

FILED _____ ENTERED _____
LODGED _____ RECEIVED _____

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
Greenbelt Division

OCT 23 2003

BY _____ AT GREENBELT
CLERK U.S. DISTRICT COURT
DISTRICT OF MARYLAND DEPUTY

UNITED STATES OF AMERICA,)
)
)
Plaintiff,)
)
v.)
)
PRINCE GEORGE'S COUNTY, MARYLAND,)
)
)
Defendant.)

Civil Action No.
DKC-02-3563

CONSENT DECREE; ORDER

CONSENT DECREE

This action was brought by the United States against Prince George's County, Maryland ("County" or "Defendant") to enforce the provisions of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e, et seq., as amended ("Title VII"). In its Complaint, the United States alleges that the County has discriminated against Sharon Flory, an individual formerly employed as a fire technician in the County's Fire Department because of her sex, female, in violation of 42 U.S.C. Section 2000e-2(a), and has retaliated against her in violation of 42 U.S.C. Section 2000e-3(a).

The parties, desiring to appropriately settle this action, agree to the jurisdiction of this Court over them and the subject matter of this action, and hereby waive the entry of findings of fact and conclusions of law. The parties, desiring to avoid protracted and unnecessary litigation, also accept this Consent Decree ("Decree") as final on the issues resolved in this Decree. This Decree, being entered with the consent of the parties, shall not constitute an admission, adjudication or finding on the merits of this action, and the County denies that any unlawful

discrimination has occurred.

In resolution of this action, the parties hereby AGREE and the Court expressly APPROVES, ENTERS and ORDERS the following:

I. DEFINITIONS AND PARTIES

1. The parties to this Decree are the United States, by the Department of Justice ("United States") and Prince George's County, Maryland.
2. Prince George's County, Maryland, its Fire Department, and its current, former and future agents, employees, officials, designees and successors in interests are referred to hereinafter as "the County."
3. The terms "supervisor" and "administrator" include all employees of the County who manage, supervise, or have authority to affect the hiring, firing, discipline, assignments or pay rates of employees in the Fire Department, and all persons who establish policies or procedures for the Fire Department. The term "supervisor" also includes all members of the Fire Department who hold ranks above the level of Volunteer Firefighter and to whom the County has delegated actual or effective supervisory authority over employees in the Fire Department.
4. Sharon Flory is referred to hereinafter as "Ms. Flory."
5. "Member" or "Members" refer to all persons who are members of volunteer fire companies that operate within the County, or who are otherwise authorized through the County to provide firefighting, fire apparatus or emergency vehicle driving or maintenance, emergency medical, or other similar services to County residents on a volunteer basis.
6. The Equal Employment Opportunity Commission is referred to hereinafter as "EEOC."
7. Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e, et seq., is

referred to hereinafter as "Title VII."

8. "Sexual harassment" is any act that would be prohibited under Title VII's prohibitions against gender discrimination such as unwelcome sexual advances, requests for sexual favors, verbal, physical or other conduct of a sexual nature, or acts of animosity or hostility based on sex (whether or not sexual in nature), any of which creates or tends to create a hostile work environment based on sex for an employee of the County's Fire Department. "Sexual harassment" also includes prohibited conduct directed at a member in the County's Fire Department to the extent that it contributes to or creates a hostile work environment based on sex for an employee of the County's Fire Department.

9. "Retaliation" is any act that would be prohibited under Title VII's prohibitions against retaliation such as taking an adverse employment action (including disciplining an employee, operationally suspending an employee, transferring an employee involuntarily from shift work to day work, or decreasing the amount of overtime work available to an employee) because the employee has opposed any practice he or she reasonably believes violates Title VII, or has made a formal or informal complaint or charge, testified, assisted, or participated in any manner in a formal or informal investigation, proceeding or hearing relating to a practice alleged to violate Title VII.

10. "Day" or "days" refers to calendar and not business days.

11. "Date of entry of this Decree" refers to the date that the Court orders entry of the Decree.

II. PURPOSES OF THIS DECREE

12. The purposes of this Decree are to ensure that:

- a. employees in the County's Fire Department are not subjected to sexual harassment in violation of Title VII;
- b. employees in the County's Fire Department are not subjected to retaliation in violation of Title VII;
- c. all complaints of sexual harassment or retaliation made by Fire Department employees are investigated fairly and promptly, whether the complaints involve conduct by employees or members, and that the County takes appropriate remedial action when the County, through its responsible deciding official(s), determines that the complaints are well-founded;
- d. the County adopts and maintains a clear, meaningful and well-publicized policy prohibiting sexual harassment and retaliation in its Fire Department (in compliance with this requirement, the County has agreed to adopt the amendment to its policy attached to this Decree as Appendix C);
- e. the County maintains an EEO Officer for the Fire Department who shall oversee the receipt and investigation of complaints of sexual harassment and retaliation, and has neither a dual role as legal counsel for the County or its Fire Department regarding claims of employment discrimination or retaliation, nor any other conflict of interest.
- f. the County provides adequate training to employees and members in its Fire Department, and to all County supervisors, administrators or officials responsible for making determinations regarding complaints of sexual harassment or retaliation, with regard to workplace sexual harassment and retaliation prohibited

by Title VII, as provided for below; and

- g. the County offers to Ms. Flory appropriate individual relief.

III. SPECIFIC RELIEF

Without admitting the allegations of the United States, and in settlement of the United States' claims for relief for Sharon Flory, as well as settlement of the claims of Ms. Flory if she accepts the relief provided her by this Decree, the County agrees to do the following:

- 13. The County shall offer Ms. Flory a monetary award of \$90,000, inclusive of attorney's fees.
- 14. The County shall provide Ms. Flory with a retirement badge and certificate.
- 15. The County will not provide negative employment references for Ms. Flory to any future prospective employer that inquires about her past employment in the Fire Department, nor will it refer in any way to Ms. Flory's filing of complaints or charges of sexual harassment or retaliation or this lawsuit when communicating with prospective employers seeking a reference for Ms. Flory. In order to ensure that Ms. Flory does not receive negative employment references, the County will:
 - a. expunge from Ms. Flory's personnel files the Letter of Unsatisfactory Conduct and the notice of operational suspension issued to Ms. Flory in 1998, as well as any references to her alleged unsatisfactory conduct and her operational suspension. The County also shall remove from Ms. Flory's personnel files any and all documents that refer to any internal complaints of sexual harassment or retaliation made by Ms. Flory during her employment with the County, the charge of discrimination filed by Ms. Flory with the EEOC (charge No. 120-98-1146),

the United States' investigation of Ms. Flory's charge of discrimination, and this lawsuit; and

- b. instruct all of Ms. Flory's former supervisors who are incumbent County employees that they may not give out employment references for Ms. Flory, but will direct the inquiring entity or person to the Office of the Fire Chief. If a reference is requested by a prospective employer, the County will confirm the length of Ms. Flory's employment, the positions she held during her employment in the Fire Department, her past salary history, and the fact that she received overall ratings that placed her between the "exceeds satisfactory" and "outstanding" categories on her performance evaluations.

16. The County shall notify Ms. Flory of the relief being afforded her under the terms of this Consent Decree within seven (7) days of its entry by mailing to her, by certified mail, return receipt requested, a copy of the letter set forth in Appendix A and enclosing a copy of this Decree and a copy of the Release in the form set forth in Appendix B. The letter identified as Appendix A will advise Ms. Flory that in order to accept the relief offered her, she must return the executed Appendix B Release to the County within thirty (30) days of her receipt of the Appendix A letter, unless she can demonstrate good cause, to be determined by the United States, for her failure to do so.

17. In order to accept the specific relief to be offered by the County under this Decree, Ms. Flory must execute a Release in the manner attached as Appendix B.

18. The County will pay to Ms. Flory the monetary award specified in paragraph 13, supra, within fifteen (15) days of its receipt of the executed Appendix B Release. The County will

issue to Ms. Flory, if she accepts the monetary award, an appropriate IRS form that reflects the monetary amount.

IV. GENERAL INJUNCTIVE RELIEF

19. The County, its employees, supervisors, agents and all individuals in active concert or participation with it, are enjoined from:

- a. subjecting any employee in the Fire Department to sexual harassment;
- b. creating, facilitating, or tolerating sexual harassment or a hostile work environment based on sex in the Fire Department;
- c. failing or refusing to use all reasonable and lawful available means to control the activities of members to prevent them from engaging in sexual harassment of employees in the Fire Department; and
- d. retaliating against or in any respect adversely affecting any employee in the Fire Department because that individual has engaged in practices protected under 42 U.S.C. 2000e-3(a) (including cooperating with the United States' investigation of EEOC charge No. 120-98-1146, as amended, or this lawsuit).

V. REVISION AND ADOPTION OF FIRE DEPARTMENT HARASSMENT POLICIES AND PROCEDURES

20. Within sixty (60) days after the date of the entry of this Decree, the County shall revise Prince George's County Fire Department General Order No. 1-6, dated February 22, 1999 (or any other version of that Order that is effective at the time this Decree is entered by the Court), with the approval of counsel for the United States, not to be unreasonably withheld. As indicated in paragraph 12(d), the County has agreed to incorporate and adopt Appendix C as a policy of the County. If the County and the United States are unable to agree upon other

mutually acceptable and appropriate revisions to General Order No. 1-6 within this sixty (60) day period, the dispute shall be submitted to the Court for resolution under paragraph 47, infra.

21. Within seventy-five (75) days of the entry of this Decree, the County and Fire Department shall take all necessary actions to adopt the Revised General Order No. 1-6 as a policy of the County. Within this time period, the County and Fire Department also shall take all necessary actions to adopt Revised General Order No. 1-6 as a Volunteer Services Directive titled "Equal Employment Opportunity" and as a policy of the County applicable to members.

22. Within ninety (90) days of the entry of this Decree, the County shall issue and distribute to all current Fire Department employees and members Revised General Order No. 1-6 and the Equal Employment Opportunity Volunteer Services Directive.

23. Within sixty (60) days of the entry of this Decree, the County and Fire Department shall take all necessary actions to amend other policies, rules and regulations applicable to employees and members in the Fire Department so that they are consistent with the provisions and requirements of Revised General Order 1-6 and the Equal Employment Opportunity Volunteer Services Directive. The policies, rules and regulations to be amended include, but are not limited to: the Prince George's County Fire Department Career Services Directives and the Prince George's County Fire Department Volunteer Services Directives. The amended policies, rules and regulations shall, when appropriate, cross-reference Revised General Order 1-6 and the Equal Employment Opportunity Volunteer Services Directive. All amended policies and rules shall be submitted to the United States for approval. If the County and the United States are unable to agree upon mutually acceptable and appropriate revisions, the dispute shall be submitted to the Court for resolution under paragraph 47, infra.

24. Within seventy-five (75) days of the entry of the Decree, the County and Fire Department shall take all necessary steps to adopt any policies, rules and regulations amended pursuant to this Decree as policies of the County. Within ninety (90) days of the entry of this Decree, the County shall distribute any amended policies, rules and regulations to all employees and members in its Fire Department.

25. For all future employees and members, the County shall issue and distribute Revised General Order No. 1-6 to employees and members, and the Equal Employment Opportunity Volunteer Services Directive to members, within fifteen (15) days of an employee's hire or member's authorization to begin providing volunteer services. The County shall require all current and future employees and members to sign and date an acknowledgment of receipt of the Order or Directive when the employee or member obtains a copy of the Order or Directive.

26. The County shall post Revised General Order 1-6 and the Equal Employment Opportunity Volunteer Services Directive in prominent, conspicuous, centrally-located places commonly used for posting notices (e.g., bulletin boards) in each fire station located within the County, in all County Fire Department buildings and facilities and in the County's administrative offices for the Fire Department. The County shall designate one supervisory employee at each fire station who is responsible for ensuring, at least on a monthly basis, that these documents remain posted and have not been defaced or altered in any fashion.

VI. TRAINING

27. Within one hundred eighty (180) days of the entry of the Decree by the Court, the County shall provide mandatory basic training regarding sexual harassment and retaliation for all non-supervisory Fire Department employees assigned to, and all members who belong to, Companies

18, 21, 28 and 42, and combined basic and supervisory training for all County supervisors, administrators and officials (including members of the Fire Commission) responsible for making determinations regarding complaints of sexual harassment and retaliation from Fire Department employees. This training shall be conducted by the United States Department of Justice or its designee. The County shall take any and all reasonable action to ensure attendance by members and employees at the training sessions described below. The Department of Justice reserves the right to require the County to provide additional training of employees at, and members of, other stations, to be presented by the Department of Justice, should it be determined that such training is warranted by the circumstances at particular stations or failure to comply with the provisions of this Decree.

28. The basic training class for non-supervisory employees and members of Companies 18, 21, 28 and 42 shall be offered on different days and times of day, at one central location in the County, or, at the discretion of the United States, shall be conducted at those fire stations. If any training session held at a station is interrupted due to a fire emergency, the make-up session shall be held at a central location in the County.

29. All supervisory employees, members who hold ranks above the rank of volunteer firefighter, members of the Prince George's County Fire Commission, and all County supervisors, administrators and officials responsible for making determinations regarding complaints of sexual harassment and retaliation from employees in the Fire Department, will be required to attend a combined basic and supervisory training class. The combined basic and supervisory training class shall be offered on different days and at different times of day, at a Department of Justice facility in Washington, D.C.

30. The County will include a unit on sexual harassment as part of its regular, ongoing in-service training of firefighters and members.

31. All Fire Department employees and members will be asked to sign and date an acknowledgment of attendance for any and all training instituted by the United States or the County concerning sexual harassment and retaliation.

VII. EVALUATION OF EMPLOYEES AND MEMBERS

32. Within thirty (30) days of the entry of the Decree, the County shall amend the job descriptions of all employees who have supervisory or managerial authority over employees in the Fire Department to include a duty to know and enforce the law with respect to sexual harassment and retaliation. Also within that 30 day period, the County shall adopt, as a criterion for evaluating the performance of all of its employees who have supervisory or managerial authority over other employees in the Fire Department, a factor that takes into account that individual's awareness of EEO requirements and procedures and his or her commitment to enforcing the County's sexual harassment and retaliation policies. For Fire Department employees, this evaluative criterion shall be incorporated in Past Performance Appraisals ("PPAs") or any other type of written performance evaluations adopted by the County during the period this Decree remains in effect.

VIII. PROCEDURES FOR ACCEPTANCE AND INVESTIGATION OF COMPLAINTS OF HARASSMENT OR RETALIATION

33. Within thirty (30) days after the entry of this Decree, the County shall inform all employees in the Fire Department, in writing, of the name and contact information of the current designated Fire Department Equal Employment Opportunity Officer ("Fire Department EEO Officer"), as well as the name and contact of an alternative County employee ("Alternative EEO

Officer”), not in the Fire Department, who is authorized to receive and investigate complaints of sexual harassment and retaliation by employees in the Fire Department (collectively, the “EEO Officers”). Within ten (10) days of the date upon which the County or the Fire Department designates a Fire Department EEO Officer and Alternative EEO Officer, the County shall provide the United States with written notice of the name, title and qualifications of those individuals, and of any other person to whom the Fire Department EEO Officer (or Alternate EEO Officer) anticipates delegating responsibility for the receipt and/or investigation of complaints of sexual harassment under circumstances that would make such a delegation necessary and appropriate. With respect to any person to whom the Fire Department EEO Officer (or Alternate EEO Officer) delegates authority to receive and investigate a complaint, the County also shall provide to the United States a summary of the designee’s relevant background and training to receive and investigate complaints of sexual harassment and retaliation prior to any receipt or investigation of a complaint by that designee.

34. The Fire Department EEO Officer and Alternative EEO Officer shall be designated as individuals capable of receiving complaints of sexual harassment and retaliation from employees in the County’s Fire Department, as set forth in Revised General Order 1-6 and the Equal Employment Opportunity Volunteer Services Directive. These EEO Officers shall investigate all complaints of sexual harassment and retaliation received by them directly from employees, or referred to them by County supervisors, officials or volunteers, as set forth in Revised General Order 1-6 and the Equal Employment Opportunity Volunteer Services Directive, and shall recommend appropriate action pursuant to those policies, including discipline where appropriate. As provided for in paragraph 12(e) of this Decree, the Fire Department and Alternative EEO

Officers shall maintain neutral roles and must remain free of conflicts of interest.

35. The County will issue quarterly reports to the United States regarding any complaint of sexual harassment or retaliation of a Fire Department employee during the effective period of this Decree. In the report, the County will provide copies of the complaint, advise of the date of receipt and nature of the complaints, and the findings and outcome of the investigation and any actions taken as a result of such findings. Absent extenuating circumstances, which must be explained in the report, all investigations of complaints of sexual harassment or retaliation of a Fire Department employee will be completed within fourteen (14) days of the receipt of the complaint.

36. At least one of the EEO Officers shall be present at each basic and supervisory training session presented by the United States or its designee. At least one of the EEO Officers also shall be present at the presentation of the unit on sexual harassment and retaliation during the in-service training required pursuant to paragraph 30, and shall distribute the names and phone numbers of both EEO Officers, in writing, to employees and members in the Fire Department during each of those training sessions.

**IX. TREATMENT OF COMPLAINANTS AND EMPLOYEES OR MEMBERS
ACCUSED OF SEXUAL HARASSMENT OR RETALIATION**

37. The County and/or EEO Officers shall accept and investigate complaints of sexual harassment by employees that involve allegations of sexual harassment directed at members, to the extent that the sexual harassment of members may create or contribute to a hostile environment based on sex for the complaining employee.

38. In the interim period between the entry of the Decree by the Court and the County's adoption of revised or amended policies and regulations pursuant to part V, the County shall

implement the procedures set forth in Appendix C upon receipt of a complaint of sexual harassment or retaliation.

39. Without superseding any provisions in Section IX herein, or Appendix C, regarding transfers of complainants and/or members, the County generally reserves the right to engage in transfers of Fire Department personnel required by demonstrated operational needs. However, a complaint of sexual harassment and/or retaliation shall not constitute, de facto, an operational need that would justify transfer of a complainant.

40. None of the provisions of Section IX, or any other provision of the Decree, shall be construed as requiring the County to take actions inconsistent with public safety, except that the fact of a complaint of sexual harassment or retaliation shall not, in and of itself, be deemed by the County to constitute a threat to public safety or the safety of employees of the PGFD.

X. TERMS CONCERNING PORNOGRAPHY IN FIRE STATIONS

41. The County will use all reasonable and lawful available means to ensure that there will be no displays or presentation of pornographic material, including videos, television, computer-generated displays and pictures, in those areas of all fire stations where employees would, in the normal course of their employment or tours of duty, spend time. Those areas of the fire stations include, but are not necessarily limited to, dayroom and kitchen areas.

XI. PUBLICITY

42. Within thirty (30) days of the entry of this Decree by the Court, the County shall modify the internet website of the Fire Department to include information and links regarding Revised General Order 1-6. The Fire Department home page shall include an item titled "Employment

Discrimination Claims," and shall be linked to the web sites of state, local and federal agencies authorized to receive complaints of sexual harassment and retaliation under Title VII.

43. The information required to be posted on the Fire Department's internet website shall remain posted throughout the duration of this Decree.

XI. COMPLIANCE MONITORING

44. For a period of two (2) years from the effective date of this Decree, the United States may request, at its discretion, an annual report containing a description of any sexual harassment and retaliation complaints received from employees or members within the Fire Department, and copies of attendance sheets and any course materials used in connection with the annual training.

45. The County shall retain during the term of this Decree all documents, in paper or electronic form (including electronic mail), that come into its possession relating to complaints of sexual harassment or retaliation from an employee or former employee in the Fire Department made against the County, the Fire Department or any employee or member in the Fire Department and documents relating to the training sessions provided for under this Decree.

46. The United States may review compliance with this Decree at any time. The County shall provide copies of documents relevant to the County's compliance with this Decree upon the request of the United States, including but not limited to the documents described in paragraph 45, supra, and the United States shall pay the reasonable costs of making such copies. If the United States believes that this Decree or any portion of it has been violated, it will raise its concerns with the County pursuant to the dispute resolution procedure set forth in paragraph 47, infra.

XII. DISPUTE RESOLUTION

47. The parties shall attempt to resolve informally any dispute that arises under this Decree. If the parties are unable to resolve the dispute expeditiously, either party may move the Court for a resolution of the issue, provided that written notice has been provided to the other party.

XIII. MODIFICATION OF THE DECREE

48. With respect to the various time frames for completion of activities set forth in this Decree, those time frames may be modified upon mutual written consent of the parties. The parties may jointly agree to other modifications of this Decree with the approval of the Court.

XIV. JURISDICTION OF THE COURT

49. The Court shall maintain jurisdiction over this case throughout the duration of this Decree for purposes of resolving disputes between the parties with respect to the terms or implementation of the Decree.

50. Failure by the United States to enforce this entire Decree or any provision thereof shall not be construed as a waiver of its right to do so with regard to other provisions of this Decree.

XV. TERMINATION DATE

51. The termination date of the Decree is two (2) years after the effective date of the Decree, or the date on which the County provides any report requested by the United States pursuant to paragraph 44, supra, whichever is later. The termination date of the Decree may be extended for good cause shown.

XVI. GENERAL PROVISIONS

52. The parties shall bear their own costs, expenses and attorney's fees in this action, including the costs of compliance or monitoring, except that the parties shall retain the right to

seek costs for any matter which, in the future, may arise from this Decree and require resolution by this Court.

53. All documents required to be delivered under this Decree to the United States shall be sent to the following address:

Chief, Employment Litigation Section,
United States Department of Justice, Civil Rights Division
950 Pennsylvania Avenue N.W.
Employment Litigation Section, PHB Room 4040
Washington, D.C. 20530

For Prince George's County:

_____/s/_____
By:
County Attorney
Prince George's County, Maryland
(signed copy of document bearing
signature of County Attorney is being
maintained in office of Anat Ehrlich)

_____/s/_____
By:
Chief Administrative Officer
Prince George's County, Maryland
(signed copy of document bearing
signature of Chief Administrative
Officer is being maintained in office
of Anat Ehrlich)

_____/s/_____
Chief, Prince George's County
Fire/EMS Department
(signed copy of document bearing
signature of Chief of the Fire/EMS
Department is being maintained
in office of Anat Ehrlich)

Dated: _____

Dated: _____

IT IS SO ORDERED

Dated: Oct 23, 2003

**For the United States
Department of Justice:**

R. ALEXANDER ACOSTA
Assistant Attorney General
Civil Rights Division

By: _____
WILLIAM B. FENTON
JODI B. DANIS
ANAT EHRLICH
Attorneys
Employment Litigation Section
Civil Rights Division
U.S. Department of Justice

Deborah K. Chasanow
DEBORAH CHASANOW
United States District Judge

APPENDIX A

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Sharon Flory
403 East Oregon Road
Lititz, PA 17543

Re: United States of America v. Prince George's County, Maryland
Civil Action No. DKC-02-3563 (D. Md.)

Dear Ms. Flory:

The United States and Prince George's County, Maryland ("the County") have entered into a Consent Decree settling the case of United States v. Prince George's County, Md. CV No. DKC-02-3563 (D. Md.). A copy of the Consent Decree, which was approved and entered by the Court on _____, is enclosed.

Pursuant to the Consent Decree, the County is offering to:

1. pay you a monetary amount of \$90,000, inclusive of attorney's fees, in compensation of your claims of discrimination. You should be aware that all or a portion of the monetary amount may be subject to federal, state and/or local income tax, for which you would be responsible;
2. provide you with a retirement badge and certificate;
3. provide you with neutral employment references that confirm the length of your employment with the County, the positions that you held, your salary history, and the fact that you received overall ratings of "exceeds satisfactory" and "outstanding" on your performance evaluations; and
4. remove from your personnel files any and all documents relating to the Letter of Unsatisfactory Conduct and the notice of operational suspension issued to you in 1998, as well as any and all documents that refer to any internal complaints of sexual harassment or retaliation made by you during your employment with the County, EEOC charge number 120-98-1146, as amended, the United States' investigation of your allegations of discrimination and this lawsuit.

In order to accept the County's offer, you must execute the enclosed Release and return it, within thirty (30) days of your receipt of this letter, to the County's counsel at:

Robert Mellin, Esq.
Associate County Counsel
Prince George's County Office of Law
County Administration Building, Room 5121
Upper Marlboro, MD 20772

The County will pay the entire monetary amount offered to you within fifteen (15) days of its receipt of your executed release.

If you decline the relief offered by the County, the County will nevertheless have satisfied its obligation to the United States pursuant to the Consent Decree, and the United States will not seek additional relief on your behalf.

If you have any questions concerning the Consent Decree or the University's offer to you, you may contact one of the following attorneys at the U.S. Department of Justice:

Jodi B. Danis
Anat Ehrlich
Senior Trial Attorneys
Employment Litigation Section
Civil Rights Division
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530
(202) 307-5768

Sincerely,

Robert Mellin, Esq.

Enclosures

APPENDIX B

RELEASE OF ALL CLAIMS

For and in consideration of the acceptance of all or any part of the relief offered to me by Prince George's County, Maryland (the "County"), pursuant to the provisions of the Consent Decree entered by the Honorable _____, United States District Judge, on _____ in United States v. Prince George's County, Md., CV No. DKC-02-3563 (D. Md.), I, Sharon Flory, forever release and discharge the County, and all current, former and future agents, employees, officials, designees, predecessors and successors in interest from all legal and equitable claims, arising out of the Complaint filed in the above-captioned civil action and EEOC charge number 120-98-1146, as amended, accrued prior to the date of this release. I further agree that I will not institute a civil action or seek to intervene against the County in any pending civil action alleging employment discrimination on the basis of EEOC charge number 120-98-1146, as amended, or any other EEOC charges filed against the County before the date of this release, or the Complaint in CV No. DKC-02-3563 (D. Md.), or any of the facts alleged in EEOC charge number 120-98-1146 or any other EEOC charge, as amended, or Complaint filed before the date of this release against the County and/or any of its agents, employees, officials, designees, and predecessors and successors in interest.

I understand that the relief to be given to me, including the payment to me of any monetary amount, does not constitute an admission by the County of the validity of any claim raised by me or on my behalf.

This release constitutes the entire agreement between the County and myself, without exception or exclusion.

I acknowledge that a copy of the Consent Decree in this action has been made available to me for my review.

I HAVE READ THIS RELEASE AND UNDERSTAND THE CONTENTS THEREOF, AND I EXECUTE THIS RELEASE OF MY OWN FREE ACT AND DEED.

Signed this _____ day of _____, _____.

SHARON FLORY
Social Security No. _____

Subscribed and sworn to before me this
_____ day of _____, _____

Notary Public

My Commission expires: _____

APPENDIX C

INSERT FOR REVISED GENERAL ORDER NO. 1-6 AND EQUAL EMPLOYMENT OPPORTUNITY VOLUNTEER SERVICES DIRECTIVE

The following policies and procedures shall apply to complaints of sexual harassment and/or retaliation of PGFD employees by either other employees or members. These policies and procedures shall apply to complaints of harassment or retaliation between members only to the extent that the harassment is alleged to create or contribute to a hostile environment based on sex or retaliation for employees. To the extent that a complaint of harassment or retaliation between members is not alleged to create or contribute to a hostile environment based on sex or retaliation for an employee, other policies regarding inappropriate conduct by members nevertheless may apply.

I. Definitions

1. "Sexual harassment" includes, but is not limited to: unwelcome sexual advances, requests for sexual favors, verbal, physical or other conduct of a sexual nature, or acts of animosity or hostility based on sex (whether or not sexual in nature), any of which creates or tends to create a hostile work environment based on sex for an employee of the County's Fire Department. "Sexual harassment" also includes, but is not limited to, such conduct directed at a member in the County's Fire Department to the extent that it contributes to or creates a hostile work environment based on sex for an employee of the County's Fire Department.

2. "Retaliation" includes, but is not limited to: taking any adverse employment action (including disciplining an employee, operationally suspending an employee, transferring an employee involuntarily from shift work to day work, or decreasing the amount of overtime work available to an employee) because the employee has opposed any practice he or she reasonably believes violates Title VII, or has made a formal or informal complaint or charge, testified, assisted, or participated in any manner in a formal or informal investigation, proceeding or hearing relating to a practice alleged to violate Title VII.

3. As used herein, the terms "less serious" or "minor" incident (or allegation thereof) of sexual harassment or retaliation include, but are not limited to:

- a) an isolated joke, comment or remark, whether verbal, written, drawn or disseminated electronically, that is of a sexual nature or is offensive or disparaging on the basis of gender;
- b) an isolated incident involving a display of sexually explicit materials; and
- c) an isolated negative or derogatory comment based on an individual's past complaint of sexual harassment or discrimination.

The County shall have discretion to determine whether an incident (or allegation thereof) is less serious or minor based on a reasonable complainant standard and the parameters established by relevant case law.

4. As used herein, the terms "more serious" or "major" incident (or allegation thereof) of sexual harassment or retaliation include, but are not limited to:

- a) repeated jokes, comments or remarks, whether verbal, written, drawn, or disseminated electronically, that are of a sexual nature or are offensive or disparaging on the basis of gender;
- b) repeated displays of sexually explicit materials;
- c) unwelcome physical conduct of a sexual nature, including physical assaults or threats of physical assaults;
- d) requests for sexual favors and other verbal or physical conduct of a sexual nature when a) submission to such conduct is made explicitly or implicitly a term or condition of an individual's employment or (b) submission to or rejection of such conduct by an individual is used as the basis for an employment decision affecting the individual;
- e) repeated incidents of negative or derogatory comment based on an individual's past complaint of sexual harassment or discrimination; and
- f) any denial of a tangible job benefit, or any act or omission with respect to the complainant that puts or could put the safety of the complainant or others at risk, based on his or her past complaints of sexual harassment or discrimination.

The County shall have discretion to determine whether an incident (or allegation thereof) is more serious or major based on a reasonable complainant standard and the parameters established by relevant case law.

II. Procedures Pending the Outcome of a Complaint Investigation

An employee who makes an informal or formal complaint of either sexual harassment or retaliation will not be transferred to another fire station because of that complaint unless the employee voluntarily requests a transfer. The County will first explain to the complainant the steps that it is willing and able to take pursuant to parts A and B below. If the complainant nevertheless insists upon a transfer to another station as a means of resolving the complaint, the County shall transfer the complainant to the same type of work, i.e., shift work or day work, that the complainant has at the time of the complaint, at the closest station practicable under the circumstances, unless no such assignment is available.

A. Complaints of Alleged Harassment or Retaliation by A Career Employee

If the complaint of an employee relates to alleged physical contact, or involves conduct of a serious nature (including retaliatory harassment), and the alleged harasser is an employee, the complainant and the alleged harasser shall be separated through their assignment to different shifts within the same fire station pending the resolution of the complaint. The complainant may only be transferred to the same type of work or shift, i.e., day work or shift work, that he or she had at the time of the complaint. To the maximum extent possible, the alleged harasser also should be maintained in the same type of work that he or she had at the time of the complaint. If,

after an investigation is conducted, an employee is determined to have engaged in sexual harassment or retaliation, in addition to any other appropriate disciplinary measures imposed, that employee will be maintained on a separate shift or transferred if it is determined that permanent separation of the employee and victim is necessary.

B. Complaints of Alleged Harassment or Retaliation by a Volunteer Member

If the complainant is an employee but the person alleged to have engaged in sexual harassment or retaliation is a member, the following steps shall apply to members accused of sexual harassment and/or retaliation in the Fire Department during the investigation of a complaint:

1. If the complaint against a member concerns physical contact or harassment of a serious nature (including retaliatory harassment), the County shall limit the member accused of harassment to providing volunteer services only during hours other than the scheduled working hours or shift of the complainant pending the investigation and resolution of the complaint. The alleged harasser shall not be permitted to be present at the fire station during the scheduled working hours or shift of the complainant unless the complaint has been investigated and resolved against the complainant.
2. While an investigation of a complaint described in subparagraph (1) is pending against a member, if that member can demonstrate to the County that the fire station to which he or she belongs as a member is his or her sole residence, and that exclusion from the station during the scheduled working hours or shift of the complainant thus would present and undue hardship, the County temporarily may effectuate a separation of the member and the complainant until the resolution of the complaint by changing the shift, working hours or station assignment of the complainant, as long as the change does not result in any loss of pay or overtime work opportunities for the complainant.
3. If a member whose service and presence at the fire station is limited pursuant to subparagraph (1) refuses to absent himself/herself from the station during the complainant's scheduled shift or hours, or if it is determined that the member was present at the station during the scheduled hours of the complainant, the Fire Chief shall request in writing that the Volunteer Chief of that station immediately enforce the ban of the alleged harasser from the premises during the complainant's scheduled hours.
4. If, following a request to the Volunteer Fire Chief under subparagraph (3), the member nevertheless remains present at the station during the scheduled shift of the complainant, the Fire Chief shall operationally suspend both the alleged harasser and the Volunteer Chief for a thirty-day period.
5. If the alleged harasser violates the terms of his/her operational suspension, or if

the alleged harasser is found to be present at the station during the thirty-day period of occupational suspension, the County shall impose a permanent operational suspension on him/her and will suspend dispersal of any discretionary funds allocated by the County to the volunteer fire company of which the alleged harasser is a member for a six-month period. If the Volunteer Chief violates the terms of an operational suspension imposed under subparagraph (4), that Volunteer Chief shall remain on operational suspension for an additional six (6) months, and the County shall suspend dispersal of any discretionary funds allocated by the County to the volunteer fire company of which the Volunteer Chief is a member for a six-month period.

If, after all of the previous steps outlined in paragraphs 1-5, supra, have been undertaken, the member nevertheless remains present at the station during the scheduled shift of the complainant, the County must consider the removal of all career employees from the station as a first option.

If removal of all career employees from the station cannot be achieved due to a good-faith determination that such removal would create a substantial risk to public safety, then the County will offer the complainant the option of either remaining in the station at issue or, if he/she does not prefer this option, the County shall offer him/her a minimum of three (3) alternative choices of stations to which he/she may transfer. Each of the alternative transfers offered to the complainant shall be to the same type of work, i.e., shift work or day work, that the complainant has at the time of the complaint, and shall be to the closest station practicable under the circumstances.

Without superseding any provisions herein regarding transfers of complainants and/or members, the County generally reserves the right to engage in transfers of Fire Department personnel required by demonstrated operational needs. However, a complaint of sexual harassment and/or retaliation shall not constitute, de facto, an operational need that would justify transfer of a complainant.

III. Disciplinary Action Upon the Determination of a Violation

Where the County has determined that a member has engaged in sexual harassment or retaliation after having conducted an investigation, the County shall take the following steps:

- 1) imposition of appropriate disciplinary measures (including operational suspension of the member), of the type and duration commensurate with the disciplinary actions that would be imposed on an employee under similar circumstances;
- 2) if the member does not comply with the operational suspension or other disciplinary measures, the County shall follow the steps delineated in paragraphs II. B(1-5) supra; and

- 3) if permanent separation of the complainant and the member is deemed necessary by the County or is requested by the complainant, the County also shall provide the options delineated in part II. B, to the complainant

If there are more than three (3) violations of Revised General Order 1-6 or the Equal Employment Opportunity Volunteer Services Director by one or more members of the same volunteer company or station during a one-year period, the County shall operationally suspend the Volunteer Chief(s) of that volunteer company from his or her position as Volunteer Chief for at least a one-year period and shall suspend the dispersal of discretionary funds to that volunteer company or station for a six-month period.

As part of the disciplinary measures imposed by the County on employees who are determined to have engaged in violations of Revised General Order 1-6, the Equal Employment Opportunity Volunteer Services Directive, or other applicable sexual harassment and retaliation policies or procedures, after such a determination of a violation is made, those employees shall not be eligible for promotion to a higher rank for a six-month period if a minor violation has occurred and a one-year period if a more serious violation has occurred, and shall not be eligible to receive any type of performance award for the one-year period (including annual leave awards or incentive awards described in Career Services Directives Number 2 and 21).

Without superseding any provisions in parts II. A or B herein regarding transfers of complainants and/or members, the County generally reserves the right to engage in transfers of Fire Department personnel required by demonstrated operational needs. However, a complaint of sexual harassment and/or retaliation shall not constitute, de facto, an operational need that would justify transfer of a complainant.