

REPORT ON THE STATUS  
OF FEMALE FIREFIGHTERS IN  
THE BOSTON FIRE DEPARTMENT

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## **Introduction**

Out of concern that there were so few women firefighters (16 out of approximately 1,500) and complaints from 2 female firefighters raising allegations of sexual assault and harassment, the City of Boston engaged us to investigate and assess the current status of diversity and inclusion of female firefighters in the Boston Fire Department (“BFD” or “Department”) and make recommendations for improvement.

To gain a broader perspective, we reviewed prior reports about the BFD and various articles on women in the fire service or related occupations from other jurisdictions. We also conducted interviews of some female and male firefighters, various past and present leaders of the BFD, and representatives from other relevant departments in the City of Boston and Boston Fire Fighter Union Local No. 718 about their experiences, perceptions and opinions about the Department’s climate, culture, procedures and structures related to discrimination, harassment and retaliation.

Our investigation and report is neither the result of a scientifically or academically validated process or analysis, nor of a comprehensive study of the management or operations of the Department. The conclusions and recommendations in this report are intended to provide assistance to Boston and the Department in addressing issues of harassment, diversity and inclusion. They are not intended to be used as legal authority or evidence to validate or invalidate the existence of discrimination, harassment or retaliation in any particular situation.

We would like to acknowledge the help and support of the Boston Fire Department, the City of Boston Office of Labor Relations (“OLR”), Office of Human Resources (“OHR”), and other City Departments and employees. We are grateful for the generous amount of time they spent meeting with us, answering our questions, tracking down background information and sharing their insights and perspectives. This report reflects their dedication and commitment to advancing and enhancing equity and inclusion for all employees of the Boston Fire Department.

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## I. Overview and Summary

The City of Boston is committed to employing persons who reflect the diversity of its citizenry. Boston makes clear in its policies that it does not merely seek an environment that is free from discrimination, harassment and retaliation. It seeks to provide a welcoming, professional and respectful work environment that is better than the legal minimum required for all of its employees regardless of gender or other legally protected status.

Like many fire departments throughout the country, the Boston Fire Department is male dominated and has struggled to become more diverse with regard to gender. See Hulett, et al., Enhancing Women's Inclusion in Firefighting in the USA, The International Journal of Diversity in Organizations, Communities & Nations, Vol. 8, No. 2 (2008) at 191. It presently employs only 16 women out of approximately 1,500 uniformed firefighters. Although the Department desires more women, it cannot legally hire them because of constraints imposed by the Civil Service system that limits BFD from hiring off of civil service lists within statutory preferences including residency and veteran status. Except for civilians with certain language skills, the Department has not hired any individuals who were not veterans for years. Thus, the only options available to the Department would appear to be seeking special legislation authorizing it to create a Cadet Program, which would allow it to circumvent the military service requirement, and/or encouraging women residents of Massachusetts to join the military and return to Boston with the desire to become firefighters.

Considerable progress has been made in how women are treated currently in the Department as compared to the circumstances described in previous cases before the Massachusetts Commission Against Discrimination ("MCAD"). Nevertheless, the lack of a critical mass of female firefighters results in a male dominated Department with male banter/"locker room talk" frequently occurring in firehouses without a regularly assigned female firefighter. Only 9 of the Department's 33 firehouses currently have a female firefighter regularly assigned. Hence, as female firefighters are detailed to other locations on a fairly regular basis, they find that the environment/culture is not as welcoming, professional and respectful as their normally assigned firehouses. Regardless of whether women are present, the standard of acceptable conduct should be the same in all firehouses and other locations and must be enforced uniformly at all times. The fact that women are not present should not be allowed to excuse behavior that is not professional and appropriate. Moreover, it is not necessarily just women who may find gender based comments or conduct unacceptable.<sup>1/</sup>

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<sup>1/</sup> Many younger male firefighters have grown up in the era of Title IX and been exposed to women in multiple facets of athletics and/or have had experience in the increasingly diverse military, which results in greater sensitivity to and awareness of potentially harassing and inappropriate conduct. The Department should build on these experiences.

As is typical throughout the country, Boston firefighters work 24 continuous hours on duty followed by 48 hours off duty.<sup>2/</sup> This unique work schedule results in considerable idle time between emergencies. During these periods, firefighters frequently engage in casual conversation while conducting the activities of everyday life. It is difficult, if not impossible, to monitor all conversations and interactions that occur during such idle times. However, since firefighters are working and being paid, it is reasonable to require that all conversations and conduct during this work time be appropriate and professional to ensure that the environment is respectful and free of harassing conduct, which includes intimidating, hostile and offensive statements and conduct.

Current leadership of the Department is committed to promoting a welcoming, professional and respectful environment free of discrimination, harassment and retaliation. As a paramilitary organization, it must do more to ensure that the implementation and maintenance of professional and respectful standards is a top priority by holding all officers accountable for the implementation and enforcement of those standards at all times regardless of whether women are present.

Simultaneous with the enforcement of professional, respectful standards, the Department must focus on a training program for firefighters along with their officer supervisors. Such training must make clear what conduct is prohibited and what is allowed. The Department has already provided considerable training to its officers and supervisors. It should not only continue those programs, but expand them to include training for the individual firefighters. It is particularly important that the training program provide an opportunity for firefighters and officers who regularly work together to engage in a discussion of ways to address common issues and concerns. Appropriate training in each firehouse and work location should be conducted annually and more frequently as necessary, along with regular follow-up discussions in each firehouse.

The Department, not the women and sympathetic men, should bear the responsibility for changing the culture. To do so, the Department needs to regularly solicit and obtain the opinions of men and women firefighters. However, such opinions are not likely to be offered. At the present time, there is understandable reluctance to bring forward complaints and issues for fear of being labeled a “complainer.” Firefighters also fear having the issue labeled just a personality conflict, or being shunned or excluded from inclusion in normal conversation around the kitchen table, in front of the television or in other aspects of life in the firehouse. Attention needs to be paid to changing this pervasive perspective and replacing it with one which actively solicits suggestions and concerns to create a better work environment. The requisite change will require enhancing trust in the Department’s ability to address issues of gender and race without blame and assuring both men and women that investigations will be fair and equitable.

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<sup>2/</sup> Although the 24-hour work shift has been common in other parts of the country, Boston only recently adopted it in 2008, partially in response to the fact that many in the Department were already creating the 24-hour work schedule for themselves by using shift swaps. It was recently observed that it was difficult to maintain a work-life balance with families and side jobs with the 24-hour schedule. See Vock, Daniel, *New Day in the Firehouse*, *Governing*, September 2018 at 47.

Concurrently, the Department's structure and the job duties of certain positions need to be clarified and/or adjusted to better utilize the knowledge and expertise of trained civilian professionals in human resources and law. Although it appears that the Department's Director of Human Resources has been given broader authority over both uniformed and civilian employees, particularly in the areas of discrimination, harassment and retaliation, the change is not entirely clear as the published job description of the Deputy Chief of Personnel and other documents have not been updated. Clarity around human resources roles and responsibilities is an important first step toward addressing the various cultural issues that are impeding the Department's progress toward a more respectful work environment.

In addition, we recommend adjustment in the reporting relationship of the Deputy Commissioner for Labor Relations, Human Resources and Legal Affairs to provide better integration and coordination with the City's Corporation Counsel's office.

Several of the recommendations in this report were made in the past by different groups conducting investigations and reviews. At that time the Department had different leadership and not all of the recommendations were adopted. Some are being recommended again in this report. Additional recommendations beyond those summarized in this Overview are contained throughout this Report.

## **II. Chronological Context**

In 1984, the Department hired its first female as a firefighter.<sup>3/</sup>

In June of 1996, the Department resolved complaints of sex discrimination and harassment filed by Lieutenant Judy Hansford<sup>4/</sup> and Firefighters Karen Miller<sup>5/</sup> and Julia Rodriguez<sup>6/</sup> with the MCAD and agreed in a Stipulation of Agreement and Consent Decree to undertake a series of actions to address complaints regarding Facilities, Training, Recruitment, Clothing, and other departmental issues ("Hansford Decree") (Exhibit 1).

On June 1, 1997, the Department adopted Rule 18.41, which set forth its policy prohibiting discrimination, harassment and retaliation.

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<sup>3/</sup> "The first female paid firefighter in the USA was not hired until around 1973, and women did not appear in more than scattered numbers until the 1980s." Hulett at 191.

<sup>4/</sup> Lieutenant Hansford retired in 2009.

<sup>5/</sup> Firefighter Miller retired in 2006. In 2008, her daughter began working and continues to work as a Boston firefighter.

<sup>6/</sup> Julia Rodriguez continues to work as a firefighter.

Following a tragic fire in Worcester, then Mayor Thomas Menino convened a Commission to study the Boston Fire Department and its preparedness and safety operations. That Review Commission, led by Kathleen O'Toole, former Massachusetts Secretary of Public Safety, issued its report in January 2000. Among other findings, it found that the Department needed to balance its veneration of tradition with the need to be more receptive to change particularly in light of the changes in its workforce.<sup>7/</sup> See The Challenge: Managing Tradition, Diversity and Change, Findings and Recommendations, January 2000 ("O'Toole Report").

The O'Toole Report recognized:

A positive tradition for some members may be perceived as non-inclusive to others. The difficulty lies in balancing the seemingly variant views of this core value of the Department. How does a department change with the times while maintaining a sense of its past? The answer is to appreciate the history of the organization without allowing the past to govern the future.

O'Toole Report at 2:9-10.

On August 4, 2000, the MCAD issued a decision on a consolidated complaint related to claims dating back to 1993 brought by Firefighter Wanda Moore alleging discrimination, including harassment and unequal terms and conditions of employment on the basis of race, sexual orientation and gender. See Moore v. Boston Fire Department, 22 MDLR 294 (2000).

In 2001, Patricia Donovan was appointed the Department's first Female Liaison to provide training to new recruits at the Academy, tour the firehouses annually and assess any issues, assist in identifying ways to improve living conditions for women in the firehouses, assist with recruitment activities, etc. See Exhibit 3.

On September 5, 2006, then Mayor Menino appointed Roderick J. Fraser, Jr., a former naval officer, Commissioner. Commissioner Fraser's appointment was unusual for Boston as he was a civilian. All but one of the BFD's prior commissioners had been promoted from within the Department.

On November 20, 2007, a report entitled Boston Fire Department Independent Review Panel, Report to Mayor Thomas M. Menino, November 20, 2007 ("Shannon Report")<sup>8/</sup> found that

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<sup>7/</sup> As a result of a 1973 court decree, the number of minority firefighters increased significantly. See Castro v. Beecher, 365 F. Supp. 655 (D. Mass. 1973). By 2003, the First Circuit lifted the Beecher decree as Boston had met the hiring goals. See Quinn v. City of Boston, 325 F.3d 18 (1st Cir. 2003).

<sup>8/</sup> This report was authored by James M. Shannon, Chair, President and Chief Executive Officer National Fire Protection Association; Sheila Chapman, M.D., Assistant Professor of Medicine, Boston University School of Medicine; and Craig P. Coy, President and Chief Operating Officer, Homeland Security Group, L3 Communication.



Leadership and management are the keys to running the fire department and ensuring consistency, effectiveness, and accountability. Strong leadership and management are essential as the fire department assesses its current policies, considers alternatives, generates the collective will needed to adopt and embrace those alternatives, and ensures that new policies are implemented fully and fairly.

Shannon Report at 1. It also observed that

change is also needed in the department firehouses and in the field, where management and administrative oversight has the most direct impact on discipline, accountability, organizational pride, and ultimately effectiveness.

Shannon Report at 4. As with the O'Toole Report, some, but not all of the recommendations made in the Shannon report were adopted by a previous administration.

On November 16, 2010, Commissioner Fraser issued General Order No. 31 covering the Department's Station Bathroom Policy. See Exhibit 4. It required in ¶ 6 that "[a]ll members using the bunk room area and locker room shall be suitably attired in the minimum of Department issued shorts or equivalent and a T-shirt." See Exhibit 4 at ¶ 6.

In March to May of 2011, Deputy Commissioner Karen Glasgow conducted a survey and 1-on-1 interviews with 11 female firefighters. There was nearly unanimous agreement that female firefighters felt comfortable while on duty and that men "had their back" at their regularly assigned firehouse. There was also significant consensus about (1) the desire to have more women superior officers and to obtain support in preparing for the examinations; (2) development of a community service project to make group contributions to the community and enhance the visibility of female firefighters with the hope of attracting others to fire service and (3) the desire to get together more often as female firefighters to get to know each other. Other issues were also raised by a few women regarding gear and attire, bathrooms, some nude and semi-nude material in firehouses, need to reevaluate the Female Liaison position and the general culture issues affecting gender and race.

On May 11, 2011, Commissioner Fraser issued General Order No. 14 which reaffirmed the Department's commitment to a workplace free of discrimination, harassment and retaliation. A copy of the Hansford Decree was attached. All officers and firefighters were required to read, understand and sign an acknowledgement of the order. See Exhibit 5.

In 2012, Commissioner Fraser appointed Julia Rodriguez to succeed Firefighter Donovan as Female Liaison.

In January 2014, Martin J. Walsh was sworn in as Boston's Mayor.

On April 17, 2014, the MCAD issued a decision in the complaint against the City of Boston brought by Firefighter Sheila Leahy dismissing her claims of sexual harassment, but found she was subjected to retaliation. See Leahy and MCAD v. City of Boston, 36 MDLR 64 (April 17, 2014). That case is currently on appeal.

On July 7, 2014, Mayor Walsh appointed Joseph E. Finn as Fire Commissioner/Chief of Department. Commissioner Finn had been with the Department since October 31, 1984, when he was initially employed as a firefighter and subsequently served as a Lieutenant, Captain, District Chief, Deputy Chief, Deputy Chief of Personnel, and Deputy Chief of Division 2 within the Department.

In November 2017, a female firefighter filed a MCAD charge alleging that she had been subjected to sexual harassment as a result of a male firefighter sending a screen shot of a location app to other firefighters that showed her at her home with a male firefighter. In her complaint, it is alleged that the male firefighters placed bets on whether the female firefighter was sexually involved with the male firefighter who was at her house. The City submitted a response to the MCAD that argued the female firefighter was not subjected to sexual harassment as a result of this incident, which involved both a female and male firefighter, and that the male firefighter who had circulated that screen shot had been disciplined and transferred. This MCAD charge remains pending.<sup>9/</sup>

On December 13, 2017, a female firefighter meeting was convened by Firefighter Rodriguez, the Female Liaison, with Deputy Commissioner Connie Wong, Director of Human Resources (“HR Director”) Andrea Hennelly, and a representative of the City’s OHR. The purpose of the meeting was to discuss any current issues facing female firefighters, including topics such as bathroom recommendations, training initiatives and the cancer bill.

On January 14, 2018, a female firefighter reported, through the Female Liaison to a Deputy Chief, that she had been sexually assaulted by an on-duty male firefighter when she had returned to the firehouse to retrieve a forgotten item. The female firefighter reported the incident to the Boston Police Sexual Assault Unit. Criminal charges are currently pending against the male firefighter.<sup>10/</sup>

On January 23, 2018, Commissioner Finn held a meeting, attended by 14 out of the 16 female firefighters, to address any of their current concerns and to ensure that they felt safe and respected in the workplace. The Commissioner reiterated his open door policy and encouraged them to meet 1-on-1 with Deputy Commissioner Wong and Director of Human Resources Hennelly to raise any concerns that they may have. Individual meetings were held with 13 out of 16 female firefighters and 2 spoke with HR Director Hennelly on the phone. In those meetings, a consensus emerged on 3 issues: (1) the vast majority of female firefighters have no safety or other concerns in the firehouses; (2) the Female Liaison should be replaced, and (3) the need for

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<sup>9/</sup> As this claim had already been investigated by the Department and is currently pending before the MCAD, we did not undertake a repeated, separate investigation.

<sup>10/</sup> Until a final determination on the pending criminal charges, the firefighter remains on paid administrative leave, consistent with Department policy. At the conclusion of the criminal process, the Department will be required to make a determination about the firefighter’s future employment. Consideration should be given to the impact of the delay in waiting for a determination on the criminal charges before commencing an investigation and making a determination on the male firefighter’s employment.

ongoing training on respectful workplace and anti-harassment for all members including line supervisors (lieutenants and captains). There was a disagreement about whether the female bathrooms should have a lock and key on the outside with some desiring the change and others not wanting to be treated differently from male firefighters.

In March 2018, another female firefighter filed a MCAD charge alleging that she had been subjected to sexual harassment because her former domestic partner, a male firefighter, had allegedly circulated pictures of her to other firefighters. The Department's investigation did not find substantiation for her allegations that pictures had actually been circulated. This MCAD charge remains pending.<sup>11/</sup>

Effective May 1, 2018, Firefighter Margaret Connolly, who is Black, was appointed by Commissioner Finn to replace Firefighter Rodriguez as Female Liaison and a new job description was prepared. See Exhibit 6.

On June 14, 2018, Attorney Lynn G. Weissberg, who represented the Hansford complainants, sent a letter to Mayor Walsh advising that she represented Firefighter Rodriguez and that the Department was in violation of the Hansford Decree. See Exhibit 2.

On July 20, 2018, Commissioner Finn issued General Order No. 41 modifying General Order No. 31 and requiring in those firehouses with a permanently assigned female that an external lock be placed on the outside of the bathroom door to ensure that the bathroom was not used by anyone even in the female firefighter's absence from the firehouse. See Exhibit 7.

Against this background, the current investigation was undertaken.

### **III. Legal Context**<sup>12/</sup>

Title VII of the Civil Rights Act and Massachusetts General Laws, c. 151B prohibit discrimination and harassment on the basis of sex and list a number of other protected categories. The legal definition of sexual harassment is:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when: (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or (3) such conduct has the

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<sup>11/</sup> As this claim had been previously investigated by the Department and is currently pending before the MCAD, we did not investigate it separately as part of our review.

<sup>12/</sup> In contrast to the O'Toole and Shannon investigations, the scope of this investigation was limited to an assessment of the current working environment and ways to improve it, compliance with the Hansford Decree, and issues of discrimination, harassment and retaliation. Although the City's policies are not limited to violations of the law, it is useful to understand the legal requirements.

purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

29 C.F.R. 1604.

Sexual harassment is unlawful sex discrimination under either of two legal theories: (1) "quid pro quo" harassment and (2) "hostile environment." Quid pro quo harassment occurs when a supervisor conditions the granting of job benefit upon a subordinate employee providing sexual favors, or when a supervisor punishes an employee for refusing to comply with the supervisor's sexual advances or requests for sexual favors.

In contrast, "hostile environment" harassment occurs where verbal or physical conduct of a sexual nature is so pervasive or severe that it creates a work environment that is offensive to a reasonable person. Thus, unlike quid pro quo harassment, hostile environment harassment may occur even if an employee does not suffer a direct economic harm as a result of the harassment.

Any sexual comments, behavior or actions which are offensive or intimidating to even one employee (female or male) may give that employee a claim for sexual harassment if such conduct is unwelcome, severe, pervasive and/or repeated. Further, even a consensual relationship between two co-workers may create a hostile environment for other employees.

Whether or not any particular conduct constitutes sexual harassment will turn on the specific facts and circumstances of the specific situation. It is, therefore, difficult in the abstract to find any particular conduct or comment or pattern of conduct or comments as a violation of the law.

Litigation to enforce rights to be free from discrimination, harassment and retaliation may be brought by individuals or in appropriate situations on behalf of a group or class. The risks and costs of such litigation are very real and should not be ignored. For example, earlier this year the US Department of Justice filed suit in the US District Court for the Southern District of Texas against the City of Houston claiming that female firefighters experienced an illegally hostile firehouse work environment. In that case, the Department of Justice is requesting, among other things, that the court order the City of Houston both "to develop and implement appropriate and effective measures to prevent discrimination and harassment" and to "fully compensate" the female firefighters for their "pain and suffering caused by [Houston's] discrimination and retaliation." Indeed, when the Department of Justice filed this lawsuit its press release noted that "this lawsuit is the first of a new initiative announced by the Department of Justice today ... aimed at combatting sexual harassment and sex-based harassment in the public sector workplace."

Many similar lawsuits recently have been brought by female firefighters (or paramedics) against their fire departments, including in Chicago, San Diego, Fenton Township (Michigan), and El Dorado Hills (California). In one such case brought against the Illinois town of Country Club Hills, a jury recently awarded a female firefighter \$11 million in damages for gender discrimination, sexual harassment and retaliation. A similar lawsuit brought against the Ohio town of Circleville recently resulted in a \$3.35 million verdict. Thus, this type of litigation can

be very expensive (in terms of legal fees and potential damage awards) and divisive (both in the department and in the community). In addition, if the department does not prevail in such litigation, the court can impose far reaching remedies that can be contrary to the smooth operation of a department.

One purpose of this report is to provide suggestions that may avoid such litigation.

#### **IV. Demographics or Why Are There So Few Female Firefighters?**

Nationally, the number of women employed in fire departments is very low. According to the U.S. Department of Labor, only 4% of all firefighters are women. See U.S. Department of Labor, Bureau of Labor Statistics, 2017 Labor Statistics for the Current Population. A few departments, however, have been successful in recruiting and hiring women. For example, 15% of the firefighters in San Francisco are women and the Fire Chief is a woman. However, these numbers may not tell the full story. Unlike Boston, San Francisco and many other departments throughout the country with more women include both fire suppression and paramedic emergency/ambulance services, which attract more female employees.<sup>13/</sup>

Boston hired its first female firefighter in 1984, and she continues to be employed. Since that time, the Department has employed a total of 30 female firefighters. Nine of the female firefighters have retired, 1 resigned and 4 failed to complete the Academy. As of October 2, 2018, the Department employs only 16 female firefighters out of 1,485 firefighters (1,075W; 288B; 116H; 6A), which constitutes 1%.<sup>14/</sup> The majority of female firefighters are of color with 10 black, 2 Hispanic and 4 white.<sup>15/</sup> Thirteen work in firehouses across the city, while 1 works in Headquarters, 1 in Fire Investigation and 1 in the Academy. The most recent female firefighter was hired in September of 2013. Currently, 1 of the female firefighters is a Captain. Of the retired firefighters, 1 was a Lieutenant and another a Captain.

In addition to uniformed firefighters, as of October, 2018, the Department has 55 fire alarm employees (34 male (31W; 2 B; 1A); 21 female (17W; 3B; 1H)). These employees are represented by Local 718 of the Firefighters Union, the same union as the rest of the Department, and work the same schedule as firefighters.

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<sup>13/</sup> In Boston, ambulance services are provided by the Boston Public Health Commission Emergency Medical Services (“EMS”). If the employees providing Boston’s EMS are aggregated into the total number employees for the Boston Fire Department, the number of women increases to 144 or 7.7% of a total workforce of 1,880, which while still low is far more acceptable. See Exhibit 8.

<sup>14/</sup> As a point of comparison, out of 2,122 in sworn positions, the Boston Police Department employed 283 women (140 W; 107 B/AA; 31 H; 5 A) as of October 24, 2018, which is 7%. See Exhibit 9.

<sup>15/</sup> As the vast majority (12 out of 16) of current female firefighters are women of color, many of the issues of gender intersect with issues of race.

## A. Civil Service Requirements

Hiring for positions in many departments of the City of Boston is governed by Massachusetts' Civil Service law which requires that all hires be consistent with merit principles. Thus, to become a firefighter, an applicant must take and pass both a written and physical aptitude test. Then within statutory preferences (discussed below) the candidates are ordered by their written test scores within each preference category. The Department is only able to hire women who are on the civil service list provided by the Massachusetts Human Resources Division ("HRD") in the Order provided pursuant to Personnel Administration Rule ("PAR") .08(6).

As an overarching matter, the law provides a residency preference for applicants for entry level firefighter positions who reside in a city or town for one year prior to the date of the exam. See M.G.L. c. 31, § 58. Although the statute initially provided that applicants with one-year's residence will be placed ahead of non-resident applicants with the same standing on the eligibility list (i.e., with the same exam scores), it goes on to state that, upon written request of the city or town, an absolute residency preference will be applied. Under this absolute preference option, all persons with one year's residence will be placed on the list ahead of all persons without it, regardless of exam scores. Id. Because Boston has chosen the absolute residency preference option, City residents have absolute preference over non-residents.

The Civil Service law also provides a preference for military veterans for entry level firefighter positions.<sup>16/</sup> See M.G.L. c. 31, § 26. Disabled veterans (those with continuing service-incurred disabilities based on wartime service) are preferred over non-disabled veterans, who, in turn, are preferred over civilians. See M.G.L. c. 31, §§ 1 and 26. However, the residency preference of § 58 remains absolute: resident civilians rank higher than non-resident disabled veterans and non-resident veterans. See M.G.L. c. 31, §§ 26 and 58.

In 2004, the Legislature expanded the definition of "veteran" under c. 31. This definition, currently in force, provides that in order to qualify as a veteran, a person must have either 180 days of regular active duty service and an honorable discharge or 90 days of active duty service, one day of which is during "wartime" (for current applicants, service in the Persian Gulf/Afghanistan) and an honorable discharge. M.G.L. c. 31, § 1.

Soon after 2004's amendments, it became clear that the absolute residency preference effectively eliminated any service member who was on active duty in the year prior to the exam date. This is because a service member could not meet the one-year requirement for a residency preference and the vast majority of cities and towns – including Boston – never reached non-residents on their certification lists. To remedy what it viewed to be an unfair disadvantage for service members on active duty, the HRD in 2005 established a "Military Residence Preference"

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<sup>16/</sup> Other preferences for the children of deceased or disabled firefighters or police officers under Chapter 402, Acts of 1985, and for individuals who are given preference as a result of a civil service order under Chapter 534 of the Acts of 1976, as amended by Chapter 310 of the Acts of 1993, are not discussed here.

policy, recognizing that but for active duty service, a service member would have established residency in a particular city or town and should be placed in the same position for residency purposes as those who had not served. See, e.g., HRD 2016 Firefighter Military Residency Preference.<sup>17/</sup> Even with HRD’s action, the general residency requirement limits the pool of women veterans to those who were Massachusetts residents at the time of entry into full-time active duty or listed Boston as home of record on his/her discharge papers.

The disabled veteran/veterans preference also has a significant impact on the hiring of women because fewer Massachusetts residents enlist in the military compared to residents from other states. According to Department of Defense statistics, in 2016, individuals 18 to 24 years old in Massachusetts enlisted in the military at the third lowest rate of any state. In addition, the Department of Veterans Affairs reports that for 2016, only 6.70% of Massachusetts veterans are women, which is below the national rate of 9.12%. See U.S. Department of Veterans Affairs, Massachusetts Veteran Population (FY 2016).

Under the Civil Service law, the Department may file a requisition with HRD under PAR.08(6) which provides that a city or town may request a list for persons having specialized and job-related qualifications in addition to the general qualifications already tested by an examination. Upon such a requisition, HRD may issue a selective certification of the names of only such specially qualified persons for the appropriate eligible list. See PAR .08(6). See also, HRD Emergency Medical Technician (EMT) Selective Certification.

## **B. Practical Impact of Preferences**

Although HRD posts a list of all of the individuals who take the biennial (every other year) state-wide firefighter exam, that list is not the list of applicants eligible for appointment as a Boston firefighter since many on that list have no interest in serving in Boston and/or do not meet Boston’s residency requirements or score high enough within a preference category. In summary, the factors and preferences that need to be considered are as follows:

1. Residency: Candidates who are eligible for Boston residency preference will be given preference over all other candidates. Hence, an applicant who is not eligible for or a returning military veteran who does not elect Boston residency preference will be listed below all others who do.

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<sup>17/</sup> Under this policy, HRD instituted “Town A” and “Town B” options for full-time military personnel on active duty taking the entry level firefighter exam. Id. To qualify, a service member must: 1) have served on full-time military active duty during any part of the 12-month period prior to the exam; 2) have been a Massachusetts resident at the time of entry to full-time active duty or list a Massachusetts city or town as “Home of Record” in his/her discharge papers; and 3) return to the Home of Record (Town A) or establish residence in a different Massachusetts city or town (Town B) within 90 days of the date of discharge from active duty. Id. Thus, a veteran who met all of the military service requirements and had been a resident in another Massachusetts city or town at the time of entry into full-time service would be qualify for Boston residency by establishing residence in Boston within 90 days of discharge.

2. Request for List: Boston advises HRD of the number of vacancies it wishes to fill and receives from HRD a list of names called a Certification which contains at least  $2N + 1$  or at least twice the number of potential names than vacancies plus 1. (PAR.09).
3. Certification Order of Placement: Within those who claim Boston residency preference, the Certification lists disabled veterans, veterans and non-veterans in order and within each group, applicants are listed in descending order by score or score band for tie scores. An applicant's overall score is the product of 50% of the applicant's entry-level physical abilities test ("LPAT") and 50% of the written exam.<sup>18/</sup>
4. Rank Order Hiring. Boston is required to hire from the Certification in the order of the candidate's score.<sup>19/</sup> If more than one applicant has the same score, Boston will get a list of all of those with the same score. If all of the applicants in the tie band are not reached, Boston has used a lottery to determine its selection in the past. Instead of the lottery, the Department should develop criteria for making the selection which includes its interest in enhancing the number of women and applicants of color.

As a result of the above requirements, through February of 2018 no female firefighters have been reached on Boston's regular lists since 2013. See Exhibit 10 Listing of Boston Fire Academy Classes 2007-2017 By Gender and Race.

The effect of the statutory preferences is demonstrated by Boston's experience hiring from the 2016 examination list. In February of 2018, the Department hired 60 men and all were disabled veterans.<sup>20/</sup> In November, the Department was hiring an additional class from the 2016 examination. On the Certifications (regular and selective language lists) from HRD, there were 5 women. Two women were given conditional offers (1 was a disabled veteran and another was on a selective Chinese language list). Two other women did not pursue employment (one was already employed by the Department in Fire Alarm, and the other did not sign the list). There was one woman on a language list who was not hired/by-passed because of serious misconduct.<sup>21/</sup> A review of the hiring for each of the classes from the 2016 exam is attached as Exhibit 11.

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<sup>18/</sup> At the same time that the Certification is issued, a notice is sent to applicants advising to whom and where they must report to sign the Certification if they wish to be considered for appointment. Applicants are given a specific date by which they must respond.

<sup>19/</sup> As HRD does not evaluate the suitability of applicants for employment, it leaves background checking, interviews, medical examinations, etc. to the Appointing Authority/hiring entity. Following its review of a candidate's suitability and fitness for employment as a firefighter, the Department may not hire or by-pass an applicant. An applicant by-passed must be given specific reasons and has a right to review by the Civil Service Commission. See M.G.L. c. 31, § 27.

<sup>20/</sup> Although nearly 100 women took the 2016 examination, there was only 1 female on the regular list, and she was not reached because others with a higher score had to be selected before her. See Exhibit 11.

<sup>21/</sup> The applicant had a pending criminal charge. Boston does not hire any applicant (female or male) with an open criminal charge.



### **C. Efforts to Obtain a Female Certification List**

The Department has successfully used the Selective Certification process several times to obtain a selective list of candidates with certain language skills, which has coincidentally resulted in several female civilian candidates and hires. Following an approved request, the Department received a list of those candidates who had indicated to HRD that they possessed certain language ability. Those candidates are provided in the descending order of their LPAT/written exam score within the disabled veteran, veteran and civilian categories. The Department is allowed to hire off that list up to the number of language speakers needed beginning with the person at the top of the list. Use of a selective list may result in some civilians being hired before others who are disabled veterans or veterans who do not have the language skill.

The Department has tried on numerous occasions to obtain a female certification list under PAR .08(6). However, its petitions for a female list have been rejected, most recently in October of 2018. The MCAD, which along with HRD must approve Selective Certifications, has repeatedly taken the position that there is no factual basis for believing that: 1) males would be unable to perform the duties of the female firefighters; 2) the Department's operations would be undermined if women were not hired; and 3) the Department could not accomplish its goals through a less discriminatory practice. See Exhibits 12A and 12B.

The changing nature of the work performed by the firefighters in the Department may provide a basis for renewing the request for a selective list of females. The Department's work has undergone a fundamental change. Although historically the majority of calls involved fire/hazardous situations, now, 70% of calls are for emergency medical services. Hence, the Department may want to consider renewing its request as these EMS calls raise issues of privacy which may provide a basis upon which the MCAD would grant a request.<sup>22/</sup>

### **D. Cadet Program**

Massachusetts cities and towns can pursue special legislation to establish a cadet program that will allow them to establish different criteria for selecting firefighters for a limited number of positions. For example, Massachusetts law allows cities and towns to appoint police cadets, not subject to civil service, for purposes of "on-the-job" training. See M.G.L. c. 147, § 21A. Boston obtained special legislation that authorizes the Police Commissioner, within certain limitations, to appoint § 21A cadets with two years' service to be police officers without certification from an eligible civil service list prepared by HRD. See Session Law 1978, c. 174 (providing that for appointment cadets must pass the civil service examination and cadets may not be more than 35 or 33.3%, whichever is greater, of the total number of appointments in any calendar year).<sup>23/</sup> Special legislation for the appointment of police cadets is not uncommon. See,

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<sup>22/</sup> All firefighters are considered First Responders and trained as Emergency Medical Technicians ("EMTs"). This shift in workload is consistent with national trends. See Vock at 46 ("By 2016, fires made up less than 4 percent of all calls that fire departments responded to. Medical emergencies accounted for 68 percent.").

<sup>23/</sup> Although not subject to the veteran preference requirements, the hiring of a cadet is consistent with merit principles as the cadet must pass the civil service test to be eligible for hire.

e.g., Session Law 2018, c. 233 (allowing Mansfield Police Department to appoint cadets with two years' service without being on a c. 31 eligible list).

Of particular importance to the Department, passage of a specially legislated fire cadet program could explicitly address perceived gender or racial imbalances in its ranks. For example, the Police Department law provides that cadet appointments “may, at the discretion of the police commissioner, be made on a selective basis for the purposes of affirmative action in the employment of females and minorities as police cadets.” Session Law 1978, c. 174. Accordingly, the Boston Police Department (“BPD”) cadet program provides a pool of diverse candidates for potential hire. See Exhibit 13.

A fire cadet law with a similar provision would be of obvious assistance as the Department attempts to increase the numbers of female firefighters. Although the Department agreed to advocate for a cadet program in the Hansford Consent Decree, legislation has not been obtained to date. Such a program, which requires special legislation as outlined above, would appear to be a method to encourage women and minorities to pursue a career in fire service without going into the military and qualifying for a preference as a disabled veteran or veteran as many are forced to do now.

#### **E. Recommendations**<sup>24/</sup>

**Recommendation. Seek passage of special legislation for a Fire Department Cadet Program on terms similar to the Boston Police Cadet Program.** Due to the limited number of women veterans who can meet the residency requirements, the number of women firefighters is not likely to change without the adoption of this alternative source of candidates. Should a Fire Cadet program be adopted, the Department should develop a robust recruitment program to encourage women to participate in the Cadet Program.

**Recommendation. Prioritize diversity in hiring from any tie band when less than all applicants within the tie band will be reached.** When the Department has a tie band and all in the band are not hired, the Department should utilize the opportunity to prioritize the hiring of female applicants or applicants from underrepresented groups of color.

**Recommendation. Develop a program to provide support for firefighters interested in becoming officers with a particular focus on encouraging women firefighters.** This was previously recommended in the Shannon Report at Recommendation 5, but does not appear to have been adopted. During recent meetings held by Commissioner Finn, female firefighters expressed an interest in pursuing promotions to officer positions and wanted help from the Department in doing so.

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<sup>24/</sup> To assist in understanding the reasoning and basis for recommendations, at the conclusion of sections of this report recommendations will be provided. The recommendations will be listed again at the end of this report in a different order.

## **V. Discrimination and Harassment Policies**

Both the City and the Department have current policies regarding discrimination, harassment and retaliation, which provide a process for filing complaints and meet legal standards. As those policies have not been revised in a number of years, it would be appropriate to review and refresh their content.

### **A. City of Boston.**

As described in Mayor Walsh's Executive Order entitled "Policy/Investigation Procedure on Discrimination, Sexual & Other Forms of Harassment and Retaliation" (Exhibit 15A), Boston is committed to providing a workplace that is professional and respectful, not just one that meets the legal minimum of being free from discrimination, harassment and retaliation. Further, the Mayor has reinforced Boston's commitment through a second Executive Order entitled "Valuing Diversity and Equality Statement" (Exhibit 14) and a handbook entitled "The Respectful Workplace A Harassment Free Workplace Guide for City of Boston Employees" produced by OHR.

The Mayor's Executive Order on Policy/Investigations (Exhibit 15A) should be clarified to provide that the Boston Fire Department, the Boston Police Department and the Boston School Department are subject to the Executive Order, and they may supplement, but not supersede or conflict with, the obligations and procedures contained in the Executive Order. In addition, all Boston employees should continue to be required to review and sign off on the policy on an annual basis. A proposed revised draft is enclosed for consideration as Exhibit 15B.

**Recommendation. Revise to clarify that the Mayor's Executive Order entitled "Policy/Investigation Procedure on Discrimination, Sexual & Other Forms of Harassment and Retaliation" (Exhibit 15A). Exhibit 15B is a suggested revision.**

### **B. Boston Fire Department.**

In 1997, the Boston Fire Department issued Rule 18.41. See Exhibit 16A. Although there is nothing unlawful in this policy, it should be refreshed. A revised draft is attached as Exhibit 16B. Although "sex" is covered in a separate section on "Gender-Based Discrimination and Sexual Harassment," it should also be listed in the section entitled "Prohibited Conduct."

A revised suggested draft (Exhibit 16B) expands on the examples of conduct that could potentially be evidence of harassment or retaliation, depending on the circumstances, and that are nevertheless not appropriate in a professional and respectful workplace. The Department will need to follow its usual procedures and provide the Union with any required notice of the revised policy and procedure.

In 2008, the Boston Fire Department issued "Progressive Discipline Guidelines," which sets forth the procedures to be followed in the event of a violation of the applicable rules, including Rule 18.41. It provides that any infraction should be brought to the attention of the

Deputy Chief of Personnel immediately. Progressive Discipline Guidelines at 19, Note 1. It also notes that:

Any prejudicial treatment or annoyance of members or the public based on race, national origin, religion, politics or gender, or based on any other classifications protected by local, state, and federal laws and the Mayor's Executive Orders, shall be considered conduct unbecoming a member and the subject of discipline.

Progressive Discipline Guidelines at 19, Note 2. In light of the changes to the organization structure within the Department suggested later in this report, Note 2 should be adjusted to state that any infraction should be brought to the attention of the Director of Human Resources.

**Recommendation. Review and revise Rule 18.41 (Exhibit 16A).** Exhibit 16B is a suggested revision for consideration.

**Recommendation. Review and revise the Progressive Discipline Guidelines to be consistent with the responsibilities of the Director of Human Resources and any changes adopted following this report.**

### **C. Collective Bargaining Agreement with Boston Fire Fighter Local No. 718**

During his interview, Richard Paris, President of Boston Fire Fighter Local No. 718 ("Union"), voiced the Union's clear support for equal employment opportunity and the prohibition against harassment and retaliation as required by law. As a result of negotiations, a revision was made to the non-discrimination language in the collective bargaining agreement to cover all of the categories protected by law.

## **VI. Areas Covered In The Hansford Decree**

On June 28, 1996, the City agreed to a Stipulation and Consent Decree ("Hansford Decree") in a case brought by Firefighter Judy Hansford. See Exhibit 1.

On May 11, 2011, then Commissioner Fraser issued General Order No. 14 (Exhibit 5), which reaffirmed the Department's commitment to a workplace free of discrimination, harassment and retaliation. The General Order required all members, especially supervisors, to have a thorough knowledge of the Hansford Decree and the requirements thereof. The General Order stated "[t]here should [be] no deviation to the requirements set forth in the decree at any time." See Exhibit 5 at ¶ 2.

The work to address the issues related to female firefighters is on-going. In December 2017, at the request of Commissioner Finn, Department representatives met with the Female Liaison and female firefighters to identify any issues and concerns, including bathroom accommodations, training initiatives and the cancer bill. During Fire College held in January 2018, the Department reinforced its bathroom policy to all attendees and conducted Respectful Workplace training for all Lieutenants and Captains. On January 23, 2018, the Commissioner

met personally with female firefighters to ensure that they felt safe and respected and reiterated his open door policy. He also encouraged the female firefighters to meet one-on-one with Deputy Commissioner Wong and Director of Human Resources Hennelly to raise any concerns that they might have.

On June 14, 2018, Boston received a letter from Attorney Weissberg raising issues about whether the City/Department was in compliance with the Hansford Decree.<sup>25/</sup> See Exhibit 2. We were asked to review compliance in the areas identified by the Hansford Decree in our investigation.

## A. Facilities

1. Hansford Decree Provision. The Department agreed that in all new and existing firehouses to provide separate toilets, showers, lockers and changing areas for women which are comparable in terms of location, accessibility, and amenities to those provided for men. It also agreed to provide new, moveable partitions within one year from July 1996. In addition the Department agreed to provide notice of the changes to facilities or installation of partitions to the Female Liaison to communicate to all members affected by the change. See Exhibit 1 at ¶¶ 1-3.

### 2. Investigation Findings

Since individual bathrooms were installed years ago, all bathrooms have had a shower, sink, toilet and a lock on the inside of the door. Over the years, there has been an issue regarding the use by male firefighters of the bathroom designated for female use.

On November 16, 2010, then Commissioner Fraser issued General Order No. 31 covering the provision of bathroom facilities for firehouses in which a female firefighter is permanently or temporarily assigned. General Order No. 31 emphasized the importance of privacy and required that firefighters in the bunk room area and locker room be suitably attired.<sup>26/</sup> A violation of General Order No. 31 was subject to discipline. See Exhibit 4.

On July 20, 2018, in response to concerns raised by some female firefighters that when they were not present at the firehouse some male firefighters used the bathroom designated for females, Commissioner Finn issued General Order No. 41 (Exhibit 7) which modified General Order No. 31 (Exhibit 4) to eliminate all use of female bathrooms by male firefighters when females were not working. In addition to locks on the inside of bathroom doors, the Department installed additional exterior combination locks on the outside door of female bathrooms in order

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<sup>25/</sup> It is unclear whether the 1996 consent decree order entered at the MCAD is currently enforceable. On the one hand, this order does not contain an explicit expiration date. On the other hand, an action to enforce a 22 year old state agency decree or order would appear to be barred by the statute of limitations – even if the longest Massachusetts statute of limitations (the 21 year statute of limitations found in Mass. Gen. L. c. 260, § 1) would apply to an action to enforce the 1996 agreement.

<sup>26/</sup> All firefighters are expected to be familiar with all general orders. See Rule 18.2.

to ensure that only permanently assigned female members would have access to the female bathroom.

During our investigation, we visited 11 firehouses in different locations throughout the City in a single day. These included houses in which female firefighters were regularly assigned and others where females were not assigned. Our visits were not announced in advance and we did not inform any Department personnel which houses we were going to visit. We carried a list of firehouses and asked our Department liaison for the day, a District Chief, to take us to firehouses we picked off the list. We included the firehouses identified in Attorney Weissberg's letter (Exhibit 2) except for 2 firehouses currently under renovation and 1 in which the companies were out of the house for a fire at the time we visited.

Individual bathrooms (i.e., a single toilet, sink and shower with a door that could be locked from the inside) were located in every firehouse. In those houses in which females are stationed, one of the bathrooms is designated as a women's bathroom as required by General Order 31 (Exhibit 4). In one location (Readville) where two women are assigned, there was a sign on one of the bathrooms stating that male firefighters were not allowed to use it and if they did, they would be "brought up on charges." The lieutenant on duty explained that some male firefighters had been slow to understand the seriousness of this, and he also put a lock on the outside of the bathroom door so that only women could access it.<sup>27/</sup> He said he thought some firefighters were initially unaware of the rule that prohibits men from using a bathroom designated for women because it was not necessarily publicized to them.

Most of the sleeping areas we reviewed contained partitions around the beds. One sleeping room, for a team to which no women were assigned, did not have any partitions (or they were pushed aside and not in use). In one other firehouse, there were partitions around some of the beds but not all of them. The sleeping quarters in all the firehouses we visited were fairly uniform in that they consisted of bare mattresses, partitions, and large cubbies where firefighters stored their sleeping bags, bedding, pillows, etc.

The Department has not provided separate locker rooms for women firefighters as men and women continue to share the same locker rooms. However, firefighters are not exposed to members of the opposite sex changing in a shared space as all firefighters are expected to change their clothes in a bathroom, not in the locker or sleeping room. In addition, General Order 31 requires that all firefighters must be "suitably attired in the minimum of Department issued shorts or equivalent and a T-shirt." See General Order 31, Exhibit 4 at ¶ 6.

Some locker rooms displayed stickers, posters, cartoons, photographs or other material on the outside of the lockers. In other firehouses the lockers were clean and did not have stickers, posters, etc. We did not observe any pornography on the outside of the lockers. We did not inspect the inside of any lockers.

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<sup>27/</sup> Under General Order 41, a lock has been added to the outside of all female bathrooms. Because an individual's gender identity is protected, the Department should adjust its policies to allow an individual to use the bathroom of his/her gender identity.

### 3. Conclusions and Recommendations.

Other than the missing or broken partitions in 3 of the 11 houses we visited, we did not observe any other failure to comply with the requirements of the Hansford Decree. As a legal matter, non-discrimination on the basis of gender identity requires that regardless of a person's gender at birth, individuals are free to use the restroom facilities of their gender identity.

**Recommendation. A General Order should be issued making it clear that firefighters are permitted to use the bathroom of their gender identity.**

### B. Training.

1. Hansford Decree Provision. The Department agreed to provide annual training regarding Rule 18.41 (Exhibit 16A) and issues of sexual harassment and sex discrimination with appropriate, professionally created training materials. In addition, officers were to receive training on issues related to discrimination and sexual harassment annually during Fire College by trainers employed by Boston's OHR or by a consultant. A team of instructors/trainers would be constituted to conduct training as needed in other situations. See Exhibit 1 at ¶¶ 4-7.

### 2. Investigation Findings.

New recruits are given Respectful Workplace Training conducted by the Department's Director of Human Resources at the Academy on the Department's expectation regarding harassment and respectful treatment.

Annually, the City of Boston requires that all employees acknowledge certain policies, including the Mayor's Executive Order on Policy/Investigation Procedure on Discrimination, Sexual & Other Forms of Harassment and Retaliation. A few firefighters also mentioned some online harassment training, which they did not find very effective. In addition, the Director of Human Resources and Deputy Chief of Personnel provide training in any firehouse involved in a complaint of, or concern about harassment.

The Department has provided multiple additional trainings. In January 2013 and March 2016, OHR conducted training of all District and Deputy Chiefs, reviewing rights and responsibilities regarding discrimination, harassment, retaliation, appropriate workplace conduct, and respectful treatment. Throughout 2016-2017, the Department retained National Seminar Training ("NST," now called SkillPath) to conduct training on How to Handle Conflict and Confrontation for Captains, Lieutenants and Firefighters in 2 specific companies, administrative civilian staff and Captains and Lieutenants generally. NST also provided District and Deputy Chiefs with training on Leading Across Cultures. Career Survival Group provided Career Survival training in June of 2017 for all District and Deputy Chiefs and Captains.

At Fire College in 2018, the Deputy Chief of Personnel and/or the Director of Human Resources distributed the Department bathroom policy and reinforced that no male firefighter should use a female firefighter's bathroom. In addition, the Director of Human Resources conducted Respectful Workplace training for all Lieutenants and Captains in attendance. The

training reiterated the Department's expectations that all firefighters have a right to work in a respectful, harassment free workplace and reviewed the policies as well as the consequences of misconduct, harassment and/or retaliation.

Later, on September 5-6, 2018, a program on Leadership Case Studies: Liability and Respect in the Workplace was conducted for all District and Deputy Chiefs, Captains and the Department's EAP personnel by Curt Varone, Esq. (retired Deputy Assistant Chief, Providence, Rhode Island Fire Department; current Deputy Chief, Exeter, Rhode Island Fire Department). That program included sexual harassment, retaliation, implicit bias, hazing, pranks and bullying, discrimination, peer pressure, and appropriate versus inappropriate conduct in the workplace.

Most of the focus of the Department's training has been on officers with the expectation that they would carry the lessons learned from trainings/meetings, such as those attending Fire College, back to the firehouses. See Exhibit 17 List of Trainings 2013 to Present. This "trickle down" is happening in some locations, but not on any systematic or consistent basis.

Overall, female firefighters expressed disappointment with the way harassment training is conducted by BFD. Several men agreed that training on issues of harassment and discrimination would be helpful and that the best training is in-person rather than computer-based. Furthermore, the men noted the importance of discussing harassment with fellow firefighters. Male and female firefighters agreed that supervisors ought to be bringing what they learned in Fire College about harassment and its consequences back to the firehouse, but this did not always happen.

The Department is currently planning to extend training to firefighters.

### 3. Conclusions and Recommendations.

While it is unclear whether there has been compliance with the training requirements specific to the Consent Decree, it is clear that the Department has done considerable training, but can always do more and better trainings. The Department should continue its training of officers. However, it is essential that the Department provide annual training to all firefighters reminding them of their obligations and giving them an opportunity to get answers to questions and to discuss their issues and concerns.

The content of the training should not only provide an understanding of the legal requirements, but must include practical suggestions about how to adjust behavior to better include women in the workplace. The training should explain the reasons why officers will be taking appropriate action to ensure that everyone -- women and men and firefighters who are white and of color-- has an environment that is professional and respectful. Particular attention should be paid to provide a better understanding of the various ways that retaliation is manifest within the work environment with the goal of encouraging firefighters to express their opinions rather than deciding that it is better to withhold them out of fear or concern that raising the issues will result in being shunned, labeled a "complainer" or otherwise being made to feel uncomfortable.



The training should be in-person and cover all protected categories, discrimination, anti-harassment, respectful workplace, implicit bias and non-retaliation. The training should include officers as well as the firefighters they supervise and should be clear that there will be follow up discussions within each firehouse to address issues of culture and work environment. Such discussions should be proactively initiated by officers as they are not likely to arise on their own. Reports regarding the discussions that take place should be regularly required of all officers through the chain of command and reviewed by top leadership.

When possible, trainers should be knowledgeable about firefighting and should, to the extent possible, include as a trainer a woman and/or a person of color. Training groups should include firefighters and officers who work together to ensure that both the firefighter and his/her supervisor are getting the same messages and to facilitate follow-up discussions on related issues. The teaching method should encourage engagement of participants through the use of scenarios and hypotheticals, role-playing and discussion about real issues.

Given the fact that firefighters work around the clock, it is difficult to schedule training for all firefighters at the same time. Therefore, the Department should give consideration to scheduling trainings to utilize some of the idle time in the evenings.<sup>28/</sup>

The Director of Human Resources and the Deputy Chief of Personnel should continue to provide training as needed to address specific issues or concerns.

**Recommendation. Require that the training on discrimination, harassment and retaliation provided at Fire College be communicated to the respective firehouses and work locations.**

The content transmitted during Fire College to top management and officers should be communicated back to the firehouses and other work locations and a discussion convened with appropriate reports thereof. All officers should be reminded of their on-going responsibility to ensure that the work areas under their supervision are welcoming and respectful of female firefighters at all times, regardless of whether female firefighters are present in the workplace.

**Recommendation. Implement annual training of officers and firefighters on all protected categories, discrimination, anti-harassment, respectful workplace, implicit bias and non-retaliation, including the procedures for filing complaints and the conduct of investigations.**

The type of training should be varied to be as engaging as possible. However, initially, and periodically thereafter, the training should be in-person in small groups to facilitate discussion about issues/concerns and ways to address them. Officers should be required to enforce the Department's Rule and to regularly at least quarterly lead discussions within the firehouse or work group about issues related to equal opportunity covering all protected categories, anti-harassment, respectful workplace, implicit bias and non-retaliation and report about those discussions. The Department should consider hiring a professional trainer to assist in the development of an appropriate training program and the content thereof.

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<sup>28/</sup> If an alarm occurs, such training can be interrupted and resumed after the emergency has passed.

## C. Clothing

1. Hansford Decree Provision. The Department agreed to provide appropriate uniforms, including maternity uniforms and bunker gear for women firefighters. Exhibit 1 at ¶¶ 11-13.

### 2. Investigation Findings.

The Department's Logistics Procurement Office is responsible for uniforms and works with the Female Liaison on options for uniforms and bunker gear for women. The office attempts to work with officers on a case by case basis to ensure that clothing and gear fit properly. In general, current female firefighters were satisfied with the clothing and gear provided. Several women firefighters have had children and did not complain about maternity uniforms.

### 3. Conclusions and Recommendations.

The Department appears to have complied with this obligation.

## D. Recruitment

1. Hansford Decree Provision. The Department agreed to detail a female firefighter to participate in recruitment, community outreach and related activities and to be present at the Academy to provide support, encouragement and assistance for female firefighters on probation. See Exhibit 1 at ¶¶ 8,10. It also agreed to advocate for a cadet program comparable to the one existing for the Boston Police Department. See Exhibit 1 at ¶ 9.

### 2. Investigation Findings.

Part of the job description of the Female Liaison was and is to make a training presentation at the Boston Fire Academy for all new Fire Recruits on issues related to female firefighters. See Exhibits 3 and 6. In addition, Firefighter Sheila Leahy taught EMT classes at the Academy, became an adjunct instructor in 2011, and a permanent instructor in 2015.

In May of 2016, the Department hired a Diversity Recruitment Officer, Juan Sanchez, who is a civilian with a military background. His responsibility is to develop workforce partnerships and outreach efforts to attract minority veterans to the Department. He works in collaboration with Margaret Connolly, the Department's current Female Liaison, and other female firefighters to attend job and career fairs. He also works with a Sergeant at the Boston Police Department to organize youth outreach events.

Mr. Sanchez is also responsible for the Boston Fire Department Teen Academy which is a summer six-week career development program that gives inner-city teens an opportunity to experience the technical and educational skills required to be a Boston firefighter. It also gives teens the opportunity to develop and build their ability to work on a team, and leadership skills, confidence, responsibility and the ability to stay calm in an emergency situation. See Exhibit 18. The program is funded through a collaboration with ABCD and BCYF.

In addition to the Teen Academy, the Department should consider participation in a program entitled Camp Fully Involved. Each July for the past twelve years a group of former and current firefighters have run “Camp Fully Involved” - a week-long residential camp held at the New Hampshire Fire Academy (in Concord, New Hampshire), for up to 24 young women (ages 14-20) interested in firefighting. The camp’s cadets are instructed in firefighting techniques and equipment, and then put through authentic firefighting training exercises such as gaining entry into a smoke filled building with firehoses to search for victims, cutting open vehicles in mock crashes to rescue victims, and extinguishing fires. The camp reported in 2016 that roughly 23 percent of its alumni had gone on to become firefighters, and these alumni reported that the camp gave them the confidence and mentorship needed to pursue a career in firefighting. See Exhibit 19.

Although there are similar firefighting camps for young women in other parts of the United States, this is the only one located close to Boston. As the camp has many corporate sponsors, the program fee for the week-long camp (including all meals and lodging) currently is just \$350. The camp is open to residents of any state. The Department could increase interest in a career in firefighting among young women living in Boston by providing scholarships to pay the camp’s program fees for any Boston resident – just as the Barnstable County Fire Chiefs Association currently provides such scholarships to residents of Cape Cod. In addition, the Boston Fire Department could explore sponsoring the creation of a similar camp for young women living in Boston.

Finally, our investigation did not reveal what, if any, steps the Department took to gain passage of Special Legislation necessary to implement a Cadet Program for the Fire Department. Whatever steps were taken, the fact remains that the Department does not have a Cadet Program, which is likely the only way that it will be successful in increasing the number of women and individuals of color on a regular basis. Hence, such legislation should be pursued.

### 3. Conclusions and Recommendations.

Despite the constraints imposed by the Civil Service laws, the Department has developed resources to diversify its workforce and strengthen the pipeline of young people of color and girls to become firefighters. These efforts will become considerably more important if the Department is successful in obtaining legislative authorization for a cadet program.

**Recommendation. The Diversity Recruitment Officer should report to the Director of Human Resources and his responsibilities should specifically include recruitment of women particularly those leaving the military.** The Director of Human Resources has primary responsibility for the recruitment of Department employees and should be the supervisor of the Diversity Recruitment Officer. Currently, although the Diversity Recruitment Officer is working to recruit women, his formal role does not mention those responsibilities. Therefore, his role should be formally expanded to explicitly include the recruitment of women. Should a Cadet program be authorized, the Diversity Recruitment Officer should also include recruitment of women and women of color as a part of his responsibilities.

**Recommendation. Enhance coordination and collaboration with the Department of Veterans Affairs in the Department's efforts to recruit female veterans and veterans of color.** The Director of the City's Department of Veterans Affairs has knowledge and numerous contacts with various groups within the military and outside which could be of assistance in the recruitment of women veterans.

**Recommendation. In addition to the Teen Academy, the Department should explore providing scholarships to Camp Fully Involved or similar programs for girls.**

**E. Female Liaison**

1. Hansford Decree Provision. The Department agreed to establish an uncompensated Female Liaison position for the purposes of representing the views of female firefighters with respect to issues and concerns that may arise within the Department which are unrelated to collective bargaining issues. See Exhibit 1 at ¶ 14. It was also agreed that the Female Liaison could be assigned recruitment and support activities for new firefighters at the Academy. See Exhibit 1 at ¶¶ 8-10.

2. Investigation Findings.

At least since 2001, the Department has had a Female Liaison who receives a stipend. From 2001 to 2011 Patricia Donovan, the first female firefighter hired by the BFD, was the Female Liaison. As Female Liaison, Firefighter Donovan saw her primary responsibility as communicating with the other females about the progress of the bathroom retrofitting being put in place pursuant to the Hansford Decree. See Exhibit 3. She also served on the Rules and Regulations Committee and served as mediator.<sup>29/</sup> She was a member of the International Association of Women in Fire and Emergency Services and attended conferences on female issues. In her interview she reported that she did not deal with harassment complaints during the years that she was Female Liaison, noting that there was a complaint procedure in place by which such concerns would go directly to others.

Following feedback from women firefighters in a survey and several meetings, then Commissioner Roderick Fraser decided to appoint Julia Rodriguez as the new Female Liaison. Firefighter Rodriguez was more vocal about problems in the Department and issues raised by various female firefighters than her predecessor. Specifically, she voiced complaints about bathroom, sleeping and locker room facilities in the Engine 32 firehouse that were allegedly not being upgraded as required. Consequently, she was perceived by some of the men in her firehouse as someone who was seeking special treatment. She, in turn, claimed that the men harassed her based upon her gender. She filed a complaint of harassment against one of the men who then filed a complaint against her. As the result of an investigation, it was recommended

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<sup>29/</sup> The Department trains mediators to work with firefighters in resolving conflicts and issues. See Exhibit 21. Issues which may violate Rule 18.41 may be subject to mediation only after investigation determines that mediation would be appropriate. See Exhibit 16A at Rule 18.41(f).

that all officers in the Department receive renewed training regarding the implementation of the Hansford Decree and Rule 18.41.

During 1-on-1 interviews conducted by Deputy Commissioner Connie Wong and Director of Human Resources Andrea Hennelly and a meeting of female firefighters with Commissioner Finn on January 23, 2018, several women expressed disappointment that there was not more interaction, communication and support for them. While not all of the women wished to be identified as a group based upon their gender, overall, they recognized the value of sharing their ideas and experiences. A number of women were disappointed with the Department's efforts to provide opportunities to foster comradery among the females and the work of the Female Liaison. Some women observed that increasing solidarity and support among them could lead to initiatives to promote their participation and visibility in the Department.

Women reported that they did not feel represented by the Female Liaison. Thereafter, Margaret Connolly, who is Black and a veteran, was appointed as Female Liaison as of May 1, 2018 by Commissioner Finn. See Exhibit 6. In quarterly reports May 1 - July 31 and August 1 – October 31, 2018, Firefighter Connolly documented a variety of current activities focused on the women in the Department. See Exhibits 20A and 20B.

### 3. Conclusions and Recommendations.

**Recommendation. Assign the supervision of the work of the Female Liaison to the Director of Human Resources.** The Director can ensure that the Female Liaison's work is integrated into and a part of the Department's other on-going initiatives and that she is used appropriately to assist with the Department's recruitment efforts. The Director of Human Resources should also be assigned the primary responsibility of convening regular meetings of women firefighters with appropriate follow-up.

## F. Employee Assistance Program ("EAP") and other Resources for Women

1. Hansford Decree Provision. There were a number of provisions seeking to enhance understanding and awareness of issues which might confront women firefighters including those related to harassment and sexual discrimination by the Department's EAP program and the consultants used by the Department. See Exhibit 1 at ¶¶ 15-16. In addition, it was agreed that benefits under G.L. c. 41, § 111F or the collective bargaining agreement were to be provided without regard to gender. See Exhibit 1 at ¶ 17.

### 2. Investigation Findings.

The Department's EAP program, headed by Lieutenant Patrick Hayes, primarily supports employees and their families around issues of drug and alcohol abuse. The program also provides support for members around financial issues.

For other issues, including interpersonal/marital problems, emotional and/or psychological issues, EAP program staff assists firefighters and their families to identify outside

providers. In addition, three mental health professionals, one of whom is a woman, are under contract with the Department to provide consultation and perform pre-employment and fitness for duty assessments. In addition, firefighters are also able to use the City's EAP program which is administered by OHR.

To identify appropriate referral options, Lt. Hayes or one of his EAP staff will meet with the firefighter and assist with the process. Many of the Department's firefighters have insurance with Harvard Pilgrim. Consequently, the EAP staff frequently use the Harvard Pilgrim website [liveandworkwell.com](http://liveandworkwell.com), to assist in finding an appropriate referral. Referrals may also be made to various providers, including McLean Hospital which has residential treatment services, adult services and the Leader program; female specific programs at Bournemouth and Arbour Hospitals, and the Leggitt Group which is staffed exclusively with female providers.

The Department has been providing benefits pursuant to M.G.L. c. 41, §111F to employees without regard to gender. See Exhibit 22.

### 3. Conclusions and Recommendations.

Since 1996, there have been a multitude of changes to the health care environment and the knowledge and experience of providers with issues faced by victims of harassment and related issues. The Department does not provide on-going care to any firefighters except for the provision of services and support groups for alcoholics. The Department's EAP program is intended to be a referral program, not a provider of on-going mental health treatment. For additional EAP services, a firefighter can be referred to the City's EAP provider. The multitude of options available to Department firefighters, including the availability of the City's EAP program, the multitude of referral sources generally available, and the many options provided by health insurance entities has significantly altered the manner by which support is provided and thus diminishes the need for many of the provisions contained in the Hansford Decree.

## **VII. Assessment of Life in the Department**

The Department has made enormous and significant progress from the environment described by the MCAD in the Moore case. However, a few of the female firefighters expressed discomfort and unhappiness with the environment generally although most of the female firefighters did not share that opinion.

Without the benefit of context and all of the surrounding facts and circumstances, it is not possible to make a determination about whether any particular comment, situation, or conduct meets the legal definition of harassment. It is particularly challenging, when as the interviews revealed, the perceptions and opinions of both women and men are so different and frequently, contradictory within gender groups. While a few wanted significant change, others did not. Nevertheless, obtaining the perspectives and opinions of female and male firefighters allowed us to assess current opinions about conditions within the Department and gain some insight about

the types of conduct and communications that should be addressed to ensure that all Boston firefighters have a respectful and professional work environment.<sup>30/</sup>

**A. The Perspectives of Women in the Department**<sup>31/</sup>

All 13 female firefighters that we interviewed were impressive and smart women with strong convictions and opinions.<sup>32/</sup> They appeared engaged and eager to share their thoughts and feelings about a difficult topic. No two women had the same story to tell, or described their experiences in the same way. Indeed, there were inconsistencies and contradictions in their perceptions and opinions. Sometimes, they were not clear about when events occurred, making it hard to place their comments in the context of the present day. As a result, it is challenging to summarize, generalize or contextualize what they told us into a cohesive timeframe.

The women's responses to questions regarding respect, harassment and discrimination working day-to-day with men in the firehouse spanned a continuum from "everything is fine" to "there is harassment and intimidation but it doesn't bother me" to "there is shouting, finger pointing and denigration" that should not be tolerated.<sup>33/</sup> Nevertheless, while there may be no one female perspective regarding harassment, some themes and majority consensus did emerge.

Previous participation in the military frequently played a role in their reactions. Eight of the 13 women firefighters interviewed had been in the military prior to entering the Academy. In fact, several women reported that they had joined the military (including the Marines, Coast Guard, Army and Navy) in order to gain preference on the civil service firefighter exam. Overall, women with military experience were more likely to state that they took the training at the Academy and in the firehouse in stride. They were used to a male dominated environment and knew what to expect and how to hold their own. They were also familiar with military and paramilitary routines.

Most of the women stated that they loved their jobs and none expressed regret about deciding to become a firefighter. Nearly all of the female firefighters liked the 24-hour schedule.<sup>34/</sup> While there was disagreement regarding many aspects of day-to-day life in the

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<sup>30/</sup> All firefighters (female and male) were told that every effort would be made to maintain the confidentiality of their participation and were reassured that they would not be subject to retaliation for participating in the investigation.

<sup>31/</sup> The perspectives contained in this report are a compilation of responses provided during this investigation, earlier surveys, and previous meetings with management in both group and 1-on-1 settings.

<sup>32/</sup> All interviews with female firefighters were voluntary. Three current female firefighters did not accept multiple invitations and were not interviewed. We also interviewed a 14<sup>th</sup> woman who had retired from the Department.

<sup>33/</sup> This divergence of opinion was reflected throughout responses on virtually all topics.

<sup>34/</sup> Many of the women were married to other firefighters and were able to arrange their schedules to accommodate the 24-hour schedules. Others had family members who were able to assist with child care. The schedule presented more challenges to single women.

Department, for the most part female firefighters said that things had improved for women during their years as firefighters and they were hopeful that things would continue to get better.

There was also general agreement that women had achieved a level of acceptance in their assigned firehouses. However, several noted that they did not always feel as welcomed when detailed to houses that did not have a woman regularly assigned. This was true not only with regard to the facilities (bathrooms, locker rooms and sleeping quarters), but also with regard to feeling welcomed or included in the 24-hour rhythm of activities in the house. For example, some women noted that conversation among the men stops when they enter the room. There was some speculation that issues of race may also have been at play.<sup>35/</sup>

All respondents acknowledged that the unique environment of the firehouse created issues for male-female relationships. Working 24-hour shifts eating and sleeping together in the firehouse erases the usual boundaries between their work lives and home lives. While firefighters are always “on duty” from the point of view of preparedness for responding to calls, the 24-hour shift allows for a great deal of informal/idle time together not directly focused on work. See Hulett at 190. Some women described participating in this environment positively as being like a member of a family, but others described feeling like an outsider in a fraternity house where they don’t fit in. Others deny that this is the case. We heard from one woman that while she was sometimes subjected to “guy talk” it was just kidding around and not malicious.

Many women noted that there were still examples of “locker room” talk and behavior, but, for the most part, they were able to tell the guys to cut it out. While some women complained about the banter and fraternity-like atmosphere, others took it in stride or dealt one-to-one with issues as they came up. Some women noted that they were expected to do the more menial housekeeping chores while others did not have this experience. And even within the first group, some resented it while some did not mind. Some described carving out spaces in the firehouse where they could be alone as much as possible, while others seemed comfortable hanging out with the guys. One female complained about pornography on the inside of a locker and sex scenes on a TV show.

Many women expressed the opinion that personality problems were more central to disputes with their fellow workers than gender-based issues. They got along with some men better than others and they were aware of those who needed to be avoided. One female firefighter criticized her female colleagues saying that some people whine and complain about everything, noting that “you have to get along.”

Most of the women reported feeling safe at work and strongly expressed confidence that their male co-workers “had their backs” when they were at a fire scene or other emergency. However, the opinion was not unanimous. It was difficult to ascertain specific examples and timeframe as no complaints were ever filed regarding incidents mentioned.

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<sup>35/</sup> It has been observed that “African American women firefighters tend not to attribute their treatment separately to race or gender because they view these facets of their lives and personal identities as inextricably intertwined.” Hulett at 195, note 11, quoting Yoder and Aniakudo (1996, 266).



Generally, the group of female firefighters that had complaints did not feel that the internal process worked well. On the other hand, at least one female firefighter who went through the complaint process spoke positively about the way that the investigation was handled and was satisfied with the resolution achieved through in-house mediation.

Several women expressed disappointment that there was not more interaction, communication and support for them as a group. While the women acknowledged that not all of them wished to be identified as a group based upon their gender, overall, they recognized the value of sharing their ideas and experiences. They felt that the Female Liaison position needed to be re-evaluated. They hoped that things would improve now that a new one has been appointed. Some women observed that increasing solidarity and support among them could lead to initiatives to promote their participation and visibility in the Department. They acknowledged that much could and should be done to work in the community to promote the image of the female firefighter, reach out to recruits and increase the number of women firefighters.

There was general agreement that personal/sexual relationships between men and women in the firehouse contributed to interpersonal conflict and should not be allowed. The female firefighters recognized the importance of separating their personal and work lives. The ups and downs between partners in the firehouse can put stress on the other members. Some women talked of being pressured to take sides. Although it would be hard to regulate, a clear majority of the female firefighters felt that a policy discouraging interpersonal relationships between firefighters in the same house should be considered. Further, should a relationship develop, one member should be required to transfer to another house.

There was considerable consensus among the women that it was up to the male officers to set the tone in the firehouses. The men needed to be held accountable by their superiors, both by setting an example and by following through with consequences for unacceptable behaviors and attitudes towards women. Officers differed in the extent to which they provided both. Moreover, there was a recurrent observation that basic respect and awareness for everyone was the most important value of all. The variability of an officer's ability or willingness to convey these values was reflected in the fact that some women stated that they did not experience harassment and had absolutely no problems being accepted while others recounted that they did not feel treated equitably.

**Recommendation. Develop a program to regularly convene meetings with female firefighters to ascertain progress in the Department's efforts to achieve culture change and to determine any other issues.** With so few female firefighters, the Department needs to provide opportunities for them to meet on a regular, perhaps quarterly basis, to discuss issues of common concern and to assess progress toward the development of a professional work

environment.<sup>36/</sup> Such meetings may also serve as an opportunity for those who may not feel comfortable expressing their concerns through the Female Liaison.

**Recommendation. Provide champions/mentors for all female recruits in the Academy to provide support and assistance to the firefighter in adjusting to the Department and its work.** Having someone available to “learn the ropes” would be helpful to all female firefighters. Therefore, the Department should assign each female recruit a champion/mentor to assist them with any questions or concerns and their overall adjustment. The champion/mentor should be someone who is willing to invest in the success of the female recruit.

**Recommendation. Provide assistance to female firefighters to join and participate in associations and groups of female firefighters to gain support and learn how other fire departments are addressing common or similar issues.** Several of the female firefighters interviewed found that attendance at internal meetings gave them information, insight and useful ideas. Allowing female firefighters to hear about how other fire departments are addressing gender issues can both provide support and ideas as well. The Department should encourage and support female firefighters interested in attending meetings of groups of female firefighters, such as the International Association of Women in Fire and Emergency Services.

## **B. Perspectives of Men in the Department**

In addition to the men in various leadership and other positions in the Department, 10 male Department members, including firefighters, were interviewed for this report in hopes of expanding the context. Four were officers working in firehouses and 1 was at headquarters. Although there is not an opportunity for a longitudinal look at how the men’s attitudes and conduct have changed over time, this summary of these interviews provides a current snapshot.

Most men reported that they do not see gender-based problems in the Department. They consider the environment to be open, friendly and welcoming of women generally. Several men replied that women are as well-equipped as men both physically and mentally to be firefighters. They went on to say that they respect the women in the house or on details and view them as friends. They felt that any kind of gender-based, race-based, or harassment issue is treated extremely seriously and taken up the chain of command as required. They also reported that any interpersonal conflicts inside the firehouse do not affect firefighters once they are on the trucks or at a fire.

It was also acknowledged that the environments of firehouses are not the same from house to house. Men noted that while they may engage in male banter or “locker room” type talk during down time or around the table at meals, they did not do so when women were around. At one extreme, one man said kitchen conversations between male firefighters are often “filthy” until a woman walks in. At the other extreme, one man said kitchen conversation is the same

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<sup>36/</sup> Inasmuch as women firefighters of color face both gender and race/ethnicity issues simultaneously, the Department should also consider convening meetings with its firefighters of color both women and men to also discuss issues of common concern and ways to make the environment more welcoming and inclusive.

regardless of the presence of a female and that most conversations center around sports. Notably, there was no agreement that male banter or “locker room” talk was unacceptable in the firehouse whether or not women were present.

Several men believe that issues identified as gender-based by women are actually more about interpersonal conflict or difficulty getting along than gender. Similarly, 2 men noted that some people don’t take performance-based criticism well and attribute the criticism to gender bias or race bias using a claim of discrimination in an effort to excuse their performance issues. In this vein, and in its most extreme form, several men noted that male firefighters are afraid to interact with certain female firefighters because they are afraid that anything they do will be misconstrued as harassment or give rise to some other complaint by the female. Some talked about “walking on eggshells” and avoiding any interactions with women. For example, while there is undeniably constant pranking and kidding of fellow male firefighters, some women are totally excluded from this because of the fear they will argue that such pranking is hostile and gender-based hazing.

Most men agreed that romantic relationships in the firehouse breed conflict in many different ways and should be prohibited although they differed regarding how extensive a “non-fraternization policy” should be. The men acknowledged that the family atmosphere and 24-hour contact put stresses on male-female relationships. All the males we talked to were aware of the pending charges at the MCAD involving a female and male firefighter stemming from a prior romantic relationship between them.

Surprisingly, despite the fact that bathroom reforms are now supposedly in place across the Department, one man attributed the new exterior locks on women’s bathroom doors in firehouse to a few “assholes” who would not follow the existing rules. One man said the new locks demonstrate that women believe they deserve something better than the men have and are further indication that women want to be treated differently than men.<sup>37/</sup>

Multiple men noted that the female firefighters, like all members of the Department, take different approaches to integrating (or not) into the firehouse team. Some people seem very motivated to be part of the team and take on a proactive role in the firehouse. For example, one female is very focused on cleanliness and orderliness in the firehouse. This is usually appreciated and valued by other firefighters. Moreover, some female firefighters are not motivated to belong or join the men in the same way and tend to be more isolated. For instance, they play video games by themselves and do not make an effort to interact much with others. While personality differences exist among the men as well, the female firefighters are generally left alone more because of the perception that they want to be left alone regardless of gender.

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<sup>37/</sup> In most of the fire houses the number of available bathrooms is limited and must be shared by all the male firefighters. The designation of a bathroom for female firefighters reduces the number of available bathrooms and allows female firefighters, who are far fewer in number than men, the use of their own bathroom.

### **C. Conclusions and Recommendations**

There was surprising consistency between the opinions and observations of female and male firefighters. While it is impossible to determine how much male-banter or “locker room” talk occurs in firehouses, a majority of female firefighters did not perceive such male-banter or “locker room” talk as creating a hostile environment. However, other women took offense. Some did not say anything. No matter how it might be perceived, male-banter or “locker room” talk does not belong in a professional work environment.

Moreover, most of the men did not appear to appreciate that changing their conversation when a woman was present and/or excluding the woman from this back and forth conversation and behavior in the firehouse could be perceived as exclusionary or retaliatory by women. The Department must provide a professional working environment at all times in all of its locations regardless of who is present. No group of employees should have to rely upon the ability of a group of firefighters to remember to change their behavior when a woman or person of color is present. Equally important is the fact that when people have to change their behavior when a particular person is present may lead to resentment. Therefore, the standard of appropriate professional and respectful behavior should be the same in all Department firehouses and work locations.

Despite the Department’s promise of non-retaliation, many of the women chose to “go along to get along,” ignoring inappropriate conduct, rather than raising it because of concern about being labeled a “complainer/troublemaker” or being excluded from being a part of the team or family. Repeatedly, women firefighters told us that they had to pick and choose their battles. The best way to avoid putting any one person on the spot for raising an issue is to actively encourage discussion about regularly recurring personal interactions to determine whether there is cause for concern and how the concern might be addressed. Women and men should be encouraged to raise any issues that are cause for discomfort and to openly problem solve a solution.

It is noteworthy that 18 years ago, the O’Toole Report reported that “[a] significant number of survey respondents complained of the ‘old boy network’ in place throughout the Department” which resulted in an “in” crowd that affected “the application of discipline, promotion, assignments and recruitment.” That report concluded that:

Only effective supervision and strong leadership will change pervasive attitudes relative to race and gender. The appearance of favoritism, whether real or imagined, is as destructive as the existence of favoritism. The current system does little to address these perceptions, and many of the members expressing concerns are branded “complainers” or “troublemakers.” Efforts to address these points have not been effective, and the Department lacks a cohesive strategy on the difficult issue of cultural diversity.

O’Toole Report at 2:11. While there has been progress, some of the same issues remain.

It is particularly important to recognize that this is not just a female firefighter issue. Some male firefighters reported feeling uncomfortable because they were constantly walking on eggshells. Neither group appeared to be satisfied with the *status quo*. Similarly, neither group appears to have trust and confidence in the Department's ability or commitment to change and in its ability to fairly resolve issues that are raised. On the one hand, women firefighters do not raise issues out of concern of being labeled a complainer and those who do have complaints frequently bypass the Department to go to the City's OHR, which suggests a lack of trust in the process within the Department. On the other, male firefighters expressed concerns about the fairness of investigations particularly those involving the City's OHR. Additionally, both women and men firefighters were skeptical that discipline would be equitable. Men worried that they would be punished just because the accusation was being raised by a female firefighter particularly in the current public climate of #MeToo. Women worried that certain firefighters were treated more leniently out of favoritism or because they came from the right family, had the right friends, or that male supervisors do not view harassment as serious enough for discipline which may harm a male firefighter's career. Whether or not leadership shares the perceptions is beside the point. The fact that the perception exists is sufficient to warrant appropriate action which must start with discussion of the cause for those perceptions and meaningful steps to address them.

As with any organization, but particularly a paramilitary one, it is imperative that top leadership in the Department make clear not only its commitment in words, but also in the manner in which the Department's rules are enforced. As one female firefighter pointedly observed, if the Commissioner wanted to fundamentally change the environment, he could do so. She gave the example that when the Department's firefighters resisted the use of hoods, Commissioner Finn not only ordered that the hoods be worn by individual firefighters, but made it clear that the offending firefighter's supervisor would also be subject to discipline if the hood was not worn. Thereafter, hoods were and are now worn by all. The same approach must be taken with regard to eliminating discrimination, harassment and retaliation.

This does not mean that firehouses must be sterile work environments or places where women and men cannot carry on friendly banter or pranks. It does mean that the banter or pranks cannot be race or gender based or retaliatory. The level of discipline or correction must depend on the facts and circumstances of the situation.

While it will be hard, it is likely that any effort to address the issues of culture and to make the changes necessary in the Department's organizational structure will need to come from someone who is viewed as credible to the vast majority of the men and women in the Department. In this regard, the current Commissioner should be well positioned to address this important issue and may be able to effect change rapidly. He was in the same Academy class as the Department's first female firefighter and expresses wholehearted support for the inclusion of women and the eradication of discrimination, harassment and retaliation. The Commissioner has

held positions at all levels within the Department including the position of Deputy Chief of Personnel and appears to have the support of Boston Fire Fighter Local No. 718 (“Union”).<sup>38/</sup> He would be, therefore, in a strong position to articulate the changes that need to occur and to enforce them.

**Recommendation. The Commissioner needs to lead the change to further a more professional and respectful environment by enforcing the rules regarding discrimination, harassment and retaliation and holding all officers accountable and responsible for the environment or culture allowed under their supervision.** The Commissioner must make it clear to everyone in the Department that the implementation and enforcement of a professional and respectful environment free of discrimination, harassment and retaliation (as defined by the Department’s policy, not the lesser, legal standard) is a priority and that all officers will be held accountable for the environment in the areas under their supervision.<sup>39/</sup> It should be made clear that if an officer ignores conduct that is inconsistent with a professional and respectful environment, the officer will be held accountable and subject to discipline for the culture that exists under their supervision. Unless everyone in the chain of command is held accountable, the culture is not going to change.

**Recommendation. Develop a strategy for changing the culture and implementing a welcoming and respectful work environment in all firehouses which will gain the trust of women and men in the Department that the processes for receiving, investigating and resolving complaints of discrimination, harassment and retaliation are effective and equitable.** It is essential that all Department employees believe that investigations are conducted in an objective and professional manner and that appropriate judgments will be made regarding whether disciplinary action will be taken. In other words, the outcome of a harassment complaint should depend on the facts, not on whether the accuser or the individual accused is a friend or relative of someone. Unless this is a key priority of the Department, it will be difficult to make any significant changes in the perceptions of firefighters. Ultimately, the “old boys club” that perceives that females/individuals of color are seeking “special treatment” or taking advantage of a social movement must be changed.

**Recommendation. Develop a reporting and evaluation system to ensure accountability and compliance.** A system of regular reporting and evaluation of the culture of each firehouse needs to be established with Department-wide benchmarks. The evaluation of progress toward

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<sup>38/</sup> In the history of the BFD, there have only been 2 civilian Commissioners. The most recent, Commissioner Roderick Fraser, faced enormous resistance to many of the initiatives he and his Chief, who was hired from outside the Department, tried to implement. Therefore, to the extent that many of the recommendations contained in this report affect the most basic elements of life in the fire house, the current Commissioner, who is perceived as one of the “old guard” but has “earned” his position, may have the best chance of implementing the required changes.

<sup>39/</sup> At the Department, the officers below Deputy/District Chiefs are in the same bargaining unit as firefighters. In contrast, officers in the Police Department are in a separate Superiors unit from patrol. Therefore, enforcing the Department’s Rules and imposing discipline on a fellow union member may pose difficulty for some officers. Nevertheless, the Department can hold Lieutenants and Captains accountable for doing their job and enforcing the rules.

benchmarks should be assigned to a group of trained officers who would be charged with the responsibility of reviewing reports and conducting investigations under the supervision of the Director of Human Resources.

**Recommendation. Consider adopting a policy on fraternization that prohibits officers from supervising subordinates with whom they have an intimate/close personal relationship and requiring firefighters in intimate/close personal relationships to work in different locations.** A number of the firefighters are married to other Boston firefighters. While most of the married firefighters do not tend to work in the same firehouse or work location, it is clear that intimate/close personal relationships may develop within a firehouse or other work location. When such relationships occur, it is often uncomfortable for co-workers, particularly if the relationship breaks up. Consequently, a rule that prohibits individuals from working in the same firehouse or work location would avoid many problems. A draft policy is included as Exhibit 23 for the Department's consideration.

#### **D. Departmental Structure and Organization**

The investigation revealed that the Department works in silos and has difficulty working collaboratively to solve problems. Each firehouse wants to take care of its own issues without raising them up to Headquarters. Likewise, Headquarters avoids raising issues to City Hall. This results in an insularity and dysfunction which impedes communication, teamwork and the effective utilization of all available resources. Changing the Department's culture will require building trust and confidence in those in the individual firehouses to raise issues of discrimination, harassment and retaliation with Headquarters and to self-identify when the firehouse could benefit from the professional expertise available in the Department's management and in the City. Greater use of the City's OHR, OLR and Law Department would provide needed expertise and manpower to address many of the issues facing the Department.

##### 1. Human Resources.

The O'Toole Reports recognized that the Department's traditional paramilitary power structure and division between uniformed and civilian employees needed to be examined particularly in the area of human resources. While there continues to be 2 human resource offices, the Department has centralized substantial authority and responsibility in the Director of Human Resources position. See Exhibit 24, Director of Human Resources (Fire) Job Description.<sup>40/</sup> Of particular importance for this report, the Director of Human Resources has been charged with the primary responsibility for compliance with and investigation of potential violations of discrimination, harassment and retaliation requirements under the Department's rules and various federal and state laws. See Exhibit 24.

As the Deputy Chief for Personnel has risen through the ranks of the Department, it is appropriate that the person in this position continue to take lead responsibility on operational

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<sup>40/</sup> The Director of Human Resource position requires significant experience in human resource management. See Exhibit 24 at 2. The current Director of Human Resources has considerable experience and education for the position.

issues, such as assignments and staffing levels, and managing the various procedures under the collective bargaining agreement.<sup>41/</sup> S/he would be expected to work collaboratively with the Director of Human Resources by providing essential information from his/her knowledge and experience about the work of firefighters and day-to-day life in the firehouse and would maintain an indirect (dotted line) reporting relationship to the Director of Human Resources.

It is not clear how much is known by the uniformed members of the Department about differences in the roles and responsibilities of the Director of Human Resources and the Deputy Chief of Personnel. Notably, many of the documents that relate to the job description and responsibility of the Deputy Chief of Personnel have not been updated. For example, in Chapter 8 of the Department's Rules and Regulations the description of the Personnel Division and the job description has not been updated to account for the changes in the Director of Human Resources position. See Exhibit 25 Chapter 8 of Rules and Regulations. In addition, both the Department's Rule 18.41 on discrimination, harassment and retaliation and the Progressive Discipline Guidelines should be updated to ensure clarity regarding the assignment of responsibility to the Director of Human Resources.

Furthermore, the Director of Human Resources' role and responsibility for compliance with 18.41 should be clearly communicated to the uniformed members of the Department. Thereafter, the Director of Human Resources and the Deputy Chief of Personnel should develop a strategy and plan for addressing the issues of culture and lack of trust. Such a plan would likely include in-person visits to the firehouses to describe the Department's expectations regarding Rule 18.41, the complaint procedure, the process of investigations and the decision-making process regarding discipline in the hopes that it will be part of the building of trust in the process and the change in culture.<sup>42/</sup>

Some male firefighters expressed serious concerns about the fairness of complaint investigations, particularly those involving the City's OHR. Additionally, both women and men firefighters were skeptical, had concerns and were afraid that discipline would not be equitable. Men worried that they would be punished just because the accusation was being raised by a female firefighter. Women worried that certain firefighters were treated more leniently because they were male, came from the right family, had the right mentor, or were of a particular race/ethnic group.

Maintaining a positive relationship with the City's OHR is an assigned responsibility of the Director of Human Resources. However, because of the strained relationships in the past,

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<sup>41/</sup> The Deputy Chief of Personnel is an assignment given to one of the Deputy Chiefs in the Department. Although the previous Deputy Chief of Personnel had a Masters of Public Administration degree, which included courses in executive leadership, management and human resources, the position does not require any prior education or experience in human resources. Typically, the Deputy Chief does not have an educational background or expertise in the area of human resources or personnel management.

<sup>42/</sup> In light of the deeply entrenched divide between uniformed and civilians within the Department, it is important that the Deputy Chief of Personnel actively support the Director of Human Resources.



both the Department and OHR need to reset the relationship by regular communication. In addition, going forward, notice of all issues or complaints of discrimination, harassment or retaliation received by OHR should be immediately communicated to the Director of Human Resources, who will take the lead in any ensuing investigation or actions and be responsible for maintaining contact with the complainants. Such centralization of all complaints should avoid many of the communication issues that have impeded effective resolutions and led to distrust. It will also allow the Director of Human Resources to reach out to the complainant and provide support which may help to address the complaints by several female firefighters that they felt left out and never received any report on the status of their complaints. While complainants are not entitled to know the details of an investigation, they should be told the status.

**Recommendation. The Director of Human Resources should develop and implement a comprehensive training strategy for the Department as soon as possible.** Appropriate resources should be provided from within and outside the City to develop training materials on discrimination, harassment, retaliation, implicit bias and the values of diversity. To the extent possible, the training should include a woman trainer along with someone knowledgeable about fire service. The training should include the training for officers at Fire College and independently, training of firefighters with the officers who supervise them, regular follow-up discussions within each firehouse and work location about issues related to discrimination, harassment or retaliation issues, and receipt and review of regular reports from the field regarding those discussions. Consideration should also be given to developing a committee to review the results of these reports and to pro-actively make recommendations regarding ways to share lessons learned and to monitor and assess progress toward a respectful culture.

**Recommendation. Assign to the Director of Human Resources the responsibility for convening regular meetings of the female firefighters, supervising the activities of the Female Liaison, managing the assignment of champions/mentors for new recruits and developing a program to provide support for female firefighters interested in getting involved in professional organizations addressing issues of women in the fire service.**

## 2. Legal

The 2 other large departments of the City, Boston Police Department and School Department, each have a Legal Advisor. In addition to the Legal Advisor, the School Department also has 5 other attorneys and the Police Department has 4 other attorneys from the Law Department on staff. The Legal Advisors supervise the other attorneys and report to the Corporation Counsel. The Legal Advisors meet regularly and discuss new policies, procedures or methods of performing work on behalf of the City and responding to changing legal, technological, or practical conditions. As a part of the Law Office, the Legal Advisors meet on a regular basis with the Corporation Counsel and other attorneys ensuring greater communication and consistency among those City departments on approaches to reducing risk. The Fire Department remains the largest department without a Legal Advisor.

While the Department is represented by lawyers from the City's Law Department and from OLR as needed, the lack of a formal relationship with the Corporation Counsel means that the City does not get the benefit of having the an attorney familiar with the Department present

during important discussions regarding strategy and approaches to legal compliance and risk management. Likewise, the Department does not get the benefit of a group of attorneys who are essentially dedicated to it. Therefore, consideration should be given to adjusting the reporting relationship of the current Deputy Commissioner for Labor Relations, Human Resources, and Legal Affairs (Boston Fire Department) to at least include a reporting responsibility to the Corporation Counsel.

**Recommendation. Adjust the reporting relationship of the current Deputy Commissioner for Labor Relations, Human Resources and Legal Affairs (Boston Fire Department) to include reporting responsibility to the Corporation Counsel.**

## VIII. Recommendations

The recommendations made in this report and previously listed in various sections are listed here under general headings for ease of reference. Some of the recommendations have been consolidated to avoid repetition.

### A. Leadership And Accountability.

Recommendation 1. The Commissioner needs to lead the change to further a more professional and respectful environment by enforcing the rules regarding discrimination, harassment and retaliation and holding all officers accountable and responsible for the environment or culture allowed under their supervision.

Recommendation 2. Develop a strategy for changing the culture and implementing a welcoming and respectful work environment in all firehouses which will gain the trust of women and men in the Department that the processes for receiving, investigating and resolving complaints of discrimination, harassment and retaliation are effective and equitable.

Recommendation 3. Develop a reporting and evaluation system to ensure accountability and compliance.

### B. Civil Service and Hiring

Recommendation 4. Seek passage of special legislation for a Fire Department Cadet Program on terms similar to the Boston Police Cadet Program.

Recommendation 5. Prioritize diversity in hiring from any tie band when less than all applicants within the tie band will be reached.

Recommendation 6. Develop a program to provide support for firefighters interested in becoming officers with a particular focus on encouraging women and minority firefighters.

Recommendation 7. Enhance coordination and collaboration with the Department of Veterans Affairs in the Department's efforts to recruit female veterans and veterans of color.

**C. Update of City and Department Policies and Procedures.**

Recommendation 8. Revise the Mayor’s Executive Order entitled “Policy/Investigation Procedure on Discrimination, Sexual & Other Forms of Harassment and Retaliation” (Exhibit 15A). Exhibit 15B is a suggested revision.

Recommendation 9. Review and revise Rule 18.41 (Exhibit 16A). Exhibit 16B is a suggested revision for consideration.

Recommendation 10. Review and revise the Progressive Discipline Guidelines to be consistent with the responsibilities of the Director of Human Resources and Deputy Chief of Personnel and other related changes.

Recommendation 11. A General Order should be issued making it clear that firefighters are permitted to use the bathroom of their gender identity.

Recommendation 12. Consider adopting a policy on fraternization that prohibits officers from supervising subordinates with whom they have an intimate/close personal relationship and requiring firefighters in intimate/close personal relationships to work in different locations.

**D. Training**

Recommendation 13. The Director of Human Resources should develop and implement a comprehensive training program for the Department as soon as possible.

Recommendation 14. Require that the training on discrimination, harassment and retaliation provided at Fire College be communicated to the respective firehouses and work locations.

Recommendation 15. Implement annual training of officers and firefighters on all protected categories, discrimination, anti-harassment, respectful workplace, implicit bias and non-retaliation, including the procedures for filing complaints and the conduct of investigations.

**E. Support for Female Firefighters**

Recommendation 16. Develop a program to regularly convene meetings with female firefighters in the Department to ascertain progress in the Department’s efforts to achieve culture change and to determine any other issues.

Recommendation 17. Provide champions/mentors for all female recruits in the Academy to provide support and assistance to the firefighter in adjusting to the Department and its work.

Recommendation 18. Provide assistance to female firefighters to join and participate in associations and groups of female firefighters to gain support and learn how other fire departments are addressing common or similar issues.

## **F. Organizational Adjustments.**

Recommendation 19. Assign to the Director of Human Resources the responsibility for convening regular meetings of the female firefighters, supervising the activities of the Female Liaison, managing the assignment of champions/mentors for new recruits and developing a program to provide support for female firefighters interested in getting involved in professional organizations addressing issues of women in the fire service.

Recommendation 20. Adjust the reporting relationship of the current Deputy Commissioner for Labor Relations, Human Resources and Legal Affairs (Boston Fire Department) to include reporting responsibility to the Corporation Counsel.

Recommendation 21. Add to Diversity Recruitment Officer's responsibilities the specific recruitment of women particularly those leaving the military.

## **IX. Conclusion**

Today, 34 years after the first female firefighter was hired by the Boston Fire Department, only 16 women are currently employed by the Department out of a workforce of approximately 1,500, and only one has the rank of Captain. Moreover, only 30 women have served as Boston firefighters since 1984. Our investigation focused on understanding the reasons behind the lack of female firefighters and exploring initiatives that would enable the Department to consider and hire more women. Although we found a wide range of opinion about the work environment, it cannot be denied that the Department remains male-dominated with persistent perceptions of favoritism, resistance to change and a culture of "going along to get along." The current Commissioner, who has risen through the ranks, has, in the face of resistance from others within the Department, demonstrated that he can implement new practices and approaches in a number of important areas. Indeed, he has laid the foundation for a more professional, respectful and inclusive work environment by training officers and other supervisors on diversity, inclusion, implicit bias, harassment and retaliation. It is our hope that the Commissioner's demonstrated commitment and leadership skills with the support and confidence that he has among the workforce will successfully address the issues raised and achieve the goals of the recommendations made — in this third investigation/review in 19 years — eliminating the need for further investigation in the future.

## EXHIBIT LIST

1. Stipulation of Agreement and Consent Decree – “Hansford Decree” – June 28, 1996
2. Letter from Attorney Weissberg to Mayor Walsh – June 14, 2018
3. Female Liaison Job Duties – Draft 2001
4. General Order No. 31 – November 16, 2010
5. General Order No.14 – May 11, 2011
6. Job Description – Female Liaison for the Boston Fire Department – May 1, 2018
7. General Order No. 41 - July 20, 2018
8. City of Boston, Emergency Medical Services – October 5, 2018
9. Boston Police Department, Strength Report – October 24, 2018
10. Boston Fire Department, Hires by Class – October 24, 2018
11. 2016 Firefighter Exam - BFD Hiring Information
- 12A. Letter from MCAD to Human Resources Civil Service Unit – August 1, 2018
- 12B. Letter from MCAD to Human Resources Civil Service Unit – October 5, 2018
13. City of Boston Police Department, Cadet Classes – October 16 and 25, 2018
14. City of Boston Executive Order - Valuing Diversity and Equality Statement
- 15A. Executive Order – Policy/Investigation Procedure on Discrimination, Sexual & Other Forms of Harassment and Retaliation – October 2000
- 15B. Suggested Revision of Policy/Investigation Procedure on Discrimination, Sexual & Other Forms of Harassment and Retaliation
- 16A. Chapter 18 – Rule 18.41 – Discrimination and Harassment - 1997
- 16B. Revised Draft of Rule 18.41 – Harassment, Discrimination and Retaliation Complaint and Procedure Policy
17. Past Trainings Conducted by BFD – 2013 – present

18. Boston Fire Department Teen Academy
19. Camp Fully Involved
- 20A. BFD Female Liaison Quarterly Report May 1<sup>st</sup> to July 31<sup>st</sup> 2018
- 20B. BFD Female Liaison Quarterly Report August 1<sup>st</sup> to October 31<sup>st</sup> 2018
21. Boston Fire Department Mediation Program
22. Gender Breakdown of Recipients of Chapter 41, Section 111F - Injured On-Duty Disability Benefits – November 23, 2018
23. Personal and Family Relationship in the Workplace – DRAFT POLICY
24. Director of Human Resources (Fire) - Job Description
25. Chapter 8 - Personnel Division

# **EXHIBIT 1**

COMMONWEALTH OF MASSACHUSETTS  
MASSACHUSETTS COMMISSION AGAINST DISCRIMINATION

Judy Hansford,

Complainant,

v.

Docket No. 94-BEM-2065

Boston Fire Department,

Respondent.

 COPY

STIPULATION OF AGREEMENT AND CONSENT DECREE

WHEREAS, the complainant fire fighter Judy Hansford ("Complainant") has brought a complaint before the Massachusetts Commission Against Discrimination alleging claims of sexual harassment and sexual discrimination;

WHEREAS, the Boston Fire Department of the City of Boston ("Department") has denied the allegations of the Complainant;

WHEREAS, the Complainant and the Department wish to amicably resolve their differences; and

WHEREAS, the Complainant and the Department wish to enter into a Stipulation of Agreement and Consent Decree which is enforceable by the Massachusetts Commission Against Discrimination;

THEREFORE, the Complainant and the Department hereby stipulate and agree as follows:—

FACILITIES

1. The Department shall make the following renovations over a five year period



commencing as of July 1, 1996;

a. All Department fire stations shall be renovated to provide separate toilet, shower, locker, and changing areas for women. The renovated facilities shall be comparable, in terms of location, accessibility, and amenities with the facilities provided for men in each respective Department fire station (with due consideration for the relative number of males and females located in each fire station). Wherever possible, female facilities shall be on the same floor as male facilities. In the event that female facilities cannot be placed on the same floor as the male facilities, then a committee, including the female liaison and a female firefighter located at the particular fire station, should a female firefighter be so assigned, shall be formed to decide upon the placement of the facilities. In all fire stations, facilities available to the general public shall not be used as female facilities. The Department shall discuss with the Complainant and the female liaison circumstances which prevent renovation of a particular location, but there shall be no relief from the obligations of this paragraph 1.a. without written agreement of the Complainant and the female liaison.

b. The first Department fire stations to be renovated will be those which currently house female fire fighters.

c. Any and all new facilities housing fire fighters built by the Department will have separate bathroom, shower, locker, and changing areas for women which are comparable to those provided for men in terms of location, accessibility, and amenities.

2. Bunkrooms shall be supplied with new, moveable partitions, at least 43" in length and 60" in height, to be available for placement between beds in Department fire stations. All fire stations will receive new, moveable partitions within one year from July 1, 1996.

3. Changes in facilities or the installation of partitions in any fire stations shall be preceded by written notice or memoranda at least 72 hours in advance from the Commissioner, Chief of Operations, the female liaison officer and the officers in charge of the firehouse for posting and communication to all members affected by the change.

#### TRAINING

4. The Department shall annually, at least, drill fire fighters on Rule 18.41 and on issues of sexual harassment and sex discrimination. Appropriate training materials created professionally from outside the Department will be purchased by the Training Division and used for these drills.

5. Fire officers (captains and lieutenants) will continue to receive training, in addition to the training described in paragraph 4, on issues relating to discrimination and sexual harassment in the course of annual training at "Fire College". Training will be conducted by trainers employed by the City of Boston's Office of Personnel Management or by a consultant who is not a City of Boston employee.

6. The Department shall provide training on issues of discrimination and sexual harassment for District Fire Chiefs and Deputy Fire Chiefs each year by an appropriate trainer not employed by the City of Boston.

7. The Department will constitute a team of instructors/trainers under the auspices of the Deputy Fire Chief of the Personnel Division. This team will conduct training sessions on issues of sexual harassment in those locations where the Department determines a need exists for additional training beyond that described above.

## RECRUITMENT

8. During periods when the Massachusetts Department of Personnel Administration is accepting applicants for examinations for the Department, and at the request of the Commonwealth's Personnel Administrator, the Department shall detail at least one female fire fighter to participate in the recruitment efforts of the Department along with community outreach and related activities. Under appropriate supervision, the female firefighter shall aid and assist in recruiting and assisting prospective female applicants, regardless of their race.

9. The Department shall continue to advocate for a cadet program comparable to the existing Boston Police Department cadet program.

10. The Department shall make available a female fire fighter to Moon Island Fire Academy during any class in which there are Boston female fire fighters on probation as part of the drill class. The female fire fighter shall be directed to provide support, encouragement, and assistance for those female fire fighters on probation. This responsibility may be included among the duties of the female liaison, described in paragraph 14.

## CLOTHING

11. The Department shall continue to provide boots, work gloves, personal protective bunker gear, and Departmental uniforms, including bunker gear, Class A uniforms, station uniforms including maternity uniforms (discussed more fully below) which are designed and fitted for women.

12. The Department shall provide female fire fighters with appropriate female station and dress uniforms, comparable to military dress uniforms for women, by January 1, 1997. In addition, the Department shall establish by January 1, 1997 a dress and hairstyle code for

women, comparable to a military code, which allows female fire fighters to wear low dress shoes with dress uniforms and allows hair to be at shoulder length, provided it shall not interfere with the operation or use of safety equipment.

13. The Department shall provide pregnant female fire fighters with dress maternity uniforms.

#### DEPARTMENTAL ISSUES

14. The Department shall contact all female fire fighters to determine which of them may wish to serve as a female liaison. Thereafter, by January 1, 1997, from among those interested, the Commissioner shall designate a female fire fighter as a female liaison officer to the Department for purposes of representing the views of female fire fighters with respect to issues and concerns which may arise within the Department, but which are unrelated to collective bargaining issues. The position shall be uncompensated.

15. The staff of the Department's Employee Assistance Program ("EAP") shall receive additional and continuing training on a yearly basis with regard to sexual harassment and sexual discrimination, as well as specific issues which may arise for female fire fighters.

16. Under certain circumstances the Department arranges for firefighters to consult with a psychologist apart from, and not under, the auspices of the Employee Assistance Program. In recognition of the opinion of the Complainant that the psychologist to whom matters now are referred is not experienced in issues unique to women, the Department shall, within sixty days, designate a psychologist trained or experienced in matters confronting women in the workplace. The Department shall utilize the same process for referring women to this psychologist that it utilizes when referring men to the psychologist. This counselling shall be administered in the

same manner that counselling is administered for male firefighters who seek counselling for work-related issues.

17. The parties acknowledge that circumstances may warrant the granting of benefits pursuant to G.L. c. 41, §111F, or the collective bargaining agreement due to mental or emotional disability which a member of the Department suffers. The Department shall grant contractual or statutory benefits pertaining to such injuries without regard to the gender of the member.

#### ENFORCEMENT

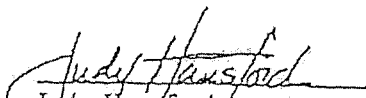
18. This Stipulation of Agreement and Consent Decree ("Decree") is the product of a comprehensive settlement which included compensation to the Complainant and her counsel, and a release by Complainant of all claims.

20. The Complainant shall be entitled to enforce the terms of this Decree by bringing any claim of breach of the terms of this Decree before the Massachusetts Commission Against Discrimination.

21. This Decree shall be enforceable under the laws of the Commonwealth of Massachusetts.

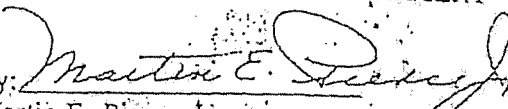
22. The obligations described under the headings Training and Recruitment shall continue for the three years from the date this Agreement was executed. Thereafter the parties

shall meet to discuss the effectiveness of the Training and Recruitment provisions and shall consider modification and/or extension of the present provisions.

  
Judy Hansford

Dated: 6.28.96

CITY OF BOSTON FIRE DEPARTMENT

By:   
Martin E. Pierce, Jr.  
Fire Commissioner 06.28.96

CTJINTSVAHNSVISTIPC03.DRC

## **EXHIBIT 2**



attorneys at law

Jonathan Shapiro  
Lynn G. Weissberg  
Patricia Garin  
Rebecca Schapiro  
Mia Teitelbaum

Of Counsel  
David L. Kelston  
Jeffrey P. Wiesner  
Jennifer McKinnon

June 14, 2018

**BY ELECTRONIC AND FIRST CLASS MAIL**

Mayor Martin J. Walsh  
City of Boston  
1 City Hall Square, Suite 500  
Boston, MA 02201

Re: **Consent Decree with the City of Boston Fire Department**  
**MCAD Docket No. 94-BEM-2065**

Dear Mayor Walsh:

Please be advised that I represent Julia Rodriguez, a female firefighter with the Boston Fire Department (“BFD” or “the Department”). Ms. Rodriguez has been employed by the BFD since June, 1989.

In 1994 I represented Ms. Rodriguez and two other female BFD firefighters, Judy Hansford and Karen Miller, in sex discrimination and sex harassment cases against the BFD at the Massachusetts Commission Against Discrimination (“MCAD”). The three Complainants alleged that female firefighters in the BFD were denied equal terms and conditions of employment with respect to facilities and clothing, that female firefighters were subjected to sexual harassment, and that female firefighters were seriously underrepresented in the BFD (at that time there were 6 female firefighters out of more than 1300). After several years of litigation, a Stipulation of Agreement and Consent Decree (“Consent Decree” or “Decree”) was entered into on June 28, 1996. See Consent Decree attached as Exhibit A. The Consent Decree provided broad-based relief to female BFD firefighters.

I am writing because the BFD has failed to comply with the requirements of the Consent Decree. Generally, the BFD has not provided separate locker and changing facilities for women, has not implemented required training programs, has not supported female recruitment efforts, has not provided clothing properly sized for female firefighters, and has not provided other required supports for female firefighters. The most serious violations are listed below.

1. With respect to facilities, the Decree requires each fire station to be “renovated to provide a separate toilet, shower, locker, and changing areas for women. The renovated facilities



shall be comparable in terms of location, accessibility, and amenities with the facilities provided for men in each respective Department fire station.” Decree, ¶ 1(a). The Department has not complied with this provision. For example, Engine 5 in East Boston, Engine 48 in Hyde Park, Engine 50 in Charlestown, Engine 32 in Charlestown, and Engine 51 in Brighton do not have separate locker and changing areas for women.


2. Annual drills of fire fighters “on Rule 18:41 and on issues of sexual harassment and sex discrimination” are not being carried out, nor have “[a]ppropriate training materials created professionally from outside the Department” been provided by the Training Division as required by ¶ 4. The extent of the “training” on sexual harassment has been to distribute the department’s policy.
3. No additional training “conducted by trainers employed by the City of Boston’s Office of Personnel Management or by a consultant who is not a City of Boston employee” has been provided to fire officers (captains and lieutenants) in the course of annual training at “Fire College” as required by ¶ 5.
4. The Department has not been providing the District Fire Chiefs and the Deputy Fire Chiefs annual training on the issue of sexual harassment conducted by “an appropriate trainer not employed by the City of Boston” as required by ¶ 6.
5. No “team of instructors/trainers under the auspices of the Deputy Fire Chief of Personnel Division” has conducted “training sessions on issues of sexual harassment” as required by ¶ 7.
6. The Department has not been advocating for a cadet program comparable to the existing Boston Police Department cadet program as required by ¶ 9.
7. The Department has not provided clothing “designed and fitted for women” for all female firefighters as required by ¶ 11.
8. The staff of the Department’s Employee Assistance Program do not receive annual training on “sexual harassment and sexual discrimination, as well as specific issues which may arise for female fire fighters,” as required by ¶ 15.
9. The Department has not designated “a psychologist trained or experienced in matters confronting women in the workplace apart from, and not under, the auspices of the Employee Assistance Program” as required by ¶ 16. The Department refers female firefighters to the City’s Employee Assistance Program, not to an independent councilor as mandated by the Decree.
10. Benefits “due to mental or emotional disability which a member of the Department suffers” are not being granted “without regard to the gender of the member” as required by ¶ 17.

Mayor Martin J. Walsh  
June 14, 2018  
Page -3-

With this letter, we are putting the City of Boston and the BFD on notice of these material violations of the Consent Decree. We ask that steps be taken immediately to bring the BFD into full compliance with the Consent Decree. Each fire station must be inspected to determine whether it complies with the Decree's requirements and a report on those inspections must be provided to Ms. Rodriguez and her counsel. In the event full compliance is not achieved within a reasonable period of time, then we intend to ask the MCAD to seek enforcement of the Consent Decree in Suffolk Superior Court pursuant to M.G.L. c. 151B §6; 804 CMR §1.25<sup>1</sup>.

Thank you for your attention to this matter. I will contact your office next week. .

Very truly yours,

  
Lynn Weissberg

LW/pc

Enclosure

cc: Commissioner Joseph Finn (by electronic mail)  
City Counselor Ayanna Pressley (by electronic mail)  
City Councilor Lydia Edwards (by electronic mail)  
City Councilor Kim Janey (by electronic mail)

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<sup>1</sup> 804 CMR 1.25(2) provides: Who May Obtain Judicial Enforcement of a Final Commission Order. A party to a Consent Order, predetermination settlement, or a person affected by a final decision and Order of the Commission may file a complaint with the Commission alleging violation(s) of said Consent Order, pre-determination settlement, or final decision and Order. The Commission shall proceed to obtain enforcement by filing a petition in the appropriate state court pursuant to M.G.L. c. 151B, § 6; the Commission may appear in court at enforcement proceedings by one of its attorneys, or it may designate counsel for the party aggrieved by the alleged violations agent of the Commission for the purpose of obtaining enforcement, through the General Counsel.

COMMONWEALTH OF MASSACHUSETTS  
MASSACHUSETTS COMMISSION AGAINST DISCRIMINATION

Judy Hansford,

Complainant,

v. Docket No. 94-BEM-2065

Boston Fire Department,

Respondent.

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## CLOTHING

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#### DEPARTMENTAL ISSUES

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16. Under certain circumstances the Department arranges for firefighters to consult with a psychologist apart from, and not under, the auspices of the Employee Assistance Program. In recognition of the opinion of the Complainant that the psychologist to whom matters now are referred is not experienced in issues unique to women, the Department shall, within sixty days, designate a psychologist trained or experienced in matters confronting women in the workplace. The Department shall utilize the same process for referring women to this psychologist that it utilizes when referring men to the psychologist. This counselling shall be administered in the

same manner that counselling is administered for male firefighters who seek counselling for work-related issues.

17. The parties acknowledge that circumstances may warrant the granting of benefits pursuant to G.L. c. 41, § 111F, or the collective bargaining agreement due to mental or emotional disability which a member of the Department suffers. The Department shall grant contractual or statutory benefits pertaining to such injuries without regard to the gender of the member.

#### ENFORCEMENT

18. This Stipulation of Agreement and Consent Decree ("Decree") is the product of a comprehensive settlement which included compensation to the Complainant and her counsel, and a release by Complainant of all claims.

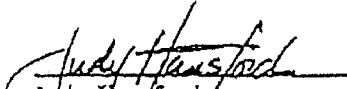
20. The Complainant shall be entitled to enforce the terms of this Decree by bringing any claim of breach of the terms of this Decree before the Massachusetts Commission Against Discrimination.

21. This Decree shall be enforceable under the laws of the Commonwealth of Massachusetts.

22. The obligations described under the headings Training and Recruitment shall continue for the three years from the date this Agreement was executed. Hereafter the parties

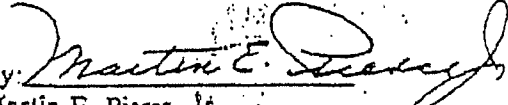


shall meet to discuss the effectiveness of the Training and Recruitment provisions and shall consider modification and/or extension of the present provisions.

  
Judy Mansford

Dated: 6-28-96

CITY OF BOSTON FIRE DEPARTMENT

By:   
Martin E. Pierce, Jr.  
Fire Commissioner 06-28-96

03.11.2015 11:45:13 AM

# **EXHIBIT 3**

Female FF Liaison  
Job Duties - 2001 Draft

Under General supervision of the Boston Fire Commissioner and Director of Human Resources and the Deputy Chief of Personnel, The Boston Fire Department Female Liaison performs work of considerable difficulty in planning, supervising and coordination of Women's Issues for the Boston Fire Department.

- Assists the Deputy Chief of Personnel in the recruiting and hiring of all Female Fire Fighters.
- Responsible for training presentation at the Boston Fire Academy for all new Boston Fire Recruits (FFOP) regarding all Female Fire Fighters issues.
- Develops and implements the coordination of all educational and training classes for all Female Fire Fighters for the Boston Fire Department.
- Responsible for a Yearly Assessment of all-Female Fire Fighters training and educational courses for the Fire Commissioner.
- Participants and coordinates all career recruiting of Female Fire Fighter for all colleges and Boston High Schools.
- Serves as liaison between the Boston Fire Department, HRD, Civil Service and the City of Boston Human Resource Department regarding all Women Fire Fighters Issues.
- Prepares and tours of all Female living accommodations in the firehouses for a yearly assessment report for the Boston Fire Commissioner.
- Responsible for a yearly report to the Commissioner of Female Firefighters living accommodations in all Boston firehouses.
- Research and investigate new ideas within the Boston Fire Department to improve female living conditions within the Boston firehouses.
- Must be available for all hearing and commendations.
- Serves as a contact person for any questions or problem, etc. that female firefighters and female fire alarm employees may have.

# **EXHIBIT 4**

**GENERAL ORDER NO. 31 FIRE DEPARTMENT HEADQUARTER NOVEMBER 16, 2010**

**BOSTON FIRE DEPARTMENT STATION BATHROOM POLICY**

- 1. Purpose:** To insure that fire station facilities, especially bunkrooms, restrooms and locker areas, are used in a manner that provides for the privacy concerns of ALL members, and to prevent discrimination as related to the provision or use of those facilities. To insure compliance with Federal OSHA standards regarding provision of restroom facilities for employees.
  
- 2. Effective immediately:** in all firehouses **permanently housing** a female firefighter, one of the bathrooms shall be designated as a permanent female bathroom. The entrance door to the room shall be clearly and at eye level marked as "Female". No male members shall use the female bathroom. The only exceptions are when (all) female firefighter(s) are on vacation or extended leave [more than 2 weeks] the bathroom may be temporarily used by the male firefighters. The bathroom shall be cleaned and returned to the same state before the female firefighter left for vacation or extended leave.  
  
**Effective immediately:** in all firehouses where a female firefighter is **temporarily assigned/detailed**, in advance of her arrival one bathroom shall be temporarily designated as a female bathroom. The bathroom shall be cleaned and cleared of personal belongings in advance of her arrival. The bathroom door shall be clearly and at eye level marked as "Female". For the duration of her tour of duty, no male members shall use the female bathroom. The female firefighter is responsible for leaving the bathroom cleaned when she leaves her temporary assignment.
  
- 3.** Women shall be responsible for maintaining and cleaning all bathrooms designated for female use.
  
- 4.** Men shall be responsible for maintaining and cleaning all bathrooms designated for male use.
  
- 4.** Except for inspection by supervisors, tours authorized by the house officer, maintenance or an emergency, no individual shall enter a space designated for use by the opposite gender. Under no circumstances shall anyone enter a bathroom facility designated for use by the opposite gender, without advance notice and permission from the occupant.
  
- 5.** When entering a bathroom designated for unisex use, all employees shall first knock and determine that the facility is empty. Employees shall lock the entrance door when using a bathroom.
  
- 6.** Privacy is a serious consideration for all members. No member is to take an action which could violate privacy of another member. All members using the bunk room area and locker room shall be suitably attired in the minimum of Department issued shorts or equivalent and a T-shirt.
  
- 8.** Failure to enforce and adhere to this policy shall lead to discipline.

BY ORDER OF FIRE COMMISSIONER  
RODERICK J. FRASER JR.

# **EXHIBIT 5**

**GENERAL ORDER  
NO. 14**

**HEADQUARTERS, FIRE DEPARTMENT  
MAY 11, 2011**

**I. HANSFORD DECREE**

The Boston Fire Department is committed to promoting a workplace that is free of discrimination, harassment and retaliation. To be sure that this policy is effectively enforced all members, especially supervisors, must have thorough knowledge of the Hansford Decree and the requirements that the decree specifically places on the Department.

For members who are in firehouses, it is critical to be aware of restrooms, showers, lockers and changing areas for women that is clearly described in the facility section of the decree, as well size and lengths of the movable partitions in the same section. There should no deviation to the requirements set forth in the decree at any time.

We have attached the decree to this General Order; all members must read the decree and understand their role to ensure a non- discriminatory work environment.

A Company tour report signed by each member shall be returned to the Personnel Division.

**BY ORDER OF FIRE COMMISSIONER  
RODERICK J. FRASER JR.**

# **EXHIBIT 6**



## Job description

### Female Liaison for the Boston Fire Department

Under general supervision of the Fire Commissioner or his designee(s), the Boston Fire Department Female Liaison shall be appointed by and serve at the discretion of the Fire Commissioner, and shall work directly with the Deputy Commissioner for Labor Relations, HR & Legal Affairs, the Director of Human Resources and the Deputy Chief of the Personnel Division in carrying out her duties. The overall role of the Female Liaison is to inform and assist the Fire Commissioner and the Department in matters affecting or involving its female firefighters and female fire alarm operators.

### Brief Job Description:

The duties of the Boston Fire Department Female Liaison shall include, but is not limited to:

- Inform and assist the Fire Commissioner with effective, prompt and fair resolutions to any difficulty faced by any appointed female member of the BFD. Serves as a main point of contact for female firefighters and fire alarm operators.
- Resolve matters at the lowest level possible through effective methods established by the BFD or city while respecting members privacy, values and upholding the BFD's and City's Code of Ethics and Conduct.
- Assist in outreach and recruitment efforts to inspire and educate potential female firefighter applicants to increase the number of female firefighters on the Department.
- Render encouragement and support to all female applicants through the hiring process and the BFD Academy to increase the recruitment, retention and advancement of females in the workplace.
- Provide leadership, assistance and guidance to all female members of the BFD through collective mentorship, support and encouragement.
- Conduct periodic meetings and communicate with all female uniform appointees on a regular basis
- Assist Department in developing training modules relating female firefighter issues, and assist with the training of same at the Fire Academy, Fire College and/or departmental training classes; to include but is not limited to educating members on workplace etiquette and promoting a respectable workplace environment.
- Provide guidance and serves as a resource to the Commissioner, command staff, and other officers regarding issues faced by female firefighters and fire alarm operators
- Attend and represent the department at forums, events, conferences relating to the BFD or the fire service

Minimum requirements:

- Female firefighter working in the field preferred
- Veteran background preferred

# **EXHIBIT 7**

**GENERAL ORDER  
NO. 41**

**HEADQUARTERS, FIRE DEPARTMENT  
JULY 20, 2018**

**I. MODIFIED DEPARTMENT STATION BATHROOM POLICY**

On November 16, 2010, the Department issued General Order No. 31 - Boston Fire Department Station Bathroom Policy. A copy of that General Order No. 31 is attached to this General Order for your reference. The Department modifies General Order No. 31 as follows: For those firehouses where there is currently a permanently assigned female firefighter, in addition to the existing interior locks on the women's bathroom doors, the Department will be installing an additional combination push button/key lock on the outside of the designated female bathroom. Only the female members will have the combination to this additional lock. Relevant provisions of General Order No. 31 issued on November 16, 2010 are modified to reflect this change. All other terms as listed on General Order No. 31 issued on November 16, 2010 otherwise remain in full effect. All members and supervisors shall adhere to and follow this modified policy.

The full, modified Policy is re-stated below as follows:

**GENERAL ORDER No. 31**

**NOVEMBER 16, 2010**

**BOSTON FIRE DEPARTMENT STATION BATHROOM POLICY  
(modified)**

1. Purpose: To insure that fire station facilities, especially bunkrooms, restrooms and locker areas, are used in a manner that provides for the privacy concerns of ALL members, and to prevent discrimination as related to the provision or use of those facilities. To insure compliance with Federal OSHA standards regarding provision of restroom facilities for employees.
2. Permanent Assignment: at all firehouses permanently housing a female firefighter, one of the bathrooms shall be designated as a permanent female bathroom. The entrance door to the room shall be clearly and at eye level marked as "Female". No male members, at any time, shall use the female bathroom. In addition to the existing interior lock on the Female bathroom door, the female bathroom will have an additional combination push button/key lock on the outside of the door and only the permanently assigned female member(s) will have the combination to the lock. The key to this additional lock will be kept in the officer's office for use only by female members if there is a problem with the combination lock.

Temporary Assignment: in all firehouses where a female firefighter is temporarily assigned/detailed, in advance of her arrival one bathroom shall be temporarily designated as a female bathroom. The bathroom shall be cleaned and cleared of personal belongings in advance of her arrival. The bathroom door shall be clearly and at eye level marked as "Female". For the duration of her tour of duty, no male members shall use the female

bathroom. The female firefighter is responsible for leaving the bathroom cleaned when she leaves her temporary assignment.

3. Women shall be responsible for maintaining and cleaning all bathrooms designated for female use.
4. Men shall be responsible for maintaining and cleaning all bathrooms designated for male use.
5. Except for inspection by supervisors, tours authorized by the house officer, maintenance or an emergency, no individual shall enter a space designated for use by the opposite gender. Under no circumstances shall anyone enter a bathroom facility designated for use by the opposite gender.
6. When entering a bathroom designated for unisex use, all employees shall first knock and determine that the facility is empty. Employees shall lock the entrance door when using a bathroom.
7. Privacy is a serious consideration for all members. No member is to take an action which could violate privacy of another member. All members using the bunk room area and locker room shall be suitably attired in the minimum of Department issued shorts or equivalent and a T-shirt.
8. Failure to enforce and adhere to this policy shall lead to discipline.

**BY ORDER OF FIRE COMMISSIONER/CHIEF OF DEPARTMENT  
JOSEPH E. FINN**

# **EXHIBIT 8**

**CITY OF BOSTON  
EMERGENCY MEDICAL SERVICES**

<u>POSITION</u>	<u>TOTAL</u>	<u>MALE</u>	<u>FEMALE</u>	<u>WHITE</u>	<u>BLACK</u>	<u>HISPANIC</u>	<u>ASIAN</u>	<u>OTHER</u>
Chief Department	1	1		1				
Superintendent-In-Chief	1	1		1				
Superintendent	3	3		2	1			
Deputy Superintendent	8	5	3	6	2			
Captain	4	4		2		2		
Training Captain	4	2	2	3	1			
Lieutenant	21	17	4	15	4	2		
Paramedic	49	36	13	42	5	1		1
Emergency Medical Technician	289	183	106	206	36	20	8	19
<b>Total</b>	<b>380</b>	<b>252</b>	<b>128</b>	<b>278</b>	<b>49</b>	<b>25</b>	<b>8</b>	<b>20</b>

Above compiled from information received from James Hooley at Boston EMS on 10/5/18.

## **EXHIBIT 9**



<b>RANK</b>	<b>TOTALS</b>	<b>W/M</b>	<b>W/F</b>	<b>B/M</b>	<b>B/F</b>	<b>H/M</b>	<b>H/F</b>	<b>A/M</b>	<b>A/F</b>
<b>SWORN OFFICERS:</b>	<b>****</b>	<b>****</b>	<b>****</b>	<b>****</b>	<b>****</b>	<b>****</b>	<b>****</b>	<b>****</b>	<b>****</b>
SUPERINTENDENT-IN-CHIEF	1	1	0	0	0	0	0	0	0
SUPERINTENDENT	8	5	0	2	1	0	0	0	0
DEPUTY SUPERINTENDENT	10	5	1	3	1	0	0	0	0
CAPTAIN	21	18	0	1	0	1	0	1	0
TEMPORARY CAPTAIN	0	0	0	0	0	0	0	0	0
CAPTAIN DETECTIVE	3	3	0	0	0	0	0	0	0
LIEUTENANT	51	44	4	3	0	0	0	0	0
TEMPORARY LIEUTENANT	0	0	0	0	0	0	0	0	0
LIEUTENANT DETECTIVE	26	23	1	1	0	1	0	0	0
SERGEANT	177	139	8	16	3	8	1	2	0
SERGEANT DETECTIVE	104	77	5	14	2	4	1	1	0
DETECTIVE	278	139	18	64	22	23	4	8	0
PATROL OFFICERS	1,443	816	103	254	78	131	25	31	5
<b>SWORN SUBTOTAL</b>	<b>2,122</b>	<b>1,270</b>	<b>140</b>	<b>358</b>	<b>107</b>	<b>168</b>	<b>31</b>	<b>43</b>	<b>5</b>
<b>RECRUIT OFFICERS:</b>									
CLASS 57-17	0	0	0	0	0	0	0	0	0
Reinstated Officers	0	0	0	0	0	0	0	0	0
Laterals & Previously Trained PO's	0	0	0	0	0	0	0	0	0
<b>RECRUIT SUBTOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>UNIFORMED TOTAL</b>	<b>2,122</b>	<b>1,292</b>	<b>144</b>	<b>365</b>	<b>112</b>	<b>161</b>	<b>31</b>	<b>43</b>	<b>5</b>
<b>CIVILIAN PERSONNEL:</b>									
CIVILIANS	535	150	195	21	86	27	36	12	8
POLICE CADETS	58	20	3	12	7	6	7	3	0
SCHOOL TRAFFIC SUPERVISORS	183	12	84	5	55	2	25	0	0
<b>CIVILIAN SUBTOTAL</b>	<b>776</b>	<b>182</b>	<b>282</b>	<b>38</b>	<b>148</b>	<b>35</b>	<b>68</b>	<b>15</b>	<b>8</b>
<b>BPD PERSONNEL TOTAL</b>	<b>2,898</b>	<b>1,474</b>	<b>426</b>	<b>403</b>	<b>260</b>	<b>196</b>	<b>99</b>	<b>58</b>	<b>13</b>

RANK	TOTALS	W/M	W/F	B/M	B/F	H/M	H/F	A/M	A/F
RANK		W/M	W/F	B/M	B/F	H/M	H/F	A/M	A/F
<b>SWORN OFFICERS:</b>									
SUPERINTENDENT-IN-CHIEF		100.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
SUPERINTENDENT		62.5%	0.0%	25.0%	12.5%	0.0%	0.0%	0.0%	0.0%
DEPUTY SUPERINTENDENT		50.0%	10.0%	30.0%	10.0%	0.0%	0.0%	0.0%	0.0%
CAPTAIN		85.7%	0.0%	4.8%	0.0%	4.8%	0.0%	4.8%	0.0%
TEMPORARY CAPTAIN		0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
CAPTAIN DETECTIVE		100.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
LIEUTENANT		86.3%	7.8%	5.9%	0.0%	0.0%	0.0%	0.0%	0.0%
TEMPORARY LIEUTENANT		0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
LIEUTENANT DETECTIVE		88.5%	3.8%	3.8%	0.0%	3.8%	0.0%	0.0%	0.0%
SERGEANT		78.5%	4.5%	9.0%	1.7%	4.5%	0.6%	1.1%	0.0%
SERGEANT DETECTIVE		74.0%	4.8%	13.5%	1.9%	3.8%	1.0%	1.0%	0.0%
DETECTIVE		50.0%	6.5%	23.0%	7.9%	8.3%	1.4%	2.9%	0.0%
PATROL OFFICERS		56.5%	7.1%	17.6%	5.4%	9.1%	1.7%	2.1%	0.3%
<b>SWORN SUBTOTAL</b>		59.8%	6.6%	16.9%	5.0%	7.9%	1.5%	2.0%	0.2%
<b>RECRUIT OFFICERS:</b>									
CLASS 56-16		#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!
Reinstated Officers		#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!
Laterals & Previously Trained PO's		#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!
<b>RECRUIT SUBTOTAL</b>		#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!
<b>UNIFORMED TOTAL</b>		60.9%	6.8%	17.2%	5.3%	7.6%	1.5%	2.0%	0.2%
<b>CIVILIAN PERSONNEL:</b>									
CIVILIANS		0.0%	36.4%	3.9%	16.1%	5.0%	6.7%	2.2%	1.5%
POLICE CADETS		3.7%	0.6%	2.2%	1.3%	1.1%	1.3%	0.6%	0.0%
SCHOOL TRAFFIC SUPERVISORS		6.6%	45.9%	2.7%	30.1%	1.1%	13.7%	0.0%	0.0%
<b>CIVILIAN SUBTOTAL</b>		23.5%	36.3%	4.9%	19.1%	4.5%	8.8%	1.9%	1.0%
<b>BPD PERSONNEL TOTAL</b>		50.9%	14.7%	13.9%	9.0%	6.8%	3.4%	2.0%	0.4%

# **EXHIBIT 10**

**CITY OF BOSTON  
BOSTON FIRE DEPARTMENT  
HIRES BY CLASS**

<u>CLASS YEAR</u>	<u># HIRED</u>	<u>MALE</u>	<u>FEMALE</u>	<u>WHITE</u>	<u>BLACK</u>	<u>HISPANIC</u>	<u>ASIAN</u>
4/24/2007	48	47	1	38	8	2	
11/5/2007	54	53	1	42	7	4	1
6/11/2008	37	35	2	30	6	1	
9/20/2010	50	50		41	7	2	
11/7/2011	48	47	1	37	2	9	
7/9/2012	51	50	1	46	1	3	1
2/4/2013	54	53	1	46	7	1	
9/9/2013	51	50	1	45	4	2	
8/26/2014	53	53		52	1		
9/16/2015	50	50		42	3	3	2
2/23/2016	25	25		23	1	1	
10/31/2016	50	50		44	3	2	1
2/14/2018	60	60		45	4	10	1
Above compiled from information received from Andrea L. Hennelly, Director of Human Resources, Boston Fire Department on 10/24/18.							

# **EXHIBIT 11**

## **2016 Firefighter Exam BFD Hiring Information**

The 2016 Firefighter Exam was held on April 16, 2016. In the fall of 2016, the 2016 Eligibility List was established by the State's Human Resources Division (HRD). In the fall of 2017, BFD was approved for 3 Firefighter Certifications (Regular, Spanish and Haitian Creole) from HRD to fill a BFD Recruit Class of 60. Here is a breakdown of the names referred to BFD from HRD. Note: Selection must be made from the highest ranked candidates willing to accept unless you have reasonable justification for bypass.

### **REGULAR LIST**

196 names were referred - 195 Males & 1 Female

Preference:

- 194 male DAV's
- 1 male Civilian with a 402A preference who did not sign the certification
- 1 female DAV in Band 8 – Did not reach, only hired 2 people from Band 7

### **SPANISH LIST**

52 names were referred - 52 Males

Preference:

- 15 male DAV's
- 12 male VET's
- 25 male Civilians

5 Civilians were reached & hired on the Spanish list

### **HAITIAN CREOLE LIST**

15 names were referred - 14 Males & 1 Female

Preference:

- 4 male DAV's
- 2 male VET's
- 8 male Civilians
- 1 female VET – Open CORI/A&B case pending with minor child – BFD does not hire anyone with an open A&B case

2 Civilians were reached & hired on the Haitian Creole List

In the summer of 2018, BFD was approved for 5 Firefighter Certifications (Regular, Spanish, Haitian Creole, Chinese and Vietnamese) from HRD to fill BFD's next recruit class. This will be the second and last class from the 2016 Firefighter list as the 2018 Firefighter list will be established by HRD on December 1, 2018. The start date for this class is TBD.

## **REGULAR LIST**

291 names were referred - 286 Males & 5 Females

Preference:

- 215 DAV's
  - 213 male DAV's, 2 female DAV's
- Of the 2 female DAV's
  - 1 given conditional offer of employment
  - 1 did not sign the certification (currently employed by BFD as a Fire Alarm Operator)
- 74 VET's
  - 71 male VET's, 3 female VET's
- Of the 3 female VET's
  - 2 signed the certification
  - 1 did not sign the certification
  - Note - No VET's from the regular list will be reached due to the amount of DAV's higher on the list
- 2 male Civilians – 534 and 402B preference
  - 534 preference will not be hired due to CORI record
  - 402B preference will not be reached

## **SPANISH LIST**

67 names were referred – 62 Males and 5 females

Preference:

- 14 male DAV's
- 9 male VET's
- 39 male Civilians, 5 female Civilians
- Of the 5 female Civilians
  - 1 did not sign the certification
  - 1 given conditional offer of employment
  - 1 was not eligible for Boston residency preference
  - 1 was no longer interested because she was hired by BPD
  - 1 was no longer interested; did not disclose why

## **HAITIAN CREOLE LIST**

19 names were referred - 16 Males & 3 Female

Preference:

- 4 male DAV's
- 2 male VET's, 1 female VET
- Of the 1 female VET - Open COR1/A&B case pending with minor child (same candidate from the prior certification)
- 10 male Civilians, 2 female Civilians
- Of the 2 female Civilians
  - 1 did not sign the certification
  - 1 will not be hired due to poor employment history

## **CHINESE LIST**

14 names were referred – 13 Males & 1 Female

Preference:

- 3 male DAV's
- 2 male VET's
- 8 male Civilians, 1 female Civilian
- Of the 1 female Civilian, she was given a conditional offer of employment

## **VIETNAMESE LIST**

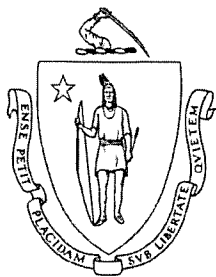
11 names were referred – 11 Males

Preference:

- 1 male DAV
- 1 male VET
- 9 male Civilians



# **EXHIBIT 12A**



CHARLES D. BAKER  
GOVERNOR

KARYN E. POLITO  
LIEUTENANT GOVERNOR

The Commonwealth of Massachusetts  
Commission Against Discrimination

JOHN W. MCCORMACK BUILDING

1 ASHBURTON PLACE • ROOM 601 • BOSTON, MA 02108-1524



SUNILA THOMAS GEORGE  
CHAIRWOMAN

SHEILA A. HUBBARD  
COMMISSIONER

MONSERRATE QUIÑONES  
COMMISSIONER

August 1, 2018

Mr. Bruce T. Howard, Jr.  
Director of Operations  
Human Resources Division - Civil Service Unit  
One Ashburton Place, Room 301  
Boston, MA 02108

Re: Request for Selective Certification  
City of Boston Fire Department

Dear Mr. Howard:

The Massachusetts Commission Against Discrimination (“MCAD”) is in receipt of Ms. Caggiano’s July 13, 2018 request for the MCAD’s recommendation regarding the City of Boston Fire Department’s application for a Selective Certification List for five (5) Female Permanent Firefighters. In order for the Investigating Commissioner to provide a recommendation approving the request, the Appointing Authority (City of Boston Fire Department) must provide sufficient evidence to show the factual basis for believing that: 1) males would be unable to satisfy and efficiently perform the duties of the female permanent firefighter; 2) the City of Boston Fire Department’s operation would be undermined by not hiring females exclusively for these positions; and 3) the City of Boston Fire Department could not accomplish its goals by adopting a less discriminatory practice.

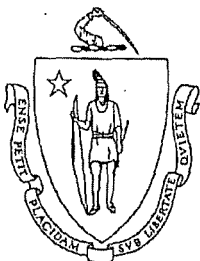
Based upon the information supplied to date, the Investigating Commissioner is unable to make a favorable recommendation at this time. If the City of Boston Fire Department has additional information and/or documentation that would support this request for selective certification for Female Permanent Firefighters, please forward the information and/or documentation to my attention and the Commissioner will review the submission. Thank you.

Best regards,  
*Simone Liebman*  
Simone R. Liebman  
Commission Counsel

cc: Regina Caggiano  
Director Civil Service Unit

Sheila A. Hubbard  
MCAD Commissioner

# **EXHIBIT 12B**



CHARLES D. BAKER  
GOVERNOR

KARYN E. POLITO  
LIEUTENANT GOVERNOR

The Commonwealth of Massachusetts  
Commission Against Discrimination

JOHN W. MCCORMACK BUILDING

1 ASHBURTON PLACE • ROOM 601 • BOSTON, MA 02108-1524



SUNILA THOMAS GEORGE  
CHAIRWOMAN

SHEILA A. HUBBARD  
COMMISSIONER

MONSERRATE QUIÑONES  
COMMISSIONER

October 5, 2018

Mr. Bruce T. Howard, Jr.  
Director of Operations  
Human Resources Division - Civil Service Unit  
One Ashburton Place, Room 301  
Boston, MA 02108

Re: Request for Selective Certification  
City of Boston Fire Department

Dear Mr. Howard:

The Massachusetts Commission Against Discrimination ("MCAD") is in receipt of Boston Fire Department's revised request to support selective certification for five (5) Female Permanent Firefighters for the City of Boston Fire Department. The Commission has reviewed the revised materials, and based on the factors set forth in the Commission's August 1, 2018 correspondence, continues to be unable to make a favorable recommendation. Thank you.

Best regards,

Simone R. Liebman  
Commission Counsel

cc: Regina Caggiano  
Director Civil Service Unit

Sheila A. Hubbard  
MCAD Commissioner

# **EXHIBIT 13**

**CITY OF BOSTON  
BOSTON POLICE DEPARTMENT  
CADET CLASSES**

<u>CLASS YEAR</u>	<u># CADETS</u>	<u>MALE</u>	<u>FEMALE</u>	<u>WHITE</u>	<u>BLACK</u>	<u>HISPANIC</u>	<u>ASIAN</u>
2007	45	38	7	24	16	4	1
2008	6	5	1	1	4	1	
2016	43	28	15	12	18	11	2
2018	34	23	11	14	10	9	1
Above compiled from information received from Shauna O'Rourke, BPD, Director, Employment Services Unit on 10/16/18 and 10/25/18.							

# **EXHIBIT 14**

CITY OF BOSTON • MASSACHUSETTS  
OFFICE OF THE MAYOR  
MARTIN J. WALSH

**EXECUTIVE ORDER**  
**VALUING DIVERSITY AND EQUALITY STATEMENT**  
*“Diversity is the strength of our City”*

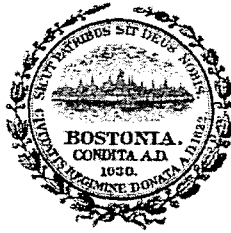
**The City of Boston is committed to:**

Promoting respect and equality,  
Valuing the diversity of each individual and group,  
Acknowledging and welcoming diverse viewpoints,  
Fostering dialogue and positive relationships between individuals and groups,  
Providing respectful, responsive and accessible service to all,  
Ensuring our workforce reflects the diverse population of Boston at all levels,  
Demonstrating the highest level of integrity through open, honest and ethical behavior with employees,  
vendors, visitors and residents,  
Uniting to eliminate all forms of discrimination.

1. The City of Boston recognizes and promotes the value of life experiences, cultures, languages, races, viewpoints and identities including age, employment status, income, disability, educational background, gender, race, color, national origin, religion, sexual orientation, gender expression and/or identity or veteran’s status which make neighborhoods a significantly richer place for everyone to live, visit and work, and contributes to Boston’s economy.
2. In the delivery of services to our customers and the management of its workforce, the City of Boston will value the culture, background and viewpoint of all residents, visitors and employees. Valuing diversity, equality, inclusion and encouraging dialogue are central goals of this administration. The City of Boston expects the highest level of integrity through open, honest and ethical behavior. We will not tolerate disrespectful conduct, harassment of any kind and will not discriminate.
3. As employees, we perform duties that impact Boston’s residents, businesses and visitors. We share the responsibility of making all levels of the City’s government responsive to the needs of all the communities of Boston.
4. Through appropriate policy and practice, the City will ensure that everyone in Boston has a voice in government and equal access to City Services. We will provide competent delivery of public services and programs, by actively seeking input from various cultural, racial and linguistic communities in order to better understand and respond to their needs and concerns.
5. To help our City perform at its best and remain responsive to all, we must strive to reflect the diversity of the City’s population in our workforce at all levels of the administration. Therefore, as an equal opportunity employer, managers will actively recruit, mentor, train and promote employees from all segments of the Boston labor force.
6. As employees of the City, we are accountable for the highest level of integrity through open, honest and ethical behavior. We are committed to working together to create a work environment that: welcomes and includes everyone; treats each resident, business, visitor and employee fairly and with dignity; and inspires us to perform at our best.



# **EXHIBIT 15A**



**Executive Order  
October 2000  
City of Boston**

**Policy/Investigation Procedure on Discrimination, Sexual & Other Forms of Harassment and Retaliation**

**Whereas**, it is the policy of the City of Boston to promote a workplace that is free of unlawful harassment, **it is hereby ordered and directed:**

1. The "City of Boston Policy/Investigation Procedure on Discrimination, Sexual & Other Forms of Harassment and Retaliation", in the form attached hereto and incorporated herein by reference, shall be the City of Boston's Policy on Workplace Discrimination, Harassment and Retaliation.
2. All departments within the City of Boston shall adhere to this policy, provided, however, that the Boston Fire Department, the Boston Police Department and the Boston School Department shall issue and maintain their own Policies on Workplace Harassment.
3. This Policy supersedes any other Harassment Policy heretofore issued by the City of Boston or any Cabinet Member, Department Head or other officer of the City of Boston.
4. This Executive Order shall be effective October 2000.
5. A copy of this Executive Order shall be given to each employee of the City of Boston, excluding employees of those departments listed in paragraph 2 herein.

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Martin J. Walsh  
Mayor of Boston

**CITY OF BOSTON POLICY/INVESTIGATION PROCEDURE ON WORKPLACE**

## DISCRIMINATION, HARASSMENT AND RETALIATION (updated 1/17)

The City of Boston (the City) affirms its commitment to promote a workplace that is free of discrimination, harassment and retaliation, illegal under state and/or federal law, or City Ordinance — based on sex, race, color, national origin/ethnicity, religion, disability, sexual orientation, age, gender identity or veterans status. The City is committed to maintaining a workplace free of retaliation, based on an employee having complained of, or opposed, discrimination or harassment, or based on an employee having cooperated or assisted with an investigation into discrimination or harassment.

The City expects all employees to conduct themselves in a professional manner with respect and concern for their fellow employees and members of the public. Discrimination, harassment and retaliation are unlawful and will not be tolerated.

The City prohibits discrimination, harassment, and retaliation against employees, customers and visitors.

The policy is not designed or intended to limit the authority of the City to discipline or take remedial action for workplace conduct which the City deems unacceptable, regardless of whether that conduct satisfies the definition of sexual or other forms of harassment or discrimination proscribed by state and/or federal law.

### DEFINITIONS AND EXAMPLES

Discrimination, harassment, and retaliation are contrary to City policy and are also illegal. Such conduct is defined as follows:

- *Conduct that conditions a person's hiring, compensation, terms and conditions of employment or access to services provided by the City on that person's sex, race, color, national origin/ethnicity, religion, disability, sexual orientation, age, gender identity or veterans status unless otherwise permitted or required by applicable law;*
- *Adverse employment decisions or decisions regarding access to City of Boston services directed against a person in retaliation for filing a complaint of, or opposing, discrimination, harassment, or retaliation, or for participating or assisting with an investigation or proceeding related to such or;*
- *Harassing conduct of any type (oral, written, email, internet, graphic or physical) directed against a person because of his or her sex, race, color, national origin/ethnicity, religion, disability, sexual orientation, age, gender identity, or veterans status or for filing a complaint. Or for a person opposing discrimination, harassment or retaliation, or participating in or assisting with an investigation and which unreasonably interferes with the person's work or creates a work environment that a reasonable person would find hostile, offensive, humiliating or intimidating.*

**Sexual harassment** means sexual advances, request for sexual favors, and verbal or physical conduct of a sexual nature when:

- *submission to or rejection of such advances, request or conduct is made either explicitly or implicitly a term or condition of employment or as a basis for employment decisions.*

**Sexual harassment, harassment, and or discrimination** based on sex, race, color, national origin/ethnicity, religion, disability, sexual orientation, age, gender identity or veterans status occurs when:

- *such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individual's work performance by creating an intimidating, hostile, humiliating or offensive work environment.*

### EXAMPLES OF UNLAWFUL HARASSMENT

The following are some examples of conduct, which if unwelcome, and based on sex, race, color, national origin/ethnicity, religion, disability, sexual orientation, age, gender identity or veterans status may constitute harassment:

- *Sexual advances - (verbal or physical) whether they involve physical touching or not;*
- *Displaying sexually, racially, or other suggestive, offensive or intimidating objects, pictures, cartoons, symbols;*
- *Leering, whistling, brushing up against, or touching personal body areas, sexual gestures, suggestive, demeaning or insulting comments;*
- *Inquiries into one's sexual activities;*
- *Use of sexual, racial, or other epithets, slurs or derogatory comments;*
- *Written or oral reference to sexual conduct, gossip regarding one's sex life;*
- *Belittling, derogatory or mocking culture or language;*
- *Commenting on an individual's sexual activity, deficiencies, or prowess;*
- *Assault or coerced sexual acts;*
- *Jokes that have a sexual, racial, ethnic, disability, homophobic, age-ist connotation;*
- *Any improper use of the City's e-mail or Internet as a form of harassment will not be tolerated;*
- *Displaying material or verbal or physical conduct that shows hostility or aversion to a person's race, color, national origin, religion, etc.;*
- *Denying employment opportunities because of such characteristics or association with someone of a particular race, gender, sexual orientation, national origin, etc.*

### NOTIFICATION

Employees may notify their immediate supervisor, Cabinet Officer, Department Head, Director of Human Resources, Vivian Leonard at 635-4698 or Jennifer Wexler at 635-3375 regarding any incident whether it is intended or not, that is unwelcome and has the effect of creating a work environment that is hostile, offensive, intimidating or humiliating to employees because of their sex, race, color, national origin/ethnicity, religion, disability, sexual orientation, age, gender identity or veterans status.

When **supervisors** are notified of such incidents, **they have a responsibility to promptly notify** the Office of Human Resources.

If an employee believes that he or she has been subjected to harassment, the employee has the right to file a complaint with the City. This may be done verbally or in writing. The Office of Human Resources seeks to mediate the problems in an expeditious manner.

### INVESTIGATION PROCEDURE

The City of Boston takes allegations of harassment seriously and will respond promptly to such complaints. The complaint procedure is designed to facilitate a prompt internal review of the allegations and a fair and equitable resolution of the situation. The investigation procedure generally involves the following steps:

**Fact gathering:**

- a. **Compiling-** written or oral statements from all involved in the situation, including witnesses,
- b. **Collecting-** personnel records that may establish facts (which may include pay records, job assignments, promotions, transfers, working hours, performance appraisals, etc.),
- c. **Interviewing-** privately the person filing the complaint, witnesses, and the person alleged to have committed the harassment.

**A complaint may be determined to be:**

- a. **Founded-** the incident occurred as charged
- b. **Unfounded-** the incident is not harassment
- c. **Inconclusive-** there is insufficient evidence to make a ruling either way.

**Intervention - Resolution:**

*We will to the extent appropriate inform the person filing the complaint and the person alleged to have committed the conduct of the results of the investigation. Any employee of the City of Boston who is found after an investigation to have harassed and/or discriminated against another in the workplace **will be subject to disciplinary action up to and including termination.***

**FURTHER INFORMATION**

The Office of Human Resources is sensitive to the thoughts and feelings of those involved and will treat every employee seeking advice or filing a complaint with seriousness and maintain confidentiality to the extent practicable.

Retaliation against an employee who has filed a complaint or who has cooperated in the investigation of such a complaint will not be tolerated and will be the subject of a separate harassment complaint and investigation.

At any time, you may file a complaint through State or Federal agencies or courts empowered to enforce anti-harassment, anti-discrimination and anti-retaliation laws.

In addition to a formal investigation of the complaint, an informal mediated procedure may be available to you depending on the severity of the incident and the agreement of all parties to mediate the matter. Interested parties should contact Jennifer Wexler at 635-3375.

**OTHER LEGAL RECOURSE**

**STATE**

Massachusetts Commission Against  
Discrimination (MCAD)  
One Ashburton Place  
Boston, MA 02108  
617-994-6000  
*within 300 days from date of violation*

**FEDERAL**

United States Equal Employment  
Opportunity Commission (EEOC)  
JFK Federal Building Room 601  
475 Government Center  
Boston, MA 02203  
617-565-3200  
*within 300 days from date of violation*

# **EXHIBIT 15B**

**Executive Order  
December 2018  
City of Boston**

**Policy/Investigation Procedure on Discrimination, Sexual & Other Forms of  
Harassment and Retaliation**

**Whereas**, it is the policy of the City of Boston to promote a workplace that is free of unlawful harassment, **it is hereby ordered and directed:**

1. The “City of Boston Policy/Investigation Procedure on Discrimination, Sexual & Other Forms of Harassment and Retaliation”, in the form attached hereto and incorporated herein by reference, shall be the City of Boston’s Policy on Workplace Discrimination, Harassment and Retaliation.
2. All departments within the City of Boston shall adhere to this policy. The Boston Fire Department, the Boston Police Department and the Boston School Department may issue and maintain their own Policies and Procedures on Workplace Harassment that supplement this Executive Order.
3. This Policy supersedes any other Harassment Policy heretofore issued by the City of Boston or any Cabinet Member, Department Head or other officer of the City of Boston.
4. This updated Executive Order shall be effective December 2018.
5. A copy of this Executive Order shall be given to each employee of the City of Boston.

Martin J. Walsh  
Mayor of Boston

## **DISCRIMINATION, HARASSMENT AND RETALIATION (updated 12/18)**

The City of Boston (the City) affirms its commitment to promote a workplace that is free of discrimination, harassment and retaliation, illegal under state and/or federal law, or City Ordinance — based on sex, race, color, national origin/ethnicity, religion, disability, sexual orientation, age, gender identity, genetic history or veterans status. The City is committed to maintaining a workplace free of retaliation, based on an employee having complained of, or opposed, discrimination or harassment, or based on an employee having cooperated or assisted with an investigation into discrimination or harassment.

The City expects all employees to conduct themselves in a professional manner with respect and concern for their fellow employees and members of the public. Discrimination, harassment and retaliation are unlawful and will not be tolerated.

The City prohibits discrimination, harassment, and retaliation against employees, customers, visitors and members of the public.

The policy is not designed or intended to limit the authority of the City to discipline or take remedial action for workplace conduct which the City deems unacceptable or inappropriate, regardless of whether that conduct satisfies the definition of sexual or other forms of harassment or discrimination proscribed by state and/or federal law.

### **DEFINITIONS AND EXAMPLES**

Discrimination, harassment, and retaliation are contrary to City policy and are also illegal. Such conduct is defined as follows:

- *Conduct that conditions a person 's hiring, compensation, terms and conditions of employment or access to services provided by the City on that person 's sex, race, color, national origin/ethnicity, religion, disability, sexual orientation, age, gender identity, genetic history or veterans status unless otherwise permitted or required by applicable law;*
- *Adverse employment decisions or decisions regarding access to City of Boston services directed against a person in retaliation for filing a complaint of or opposing, discrimination, harassment, or retaliation, or for participating or assisting with an investigation or proceeding related to such or;*
- *Harassing conduct of any type (oral, written, email, internet, graphic or physical) directed against a person because of his or her sex, race, color, national origin/ethnicity, religion, disability, sexual orientation, age, gender identity, genetic history, or veterans status or for filing a complaint. Or for a person opposing discrimination, harassment or retaliation, or participating in or assisting with an investigation and which unreasonably interferes with the person 's work or creates a work environment that a reasonable person would find hostile, offensive, humiliating or intimidating.*



**Sexual harassment** means sexual advances, request for sexual favors, and verbal or physical conduct of a sexual nature when:

- *submission to or rejection of such advances, request or conduct is made either explicitly or implicitly a term or condition of employment or as a basis for employment decisions.*

**Sexual harassment, harassment, and or** discrimination based on sex, race, color, national origin/ethnicity, religion, disability, sexual orientation, age, gender identity, genetic history or veterans status occurs when:

- *such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individual's work performance by creating an intimidating, hostile, humiliating or offensive work environment.*

### **EXAMPLES OF UNLAWFUL HARASSMENT**

The following are some examples of conduct, which if unwelcome, and based on sex, race, color, national origin/ethnicity, religion, disability, sexual orientation, age, gender identity, genetic history or veterans status may constitute harassment:

- *Sexual advances - (verbal or physical) whether they involve physical touching or not;*
- *Displaying sexually, racially, or other suggestive, offensive or intimidating objects, pictures, cartoons, symbols;*
- *Leering, whistling, brushing up against, or touching personal body areas, sexual gestures, suggestive, demeaning or insulting comments;*
- *Inquiries into one's sexual activities;*
- *Use of sexual, racial, or other epithets, slurs or derogatory comments;*
- *Written or oral reference to sexual conduct, gossip regarding one's sex life;*
- *Belittling, derogatory or mocking culture or language;*
- *Commenting on an individual's sexual activity, deficiencies, or prowess;*
- *Assault or coerced sexual acts;*
- *Jokes that have a sexual, racial, ethnic, disability, homophobic, age-ist connotation;*
- *Any improper use of the City's e-mail or Internet as a form of harassment will not be tolerated;*
- *Displaying material or verbal or physical conduct that shows hostility or aversion to a person's race, color, national origin, religion, etc.;*
- *Denying employment opportunities because of such characteristics or association with someone of a particular race, gender, sexual orientation, national origin, etc.*

The alleged harasser may be a supervisor, a supervisor in another work area, or a coworker. The complainant may be anyone affected by the offensive conduct, even in instances in which the behavior is not directed at that person. In addition, harassment may occur outside the usual work premises, such as during travel for work, at department events, or social gatherings. Calls, texts, emails and social media usage by employees can constitute harassment even if they occur away from the workplace, on personal devices or during non-work time.

## EXAMPLES OF RETALIATION

Retaliation can be any action that would discourage an individual from coming forward to make or support a claim of harassment or discrimination. It can include comments, shunning, ostracizing, interfering with an employee's work, damaging their equipment, or any other conduct intended to display displeasure or annoyance because of an individual's protected activity.

## NOTIFICATION

Employees may notify their immediate supervisor, Cabinet Officer, Department Head, Director of Human Resources, Vivian Leonard at 635-4698 or Jennifer Wexler at 635-3375 regarding any incident whether it is intended or not, that is unwelcome and has the effect of creating a work environment that is hostile, offensive, intimidating or humiliating to employees because of their sex, race, color, national origin/ethnicity, religion, disability, sexual orientation, age, gender identity, genetic history or veterans status.

When **supervisors** are notified of such incidents, **they have a responsibility to promptly notify** the Office of Human Resources. Failure of a supervisor to promptly report such issues will result in disciplinary action up to and including termination.

If an employee believes that he or she has been subjected to harassment, the employee has the right to file a complaint with the City. This may be done verbally or in writing. The Office of Human Resources seeks to mediate the problems in an expeditious manner.

## INVESTIGATION PROCEDURE

The City of Boston takes allegations of harassment seriously and will respond promptly to such complaints. The complaint procedure is designed to facilitate a prompt internal review of the allegations and a fair and equitable resolution of the situation. The investigation procedure generally involves the following steps:

### **Fact gathering:**

- a. **Compiling** - *written or oral statements from all involved in the situation, including witnesses,*
- b. **Collecting** - *personnel records that may establish facts (which may include pay records, job assignments, promotions, transfers, working hours, performance appraisals, etc.),*
- c. **Interviewing** - *privately the person filing the complaint, witnesses, and the person alleged to have committed the harassment.*

## **Intervention - Resolution:**

*We will to the extent appropriate inform the person filing the complaint and the person alleged to have committed the conduct of the results of the investigation. Any employee of the City of Boston who is found after an investigation to have harassed and/or discriminated against another in the workplace will be subject to disciplinary action up to and including termination.*

## **FURTHER INFORMATION**

The Office of Human Resources is sensitive to the thoughts and feelings of those involved and will treat every employee seeking advice or filing a complaint with seriousness and maintain confidentiality to the extent practicable.

Retaliation against an employee who has filed a complaint or who has cooperated in the investigation of such a complaint will not be tolerated and will be the subject of a separate harassment complaint and investigation.

At any time, you may file a complaint through State or Federal agencies or courts empowered to enforce anti-harassment, anti-discrimination and anti-retaliation laws.

In addition to a formal investigation of the complaint, an informal mediated procedure may be available to you depending on the severity of the incident and the agreement of all parties to mediate the matter. Interested parties should contact Jennifer Wexler at 635-3375.

## **OTHER LEGAL RECOURSE**

### **STATE**

Massachusetts Commission Against  
Discrimination (MCAD)  
One Ashburton Place  
Boston, MA 02108  
617-994-6000  
*within 300 days from date of violation*

### **FEDERAL**

United States Equal Employment  
Opportunity Commission (EEOC)  
JFK Federal Building Room 601  
475 Government Center  
Boston, MA 02203  
617-565-3200  
*within 300 days from date of  
violation*

# **EXHIBIT 16A**

## CHAPTER 18

- 18.35 Every person appointed to the department shall, before entering upon his/her duties, make and subscribe to the oath of office, sign an agreement to abide by the rules and regulations as they are or may be established, and be subject to any penalties imposed by the Fire Commissioner for violations thereof.
- 18.36 Probationers who have served twelve months, graduated from Drill School, and have been approved for permanent appointment by the Medical Examiner, will, if of satisfactory record and in possession of a motor vehicle driver's license, be given certificates of permanent appointment.
- 18.37 Transfers within the department will be made subject to the provisions of the current contractual agreement with Local 718, IAFF, and members shall apply for same in writing on Form 5T after their probationary period is completed, stating their date of appointment and date of promotion, if any. Transfer requests must be received by the Personnel Office by the close of business on the 15<sup>th</sup> of the month. After the end of business on the 15<sup>th</sup> of the month, members will not be permitted to rescind their transfer requests. Members locked into their future assignments because of the operational needs of the department will remain locked into their assignments until their transfers no longer affect the operational needs of the department. Members may at any time during their locked-in status rescind the desired transfer so long as it reaches the Personnel Office by the end of business on the 15<sup>th</sup> of any given month prior to the transfer taking effect.
- 18.38 Resignations must be tendered in writing on a Form 5A, stating reason for resignation.
- 18.39 Membership in the Boston Firemen's Mutual Relief Association is available to all members of the fire fighting force. Assessments of said association shall be paid when due under penalty of suspension from said association.
- 18.40 No member shall be obliged to render service of a purely personal character.
- 18.41 Discrimination and Harassment
- (a) Conduct Prohibited  
The Boston Fire Department prohibits discrimination against or harassment of any person on the basis of race, color, age, disability, national origin, religious creed, sexual orientation, veteran status or marital status. Retaliation against a member who has complained of such discrimination or harassment or cooperated in any investigation of such discrimination or harassment also is prohibited. All members shall treat each other and the public in a manner that is non-discriminatory, respectful and fair.

## CHAPTER 18

The department will initiate appropriate action to eliminate discrimination in the workplace. Any member who violates this rule or fails to enforce this rule shall be subject to corrective disciplinary action, including suspension and discharge.

1. Harassment Defined

Harassment is a form of unlawful discrimination if it is based upon a member's race, color, age, national origin, religious creed, sexual orientation, veteran status, disability or marital status. Harassment may interfere with an individual's work performance, or it may create an intimidating, offensive or hostile work environment.

2. Complaints of Discrimination

Members shall notify their immediate supervisor or the 18.41 Committee of any complaint of discrimination or harassment by another member of the department, a vendor, or a member of the public. An officer shall relay any complaint of discrimination prohibited by section (a) (1) of this rule to the 18.41 Committee in addition to performing an investigation pursuant to 18.41(c). Members shall provide notice of complaints within thirty days of the date the member had knowledge, or should have had knowledge, of the discriminatory event. The 18.41 Committee shall immediately notify the Deputy Fire Chief of the Personnel Division of the complaint, who shall inform the Fire Commissioner and the Deputy Fire Chief of the Division to which the member is assigned. The Committee shall investigate the complaint and shall formulate a recommendation within thirty days of receiving the complaint. The Deputy Fire Chief of the Personnel Division, the Chairperson of the Committee and the Department Affirmative Action Officer shall report the Committee recommendation to the Chief of Operations. The Chief of Operations shall implement the recommendation if he concurs with it. If the Chief of Operations disagrees with the recommendation or suggests that the recommendation be modified, the Chief, along with members who presented the recommendation, shall present both the recommendation and the proposed modification to the Commissioner, who shall take whatever action he believes is appropriate. Members also may file complaints of discrimination with the City of Boston Director of Affirmative Action and appropriate agencies within the time period established by those entities.

(b) Gender-Based Discrimination and Sexual Harassment

The Boston Fire Department prohibits discrimination on the basis of sex and sexual harassment. Such conduct is unlawful and will result in the imposition of corrective disciplinary measures ranging from written reprimand to termination of

## CHAPTER 18

employment. Retaliation against a member who has complained of sex discrimination or sexual harassment or who has cooperated in an investigation of such complaints also is unlawful and prohibited.

1. Sexual harassment is defined as unwelcome sexual advances. Requests for sexual favors and other verbal and physical conduct of a sexual nature constitute sexual harassment when:
  - submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
  - submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting that individual; or
  - such conduct has the purpose or effect of substantially interfering with an individual's work performance or creates an intimidating, hostile or offensive work environment.

2. Examples

Examples of sexual harassment include, but are not limited to, unwelcome sexual advances whether they involve physical touching or not; sexual epithets, jokes, written or oral references to sexual conduct, gossip regarding one's sex life; comment on an individual's body, comment about an individual's sexual activity, deficiencies, or prowess; unwelcome leering, whistling, brushing against the body, sexual gestures, suggestive or insulting comments; inquiries into one's sexual experiences; and discussion of one's sexual activities.

3. Complaints of Discrimination

Any member who believes he or she has been subjected to sex discrimination or sexual harassment is urged to file a complaint with the Deputy Fire Chief of the Personnel Division, Boston Fire Department, 115 Southamton Street, Boston, MA 02118, (617) 343-3460, or the Director of Affirmative Action, City of Boston, 612 City Hall, Boston, MA 02201, 635-3360. The complaint will be promptly investigated. The investigator(s) will maintain confidentiality to the extent practicable under the circumstances. The investigation will include a private interview with the member filing the complaint and with witnesses. The person alleged to have committed sexual harassment also will be interviewed. At the conclusion of the investigation, the department will, to the extent appropriate, inform the member filing the complaint and the person alleged to have committed the conduct of the results of the investigation. If it is determined that inappropriate conduct has occurred, the department will act promptly to eliminate the offending conduct. The department will impose

## CHAPTER 18

corrective, disciplinary measures, including termination, when warranted. The Boston Fire Department would like to learn about and respond to every allegation of harassment. The department expects that a member who has been harassed will report the matter to his or her officer or one of the individuals identified. It is a member's legal right to file a formal complaint with the agencies responsible for enforcing the laws against discrimination. They are:

("EEOC")  
One Congress Street - 10th Floor  
Boston, MA 02114  
(617) 565-3200

and the Massachusetts Commission against Discrimination:

("MCAD")  
One Ashburton Place  
Room 601  
Boston, MA 02108  
(617) 727-3990

(c) Responsibilities of Officers

Officers, as leaders, shall endeavor to create and maintain a work environment which is free of discrimination and harassment. Officers shall investigate and report through the chain of command to the Fire Commissioner and the Deputy Fire Chief of the Personnel Division all complaints of discrimination or harassment. It is the responsibility of every officer to try to prevent discrimination and harassment from occurring. Officers shall annually communicate this policy to each member under their supervision; promptly investigate any discriminatory or harassing behavior which they observe or which is reported to them; express their disapproval of discriminatory and harassing conduct and prefer charges, when appropriate, against any member who engages in discriminatory and harassing behavior. Any officer who fails to enforce this rule shall be subject to disciplinary action.

(d) Complaints of Discrimination - 18.41 Committee

Members shall notify their immediate supervisor or the 18.41 Committee of any complaint of discrimination or harassment by another member of the department, a vendor, or a member of the public. An officer shall relay any complaint of discrimination to the 18.41 Committee, in addition to performing an investigation pursuant to 18.41 (c). Members shall provide notice of complaints within thirty



## CHAPTER 18

days of the date the member had knowledge, or shall have had knowledge, of the discriminatory event. The 18.41 Committee shall immediately notify the Deputy Fire Chief of the Personnel Division of the complaint, who shall inform the Fire Commissioner and the Deputy Fire Chief of the Division to which the member is assigned. The Committee shall investigate the complaint and shall formulate a recommendation within 30 days of receiving the complaint. The Deputy Fire Chief of the Personnel Division, the Chairperson of the Committee and the Department of Affirmative Action Officer shall report the committee recommendation to the Chief of Operations. If the Chief of Operations disagrees with the recommendation or suggests that the recommendation be modified, the Chief, along with members who presented the recommendation, shall present both the recommendation and the proposed modification to the Commissioner, who shall take whatever action he believes is appropriate. Members also may file complaints of discrimination with the City of Boston Director of Affirmative Action and appropriate state and federal agencies within the time period established by those entities.

(e) Notification

On receipt of a complaint, the Chairperson of the 18.41 Committee shall notify the City of Boston Director of Affirmative Action, Room 616, City Hall, and forward all copies of complaints, dates received, and the projected dates of completion.

Immediately, upon completion of the 18.41 Committee's findings and recommendations, the Deputy Fire Chief of the Personnel Division shall notify the city's Director of Affirmative Action of the disposition of all cases and related actions initiated.

(f) Informal Compliant Process

This process consists of the mediation and ultimate resolution of a complaint by a facilitation process. The informal process is designed to deal more with a clarification of the appropriateness of certain conduct, rather than an investigation of facts.

It may not be used if:

- Either party disputes the material facts;
- Allegations amount to criminal conduct ( i.e., indecent assault and battery, sexual assault, extortion, etc.); or
- Acts complained about are so egregious as to constitute serious misconduct even if they are not criminal.

## CHAPTER 18

The Deputy Chief of Personnel shall be responsible for maintaining records of all complaints and agreed upon resolutions. All such records kept by the Deputy Chief of Personnel are confidential and may be accessed only by the Deputy Chief of Personnel and the Fire Commissioner or his designee.

This facilitation process shall be completed within thirty (30) days upon receipt by the Deputy Chief of Personnel of the complaint. If the complainant chooses this process, the following procedures will apply:

1. The complainant will notify his/her company commander of the alleged harassment, and that he/she wishes to utilize the informal process. The company commander shall submit a Form 5A to the Deputy Chief of Personnel describing the alleged harassment and stating that the complainant wishes to proceed through the informal process.
2. The alleged harasser will be notified by his/her company commander of the complainant's wish to proceed informally. The company commander shall submit a Form 5A within five days notifying the Deputy Chief of Personnel if the alleged harasser wishes to proceed through the informal process. The alleged harasser shall be informed that the possible results of an informal facilitation process could range anywhere from an agreement that no harassment took place up to and including a five (5) day suspension, if agreed by both parties.
3. The complainant, the alleged harasser and the facilitators shall sign an agreement acknowledging that any statements or admissions made while participating in an informal facilitation process may not be used in any later administrative or disciplinary proceeding and that all statements or admissions shall be confidential.
4. The Deputy Chief of Personnel will provide the complainant with a list of facilitators from which to choose. This list will include, but will not be limited to, department employees. The alleged harasser will also be given an opportunity to select a facilitator from the list. The Deputy Chief of Personnel retains final approval of the facilitators selected and will contact the approved facilitators chosen as soon as possible. The facilitators will initiate the facilitation process within five (5) days and will have complete discretion to determine how the facilitation process should proceed.

## CHAPTER 18

5. The facilitators will document the agreed upon recommended resolution, forward it to the Deputy Chief of Personnel and to the Fire Commissioner within ten (10) days of the start of this process, unless the complainant requests an extension.
6. The agreed upon recommended resolutions will be implemented within five (5) days if approved by the Fire Commissioner. A copy of the resolution shall be forwarded to the City of Boston Director of Affirmative Action.

If the alleged harasser does not agree to the informal process, or if there is no agreed upon resolution, the complainant may choose another option to resolve his/her complaint, (i.e., complaint pursuant to this rule, complaint with the Director of Affirmative Action of the City of Boston, or complaint with applicable Federal or State compliance agencies).

- 18.42 Members permanently detailed to Headquarters or to any of the auxiliary divisions shall be relieved from duty with their respective companies and shall be subject to the regulations, hours, etc., of the service or office to which so detailed.
- 18.43 Whenever a member performs a meritorious act outside of the scope of duty or distinguishes himself or herself by dangerous rescue work at a fire or elsewhere, his/her immediate superiors shall forward a report containing complete information as to services performed, personal risk involved, etc., which shall be accompanied by a similar report from the Deputy Fire Chief who shall investigate such reports and report the degree of risk he/she feels was involved in the particular act; whether there was extreme risk, great personal risk, or unusual personal risk involved. The Deputy Fire Chief shall recommend that the case be referred to the Board of Merit for further consideration if, in his/her opinion, sufficient personal risk is involved.
- 18.44 The following offenses are specifically forbidden:
- (a) Conduct unbecoming a member, whether on or off duty, which tends to lower the service in the estimation of the public.
  - (b) Being intoxicated or under the influence of liquor, drugs, or controlled substances, while on duty or in uniform.
  - (c) Bringing intoxicating liquors or narcotic drugs onto department property or buildings or keeping or using the same thereon.
  - (d) Violation of any criminal law.
  - (e) Disrespect or insolence to a superior.

# **EXHIBIT 16B**

BOSTON FIRE DEPARTMENT RULE 18.41  
HARASSMENT, DISCRIMINATION, AND RETALIATION  
COMPLAINT PROCEDURE AND POLICY

(A) **OVERVIEW:** The Boston Fire Department (“Department”) expects all employees to conduct themselves in a professional manner with respect and concern for their fellow employees and members of the public. Every employee has a right to work in a respectful workplace free from discrimination, harassment or retaliation on the basis of race, color, national origin/ethnicity, religion, sex, sexual orientation, gender identity, age, disability, veteran status, parental status, genetic information or any other characteristic protected by city ordinances, state and/or federal law. Discrimination, harassment and retaliation are unlawful and will not be tolerated.

(B) **SCOPE:** This policy applies to all uniformed and civilian employees of the Department. Any employee has the right to file a complaint. The alleged harasser may be the complainant’s supervisor, a supervisor in another work area, or someone of higher, lower or equal rank. The complainant may be anyone affected by the offensive conduct, even in instances where the behavior is not directed at that person. This policy is not designed or intended to limit the authority of the Department to discipline or take corrective/remedial action for workplace conduct which the Department deems unacceptable, regardless of whether that conduct satisfies the legal definition of sexual or other forms of harassment, discrimination or retaliation as proscribed by state and/or federal law.

(C) **DEFINITIONS:**

**1. Discrimination:** Unequal treatment of an applicant or employee regarding hiring, compensation, terms and conditions of employment or access to services provided by the Department based on race, color, national origin/ethnicity, religion, sex, sexual orientation, gender identity, age, disability, veterans status, parental status, genetic information or any other characteristic protected by city ordinances, state and/or federal law unless otherwise permitted or required by applicable law.

**2. Harassment (Hostile Work Environment):** All employees are entitled to a work environment free from harassment which is a form of discrimination. This includes harassing conduct of any type (oral, written, email, internet, graphic or physical) based on race, color, sex national origin/ethnicity, religion, sex, sexual orientation, gender identity, age, disability, veterans status, parental status, gender identity, genetic information or any other legally protected characteristic, that unreasonably interferes with the person’s work or creates a work environment that a reasonable person would find hostile, offensive, humiliating or intimidating.

**3. Sexual Harassment: Quid Pro Quo -** Quid Pro Quo or “this for that” is a form of sexual harassment where submission to or rejection of sexual advances, requests for sexual favors

and verbal or physical conduct of a sexual nature is made, either explicitly or implicitly, a term or condition of employment or as a basis for employment decisions.

**4. Sexual Harassment: Hostile Work Environment** - Hostile work environment refers to any harassment based on sex, sexual orientation or gender identity that is severe and pervasive and has the purpose or effect of unreasonably interfering with an individual's work or creates a work environment that a reasonable person would find intimidating, hostile, humiliating or offensive. Sexual harassment is not limited to the physical workplace itself and may occur during travel for business, Department events or social gatherings. It may also occur during calls, texts, emails and/or social media usage by employees even if it occurs away from the workplace premises, on personal devices or during non-work time.

**5. Retaliation:** Retaliation is a form of discrimination which involves coercive, intimidating, threatening, interfering or other negative communication or behavior taken against an employee as a result of:

- a. A charge, report or complaint of discrimination, harassment or retaliation;
- b. Participation, cooperation or assistance in an investigation of discrimination, harassment or retaliation complaint;
- c. Opposition to discriminatory, harassing or retaliatory practices; or
- d. Association with or support of others who have engaged in protected activity described in a, b & c above.

Retaliation will be treated as a separate and additional severe offense.

**(D) EXAMPLES OF HARASSMENT:** The following are some examples (not an exhaustive list) of communication or conduct, which will likely constitute harassment (as defined by this policy) on the basis of race, color, national origin/ethnicity, religion, sex, sexual orientation, gender identity, age, disability, veterans status, parental status, genetic information or any other legally protected characteristic or status:

- A. Jokes that have a sexual, gender identity, racial, ethnic, religious, disability, homophobic, age-ist connotation;
- B. Belittling or mocking comments or conduct about another's culture, national origin, race or language;
- C. Use of sexual, racial, ethnic or other epithets, slurs or derogatory comments;
- D. Sex stereotyping – acting as if conduct or personality traits are inappropriate because they do not conform to others' ideas or perceptions about how individuals of a particular sex should act or look;
- E. Sexual advances - (verbal or physical) whether or not they involve physical touching;
- F. Displaying or circulating sexually, racially or other suggestive, offensive, derogatory or intimidating objects, pictures, cartoons, symbols;
- G. Leering, whistling, brushing up against, sexual gestures, suggestive or insulting comments;
- H. Inquiries into one's sexual activities;
- I. Written or oral reference to sexual conduct;

- J. Gossip regarding one's sex life or relationships, or the sex life or relationships of another;
- K. Commenting on an individual's sexual activity, deficiencies or prowess;
- L. Assault or coerced sexual acts;
- M. Dissemination or electronic posting of sexually explicit voicemails, text messages, e-mails, graphics, downloaded materials, web-sites, or video games;
- N. Engaging in hostile actions toward an individual because of his/her gender, sexual orientation, gender identity or any other protected status, such as interfering with, destroying, or otherwise damaging a person's work station, equipment, or otherwise interfering with the individual's ability to perform the job or sabotaging an individual's work;
- O. Displaying pictures, using language or conduct that shows hostility or aversion to a person's race, color, sex, sexual orientation, national origin, religion, gender identity, or other legally protected status or characteristic;
- P. Treating anyone differently from others based on protected status or association with someone of a particular race, color, sex, sexual orientation, gender identity, national origin/ethnicity, religion, or other protected characteristic or status;
- Q. Violation of the Department's Station Bathroom Policy, including entering a space designated for use by the opposite gender or failure to provide respect to the privacy of employees of the opposite gender (General Order No. 31, November 16, 2010, modified by General Order No. 41, July 20, 2018);
- R. Failure to be properly attired in locker room or other common areas in the firehouse.

**(E) EXAMPLES OF RETALIATION:** Retaliation can be any action that would discourage an individual from coming forward to make or support a claim of harassment or discrimination. It can include comments, shunning, ostracizing, interfering with an employee's work, damaging their equipment, or any other conduct intended to display displeasure or annoyance because of an individual's protected activity.

**(F) COMPLAINT PROCEDURE:** Any Department employee who believes that s/he has been subjected to harassment, discrimination and/or retaliation is strongly encouraged to initiate a complaint immediately. In order to provide for the complainant's ease in filing a complaint, several procedural options are available. Employees may notify their immediate supervisor or any Superior Officer at any level of the chain of command, the Deputy Chief of Personnel, the Director of Human Resources, the Commissioner or the City of Boston Office of Human Resources, Director of Human Resources. Complainants may notify any of the following individuals/agencies in person or by phone; orally or in writing:

- A. Any Officer. The Officer shall immediately make out a Special Administrative Report; Form 5, detailing the complainant's allegations and submit it through the chain of command (see section J):
- B. Department's Chief of Personnel – 617-343-3460
- C. Department's Director of Human Resources – 617-343-2125
- D. The City of Boston's Director of Human Resources – 617-635-2788

- E. State or Federal agencies or courts empowered to enforce anti-harassment, anti-discrimination and anti-retaliation laws. See end of policy for contact information.

Upon receipt of a complaint, the Company Officer shall immediately report to their superior Officer, the District Chief, who will notify the Deputy Field Chief, who will notify the Chief of Personnel, who shall immediately notify the Director of Human Resources. After consultation between the Chief of Personnel and the Director of Human Resources, the complaint will be investigated as outlined in section F under the direction of the Chief of Operations and/or the Deputy Commissioner for Labor Relations, Human Resources, and Legal Affairs.

**(G) INVESTIGATION PROCEDURE:** The Department takes allegations of harassment seriously and will respond promptly to such complaints. The complaint procedure is designed to facilitate a prompt review of the allegations and a fair and equitable resolution of the situation. It is also intended to stop future occurrences of the behavior. Mediation cannot begin until an internal investigation has been completed. The investigation procedure generally involves the following fact gathering steps, regardless of the process chosen to address the complaint:

- A. Listen to the complainant's allegations with discretion, sensitivity, and due concern for the dignity of those people involved.
- B. Inform the complainant that he/she may have a representative at the meeting to assist the complainant in his/her decision-making.
- C. Inform the complainant of the Department's harassment policy and complaint procedures and provide the complainant with a copy of the Department policy.
- D. Inform the complainant that while every reasonable effort will be made to protect the confidentiality and privacy of the individuals involved, an investigation requires that the alleged harasser be informed of the specific allegations and witnesses be interviewed. All persons contacted or interviewed during the investigation will be requested not to discuss the subject matter of the investigation.
- E. Conduct an investigation, including, but not limited to compiling written or oral statements from all involved in the situation, including witnesses; collecting personnel records that may establish facts (which may include pay records, job assignments, promotions, transfers, working hours, performance appraisals, etc.); and separately interviewing the person filing the complaint, witnesses, and the person alleged to have committed the harassment.
- F. Notify the Officers of the parties involved of the status and their role in the investigation and complaint process and of any immediate, remedial action concerning the allegations. Captains and District Chiefs shall attempt to determine if there are any working conditions or practices that encouraged or permitted the alleged conduct to take place, and if so, eliminate them.
- G. Option to Mediate: Inform the complainant and alleged harasser where appropriate to the situation, of the option to mediate after the completion of investigation. Mediation is a voluntary process for all parties involved. Employees interested in the option to mediate should contact the Chief of Personnel.



**(H) COMPLAINT RESOLUTION:** Upon completion of the investigation, a recommendation will be made to the Commissioner on the results of the investigation and appropriate corrective action. The Department will, to the extent appropriate, inform the person filing the complaint and the person alleged to have committed the conduct, of the results of the investigation. Any Department employee, who is found after an investigation to have violated this policy, will be subject to disciplinary action up to and including termination.

**(I) REMEDIES:** Available remedies shall consist of corrective action and/or steps to prevent future occurrences.

- A. Discipline up to and including termination of employment will be used for those found to have violated the policy.
- B. If the incident does not meet the threshold of a policy violation, then when appropriate, referral will be made to other administrative procedures or methods of addressing the issues involved which may include a requirement of mediation.
- C. Respectful workplace training for the involved parties, including but not limited to the Department Rules and Regulations and City of Boston policies.

**(J) EMPLOYEE RESPONSIBILITIES:** All employees are responsible for promoting an environment free from harassment, discrimination and retaliation and are encouraged to be considerate of what other employees consider offensive or inappropriate conversation or behavior in the workplace. All employees must refrain from subjecting any visitor or member of the general public to harassment or discrimination based on race, color, national origin/ethnicity, religion, sex, sexual orientation, gender identity, age, military status, disability, genetic information or any other protected status under federal or state law.

**(K) SUPERVISOR RESPONSIBILITIES:** When supervisors are notified of or receive a complaint, observe or become aware of inappropriate conduct, the Company Officer shall immediately report to their superior officer, the District Chief, who will notify the Deputy Field Chief, who will notify Chief of Personnel, who shall immediately notify the Director of Human Resources.

**Supervisors will be held responsible for the conduct of an employee**, which is known or should have been known to create, or which could create, harassment against an employee or member of the public. When supervisors are aware of harassment in the workplace they must report it up the chain of command and offer the affected employee the option of raising the complaint and/or issue:

- 1. Through the Department's chain of command;
- 2. Directly by contacting the Department's Director of Human Resources or Personnel Deputy, or
- 3. Contacting the City's Office of Human Resources.

It is not sufficient just to offer the complaint process without reporting.

If a supervisor is aware of potentially harassing conduct or communication, it is not acceptable to wait until the victim complains. Supervisors must report these matters with the utmost sensitivity and maintain confidentiality to the greatest extent practicable. Failure to report may result in discipline up to and including termination.

**(L) CONFIDENTIALITY:** The Department is sensitive to the feelings and well-being of all employees. Employees will be afforded confidentiality to every extent practicable.

**(M) OTHER AVENUES FOR REDRESS:** Employees who feel they have been discriminated against have 300 days from the date the alleged discrimination occurred to file a complaint with either or both of the following agencies:

- A. Massachusetts Commission Against Discrimination (MCAD)  
One Ashburton Place, Room 601  
Boston, MA 02108  
617-994-6000
  
- B. United States Equal Employment Opportunity Commission (EEOC)  
JFK Federal Building  
475 Government Center  
Boston, MA 02203  
617-565-3200

**BY ORDER OF FIRE COMMISSIONER/CHIEF OF DEPARTMENT  
JOSEPH E. FINN**

# **EXHIBIT 17**

Past Trainings Conducted by BFD 2013 – present:

- Ongoing      *BFD Training Academy – Respectful Workplace Training*
- Covers harassment, discrimination, retaliation issues, appropriate workplace conduct, relevant City and BFD policies
  - Conducted by BFD HR
  - Note: this course is presented to each FF recruit class
- January 2013    *Anti-Harassment Training*
- Review of rights and responsibilities regarding workplace discrimination, harassment, retaliation, inappropriate workplace conduct and respectful treatment
  - Conducted by OHR
  - For District and Deputy Chiefs
- 2016-2017      *How to Handle Conflict and Confrontation*
- conflict resolution and communication skills training
  - conducted by National Seminars Training (“NST”; now called SkillPath)
- March 2016     for 2 specific fire companies (Captains, Lieutenants and Firefighters)
- May 2016        all District and Deputy Chiefs
- Dec. 2016        for administrative civilian staff
- February 2017   Captains and Lieutenants
- May 2017        Captains and Lieutenants
- March 2016     *Workplace Harassment Training*
- Conducted by OHR
  - For all District and Deputy Chiefs
- June 2017      *Leading Across Cultures*
- Training on diversity, implicit bias and respectful workplace issues
  - Conducted by NST
  - For all District and Deputy Chiefs
- June 2017      *Career Survival*
- covered anti-harassment and discrimination in the workplace issues; specifically targeted for firefighters and addressing firehouse culture
  - Conducted by Career Survival Group
  - For all District and Deputy Chiefs, and Captains
- 2017  
(ongoing)      *Firehouse – Respectful Workplace Training*
- firehouse trainings re: employee’s rights and responsibilities regarding harassment, retaliation, discrimination, appropriate workplace conduct, City and BFD policies
  - Conducted by BFD HR and Personnel Division, on an as-needed basis
  - Select firehouses, all companies and all four groups (Capts, Lts and FFs)
    - o October 2017
    - o July 2018

Past BFD trainings (continued):

January 2018 annual month-long *Fire College* program – select topics covered, including:

- *Respectful Workplace Training*
- *BFD Social Media policy, Bathroom policy*
- Conducted in-house by BFD Legal, HR and Personnel Division
- For all Lieutenants and Captains

Sept. 5-6, 2018 *Leadership Case Studies: Liability and Respect In The Workplace*

- Focus of course: the role that fire officers play in managing human resource liability
- Workshop to cover issues associated with fire department culture, including but not limited to: sexual harassment; retaliation; implicit bias; hazing, pranks and bullying; discrimination; peer pressure; and appropriate versus inappropriate conduct in the workplace
- Conducted by Curt Varone, Esq. (retired Deputy Assistant Chief, Providence FD; current Deputy Chief, Exeter FD, RI)
- For all District and Deputy Chiefs, Captains, and BFD EAP personnel

Future Trainings - planned training timeline:

Oct 2018 solicit company or individual to design program to cover above training topics for entire Dept

- Train-the-trainer model contemplated
- BFD HR, Personnel and Training Divisions to select core group of Dept trainers

Nov. 2018 implement and continue with above training topics for remainder of Dept personnel (Lieutenants and Firefighters) until all employees receive training

- Work with Training Division to coordinate schedule of training sessions, similar to Back-to-Basics scheduling of training for field companies

## **EXHIBIT 18**

# Boston Fire Department Teen Academy

The Boston Teen Fire Academy is a career development program that gives inner city teens an opportunity like no other; candidates of the Teen Fire Academy will experience the technical and educational skills of what it takes to be a Boston firefighter. All Teen Fire Academy candidates will train and learn under the supervision and guidance of veterans of the Boston Fire Department.

Teen Fire Academy will allow youth the opportunity to gain technical skills that they can apply toward a future career in fire and emergency services. An equal – if not greater – benefit to youth is the opportunity to develop and build teamwork and leadership skills, confidence, responsibility, and the ability to stay calm in an emergency situation. These and other valuable life skills benefit youth as they navigate their teenage years, and will continue to help them through whichever college/career path they choose and into adulthood. These skills are also important attributes in a career as a firefighter, which many Teen Fire Academy Candidates will one day become.

Teen Fire Academy Schedule: July 9th- August 17<sup>th</sup>, 2018

Time	Activity
8:30-9:00am	Check-In'
9am - 10am	Physical Activity/ Workout
10am-10:20am	Transition from PT to Classroom
10:20am - 12pm	Classroom/Firehouse activity
12pm- 12:20pm	Break/Transition to Drill Activity
12:20pm - 2pm	Drill Activity

Staff: 4-6 Firefighter Mentors

- Teen Fire Academy Coaches will serve as both a mentor and a coach. In the coaching role, you will instruct, teach, and train teens. You have to be a motivator, set goals, and evaluate progress. As a coach, you will have to discipline junior firefighters and educate them on their mistakes. You are preparing the future of the fire service – and through appropriate coaching and mentorship, they will respond to their first call as confident, ethically-minded, well-trained adults.

Uniform: (1) Red, (1) Blue; Boston Teen Fire Academy shirts

Location/Facilities: Moon Island, Burns Building (Roxbury, MA), Boston Fire Headquarters

Off site location- Firehouses, Marine Unit, Community Centers

Transportation: (3) 15 passenger vans

- Possible long term rental, or department vans to be used
- Kids live local potential of walking or public transportation to Burns building possible

\*Curriculum: *In development*

# Boston Fire Department Teen Academy

\*Drill Activities: which include but not limited too

- Basic Firefighter skills
- Donning SCBA
- Hose/Dummy Drags
- Water Supply operations
- EMS and First Aid – Certification included (Provided by Red Cross)
- Cone Drills
- Equipment operation
- Fire Prevention/ Drills

Community engagement: This will be the part of the program in which teaches the Teen Fire Academy recruits of the idea of giving back to their communities looks like and feels like.

- Park Clean Ups
- Helping out local community centers
- Greater Boston Food Bank

***\*Teen Fire Academy Advisory committee will get together to create a core educational Curriculum and Drills that will be applicable for the program.***



## **EXHIBIT 19**



## The Mission Statement

The mission of Camp Fully Involved is to provide young women a safe, dynamic, interactive and physically challenging environment to gain strength and knowledge while building confidence and leadership skills.

We accomplish our mission by bringing in the best instructors and staff that we can, and by continuously evaluating and updating the program to meet the needs of the cadets and to reflect current NFPA safety and training standards.

Our goal is to provide our cadets with a comprehensive, intensive overview of the firefighting profession. The program is very physical, hands-on and intense. Cadets will have the opportunity to do things that they may never have done before, and may never do again. What they will gain is a confidence and inner strength that comes through accomplishment and success, and those qualities will stay with them no matter what career path they should choose.

### *Quotes from Cadets and Parents -*

*"...and especially thank every instructor who believed in my daughter, who let her cry, who led her to discover what she has on the other side of "I can't do it"..."*

*"I gave you my daughter for six days, and you gave her back to me, invincible. Words cannot thank you enough, but I promise to honor your gift by continuing the hard work, which you have so profoundly exemplified..."*

*"I had a great time and loved every minute of it..."*

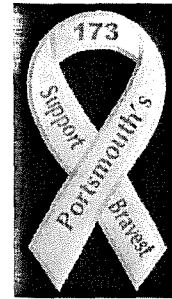
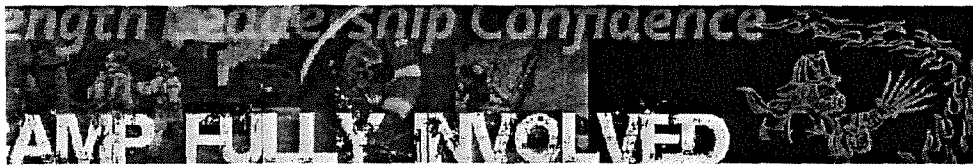
*"I think it's a great experience for anyone involved in the fire service or even beginners!"*

*"I think this program is great for the confidence of young women — to know that women can be in a male dominated field and succeed!"*



HOME  
MISSION  
ABOUT US  
MEDIA  
LINKS  
APPLICATION  
CONTACT US



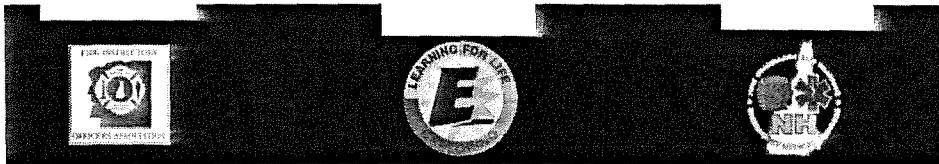


### Who Are We?

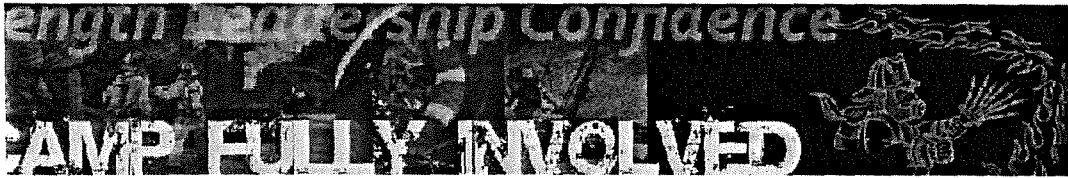
The instructors of Camp Fully Involved hail from all over New England and rank from Firefighter, Fire Marshal, Firefighter/Paramedic all the way to Chief of Department, including many ranks in between. The instructors are a mix of both male and female and are top in their field, some of who teach all over the US and Canada. None of the instructors receive any compensation for participating in Camp Fully Involved and are incredible enough to do so on their own time.

Camp Fully Involved is supported by Globe by MSA, Bergeron Protective Clothing, the Fire Instructors and Officers Association of New Hampshire, Daniel Webster Council's Learning for Life Division, Portsmouth Fire Fighters Professional Association, the Barnstable County Fire Chiefs Association and North End Hose Company #3. Camp Fully Involved is non-profit program.

The camp is hosted by the New Hampshire State Fire Academy, located in Concord, NH and all technical and classroom programs are held and supported by this state of the art facility. Cadets are housed on-site in the Fire Academy dormitories.



For more information: [info@campfullyinvolved.com](mailto:info@campfullyinvolved.com)



**"Tell me and I forget; Show me and I remember;  
Involve me and I understand..."**

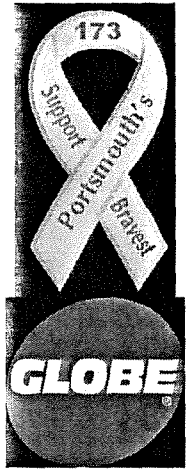
Camp Fully Involved is a physically challenging, aggressive hands-on, live-in week long summer camp directed towards young women between the ages of 14 (and having completed the 8th grade) and 20 who are interested in exploring the career of a firefighter. No experience or affiliation with a fire department is required, and we encourage application from young women who do not have any affiliation with the fire service. There is no residency requirement for attendance - we encourage young women from all over the world to apply!

As a cadet in Camp Fully Involved, you will participate in numerous hands-on evolutions including, but not limited to vehicle and dumpster fires, rappelling, SCBA drills, room and content fires, Engine and Truck company operations, forcible entry, ventilation and combined operations. In addition to the technical evolutions, cadets will also participate in evening classroom programs.

\*Scholarship applications will available for download, January 1, 2018 and are due by May 1, 2018. They are available on our [Scholarship page for CFI2018](#).

**Applications are now open for CFI2018! [Download here!](#)**

**CFI2018 will run from July 8, 2018 - July 13, 2018**



For More Information: [info@campfullyinvolved.com](mailto:info@campfullyinvolved.com)



# **EXHIBIT 20A**

## **BFD FEMALE LIAISON QUARTERLY REPORT**

### **May 1<sup>st</sup> to July 31<sup>st</sup> 2018**

1. Visited with 80% of the female firefighter population at the fire houses providing and gathering information:
  - Provided old BFD Bathroom Policy; spoke of change
  - Brainstormed other duties to be included in liaison's job description
  - Welcomed complaints/difficulties faced at work: none mentioned
  - Informed females of potential meeting with City Lawyer assigned by Mayor
2. Shared the roles/responsibilities of the female liaison with 50% of the female population at Fire Alarm.
3. Spent 2 weeks gathering information, reviewing, and updating power point for Workplace Behavior Training with HR Director.
4. Presented Workplace Behavior Training to new recruits at the BFD Academy.
5. Reviewed and updated Department's Bathroom Policy.
  - Presented completed product to the Commissioner
  - As a result, new combination locks were installed in 12 fire houses
6. Met with a Fire Alarm Operator who brought forward an issue:
  - Member's concern was brought forward to HR
  - Meeting held with member's superior, favorable outcome reached
7. Generated and emailed uniform survey to all female firefighters. As of 7/31 only 40% have responded.
8. Attended potential training that could be used by the BFD at the Boston Fire Credit Union.
9. Spent several hours at a job fair with the BFD Diversity Officer speaking with veterans about the benefits of working for the BFD and explaining the hiring process.
10. In communication with 2 potential female candidates, answering questions about the job and offering advice on the PAT and other components of the hiring process.
11. Met with documentary photographer about taking pictures of female firefighters while at work. Pictures to be used for recruiting and showcasing professional duties and responsibilities of a female firefighter which could be displayed on Department own social media pages etc.

# **EXHIBIT 20B**

**BFD FEMALE LIAISON QUARTERLY REPORT**  
**August 1<sup>st</sup> to October 31<sup>st</sup> 2018**

1. Reviewed and advised on FA Medal and Awards proposal for submission to HQ.
2. Attended orientation for new recruits and kept in communication with 2 potential female firefighters. Advised on the hiring process, answered questions, and offered encouragement.
3. Received call from female FA operator concerning promotional exam results. Researched query through HR. No grievance filed, outcome was in said operator's favor.
4. Forwarded sample questions for LT's exam to females sitting for test. Questions were given to me for distribution by District Chief Hogan.
5. Female Uniform Survey sent out again to firefighters; no new response received.
6. Visited 2 groups at FA, uniform survey hand delivered and completed and returned.
7. Connected with the Commissioner of Veterans Services through Juan Sanchez. No events attended this quarter.



## **EXHIBIT 21**



## Boston Fire Department Mediation Program



The Boston Fire Department offers confidential mediation services to help staff find their way through disputes of many different types. Mediation is a way for two or more people, with the assistance of a neutral and impartial third party, to reach an understanding about a conflict, ease a dispute or improve work relationships that have suffered under strain. This process is designed to assist employees to improve communication and increase understanding. Participants can work out mutually acceptable solutions to their differences and establish their own agreements for improving their future working relationships.

### BASIC PRINCIPLES OF MEDIATION

**CONFIDENTIALITY:** Mediation is a confidential process. All mediators are sworn and certified to uphold confidentiality. Information discussed with the mediator during the mediation will remain within the session. Nothing that happened in the mediation will be reported to anyone by the mediator(s). However, if you reach a written agreement, you will get a copy and a copy will be kept in a confidential in the BFD Personnel Office and also by your supervisor, who will hold you accountable to your mediated agreement.

**VOLUNTARY:** Mediation is a voluntary process. You must be willing to try to resolve you own dispute through mutually respectful dialogue. You have the right to discontinue the mediation process at any time during the mediation.

**NEUTRALITY:** Mediators are trained to help you find your own solutions and agreements if possible. They are trained and sworn to uphold neutrality, impartiality and will not take sides. Mediators also work to maintain a balance of power in the situation and relationships, yet they are not judges or arbitrators.

**THIS IS YOUR PROCESS:** *Self-determination* is a guiding principle of mediation. *You and the other participant(s) determine the outcome.* You will be fully informed about the process before you consent to participate in mediation. If you choose to walk away from the mediation process at any time, the mediator(s) will discuss and help you identify alternatives to mediation.

### WHAT HAPPENS DURING MEDIATION?

The mediator or mediation coordinator may speak with each participant individually in advance of the joint mediation session to help ensure that the dispute is appropriate for mediation and that the process is fully understood by the parties. Then the mediator(s) meet jointly with all participants. In this joint process, the mediator will help you establish guidelines to enhance communication and encourage dialogue between the participants. Mediators listen fully while each participant explains the situation from his or her point of view. Mediators ask questions to help relieve tensions and to gain new understandings. This process supports you to find your own solutions and agreements to make things work well in the future. A session generally runs for three hours. If more time is needed, another session will be scheduled.

You, the participants, create your own mediated agreement, either verbally or in writing. This is important because you will decide to live up to its terms. If a written agreement is decided on by both parties, the mediator will write down what both participants agree to in their own words. *(Your agreement may be subject to review by legal staff to assure compliance with City of Boston and Boston Fire Department policies, collective bargaining agreements and applicable laws and ordinances.)*

After you have completed the mediation process, you and the other participant(s) to the mediation along with the mediator, will meet with your supervisor who holds you accountable. Each participant will report new understandings and agreements reached through the mediation process and request support as needed.

***For more information please call:***

***Henry Baston @617-343-2166 (Days), [REDACTED]  
Charlie Popp @ 617-967-4141 or Diane Clifford @ 617-343-2880 (FAO Grp. 4)***

**A complete list of BFD Mediators is attached and available on the S-drive.**

## **EXHIBIT 22**

**Gender Breakdown of Recipients of  
Chapter 41, Section 111F Injured  
On-Duty Disability Benefits\***

<b>YEAR</b>	<b>M</b>	<b>F</b>
2011	324	4
2012	294	5
2013	353	5
2014	392	6
2015	384	7
2016	419	5
2017	384	5
2018	381	3

\* Note data does not include all members who have since retired/resigned so actual numbers are most likely higher.

Above received from A. Hennelly on 11/23/18.

## **EXHIBIT 23**

**\*\*DRAFT POLICY\*\***

Personal and Family Relationships in the Workplace

The purpose of this policy is to establish guidelines regarding personal and family relationships in the workplace.

The expectation for professionalism in personal and family relationships is necessary in order for the Boston Fire Department to maintain order and discipline, promote relationships of mutual respect and confidence between supervisors and subordinates and between employees who regularly work together, and to minimize the possible adverse impact on the well-being of employees. The Boston Fire Department understands that a spirit of camaraderie and familial ties among its members is beneficial to morale, and that it cannot and should not dictate a member's off-duty relationships. However, a paramilitary organization also lends itself to creating power structures that have the potential to affect proper professional and personal relationships while on duty, resulting in uncomfortable strain or hostility, as well as perceived and/or actual favoritism, potential misconduct, allegations of sexual harassment and other workplace distractions.

In an effort to maintain a professional workplace free from potential conflicts that can arise from family or close personal relationships, the Boston Fire Department observes the following standards:

1. Definitions: "Family" refers to all relatives, including but not limited to past and present spouses, past and present domestic partners, relatives by marriage, children, parents, step-parents, grandparents, grandchildren, in-laws, siblings, cousins, nieces, nephews, aunts and uncles.

"Close personal relationship" refers to an intimate, sexual, or dating relationship.

2. Uniformed members who are family members or in a close personal relationship:
  - Cannot work in the same fire house.
  - Cannot be directly supervised by the family member or the other person in the relationship.
  - Should not work in the direct chain of command unless authorized by the Commissioner or his/her designee.
3. Uniformed members in staff positions and/or civilians who are family members or in a close personal relationship:
  - Cannot be directly supervised by the family member or the other person in the relationship.
  - Should not work in the direct chain of command unless authorized by the Commissioner or his/her designee.

4. Members must immediately notify the Deputy Chief for Personnel when a situation prohibited by this policy arises in order to facilitate a resolution.
5. One or both uniformed members who are engaged in a close personal relationship that is inconsistent with this policy may immediately request a transfer to an open assignment that would resolve the policy violation.

If an immediate voluntary transfer to an open assignment is not available, the appropriate chain of command will review the situation in light of the facts and circumstances (e.g., reporting relationships, effect(s) on coworkers, positions held), and will determine, at a minimum, which one of the members will be transferred to another assignment.

6. Exceptions to this policy may be made for temporary assignments including but not limited to training programs, emergency scene operations, or other situations as determined in the discretion of the Commissioner or his/her designee.

DRAFT

## **EXHIBIT 24**



## **Director of Human Resources (Fire)**

**This is a provisional appointment.**

### **Brief Job Description (essential functions of the job):**

Under the direction of the Deputy Commissioner for Labor Relations, Human Resources and Legal Affairs, the Boston Fire Department's Director of Human Resources is responsible for daily operations of the Human Resources Department and all HR functions within the Department, covering approximately 1600 employees governed by three (3) collective bargaining agreements. The HR Director will directly manage an HR Department staff and have overall general supervision of all civilian staff with the BFD.

### **Responsibilities**

Duties include, but are not limited to:

- Directs a human resource program, including but not limited to recruitment, selection, retention, processing of personnel transactions, compensation administration, employee relations and disputes, collective bargaining, civil service, benefits administration, attendance management, implements personnel policies and procedures, and worker's compensation.
- Supports all levels of management by providing human resources advice, counsel and decisions on issues concerning the ADA, FMLA, harassment policy, discipline, training, etc.
- Mediates and/or assists in conflict resolution on departmental personnel matters (amongst civilian staff).
- Responsible for all personnel transactions department-wide.
- Works closely with the Department's Deputy Commissioner for Labor Relations, Human Resources and Legal Affairs in the creation, modification and enforcement of rules, regulations, policies and procedures.
- Responsible for oversight of the recruitment, processing, screening and hiring for firefighters in accordance with MGL c. 31, and responsible for the hiring of all civilian staff.
- Enforces compliance with applicable federal, state and local laws.
- Oversees and enforces various policies such as the Department's harassment policy and the City's residency policy.
- Oversees and manages various leaves including FMLA, Small Necessities Leave Act, medical and personal leaves.
- Testifies in forums including, but not limited to the Civil Service Commission, MCAD, union grievances/arbitrations and other litigation as necessary.
- Responsible for the BFD Human Resources Department's annual budget.
- Developing, implementing, and updating human resources policies and procedures and/or training programs in accordance with applicable city, state and federal laws, collective bargaining agreements and/or departmental rules and regulations.
- Administration of the Department's personnel/wage administrative system including processing of all personnel forms, documents and programs using the HR component of PeopleSoft.
- Responsible for the care and custody of all personnel files.
- Assists in orientation of all new employees.
- Works with the Deputy Commissioner for Labor Relations, HR and Legal Affairs on disciplinary matters involving civilian personnel, including but not limited to workplace

investigations. • Acts as the Hearing Officer for the department in the administration of discipline and in the grievance process for civilian employee matters, as may be delegated by the appointing authority or his/her designee. • Acts as internal liaison to the City's Office of Human Resources, Office of Labor Relations, the Law Department, and other city departments as required. • Serves as the Department liaison with the Civil Service Commission and the Human Resources Division; ensures department compliance with Civil Service laws. Acts as external liaison to other governmental agencies or private entities as required. • Performs special projects and other related work as required. • Required to work any emergency as directed by the Commissioner or his/her designee. • Performs related work as required.

### **Minimum Entrance Qualifications**

At least ten (10) years of paid professional experience in Human Resources Management in an administrative or management capacity of a large department in local or state government, of which five (5) years must have been in a supervisory or managerial capacity. • A Bachelor's degree in human resources or business administration is required. Master's or other advanced degree in public administration or related field strongly preferred. • Knowledge of human resources administration, labor and employment laws, policies and procedures required. • Knowledge of municipal administration and Civil Service rules and regulations preferred. • Strong leadership, project management and communication skills are required, preferably in a public safety or law enforcement environment. • Knowledge of budget preparations and procedures. • Demonstrated proficiency in Microsoft Office suite, Access, PeopleSoft BAIS HRMS or similar human resources management system, time and attendance HR systems such as Kronos or Telstaff. • Ability to exercise good judgment and focus on detail as required by the job. • Ability to work effectively in a multi-cultural, multi-ethnic work environment. • Ability to set and manage priorities in a changing work environment. • Demonstrated ability to mediate personnel matters within a heavily unionized environment. • Demonstrated ability to lead and develop Human Resource staff members.

CORI CHECK REQUIRED.

A PRE-EMPLOYMENT DRUG TEST IS REQUIRED.

BOSTON RESIDENCY REQUIRED.

TERMS:

Union/Salary Plan/Grade: Non-Union/MM2-12

Hours per week: 35

## **EXHIBIT 25**

## CHAPTER 8

### Personnel Division

- 8.1 The division, under the direction of a Deputy Fire Chief, is established for the purpose of maintaining a complete personnel file on each member of the department assigned to various divisions of the department.
- 8.2 The Deputy Fire Chief in charge shall:
- a. Be responsible for the thorough investigation of the previous employment record, including the character and reputation of all members prior to appointment to the department, and report his/her findings in writing to the Chief of Operations and the Fire Commissioner.
  - b. He/she shall act as liaison officer concerning interdepartmental matters and shall coordinate all divisions of the department relative to personnel.
  - c. He/she shall coordinate the distribution of manpower to ensure sufficient operating strength of the various divisions.
  - d. He/she shall arrange for the assignment of new members and the transfers of personnel as needed, subject to the approval of the Chief of Operations and the Fire Commissioner.
  - e. He/she shall supervise the activities of the hospital representatives in cooperation with the Department Medical Examiner.
  - f. He/she shall have charge of the Indemnification Board and hold monthly meetings for the same.
  - g. He/she shall review and investigate charges preferred against any member before they are submitted to the Fire Commissioner. The purpose of this review will be to make sure the facts as set forth are accurate and that the rights of both parties have not been violated and are not in conflict with the collective bargaining contract.
  - h. He/she shall supervise and coordinate the activities and duties of members detailed to Headquarters.
  - i. Members on injured leave shall be required to see the Personnel Officer after each visit made to the Department Medical Examiner.
  - j. The telephone number for the Personnel Division is extension 3460.
- 8.3 The Deputy Fire Chief in charge will respond to such fires and at such times as may be ordered by the Fire Commissioner.