



## **Sandwich Public Library District**

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### *Resolution to Adopt a Policy Prohibiting Sexual Harassment*

**WHEREAS**, the Sandwich Public Library District ("Library") is committed to maintaining a work environment free of sexual harassment for employees because sexual harassment is a very serious matter having far-reaching effects on the lives and careers of individuals; and

**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**, pursuant to the Act, each governmental unit shall adopt an ordinance or resolution establishing a policy to prohibit sexual harassment; and

**WHEREAS**, all prior existing sexual harassment policies of the Sandwich Public Library District shall be superseded by the Policy Prohibiting Sexual Harassment adopted by this Resolution; and

**WHEREAS**, should any section or provision of this Resolution or the adopted Policy Prohibiting Sexual Harassment be declared to be invalid, that decision shall not affect the validity of this Resolution or adopted Policy Prohibiting Sexual Harassment as a whole or any part thereof, other than the part so declared to be invalid; and

**WHEREAS**, the Library recommends that the Board of Trustees adopt the Policy Prohibiting Sexual Harassment (Attachment A) in furtherance of its commitment to ensure that the Library's work environment is free of sexual harassment for employees and that its work rules and policies are in compliance with Public Act 100-0554 as well as all other applicable state and federal laws.

**NOW, THEREFORE, BE IT ORDAINED by the President and Board of Library Trustees of the Sandwich Public Library District** as follows:

Section 1. The Policy Prohibiting Sexual Harassment, included as Exhibit A to this Resolution, is hereby adopted to ensure that the Library's work environment is free of sexual harassment for employees and that its work rules and policies are in compliance with Public Act 100-0554 as well as all other applicable state and local laws.

Section 2. This Resolution shall be in full force and effect from after its passage and approval as provided by law.



## **ATTACHMENT A**

### SANDWICH PUBLIC LIBRARY DISTRICT

### SEXUAL HARASSMENT POLICY

#### **A. Policy**

It is the policy of the Sandwich Public Library District ("the Library") to prohibit harassment of any person by any Library official, employee, or agent on the basis of sex or gender. Sexual harassment is contrary to the standards of the Library and is unacceptable misconduct which affects individuals of all genders and sexual orientations. All Library officials, employees and agents are prohibited from sexually harassing any person, regardless of any employment relationship or lack thereof.

Sexual harassment is illegal and is prohibited in the employment context by both Title VII of the U.S. Civil Rights Act of 1964, as amended in 1991, and by the Illinois Human Rights Act. The Library strives to maintain a work environment free of sexual harassment for employees because sexual harassment is a very serious matter having far-reaching effects on the lives and careers of individuals. A claim under this policy may be brought by the Library or by an employee or member of the community based on the conduct of any Library employee. Sexual harassment constitutes misconduct subject to discipline up to and including termination of employment.

#### **B. Definitions and Examples**

##### ***Definition of Sexual Harassment:***

For the purposes of determining whether a particular course of conduct constitutes sexual harassment, and consistent with both Title VII of the U.S. Civil Rights Act of 1964, as amended in 1991, and by the Illinois Human Rights Act, sexual harassment is defined as follows:

- Any unwelcome sexual advances or requests for sexual favors or any conduct of a sexual nature when:
  - Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment,
  - Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or
  - 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.

### **Examples of Sexual Harassment:**

Some examples of conduct that may constitute sexual harassment include, but are not limited to:

- Unwanted sexual statements – sexual or “dirty” jokes, comments on physical attributes, spreading rumors about or rating others as to sexual activity or performance, talking about one’s sexual activity in front of others, and displaying or distributing sexually explicit drawings, pictures and/or written material. Unwanted sexual statements can be made in person, in writing, electronically (email, instant messaging, blogs, web pages, etc.), and otherwise.
- Unwanted personal attention – letters, telephone calls, visits, pressure for sexual favors, pressure for unnecessary personal interaction, pressure for dates where a sexual/romantic intent appears evident but remains unwanted, and stalking.
- Unwanted physical or sexual advances – touching, hugging, kissing, fondling, touching oneself sexually for others to view, sexual assault, intercourse, or other sexual activity.
- 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).

Conduct alleged to be sexual harassment will be evaluated by considering the totality of the particular circumstances, including the nature, frequency, intensity, location, context, and duration of the questioned behavior. Although repeated incidents generally create a stronger claim of sexual harassment, a serious incident, even if isolated, can be sufficient.

### **Definition of Retaliation:**

For the purposes of determining whether a particular course of conduct constitutes sexual harassment, and consistent with both Title VII of the U.S. Civil Rights Act of 1964, as amended in 1991, and by the Illinois Human Rights Act, Retaliation is defined as follows:

- When an employer takes a materially adverse action because an individual has engaged, or may engage, in activity in furtherance of state, federal, or laws.
- 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 a Library employee’s involvement in protected activity pursuant to this Policy.

### **Examples of Retaliation:**

Some examples of conduct that may constitute retaliation include, but are not limited to:

- Reprimand the employee or give a performance evaluation that is lower than it should be;

- Transfer the employee to a less desirable position;
- Engage in verbal or physical abuse;
- Threaten to make, or actually make reports to authorities (such as reporting immigration status or contacting the police);
- Increase scrutiny;
- Spread false rumors, treat a family member negatively (for example, cancel a contract with the person's spouse); or
- Make the person's work more difficult (for example, punishing an employee for an EEO complaint by purposefully changing his work schedule to conflict with family responsibilities).

### C. Reporting Sexual Harassment

An employee or individual who either observes sexual harassment or believes herself/himself to be the object of sexual harassment may complain to the Library.

- **Reporting of Incident:**

All Library employees are responsible to help assure that we avoid discrimination or harassment. Any individual who believes that he or she has been subjected to harassment or discrimination as prohibited by this policy or who has witnessed harassment or discrimination should submit a complaint to the Director of Human Resources, a supervisor, or any member of the Library management, except where the person is the individual accused of discrimination or harassment. In that case, the complaint should be reported to the Library's designated alternate. A supervisor who receives a report under this policy must immediately inform Human Resources. All allegations of harassment will be investigated thoroughly. The facts will determine the response of the Library to each allegation. Substantiated acts of discrimination or harassment will be met with appropriate disciplinary action up to and including termination. All information regarding any specific incident will be kept confidential within the necessary boundaries of the fact-finding process.

- **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 representative receiving the complaint may designate another supervisory or management employee to assist him/her in 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.

- **Report:**

The person responsible for investigating the complaint shall 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 the 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.

- **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.

- **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 harassments complaints. Delayed reporting of complaints will not, in and of itself, preclude the Library from taking remedial action.

- **External Complaints:**

Any employee who believes they have been the subject of harassment or retaliation for complaining about harassment also has the right to file a charge of civil rights violations with the Illinois Department of Human Rights and, if substantial evidence to support the charge is found to exist, to have such an opportunity as provided by law and applicable regulations to engage in conciliation with the Library and/or to have the charge heard in a public hearing before an Administrative Law Judge of the Illinois Human Rights Commission or in a court of law, as provided by statute. For further information, you may call or write to the Illinois Department Human Rights, 100 W. Randolph Street, Room 10-100, Chicago, Illinois 60631, (312)814-6269.

## **D. Prohibition On Retaliation For Reporting Sexual Harassment Allegations**

### *No Retaliation:*

No Library official, employee, or agent shall take any retaliatory action against a Library employee due to a Library employee's:

- Disclosure or threatened disclosure of any violation of this policy,
- 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

Assistance or participation in a proceeding to enforce the provisions of 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.

**Whistleblower Protection:** 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:

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,

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

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)).

**Protection Under The Illinois Human Rights Act:** 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.

**External Complaints of Retaliation to the IDHR or EEOC:** 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.



## E. Consequences of a Violation of the Prohibition on Sexual Harassment

**Discipline:** Disciplinary action will be taken against any employee found to have engaged in sexual harassment of any other person. The Library has the managerial right to impose discipline up to and including termination, to deal with sexual harassment, unreasonable conduct or discrimination. Where a hostile work environment has been found to exist, the Library will take all reasonable steps to eliminate the conduct creating such environment. If an investigation results in a finding that the complainant falsely accused another of sexual harassment knowingly or in a malicious manner, the complainant will be subject to appropriate discipline, up to and including termination.

**Statutory Penalties:** 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.

### For Penalties for Knowingly Making A False Report

**False Reports:** 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.

**Statutory Penalties:** 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.

