

# **Albert Wisner Public Library**

## **ANTI-DISCRIMINATION AND ANTI-HARASSMENT POLICY**

Library Board adopted 1/15/19; Updated November 2022

### **Introduction**

The Albert Wisner Public Library (the “Library”) is committed to maintaining a workplace free from illegal discrimination or harassment. This policy is one component of the Library’s commitment to a discrimination-free work environment. All employees have a legal right to a workplace free from unlawful discrimination and harassment, and employees are urged to report unlawful discrimination and harassment by filing a complaint internally with the Library. Employees can also file a complaint with a government agency or in court under federal, state or local antidiscrimination laws.

This policy applies to all employees, applicants for employment, interns (whether paid or unpaid), and certain other non-employee personnel conducting business, regardless of immigration status, with the Library, and all must follow and uphold this policy. This policy will be provided to employees upon hiring and will be posted prominently in the workplace.

### **Library Employee/Patron Relationship**

Albert Wisner Public Library is committed to ensuring an environment where all patrons and Library staff do not experience discrimination or sexual harassment. Discrimination or sexual harassment of patrons by Library staff will not be tolerated. Discrimination or sexual harassment of Library employees by patrons will also not be tolerated. See “Examples of Sexual Harassment” below for examples of acts that are strictly prohibited.

### **Unlawful Discrimination and Harassment Prohibited**

The Library prohibits all forms of unlawful discrimination by anyone in the workplace (including supervisors, coworkers, consultants, vendors, patrons, and other non-employees) based on any protected classification, including: age, race, color, sex, national origin, ethnicity, military or veteran status, mental or physical disability, marital status, sexual orientation, genetic information/predisposition or carrier status, age, religion, creed, domestic violence victim status, and any other classification protected by federal, state, and local law. Any employee or individual covered by this policy who engages in unlawful discrimination, harassment (including sexual harassment), or retaliation will be subject to remedial and/or disciplinary action (e.g., counseling, suspension, termination).

### **What Is Harassment Generally?**

Unlawful harassment is a form of unlawful discrimination. Unlawful harassment includes, but is not limited to, unwelcome or inappropriate verbal, physical, or other communication or conduct that denigrates or shows hostility or aversion to an individual and/or group and:

- Has the purpose or effect of creating an intimidating, hostile, or offensive work environment; or
- Has the purpose or effect of unreasonably interfering with the individual's work performance.

Unlawful harassment may include, but is not limited to: jokes, epithets, slurs, negative stereotyping; threatening, intimidating, or hostile acts; or written or graphic material including email that denigrates or shows hostility or aversion toward an individual or group on the basis of a protected characteristic.

### What Is "Sexual Harassment"?

Sexual harassment is a form of sex discrimination and is unlawful under federal, state and (where applicable) local law. Sexual harassment includes harassment on the basis of sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity, and the status of being transgender.

Sexual harassment is offensive, a violation of the Library's policies, and unlawful; it may subject the Library to liability for harm to targets of sexual harassment. Harassers may also be individually subject to liability. Employees of every level who engage in sexual harassment, including managers and supervisors who engage in sexual harassment or who allow such behavior to continue, will be penalized for such misconduct.

Sexual harassment includes unwelcome conduct that is either of a sexual nature or directed at an individual because of that individual's sex when:

- The conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment, even if the reporting individual is not the intended target of the sexual harassment;
- The conduct is made either explicitly or implicitly a term or condition of employment; or
- Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual's employment.

A sexually harassing hostile work environment includes, but is not limited to, 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 which are offensive or objectionable to the recipient, which cause the recipient discomfort or humiliation, which interfere with the recipient's job performance.

Sexual harassment also 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, conditions, or privileges of employment. This is also called "quid pro quo" harassment.

Any employee, applicant for employment, intern, or non-employee working in the workplace who feels harassed should report the concern so that any violation of this Policy can be corrected promptly. Any harassing conduct, even a single incident, can be addressed under this policy.

### *Examples of Sexual Harassment*

The following describes some of the types of acts that may be unlawful sexual harassment and that are strictly prohibited:

- Physical acts of a sexual nature, such as:
  - Touching, pinching, patting, kissing, hugging, grabbing, brushing against another individual's body or poking another individual'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 target's job performance evaluation, a promotion, or other job benefits or detriments;
  - Subtle or obvious pressure for unwelcome sexual activities.
- Sexually oriented gestures, noises, remarks, or jokes, or comments about a person's sexuality or sexual experience, which create a hostile work environment.
- Sex stereotyping occurs when conduct or personality traits are considered inappropriate simply because they may not conform to other people's ideas or perceptions about how individuals of a particular sex should act or look
- 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 offensive, demeaning or pornographic. This includes such sexual displays on workplace computers or cell phones and sharing such displays while in the workplace.
  - Requesting that Library staff display, download or assist in displaying or downloading any obscene, pornographic or sexually offensive or demeaning material.
- Hostile actions taken against an individual because of that individual's sex, sexual orientation, self-identified or perceived sex, gender expression, 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.

### *Who Can Be a Target of Sexual Harassment?*

Sexual harassment can occur between individuals regardless of their sex or gender. New York law prohibiting sexual harassment protects all employees, applicants for employment, interns

(whether paid or unpaid), contractors, and other non-employee personnel<sup>1</sup> conducting business, regardless of immigration status, with the Library. Harassers can be a superior, a subordinate, a coworker, or anyone in the workplace including an independent contractor, contract worker, vendor, patron, trustee, or visitor.

### *Where Can Sexual Harassment Occur?*

Unlawful sexual harassment is not limited to the physical workplace itself. It can occur while employees are traveling for business or at employer sponsored events or parties. Calls, texts, emails, and social media usage by employees can constitute unlawful workplace harassment, even if they occur away from the workplace premises, on personal devices, or during non-work hours.

### **Retaliation Prohibited**

**No person covered by this policy shall be subject to adverse action because he or she reports an incident of discrimination or harassment, provides information, or otherwise assists in any investigation or a discrimination or harassment complaint. The Library will not tolerate such retaliation against anyone who, in good faith, reports or provides information about suspected discrimination or harassment. Any employee of the Library who retaliates against anyone involved in a discrimination or harassment investigation will be subjected to disciplinary action, up to and including termination. All employees or others who are covered by this policy who believe they have been subjected to such retaliation should inform the Library Director, may also seek relief in other forums, as explained below.**

Under New York State law, an individual is protected from retaliation if that individual engages in “protected activity.” Protected activity occurs when a person has:

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

Unlawful retaliation can be any action that could discourage a worker from coming forward to make or support a claim of unlawful discrimination or harassment. Adverse action need not be

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<sup>1</sup> A non-employee is someone who is (or is employed by) a contractor, vendor, consultant, or anyone providing services in the workplace. Protected non-employees include persons commonly referred to as independent contractors, “gig” workers and temporary workers. Also included are persons providing equipment repair, cleaning services or any other services provided pursuant to a contract with the employer.

job-related or occur in the workplace to constitute unlawful harassment (e.g., threats of physical violence outside of work hours).

Even if the alleged discrimination or harassment does not turn out to rise to the level of a violation of law, the individual is protected from retaliation if the person had a good faith belief that the practices were unlawful. However, the retaliation provision is not intended to protect persons making intentionally false charges of discrimination, including harassment. Individuals who knowingly bring false charges of discrimination, including any form of harassment, against another Library employee or other individual in the workplace shall be subjected to disciplinary action, up to and including termination.

### **Reporting Discrimination and Harassment**

Preventing discrimination, including harassment, is everyone's responsibility. The Library cannot prevent or remedy discrimination or harassment unless it is aware of it. Any employee or other individual covered by this policy who has been subjected to behavior that may constitute discrimination or harassment is encouraged to report such behavior to the Library Director. Anyone who witnesses or becomes aware of potential instances of discrimination or harassment has a responsibility to promptly report such behavior to the Library Director.

Reports made under this Policy may be made formally or informally and can be made orally or in writing. Employees are not required to report within their chain of command. Individuals are encouraged to report incidents of discrimination and harassment, including sexual harassment, using the Complaint Form provided at the end of this policy.

All employees, including supervisors and managers, who receive a complaint or information about suspected discrimination or harassment, observe what may be discriminatory or harassing behavior, or for any reason suspect that discrimination or harassment is occurring, **are required** to immediately report all formal and informal complaints to the Library Director. In addition to being subject to discipline if they engage in discriminatory or harassing behavior themselves, supervisors and managers will be subject to discipline for failing to report suspected discrimination or harassment or otherwise knowingly allowing discrimination or harassment to continue.

Supervisors and managers will also be subject to discipline for engaging in any retaliation.

### **Investigation Procedure**

*All* reports or information about discrimination or harassment will be investigated, whether that information was reported in oral or written form.

The investigation of any report, information, or knowledge of any discrimination or harassment will be prompt and thorough, commenced immediately and completed as soon as possible. The investigation will be kept confidential to the extent possible. All persons involved, including

those making a report, witnesses, and alleged harassers, will be accorded due process, as outlined below, to protect their rights to a fair and impartial investigation.

All employees, including managers and supervisors, are required to cooperate with any internal investigation of discrimination and/or harassment. The Library will not tolerate retaliation against employees or others who file complaints, support another's complaint, or participate in an investigation regarding a violation of this policy.

While the process may vary from case to case, investigations of discrimination and harassment will generally be conducted by the Library in accordance with the following steps:

- Upon receipt of the report, the Library Director will conduct an immediate review of the allegations and take any interim actions (e.g., instructing the respondent to refrain from communications with the complainant), as appropriate. If the report is oral, an individual may be asked to complete the Complaint Form in writing. If he or she refuses, a Complaint Form will be prepared based on the oral report.
- If documents, emails, or phone records are relevant to the investigation, steps to obtain and preserve them will be taken.
- All relevant documents, including all electronic communications, will be requested and reviewed.
- All parties involved, including any relevant witnesses, will be interviewed.
- A written documentation of the investigation will be created and may contain 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; and
  - The basis for the decision and final resolution of the report, together with any corrective action.
- The written documentation and associated documents will be kept in a secure and confidential location.
- The individual who reported and the individual(s) against whom the report was made will be notified of the final determination, and any corrective actions identified in the written document will be implemented.
- The individual who reported will be informed of the right to file a complaint or charge externally as outlined below.

Any individual determined to have engaged in unlawful discrimination, harassment (including sexual harassment), or retaliation will be subject to discipline, up to and including termination.

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

Discrimination and harassment is not only prohibited by the Library, but is also prohibited by federal, state, and where applicable, local law.

Aside from the internal process at the Library, individuals may also choose to pursue legal remedies with the following governmental entities. While a private attorney is not required to file a complaint with a governmental agency, you may seek the advice of an attorney.

#### *New York State Human Rights Law*

The Human Rights Law (HRL), codified as N.Y. Executive Law, art. 15, § 290 et seq., applies to all employers in New York State with regard to sexual harassment, and protects employees, paid or unpaid interns, and certain non-employees, regardless of immigration status. The HRL's prohibitions against discrimination and harassment based on other protected classes apply to employers in New York with four or more employees. A complaint alleging violation of the Human Rights Law may be filed either with the Division of Human Rights (DHR) or in New York State Supreme Court.

Complaints with DHR may be filed any time **within one year** of the alleged discrimination or harassment. If an individual did not file at DHR, he or she can sue directly in state court under the HRL, **within three years** of the alleged discrimination or harassment. An individual may not file with DHR if they have already filed a HRL complaint in state court.

Complaining internally to the Library does not extend your time to file with DHR or in court. The one year or three years is counted from the date of the most recent incident of discrimination or harassment. You do not need an attorney to file a complaint with DHR, and there is no cost to file with DHR.

DHR will investigate your complaint and determine whether there is probable cause to believe that discrimination or harassment, including sexual harassment, has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If discrimination or harassment, including sexual harassment, is found after a hearing, DHR has the power to award relief, which varies but may include requiring your employer to take action to stop the harassment, or redress the damage caused, including paying of 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. You may call (718) 741-8400 or visit: [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.

#### *Title VII of the Civil Rights Act of 1964*

The United States Equal Employment Opportunity Commission (EEOC) enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act (codified as 42 U.S.C. § 2000e et seq.). An individual can file a complaint with the EEOC anytime within 300

days from the discrimination or 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. In general, private employers must have at least 15 employees to come within the jurisdiction of the EEOC.

An employee alleging discrimination at work 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 (TTY: 1-800-669-6820), visiting their website at [www.eeoc.gov](http://www.eeoc.gov) or 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 discrimination and harassment, including sexual harassment. 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 unwanted physical touching, coerced physical confinement, or coerced sex acts, the conduct may constitute a crime. Contact the local police department.



Albert Wisner Public Library

If you believe that you have been subjected to discrimination or harassment, including but not limited to sexual harassment, you are encouraged to complete this form and submit it to the Library Director. You will not be retaliated against for filing a complaint.

If you are more comfortable reporting verbally or in another manner, the Library Director will complete this form, provide you with a copy, and follow the Library's Anti-Discrimination/Anti-Harassment Policy by investigating the claims as outlined at the end of this form.

**For additional resources, visit: [ny.gov/programs/combating-sexual-harassment-workplace](http://ny.gov/programs/combating-sexual-harassment-workplace)**

**COMPLAINANT INFORMATION**

Name:

Work Address:

Work Phone:

Job Title:

Email:

Select Preferred Communication Method:    Email    Phone    In person

**SUPERVISORY INFORMATION**

Immediate Supervisor's Name:

Title:

Work Phone:

Work Address:

**COMPLAINT INFORMATION**

1. Your complaint of Discrimination and/or Harassment is made about:

Name:

Title:

Work Address:

Work Phone:

Relationship to you: Supervisor    Subordinate    Co-Worker    Other

2. Please describe what happened and how it is affecting you and your work. Please use additional sheets of paper if necessary and attach any relevant documents or evidence.

3. Date(s) discrimination or harassment occurred:

Is the discrimination or harassment continuing?  Yes  No

4. Please list the name and contact information of any witnesses or individuals who may have information related to your complaint:

*The last question is optional but may help the investigation.*

5. Have you previously complained or provided information (verbal or written) about related incidents? If yes, when and to whom did you complain or provide information?

If you have retained legal counsel and would like us to work with them, please provide their contact information.

*I request that the Albert Wisner Public Library investigate this complaint of discrimination and/or harassment in a timely and confidential manner as outlined below and advise me of the results of the investigation.*

Signature: \_\_\_\_\_

Date: \_\_\_\_\_