

## **SEXUAL HARASSMENT POLICY**

### **I. PURPOSE**

The Voorheesville Public Library is committed to providing an environment for its employees and patrons of the library which is free of sexual harassment. Sexual harassment of employees and patrons is illegal and the Library will strive to safeguard the rights of all employees within the Library and to provide an environment that is free from sexual harassment. This policy, which relates to sexual harassment, includes that contemplated by Titles VII and IX of the US Code. Further, nothing in the procedures and provisions of the Library's policy shall limit or prohibit any employee from taking other actions including, but not limited to, filing a complaint with the appropriate government entity such as the Equal Employment Opportunity Commission (EEOC) and/or the New York State Division of Human Rights (DHR).

The Board recognizes that sexual harassment can originate from a person of either sex against a person of the opposite or same sex, from peers and from supervising personnel.

The Board acknowledges that in determining whether sexual harassment has occurred, the perspective of the complainant and/or victim will be considered. While the accused party's conduct and/or intention may be considered, sexual harassment may be found even where the accused party has no intent to sexually harass another individual.

### **II. DEFINITIONS**

"Workforce" shall mean all library staff, pages, volunteers, consultants, applicants for employment, both paid and unpaid interns, exempt and non-exempt status, part-time, seasonal, and temporary workers, contractors, subcontractors, vendors, consultants and other persons providing services pursuant to a contract, or their employees.

"Complainant" shall mean an employee who complains of being the object of sexual harassment.

"Complaint" shall mean a statement concerning sexual harassment made by Complainant.

"Reporter" shall mean any employee or other individual who informs the Library Director, his/her designee or Board of Trustees of an incident(s) of sexual harassment which has been observed by that individual or which has come to the individual's attention.

“Report” shall mean a statement about sexual harassment made by a Reporter.

“Retaliation” shall mean but is not limited to, verbal or physical threats, intimidation, ridicule, bribes, destruction of property, spreading rumors, stalking, harassing telephone calls, letters or e-mails, and any other form of harassment.

### III. DEFINITION OF TYPES OF CONDUCT CONSTITUTING SEXUAL HARASSMENT

A. Sexual harassment is defined by the law through statutes, decisions and regulations and consists of unwelcome sexual advances, requests 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.
- 2) Submission to or rejection of such conduct by an individual is used as a basis for performance evaluation of employees or other employment decisions affecting an individual.
- 3) Such conduct has a purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile, or offensive work environment for employees or patrons.
- 4) Such conduct constitutes sexual harassment under federal or state laws.

For purposes of this policy action or conduct will be considered “unwelcome” if the employee did not request or invite it and regarded the conduct as undesirable or offensive.

B. Forms of sexual harassment may include, but are not limited to:

- 1) Verbal: Sexual innuendo, suggestive comments, jokes of a sexual nature, sexual propositions, threats, request for sexual favors, questions about a person’s sexual practices, sexually explicit jokes, lewd comments, sexual assaults.
- 2) Non-Verbal: Sexual or suggestive objects or pictures, suggestive or sexually insulting sounds, leering, whistling, obscene gestures, crude cartoons.

3) Physical: Unwanted physical contact including, but not limited to, touching, pinching, brushing the body, pulling at clothes, coercive sexual intercourse, assault, cornering, kissing or fondling.

#### IV. COMPLAINANT COMMUNICATIONS OF SEXUAL HARASSMENT

Any Library employee who believes that he/she has been the victim of sexual harassment should communicate the alleged misconduct to the Library Director as soon as possible after the incident in order to enable the Library to effectively investigate and resolve the complaint. In the event the Library Director is the alleged harasser, the employee should report the misconduct to the Board of Trustees. The Library will ensure that an investigation is promptly commenced by appropriate individuals. The time limits set should be followed to the maximum extent practicable.

The alleged victim is encouraged to submit the complaint in writing, however, complaints may be filed verbally. In order to assist the investigation, alleged victims should document the harassment as soon as it occurs and with as much detail as possible including: the nature of the harassment; dates, times, places; name of harasser, witnesses, and the victim's response to harassment.

#### V. NON-COMPLAINANT COMMUNICATIONS OF SEXUAL HARASSMENT

A. Employees must communicate to the Library Director any observed incident(s) of sexual harassment. The Library Director shall keep a log of all of these communications and the action taken, if any.

B. Employees who witness or are told about incidents of sexual harassment by employees or third parties against an employee or patron, shall promptly report that conduct to the attention of the Library Director.

#### VI. EMPLOYEE RECIPIENTS OF COMMUNICATIONS OF ALLEGED SEXUAL HARASSMENT

Employees who are the recipients of employee communications alleging sexual harassment by a member of the workforce of the Library are requested to encourage those complaining to promptly make their complaints to the Library Director.

#### VII. CONFIDENTIALITY

All complaints of sexual harassment will be kept as private as is reasonable to provide for the implementation of this policy. It is Library policy to respect the privacy of all parties and witnesses to complaints of sexual harassment. To the extent possible, the Library will not release the details of a complaint or the identity of the complainant or the individual(s) against whom the complaint is filed to any third parties who do not need to know such information. However, because an individual's need for confidentiality must be balanced with the Library's legal obligation to provide due process to the accused, to conduct a thorough investigation, or take necessary action to resolve the complaint, the Library retains

the right to disclose the identity of parties and witnesses to complaints in appropriate circumstances to individuals with a need to know. The Library Director or alternate responsible for investigating complaints will discuss confidentiality standards and concerns with all complainants.

If a complainant requests that his/her name not be revealed to the individual(s) against whom a complaint is filed, the staff member responsible for conducting the investigation shall inform the complainant that:

- A. the request may limit the Library's ability to respond to his/her complaint;
- B. Library policy and federal law prohibit retaliation against complainants and witnesses;
- C. the Library will attempt to prevent any retaliation; and
- D. the Library will take strong responsive action if retaliation occurs.

If the complainant still requests confidentiality after being given the notice above, the Library Director will take all reasonable steps to investigate and respond to the complaint consistent with the request as long as doing so does not preclude the Library from responding effectively to the harassment and preventing the harassment of other employees.

#### VIII. DETERMINING CONDUCT IS SEXUAL HARASSMENT

Complaints of sexual harassment will be thoroughly investigated to determine whether the totality of the behavior and circumstances meet any of the elements of the above definition of sexual harassment and should therefore be treated as sexual harassment. Not all unacceptable conduct with sexual connotations may constitute sexual harassment. In many cases (other than quid pro quo situations where the alleged harasser offers employment rewards or threatens punishment as an inducement for sexual favors), unacceptable behavior must be sufficiently severe, pervasive, and objectively offensive to be considered sexual harassment.

In evaluating the totality of the circumstances and making a determination of whether conduct constitutes sexual harassment, the individual investigating the complaint should consider:

- A. the degree to which the conduct affected or altered the conditions of the employee's working environment;
- B. the type, frequency and duration of the conduct;
- C. the identity of a relationship between the alleged harasser and the subject of the harassment (e.g., sexually based conduct by an authority figure is more likely to create a hostile environment than similar conduct by another co-worker);

D. the age and sex of the alleged harasser and the subject of the harassment;

E. the location of the incidents and context in which they occurred;

F. other incidents at the Library; and

G. incidents of gender-based, but non-sexual harassment.

## IX. INVESTIGATION OF COMPLAINTS

Upon receipt of a complaint, the Library Director, or an alternate appointed by the Library Director, will conduct a thorough investigation of the charges. All reports are to be fully investigated even if the complainant does not wish to have that done. All investigations are to be completed within a reasonable period of time and kept as confidential to the extent practicable.

The Library Director, or alternate, shall conduct a preliminary review when he/she receives a verbal or written complaint of sexual harassment, or if he/she observes sexual harassment. Except in the case of severe or criminal conduct, the Library Director, or alternate, should make all reasonable efforts to resolve complaints informally. Questions as to whether the conduct is severe or criminal should be directed to the Library attorney.

The goal of informal investigation and resolution procedures is to end the harassment and obtain a prompt and equitable resolution to a complaint.

As soon as possible but no later than three working days following receipt of a complaint, the Library Director, or alternate, should begin an investigation of the complaint according to the following steps:

1. Interview the victim and document the conversation. Instruct the victim to have no contact or communication regarding the complaint with the alleged harasser. Ask the victim specifically what action he/she wants taken in order to resolve the complaint. Refer the victim, as appropriate, to outside agencies for counseling services.
2. Review any written documentation of the harassment prepared by the victim. If the victim has not prepared written documentation, instruct the victim to do so, providing alternative formats for individuals with disabilities and those who have difficulty writing and need accommodation.
3. Interview the alleged harasser regarding the complaint and inform the alleged harasser that if the objectionable conduct has occurred, it must cease immediately. However, the harasser if a Library employee has the right to representation and must be notified in advance of the interview in writing of this right. Document the conversation. Provide the alleged harasser an opportunity to respond to the charges in writing.

4. Instruct the alleged harasser to have no contact or communication regarding the complaint with the victim and to not retaliate against the victim. Warn the alleged harasser that if he/she makes contact with or retaliates against the victim, he/she may be subject to immediate disciplinary action.

5. Interview any witnesses to the complaint. Where appropriate, obtain a written statement from each witness. Caution each witness to keep the complaint and his/her statement confidential.

6. Review all documentation and information relevant to the complaint.

7. Where appropriate, suggest mediation as potential means of resolving the complaint. In addition to mediation, use appropriate information methods to resolve the complaint, including but not limited to:

A. discussion with the accused, informing him or her of the Library's policies and indicating that the behavior must stop;

B. suggesting counseling and/or sensitivity training;

C. conducting training for the workforce;

D. requesting a letter of apology to the complainant;

E. writing letters of caution or reprimand.

8. If the initial investigation results in a determination that sexual harassment did occur, the Library Director, or alternate, will promptly notify the Board of Trustees. The Library Director, or alternate, shall take prompt disciplinary action in accordance with district policy or state law. Where appropriate, the Library Director, or alternate, may suggest mediation as a means of exploring options of corrective action and informally resolving the complaint.

9. Where Library Director or alternate has a reasonable suspicion that the alleged harassment involves criminal activity, he/she should immediately notify the appropriate law enforcement authorities, in consultation with the Board of Trustees. Where criminal activity is alleged or suspected by a Library employee, the accused employee may be suspended pending the outcome of the investigation, consistent with all contractual or statutory requirements.

10. No later than 30 days following receipt of the complaint, the Library Director, or alternate, will prepare a report and notify the victim and alleged harasser, in writing, of the outcome of the investigation. If additional time is needed to complete the investigation or take appropriate action, the Library Director, or alternate, shall notify the victim and alleged harasser in writing of the need for additional time.

11. The report shall contain:

- A. A summary of the complaint and findings.
- B. Determination of whether or not the behavior constitutes sexual harassment or is inconclusive.
- C. Recommended action, if any.

12. The report and investigative information shall be sealed and kept on file by the Library Director including:

- A. Copies of all related written documents, including the summary report.
- B. Copies of any handwritten notes taken during the investigation and interviews.
- C. Any further written details deemed by the investigator to be informative or useful to a better understanding of his/her findings.

## X. DISCIPLINE

The Library considers sexual harassment to be a serious offense. Those members of the workforce who violate this policy should expect serious consequences. The Library condemns any retaliatory behavior against complainants, or potential complainants, reporters, communicators or witnesses, or anyone administering the policy. Those engaging in retaliatory conduct shall be subject to discipline.

Members of the workforce whose conduct constitutes sexual harassment or retaliatory behavior may be subject to disciplinary action in accordance with the Staff Handbook, including reprimand, suspension, or discharge from employment, even for a first time offense, if egregious, consistent with applicable federal and state laws, including the Civil Service Law.

## XI. RETALIATION

Any retaliation against a person who makes a complaint of harassment or who opposes harassing behavior or against any person, who has testified, assisted, or participated in an investigation, proceedings or hearing of a complaint of harassment is prohibited. Any person so found to have retaliated is subject to immediate disciplinary action in accordance with applicable state or federal law.

## XII. ALTERNATE RESPONSES TO PROSCRIBED BEHAVIOR

The procedure and provision of the Library's policy shall not limit the Library or its agents from other actions consistent with the law.

### XIII. COMPLAINANT'S APPEAL

If the Complainant is not satisfied with the Library Director's response, or the remedial action taken after a finding of sexual harassment, the Complainant may appeal to the Library Board of Trustees for review. The appeal must include a copy of the original complaint, all relevant reports and documents, the specific action being appealed, an explanation of why the Complainant is appealing. Appeals should be made promptly, within 20 business days, if possible. Nothing herein shall prevent the Library Director or Trustees from engaging in disciplinary action against the alleged harasser.

The Board of Trustees, with legal counsel or other advisor present shall hear the appeal as soon as is practicable after the request for appeal is received. Following the appeal, the Board shall notify the complainant in writing of the results of the appeal.

If the Complainant is still not satisfied, the Complainant is entitled to bring a complaint to appropriate state or federal agencies administering anti-discrimination laws to the courts.

### XIV. PUBLICATION OF POLICY AND TRAINING

Copies of this policy are to be distributed to all Library employees including the Library Director, and posted in the staff room. The Library employees will verify receipt of the sexual harassment policy and regulations in writing using a form provided by the Library Director. The Library shall have mandatory annual orientation sessions for employees including the Library Director, to inform them of the policy and regulations, to make them sensitive to prohibited behavior, to answer questions raised and to publicize preventive measures to deal with sexual harassment.

### XV. EMPLOYEE COMPLAINT TO AGENCIES

The Library encourages employees to report allegations of sexual harassment pursuant to this policy so that they can be addressed by the Library. However, any employee has the legal right to immediately make a complaint to the appropriate governmental entity which includes the following:

Equal Employment Opportunity Commission (EEOC) at the New York District Office, 33 Whitehall Street, 5th Floor, New York, NY 10004 ; or to the New York State Division of Human Rights at Agency at Building 1, Empire State Plaza, Albany, NY 12220.

Please take notice that the failure to file a complaint with these agencies within the statutory period may result in the loss of your legal rights.



## **SEXUAL HARASSMENT FORMAL COMPLAINT FORM**

Name and position of complainant:

Date of complaint:

Name of alleged sexual harasser (if known):

Date and place of incident(s):

Description of misconduct:

Name of witnesses (if any):

Has the incident been reported before?

If yes, when?

To whom?

What was the resolution?

If not satisfied with resolution, reasons for dissatisfaction?

Approved on: 6/24/2019  
Review Date: 6/2024

**For Administrative Use:**

**Have the following steps been completed?**

1. Interview the victim and document the conversation. Date \_\_\_\_\_
2. Review any written documentation of the harassment prepared by the victim. Date \_\_\_\_\_
3. Interview the alleged harasser regarding the complaint and inform the alleged harasser that if the objectionable conduct has occurred, it must cease immediately. Date \_\_\_\_\_
4. Instruct the alleged harasser to have no contact or communication regarding the complaint with the victim and to not retaliate against the victim. Date \_\_\_\_\_
5. Interview any witnesses to the complaint. Date \_\_\_\_\_
6. Review all documentation and information relevant to the complaint. Date \_\_\_\_\_
7. Notify the Board of Trustees if determination that sexual harassment did occur. Date \_\_\_\_\_
8. Notify the appropriate law enforcement authorities if there is reasonable suspicion that the alleged harassment involves criminal activity. Date \_\_\_\_\_
9. Prepare a report and notify the victim and alleged harasser, in writing, of the outcome of the investigation. Date \_\_\_\_\_
10. What other steps were taken?

## **SEXUAL HARASSMENT COMPLAINT – APPEAL FORM**

Name and position of complainant:

Date of appeal:

Date of original complaint:

Have there been any prior appeals?

If yes, when? \_\_\_\_\_ To whom? \_\_\_\_\_

Description of decision being appealed.

Why is the decision being appealed?

