



**CITY OF EVANSTON
POLICY PROHIBITING SEXUAL HARASSMENT**

I. PROHIBITION ON SEXUAL HARASSMENT

All persons have a right to work in an environment free from sexual harassment. Sexual harassment is unacceptable misconduct which affects individuals of all sexes, genders and sexual orientations. The City of Evanston prohibits sexual harassment of any person by any City official, agent, or employee on the basis of that person's sex or gender.

This policy applies to all persons involved in the City's operations, including employees (regardless of position), Elected Officials, applicants, interns (paid or unpaid), volunteers, vendors, contractors, sub-contractors, consultants and any other third party involved in our operations. This policy also protects employees from prohibited harassment by third parties, such as members of the public, vendors, visitors, or temporary or seasonal workers. If such harassment occurs in the workplace by someone not employed by the City, the procedures in this policy should be followed.

II. The workplace includes: actual worksites, any setting in which work-related business is being conducted (whether during or after normal business hours), online and electronic interactions with City employees and third parties involved in our operations, City-sponsored events, or City owned/controlled property. *DEFINITION OF SEXUAL HARASSMENT (below):*

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
- (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.

Conduct which may constitute sexual harassment includes, but is not 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, pictures, signs, drawings, pin-ups or slogans of a sexual nature, viewing pornographic material or websites.

- Physical: touching, unwelcome hugging or kissing, pinching, brushing the body, patting, 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).
- Retaliation for making reports or threatening to report sexual harassment.

Sexual harassment can occur regardless of the gender of the person committing it or the person exposed to it. Harassment on the basis of an individual’s sexual orientation, self-identified gender, perceived gender, or transgender status are all forms of prohibited sexual harassment.

III. PROCEDURE FOR REPORTING AN ALLEGATION OF SEXUAL HARASSMENT

An employee who either observes sexual harassment or believes herself/himself to be the object of sexual harassment should deal with the incident(s) as directly and firmly as possible by clearly communicating her/his position to the offending person and her/his immediate supervisor. It is not necessary for sexual harassment to be directed at the person making the report. Bystanders can and should report any conduct they believe is sexual harassment in violation of this policy and will not be retaliated against for doing so.

Any individual who believes that they or another individual have been subjected to prohibited harassment, sexual harassment, or retaliation should, as soon as possible, report it to his or her manager, another member of management, or Human Resources.

Complaints can be made orally or in writing. Employees are not required to report any prohibited conduct to a supervisor or manager who may be hostile, who has engaged in such conduct, who is a close associate of the person who has engaged in such conduct, or with whom the employee is uncomfortable discussing such matters.

Any supervisor or manager who receives a complaint of harassment, sexual harassment, or retaliation or information about suspected harassment, sexual harassment, or retaliation must immediately report it to Human Resources.

Employees are encouraged, but not required, to communicate to the offending person that his/her conduct is offensive and unwelcome. Individuals who observe any behavior directed at others that may violate this policy are encouraged to take reasonable action to defuse such behavior, if possible, such as intervening directly, alerting a supervisor or Human Resources to assist, or making a report under this policy.

After a report is received, or the City otherwise becomes aware of a possible violation of this policy, a fair, timely, thorough and objective investigation will be undertaken. The City will maintain confidentiality surrounding the investigation to the extent possible, consistent with a thorough and objective investigation, and to the extent permitted or required under applicable law and related information will only be shared with others on a need-to-know basis. After a report is received, the City

will document and track the progress of the investigation, afford all parties the appropriate due process and will reach reasonable conclusions based on the information collected.

Once the investigation is completed and a determination is made, the complaining party will be advised that the investigation has been completed and may be informed of the resolution. The City expects and requires all employees to fully cooperate with any investigation conducted by the City into potential violations of this policy.

All City employees also 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. The IDHR may be reached at the following locations:

Chicago Office: James R. Thompson Center, 100 West Randolph Street, Suite 10-100, Chicago, Illinois 60601, telephone number (312) 814-6200, (866) 740-3953 (TTY), fax number (312) 814-6251.

Springfield Office: 535 W. Jefferson Street, 1st Floor, Springfield, Illinois 62702, telephone number (217) 785-5100, (866) 740-3953 (TTY), fax number (217) 785-5106.

Website: www.illinois.gov/dhr. Email: IDHR.Intake@illinois.gov.

The employee may also report his or her concerns to the IDHR's Illinois Sexual Harassment and Discrimination Helpline at (877) 236-7703.

In addition to the methods of reporting included above, an elected official may request an independent review of a complaint of sexual harassment by another elected official. The request shall be made to the human resources director, the city manager or administrator or the chief elected official of the municipality. The official receiving the request shall take immediate action in keeping with the procurement process of the municipality to retain a qualified individual or entity for the independent review of the allegations of sexual harassment in violation of this policy. The outcome of the independent review shall be reported to the corporate authorities.

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 City.

IV. PROHIBITION ON RETALIATION FOR REPORTING SEXUAL HARASSMENT ALLEGATIONS

No City official, City agency or City employee shall take any retaliatory action against any City employee or City Official due to the employee's or official'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 the 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 or participant in an investigation will be protected from retaliation.

However, 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 City 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 the City's Ethics Board, the Illinois State Police, a State's Attorney, the Attorney General or any other law enforcement official is guilty of a Class A misdemeanor.

Pursuant to the Whistleblower Act (740 ILCS 174/15(a)), the City will 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, the City will 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)).

Similarly, the State Officials and Employees Ethics Act (5 ILCS 430/15-10) also provides whistleblower protection from retaliatory action 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 employee that the 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 employee, or
3. Assists or participates in a proceeding to enforce the provisions of the State Officials and Employees Ethics Act.

Individuals who believe they have been subjected to retaliation, or believe that another individual has been subjected to retaliation, should report this concern pursuant to the Complaint Procedure set out above. Any report of retaliatory conduct will be investigated in a thorough and objective manner. If a report of retaliation prohibited by this policy is substantiated, appropriate disciplinary action, up to and including termination of employment, will be taken.

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

In addition to any and all other discipline that be may applicable pursuant to municipal policies, employment agreements, procedures, employee handbooks and/or collective bargaining agreements any person who violates this policy or the Prohibition on Sexual Harassment contained in 5 ILCS

430/5-65, any person who violates this policy or the Prohibition on Sexual Harassment shall be subject to disciplinary action, up to and including termination, in addition to any and all other discipline that may be applicable pursuant to City policies, employment agreements, procedures, employee handbooks and/or collective bargaining agreements. Each violation may constitute a separate offense. Any discipline imposed by the City shall be separate and distinct from any fines, damages, or penalties imposed by a court of law or a State or Federal agency.

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