

## DRAFT – FOR DISCUSSION PURPOSES ONLY

January 4, 2018 – Agenda Item  
Revisions to Sec. 62-73. – Sexual Harassment

### Sec. 62-73. - Sexual Harassment.

The Village shall provide employees an employment environment free of unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct or communications constituting sexual harassment, as defined and otherwise prohibited by state and federal law. The Village will not tolerate sexual harassment of any of its employees and will take immediate steps to investigate and stop it when it occurs. The Village has created a policy entitled "sexual harassment" ("sexual harassment policy") which explains the rules and procedures pertaining to sexual harassment in the workplace. All Village employees and **elected officials** are required to read, abide by, and acknowledge receipt of the sexual harassment policy upon employment and as may be required thereafter.

Additionally, all Village employees and must attend an annual training session on this sexual harassment policy, **as provided or approved by the Village.**

- (1) Definition of sexual harassment. Village employees shall not make sexual advances, requests for sexual favors, and other verbal, written, or physical conduct of a sexual nature when:
- a. Submission to such conduct is made either explicitly or implicitly a term or condition of the individual's employment;
  - b. Submission to or rejection of such conduct by an individual is used as the basis for an employment decision affecting that individual (tangible employment action); or
  - c. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.
  - d. **For purposes of this definition, the phrase "working environment" is not limited to a physical location an employee is assigned to perform his or her duties and does not require an employment relationship.**

The terms intimidating, hostile or offensive include, but are not limited to, conduct which has the effect of humiliation, embarrassment or discomfort. Sexual harassment may include, but is not limited to:

- a. Physical assaults of a sexual nature, including but not limited to rape, sexual battery, molestation, intentional physical conduct which is sexual in nature, such as touching, pinching, patting, grabbing, etc.;
- b. Unwanted sexual advances, propositions, or other sexual comments including, but not limited to sexually oriented gestures, noises, remarks, jokes or comments or verbal abuse of a sexual nature. Also included are preferential treatment and promises of a preferential treatment to an employee for submitting to sexual conduct;
- c. Sexual or discriminatory displays or publications anywhere in Village workplace by Village employees including, but not limited to, pictures, posters, calendars, graffiti, objects, reading materials, or other materials that are sexually suggestive, demeaning or pornographic.

Sexual harassment may involve individuals of the same or different gender. Sexual harassment often is associated with those situations in which a power differential exists between the persons involved, but it also can occur between individuals of the same employment status. Sexual harassment includes conduct based on gender regardless of whether the offensive conduct is sexual in nature.

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- d. **Electronic harassment such as sexting, the use of sexually explicit language, cyber stalking and threats via all forms of electronic communication, i.e. e-mail, text, picture, video messages, intranet, online postings, blogs, instant messages, and social network websites like Facebook and Twitter.**

- (2) **Reporting of sexual harassment.** Employees are encouraged to report any incidents of sexual harassment to their immediate supervisor and to the Human Resources ~~Administrator~~ **Director**. Employees may also choose to report incidents of sexual harassment to any number of persons who will be designated annually on a list distributed annually and posted by the Village Manager's office.

In addition, employees may file a report of harassment in accordance with the standard grievance procedure as specified in this policy manual. Personnel subject to the jurisdiction of the fire and police commission may file complaints of harassment in accordance with the board's established rules and regulations.

Anyone receiving a report of harassment must promptly notify the Human Resources ~~Administrator~~ **Director**, unless it would be inappropriate to do so, given the fact that the Human Resources ~~Administrator~~ **Director** or someone closely connected to the Human Resources ~~Administrator~~ **Director** is involved in the alleged harassment.

- (3) **Employee responsibility.** All persons at the Village can help assure that our workplace is free from prohibited sexual harassment. Every employee is expected to avoid any behavior or conduct that could reasonably be interpreted as sexual harassment. No employees, not even the highest-ranking Village employees, are exempt from the requirements of the sexual harassment policy.
- (4) **Investigation and corrective action.** If you believe you have been subjected to sexual harassment, you have the right to file a complaint. Once notified of a complaint, the Human Resources ~~Administrator~~ **Director** (or someone else, where appropriate) will investigate the report promptly, thoroughly, and, to the extent possible, confidentially. The fact that the complainant may not wish to cooperate does not relieve the Village of the responsibility to investigate harassment reports. If investigation confirms that a violation of the sexual harassment policy has occurred, the Village will take corrective action, including discipline, up to and including termination of employment, as is appropriate. procedures and rights under the established rules and regulations of the board of police and fire commissioners will be followed during any investigation or disciplinary action where applicable. All other applicable rights guaranteed by law will be followed during any investigation or disciplinary action. The Village may discipline an employee for any inappropriate conduct discovered in investigating reports made under the sexual harassment policy, regardless of whether the conduct amounts to a violation of law or even a violation of policy.

**i. Any person who violates Section 5-65 of Public Act 100-0554, is subject to a fine of up to \$5,000 per offense, and is subject to discipline or discharge by the appropriate ultimate jurisdictional authority, (as described above). Each violation of Section 5-65 is a separate offense. Any penalty imposed by an ethics commission of the State shall be separate and distinct from any fines or penalties imposed by a court of law or State or federal agency.**

- (5) **False complaints.** Employees who in bad-faith make a false complaint of harassment will be subject to disciplinary action, up to and including termination of employment.

**Any person who intentionally makes a false report alleging a violation of any provision of Public Act 100-0554 to an ethics commission, an inspector general, the State Police, a State's Attorney, the Attorney General, or any other law enforcement official is guilty of a Class A misdemeanor.**

**An ethics commission may levy an administrative fine of up to \$5,000 against any person who intentionally makes a false, frivolous or bad faith allegation**

- (6) **Confidentiality.** Complaints of harassment, investigation of complaints of harassment, and any corrective actions taken in response to harassment will be kept confidential to the extent possible.

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- (7) No retaliation. The Village prohibits reprisal or retaliation against an employee for filing a good-faith complaint of harassment or for supporting or assisting in good-faith another employee in pursuing a complaint. For the purposes of this policy, retaliatory action means a reprimand, discharge, suspension, demotion denial of promotion or transfer, or change in the terms or conditions of employment taken in retaliation for an employee's involvement in protected activity pursuant to this policy. Employees are afforded protections pursuant to the Whistleblower Act (740 ILCS 174/15(a)-(b)) as well as according to the Illinois Human Rights Act (775 ILCS 5/6-101). Employees must report incidents of retaliation on the same basis as they are to report incidents of harassment.
- (8) State and federal remedies. 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. Consistent with the sexual harassment policy, the Village maintains posters on bulletin boards that refer to legal definitions of harassment. These posters identify governmental agencies to contact on how and when to file administrative claims. In addition to using the Village complaint process ~~does not prohibit an employee from filing a claim with a state governmental agency such as~~ has the right to contact the Illinois Department of Human Rights (IDHR), or ~~with a federal agency such as~~ 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. The time period for an EEOC filing is ~~480 or~~ 300 days from the harassment.

(Ord. No. 07-156, 10-15-2007)

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