

RESOLUTION NO. 597

RESOLUTION OF THE CORPORATE AUTHORITIES OF THE
CITY OF SUMNER, ILLINOIS ADOPTING A POLICY
REGARDING SEXUAL HARASSMENT IN EMPLOYMENT

WHEREAS, the City of Sumner, Illinois (City) has received federal funds through the Community Development Block Grant (CDBG) program; and

WHEREAS, the City, as recipient of CDBG program funds, is required to establish and enforce a policy regarding sexual harassment in employment;

NOW, THEREFORE, BE IT RESOLVED by the corporate authorities of the City of Sumner, Illinois that there is hereby established a policy regarding sexual harassment in employment, a copy of which policy is attached hereto as Exhibit A and incorporated herein by reference.

Adopted by this 6th day of December, 2011.

Ayes: 6 Nays: 0 Absent: 0 Abstain: 0

Approved: Larry B. Stoltz
Larry Stoltz, Mayor

Attest:
Blanche Piper
Blanche Piper, City Clerk

RESOLUTION NO. _____

EXHIBIT A

POLICY REGARDING SEXUAL HARASSMENT IN EMPLOYMENT

I. STATEMENT OF MUNICIPALITY POLICY

This municipality 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 municipality'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, citizenship status, 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 in a prompt and effective manner.

All employees of this municipality, 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.
- (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.

Sexual harassment most frequently involves a man harassing a woman. However, it can also involve 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 woman" or "reasonable man", depending on the gender of the alleged victim.

An example of the most subtle form of sexual harassment is the use of endearments. The use of terms such as "honey", "darling", 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.

An individual employee who sexually harasses a fellow worker is, of course, liable for his or her individual conduct.

The harassing employee will be subject to disciplinary action up to and including discharge in accord with the municipality's disciplinary policy and the terms of any applicable collective bargaining agreement.

The municipality has designated the City Clerk to coordinate the municipality's sexual harassment policy compliance. The City Clerk can be reached at City Hall, 129 E. South Ave., Sumner, Illinois 62466, (618) 936-2415. [NOTE: Insert the name of the municipality's EEO Officer, Human Resource Administrator, Personnel Officer, or other person designated by municipality management to coordinate compliance with this policy] He/She 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 municipalities as well as supervisors can be held liable for damages related to sexual harassment by a manager, supervisor, employee, or third party (an individual who is not an employee but does business with a municipality, such as a customer, contractor, sales representative, or repair person).

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

Specifically, a supervisor must address an observed incident of sexual harassment or a 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 complaint.

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 City Clerk, City Hall, 129 E. South Ave., Sumner, Illinois 62466, (618) 936-2415. [NOTE: Insert name of municipality EEO Officer, Human Resource Administrator, Personnel Officer, or other person designated by municipality management]

V. PROCEDURES FOR FILING A 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 supervisor, EEO Officer*, and to the offending employee. It is not necessary for the sexual harassment to be directed at the person making the complaint.

Each incident of sexual harassment should be documented or recorded. 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.

The process for making a complaint about sexual harassment falls into several stages.

1. **DIRECT COMMUNICATION.** If there is sexually harassing behavior in the workplace, the harassed employee should directly and clearly express her/his objection 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 SUPERVISORY PERSONNEL.** At the same time direct communication is undertaken, or in the event the employee feels threatened or intimidated by the situation, the problem must be promptly reported to the immediate supervisor or the EEO Officer. If the harasser is the immediate supervisor, the problem should be reported to the next level of supervision of the EEO Officer.

3. **FORMAL WRITTEN COMPLAINT.** An employee may also report incidents of sexual harassment directly to the EEO Officer. The EEO Officer will counsel the reporting employee and be available to assist with filing a formal complaint. The Municipality will fully investigate the complaint, and will advise the complainant and the alleged harasser of the results of the investigation.

B. EXTERNAL

The Municipality hopes that any incident of sexual harassment can be resolved through the internal process outlined above. All employees, however, have the right to file formal charges with the Illinois Department of Human Rights (IDHR) and/or the United States Equal Employment Opportunity Commission (EEOC). A charge with IDHR must be filed within 180 days of the incident of sexual harassment. A charge with EEOC must be filed within 300 days of the incident.

The Illinois Department of Human Rights may be contacted as follows:

CHICAGO	(312) 814-6200
CHICAGO TDD	(312) 263-1579
SPRINGFIELD	(217) 785-5100
SPRINGFIELD TDD	(217) 785-5125
MARION	(618) 993-7463

The United States Equal Employment Opportunity Commission can be contacted as follows:

CHICAGO (312)-353-2713
800-669-3362
TDD 800-800-3302

An employee who is suddenly transferred to a lower paying job or passed over for promotion after filing a complaint with IDHR or EEOC may file a retaliation charge with either of these agencies. The charges must be filed within 180 (IDHR) or 300 (EEOC) days of the retaliation.

An employee who has been physically harassed or threatened while on the job may also have grounds for criminal charges of assault and battery.

VI. FALSE AND FRIVOLOUS COMPLAINTS

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