the creation of a standing committee that would deal exclusively with the civil rights of fire service personnel. Resolution #61 states:

WHEREAS, the IAFF at Convention in Las Vegas, Nevada, established the Civil Rights Conference;

WHEREAS, the need for greater involvement by minority fire fighters in the IAFF is an important component to the continued success of our International Union; therefore, be it

RESOLVED, that the IAFF create a standing Civil Rights Committee charged with developing policy and procedures for all local, state and provincial affiliates to use as guidelines and to assist our IAFF in improving relationships and to promote understanding between all brother and sister fire fighters; and be it further

RESOLVED, that the Civil Rights Committee be created by the IAFF General President appointing one (1) District Vice President to serve as chairperson; and be it further

RESOLVED, that the committee have ten (10) members nominated and elected at the annual IAFF Civil Rights Conference, with each local in attendance allowed one vote and two (2) members nominated and elected at the IAFF Canadian Conference; and be it further

RESOLVED, that the Civil Rights Committee meet prior to the IAFF Civil Rights Conference and at the request of the IAFF President; and be it further

RESOLVED, that each member of the committee shall have standard expenses paid by the IAFF for all committee meetings; and be it further

RESOLVED, that the IAFF utilize all available resources to promote this committee and the Civil Rights Conference for the betterment of all fire fighters regardless of race.

When Resolution #61 was passed in 1988 and the IAFF Civil Rights Committee was created at the 39th Biennial Convention of the IAFF, International members were once again responding to the growing concern of the IAFF for greater involvement by its minority fire fighter members. This new committee was immediately charged with developing policy and procedures for all local, state and provincial affiliates to use as guidelines when dealing with minority affairs within their affiliates. The convention delegates envisioned a committee that could be utilized for the betterment of all fire and rescue service personnel regardless of race, sex or disability.

In 1990, at the 40th Biennial Convention of the IAFF in St. Louis, Missouri, the name of the committee was changed. IAFF convention delegates felt that the connotation of "civil rights" did not do justice to the IAFF's conception of a committee for improving relationships and promoting understanding among its brother and sister fire fighters and EMS personnel. Consequently, delegates to the convention adopted Resolution #41. Today, the IAFF standing

committee on civil rights is known as the IAFF Committee on Human Relations and even though the label of this effective committee has changed, its purpose and goals have remained the same.

When the IAFF Human Relations Committee was created in 1988, various local unions began to seek out individual members for their assistance and advice. A number of requests were made to have members address local union memberships that were experiencing problems in the area of human relations and civil rights. Because of these requests, delegates at the 40th Biennial Convention of the IAFF also adopted Resolution #55. It states:

WHEREAS, the Civil Rights Committee was elected at the Civil Rights Conference in Denver, Colorado in 1989 pursuant to convention action in Miami in 1988; and

WHEREAS, members of the committee were immediately sought after for their counsel and advice by various local unions and requests were forthcoming for their assistance and advice in the form of meetings with local union membership and or meetings with local committees and management to address problems in the field of minority affairs and civil rights; and

WHEREAS, this type of assistance has been extremely beneficial to affiliates receiving such service; and

WHEREAS, funding for this type of assistance was not included in the resolution creating the Civil Rights Committee; therefore be it

RESOLVED, that funding be provided for this type of assistance to local unions of the IAFF; and be it further

RESOLVED, that requests for this type of assistance shall be addressed and regulated by current policy pertaining to requests for assistance and/or service of the IAFF.

When the IAFF Human Relations Committee was created in 1988, the objective of the IAFF was to obtain greater involvement by minority fire fighters in the IAFF. Resolution #55 is just one of the many ways in which the IAFF and the IAFF Human Relations Committee is attempting to achieve this goal.

THE ROLE OF THE IAFF ELECTED HUMAN RELATIONS COMMITTEE

The Human Relations committee, composed of elected IAFF members, carries out various responsibilities. Its primary duty is to improve relationships and promote understanding among all IAFF members. While the IAFF Committee on Human Relations is formally assigned the task of recommending policy and procedures pertaining to discrimination for all local, state and provincial affiliates, it also addresses problems concerning minority affairs by:

- Providing technical assistance to local unions on matters pertaining to discrimination (the policy of the IAFF on assistance for human relations issues can be found on page 5);
- Counseling and advising local unions in the form of meetings with IAFF members and/or meetings with local committees and management; and
- Improving and expediting communications between local unions and the IAFF in matters concerning civil rights by developing and presenting the biennial IAFF Human Relations Conference.

The IAFF Committee on Human Relations is composed of one chairperson and sixteen elected IAFF members. The chairperson of the committee is an IAFF District Vice President, who is appointed by the General President. The sixteen committee members are nominated and elected to their positions for four-year terms.

The IAFF Human Relations Committee is composed of persons from each of the following groups:

Black
Canadians
Caucasians
Disabled/Handicapped
Hispanic
LGBTQ
Other than Already Represented
Women
Veterans

Fourteen members of the committee are nominated and elected at the biennial IAFF Human Relations Conference (with each local in attendance allowed one vote), and the two Canadian members are nominated and elected at the IAFF Canadian Policy Conference (with each local in attendance allowed one vote).

The IAFF Human Relations Committee was created because the IAFF believes the involvement of all persons in the International is an important component to the success of the IAFF. All IAFF affiliates are urged to utilize the IAFF Human Relations Committee as a valuable resource in the quest for a better understanding of minority affairs.

APPENDIX C: GUIDELINES FOR PREVENTING AND DEALING WITH SEXUAL HARASSMENT

SEXUAL HARASSMENT DEFINED

Sexual harassment at work occurs whenever unwelcome conduct on the basis of gender affects a person's job. It is defined by the Equal Employment Opportunity Commission (EEOC) as "unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of employment; or
- Submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individual; or
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or offensive working environment."

Unwelcome activity of a sexual nature is classified as sexual harassment under the law when:

- A superior with the authority to affect an employee's working conditions makes unwelcome sexual advances, and submission to the advances is an expressed or implied condition for receiving job benefits, or refusal to submit to the demands results in the loss of a benefit or employment;
- Relentless and continuing unwelcome sexual conduct in the workplace interferes with an employee's work performance or creates an intimidating, hostile, abusive or offensive work environment; and/or
- An employee is granted job benefits because the employee submits to unwelcome requests for sexual favors from a supervisor. Under these circumstances both male and female coworkers can allege sexual harassment by showing that they were denied a chance at the same benefits because of the sexual harassment directed toward the one employee.

REDUCING SEXUAL HARASSMENT

There are several different ways in which to reduce sexual harassment in the fire service. One such way is by raising the issue with IAFF members. Every IAFF affiliate is encouraged to make sure that all IAFF members clearly understand the types of behavior that are unacceptable in the workplace. Members should be told that:

- Employment conditions cannot be made based on sexual relations;
- Unwelcome sexual advances by supervisors and coworkers is not to be tolerated;
- Sexual joking, off-color jokes, verbal abuse, demeaning sexual inquiries, vulgarity, obscene gestures and lewd comments are not acceptable; and
- The displaying of sexually oriented posters, magazines, or other graphic materials is not condoned.

Members need to be assured that their union is committed to ensuring that all persons employed in the fire service have the opportunity to work in an environment that is not offensive, intimidating or hostile because of one's gender. This position should be well documented and sexual harassment programs should be sponsored concerning appropriate conduct.

Members should also be told what to do if they are confronted with unwelcome sexual behavior. Each of the following steps should be outlined:

1. Ask the person to stop the harassing behavior. This strengthens the position of the member if the member reports the incident later.
2. If the harassment persists, then a formal complaint should be filed with a local union officer (or station steward) or the EEOC.
3. Document the complaint by keeping a diary or log that details each of the incidents. Write down what happened, what was said, who was there and who might have witnessed the incident.

Every IAFF affiliate should make it simple for members to report sexual harassment violations. If a grievance procedure does not exist, then an internal complaint procedure should be set up. This procedure should encourage members to come forward with allegations of sexual harassment. Members should be reassured that all complaints will remain confidential and that no retaliation will be taken against any member who comes forward with a complaint.

HANDLING COMPLAINTS

Every IAFF affiliate has a duty to investigate all complaints of sexual harassment. Failure to investigate a complaint implies that the local does not take sexual harassment seriously. By taking no action at all, a local can indirectly encourage the abusive behavior to continue.

When an act of sexual harassment is reported, it is important to investigate the circumstance quickly. Accusations made by a member may or may not be true. Either way, they represent an extremely emotional and sensitive situation that needs to be resolved as soon as possible.

The 'big' mistake a union can make involving sexual harassment, besides not taking any action at all, is failing to process a complaint properly. When an IAFF member files a complaint of sexual harassment, it is up to the affiliate to let that person know that their local intends to address the issue.

Complaints of sexual harassment should be handled professionally and in a nonjudgmental manner. Credibility judgments should never be made based on the reputations of the persons involved.

Every complaint of sexual harassment should be taken seriously. A trap for many locals is that the complaint "doesn't appear very important." Never brush a complaint aside merely because it does not meet the legal definition of "sexual harassment." A member's first attempt at stating a complaint may fail to convey the real story. It could be an indication of a much larger problem.

The member who filed the complaint should never walk away frustrated. The objective of each local should be to resolve the complaint to the satisfaction of all concerned (to the extent possible and reasonable). Give the member someone to talk with who will be sympathetic. If necessary, help the member understand what is and is not sexual harassment. Be sure the member feels secure about the immediate future. If the member fears further harassment, explain what the member should do about it, given the particular situation.

SUMMARY AND CONCLUSION

All IAFF affiliates and members are encouraged to take steps necessary for preventing sexual harassment from occurring. They are also encouraged to deal with sexual harassment in a professional and expedient manner when it does occur. The IAFF believes that sexual harassment creates a hostile and offensive work environment and is every bit the barrier to sexual equality in the fire service that racial harassment is to racial equality. All IAFF members should be informed of their right to raise the issue of harassment and methods should be developed to sensitize all persons concerned.

APPENDIX D: IMPACT OF THE ADA ON THE FIRE SERVICE

APPENDIX D: IMPACT OF THE ADA ON THE FIRE SERVICE

The Americans with Disabilities Act (ADA) is a federal law that prohibits discrimination in employment against a qualified individual with a disability. IAFF affiliates should be aware that the ADA applies to the fire service, particularly with respect to fit for duty issues.

MEDICAL EXAMINATIONS

Under the ADA, an employer may require a current employee to undergo a medical examination if the examination is job-related and consistent with business necessity. Medical examinations include any procedure or test that seeks information about an individual's physical or mental impairments or health. Periodic medical examinations for fire fighters are generally considered to be job-related and consistent with business necessity because fire fighters are in positions affecting public safety.

JOB-RELATED AND CONSISTENT WITH BUSINESS NECESSITY

The standard "job-related and consistent with business necessity" means the employer has a reasonable belief, based on *objective* evidence, that (1) an employee's ability to perform essential job functions will be impaired by a medical condition, or (2) an employee will pose a direct threat, meaning a significant risk of substantial harm to the health or safety of the individual or to others that cannot be eliminated or reduced by a reasonable accommodation.

PHYSICAL AGILITY TESTING

Physical agility tests (PATs), which measure an employee's ability to perform actual or simulated job tasks, are not considered medical examinations under the ADA. PATs, however, cannot discriminate against employees on the basis of disability, unless the employer can demonstrate that the PAT is job-related and consistent with business necessity. It is also important to keep in mind that PATs must also comply with other federal and state discrimination laws as well.

REASONABLE ACCOMMODATIONS AND LIGHT DUTY

Employers may be required to provide reasonable accommodations to individuals with disabilities if the reasonable accommodation does not pose an undue hardship to the employer. This determination is made on a case-by-case basis, based on the size and resources of the fire department. If the fire department has light duty assignments or positions available, the fire department may have to offer light duty to disabled fire fighters under the ADA.

MEDICAL RECORDS

The ADA requires that employers keep medical records obtained through fit for duty examinations confidential, and medical records must be maintained in separate files apart from an employee's personnel file. An employee's medical information can only be disclosed in very limited circumstances under the ADA.

APPENDIX E: ENFORCEMENT PROCEDURES OF THE EEOC

FILING THE CHARGE

An aggrieved individual, a person acting on behalf of an aggrieved individual, or a union can file a charge of employment discrimination. This can be done through the mail or by visiting an EEOC office in person.

FILING TIME LIMITS

If a charge is filed in a non-deferral jurisdiction (where there is no state or local fair employment practice agency), it must be filed within 180 days of the alleged violation. If the facts giving rise to the alleged discrimination occur in a deferral jurisdiction (where there is a state or local fair employment practice agency), then the discrimination charge must be filed within 300 days of the alleged violation.

SERVING THE CHARGE

When the charge is filed, it is docketed and assigned a number. Within ten days of receipt of the charge, the EEOC will serve a copy of the charge on the employer. Generally, service is accomplished by the EEOC sending the employer a “notice of charge” together with a copy of the charge. At the same time, the EEOC will usually ask the employer to provide a position statement. In the position statement, the employer sets forth its explanation or reasons for its actions concerning the incident or incidents about which there has been a complaint. After the charge has been served, the EEOC may also ask the employer to respond to a set of questions known as a RFI, (request for information). An employer usually has 30 days to respond to the RFI.

MEDIATION

At the start of an investigation, the EEOC will advise the parties if the charge is eligible for mediation. If the parties agree to mediation, a mediator will try to help the parties reach a voluntary settlement.

FACT-FINDING HEARING

The EEOC may also require an employer to attend a fact-finding hearing or may schedule an on-site investigation to resolve the charge. The fact-finding hearing allows the charging party and the employer to meet face-to-face in the presence of the EEOC

agent to discuss and define the issues in the charge, clarify disputed points and, perhaps, to reach a settlement.

ON-SITE INVESTIGATIONS

During a scheduled EEOC on-site investigation, an EEOC representative visits the employer’s facility to examine and copy records and conduct interviews.

NEGOTIATED SETTLEMENT

If the EEOC determines that the discrimination or harassment took place, the EEOC will issue a Letter of Determination and will discuss with the parties the possibility of obtaining a negotiated settlement. In a settlement, the employer agrees to provide the charging party with relief appropriate to the charge.

NOTICE OF RIGHT TO SUE

Generally, where no settlement is reached, the EEOC will conclude its investigation by issuing a notice of right to sue, which is sent to both the employer and the charging party. The right to sue gives the charging party notice that he or she has 90 days from the receipt of the notice to file a lawsuit in federal district court. If the EEOC is unable to conclude that there is reasonable cause to believe that discrimination has occurred, the parties will be issued a notice of dismissal and right to sue.

CLASS ACTIONS

In certain cases, the EEOC or the Department of Justice (“DOJ”) (for state and local government employers) will initiate litigation on behalf of a charging party. These cases may be class actions or cases that are targeted for priority handling under the EEOC’s or DOJ’s program to identify and remedy systemic employment discrimination.

APPENDIX F: IAFF HUMAN RIGHTS RESOLUTIONS

Like any organization made up of a diverse cross-section of society, the IAFF has struggled to ensure that all of our members are treated with respect and dignity. Not surprisingly, this has been, and continues to be, an evolutionary process. As an organization, we will continue the challenge of ensuring that all of our members are afforded the opportunity to grow and prosper as professionals and IAFF members.

The chronology below documents the history of IAFF human rights resolutions over the last forty years. Unless noted otherwise by an asterisk (*), these resolutions were adopted.

1972

- #32 AFL-CIO Convention Resolutions
 - Supports
- #41 Non-Discrimination
 - Equal Opportunity
- #61 Unlawful Intrusions
 - Stops Exclusions Based on Appearance
- #133 Preferential Treatment
 - Opposes

1974

- #150 Sexual Orientation
 - Excludes Gays

1976

- #56 IAFF Policies
- #107 Sexual Orientation
 - Excludes Gays
- #152 Hiring and Promotion
 - Equal Opportunity
- #162 Discrimination
 - Opposes
- #181 Document Language
 - Gender Neutral

1978

- #44 Maximum Entrance Age
 - Age 30

1982

- *#96 Position on AFL-CIO Policies
 - 2/3 Majority for Approval
- #118 Non-Discrimination
 - Includes Women and Minorities

1984

- #62 Non-Discrimination
 - Includes Handicapped
- #91 Labor Recruitment
 - Affirmative Action

1986

- #47 AFL-CIO Civil Rights Department
 - Encourages Local Participation
- *#104 AFL-CIO Civil Rights Department
 - Changes Minority Affairs Committee

1988

- #59 Sexual Harassment
 - Condemns
- #61 Standing Civil Rights Committee
 - Creates
- *#74 Standing Civil Rights Committee
 - Creates
- *#83 Civil Rights Committee
 - Creates
- *#95 Pregnancy Leave
 - Minimum 60 Days
- #95A Pregnancy Leave
 - Minimum 60 Days
- #103 Civil Rights Manual
 - For Locals
- #104 Unbiased Promotional System
 - Recommends Study of Valid Systems

1990

- #7 Mandatory Retirement
Uniform Application
- #32 Family and Medical Leave
Supports Legislation
- #41 Civil Rights Committee Renamed
Human Relations Committee
- #50 Civil Rights Apprentice Training
Unbiased Recruitment
- #54 Civil Rights Committee Compensation
Equal Compensation
- #55 Civil Rights Policy
Assists Locals

1992

- #29 Human Rights Committee Members
Changes definition of at-large members
- #61 Gender Neutral Publications
Revises Documents
- *#68 Biennial Human Rights Conference
Changes from Annual Conference
- #81 Age Discrimination in Employment
Supports Exemption
- #110 Americans w/ Disabilities Act Seminar
Recommends Program
- #117 Human Relations Committee Elections
One Vote per Delegate

1994

- *#49 Non-voting Minority Advisors
Attend IAFF Board Meetings

1996

- *#35 Entry Level Age-based Hiring
Opposes Age Discrimination
- *#37 Indentured Servitude Contracts
Opposes
- #89 Human Relations Committee Elections
Canadian Members
- *#90 Human Relations Committee Elections
Rules
- *#91 Human Relations Committee Elections
Rules

1998

- *#57 Human Rights Committee Expenses
Reimburses Attendees

2000

- #28 Non-Discrimination
Includes Gays and Lesbians
- *#55 Confederate Flag
Supports NAACP Boycott
- #90 Recruitment of Minorities and Women
Encourages

2002

- #63 Biennial Human Relations Conference
Committee serves four-year terms

2004

- #18 Ernest A. "Buddy" Mass Human Relations
Conference
Conference renamed

2006

- *#29 Ernest A. "Buddy" Mass Human Relations
Conference
Per Capita Support
- #30 Human Relations Technical Assistance
Assists Locals

2010

- *#25 Minority Outreach
Assists Locals

2012

- #17 Late Elected Human Relations Committee
Member David D. Pulliam
Recognition

2016

- #11 Expand the Elected Human Relations
Committee

2018

- #11 Expand the Elected Human Relations
Committee to include Veteran Category

APPENDIX G: UNDERSTANDING AND RESPECTING PEOPLE

We are all products of our life experiences. Our gender, our religion, our race, our ethnic background, our sexual orientation, where we grew up, along with many other factors, contributes to who we are and what we value. We are often different in many ways from the individuals we work with, side by side, day after day.

Our workplaces are characterized by this diversity. The diverse composition of today's workforce and the cultural clashes it can produce require us to pay attention to our differences, not only so that we can work together successfully, but so that we learn to value and gain an advantage from our different strengths.

We must attempt to better understand our diversity. Different does not mean better or worse, inferior or superior.

We must remember that we share one thing in common—our union and our struggle for justice on the job. That is what unites us.

APPENDIX H: IAFF MEETING STATEMENT

The International Association of Fire Fighters is an organization of men and women whose sole responsibility is the safety and protection of the rights of thousands of fire fighters, emergency medical and rescue personnel and providers of related services in the United States and Canada.

A mission of the IAFF is to promote understanding among all brother and sister members. Our diversity is an important component to the continued success of our International Union.

We are all products of our life experiences. Many factors contribute to who we are and what we value. We are often different in many ways from the individuals we work with, side by side, day after day.

Our fire houses are characterized by this diversity. Our diverse composition requires us to pay attention to our differences, not only so that we can work together successfully, but so that we learn to value and gain an advantage from our different strengths.

We must attempt to better understand our diversity. Different does not mean better or worse, inferior or superior.

We must remember that we share one thing in common—our union and our struggle for justice on the job. That is what unites us.

The IAFF believes that discrimination and harassment can best be stopped in both its open and hidden forms by encouraging all people to live by the basic principle of respect. Every person is entitled to the same basic rights regardless of race, color, creed, national origin, gender, sexual orientation or reason of disability. We expect that all of the interactions at this Conference will occur with this principle of respect in mind.

APPENDIX I: LEGAL GUIDANCE ON THE GENETIC INFORMATION NONDISCRIMINATION ACT (GINA)

The IAFF General Counsel's law firm, Woodley & McGillivray LLP, prepared the following guidance on the Genetic Information Nondiscrimination Act of 2008 (GINA) for the use of IAFF members and affiliates. GINA has important implications for Fire Department wellness and fitness programs, and this guidance is intended to provide general information on this relatively recent law.

WHAT IS GINA?

The Genetic Information Nondiscrimination Act of 2008 (GINA), 42 U.S.C. § 2000ff, *et seq.*, is a federal law that prohibits discrimination by employers against employees or applicants because of their genetic information. The U.S. Equal Employment Opportunity Commission (EEOC) enforces GINA with respect to employment discrimination.

The definition of genetic information includes information about an employee's genetic tests, the genetic tests of an employee's family members, and an employee's family medical history. According to the EEOC, family medical history is included in this definition because it is often used to determine whether an employee has an increased risk of getting a disease, disorder, or health condition in the future.

GINA prohibits employers from discriminating on the basis of genetic information with respect to any aspect of employment, such as hiring, firing, promotions, and job assignments. Therefore, employers cannot use genetic information when making any employment decisions because genetic information is not relevant to an employee's current ability to work. GINA also prohibits harassment of an employee because of his or her genetic information.

Significantly, GINA also prohibits employers from **requesting, requiring, or purchasing genetic information** with respect to an employee, subject to several exceptions (discussed below). The EEOC's regulations implementing GINA provide that this prohibition on requiring genetic information applies to medical examinations related to employment, such as fit-for-duty exams. Employers must instruct health care providers not to request genetic information, including family medical history, when administering fit-for-duty exams.

IAFF affiliates should note that GINA also prohibits **labor organizations** from discriminating against members on the basis of genetic information and from requesting, requiring, or purchasing genetic information with respect to a member. One court allowed a GINA suit to proceed against a union on the basis that a union was potentially involved in drafting or implementing a wellness program that requested information protected by GINA.

Remedies for GINA violations include reinstatement, compensatory damages, injunctive relief, and reasonable attorney's fees and costs

GINA EXCEPTIONS

While GINA generally prohibits employers and labor organizations from requesting and obtaining genetic information, there are several narrow exceptions to this prohibition. These exceptions include the following:

- Employers may request an employee's genetic information through a "**voluntary**" **wellness program**. More information on this exception is provided below.
- Employers may inadvertently acquire genetic information, such as a supervisor overhearing an employee discussing a family member's health issue.

- Employers may obtain protected information when an employee completes the certification process for requesting leave to care for a family member with a serious health condition under the Family Medical Leave Act (FMLA) or a similar state or local law.
- Employers may acquire genetic information through a genetic monitoring program that monitors the biological effects of toxic substances in the workplace where the monitoring is either required by law or is voluntary.

If the employer is in possession of an employee's genetic information pursuant to one of these exceptions, GINA strictly limits the disclosure of this genetic information. The genetic information must be kept confidential and in a separate medical file apart from an employee's personnel file.

GINA AND "VOLUNTARY" WELLNESS PROGRAMS

As noted above, one exception to GINA's prohibition on employers acquiring employee genetic information is when the employer requests this information as part of a voluntary wellness program. What does this mean?

GINA provides that an employer may request genetic information, such as family medical history, as part of a health or wellness program, so long as the employee provides "prior, knowing, voluntary, and written authorization." Based on this language, employers would be able to request genetic information through a wellness program, so long as they obtain a voluntary and written authorization from the employee.

The EEOC's regulations elaborate on this requirement and state that this authorization may be in electronic format. The regulations also require the employee to complete an authorization form, and that this form meet certain requirements:

- (1) The form must be written so the employee is reasonably likely to understand it;
- (2) The form must describe the type of genetic information that will be obtained and the general purposes for which it will be used; and
- (3) The form must describe the restrictions on disclosure of genetic information.

This written authorization requirement is significant; one U.S. District court found that the employer could not establish that the employee provided any genetic information voluntarily in the absence of a written authorization form in accordance with the EEOC regulations.

The current EEOC regulations implementing GINA specify that the wellness program exception only applies to employers who offer "health ... services, including such services offered as part of a voluntary wellness program." Therefore, the EEOC regulations appear to require that a wellness program requesting genetic information be voluntary in order to be covered under this exception.

Furthermore, under the wellness program exception, an employee cannot be required to provide genetic information or be penalized for choosing not to provide this information. The EEOC regulations do not allow employers to offer financial incentives to employees to induce them to provide genetic information. Employers, however, may offer financial incentives for completion of health risk assessments that include questions about family medical history or other genetic information, so long as the employer makes clear, in language reasonably understood by employees completing the health risk assessment, that the incentive will be made available whether or not the employee answers the questions regarding genetic information. In this situation, employers must clearly indicate which questions request genetic information.

Furthermore, employers may offer financial incentives to encourage employees, who have voluntarily provided genetic information that indicates they are at an increased risk of acquiring a certain health condition, to participate in disease management programs or other programs promoting healthy lifestyles, and/or to meet particular health goals as part of a health or genetic service. In order to comply with GINA, however, these programs must also be offered to employees with current health conditions and to employees whose lifestyle choices put them at increased risk of developing the condition.

The EEOC regulations place strict restrictions on the disclosure of employee genetic information obtained through wellness programs. Genetic information may only be disclosed to the employee and the licensed health care professionals or board-certified genetic counselors involved in providing these services, and this information may not be accessed by managers, supervisors, anyone who makes employment decisions, or anyone else in the workplace. Genetic information may only be provided to the employer in aggregate terms that do not disclose the identity of specific employees.

IMPORTANT TAKEAWAYS FOR IAFF AFFILIATES

The IAFF strongly encourages mandatory, non-punitive medical examinations administered through comprehensive wellness-fitness programs for fire fighters. Well-designed programs are vital in the fire fighting profession because they allow fire fighters to maintain a high level of job performance and provide high quality services to the communities they serve. GINA's requirements, however, impact certain wellness-fitness programs.

In light of GINA's requirements, below are important takeaways with respect to wellness programs:

- Mandatory physical examinations that are part of wellness programs should not include requests for family medical history or any other genetic information. In this situation, GINA would not apply. Furthermore, the EEOC regulations state that employers are prohibited from acquiring genetic information through medical examinations related to employment. In light of these regulations, ***all fit-for-duty examinations should not request nor require GINA-protected information from employees.***
- Wellness programs that include requests for genetic information should be voluntary in order to comply with the EEOC regulations.
- Before acquiring any employee genetic information pursuant to a wellness program, the employee must complete a voluntary written authorization form that comports with all of the requirements in GINA and the EEOC regulations.
- Employees cannot face any penalties for refusing to provide any genetic information as part of a wellness program. If the wellness program utilizes financial incentives, the program cannot base receipt of those incentives on whether the employee provides or does not provide genetic information.

As of the publication of this guidance, there are not many court decisions interpreting GINA and the EEOC regulations. We will update this guidance as necessary as more courts decide issues arising under GINA.

APPENDIX J: ADDITIONAL RESOURCES

U.S. GOVERNMENT

BUREAU OF LABOR STATISTICS

www.bls.gov

Principal fact-finding agency for the federal government in the field of labor economics and statistics.

COMMISSION ON CIVIL RIGHTS

www.usccr.gov

An independent, bipartisan government agency that handles discrimination issues and denial of equal protection under the law.

DEPARTMENT OF JUSTICE

www.usdoj.gov

A federal government agency that enforces the law and ensures fair and impartial administration of justice for all Americans.

DEPARTMENT OF LABOR

www.dol.gov

Prepares the American workforce for new and better jobs, and ensures the adequacy of America's workplaces. It is responsible for the administration and enforcement of over 180 federal statutes related to the workforce.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

www.eeoc.gov

Promotes equal opportunity in employment through administrative and judicial enforcement of the federal civil rights laws and through education and technical assistance

CANADIAN GOVERNMENT

www.canada.gc.ca/home.html

STATISTICS CANADA

www.statcan.gc.ca/start-debut-eng.html

Produces statistics that help Canadians better understand their country—its population, resources, economy, society and culture.

DEPARTMENT OF JUSTICE

www.justice.gc.ca/eng/index.html

Provides information on Canadian laws.

WOMEN

COALITION OF LABOR UNION WOMEN

www.cluw.org

Organization of labor union women that focuses on political action and legislation, affirmative action in the workplace, organizing unorganized women and increasing participation of women within their unions.

WOMEN IN THE FIRE SERVICE

www.i-women.org

A nonprofit organization that provides networking opportunities for women fire fighters and information to the fire service on women's issues.

OLDER ADULTS

ALLIANCE FOR RETIRED AMERICANS

www.retiredamericans.org

An alliance of 2.5 million retired union members that protect the health and economic security of seniors.

AMERICAN ASSOCIATION OF RETIRED PERSONS

www.aarp.org

Provides information and resources on economic security and work for people aged 50 and over.

CANADIAN ASSOCIATION OF RETIRED PERSONS

www.carp.ca

Provides information and resources on economic security and work for Canadians aged 50 and over.

LESBIAN/GAY/BISEXUAL/TRANSGENDER

PRIDE AT WORK

www.prideatwork.org

An AFL-CIO constituency group that mobilizes mutual support between the labor movement and the lesbian, gay, bisexual and transgender communities around organizing for social and economic justice.

AFRICAN AMERICANS

A. PHILIP RANDOLPH INSTITUTE

www.apri.org

Black labor alliance responsible for political and community education, lobbying, legislative action and labor support activities.

COALITION OF BLACK TRADE UNIONISTS

www.cbtu.org

Represents black workers within the trade union movement.

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE

www.naacp.org

Ensures the political, educational, social and economic equality of minority group citizens of United States and seeks to eliminate race prejudice.

NAACP LEGAL DEFENSE AND EDUCATIONAL FUND

www.naacpldf.org

Civil rights public interest law firm that fights for equality and empowerment for African Americans and other disenfranchised groups.

ASIANS

ASIAN PACIFIC AMERICAN LABOR ALLIANCE

www.apalanet.org

An AFL-CIO affiliated organization of Asian Pacific American union members.

LATINOS/HISPANICS

LABOR COUNCIL FOR LATIN AMERICAN ADVANCEMENT

www.lclaa.org

Latino trade union association representing 1.4 million Latino working men and women in 43 international unions in 64 chapters in 17 states and Puerto Rico.

NATIONAL ASSOCIATION OF HISPANIC FIREFIGHTERS

www.nahf.org

A community-based organization for Hispanic and Latino firefighters.

OTHER RELATED ORGANIZATIONS

AFL-CIO

www.aflcio.org

Federation of America's labor unions, representing more than 13 million working women and men.

CALIFORNIA FIRE FIGHTER JOINT APPRENTICESHIP COMMITTEE

www.cffjac.org/go/jac

An apprenticeship training program (supported and sponsored by both management and labor organizations) encompassing nearly all paid occupations found in the California Fire Service.

CANADIAN LABOUR CONGRESS

www.clc-ctc.ca

Representing 2.3 million unionized workers, the CLC is the voice of the labor movement in Canada.

EQUAL EMPLOYMENT ADVISORY COUNCIL

www.eeac.org

A nonprofit association made up of more than 350 major companies that are committed to the principle of equal employment opportunity.

NATIONAL COMMITTEE ON PAY EQUITY

www.pay-equity.org

A national membership coalition working to eliminate sex and race-based wage discrimination and to achieve pay equity.

LABOR PROJECT FOR WORKING FAMILIES

familyvaluesatwork.org/laborproject

A national, nonprofit advocacy and policy organization providing technical assistance, resources, and education to unions and union members on family issues in the workplace including: childcare, elder care, family leave, work hours and quality of life.

APPENDIX K: REFERENCES

AFL-CIO, The AFL-CIO & Civil Rights, Publication No. 8, 815 Sixteenth Street, NW, Washington, D.C. 20006.

CCH Editorial Staff Publication, Sexual Harassment Manual for Managers and Supervisors, Commerce Clearing House, Inc., 4025 West Peterson Avenue, Chicago, Illinois 60646.

Communication Workers of America, CWA Committee on Equity Guidelines, 1925 K Street, NW, Washington, D.C. 20006.

Nowlin, William A., "Sexual Harassment in the Workplace: How Arbitrators Rule," The Arbitration Journal, December, 1988.

Personnel Policies Forum, Sexual Harassment: Employer Policies and Problems, Bureau of National Affairs, Inc., 1250 23rd Street, N.W., Washington, D.C. 20037-1165.

United Steelworkers of America, Manual for Local Union Civil Rights Committees, Pamphlet No. PR-205, Five Gateway Center, Pittsburgh, PA 15222.

United Steelworkers of America, The USWA Human Relations Procedural Manual for Local Unions, Pamphlet No. PR-237, Five Gateway Center, Pittsburgh, PA 15222.

West, Ruth Clarke, U.S. Labor and Employment Laws, Bureau of National Affairs, Inc., 1250 23rd Street, NW, Washington, D.C. 20037116.

