



RESOLUTION NO. 2020-012

A RESOLUTION UPDATING ITS POLICY PROHIBITING SEXUAL HARASSMENT FOR THE VILLAGE OF MONTGOMERY

WHEREAS, the Village of Montgomery ("Village") is not a home rule municipality within Article VII, Section 6A of the Illinois Constitution, and accordingly, seeks to act pursuant to the powers granted to it under 65 ILCS 5/1-1 et seq.; and,

WHEREAS, the Illinois General Assembly has recently amended the State Officials and Employees Ethics Act, an Act concerning government, to require additional language in the sexual harassment policies of local governments (P.A. 101-0221), which became effective January 1, 2020; and,

WHEREAS, in accordance with the foregoing, the Village wishes to update its Policy Prohibiting Sexual Harassment to ensure compliance with the aforementioned amendment and all other applicable laws and regulations; and,

WHEREAS, all prior existing sexual harassment policies of the Village shall be superseded by the Policy Prohibiting Sexual Harassment adopted by this Resolution;

NOW, THEREFORE, BE IT RESOLVED by the corporate authorities of the Village of Montgomery as follows:

Section One: That the Village's Policy Prohibiting Sexual Harassment, attached hereto as **Exhibit A** to this Resolution, is hereby adopted. This amended policy shall supersede all prior sexual harassment policies of the Village of Montgomery.

Section Two: This Resolution shall be in full force and effect upon passage. Should any section or provision of this Resolution or the adopted policy be declared invalid, the decision shall not affect the validity of this Resolution as a whole or any part thereof, other than the part so declared to be invalid.

PASSED AND APPROVED by the President and Board of Trustees of the Village of Montgomery, Kane and Kendall Counties, Illinois, this 8th day of June, 2020.



Matt Brolley,
President of the Board of Trustees of the Village
of Montgomery, Kane and Kendall Counties,
Illinois

3-4 Anti-Harassment/~~Anti-Bullying~~/Anti-Discrimination Policy

The Village is committed to maintaining a work environment that is free of harassment, **bullying**, and discrimination for all employees. In keeping with this commitment, the Village will not tolerate harassment, **bullying**, or discrimination of employees by anyone, including any supervisor, co-worker or vendor of the Village.

Harassment or discrimination consists of unwelcome conduct, whether verbal, physical or visual, that is based upon a person's actual or perceived protected status, such as sex, color, race, ancestry, religion, national origin, genetics, age, physical handicap, medical condition, pregnancy, disability, marital status, veteran status, citizenship status, or other legally protected group status. The Village will not tolerate harassing or discriminating conduct that affects tangible job benefits, that interferes unreasonably with an individual's work performance, or that creates an intimidating, hostile or offensive working environment. Harassment includes, but is not limited to, name-calling, letters, jokes, email, cartoons, graffiti, pictures, posters, gestures, ethnic slurs, racial epithets, and other conduct, which is aimed at a particular employee or group of employees.

Harassment applies to the conduct of a supervisor toward a subordinate, a subordinate toward a supervisor, an employee toward another employee, an employee toward a non-employee, a non-employee toward an employee or an employee toward an applicant for employment. This shall also include the conduct of an elected/appointed official to any other elected/appointed official or an elected/appointed official toward an employee, non-employee, or applicant for employment.

Bullying is the deliberate and repeated abuse or mistreatment of someone vulnerable by someone stronger or with more power. Bullying may consist of acts or written or spoken words intended to intimidate or harass a person or to cause physical harm to a person or his or her property.

Harassment **and bullying** can apply to conduct outside the workplace as well as on the work site.

Unlawful discrimination can take many forms. Unlawful discrimination may occur when employees who are similarly situated (i.e. same job position, same department, same supervisor, etc.) are treated materially different under similar circumstances due to one's race, national origin, gender, age, marital status, religion, disability, sexual orientation, genetic conditions or predispositions, or certain military and veteran status.

3-4-1 Sexual Harassment

Sexual harassment is also **unlawful and unacceptable** conduct which violates this policy. **The courts have determined that sexual harassment is a form of discrimination under Title VII of the U.S. Civil Rights Act of 1964, as amended in 1991. 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 a policy of the Village of Montgomery to prohibit harassment of any person by any municipal official, municipal agent, municipal employee or municipal agency or officer on the basis of sex or gender. All municipal officials, municipal agents, municipal employees and municipal agencies or officers are prohibited from sexually harassing any person, regardless of any employment relationship or lack thereof.**

Sexual harassment encompasses a wide range of unwanted, sexually directed behavior, and has been defined in the following manner:

Any unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- Submission to the conduct is an explicit or implicit term or condition of an individual's employment,
- Submission to or rejection of the conduct is used as the basis for an employment decision affecting such individual, or
- The conduct has the purpose or effect of unreasonably 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, 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." ~~Sexual harassment is conduct based on sex, whether directed toward a person of the opposite sex or same sex, and may include explicit sexual propositions, sexual innuendo, suggestive comments, sexually oriented "kidding" or "teasing", "practical jokes", jokes about obscene printed or visual material, and physical contact such as patting, pinching or brushing against another's body.~~

3-4-2 Harassment/Bullying/Discrimination Reporting Procedures

When harassment, bullying, or discrimination is experienced or observed, it must be promptly reported to the employee's supervisor, the Village Administrator or any other member of Village management. Supervisory personnel shall take appropriate action when they become aware of ~~sexual harassment~~ potential illicit behavior and/or actions. If the complaint involves an employee's supervisor, then the employee may go to another supervisor, the Village Administrator or the Village Attorney. If the complaint involves an elected/appointed official, then the complainant may go to the Village Administrator or Village Attorney, who shall take immediate action to retain a qualified individual or entity for independent review of the allegations. The outcome of this review shall be reported to the

corporate authorities.

An investigation will be made immediately concerning any allegation of harassment, **bullying**, or **discrimination** in as confidential a manner as possible. The Village ~~does not condone~~prohibits any form of retaliation against any employee for making a report under this policy or cooperating with an investigation under this policy; whistleblower protections shall be available to employees who make such reports or cooperate in such investigations pursuant to P.A. 100-0554, the Illinois Whistleblower Act (740 ILCS 174), and/or the Illinois Human Rights Act (775 ILCS 5/). If the investigation leads to a determination that the harassment, **bullying**, or **discrimination** occurred, corrective action will be taken immediately, up to and including termination of employment, if appropriate.

To the maximum extent possible, the Village will strictly maintain the confidentiality of all complaints. Information will be held in confidence and will be disclosed only on a need-to-know basis in order to investigate and resolve the complaint or as required by law.

The Village's policy is to investigate all such complaints thoroughly and promptly. If an investigation confirms that a violation of this harassment policy has occurred, the Village will take corrective action, including such discipline, up to and including termination of employment, as is appropriate. Employees will not participate in the decision-making process surrounding the investigation. Additionally, in investigating complaints of harassment, **bullying**, or **discrimination** under this policy, the Village may impose discipline, up to and including termination of employment, for inappropriate conduct that comes to the Village's attention. No reprisal or retaliation against the employee/officer reporting the allegation of harassment or assisting in the investigation of a complaint reported by someone else will be tolerated. No individual shall be retaliated against, even if a complaint made in good faith is not substantiated. However, if a false sexual harassment case is reported complaint is made in bad-faith, discipline may~~will~~ be given and decided upon by the Village Administrator.

An employee who believes that he or she has been the subject of harassment or **discrimination** or retaliation for complaining about harassment or **discrimination** also has the right to make a confidential report and/or file a charge of civil rights violations with the appropriate state or federal enforcement agency. These include:

Illinois Department of Human Rights
100 West Randolph Street, Suite 10-100
Chicago, Illinois 60601
312-814-6200

United States Equal Employment Opportunity Commission
Chicago District Office
500 West Madison Street, Suite 2000
Chicago, Illinois 60661
800-669-4000

Complaints of sexual harassment must be filed with the Illinois Department of Human Rights (IDHR) or the Equal Employment Opportunity Commission (EEOC) within 300 days of the alleged incident(s) unless it is a continuing offense.