

# GUAM FIRE DEPARTMENT

ORGANIZATION	
Chapter:	V-Personnel Policies and Procedures
Subject:	Equal Employment Opportunity (EEO)
Code:	I-V-32
Revised:	

## 32.01. Purpose

The purpose of this policy is to:

1. Affirm the Guam Fire Department's commitment to equal employment opportunity (EEO) in all aspects of employment.
2. Prohibit discrimination, harassment (including sexual harassment), and retaliation in violation of Guam and federal law.
3. Establish clear procedures for requesting accommodations and for reporting, investigating, and resolving EEO complaints within the Guam Fire Department (GFD).

## 32.02. Legal Authority

This policy is intended to be consistent with, and is implemented pursuant to, the following authorities (as amended):

### Guam law and regulations

- 4 GCA, Public Officers and Employees – Personnel Policy and the Civil Service Commission; Public Employee-Management Relations Act. ([Justia Law](#))
- 22 GCA, Business Regulation – Guam Employment Relations Act, particularly Article 2 on unlawful employment discrimination. ([Guam Courts](#))
- 22 GCA, Chapter 3 – Fair Labor Standards (age discrimination provisions) and Chapter 6 – Fair Chances Hiring Process Act (“ban-the-box” for criminal history). ([Justia Law](#))
- Department of Administration (DOA) Personnel Rules & Regulations, including §1.200 Equal Employment Opportunity and related EEO complaint procedures. ([HRRRA Guam](#))
- Guam Executive Order 2006-16 and subsequent GovGuam EEO program directives. ([Department of Administration](#))
- Guam laws addressing sexual harassment, civil rights, and the Ending Forced Arbitration of Sexual Assault and Sexual Harassment Act (7 GCA Ch. 42C). ([Guam Courts](#))

### Federal law

- Title VII of the Civil Rights Act of 1964, as amended (prohibiting employment discrimination based on race, color, religion, sex, and national origin). ([Cincinnati State](#))

- Americans with Disabilities Act (ADA) and, where applicable, the Rehabilitation Act of 1973 (disability discrimination and reasonable accommodation).
- Age Discrimination in Employment Act (ADEA) (age 40+).([CaseMine](#))
- Equal Pay Act (sex-based wage discrimination).
- Genetic Information Nondiscrimination Act (GINA).
- Other applicable federal civil rights statutes and regulations.

**Case law (illustrative, not exhaustive)**

This policy is intended to be applied consistently with controlling case law interpreting the statutes above, including:

- U.S. Supreme Court and federal appellate decisions establishing standards for discrimination, harassment, and retaliation (e.g., *McDonnell Douglas*, *Meritor*, *Faragher*, *Ellerth*, *Burlington Northern*).
- Decisions of the U.S. District Court for the District of Guam and Ninth Circuit addressing employment discrimination claims involving Guam agencies and employers (e.g., *Hunt v. Guam Police Department* (ADEA); EEOC cases such as *EEOC v. Leopalace Guam Corporation* regarding national origin discrimination).([CaseMine](#))

**32.03. Statement of Policy**

The Guam Fire Department is an equal employment opportunity employer.

Employment decisions at GFD will be based on merit, job-related qualifications, and operational needs, and will not be influenced by an individual’s protected characteristics:

- Race or color
- Religion or creed
- Sex (including pregnancy, childbirth, and related conditions; sexual orientation; gender identity or expression)
- National origin or ancestry
- Age
- Physical or mental disability or use of adaptive devices
- Marital status
- Political affiliation
- Genetic information
- Honorably discharged veteran or military status
- Any other classification protected under Guam or federal law.([HRRRA Guam](#))

This commitment applies to all terms and conditions of employment, including:

- Recruitment, testing, and selection (including the Fire Recruit Academy)
- Appointment, promotion, transfer, and assignment
- Training, professional development, and acting assignments
- Compensation and benefits
- Performance evaluation and discipline
- Layoff, recall, and separation.

Discrimination, harassment, and retaliation are strictly prohibited. Violations of this policy may result in disciplinary action, up to and including dismissal, in accordance with Title 4 GCA and DOA Personnel Rules & Regulations. ([HRRRA Guam](#))

### **32.04. Scope**

This policy covers:

- All GFD employees (classified, unclassified, probationary, permanent, temporary, limited-term, and part-time);
- Applicants for employment and promotion;
- Cadets/recruits, interns, and volunteers;
- Contract workers and other persons performing services on GFD premises, to the extent permitted by law and contract.

### **32.05. Definitions**

For purposes of this policy:

#### **1. Discrimination**

Any adverse employment action or denial of a job benefit based in whole or in part on a protected classification instead of merit and job-related criteria, including policies or practices that have an unlawful disparate impact on protected groups. ([DirectEmployers Association](#))

#### **2. Harassment**

Unwelcome conduct based on a protected classification that is severe or pervasive enough to create an intimidating, hostile, or offensive work environment or that is made a condition of employment or a basis for employment decisions.

#### **3. Sexual Harassment**

A form of harassment that includes unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature when:

- Submission to such conduct is explicitly or implicitly a term or condition of employment;
- Submission to or rejection of such conduct is used as the basis for employment decisions; or
- Such conduct unreasonably interferes with work performance or creates a hostile work environment. ([Guam Courts](#))

#### **4. Retaliation**

Any adverse action or threat of adverse action against an individual because the individual:

- Reported discrimination or harassment;
- Participated in an EEO investigation or proceeding; or
- Opposed practices reasonably believed to be unlawful discrimination. ([Department of Justice](#))

#### **5. Reasonable Accommodation**

A modification or adjustment to the work environment, the way a job is performed, or workplace policies that enables a qualified individual with a disability, or an employee with sincerely held religious beliefs or practices, to perform the essential functions of the position or to enjoy equal benefits and privileges of employment, without imposing an undue hardship on GFD operations.

#### **6. Bona Fide Occupational Qualification (BFOQ)**

A limited, job-related requirement (such as sex or age) permitted under law when it is reasonably necessary to the normal operation of the Fire Department and when no less-restrictive means will

meet the legitimate safety or operational need. Any BFOQ must be supported by law and approved through the appropriate GovGuam process. ([Guam Courts](#))

### **32.06. Prohibited Conduct**

The following conduct is prohibited and may constitute a violation of this policy and applicable law:

1. **Discrimination in any employment decision**  
Favoring or disadvantaging an employee or applicant because of a protected characteristic.
2. **Harassing behavior**, including but not limited to:
  - Derogatory comments, slurs, epithets, or jokes about a protected group;
  - Displaying offensive or demeaning images, graffiti, or symbols;
  - Unwelcome comments about appearance, body, or gender expression;
  - Repeated unwanted propositions, touching, or physical intimidation.
3. **Sexual harassment**, such as:
  - Conditioning assignments, evaluations, or promotions on submission to sexual conduct;
  - Coercive requests for dates or sexual favors;
  - Unwelcome sexual comments, innuendo, or “jokes”;
  - Displaying sexually explicit materials in work areas, apparatus bays, or dorm/bunk areas. ([Guam Courts](#))
4. **Failure to reasonably accommodate** a known disability or sincerely held religious belief when doing so would not cause undue hardship or compromise essential emergency response duties.
5. **Retaliation** against an individual who has requested an accommodation, reported possible discrimination or harassment, or participated in an EEO process.
6. **Interference with EEO rights**, including intimidation, threats, or attempts to discourage reporting.

### **32.07. Recruitment, Hiring, and Promotion Practices**

1. **Merit-based selection**  
All recruitment, exam, and selection processes for GFD positions (including Fire Recruit, Firefighter I/II, and officer ranks) will be conducted consistent with DOA Personnel Rules & Regulations and Civil Service requirements, using objective, job-related criteria. ([HRRA Guam](#))
2. **Fair Chances (Criminal History)**  
GFD shall follow the Fair Chances Hiring Process Act (22 GCA Ch. 6), including limitations on when and how criminal history may be requested and considered, and ensuring that any disqualification is directly related to job duties, operational safety, and applicable law. ([Justia Law](#))
3. **Medical and physical standards**  
Any medical, fitness, or psychological standards and exams used for fire/EMS positions must be:
  - Job-related and consistent with business necessity;
  - Applied uniformly; and
  - Administered in compliance with ADA, Guam disability laws, and DOA rules.
4. **Promotional opportunities**  
Promotional processes (e.g., Fire Lieutenant, Fire Captain, Battalion Chief, etc.) will provide equal opportunity and be free from unlawful favoritism or bias based on protected characteristics.

## **32.08. Reasonable Accommodation Procedures**

### **1. Requesting accommodation**

An employee or applicant who needs an accommodation for disability or for religious reasons may submit a request to:

- Their immediate supervisor;
- The designated GFD EEO/HR Coordinator; or
- The DOA Equal Employment Opportunity Branch, consistent with GovGuam procedures.([DOA HR](#))

Requests may be oral or written; however, written requests are encouraged for clarity.

### **2. Interactive process**

GFD will engage in a timely, good-faith interactive process with the individual to:

- Understand functional limitations or religious requirements;
- Identify potential accommodations; and
- Assess whether any accommodation poses an undue hardship or direct threat to safety.

### **3. Examples of accommodations**

- Modified work schedules or duty assignments where operationally feasible;
- Assistive devices or equipment;
- Adjustments to testing processes (e.g., additional time, location, or format) where allowed by law;
- Uniform or grooming modifications required by sincerely held religious beliefs, unless they conflict with safety or PPE requirements.

### **4. Documentation and confidentiality**

Medical information obtained in connection with an accommodation request will be kept confidential and maintained in files separate from personnel files, in accordance with DOA rules and federal law.

## **32.09. Complaint and Reporting Procedures**

### **1. Reporting options within GFD**

Any employee, applicant, cadet, volunteer, or contractor who believes they have been subjected to discrimination, harassment, or retaliation, or who has observed such conduct, is strongly encouraged to promptly report it through one or more of the following:

- Immediate supervisor or next-level supervisor;
- GFD EEO/HR Coordinator or designated Civil Rights Officer;
- Fire Chief or designee;
- Department of Administration EEO Branch, in accordance with DOA procedures.([DOA HR](#))

Reports may be made orally or in writing. Supervisors who receive a complaint or observe potential violations **must** promptly report it to the GFD EEO/HR Coordinator.

## 2. External reporting options

Nothing in this policy prevents an individual from also filing a complaint with:

- Guam Department of Labor – Fair Employment Practice Division (FEPA);
- U.S. Equal Employment Opportunity Commission (EEOC);
- Other appropriate federal or territorial agencies, as permitted by law. ([Department of Labor Guam](#))

## 3. Time frames

Employees should report incidents as soon as reasonably possible so that GFD can promptly investigate. External agencies (e.g., GDOL/FEPA or EEOC) have specific filing deadlines; individuals are responsible for ensuring they meet those deadlines.

## 4. Interim measures

GFD may implement temporary measures, where appropriate, to protect the complainant and the integrity of the process (e.g., schedule changes, temporary reassignment, separating the parties).

### 32.10. Investigation of Complaints

#### 1. Initial review

Upon receipt of a complaint, the GFD EEO/HR Coordinator, in consultation with DOA EEO and/or legal counsel as appropriate, will determine whether the allegations fall within this policy and the applicable EEO laws.

#### 2. Impartial investigation

- An impartial investigator will be assigned (internal or external, as appropriate).
- Parties and witnesses will have an opportunity to be heard and provide relevant information.
- The investigation will be completed within a reasonable time, consistent with DOA procedures and due process requirements. ([Office of Justice Programs](#))

#### 3. Findings and corrective action

- At the conclusion of the investigation, GFD will determine whether this policy and/or applicable law has been violated.
- If a violation is found, GFD will take prompt, appropriate corrective and/or disciplinary action, which may include counseling, training, reprimand, suspension, demotion, or dismissal, in accordance with Title 4 GCA and DOA rules. ([DOA HR](#))
- Where appropriate, GFD may also implement remedial measures (e.g., training, revised procedures, monitoring).

#### 4. Notification

To the extent permitted by law and consistent with privacy requirements, the complainant and the respondent will be informed that the investigation has been completed and that appropriate action has been taken.

#### 32.11. Confidentiality

GFD will maintain confidentiality of EEO complaints and related records to the greatest extent practicable, consistent with:

- The need to investigate and respond;
- GovGuam records and personnel laws; and
- Applicable collective bargaining agreements (if any).

Retaliation for participating in an investigation or for maintaining the confidentiality of the process is strictly prohibited.

#### 32.12. Roles and Responsibilities

##### 1. Fire Chief

- Establishes and maintains an EEO-compliant workplace;
- Ensures department policies, SOPs, training, and supervisory practices align with this policy and applicable law;
- Designates an EEO/HR Coordinator or Civil Rights Officer for GFD.

##### 2. Supervisors and Command Staff

- Model professional, non-discriminatory behavior;
- Ensure employment decisions are based on job-related criteria;
- Promptly report and address EEO concerns;
- Cooperate fully with investigations.

##### 3. EEO/HR Coordinator

- Serves as primary point of contact for GFD EEO matters;
- Coordinates with DOA EEO Branch and GDOL/FEPA as needed; ([DOA HR](#))
- Maintains EEO and complaint records consistent with DOA and legal requirements;
- Provides or coordinates required EEO training.

##### 4. Employees, Applicants, and Others Covered

- Treat co-workers, supervisors, subordinates, applicants, and members of the public with respect and professionalism;
- Refrain from discriminatory or harassing conduct;
- Promptly report suspected violations;
- Cooperate in good faith in investigations and remedial actions.

#### 32.13. Training and Dissemination

- GFD will provide regular EEO, anti-harassment, and anti-retaliation training to all employees, including specialized training for supervisors and command staff, consistent with DOA and GDOL/FEPA guidance and current best practices. ([SHRM Guam Chapter](#))
- This policy will be:
  - Included in GFD SOP manuals and new-employee orientation;

- Posted in prominent locations at fire stations and offices; and
- Made available on the GFD internal site and, where appropriate, the GFD public website.

#### **32.14. Recordkeeping**

GFD will maintain records related to:

- Recruitment, selection, and promotion;
- EEO training;
- Complaints, investigations, and outcomes;
- Accommodation requests and resolutions.

Records will be retained and safeguarded in accordance with DOA personnel policies, the Government Claims Act, and applicable federal recordkeeping requirements. ([Guam Courts](#))

#### **32.15. No Waiver of Legal Rights**

Nothing in this policy limits any rights or remedies available under Guam or federal law, collective bargaining agreements, or other applicable policies. Employees may still pursue external remedies with GDOL/FEPA, EEOC, or the courts, as permitted by law.

#### **32.16. Effective Date and Review**

This policy is effective upon approval by the Fire Chief and remains in effect until amended or rescinded. It will be reviewed periodically, and at least every three (3) years, to ensure continued compliance with Guam and federal law, court decisions, and DOA guidance.