

POLICY PROHIBITING SEXUAL HARASSMENTⁱ

I. PROHIBITION ON SEXUAL HARASSMENT

It is unlawful to harass a person because of that person's sex. Sexual harassment is a form of sex discrimination under Title VII of the U.S. Civil Rights Act of 1964, as amended in 1991, and is prohibited by the Illinois Human Rights Act. 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 the policy of the Mattoon Public Library to prohibit harassment of any person by any Library official, agent, employee office or patron on the basis of sex or gender. All Library officials, agents, employees offices and patrons (the last while on the Library's property) are prohibited from sexually harassing any person, regardless of any employment relationship or lack thereof.

II. DEFINITION OF SEXUAL HARASSMENT

This policy adopts a refined definition of sexual harassment as stated in the Illinois Human Rights Act; this Policy's definition of sexual harassment is:

Any 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:

- 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 or of patrons, 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 or video) or the use of sexually explicit language; harassment as defined herein; cyber stalking using any type of device or platform, or threats via any 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 easiest to determine. On the other end of the spectrum, some sexual harassment is more subtle and depends, to some extent, on individual perception and interpretation. In accordance with law, the Library will assess sexual harassment by a standard of what would offend a "reasonable person."

III. PROCEDURE FOR REPORTING SEXUAL HARASSMENT

Any employee should address or report conduct which is believed to be sexual harassment as follows:

- *Electronic/Direct Communication.* The harassed person should usually directly and clearly express her/his objection that the conduct is sexual harassment and request that the offending conduct stop. The initial message may be spoken. If a subsequent message is needed, it should be put in writing in a note or a memo. If email, texting or other electronic communication, including social media is involved in either the harassing conduct or the employee confronting the person whose conduct is the concern, it is vital that all threads of the communications be preserved.
- *Contact with Supervisory Personnel.* If direct communication with the harassing person does not immediately result in the conduct stopping, or in the event the employee feels threatened or intimidated by the situation, the problem must be promptly reported to the immediate supervisor of the person making the report or the Library's Director or a member of the Library Board. As soon as reasonably possible, the Library will conduct an investigation that will usually include interviews of the reporter; the person whose conduct is at issue, and witnesses identified by anyone who is interviewed. An investigation may be conducted by personnel outside the Library's management depending on whose conduct is at issue and the nature of the alleged conduct.

The employee experiencing what he or she believes to be sexual harassment must not assume that Library management 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. A failure to notify at least one of the persons identified in the preceding paragraph as supervisory personnel may limit the availability for relief or recourse through outside agencies.

- *Resolution Outside Library Management.* 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 Library 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 180 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.

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All allegations, including anonymous reports, will be accepted and investigated regardless of how the matter comes to the attention of the Library. However, because of the serious implications of sexual harassment charges and the difficulties associated with their investigation and the questions of credibility involved, the claimant's willing cooperation is a vital component of an effective inquiry and an appropriate outcome. The fact of a report; the contents of a report, the information developed through an investigation of the report, and the results of the report will be kept confidential to the extent reasonably possible

IV. 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 an employee:

1. Reporting or threatened report of any violation of this policy,
2. Providing information related to the Library's internal investigation or testimony before any public body conducting an investigation, hearing or inquiry into any violation of this policy, or
3. Assisting or participating 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 Library employee that is taken in retaliation for that employee's involvement in protected activity pursuant to this policy.

Any employee who believes she or he has been retaliated against must report that belief immediately to the supervisor of the person who has retaliated, or a higher level of Library management. An investigation will be conducted as soon as reasonably possible.

No individual making a report or participating in an investigation will be retaliated against even if a report made in good faith is not substantiated.

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

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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)).

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 he/she has opposed that which he/she reasonably and in good faith believes to be sexual harassment in employment, because he/she has 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 terminated; transferred to a lower paying job or experienced other changes in the conditions of employment or passed over for a promotion after filing a complaint with IDHR or EEOC, may file a retaliation charge – due within 180 days (IDHR) or 300 days (EEOC) of the alleged retaliation.

V. 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; appropriate discipline or discharge by the Library and any applicable fines and penalties established pursuant to local ordinance, other 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, or fines imposed by a court of law or a State or Federal agency.

VI. 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 reporting retaliation. A false report does not mean a report made in good faith but which is not substantiated by an investigation. Given the seriousness of the consequences for the accused, a false or frivolous report is a severe offense itself is a violation of this Policy and can itself result in disciplinary action. Any person who 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.