



**RESOLUTION OF THE COUNTY BOARD  
WILL COUNTY, ILLINOIS**

***Amending Policy Prohibiting Discrimination and Harassment Including Sexual Harassment***

WHEREAS, the Illinois General Assembly has recently enacted Public Act 100-0554 ("ACT"), an Act concerning government, which became effective immediately, dated November 16, 2017; and

WHEREAS, pursuant to the Act, each governmental unit shall adopt an ordinance or resolution establishing a policy to prohibit sexual harassment; and

WHEREAS, the County of Will previously adopted a Sexual Harassment Policy as amended pursuant to Resolution #11-365; and

WHEREAS, in order to comply with the ACT, the County of Will has amended its policy effective immediately; and

WHEREAS, all prior existing sexual harassment policies of County of Will shall be superseded by the Policy Prohibiting Discrimination and Harassment Including Sexual Harassment ("POLICY"), adopted by this Resolution and attached hereto; and

WHEREAS, should any section or provision of this Resolution or the amended POLICY be declared to be invalid, that decision shall not affect the validity of this Resolution or POLICY as a whole or any part thereof, other than the part so declared to be invalid.

NOW, THEREFORE, BE IT RESOLVED, by the County Board of the County of Will, that the amended Policy Prohibiting Discrimination and Harassment Including Sexual Harassment, as attached, is hereby adopted.

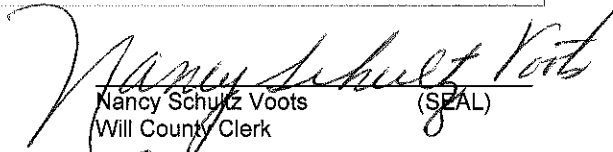
BE IT FURTHER RESOLVED, that the Will County Executive is hereby authorized and directed to take such other and further action as necessary to effectuate the intent of the foregoing Resolution.

BE IT FURTHER RESOLVED, that the Preamble of this Resolution is hereby adopted as if fully set forth herein. This Resolution shall be in full force and effect upon its passage and approval as provided by law.

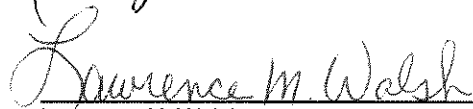
Adopted by the Will County Board this 15th day of February, 2018.

**AYES:** Ogalla, Summers, Moustis, Singer, Moran, Rice, Harris, Traynere, Bennefield, Fritz, Gould, Militello, Balich, Fricilone, Brooks Jr., Winfrey, Parker, Staley-Ferry, Dollinger, Marcum, Hart, Maher, Tuminello, Weigel, Ferry, Kraulidis

Result: Approved - [Unanimous]

  
Nancy Schultz Voots (SEAL)  
Will County Clerk

Approved this 23<sup>rd</sup> day of February, 2018.

  
Lawrence M. Walsh  
Will County Executive

**COUNTY OF WILL  
POLICY PROHIBITING DISCRIMINATION AND  
HARASSMENT (INCLUDING SEXUAL HARASSMENT)**

It is the philosophy of the County of Will ("County") that every employee should be able to work in a comfortable environment with an atmosphere free from all forms of unlawful discrimination, harassment, including sexual harassment and/or retaliation based on any legally protected category. Therefore, it is the Policy of this County to strictly prohibit all types of discrimination, harassment, INCLUDING SEXUAL HARASSMENT, and/or retaliation based on any "legally protected category" including, but not limited to: sex; race; color; creed; religion; national origin; sexual orientation; gender identity or expression; age; mental or physical disability; genetic information; citizenship status; pregnancy, childbirth or related medical condition(s); parental status; marital status; or any other status protected by State, Federal or local laws or ordinances that govern our workplace.

This Policy extends to each and every level of our operations. Accordingly, discrimination and harassment (of any kind) will not be tolerated, whether the alleged offender is another employee of the County; an employee with another County agency office or official (whether appointed or elected), or even a visitor, witness or vendor to our County. Activities of this nature are unlawful and serve no legitimate purpose; they also tend to have a disruptive effect on your ability to perform your essential job functions and could undermine the integrity of the employment relationship with the County.

The word "Harassment", as used in this Policy, includes verbal, non-verbal, visual or physical conduct relating to any legally protected category of an employee when this conduct:

- (a) Has the purpose or effect of creating an intimidating, hostile, or offensive working environment;
- (b) Has the purpose or effect of unreasonably interfering with an individual's work performance; or
- (c) Otherwise adversely affects an individual's employment opportunities.

Some examples of conduct that may constitute prohibited harassment include: slurs, jokes, cartoons, stereotypes, statements, etc. based upon any legally protected category.

Verbal or non-verbal acts or statements (even texting or other messaging) that constitute SEXUAL HARASSMENT deserve special attention because of the potential harmful and disruptive impact on the person offended and the workplace generally. This policy adopts the definition of sexual harassment as stated in the Illinois Human Rights Act. The phrase "Sexual Harassment" includes, but is not limited to the following examples: unwelcome sexual advances, requests for sexual favors, and other verbal, non-verbal, or physical conduct of a sexual nature when:

- (a) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- (b) An individual's submission to or rejection of such conduct is used as a basis for an employment decision affecting that individual; or
- (c) The purpose or the effect of such conduct is to substantially interfere with the affected individual's work performance or to create an intimidating, hostile, or offensive work environment.

Some examples of unwelcome behavior that can be construed as sexual harassment include, *but are not limited to*: sexual advances, propositions, jokes about sex, anatomy or gender-specific traits, touching, physical assault, sexually explicit or suggestive objects or pictures, references to a person's body parts, requests for sexual activity, repeated requests for dates, or statements about other employees, even outside of their presence, of a sexual nature, and/or sexually explicit conversation in any form (verbal/text/twitter/emails, etc.).

Non-verbal conduct which may constitute sexual harassment includes, but may not be limited to, suggestive or insulting sounds (whistling), leering, obscene gestures, sexually suggestive bodily gestures, "catcalls", "smacking" or "kissing" noises.

In determining whether an act or statement constitutes Sexual Harassment under this Policy, all of the circumstances involved may be considered and the intent of the alleged offender is not normally relevant in determining whether a Policy violation occurred.

The County takes allegations of discrimination and harassment very seriously. If you believe that you are the victim of a Policy violation (and/or if you witness an event that may constitute a Policy violation), you are urged to do all of the following:

1. If you are comfortable doing so, clearly and directly communicate to the offending individual that his/her conduct is unwelcome and request that the offensive behavior stop immediately.
2. At the same time, you should immediately bring the matter to the attention of your supervisor. If you are uncomfortable talking to your supervisor for whatever reason, you should report this matter to your Department Head.
3. If you prefer, you also may report incidents of harassment directly to the Will County Human Resources Director.
4. If possible, document or otherwise record each incident of alleged harassment (discrimination or retaliation), in writing, including the date, time, place and details of what was said or done, and the surrounding circumstances.

Note: Employees also are permitted to submit a confidential report of harassment; however, employees who do so are encouraged to include as much information as possible about the

allegations and any first-hand witnesses so that the County can effectively investigate and remedy (if appropriate) any Policy violation(s).

The employee experiencing what he or she 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 County will not be presumed to have knowledge of the harassment.

All allegations, including anonymous reports, will be accepted and investigated regardless of how the matter comes to the attention of the County. 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 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. Reminder: What is comfortable and welcome to one person may not be comfortable or welcome to another. The County will assess sexual harassment or other Policy violations by a standard of what would offend a "reasonable person." in addition to any subjective facts about the view of the victim(s) involved. For this reason, every supervisor, director, member of management and employee must remember that even seemingly "harmless" or "subtle" actions or comments – including micro-aggressions related to a legally protected category – may result in a complaint or possible Policy violation. For example, the use of terms such as "honey", "darling" and "sweetheart" is objectionable to many employees who believe that these terms undermine their authority and their ability to deal with other employees on an equal and professional level. Significantly, even though use of these terms by an individual with authority over another employee rarely constitute an adverse employment action under the law, it may lead to the creation of a hostile or uncomfortable work environment in violation of this Policy depending on the circumstances involved.

Another example is the use of a compliment that could potentially be interpreted as sexual in nature. Below are three statements that might be made about the appearance of a co-worker in the workplace: "That's an attractive outfit you have on." "That's an attractive outfit. It really looks good on you." "That's an attractive outfit. You really fill it out well." The first statement appears to be simply a compliment – while the last statement is the much more likely to offend others. To avoid even the possibility of offending an employee, it is best to follow a course of conduct above reproach and always be mindful of the value of erring on the side of caution. Likewise, when appropriate for non-business-related discussions, you are reminded to be mindful of ways to help make in-person discussions more comfortable for all involved such as: inviting others to join the conversation, keeping doors or exit areas open, etc.

Finally, be aware that even if conduct, statements, messaging/texting or other non-visual actions do not rise to the level of unlawful harassment or discrimination, such activities can be the basis of disciplinary action against the offender based on our other standards of conduct that

require every employee to be professional, respectful and civil when dealing with their co-workers and others. The prohibitions in this Policy apply to all forms of communications, including text or email messages, Twitter comments, and remarks or graphics sent or received on other forms of social media outlets.

For additional information regarding Employee rights and responsibilities please see our poster called "Equal Employment Opportunity is the Law."

No supervisor, director or member of management has the authority to condition any tangible job benefit on an Employee's putting up with or agreement to any conduct that may violate this Policy. If an Employee believes that he/she has been deprived of any job benefit or that he/she has been threatened with such a loss, he/she should immediately report it pursuant to the complaint procedure listed above.

All supervisors, directors and members of management must immediately report any incidents that they hear about or observe that could directly or indirectly be construed as a possible Policy violation to the Will County Human Resources Director. **Ideally, all such reports must be made prior to the close of business for the day that the information was obtained and/or the day the incident was observed.** The Will County Human Resources Director will designate an investigator who will promptly investigate any and all complaints of harassment.

The County will attempt to protect the confidentiality of all complaint allegations reported under this Policy to the extent it is practical under the circumstances and consistent with our need to conduct a thorough investigation. However, that is not always possible and in many cases the identity of the witnesses will be revealed as part of a thorough investigation. The County will promptly investigate all discrimination and/or harassment complaints, and if it is determined that discrimination, harassment or retaliation (or any other Policy violation) has occurred, management will take appropriate disciplinary action against the offending party/parties, up to and including termination for even a first offense, depending on the severity of the infraction involved and other relevant factors, if deemed necessary to remedy the matter.

Be assured that the County will not tolerate retaliation of any kind against any person who, in good faith, has: complained about harassment or discrimination (or any Policy violation); filed a charge of discrimination, harassment and/or retaliation; and/or who otherwise participated in an investigation of a possible Policy violation. Retaliation of any kind is unlawful and will normally result in severe disciplinary action against the offender, up to and including possible immediate termination for even a first offense, depending on the severity of the infraction involved and other relevant factors, if deemed appropriate by management. Further, under the Illinois Human Rights Act (775 ILCS 5/6), the Illinois Whistleblower Act (740 ILCS 174/5), and the State Employee Ethics Act (5 ILCS 430) it is a crime to retaliate, or to conspire to retaliate, against an employee because the employee has opposed an action that the employee reasonably believes to be unlawful discrimination or harassment or because the employee has participated in an investigation of harassment or discrimination.

For the 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 County employee that is taken in retaliation for a County employee’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 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:

1. Discloses or threatens to disclose to a supervisor or to a public body an activity, policy, or practice of any officer, member, State agency, or other State employee that the State employee reasonably believes is in violation of a law, rule, or regulation;
2. 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, State agency or other State employee; or
3. Assists or participates in a proceeding to enforce the provisions of the State Officials and Employees Ethics Act.

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, or 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 he/she has opposed that which he/she reasonably and in good faith believes to be sexual harassment in employment, because he/she 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 – due within 180 days (IDHR) or 300 days (EEOC) of the alleged retaliation.

In addition to any and all other discipline that may be applicable pursuant to County 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 discipline or discharge by the County and any applicable fines and penalties established pursuant to local resolution, ordinance, state law or Federal law. Each violation may constitute a separate offense. Any discipline imposed by the County 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.

Any employee who knowingly makes a false report of harassment will be subject to discipline including termination for even a first offense, depending on the severity of the infraction involved and other relevant factors, if deemed appropriate by management. A false report is a report of sexual harassment made by an accuser using the sexual harassment report to accomplish some end other than stopping sexual harassment or 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 up to and including termination of employment. Any person who intentionally makes a false report alleging a violation of any provision of this Policy shall be subject to discipline or discharge pursuant to applicable County 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 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.

While the County hopes to be able to resolve any complaints of harassment internally, we acknowledge your right to contact the Illinois Department of Human Rights (“IDHR”) at the James R. Thompson Center, 100 Randolph Street, Suite 10 100, Chicago, Illinois 60601, about filing a formal complaint. The IDHR will investigate your complaint, and if it determines that there is sufficient evidence of harassment to proceed further, it will file a complaint with the Illinois Human Rights Commission (“IHRC”), located at the same address on the fifth floor. If the IDHR does not complete its investigation within 365 days, you may file a complaint directly with the IHRC between the 365th and the 395th day.