

APPROVED**Policy on Harassment, Discrimination, Retaliation, and Workplace Violence****Harassment**

Policy Statement -- The Library recognizes its responsibility to all employees to maintain a working environment free from harassment. To achieve this environment, the Library believes that it is necessary to affirmatively address the subject, express its strong disapproval of harassment, and inform its employees of the right to raise the issue of harassment with Management. Any employee who is found to have engaged in harassment will be subject to appropriate disciplinary action, up to and including termination.

This policy prohibits unlawful harassment, including sexual harassment, of any kind, and the library will take appropriate and immediate action in response to complaints or knowledge of violations of this policy. For purposes of this policy, harassment is any verbal or physical conduct designed to threaten, intimidate, or coerce an employee, co-worker, or any person working for or on behalf of the library. Verbal taunting (including racial and ethnic slurs) that, in the employee's opinion, impairs his or her ability to perform his or her job, may be included in the definition of harassment. The following examples of harassment are intended to be guidelines and are not exclusive when determining whether there has been a violation of this policy:

- **Verbal harassment** includes comments that are offensive or unwelcome regarding a person's race, creed, color, religion, national origin, gender identity, sex (including pregnancy), age, disability, genetic information, predisposing genetic characteristics, sexual orientation, marital status, familial status, military status, domestic violence victim status, arrest record, conviction record, or other protected status.
- **Nonverbal harassment** includes distribution, display, or discussion of any written or graphic material that ridicules, denigrates, insults, belittles or shows hostility, aversion or disrespect toward an individual or group because of national origin, gender identity, race, creed, color, religion, national origin, sex (including pregnancy), age, disability, genetic information, predisposing genetic characteristics, sexual orientation, marital status, familial status, military status, domestic violence victim status, arrest record, conviction record, or other protected status.

Sexual Harassment

Sexual harassment is a form of unlawful harassment and is prohibited under this policy. According to the Equal Employment Opportunity Commission (EEOC), sexual harassment is defined as “unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when submission to or rejection of such conduct is used as the basis for employment decisions or such conduct has the purpose or effect of creating an intimidating, hostile, or offensive working environment.”

Sexual harassment includes unwelcome and personally offensive verbal behavior such as teasing or joking, sexual innuendo, suggestive comments, or sexual propositions as well as physical behavior such as touching, patting, pinching, or other inappropriate physical contact. Sexual harassment also includes non-verbal behavior such as displaying suggestive pictures or obscene gestures.

There are two types of sexual harassment:

- “Quid pro quo” harassment is where submission to harassment is used as the basis for employment decisions, such as raises, promotions, and better working hours. Example: A Supervisor promising an employee a raise if she goes on a date with him; a manager telling an employee she will fire him if he does not have sex with her.
- “Hostile work environment” is where harassment creates an offensive and unpleasant working environment. A hostile work environment can be created by anyone in the work environment, whether it is a supervisor, coworker, vendor, or customer. Hostile environment harassment consists of verbal statements that are sexual in nature, the unwelcome exposure to sexual materials, or even unwelcome physical contact of a sexual nature. Texts, emails, cartoons or posters of a sexual nature; vulgar or lewd comments or jokes; or unwanted touching or fondling all may fall into this category.

Sexual harassment may take different forms. The following examples of sexual harassment are intended to be guidelines and are not exclusive when determining whether there has been a violation of this policy:

- Verbal sexual harassment may include innuendoes, suggestive comments, jokes of a sexual nature, sexual propositions, lewd remarks and threats; requests for any type of sexual favor (this includes repeated, unwelcome requests for dates); and verbal abuse or “kidding” that is oriented toward a prohibitive form of harassment, including that which is sexual in nature and unwelcome.
- Nonverbal sexual harassment may include the distribution, display or discussion of any written or graphic material, including calendars, posters and cartoons that are sexually suggestive or show hostility toward an individual or group because of sex; suggestive or insulting sounds; leering; staring; whistling; obscene gestures; content in letters and notes, facsimiles, email, photos, text messages,

tweets, and internet postings; or other form of communication that is sexual in nature and offensive.

- Physical sexual harassment may include unwelcome, unwanted physical contact, including touching, tickling, pinching, patting, brushing up against, hugging, cornering, kissing, fondling, and forced sexual intercourse or assault.

Courteous, mutually respectful, pleasant, non-coercive interactions between employees, including men and women, that are appropriate for the workplace and acceptable to and welcomed by both parties, are not considered to be harassment.

Discrimination

Discrimination is the treatment of an individual based on that individual's protected trait. Protected traits include sex, race, ancestry, ethnic groups identification, ethnic background, traits historically associated with race, color, religion, national origin, citizenship, creed, disability, veteran status, military status, marital status, familial status, domestic violence victim status, sexual orientation, gender identity and expression predisposing genetic characteristics/genetic information, or any other category protected by applicable federal, state or local law.

Discrimination of this kind may also be strictly prohibited by a variety of federal, state, and local laws, including but not limited to Title VII of the Civil Rights Act 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and the New York State Human Rights Law. This policy is intended to comply with the prohibitions stated in these and other anti-discrimination laws. Discrimination in violation of this policy will be subject to disciplinary measures up to and including termination.

Retaliation

Retaliation is any adverse action or credible threat of an adverse action taken by the Library or any individual doing work for or on behalf of the Library in response to a complaint of discrimination or harassment, being witness to discrimination or harassment, or participating/assisting in response to discrimination or harassment even if insufficient evidence is found to support the complaint or engaging in any other lawfully protected activities. Adverse actions need not be job-related or occur in the workplace to constitute prohibited retaliation (e.g., threats or violence outside of work hours).

The Library prohibits retaliation against any individual engaging in the above activities in good faith, even if the alleged discrimination, harassment, or retaliation does not turn out to rise to the level of a violation of law. The retaliation provision is not intended to

prohibit employment action in connection with a person making intentionally false complaints of discrimination, harassment, retaliation or providing false information during an investigation or refusing to participate in an investigation.

Reporting Harassment, Discrimination, or Retaliation

All employees who believe they are aware of possible violations of this policy are strongly encouraged to report the alleged misconduct to their supervisor immediately. If the employee's immediate supervisor is unavailable or is the source of the alleged harassment, discrimination, or retaliation, or if the employee is not comfortable reporting to his/her supervisor, the employee should report it to the next in line in the chain of command or the Human Resources Manager.

If a supervisor or manager becomes aware that harassment, discrimination, or retaliation is occurring, either from personal observation, after receiving a report of harassment, discrimination, or retaliation from an employee, or after learning of alleged harassment, discrimination, or retaliation from any other source, the supervisor or manager must immediately report it to Human Resources. Upon receiving a complaint or being advised by a supervisor or manager that a violation of this policy may have occurred, HR may review the complaint with the Library's legal counsel.

The Library takes reports of discrimination, harassment and retaliation very seriously and will ensure prompt investigation of such reports whether verbal or written.

Investigating Allegations of Harassment, Discrimination, or Retaliation

Upon receiving a complaint of harassment, discrimination, or retaliation, the Library will take appropriate steps to investigate the complaint. All complaints or information about suspected sexual or other harassment, discrimination, or retaliation will be investigated, whether that information was reported verbally or in written form. The Library reserves the right to modify, add or skip any steps depending on the circumstances.

Investigations will be conducted by Human Resources, if necessary, in consultation with legal counsel.

1. After receiving the complaint, the subject of the complaint will be contacted and advised that a complaint has been received and that an investigation has been initiated in order to determine whether there is a reasonable basis for believing that the alleged violation of this policy has occurred.
2. Depending on the nature and severity of the allegations, the Library may take temporary protective actions while an investigation is ongoing, including modifying work assignments, changing reporting responsibilities, or placing an

employee on leave. Any such action is precautionary and not intended to prejudice the outcome of the investigation.

3. During the investigation, the complainant, the respondent, and any witnesses to or persons with knowledge of the alleged conduct may be interviewed in order to determine whether that conduct occurred. The party conducting the investigation shall retain exclusive authority to determine who will be interviewed as part of the investigation.
4. Employees are required to participate fully in an investigation under this policy and to provide accurate, truthful, and complete information. Retaliation against employees who participate in any investigation is prohibited under this policy. 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.
5. An investigation of any complaint will be prompt and thorough and should be completed within thirty (30) days. At the conclusion of the investigation, the individual conducting the investigation will submit a report of his or her findings to the Director.
6. If it is determined that harassment or discrimination in violation of this policy has occurred, the individual conducting the investigation will recommend an appropriate response, which may include disciplinary action up to, and including, termination. The appropriate action will depend on, among other things, the following factors: a) the severity, frequency and pervasiveness of the conduct; b) prior complaints made by the complainant; c) prior complaints made against the accused; and d) the quality of the evidence (e.g., first-hand knowledge, credible corroboration, etc.). The severity of the action may not allow rehabilitation, and termination may be recommended for a first offense.
7. If the investigation is inconclusive or if it is determined that there has been no violation of policy, but potentially problematic conduct may have occurred, the individual conducting the investigation may recommend appropriate preventive action.
8. If the investigation determines that complaints of harassment or discrimination were false and malicious, the individual conducting the investigation may recommend appropriate disciplinary action, up to and including termination.
9. The Director, after considering the report and recommendations, and, if necessary, in consultation with legal counsel, will make a final determination with respect to any disciplinary actions.
10. If the Director is the subject of the complaint, the individual conducting the investigation will submit a report of his or her findings to the Board, which will make a final determination with respect to any disciplinary actions. If the Director is recused from the investigation, the individual conducting the investigation will submit a report of his or her findings to the Assistant Director, who will make a final determination with respect to any disciplinary actions.

11. After the investigation is concluded, HR will meet with the complainant and the accused separately.
12. If disciplinary action is to be taken, the accused will be informed of the nature of the discipline and how it will be executed. The complainant will not, however, be informed of the nature of the discipline and how it will be executed. Rather, the complainant simply will be informed that the matter has been investigated, appropriately addressed and that, should any harassment, discrimination, or retaliation occur in the future, that such conduct should immediately be reported in accordance with this policy.

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.

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 is 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.

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.

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, emails, 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.

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.

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.

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.