

Resolution 2017-R(01)

A Resolution Adopting an Anti-Harassment Policy

WHEREAS, the Illinois General Assembly has recently enacted Public Act 100-0554, an Act concerning government, which became effective immediately, dated November 16, 2017; and

WHEREAS, PA 100-0554 provides additional regulations, including an amendment to 5 ILCS 430 ILCS 70/5, Adoption by Governmental Entities, to require all governmental units to adopt an ordinance or resolution establishing a policy to prohibit sexual harassment; and

WHEREAS, said policy must include, at a minimum: (i) a prohibition on sexual harassment; (ii) details on how an individual can report an allegation of sexual harassment, including options for making a complaint of harassment to a supervisor or the Department of Human Rights; (iii) a prohibition on retaliation for reporting sexual harassment allegations, including availability of whistleblower protections under this Act, the Whistleblower Act, and the Illinois Human Rights Act; and (iv) the consequences of a violation of the prohibition on sexual harassment and the consequences for knowingly making a false report; and

WHEREAS, pursuant to PA 100-0554, a policy has been drafted that complies with said Public Act and all prior policies prohibiting harassment, including sexual harassment shall be superseded by the Anti-Harassment Policy adopted by this resolution.

NOW, THEREFORE, BE IT RESOLVED by the President and Board of Trustees of the Village of Lakewood, McHenry County, that the Anti-Harassment Policy, attached hereto and made a part hereof, is hereby adopted.

Passed this 9th day of January, 2018

(SEAL)

APPROVED:

ATTEST:

Village President Paul Serwatka

Village Clerk S. Janice Hansen

ANTI-HARASSMENT POLICY SECTION XX

Introduction

The Village desires to have a professional working environment for its employees so that they may carry out their duties in productive and positive surroundings. Although conduct may not rise to the level of unlawful harassment from a legal perspective, the Village wants to protect its employees from abuse and to prevent conduct from becoming so severe or pervasive as to alter the conditions of an employee's employment, create an abusive, intimidating or hostile working environment, or result in a tangible employment action. Accordingly, the Village has adopted a "zero tolerance" policy against harassment. Harassment is unwarranted and unwanted verbal or nonverbal conduct that threatens, intimidates, annoys or insults another person where such conduct has the purpose or effect of creating an offensive, intimidating, degrading and/or hostile working environment and/or interferes with and/or adversely affects a person's performance.

The Village prohibits any form of unlawful harassment against its employees and applicants for employment based on factors such as sex (including sexual harassment, gender harassment, and harassment based on pregnancy, childbirth, or related medical conditions), race, color, creed, religion, ancestry, national origin, age, mental or physical disability, marital status, veteran status, sexual orientation including gender-related identity, whether or not traditionally associated with the person's designated sex at birth, or any other basis prohibited by applicable federal, state, or local fair employment laws or regulations.

Sexual Harassment

With respect to sexual harassment, the Village prohibits any unwelcome sexual advances, request for sexual favors, and other verbal or physical 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; or
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 may have the purpose or effect of unreasonably interfering with an individual's work performance; or
4. such conduct may create an intimidating, hostile, or offensive working environment.

Examples of the types of conduct that would violate the Village's policy including the following:

- **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 sexual harassment is more subtle and depends, to some extent, on individual perception and interpretation. The courts will assess sexual harassment by a standard of what would offend a “reasonable person.”

Both opposite sex and same sex harassment are prohibited under this policy.

Other Forms of Harassment

With respect to other forms of harassment, the Village prohibits slurs or other verbal or physical conduct relating to matters such as race, color, creed, religion, ancestry, national origin, age, mental or physical disability, marital status, veteran status, sexual orientation including gender-related identity, whether or not traditionally associated with the person’s designated sex at birth, or any other basis prohibited by applicable federal, state, or local fair employment laws or regulations which:

1. may have the purpose or effect of creating an intimidating, hostile, or offensive working environment; or
2. may have the purpose or effect of unreasonably interfering with an individual’s work performance; or
3. otherwise may adversely affect an individual’s employment opportunities.

Coverage of the Policy

1. The Village’s “zero-tolerance” policy with respect to harassment applies to conduct in or connected to the workplace, whether it is physical or verbal, and whether it is committed by Village officials, department heads, fellow employees or non-employees (such as customers, vendors, suppliers, or business invitees). The conduct prohibited by this policy is not only unacceptable in the workplace itself but also at any other work-related setting such as holiday parties, gatherings or other work-related social events, on business trips, and at conferences, seminars, educational gatherings, and other meetings. Each Village official and department head is responsible for creating an atmosphere free of harassment, whether it is sexual or another form of harassment. In addition, all employees are responsible for respecting the rights of their fellow employees and for cooperating in any investigation of alleged harassment.

2. Responsibilities:

Each employee is responsible for assisting in prevention of harassment through the following acts:

- Refraining from participation in, or encouragement of, actions that could be perceived as harassment;
- Reporting acts of harassment; and
- Encouraging any employee, who confides that he/she is being harassed, to report these acts of harassment.

Each supervisor shall be responsible for preventing acts of harassment. These responsibilities include:

- Monitoring the workplace environment on a daily basis for signs that harassment may be occurring.
- Counseling all employees on the types of behavior prohibited and the Village's procedures for reporting and resolving complaints of harassment.
- Stopping any observed acts that may be considered harassment and taking appropriate steps to intervene, whether or not the involved employees are within his/her line of supervision.
- Taking immediate action to limit the work contact between employees where there has been a complaint of harassment, pending investigation.

Each supervisor has the responsibility to assist any employee, who comes to that individual with a complaint of harassment, in documenting and filing a complaint in accordance with this policy.

Failure to take action to stop known harassment will result in disciplinary action up to and including termination of employment.

Reporting and Investigating Alleged Harassment

While the Village encourages individuals who believe they are being harassed to firmly and promptly notify the offender that his or her behavior is unwelcome, the Village also recognizes that power and status disparities between an alleged harasser and a target may make such a confrontation impossible. In the event that such informal, direct communication between individuals is either ineffective or impossible, or even when such communication between the individuals has occurred, the following steps should be taken to report a harassment complaint:

1. Reporting of the Incident: All Village employees and officials are urged to report any suspected harassment by another employee or official to the Chief Administrative Officer except where the Chief Administrative Officer is the individual accused of harassment. In that case, the complaint should be reported to the Village President. If the victim prefers to report the suspected harassment to someone of the opposite sex from that of the Chief Administrative Officer, the complaint can be reported to the Village President, Clerk or a member of the Board of Trustees. The report may be made initially either orally or in

writing, but reports made orally must be reduced to writing before an investigation can be initiated and a resolution achieved.

2. Investigation of the Complaint: When a complaint has been reduced to writing, the Chief Administrative Officer or the person receiving the complaint will initiate an investigation of the suspected harassment. The investigation will include an interview with the individual(s) who made the initial report, the person(s) toward whom the suspected harassment was directed, and the individual(s) accused of the harassment. Any other person who may have information regarding the alleged harassment may also be interviewed.
3. Preparation of a Written Report: The person responsible for investigating the complaint shall prepare a written report. The report shall include a finding that harassment occurred, harassment did not occur, or there is inconclusive evidence as to whether harassment occurred. A copy of the report will be given to the individual(s) who made the initial report, the person(s) to whom the suspected harassment was directed, and the individual(s) accused of the harassment.

Where a hostile work environment has been found to exist, the Village will take all reasonable steps to eliminate the conduct creating such an environment.

4. Keeping of Records and the Confidentiality of Such Records: Employees or other persons who report incidents of 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 Village advises that those records maintained by the Village and any records maintained by the complainant may not be considered privileged from disclosure.

Time Frame for Reporting Harassment

The Village encourages prompt reporting of complaints so that rapid response and appropriate action may be taken. Thus, all complaints should be reported within six months of the alleged harassment.

No Retaliation

No Village official or employee shall take any retaliatory action against any Village employee due to a Village 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 Village employee that is taken in retaliation for a Village 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 Village officer or employee that the Village 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 Village officer or 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)).

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 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 180 days (IDHR) or 300 days (EEOC) of the alleged retaliation.

Disciplinary Action

If any Village employee engages in conduct that violates this policy, or other conduct that the Village believes is unprofessional, that employee will be subject to discipline up to and including termination of employment. In addition to any and all other discipline that may be applicable pursuant to municipal policies, employment agreements, procedures, employee handbooks and/or collective bargaining agreement, any person who violates 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.

Consequences for Knowingly Making a False Report of Sexual Harassment Pursuant to 5 ILCS 430/70-5

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 of sexual harassment is not defined as a report made in good faith but which cannot be proven.** Rather, a false complaint of sexual harassment is defined as an intentionally made false or frivolous report or bad faith allegation. Given the seriousness of the consequences for the accused, any person who intentionally makes a false report alleging sexual harassment shall be subject to discipline up to and including termination of employment.

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.

External Procedures

The Village hopes that any incident of harassment can be resolved through the internal procedures outlined above. Employees of the Village, however, have the right to file formal harassment charges including charges of retaliation with the Illinois Department of Human Rights (the "IDHR") and/or with the Equal Employment Opportunity Commission (the "EEOC"). A charge with the IDHR must be filed within 180 days of the harassing incident. A charge with the EEOC must be filed within 300 days of the incident. It is unlawful for an employer to retaliate against an employee for filing a charge of harassment with the IDHR or the EEOC.

The IDHR may be conducted as follows:

Chicago: (312) 814-6200
Springfield: (217) 785-5100

Chicago TDD: (312) 263-1579
Springfield TDD: (217) 785-5125

The EEOC may be conducted as follows:

Chicago: (312) 353-2713
F: Chicago: (800) 669-4000

Chicago TDD: (312) 353-2421
Chicago TDD: (800) 669-6820

VILLAGE OF LAKEWOOD

ACKNOWLEDGMENT FORM

Employee Name (print) _____

I hereby acknowledge that I have received a copy of the Village of Lakewood Anti-Harassment Policy that goes into effect no later than January 15, 2018 pursuant to Public Act 100-0554 and understand that I should consult with the Chief Administrative Officer if I have any questions. I understand and agree that I will read and comply with said policy.

Signature of Employee

Date

ORDINANCE NO. 2018 --(02)

An Ordinance Approving Budget
Amendment No. 1 for Fiscal Year 2017-2018

WHEREAS, on April 12, 2016 the Board of Trustees of the Village Of Lakewood, McHenry County, Illinois, passed Ordinance 2017-09, which established the budget for the 2017-2018 fiscal year of the Village; and

WHEREAS, since the passage of Ordinance 2017-09 the Village has found it necessary to amend said Ordinance; and

WHEREAS, the Village of Lakewood has adopted 65 ILCS 5/8-2-9.1 and 8-2-9.2 through 8-2-9.10 through the adoption of Ordinance 1997-29 instituting a budget process and a means to amend such budget; and

WHEREAS, Ordinance 1997-29, Section 3.10, Paragraph J, Budget Changes, provides that "By a vote of two-thirds of the members of the corporate authorities then holding office, the annual budget for the Village may be revised by deleting, adding to, changing or creating line items, expenditure categories, funds, operations, projects, or departments. No revision of the budget shall be made increasing the budget in the event funds are not available to effectuate the purpose of the revision."

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Lakewood, McHenry County, Illinois as follows:

SECTION 1: That the Village of Lakewood Budget Amendment No. 1 for Fiscal Year 2017-2018, attached hereto and made a part hereof, is hereby approved.

SECTION 2: If any section, paragraph, subdivision, clause, sentence or provision of the Ordinance shall be adjudged by any Court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate or nullify the remainder thereof, which remainder shall remain and continue in full force and effect.

SECTION 3: All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 4: This Ordinance shall be in full force and effect upon its passage, approval and publication in pamphlet form (which publication is hereby authorized) as provided by law.

Voting Aye:

Voting Nay:

Absent:

Abstaining:

Approved:

Village President Paul Serwatka

(SEAL)

ATTEST: _____
Village Clerk Janice S. Hansen

Passed:

Approved:

Published: