

TITLE: Waukegan Public Library Sexual Harassment Prohibition Policy
POLICY NUMBER: 370
EFFECTIVE DATE: September 16, 2020
REVIEW DATE: September 2022
SUPERSEDES POLICY NUMBER: None

**WAUKEGAN PUBLIC LIBRARY
SEXUAL HARASSMENT PROHIBITION POLICY**

I. STATE REGULATIONS ADOPTED BY REFERENCE.

The regulations of Public Act 100-0554 (hereinafter referred to as the “Act” in this subchapter) are hereby adopted by reference and made applicable to all appointed trustees, officers, and employees of the Waukegan Public Library.

II. POLICY ADOPTED.

This policy is hereby adopted, and is expressly applicable to all appointed trustees, officers, and employees of the Waukegan Public Library.

III. SEXUAL HARASSMENT PROHIBITED

It is unlawful to harass a person because of that person’s sex. The courts have determined that sexual harassment is a form of discrimination under Title VII of the U.S. Civil Rights Act of 1964, as amended in 1991.

All persons have a right to work in an environment free from sexual harassment. Sexual harassment is unacceptable misconduct which affects individuals of all genders and sexual orientations.

It is a policy of the Waukegan Public Library to prohibit sexual harassment of any person by any appointed official, library agent, library employee or office on the basis of sex or gender. All appointed officials, agents, employees and offices are prohibited from sexually harassing any person, regardless of any employment relationship or lack thereof.

IV. SEXUAL HARASSMENT DEFINED

This policy adopts the definition of sexual harassment as stated in the Illinois Human Rights Act, which currently defines sexual harassment as:

Any unwelcome sexual advances or requests for sexual favors or any conduct of a sexual nature 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

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- (3) Such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

As a matter of clarification, the conduct of these paragraphs 1 or 2 specifically includes harassment commonly known as "quid pro quo harassment".

Conduct which may constitute sexual harassment includes, but is not necessarily limited to:

- Verbal: sexual innuendos, suggestive comments, insults, humor, and jokes about sex, anatomy or gender-specific traits, sexual propositions, threats, repeated requests for dates, or statements about other employees, even outside of their presence, of a sexual nature.
- Non-verbal: suggestive or insulting sounds (whistling), leering, obscene gestures, sexually suggestive bodily gestures, "catcalls", "smacking", or "kissing" noises.
- Visual: posters, signs, pin-ups, or slogans of a sexual nature, viewing pornographic material or websites.
- Physical: touching, unwelcome hugging or kissing, pinching, brushing the body, any coerced sexual act, or actual assault.
- Textual/Electronic: "sexting" (electronically sending messages with sexual content, including pictures and video), the use of sexually explicit language, harassment, cyber stalking, and threats via all forms of electronic communication (e-mail, text/picture/video messages, intranet/on-line postings, blogs, instant messages, and social network websites like Facebook and Twitter).

The most severe and overt forms of sexual harassment are easier to determine. On the other end of the spectrum, some forms of sexual harassment are subtler and depend, to some extent, on individual perception and interpretation. The courts assess sexual harassment by a standard of what would offend a "reasonable person." The library administration, in enforcing this policy, shall utilize that same standard.

V. PROCEDURE FOR REPORTING AND INVESTIGATING AN ALLEGATION OF SEXUAL HARASSMENT

An employee who either observes sexual harassment or believes that they are the object of sexual harassment should deal with the incident(s) as directly and firmly as possible by clearly communicating their position to the offending employee, and their immediate supervisor. It is not necessary for sexual harassment to be directed at the person making the report.

However, persons wishing to make a report of sexual harassment and who are uncomfortable with reporting it within the ordinary chain of command may (for this sole purpose) ignore the chain of command and make the report with any supervisory person described in this section,

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and may do so anonymously. This provision is specifically intended to include instances where the alleged harasser holds a supervisory position over the reporting person.

Any employee may report conduct which is believed to be sexual harassment, including the following:

- *Electronic/Direct Communication.* If there is sexual harassing behavior in the workplace, the harassed employee should directly and clearly express their objection that the conduct is unwelcome and request that the offending behavior stop. This message, that the conduct is unwelcome, may initially be verbal. If subsequent messages are needed, they should be put in writing in a note or a memo.
- *Contact with Supervisory Personnel.* At the same time direct communication is undertaken, or in the event the employee feels threatened or intimidated by the situation, the problem must be promptly reported, it should be in writing, and must be addressed to the immediate supervisor of the person making the report, a department head, a director of human resources, an ethics officer, the Executive Director, or the President of the Board of Trustees.

The employee experiencing what they reasonably believe to be sexual harassment must not assume that the employer is aware of the conduct. If there are no witnesses and the victim fails to notify a supervisor or other responsible officer, the library will not be presumed to have knowledge of the harassment.

- *Resolution Outside of the Library.* The purpose of this policy is to establish prompt, thorough and effective procedures for responding to every report and incident so that problems can be identified and remedied by the library. However, all employees have the right to contact the Illinois Department of Human Rights (IDHR) or the Equal Employment Opportunity Commission (EEOC) for information regarding filing a formal complaint with those entities. An IDHR complaint must be filed within 300 days of the alleged incident(s) unless it is a continuing offense. A complaint with the EEOC must be filed within 300 days.

Documentation of any incident may be submitted with any report (what was said or done, the date, the time and the place), including, but not limited to, written records such as letters, notes, memos and telephone messages.

All allegations, including anonymous reports, will be accepted and investigated regardless of how the matter comes to the attention of the municipality. However, because of the serious implications of sexual harassment charges and the difficulties associated with their investigation

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and the questions of credibility involved, the claimant's willing cooperation is a vital component of an effective inquiry and an appropriate outcome.

Following a report, an internal investigation shall be conducted as follows:

1. **Investigation of Complaint:** The Library will initiate an investigation of the suspected sexual harassment within five (5) working days of the notification. If necessary, the Library supervisory employee receiving the complaint may designate the human resources director, or another supervisory or management employee to assist them in the investigation. If necessary, depending on the seriousness of the allegations or the role of the employee against whom the complaint is levied, the Executive Director may obtain the services of a qualified outside investigator to conduct the investigation. The investigation will include an interview with the person(s) who made the initial report, the person(s) towards whom the suspected harassment was directed, and the individual(s) accused of the harassment may also be interviewed.
2. **Report:** The person responsible for investigating the complaint shall, at least, prepare a written report that sets forth findings and conclusions respective to the complaint. The report shall include a finding that sexual harassment occurred, sexual harassment did not occur, or there is inconclusive evidence as to whether sexual harassment occurred. A copy of this report will be given to the person(s) who made the initial report, the person(s) to whom the suspected harassment was directed, and the individual(s) accused of the harassment. Additional reports or investigative documents may be prepared by the person investigating the complaint and shall be appropriately filed.
3. **Confidentiality of Records:** Persons who report incidents of sexual harassment are encouraged to keep written notes in order to accurately record the offensive conduct. Every effort shall be made to keep all matters related to the investigation and various reports confidential. In the event of a lawsuit, however, the Library advises that records it maintains and the complainant maintains may be not considered privileged from disclosure.
4. **Timeframe for Reporting Complaint:** The Library encourages a prompt reporting of complaints so that rapid response and appropriate action may be taken. However, due to the sensitivity of these problems and because of the emotional toll such misconduct may have on an individual; no limited timeframe will be instituted for reporting sexual harassment complaints. Delayed reporting of complaints will not, in and of itself, preclude the Library from taking remedial action.

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VI. PROHIBITION ON RETALIATION FOR REPORTING SEXUAL HARASSMENT ALLEGATIONS

No library official, employee, or office shall take any retaliatory action against any library employee due to that employee's:

1. Disclosure or threatened disclosure of any violation of this policy;
2. The provision of information related to or testimony before any public body conducting an investigation, hearing or inquiry into any violation of this policy; or
3. Assistance or participation in a proceeding to enforce the provisions of this policy.

For the purposes of this policy, retaliatory action means the reprimand, discharge, suspension, demotion, denial of promotion or transfer, or change in the terms or conditions of employment of any employee that is taken in retaliation for that employee's involvement in protected activity pursuant to this policy.

No individual making a report will be retaliated against even if a report made in good faith is not substantiated. In addition, any witness will be protected from retaliation.

Similar to the prohibition against retaliation contained herein, the State Officials and Employees Ethics Act (5 ILCS 430/15-10) provides whistleblower protection from retaliatory action such as reprimand, discharge, suspension, demotion, or denial of promotion or transfer that occurs in retaliation for an employee who does any of the following:

1. Discloses or threatens to disclose to a supervisor or to a public body an activity, policy, or practice of any officer, member, State agency, or other State employee that the State employee reasonably believes is in violation of a law, rule, or regulation;
2. Provides information to or testifies before any public body conducting an investigation, hearing, or inquiry into any violation of a law, rule, or regulation by any officer, member, State agency or other State employee; or
3. Assists or participates in a proceeding to enforce the provisions of the State Officials and Employees Ethics Act.

Pursuant to the Whistleblower Act (740 ILCS 174/15(a)), an employer may not retaliate against an employee who discloses information in a court, an administrative hearing, or before a legislative commission or committee, or in any other proceeding, where the employee has reasonable cause to believe that the information discloses a violation of a State or federal law, rule, or regulation. In addition, an employer may not retaliate against an employee for disclosing information to a government or law enforcement agency, where the employee has reasonable cause to believe that the information discloses a violation of a State or federal law, rule, or regulation. (740 ILCS 174/15(b)).

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According to the Illinois Human Rights Act (775 ILCS 5/6-101), it is a civil rights violation for a person, or for two or more people to conspire, to retaliate against a person because such person has opposed that which they reasonably and in good faith believes to be sexual harassment in employment, because they have made a charge, filed a complaint, testified, assisted, or participated in an investigation, proceeding, or hearing under the Illinois Human Rights Act.

An employee, who is suddenly transferred to a lower paying job or passed over for a promotion after filing a complaint with IDHR or EEOC, may file a retaliation charge – due within 300 days of the alleged retaliation.

VII. CONSEQUENCES OF A VIOLATION OF THE PROHIBITION ON SEXUAL HARASSMENT

In addition to any and all other discipline that may be applicable pursuant to library policies, employment agreements, procedures, employee handbooks and/or collective bargaining agreement, any person who violates this policy or the Prohibition on Sexual Harassment contained in 5 ILCS 430/5-65, may be subject to a fine of up to \$5,000 per offense, applicable discipline or discharge by the library and any applicable fines and penalties established pursuant to local ordinance, State law, or Federal law. Each violation may constitute a separate offense. Any discipline imposed by the library shall be separate and distinct from any penalty imposed by an ethics commission and any fines or penalties imposed by a court of law or a State or Federal agency.

VIII. CONSEQUENCES FOR KNOWINGLY MAKING A FALSE REPORT

A false report is a report of sexual harassment made by an accuser using the sexual harassment report to accomplish some end other than stopping sexual harassment or retaliation for reporting sexual harassment. A false report is not a report made in good faith which cannot be proven. Given the seriousness of the consequences for the accused, a false or frivolous report is a severe offense that can itself result in disciplinary action.

Any person who intentionally makes a false report alleging a violation of any provision of this policy shall be subject to discipline or discharge pursuant to applicable library policies, employment agreements, procedures, employee handbooks and/or collective bargaining agreements.

In addition, any person who intentionally makes a false report alleging a violation of any provision of the State Officials and Employees Ethics Act to an ethics commission, an inspector general, the State Police, a State's Attorney, the Attorney General, or any other law enforcement official is guilty of a Class A misdemeanor. An ethics commission may levy an administrative fine of up to \$5,000 against any person who intentionally makes a false, frivolous or bad faith allegation.

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IX. EXISTING ORDINANCES OR POLICIES.

This policy shall be deemed to supersede any and all existing ordinances or policies which regulate the conduct of Waukegan Public Library officials, officers, or employees, but only to the extent of the regulations set forth in this policy.

X. FUTURE AMENDMENTS.

Any amendment to the Act that becomes effective after the effective date of this policy shall be incorporated into this policy by reference and shall be applicable to the regulated activities. However, any amendment that makes its provisions optional for adoption by the library shall not be incorporated into this policy by reference without formal action by the Board of Trustees.

Adopted by the Waukegan Public Library Board of Trustees, September 16, 2020.

Ms. Sylvia England
President, Waukegan Public Library Board of Trustees