

# **VILLAGE OF ORLAND PARK POLICY PROHIBITING SEXUAL HARASSMENT**

## **I. STATEMENT OF POLICY**

The Village of Orland Park is committed to providing a workplace that is free from all forms of discrimination, including sexual harassment. Any employee's behavior that fits the definition of sexual harassment is a form of misconduct which may result in disciplinary action up to and including dismissal. Sexual harassment could also subject this municipality and, in some cases, an individual to substantial civil penalties.

The Village's policy on sexual harassment is part of its overall affirmative action efforts pursuant to state and federal laws prohibiting discrimination based on age, race, color, religion, national origin, unfavorable discharge from the military, marital status, disability and gender. Specifically, sexual harassment is prohibited by the Civil Rights Act of 1964, as amended in 1991, and the Illinois Human Rights Act.

Each employee of this municipality bears the responsibility to refrain from sexual harassment in the workplace. No employee -- male or female -- should be subjected to unsolicited or unwelcome sexual overtures or conduct in the workplace. Furthermore, it is the responsibility of all supervisors to make sure that the work environment is free from sexual harassment. All forms of discrimination and conduct which can be considered harassing, coercive or disruptive, or which create a hostile or offensive environment must be eliminated. Instances of sexual harassment must be investigated. All employees of this government, particularly those in a supervisory or management capacity, are expected to become familiar with the contents of this Policy and to abide by the requirements it establishes.

## **II. DEFINITION OF SEXUAL HARASSMENT**

According to the Illinois Human Rights Act, sexual harassment is defined 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, 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 has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

The courts have determined that sexual harassment is a form of discrimination under Title VII of the Civil Rights Act of 1964, as amended in 1991.

One example of sexual harassment is where a qualified individual is denied employment opportunities and benefits that are, instead, awarded to an individual who submits (voluntarily or under coercion) to sexual advances or sexual favors. Another example is where an individual must submit to unwelcome sexual conduct in order to receive an employment opportunity.

Other conduct commonly considered to be 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, even outside 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

**Physical:** touching, unwelcome hugging or kissing, pinching, brushing the body, coerced sexual intercourse, or actual assault

- Text/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).

Sexual harassment can involve a man harassing a woman, a woman harassing a man, or harassment between members of the same gender.

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 trend in the courts is to assess sexual harassment by a standard of what would offend a "reasonable person".

An example of the most subtle form of sexual harassment is the use of endearments. The use of terms such as "honey", "cookie", and "sweetheart" is objectionable to many women who believe that these terms undermine their authority and their ability to deal with men on an equal and professional level.

Another example is the use of a compliment that could potentially be interpreted as sexual in nature. Below are three statements that might be made about the appearance of a woman in the workplace:

"That's an attractive dress you have on."

"That's an attractive dress. It really looks good on you."

"That's an attractive dress. You really fill it out well."

The first statement appears to be simply a compliment. The last is the most likely to be perceived as sexual harassment depending on the perceptions and values of the person to whom it is directed. To avoid the possibility of offending an employee, it is best to follow a course of conduct above reproach, or to err on the side of caution.

### **III. RESPONSIBILITY OF INDIVIDUAL EMPLOYEES**

Each individual employee has the responsibility to refrain from sexual harassment in the workplace.

Any employee found by the Village to have sexually harassed another employee will be subject to appropriate disciplinary sanctions, ranging from a written warning up to and including dismissal.

The Village has designated the Human Resources Director, to coordinate the Village's sexual harassment policy compliance. The Human Resources Director can be reached at

708-403-6166. The Human Resources Director is available to consult with employees regarding their obligations under this policy.

#### **IV. RESPONSIBILITY OF SUPERVISORY EMPLOYEES**

Each supervisor is responsible for maintaining the workplace free from sexual harassment. This is accomplished by promoting a professional environment and by dealing with sexual harassment as with all other forms of employee misconduct.

The courts have found that organizations as well as supervisors can be held liable for damages related to sexual harassment by an elected official, manager, supervisor, employee, or third party (an individual who is not an employee but does business with an organization, such as a customer, contractor, sales representative, or repair person).

Liability is either based on an organization's responsibility to maintain a certain level of order and discipline, or on the supervisor acting as an agent of the organization. As such, supervisors must act quickly and responsibly not only to minimize their own liability, but also that of the company.

Specifically, a supervisor must address an observed incident of sexual harassment or an allegation/complaint, with seriousness, take prompt action to investigate it, report it, and end it, implement appropriate disciplinary action, and observe strict confidentiality. This also applies to cases where an employee tells the supervisor about behavior that constitutes sexual harassment but does not want to make a formal allegation/complaint. All allegations/complaints of sexual harassment must be reported to the Human Resources Director.

In addition, supervisors must ensure that no retaliation will result against an employee making a sexual harassment complaint.

Supervisors in need of information regarding their obligations under this policy or procedures to follow upon receipt of a complaint of sexual harassment should contact the Human Resources Director at 708-403-6166.

#### **V. PROCEDURES REPORTING AN ALLEGATION/COMPLAINT OF SEXUAL HARASSMENT**

##### **A. Internal**

An employee who either observes 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 employee, and her/his immediate supervisor. It is not necessary for sexual harassment to be directed at the person making the report.

Each allegation/complaint of sexual harassment should be documented. A note should be made of the date, time, place, what was said or done, and by whom. The documentation may be augmented by written records such as letters, notes, memos, and telephone messages.

No one making a complaint of sexual harassment will be retaliated against even if a complaint made in good faith is not substantiated. Any witness to an incident of sexual harassment is also protected from retaliation.

Any employee may report conduct which is believed to be sexual harassment,. The process for reporting such conduct includes the following:

1. Direct Communication. If there is sexually harassing behavior in the workplace, the harassed employee should directly and clearly express her/his objection to the

offender that the conduct is unwelcome and request that the offending behavior stop. The initial message may be verbal. If subsequent messages are needed, they should be put in writing in a note or a memo.

2. 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 and cannot engage in direct communication with the offender, the problem must be promptly reported to the immediate supervisor/and or their department director or the Human Resources Director.

If the supervisor is unavailable or it would be inappropriate to contact that supervisor and/or department director, employees must immediately contact Human Resources. If it would be inappropriate for an employee to contact those previously listed a report of an incident or incidents may be made directly to the Village Manager and or the corporate authorities of the Village

3. Formal Written Complaint. An employee may also report incidents of sexual harassment directly to the Human Resources Director. The Human Resources Director will counsel the reporting employee and be available to assist with filing a formal complaint.
4. Investigative Process. All allegations/complaints of sexual harassment will be fully investigated. The person to whom the complaint has been made shall typically conduct the investigation along with a member of the Human Resources staff and/or an appropriate management team member. The investigation will be thorough and conducted as promptly/quickly as possible. Where indicated or requested, immediate action shall be taken to separate the complainant from the suspected source of harassment but in no case shall such action be structured to constitute retaliation against the complainant.

## **B. External**

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 Village. However, 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. The exact rules, procedures and other information regarding filing a complaint with, requesting an investigation by and/or securing recourse from, the Department or Commission (including the nature and extent of such recourse) can be obtained by contacting the Department or Commission as follows:

If the Department: Illinois Department of Human Rights  
100 West Randolph Street  
Suite 10-100  
Chicago, IL 60601  
(312) 814-6200 or  
(312) 263-1579 - TDD

If the Commission: Illinois Human Rights Commission  
100 West Randolph Street  
Suite 5-100  
Chicago, IL 60601  
(312) 814-6269

## **V. PROHIBITION ON RETALIATION FOR REPORTING SEXUAL HARASSMENT ALLEGATIONS/COMPLAINTS**

No person making an allegation or complaint of sexual harassment, or cooperating in any

investigation of sexual harassment, shall be subject to retaliation. In addition, the Illinois Whistleblower Act, 740 ILCS 174/5, prohibits retaliation against any employee for reporting or disclosing information that the employee has reasonable cause to believe discloses a violation of a State or federal law, rule or regulation.

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.

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

## **VI. FALSE AND FRIVOLOUS REPORTS**

False and frivolous reports refer to cases where the accuser is using a sexual harassment complaint to accomplish some end other than stopping sexual harassment or retaliation. It does not refer to reports made in good faith which can not be proven. Given the seriousness of the consequences for the accused, a false and frivolous report is a severe offense that can itself result in disciplinary action.