

STATE OF ILLINOIS)
) SS
COUNTY OF DU PAGE)

I, Lynn Curiale, City Clerk of Wood Dale, Illinois DO HEREBY CERTIFY that as such City Clerk and keeper of the records, that the foregoing is a true and correct copy of Resolution **#R-20-41 A RESOLUTION AMENDING THE PERSONNEL POLICY MANUAL OF THE CITY OF WOOD DALE REGARDING HARASSMENT AND THE VICTIM'S ECONOMIC SECURITY AND SAFETY ACT (VESSA)** Passed by The City of Wood Dale, Du Page County, Illinois, IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of the City of Wood Dale, this 18th day of June, 2020.



Lynn Curiale, City Clerk



Resolution #R-20-41

**A RESOLUTION AMENDING THE PERSONNEL POLICY MANUAL OF THE
CITY OF WOOD DALE REGARDING HARASSMENT AND THE VICTIM'S
ECONOMIC SECURITY AND SAFETY ACT (VESSA)**

Passed: June 18, 2020
Published in Pamphlet Form: June 19, 2020

I, Lynn Curiale, as the City Clerk for the City of Wood Dale, hereby certify that the
attached Resolution is a true and correct copy of #R-20-41

**A RESOLUTION AMENDING THE PERSONNEL POLICY MANUAL OF THE
CITY OF WOOD DALE REGARDING HARASSMENT AND THE VICTIM'S
ECONOMIC SECURITY AND SAFETY ACT (VESSA)**

Passed and approved by the City Council of the City of Wood Dale on June 18, 2020 and
hereby published in pamphlet on June 19, 2020.



Lynn Curiale, City Clerk

SEAL



RESOLUTION NO. R-20-41

**A RESOLUTION AMENDING THE PERSONNEL POLICY MANUAL
OF THE CITY OF WOOD DALE REGARDING HARASSMENT
AND THE VICTIM'S ECONOMIC SECURITY AND SAFETY ACT (VESSA)**

WHEREAS, the City is a body politic and corporate, organized and existing pursuant to the Illinois Municipal Code, 65 ILCS 5/1-1-1, *et seq.*; and

WHEREAS, the City is authorized and empowered, under Section 3.1-50-10 of the Illinois Municipal Code, 65 ILCS /3.1-50-10, and the Municipal Code of the City of Wood Dale of 1993, as amended ("Code of Ordinances"), to establish salary, compensation, conditions of employment and benefits for City employees; and

WHEREAS, the City Council is committed to ensuring that all City officials and employees are able to enjoy a work environment that is free from all forms of discrimination, including sexual harassment; and

WHEREAS, the City Council has previously promulgated a policy prohibiting sexual harassment and discrimination pertaining to all employees of the City; and

WHEREAS, the Illinois General Assembly recently enacted Public Act 101-0221 ("Act"), an Act concerning employment and governmental ethics; and

WHEREAS, pursuant to the Act, each governmental unit shall adopt an ordinance or resolution amending its Personnel Policy to establish a mechanism for reporting and independent review of allegations of sexual harassment made against an elected official of the governmental unit by another elected official of a governmental unit; and

WHEREAS, the Act also expands the protections of the Victim's Economic Security and Safety Act (VESSA) to include protections for those suffering from violence related to gender; and

WHEREAS, in review of the existing Personnel Policy for purposes of amending it pursuant to Public Act 101-0221, the City Staff recommends that the City Council amend Section 1 of the current Personnel Policy Manual captioned "Employee Rights and Responsibilities" to insert the required mechanism and independent review of sexual harassment allegations involving elected officials and to amend other provisions of this section of the Personnel Policy specifically referencing discrimination, as set forth in Exhibit A, attached hereto and made a part hereof by reference; and

WHEREAS, pursuant to Public Act 101-0221, the City Staff further recommends that the City Council amend Section 5 of the current Personnel Policy Manual captioned Victim's Economic Security and Safety Act to insert the additional protections

for victims of gender violence as set forth in Exhibit B, attached hereto and made a part hereof by reference; and

WHEREAS, the City Council has determined that it is advisable and in the best interest of the City and its employees, and in keeping with the Act, to adopt the amendments set forth in Exhibits A and B.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF WOOD DALE, DUPAGE COUNTY, AN ILLINOIS CORPORATION, as follows:

SECTION ONE: The recitals set forth above are incorporated herein and made a part hereof.

SECTION TWO: That the City's Personnel Manual, Section 1, Employee Rights and Responsibilities be amended as set forth in Exhibit A attached hereto and incorporated herein by reference and Section 5, Victim's Economic Security and Safety Act (VESSA) be amended as set forth in Exhibit B.

SECTION THREE: That these amendments shall be distributed to all employees and elected and appointed officials of the City such that they are made aware of these new Personnel Policy provisions.

SECTION FOUR: That all ordinances and resolutions, or parts thereof in conflict with the provisions of this Resolution are, to the extent of such conflict, hereby repealed.

SECTION FIVE: That this Resolution shall be in full force and effect from and after its adoption, approval and publication in pamphlet form as provided by law.

PASSED this 18th day of June, 2020.

AYES: Alderman Catalano, Jakob, Messina, Sorrentino, Susmarski, E. Wesley, Woods

NAYS: None

ABSENT: R. Wesley

APPROVED this 18th day of June, 2020.

SIGNED: *Annunziato Pulice*
Annunziato Pulice, Mayor

ATTEST: *Lynn Curiale*
Lynn Curiale, City Clerk

Published in pamphlet form: June 19, 2020

EXHIBIT A

Unlawful Harassment, Discrimination, or Bullying

We are proud of the working environment that exists in the City of Wood Dale and will not tolerate any erosion of that environment by allowing any act of sexual harassment to go unaddressed.

Prohibition On Sexual Harassment

It is unlawful to harass a person because of that person's sex. The courts have determined that sexual harassment is a form of discrimination under Title VII of the U.S. Civil Rights Act of 1964, as amended in 1991. All persons have a right to work in an environment free from sexual harassment. Sexual harassment is unacceptable misconduct which affects individuals of all genders and sexual orientations. It is a policy of the City of Wood Dale to prohibit harassment of any person by any City official, City agent, City employee, City agency or City office on the basis of sex or gender. All City officials, City agents, City employees and City agencies or City offices are prohibited from sexually harassing any person, regardless of any employment relationship or lack thereof.

Definition Of Sexual Harassment

This Policy adopts the definition of sexual harassment as stated in the Illinois Human Rights Act, which currently defines sexual harassment as:

Any unwelcome sexual advances or requests for sexual favors or any conduct of a sexual nature when:

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

Conduct which may constitute sexual harassment includes, but is not limited to:

- Verbal Harassment: sexual innuendos, suggestive comments, insults, humor, jokes about: sex, anatomy or gender-specific traits, sexual propositions, threats, repeated requests for dates; or, statements of a sexual nature about other employees, even outside of their presence.
- Non-verbal Harassment: suggestive or insulting sounds (whistling), leering, obscene gestures, sexually suggestive bodily gestures, "catcalls," "smacking" or "kissing" noises.
- Visual: posters, signs, pin-ups or slogans of a sexual nature, viewing pornographic material or websites.
- Physical Harassment: touching, unwelcome hugging or kissing, pinching, brushing the body, any coerced sexual act or actual assault.
- Textual/Electronic Harassment: "sexting" (electronically sending messages with sexual content, including pictures or video), the use of sexually explicit language, harassment, cyber stalking and threats via all forms of electronic communication (email/text/picture/video messages, intranet/online postings, blogs, instant messages and posts on social network websites, like Facebook 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 courts will assess sexual harassment by a standard of what would offend a "reasonable person."

Responsibility of Employees

Each employee has the responsibility to refrain from sexual harassment in the workplace. It is important that employees be sensitive to other employees' feelings. What may seem innocent behavior or a joke may not be perceived the same way by another employee. It must be understood, employees are to conduct themselves in appropriate fashion. Any employee who sexually harasses a fellow employee can be held liable for his/her actions. All employees are expected to become familiar with the contents of this Policy and to abide by the requirements it establishes.

Procedure For Reporting An Allegation Of Sexual Harassment

An employee who either observes sexual harassment or believes herself/himself to be the object of sexual harassment should deal with the incident(s) as directly and firmly as possible by clearly communicating her/his position to the offending employee, and her/his immediate supervisor. It is not necessary for sexual harassment to be directed at the person making the report.

Any employee may report conduct which is believed to be sexual harassment, including the following:

- *Electronic/Direct Communication.* If there is sexual harassment behavior in the workplace, the harassed employee should directly and clearly express her/his objection that the conduct is unwelcome and request that the offending behavior stop. The initial message may be verbal. If subsequent messages are needed, they should be put in writing.
- *Contact with Supervisory Personnel.* At the same time direct communication with the individual who is committing the offending conduct is undertaken, or in the event the employee feels threatened or intimidated by the situation, the conduct must be promptly reported to the immediate supervisor, City Manager, or Director Human Resources. The employee experiencing what she/he believes to be sexual harassment must not assume that the employer is aware of the conduct. If there are no witnesses and the victim fails to notify a supervisor or other responsible officer, the City will not be presumed to have knowledge of the harassment.
- *Resolution Outside 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 City. However, all City employees have the right to contact the following to report harassment or to ask questions concerning possible harassment:

Illinois Department of Human Rights (IDHR)

<http://www.state.il.us/dhr>

100 W. Randolph St., Ste. 10-100

Chicago, IL 60601

312/814-6200 Chicago

312/263-1579 TDD Chicago

Equal Employment Opportunity Commission (EEOC)

<http://www.eeoc.gov>
500 W. Madison St., Ste. 2800
Chicago, IL 60661-2511
312/353-2713 or 312/814-6269 Chicago
312/814-4760 TDD Chicago

An IDHR complaint must be filed within 300 days of the alleged incident(s) unless it is a continuing offense. A complaint with the EEOC must also be filed within 300 days.

- *Allegations of Sexual Harassment made against an elected official of the City by another elected official of a governmental unit.* In addition to the methods of reporting included above, an elected official may request an independent review of a complaint of sexual harassment by another elected official. The request shall be made to the City Manager or to the Mayor. The official receiving the request shall take immediate action in keeping with the procurement process of the City to retain a qualified individual or entity for the independent review of the allegations of sexual harassment in violation of this Policy. The outcome of the independent review shall be reported to the corporate authorities.

Documentation of any incident may be submitted with any report (what was said or done, the date, the time and the location), including, but not limited to, written records such as letters, notes, memos and telephone messages.

All allegations, including anonymous reports, will be accepted and investigated regardless of how the matter comes to the attention of the City. However, because of the serious implications of sexual harassment charges and the difficulties associated with their investigation and the questions of credibility involved, the claimant's willing cooperation is a vital component of an effective inquiry and an appropriate outcome.

The investigation may, based on the facts presented, consist of the following: upon receipt of a written complaint, a confidential investigation will be undertaken by the Director of Human Resources or his/her designee. In such investigation, the complainant, all witnesses to the alleged harassment, and the accused employee will be interviewed. Additional investigation, as deemed necessary, will be undertaken. A written report will be presented to the Director of Human Resources and to the City Manager for review. To the extent possible, the investigation and report will remain confidential.

If facts prove a violation of this Policy occurred, the City Manager, with the advise of the Human Resources Director, will determine the appropriate discipline, up to and including discharge, and/or other corrective measures to be taken.

Prohibition On Retaliation For Reporting Sexual Harassment Allegations

No City official, City agency, City employee or City office shall take any retaliatory action against any City employee or official due to a City employee's or official's:

- Disclosure or threatened disclosure of any violation of this Policy; or
- Providing information related to an investigation or testimony before any public body conducting an investigation, hearing or inquiry into any violation of this Policy; or
- Assistance with or participation in a proceeding to enforce the provisions of this Policy.

For 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 a City employee's or official's involvement in protected activity pursuant to this policy.

No individual making a report will be retaliated against, even if a report made in good faith is not substantiated. In addition, any witness will be protected from retaliation.

Similar to the prohibition against retaliation contained herein, the State Officials and Employees Ethics Act (5 ILCS 430/15-10) provides whistleblower protection from retaliatory action, and this policy prohibits retaliatory action such as reprimand, discharge, suspension, demotion, or denial of promotion or transfer that occurs in retaliation for an employee who does any of the following:

- Discloses or threatens to disclose to a supervisor or to a public body an activity, policy or practice of any officer, member, agency or other employee that the employee reasonably believes is in violation of a law, rule or regulation; or
- Provides information to or testifies before any public body conducting an investigation, hearing or inquiry into any violation of a law, rule or regulation by any officer, member, agency or other employee; or
- Assists or participates in a proceeding to enforce the provisions of the State Officials and Employees Ethics Act or this policy.

Pursuant to the Whistleblower Act (740 ILCS 174/15(a)), an employer may not retaliate against an employee who discloses information in a court, an administrative hearing, before a legislative commission or committee or in any other proceeding, where the employee has reasonable cause to believe that the information discloses a violation of a state or federal law, rule or regulation. In addition, an employer may not retaliate against an employee for disclosing information to a government or law enforcement agency, where the employee has reasonable cause to believe that the information discloses a violation of a state or federal law, rule or regulation. (740 ILCS 174/15(b)).

According to the Illinois Human Rights Act (775 ILCS 5/6-101), it is a civil rights violation for a person, or for two or more people to conspire to retaliate against a person because she/he has opposed that which she/he reasonably and in good faith believes to be sexual harassment in employment, because she/he has made a charge, filed a complaint, testified, assisted or participated in an investigation, proceeding or hearing under the Illinois Human Rights Act.

An employee who is suddenly transferred to a lower paying job or passed over for a promotion after filing a complaint with IDHR or EEOC, may file a retaliation charge within 300 days of the alleged retaliation.

Consequences Of A Violation Of The Prohibition On Sexual Harassment

In addition to any and all other discipline that may be applicable pursuant to City policies, employment agreements, procedures, employee handbooks and/or collective bargaining agreements, any person who violates this Policy or the Prohibition on Sexual Harassment contained in 5 ILCS 430/5-65, may be subject to a fine of up to \$5,000 per offense, applicable disciplinary actions or discharge by the City and any applicable fines and penalties established pursuant to local ordinance, state law or federal law. Each violation may constitute a separate offense. Any discipline imposed by the City shall be separate and distinct from any penalty imposed by an ethics commission and any fines or penalties imposed by a court of law or a state or federal agency.

City Response to Reports of Harassment

All reports describing conduct that is inconsistent with this Policy will be investigated promptly. Employees who believe that have been subjected to or exposed to discrimination of harassment prohibited by this Policy have the right to have any such activity terminated immediately. The City may put reasonable interim measures in place, such as a leave of absence or a transfer, while the investigation takes place. The City will take further appropriate action once the report has been thoroughly investigated. That action may be a conclusion that a violation occurred, as explained immediately below. The City might also conclude, depending on the circumstances, either that no violation occurred, or that the City cannot conclude whether a violation occurred.

In investigating and in imposing any discipline, the City will attempt to preserve confidentiality to the extent that the needs of the situation permit and in order to conduct an investigation. Confidentiality cannot be guaranteed.

If an investigation reveals that a violation of this Policy or other inappropriate conduct has occurred, then the City will take corrective action, including discipline up to an including dismissal, as is appropriate under the circumstances, regardless of the job positions of the parties involved. The City may discipline an employee for any inappropriate conduct discovered in investigating reports made under this Policy, regardless of whether the conduct amounts to a violation of law or violation of this Policy. If the person who engaged in harassment is not employed by the City, then the City will take whatever corrective action is unreasonable and appropriate under the circumstances.

Consequences For Knowingly Making A False Report

A false report is a report of sexual harassment made by an accuser to accomplish an outcome other than stopping sexual harassment or stopping 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 disciplinary action or discharge pursuant to applicable City policies, employment agreements, procedures, employee handbooks and/or collective bargaining agreements.

In addition, any person who intentionally makes a false report alleging a violation of any provision of the State Officials and Employees Ethics Act to an ethics commission, an inspector general, the Illinois 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.

EXHIBIT B

Victim's Economic Security and Safety Act (VESSA)

Any employee who is a victim of domestic, sexual or gender violence or who has a family or household member who is a victim of domestic, sexual or gender violence may take up to a total of 12 unpaid weeks of leave from work during any 12 month period to address the domestic, sexual or gender violence. The City calculates such leave based on a "rolling" 12-month period measured backward from the date of any prior leave usage. The City will not suspend the employee's health plan benefits during this time period.

This allows the employee to take up to 12 unpaid weeks of leave from work as a result of domestic, sexual or gender violence to:

- Seek medical attention, or recovery from injuries sustained
- Seek counseling for injuries or psychological trauma
- Obtain victim services
- Participate in safety planning, temporary or permanent relocation
- Seek legal assistance
- Participate in a related court proceeding

The City may require the employee to provide certification for such leave. If you have any questions regarding this benefit, please contact Human Resources.