

## **SEXUAL HARASSMENT POLICY**

**(from the Employee Handbook effective July 1, 2020)**

### 1. Prohibition of Sexual Harassment

It is the policy of the City of Bloomington to prohibit harassment of its employees, officers, officials and agents by any other City employee, officer, official or agent of the City. It shall be a violation of this Policy for any City official or employee to engage in such sexual harassment as defined herein. The City will not tolerate the conduct that is described in this Policy, and has provided a procedure by which inappropriate conduct, if encountered.

### 2. Definition of Sexual Harassment

In general, sexual harassment means persistent and unwelcome conduct or actions directed at one or more individuals. Sexual harassment includes unwelcome sexual advances, unwelcome physical contact of a sexual nature or unwelcome verbal or physical conduct of a sexual nature. Sexual Harassment is defined as: Any unwelcome sexual advances or requests for sexual favors or any conduct of a sexual nature when:

- (i) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment.
- (ii) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- (iii) 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.

### 3. Recognizing Harassment

Sexual Harassment may be subtle, manipulative and is not always obvious. It does not refer to occasional compliments of a socially acceptable nature. Sexual Harassment refers to behavior that is not welcome and is personally offensive. All forms of gender harassment are included. Men can be sexually harassed; men can harass men, woman can harass other woman. Offenders can be managers, supervisors, co-workers, and non-employees such as clients or vendors. Examples of conduct which may constitute sexual harassment includes, but is not limited to:

- Verbal: sexual innuendos, suggestive or insulting comments, insults, humor, epithets, and jokes about sex, anatomy or gender-specific traits, sexual propositions, threats, repeated requests for dates, statements about other individuals covered by this Policy, even outside of their presence, of a sexual nature, discussion of one's sexual activities, inquiries into one's sexual experiences, and direct or implied requests by a manager or supervisor, whether male or female, of sexual favors in exchange for actual or promised job benefits such as favorable reviews, salary increases, promotions, increased benefits.
- Non-verbal: suggestive or insulting sounds (e.g., whistling), leering, obscene gestures, sexually suggestive bodily gestures, "catcalls", "smacking" or "kissing" noises.
- Visual: displaying sexually suggestive objects, pictures, cartoons, 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 (i.e., e-mail, text/picture/video messages, intranet/on-line postings, blogs, instant messages and social network websites such as Facebook, Instagram, 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 City will assess sexual harassment by a standard of what would offend a "reasonable person."

#### 4. Reporting Complaints of Sexual Harassment

Because the City takes allegations of sexual harassment seriously, the City will respond promptly to complaints of sexual harassment, and where it is determined that such inappropriate conduct has occurred, will act promptly to eliminate the conduct and impose such corrective action as is necessary, including disciplinary action where appropriate. If an individual covered by this Policy believes an individual has violated this Policy or is otherwise engaging in sexual harassment, the individual should clearly tell the alleged offending individual that the behavior is not welcomed and must cease. Exceptions to this are permitted where the individual is

not comfortable directly approaching the alleged offender. Any individual covered by this Policy who witness a violation of this Policy has a duty to report it to the Human Resources Department in person or by phone at 309-434-2215. Supervisors should make reasonable attempts to ensure an environment is consistent with this Policy including reporting any suspected violations directly to the Human Resources Department.

#### 4.1 Methods for Reporting Sexual Harassment:

Individuals covered by this Policy that believe he or she is being sexually harassed should promptly notify the Human Resources Department in person or by phone at 309-434-2215. If a formal complaint is filed directly with a supervisor or the City's Ethic's Officer, the supervisor and/or Ethic's Officer must promptly report the complaint to HR within 24 hours. For complaints that involve the HR Director or an employee of the HR Department, individuals covered by this Policy may report complaints to the Corporation Counsel. Finally, complaints may be filed outside of the City organization as set forth in Section 8. An individual covered by this Policy experiencing what he or she believes to be sexual harassment must not assume that the City is aware of the conduct. If the victim fails to notify a supervisor or other Human Resources, the City will not be presumed to have knowledge of the harassment.

#### 4.2 Investigation of Complaints of Sexual Harassment:

All complaints are kept confidential to the extent provided by law and as set forth within this Section 4.2. When a complaint is received, the City will promptly investigate the allegation in a fair and expeditious manner. The investigation will be conducted in such a way as to maintain confidentiality to the extent practicable under the circumstances. However, the complainant's willing cooperation is a vital component of an effective investigation. The City will strive to release information arising out of a complaint or investigation only on a need-to-know basis. Individuals should be aware, however, that, in certain cases, information must be shared for an effective investigation to be conducted. The investigation may include (but it is not limited to) interviews with the complainant and witnesses. The City will also interview the person alleged to have committed sexual harassment. When the investigation is completed, the City will, to the extent appropriate, inform the person filing the complaint and the person alleged to have committed the conduct of the results of that investigation. If it is determined that inappropriate conduct has

occurred, the City will act promptly to eliminate the offending conduct, and where it is appropriate, impose disciplinary action. Individuals that are not comfortable with their name or identifying situation being used in the investigation process can request such an exclusion from Human Resources and/or the Corporation Counsel as may be applicable. However, it should be noted that this may hamper the outcome of the investigation and any potential findings or remedial actions.

#### 5. Prohibition on Retaliation and Whistleblower Protections

Retaliation against an individual who has filed a sexual harassment complaint, and retaliation against individuals who cooperate with an investigation of sexual harassment, is unlawful, prohibited, and will not be tolerated by the City. A person who has filed a sexual harassment complaint is entitled to the protections set forth in the Whistleblower Act (740 ILCS 174/1, et seq.) and the Illinois Human Rights Act (775 ILCS 5/6-101), as well as any other applicable laws and policies adopted by the City. Retaliation will result in severe discipline, up to and including termination. No individual making a report (or individuals who cooperates with an investigation) will be retaliated against even if a report made in good faith is not substantiated. For the purposes of this Policy, retaliatory action means the reprimand, discharge, suspension, demotion, denial of promotion or transfer, or change in the terms or conditions of employment of any City employee that is taken in retaliation for an employee's involvement in protected activity pursuant to this Policy.

#### 6. Consequences for Violating this Sexual Harassment Policy

Any employee who violates this Policy or the prohibition on sexual harassment contained in 5 ILCS 430/5-65, shall be subject to actions that range from review and/or retraining on the Policy to discipline up to and including suspension and/or termination. Immediate removal from the workplace may also be ordered if necessary, during the pendency of an investigation and/or to ensure a safe working environment. The City will act to investigate all complaints of sexual harassment and will take appropriate action against any individual who is found to have violated this Policy. Elected or appointed officials and/or agents of the City who violate this Policy are subject to a fine of up to \$1,000 per violation and/or prosecution as permitted by law. Each occurrence shall constitute a separate violation. Complaints against officials and agents of the City shall be investigated by the appointment of an independent legal counsel, appointed by the City Manager, and investigated in

the same manner as set forth in Section 4.2. The independent legal counsel shall prepare and submit a report and recommendations to the City Council who shall make a final determination on whether this Policy was violated and the assessment of any fines.

#### 7. Consequences for Knowingly Making a False Report of Sexual Harassment

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 up to and including termination. False, frivolous or bad faith allegations made by elected or appointed official and/or agents of the City can subject the individual to both criminal prosecution and the levying of an administrative fine of up to \$5,000.

#### 8. Resolution Outside of the City

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 municipality. However, all individuals covered by this Policy have the right to contact the Illinois Department of Human Rights (IDHR) or the Equal Employment Opportunity Commission (EEOC) to file a formal complaint for sexual harassment or retaliation for filing a sexual harassment complaint. 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. In addition, the State Official and Employees Ethics Act also provides that complaints may be filed with the State's Inspector General.