

## **SEXUAL HARASSMENT POLICY**

The Village of East Aurora affirms its commitment to provide an environment free from sex-based discrimination and sexual harassment, including sexual violence and intimidation. The Board of Trustees, therefore, prohibits all forms of sexual harassment against Village personnel by employees, volunteers, agents, and non-employees, such as contractors and vendors, which occur on Village grounds or at Village-sponsored events, programs, or activities, including those that take place at locations off Village premises.

### **Sexual Harassment**

Unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature constitutes harassment on the basis of sex when:

- a) Submission of such conduct is made, either explicitly or implicitly, a term or condition of an individual's employment;
- b) Submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individuals; 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 work environment.

Sexual harassment includes, but is not limited to, sexual violence. For the purpose of this policy, sexual violence refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent. Sexual violence includes rape, sexual assault, sexual battery, and sexual coercion.

Sexual harassment can originate from a person of either sex against a person of the opposite or same sex, and from students, supervisors, co-workers or third parties such as visitors and school volunteers.

Sexual harassment is considered a form of employee misconduct and sanctions will be enforced against individuals engaging in sexual harassment and against supervisory and managerial personnel who knowingly allow such behavior to continue.

### **Supervisory Responsibilities**

All supervisors and managers who receive a complaint or information about suspected sexual harassment, observe what may be sexually harassing behavior, or for any reason suspect that sexual harassment is occurring, are required to report such suspected sexual harassment to the Civil Rights Compliance Officer. In addition, supervisors and managers will be subject to discipline for failing to report suspected sexual harassment or otherwise knowingly allowing sexual harassment to continue.

### **Prohibited Conduct**

Sexual harassment can be verbal, non-verbal, or physical. Examples of such conduct may include, but are not limited to, the following:

- a) Verbal abuse or ridicule, including innuendoes, stories and jokes that are sexual in nature and/or gender-related. This might include inappropriate sex-oriented comments on appearance, including dress or physical features.

- b) Direct or indirect threats or bribes for unwanted sexual activity.
- c) Asking or commenting about a person's sexual activities.
- d) Unwelcome and unwanted physical contact of a sexual nature including, but not limited to, physical acts such as assault, impeding or blocking movement, offensive touching, or any physical interference with normal work or movement.
- e) Displaying or distributing pornographic or other sexually explicit materials such as magazines, pictures, internet material, cartoons, etc.
- f) The use of profanity and/or other obscenities that are sexually suggestive or degrading in nature.
- g) Unwelcome staring, leering, or gesturing which is sexually suggestive in nature.
- h) Unwelcome and/or offensive public displays of sexual/physical affection.
- i) Clothing that reflects sexually obscene and/or sexually explicit messages, slogans, or pictures.
- j) Engaging in sexual conduct with an individual who is unable to consent due to his/her age, use of drugs or alcohol, intellectual disability, or other disability.
- k) Any other unwelcome and unwanted sexually oriented and/or gender-based behavior which is sexually demeaning, belittling, intimidating, or perpetrates sexual stereotypes and attitudes.

### **Investigation of Complaints and Grievances**

In order for the Board of Trustees to enforce this policy, and to take corrective measures as may be necessary, it is essential that any employee who believes he/she has been a victim of sexual harassment in the work environment, as well as any other person who is aware of and/or who has knowledge of or witnesses any possible occurrence of sexual harassment, immediately report such alleged harassment to the Village's designated Civil Rights Compliance Officer. In the event that the Civil Rights Compliance Officer is the alleged offender, the report will be directed to the Alternate Civil Rights Compliance Officer, or to the Mayor. The designated Civil Rights Compliance Officer is Village Administrator Cathryn Thomas located at the Village Hall, telephone 716-652-6000, extension 220, or email [cathie.thomas@east-aurora.ny.us](mailto:cathie.thomas@east-aurora.ny.us). The Alternate Civil Rights Compliance Officer is Village Clerk-Treasurer Maureen Jerackas located at the Village Hall, telephone 716-652-6000, extension 218, or email [maureen.jerackas@east-aurora.ny.us](mailto:maureen.jerackas@east-aurora.ny.us).

### **Reporting and Investigating Sexual Harassment Procedure**

It is essential that any employee or non-employee who believes he/she has been a victim of sexual harassment in the work environment, as well as any other person who is aware of and/or who has knowledge of or witnesses any possible occurrence of sexual harassment, immediately report such alleged offender to a supervisor, manager or the designated Civil Rights Compliance Officer. Individuals are encouraged to use the complaint form (provided) to report allegations of sexual harassment. Whether the information is reported in a verbal or written form, all complaints or information about suspected sexual harassment will be investigated.

Investigations will be done in accordance with the following steps:

1. Upon receipt, the Civil Rights Compliance Officer will review the allegations and take any interim actions as appropriate;
2. Interview any witnesses and all parties involved, request and review all relevant documents and evidence; and
3. Promptly notify the individual who complained and the individuals who responded of the final determination and implement any corrective actions identified in the written document.

### **Other Legal Protections and External Remedies**

Sexual harassment is prohibited by the Village of East Aurora as well as prohibited by state and federal law. Individuals may also choose to pursue legal remedies with any of the other external, governmental entities at any time. Individuals are encouraged to consult legal counsel of their choice prior to pursuing any action since there are strict time limits for pursuing claims and procedures that must be followed. Below is merely an example of other options for individuals and is not intended to provide legal advice.

1. New York State Division of Human Rights (DHR)
  - The Human Rights Law (HRL) (N.Y. Executive Law, art. 15 § 290 et seq.) applies to employers in New York State with regard to sexual harassment, and protect employees, paid or unpaid interns, and non-employees regardless of immigration status. A complaint alleging violation of the Human Rights Law may be filed either with DHR or in New York State Supreme Court.
  - Complaints with DHR may be filed at any time within one year of the harassment (most recent incident of harassment). If an individual did not file at DHR, he/she can sue directly in state court under the HRL, within three years of the alleged discrimination (most recent incident of harassment). An individual may not file with DHR if he/she already filed a HRL complaint in state court.
  - There is no cost to file with DHR and no attorney is required to do so.
  - Complaining internally to the Village of East Aurora does not extend time to file with DHR or in court.
  - DHR will investigate and determine if there is probable cause to believe that discrimination has occurred. If discrimination is found after a hearing before an administrative law judge, then DHR has the power to award relief. Relief varies and may include requiring the employer to take action to stop the harassment, or redress the damage caused (including paying monetary damages, attorney's fees and civil fines).
  - Information about filing a complaint can be found at 888-392-3644 or at [dhr.ny.gov/complaint](http://dhr.ny.gov/complaint).
  - DHR's main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, New York 10458, 718-741-8400.

## 2. United States Equal Employment Opportunity Commission (EEOC)

- The EEOC enforces federal anti-discrimination laws, including Title VII of the 1964 Federal Civil Rights Act (42 U.S.C. § 2000e et seq.). An individual can file a complaint with the EEOC. The EEOC will investigate the complaint, and determine whether there is reasonable cause to believe that discrimination has occurred, at which point the EEOC will issue a Right to Sue letter permitting the individual to file a complaint in federal court.
- The EEOC does not hold hearings or award relief, but may take other action including pursuing cases in federal court on behalf of complaining parties. Federal courts may award remedies if discrimination is found to have occurred.
- An employee can file a “Charge of Discrimination.”
- The EEOC can be contacted by calling 1-800-669-6890 or via email at [info@eeoc.gov](mailto:info@eeoc.gov). Their website is [www.eeoc.gov](http://www.eeoc.gov)

## 3. Local Police

- Harassment that involves physical touching, confinement or coerced sexual acts may constitute a crime. Contact the local police department for more information.

### **Prohibition of Retaliatory Behavior**

The Board prohibits any retaliatory behavior directed against complainants, victims, witnesses, and/or any other individuals who participated in the investigation of a complaint of sexual harassment. Complaints of retaliation may be directed to the Civil Rights Compliance Officer. In the event the Civil Rights Compliance Officer is the alleged offender, the report will be directed to the Alternate Civil Rights Compliance Officer, or to the Mayor.

Where appropriate, follow-up inquiries will be made to ensure that sexual harassment has not resumed and that all those involved in the investigation of sexual harassment have not suffered retaliation.

### **Training of Employees**

The Village shall annually and within thirty days of any new hire, train all employees which will provide an explanation of what constitutes sexual harassment consistent with any guidance issued by the New York State Department of Labor. Such training shall be interactive and accommodate questions by employees, where necessary. Examples of unlawful sexual harassment shall be provided including information regarding current federal and state statutory provisions concerning sexual harassment and remedies available to victims of sexual harassment as well as employee’s rights of redress and available forums for adjudicating complaints. Training shall be in the language that is spoken by the employee and each employee shall be provided with a written copy of this policy along with the complaint form.