

## **Non-Discrimination/Anti-Harassment Policy and Complaint Procedure**

The Guilderland Public Library is committed to a work environment in which all individuals are treated with respect and dignity. Each employee has the right to work in a professional atmosphere that promotes equal employment opportunities and prohibits unlawful discriminatory practices, including harassment. With that said, the Library expects that all relationships among employees throughout the Library will be business-like and free of bias, prejudice and harassment. Accordingly, the Library does not tolerate discrimination or harassment based on race, color, national origin, citizenship, religion, creed, sex/gender (including pregnancy), age, physical or mental disability, marital or familial status, domestic violence or victim status, military service or veteran status, sexual orientation, gender identity, genetic predisposition or carrier status or any other category protected by federal, state or local laws. Together, these personal characteristics are referred to in this policy as “protected characteristics.”

The Library is committed to preventing discrimination and harassment from occurring and to providing an avenue to promptly and effectively address complaints of discrimination and harassment.

Discrimination occurs if a person experiences an adverse employment action based on one or more of his/her “protected characteristics.” Examples of discrimination include job actions such as lower pay, a failure to promote, denial of a raise, or termination because of one’s gender, race, sexual orientation, or another protected characteristic. The Library will not discriminate in any area of employment, including compensation.

While it is not easy to define precisely what harassment is, it may include slurs, epithets, threats, derogatory comments, unwelcome jokes or gestures, and teasing based on any one of the protected characteristics listed above.

### **A. Sexual Harassment**

Sexual harassment warrants further definition. Sexual harassment is a form of workplace discrimination. The Guilderland Public Library has a zero-tolerance policy for any form of sexual harassment, and all employees are required to work in a manner that prevents sexual harassment in the workplace. Sexual harassment is against the law. All employees have a legal right to a workplace free from sexual harassment, and employees can enforce this right by filing a complaint internally with the Compliance Officer, or with a government agency or in court under federal, state or local anti-discrimination laws.

Sexual harassment is a form of sex discrimination and is unlawful under federal, state and local law. Sexual harassment includes harassment on the basis of sex, sexual orientation, gender identity and the status of being transgender. Sexual harassment includes unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual’s sex when: (a) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or advancement; (b) submission to or rejection of such conduct is used as the basis for decisions affecting employment or personal advancement of an individual; 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, even if the complaining individual is not the intended target of the sexual harassment.

Sexual harassment creates a “hostile work environment” and can consist of words, signs, jokes, pranks, intimidation or physical violence which are of a sexual nature, or which are directed at an individual because of that individual’s sex. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory statements or sexually discriminatory remarks made by someone in the workplace which are offensive or objectionable to the recipient (or another witness), which causes the recipient (or witness) discomfort or humiliation, or which interfere with the recipient’s (or witness’) job performance.

A type of sexual harassment known as “quid pro quo” harassment occurs when a person in authority tries to trade job benefits for sexual favors. This can include hiring, promotion, continued employment or any other terms or conditions or privileges of employment. Only supervisors and managers are deemed to engage in this type of harassment, because coworkers do not have the authority to grant or withhold benefits. Nonetheless, if any employee experiences this specific type of harassment, they should report it immediately.

Further, sexual harassment may include a range of subtle and not-so-subtle behaviors and may involve individuals of the same or different gender. Depending on the circumstances, these behaviors may include:

- Physical assaults of a sexual nature, such as:
  - Touching, pinching, grabbing, brushing against another employee’s body or poking another employee’s body;
  - Rape, sexual battery, molestation or attempts to commit these assaults.
- Unwanted sexual advances or propositions, such as:
  - Requests for sexual favors accompanied by implied or overt threats concerning the victim’s job performance evaluation, a promotion or other job benefits or detriments;
  - Subtle or obvious pressure for unwelcome sexual advances.
- Sexually oriented gestures, noises, remarks, jokes or comments about a person’s sexuality or sexual experience, which create a hostile work environment.
- Sexual or discriminatory displays or publications anywhere in the workplace, such as:
  - Displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials or other materials that are sexually demeaning or pornographic. This includes such sexual displays on workplace computers or cell phones and sharing such displays while in the workplace.
- Hostile actions taken against an individual because of that individual’s sex, sexual orientation, gender identity and the status of being transgender, such as:
  - Interfering with, destroying or damaging a person’s workstation, tools or equipment, or otherwise interfering with the individual’s ability to perform the job;
  - Sabotaging an individual’s work;
  - Bullying, yelling, name-calling.

Any employee who feels harassed should complain so that any violation of this policy can be corrected promptly. Any harassing conduct, even a single incident, can be addressed under this policy.

Sexual harassment can occur between any individuals, regardless of their sex or gender. New York law protects employees, paid or unpaid interns, and non-employees, including independent contractors, and those employed by companies contracting to provide services in the workplace. A perpetrator of sexual harassment can be a superior, a subordinate, a coworker or anyone in the workplace including an independent contractor, contract worker, vendor, client, customer or visitor.

The law 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. Such sanctions will include following disciplinary action pursuant to this Employee Handbook for such conduct and/or other administrative, legal or judicial action. Further, retaliation against individuals who complain of sexual harassment or those who testify or assist in any legal proceeding is unlawful.

## **B. Other Forms of Harassment**

Harassment based on any protected characteristic is prohibited. While it is not possible to list all conceivable behaviors, which might be considered harassing, the following are examples of behavior which must be avoided: the use of nicknames/labels, teasing, slurs or negative stereotyping; mimicking or mocking; threatening, intimidating or hostile acts; demeaning jokes; and/or written or graphic material that belittles or shows hostility toward an individual or group because of a protected characteristic.

This policy includes, but is not limited to, the effect that harassment, discrimination and/or retaliation via the use of social media (*on or off Library time*) has on an employee's ability to perform their job.

### **C. Non-Retaliation**

Retaliation is defined as any "adverse action" taken against an employee based on their complaint of unlawful harassment or discrimination. "Adverse action" may include a significant change in employment status, such as hiring, firing, failing to promote, reassignment with significantly different responsibilities or a decision causing a significant change in benefits. However, it need not be job-related nor occur in the workplace to constitute unlawful retaliation. Retaliation may also be any action that would keep a worker from coming forward to make or support a sexual harassment claim.

Such retaliation is unlawful under federal, state and local law. The New York State Human Rights Law protects any individual who has engaged in "protected activity." Protected activity occurs when a person has:

- Filed a complaint of sexual or other harassment, either internally or with any anti-discrimination agency;
- Testified or assisted in a proceeding involving sexual or other harassment under the Human Rights Law or other anti-discrimination law;
- Opposed sexual or other harassment by making a verbal or informal complaint to management, or by simply informing a supervisor or manager of harassment;
- Complained that another employee has been sexually or otherwise harassed; or
- Encouraged a fellow employee to report harassment of any kind.

Retaliation of any kind is a serious violation of this policy. Any person who engages in retaliatory conduct will be subject to disciplinary action, up to and including termination.

### **D. Reporting an Incident of Harassment, Discrimination or Retaliation**

**Preventing sexual harassment is everyone's responsibility.** The Guilderland Public Library cannot prevent or remedy sexual or other harassment unless it knows about it. Any employee, paid or unpaid intern or non-employee who has been subjected to behavior that may constitute sexual or other harassment, is encouraged to report such behavior to a supervisor, manager or Human Resources, not necessarily in that order. Anyone who witnesses or becomes aware of potential instances of sexual or other harassment should report such behavior to a supervisor, manager or Human Resources, not necessarily in that order.

The Library encourages the immediate reporting of complaints or concerns so that prompt investigations can be conducted. Therefore, although no fixed reporting period has been established, early reporting and intervention are encouraged because they have been proven to be the most effective method of resolving actual or perceived incidents of harassment, discrimination or retaliation, as defined by this policy.

Reports of sexual or other harassment may be made verbally or in writing. In cases of sexual harassment specifically, employees should fill out a standard complaint form, which is available from Human Resources, and is incorporated by reference to this policy, which contains detailed procedures for a timely and confidential investigation of complaints that will ensure due process for all parties involved. Please note that in addition to reporting complaints or concerns of sexual harassment to a supervisor or Human Resources, employees have other rights and available forums for adjudicating complaints, both administratively and judicially. Employees who are reporting sexual harassment on behalf of other employees should use the complaint form and note that it is on another employee's behalf.

### **E. Supervisory Responsibilities**

All supervisors and managers who receive a complaint or information about suspected sexual or other harassment, observe what may be harassing behavior or for any reasons suspect that harassment is occurring, are required to report such suspected harassment to the Compliance Officer.

## **F. Formal Complaint Procedure**

The Guilderland Public Library encourages reporting of all perceived incidents of harassment, discrimination or retaliation regardless of the offender's identity or position. Employees who believe that they have been the victim of such conduct should discuss their concerns with their immediate supervisor and/or Human Resources, not necessarily in that order. Even if you are unsure whether a certain behavior constitutes discrimination, harassment and/or retaliation prohibited by this policy, you are encouraged to report the situation so that it may be investigated, evaluated and, if necessary, addressed. As noted above, if the complaint includes allegations of sexual harassment, employees should fill out a standard complaint form, which is available from Human Resources. The Library expects that individuals who make reports pursuant to this policy do so truthfully and in good-faith. However, an employee should never delay or decide not to report any case of harassment that they believe falls within this policy. The Library would rather be overprotective of its employees (e.g., participating in investigations that may prove behavior was not to the level of harassment), than have issues go unreported for any reason. With that said, though, these provisions are not intended to protect persons making intentionally false charges of harassment.

## **G. Investigation Claims of Harassment, Discrimination or Retaliation**

It is the policy of the Guilderland Public Library to promptly and thoroughly investigate any reported allegations of harassment, discrimination or retaliation – **All** complaints or information about suspected sexual or other harassment, discrimination or retaliation will be investigated, whether that information was reported verbally or by written form. The investigation may include individual interviews with the parties involved and, where necessary, with individuals who may have observed the alleged conduct or may have other relevant knowledge. Any employee may be required to cooperate as needed in an investigation of suspected sexual or other harassment, discrimination or retaliation. Employees who participate in any investigation will not be retaliated against.

An investigation of any complaint, information or knowledge of suspected sexual or other harassment, discrimination or retaliation will be prompt and thorough, and should be completed within thirty (30) days. The investigation will be confidential to the extent possible. All persons involved, including complainants, witnesses and alleged perpetrators will be accorded due process to protect their rights to a fair and impartial investigation.

Investigations will be done by the Compliance Officer in accordance with the following steps:

- Upon receipt of a complaint, conduct an immediate review of the allegations, and take any interim actions, as appropriate. If the complaint is oral, the complainant will be encouraged to complete the "Complaint Form" in writing.
- If documents, emails or phone records are relevant to the allegations, take steps to obtain and preserve them for the record.
- Request and review all relevant documents, including all electronic communications.
- Interview all parties involved, including any relevant witnesses.
- Create a written documentation of the investigation (e.g., a letter, memo or email), which contains the following:
  - A list of all documents reviewed, along with a detailed summary of relevant documents;
  - A list of names of those interviewed, along with a detailed summary of their statements;
  - A timeline of events;
  - A summary of prior relevant incidents, reported or unreported, if any; and
  - The final resolution of the complaint, together with any corrective action(s).
- Keep the written documentation and associated documents in the employment records of those involved, as well as in the Library's records.
- Promptly notify the individual who complained and the individual(s) who responded of the final determination and implement any corrective action(s) identified in the written document.
- Inform the individual who complained of their right to file a complaint or charge externally as outlined further below.

Misconduct constituting harassment, discrimination or retaliation, as defined by this policy, will be dealt with appropriately and may involve actions up to, and including, termination. The severity of the action may not allow rehabilitation and an employee may be terminated after the first offense.

False and malicious complaints of harassment or discrimination may be the subject of appropriate disciplinary action, up to and including termination.

Any employees with questions or concerns about this policy or procedure should seek further information from their immediate supervisor and/or Human Resources.

Please note that while this policy sets forth the Library's goal of promoting a workplace that is free of harassment, the policy is not designed or intended to limit the Library's authority to discipline or take remedial action for workplace conduct which it deems unprofessional, inconsistent with Library standards, or otherwise inadvisable behavior, regardless of whether that conduct satisfies the legal definition of unlawful discrimination or harassment.

#### **H. Legal Protections and External Remedies**

Sexual harassment is not only prohibited by the Library, but is also prohibited by state, federal, and local law. Aside from the internal process at the Library that are noted in this policy, employees may also choose to pursue legal remedies with the following governmental entities at any time.

##### New York State Division of Human Rights (DHR)

The Human Rights Law (HRL) applies to employers in New York State with regard to sexual harassment, and protects 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 any time within one (1) year of the harassment. If an individual did not file at DHR, they can sue directly in state court under the HRL, within three (3) years of the alleged discrimination. An individual may not file with DHR if they have already filed a HRL complaint in state court. Complaining internally does not extend your time to file with DHR or in court. The one (1) year or three (3) years is counted from the date of the most recent incident of harassment.

Complaining employees do not need an attorney to file a complaint with DHR, and there is no cost to file with DHR. DHR will investigate complaints and determine whether there is probable cause to believe that discrimination has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If discrimination is found after a hearing, DHR has the power to award relief, which varies but may include requiring the Library to take action to stop the harassment, or redress the damage caused, including paying monetary damages, attorney's fees and civil fines.

DHR's main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, New York 10458, (718) 741-8400, [www.dhr.ny.gov](http://www.dhr.ny.gov). Contact DHR at (888) 392-3644 or visit [dhr.ny.gov/complaint](http://dhr.ny.gov/complaint) for more information about filing a complaint. The website has a complaint form that can be downloaded, filled out, notarized and mailed to DHR. The website also contains contact information for DHR's regional offices across New York State.

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

The EEOC enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act. An individual can file a complaint with the EEOC anytime within 300 days from the harassment. There is no cost to 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.

If an employee believes that he/she has been discriminated against at work, he/she can file a “Charge of Discrimination.” The EEOC has district, area, and field offices where complaints can be filed. Contact the EEOC by calling 1-800-669-4000 (1-800-669-6820 (TTY)), visiting their website at [www.eeoc.gov](http://www.eeoc.gov) via email at [info@eeoc.gov](mailto:info@eeoc.gov). If an individual filed an administrative complaint with DHR, DHR will file the complaint with the EEOC to preserve the right to proceed in federal court.

### Local Protections

Many localities enforce laws protecting individuals from sexual harassment and discrimination. An individual should contact the county, city or town in which they live to find out if such a law exists. For example, employees who work in New York City may file complaints of sexual harassment with the New York City Commission on Human Rights. Contact their main office at Law Enforcement Bureau of the NYC Commission on Human Rights, 40 Rector Street, 10th Floor, New York, New York; call 311 or (212) 306-7450; or visit [www.nyc.gov/html/cchr/html/home/home.shtml](http://www.nyc.gov/html/cchr/html/home/home.shtml).

### Contact the Local Police Department

If the harassment involves physical touching, coerced physical confinement or coerced sex acts, the conduct may constitute a crime. Employees should contact law enforcement immediately if this is the case.

*Adoption of this policy does not constitute a conclusive defense to charges of unlawful sexual harassment. Each claim of sexual harassment will be determined in accordance with existing legal standards, with due consideration of the particular facts and circumstances of the claim, including but not limited to the existence of an effective anti-harassment policy and procedure.*

### **I. Training**

The Guilderland Public Library, will provide annual Harassment Training, which will specifically focus on harassment prevention for use by the Library and its employees to combat and prevent sexual and other harassment in the workplace. The training will include an explanation of the Library’s policy; discussion about sexual and other harassment in the workplace, including examples of prohibited conduct; information on state and federal laws concerning sexual and other harassment and remedies available to victims; and information on employees’ rights and all available forums for adjudicating complaints administratively or judicially. There will also be additional training for supervisors and managers, which focuses specifically on the conduct of supervisors and managers and additional responsibilities that these employees have regarding employee harassment complaints, investigations, etc. The Library will notify employees as to the date of such training each year.

### **J. Bullying**

The Guilderland Public Library defines bullying as “repeated inappropriate behavior, either direct or indirect, whether verbal, physical or otherwise, conducted by one or more persons against one or more individuals, at the place of work and/or in the course of employment.” Such behavior violates the Library’s core values.

The Guilderland Public Library considers the following types of behavior examples of bullying:

- Verbal Bullying: slandering, ridiculing or maligning a person or his/her family; persistent name calling which is hurtful, insulting or humiliating; using a person as the subject of jokes; abusive and offensive remarks.
- Physical Bullying: pushing; shoving; kicking; poking; tripping; assault or threat of physical assault; damage to a person’s work area or property.
- Gesture Bullying: non-verbal threatening gestures; glances which can convey threatening messages.
- Exclusion: socially or physically excluding or disregarding a person in work-related activities.

Employees are prohibited from engaging in any form of workplace bullying. The Library encourages reporting of all perceived incidents of bullying regardless of the offender’s identity or position. Employees who believe that they have

been the victim of such conduct should discuss their concerns with their immediate supervisor and/or Human Resources. Employees will not be retaliated against for raising concerns of bullying.

Employees who engage in workplace bullying or retaliation in violation of this policy, will be subject to disciplinary action, up to and including termination of employment.

#### **K. Workplace Violence**

The Guilderland Public Library strives to provide an environment that is safe and secure for all employees, vendors, clients/customers, business associates and visitors/guests of the Library. Behavior that is threatening, harassing, intimidating or in any way dangerous or violent is strictly prohibited and will result in serious responsive action.

The Library considers the following types of behavior examples of workplace violence:

- Verbal or physical harassment.
- Verbal or physical threats (e.g., gossip, rumors, e-mails, non-verbal behavior).
- Assaults or other violence (e.g., hitting, punching, slamming or throwing an object).
- Any other behavior that causes others to feel unsafe (e.g., bullying, sexual harassment, etc.).

While no organization is completely immune from acts of violence, clear policies and procedures help reduce the likelihood of such events and guide appropriate responses to situations that do arise.

Employees are expected to refrain from conduct that may be dangerous to others. Conduct that threatens, intimidates or coerces another employee, vendor, customer/client, business associate or visitor/guest will not be tolerated. Library resources may not be used to threaten, stalk or harass anyone at the workplace or outside the workplace. The Guilderland Public Library treats threats coming from an abusive personal relationship as it does other forms of workplace violence.

#### **L. Reporting Violent Behavior**

All employees of the Guilderland Public Library have a responsibility to report violent or threatening behavior. Indirect or direct threats of violence, incidents of actual violence and suspicious individuals or activities should be reported as soon as possible to an employee's immediate supervisor and/or Human Resources.

The Guilderland Public Library will not retaliate against employees making good-faith reports of violence, threats or of suspicious individuals or activities. In order to maintain workplace safety and the integrity of its investigation, the Library may suspend employees suspected of workplace violence or threats of violence, either with or without pay, pending investigation.

Employees who engage in workplace violence or retaliation in violation of this policy will be subject to disciplinary action, up to and including termination of employment.

#### **M. 911**

If there is an immediate act or threat of violence that is considered an emergency situation, individual safety is always the top priority. Employees should call 911 if an emergency situation jeopardizes the safety of an employee, vendor, customer or visitor. When reporting a threat or incident of violence, the employee should be as specific and detailed as possible. Employees should not place themselves in direct danger, nor should they attempt to intercede during an incident. Employees should not report the behavior to the individual acting in a violent manner.

#### **N. Restraining Order**

Employees should promptly inform their supervisor and/or the Compliance Officer of any protective or restraining order that they have obtained that lists the workplace as a protected area. Employees are encouraged to report safety concerns with regard to domestic or intimate partner violence.

Approved January 17, 2019

ANTI-HARASSMENT FORMAL COMPLAINT FORM

Name of complainant (please print)

Date of complaint

Name of alleged sexual harasser, if known

Date and place of incident

Description of misconduct

Name of witnesses (if any)

E-mail: \_\_\_\_\_

Phone Number: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

TELEPHONE: \_\_\_\_\_

DATE: \_\_\_\_\_



ANTI-HARASSMENT COMPLAINT  
APPEAL FORM

Name of complainant (please print)

Date of appeal

Date of original complaint

Description of decision being appealed

Why is the decision being appealed?

SIGNATURE: \_\_\_\_\_