



HUMAN RESOURCES DIVISION
M E M O R A N D U M

TELEPHONE: 384-2451

TO: Mayor Diane W. Marlin and the Urbana City Council

FROM: Todd E. Rent, Sr., Human Resources Director

DATE: December 14, 2017

RE: Revised Policy – Section 6.4 Productive Work Environment
(f/k/a Discrimination and Harassment)

Please find attached a revised draft of City of Urbana Policy and Procedure, Section 6.4 entitled “Productive Work Environment.” The revision adds the term, “social media posts” to the examples of “electronic communications” on page 2, bullet 3. The added language is underlined in bold print. This revised draft is provided as a supplement to agenda item “Resolution No. 2017-12-077R: A Resolution Establishing City Policy on Sexual Harassment as Mandated by 5 ILCS 430/70-5.”

CITY OF URBANA POLICY & PROCEDURE MANUAL

Section: Conduct & Discipline
Subject: Productive Work Environment
(f/k/a Discrimination and Harassment)

Section No: 6.4
Effective: February 11, 1992
Revised: December 5, 2017

Scope: All City Employees, Municipal Officers, Agents, and Officials

Purpose: The purpose of this policy is to promote a respectful, productive, professional, and diverse work environment that is free of all forms of unlawful discrimination and harassment, by adhering to all applicable federal, state, and local laws.

Policy: All persons have a right to work in a productive environment free from discrimination and harassment. The City of Urbana will not tolerate any form of conduct by any employee that harasses, disrupts, or interferes with another's work performance or creates an intimidating, offensive, or hostile work environment. The City of Urbana prohibits discrimination or harassment of any person by its employees, agents, or officials regardless of any employment relationship or lack thereof.

Comment: Employees are expected to maintain a respectful and productive work environment that is free from harassing or disruptive conduct. No form of discrimination or harassment will be tolerated, including discrimination or harassment based on the following reasons: race, color, creed, class, national origin, religion, sex, age, marital status, physical or mental disability, personal appearance, sexual orientation, gender identity, family responsibilities, matriculation, political affiliation or any other legally protected group status.

Special attention should be paid to the prohibition of sexual harassment. The Illinois Human Rights Act currently defines sexual harassment as:

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

- (1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment,
- (2) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or
- (3) 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.

Please note: The Policy recognizes the above definition as a minimum legal standard. As the City is committed to ensuring a diverse, productive, and professional work environment, this Policy's expectations and standards are considerably higher.

Definitions: Discrimination or harassment under this Policy includes unwanted or unwelcomed conduct of either a sexual nature or related to an individual's actual or

perceived protected class status. Examples of such conduct include, but are not limited to:

- Physical Conduct: Unwanted physical contact or conduct of any kind, including sexual flirtations, touching, advances, or propositions about, to or in the presence of another individual;
- Verbal Conduct: Demeaning, insulting, intimidating, or sexually suggestive comments about, to or in the presence of an individual; suggestive comments, insults, humor, lewd comments and/or jokes about sex, anatomy or gender-specific traits; sexual propositions or requests for sexual acts; or repeated requests for dates.
- Written Conduct: Demeaning, insulting, intimidating, or sexually suggestive written, recorded, or electronic communications in any form (including but not limited to e-mail, instant messages, text messages, mobile phone images, tweets, podcasts, social media posts, and Internet materials).
- Non-verbal Conduct: Suggestive or insulting sounds (e.g. whistling), leering, obscene gestures, sexually suggestive bodily gestures, "catcalls", "smacking" or "kissing" noises.
- Visual Conduct: Display in the workplace of demeaning, insulting, intimidating, or sexually suggestive objects, pictures, or photographs posters, signs, pin-ups or slogans of a sexual nature, viewing pornographic material or websites.
- Other sexually harassing or offensive conduct in the workplace, whether committed by supervisors, managers, non-supervisory employees, or non-employees, also is prohibited.

Management Staff: For purposes of this policy, "manager" or "management Staff" shall be defined as any person who is engaged in or responsible for directing or overseeing the work of City of Urbana employees, including, but not limited to, all supervisors, captains, sergeants, division heads, division chiefs, deputy chiefs, department heads, and City Administrators.

- All Management Staff, municipal officers, agents, and officials have an affirmative responsibility to keep the workplace free of any form of harassment, particularly sexual harassment.
- No manager, municipal officer, agent, or official is to threaten, promise or insinuate, either explicitly or implicitly, that an employee's refusal or willingness to submit to sexual advances will affect the employee's terms or conditions of employment. This prohibition shall apply to off-duty conduct to the extent that such conduct (1) arises out of the work relationship between the complainant and alleged harasser and (2) has a demonstrable effect on the workplace.
- Each manager, municipal officer, agent, and official has an affirmative responsibility to promptly report any conduct or situation which may constitute sexual harassment or discriminatory behavior directly to the Human Resources Director and the appropriate Department Head, whether that behavior is directly observed or knowledge of the behavior is gained by indirect means.
- If a manager, municipal officer, agent, or official is uncertain whether suspect behavior constitutes harassment or discrimination, the supervisor, manager,

municipal officer, agent, or official shall promptly contact the Human Resources Director to determine whether further investigation is warranted.

Reporting Procedure:

Any employee who believes that a manager's, officer's, agent's official's, other employee's, or non-employee's conduct could constitute a violation of this policy has a responsibility to report or complain about the situation as soon as possible. It is not necessary for the person making the report to be the subject of the harassment or discrimination. The report or complaint should be made to either the employee's department head or the Human Resources Director. Should the employee have concerns about privacy, confidentiality, potential retaliation, or for any other reasons the employee deems it necessary or appropriate, in all situations the employee may make a confidential report to the Human Resources Director.

All complaints of harassment and/or discrimination, including anonymous reports made via written, telephonic, or some other non-direct means of communication, will be investigated promptly and in as impartial and confidential a manner as possible. The investigation will be conducted by the Human Resources Director or his/her designee. Employees are required to cooperate in any investigation. A timely resolution of each complaint should be reached and communicated to the parties involved.

Retaliation and Interference Prohibited: The City is committed to maintaining a culture that promotes the prevention, detection and elimination of any and all forms of harassment. No individual making a report in good faith under this policy shall be subject to any negative employment consequences based upon that report, even if that report is not able to be substantiated. In addition, any witness will be protected from retaliation in accordance with the State Officials and Employees Ethics Act (5 ILCS 430/15-10), the Whistleblower Act (740 ILCS 174/15), and the Illinois Human Rights Act (775 ILCS 5/6-101).

For the purposes of this policy, retaliatory action means the reprimand, discharge, suspension, demotion, denial of promotion or transfer, or adverse change in the terms or conditions of employment of any municipal employee that is taken in response to a municipal employee's involvement in protected activity pursuant to this policy.

Discipline: Any employee or manager who is found to have violated the Productive Work Environment policy will be subject to appropriate disciplinary action, up to and including termination.

Any manager who fails to promptly report conduct which may constitute a violation of this policy will be subject to disciplinary action, up to and including termination.

Any employee or manager who (1) retaliates against an employee who reports a possible violation of this policy, or (2) interferes with a harassment investigation in any way will be subject to appropriate disciplinary action, up to and including termination.

Any employee, or manager who is found to have knowingly made an intentional misrepresentation during the course of an investigation, or who interferes with an investigation brought pursuant to this policy, will be subject to appropriate disciplinary action, up to and including termination.

Any person who knowingly and intentionally makes a false report of harassment or discrimination will be subject to appropriate disciplinary action, up to and including termination. If a report of harassment or discrimination is made in good faith, but is unable to be substantiated, it shall not be deemed a false report.

Training and Implementation: All employees, supervisors, managers, officers, agents, and officials will be trained on this policy within six (6) months of the implementation of this policy or the commencement of employment, whichever date is earlier. At the completion of training, all employees will be required to sign a document confirming their knowledge and understanding of the policy. Training shall reoccur on at least an annual basis. The Human Resources Division shall conduct the required training.

External Reporting: 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 municipality. However, all municipal employees have the right to contact the Illinois Department of Human Rights (IDHR) or the Equal Employment Opportunity Commission (EEOC) for information regarding filing a formal complaint with those entities. An IDHR complaint must be filed within 180 days of the alleged incident(s) unless it is a continuing offense. A complaint with the EEOC must be filed within 300 days.

APPROVED BY: _____ DATE: _____
Diane Marlin, Mayor

RESOLUTION NO. 2017-12-077R

**A RESOLUTION ESTABLISHING POLICY ON SEXUAL HARASSMENT
AS MANDATED BY 5 ILCS 430/70-5**

WHEREAS, the City of Urbana (“City”) is a home rule unit of local government pursuant to Article VII, Section 6, of the Illinois Constitution, 1970, and may exercise any power and perform any function pertaining to its government and affairs, including the power to regulate for the protection of the public health, safety, and welfare; and

WHEREAS, The State of Illinois enacted Public Act 100-0554 (codified at 5 ILCS 430/70-5) which amends the State Officials and Employees Ethics Act to require that local units of government adopt by ordinance or resolution a policy which prohibits sexual harassment; and

WHEREAS, the City has had a long-standing policy regarding discrimination and harassment in the workplace, Section 6.4 of the City of Urbana Policy and Procedure Manual (“Productive Work Environment”), a revised copy of which is appended hereto and made a part hereof; and

WHEREAS, the City Council seeks to adopt this Resolution in order to comply with 5 ILCS 430/70-5.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Urbana, Champaign County, Illinois, as follows:

Section 1. Pursuant to this Resolution and in accordance with 5 ILCS 430/70-5, the City Council adopts the City’s revised Productive Work Environment policy as provided for in Section 6.4 of the City of Urbana Policy & Procedure Manual, a copy of which is appended hereto.

Section 2. This Resolution shall not be construed to affect any suit or proceeding pending in any court, or any rights acquired, or a liability incurred, or any cause or causes of action acquired or existing prior to the effective date of this Resolution; nor shall any right or remedy of any character be lost, impaired, or affected by this Resolution.

PASSED BY THE CITY COUNCIL this _____ day of _____, 2017.

AYES:

NAYS:

ABSTAINED:

Charles A. Smyth, City Clerk

APPROVED BY THE MAYOR this _____ day of _____, 2017.

Diane Wolfe Marlin, Mayor