

ORDINANCE NO. 2017-K

ORDINANCE APPROVING WHEELING PARK DISTRICT
AMENDED SEXUAL HARASSMENT POLICY

WHEREAS, The Illinois General Assembly has enacted amendments to the State Officials and Employees Ethics Act in Public Act 100-0554, effective November 16, 2017 (the "Act"); and

WHEREAS, the Act requires units of local government to enact a policy containing specific provisions by ordinance or resolution within 60 days of the effective date of the Act; and

WHEREAS, the Board of Park Commissioners of the Wheeling Park District has determined, and hereby declares, that it is necessary and in the best interests of the District and its residents to modify its current sexual harassment policy, in order to ensure full compliance with the Act.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF PARK COMMISSIONERS OF THE WHEELING PARK DISTRICT, COOK COUNTY ILLINOIS, AS FOLLOWS:

SECTION ONE: The recitals set forth hereinabove shall be and are hereby incorporated in this Section One as if said recitals were fully set forth herein.

SECTION TWO: The Wheeling Park District Sexual Harassment Policy as amended to ensure compliance with the Act, in the form attached hereto as Exhibit No 1 and incorporated by this reference (the "Policy"), is hereby adopted, and the Executive Director and Board President are hereby authorized and directed to implement and administer the Policy in accordance with applicable law.

SECTION THREE: Any prior order, resolution, policy or ordinance of the Wheeling Park District in conflict with the provisions of the Policy or this Ordinance, shall be and hereby are, repealed to the extent of such conflict.

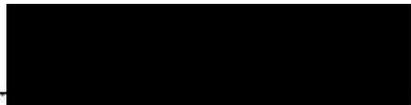
SECTION FOUR: This Ordinance shall take effect upon its passage and approval in the manner provided by law.

Commissioner KLUMPP moved, seconded by Commissioner LICHTENBERGER, that Ordinance 2017-K be adopted. Roll call being taken, the following Commissioners voted:

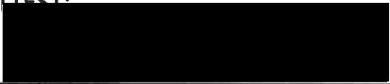
Commissioner Burns YES
Commissioner Klumpp YES
Commissioner Lichtenberger YES
Commissioner Rosen YES

Commissioner Stein YES
Commissioner Whittington YES
Commissioner Zangara YES

PASSED THIS 19th day of December 2017.



President, Wheeling Park District
Board of Park Commissioners

ATTEST:


Secretary, Board of Park Commissioners

EXHIBIT NO. 1

**WHEELING PARK DISTRICT
SEXUAL-HARASSMENT POLICY**

4.13 NON-DISCRIMINATION AND ANTI-HARASSMENT POLICY

Each and every employee, officer, Board Member, agent, guest, volunteer and vendor of the District, as well as every person using the District's facilities, shall refrain from actions, jokes, words or comments based on an individual's race, color, religion, national origin, ancestry, age, sex, marital status, sexual orientation, disability or association with a person with a disability, military status, unfavorable discharge from military service or record of arrest, or any other legally protected class. Any such harassment is illegal, unacceptable, and will not be tolerated by the District.

It is the responsibility of each and every employee, officer, Board Member, agent, guest, volunteer and vendor of the District, as well as every person using the District's facilities, to refrain from sexual or any other forms of harassment. The Park District will not tolerate sexual or other harassment of or by any of the District's employees, elected officials or others. Title VII of the Civil Rights Act, as well as the Illinois Human Rights Act, prohibits discrimination, harassment, and retaliation in terms and conditions of employment on the basis of sex, sexual orientation, race, color, national origin, age, religion, disability, or any other protected characteristic. Actions, words, jokes or comments based on an individual's gender, race, color, national origin, age, religion, disability, sexual orientation, or any other legally protected characteristic will not be tolerated.

This policy should not, and may not, be used as a basis for excluding or separating individuals of a particular gender, sexual orientation, race, color, national origin, age, religion, disability or any other protected characteristic, from participating in business or work-related social activities or discussions in order to avoid allegations of harassment. The law and policies of the District prohibit disparate treatment on the basis of sex, sexual orientation race, color, national origin, age, religion, disability or any other protected characteristic, with regard to terms, conditions, privileges and prerequisites of employment. The prohibition against harassment, discrimination and retaliation are intended to complement and further these policies, not to form a basis of an exception to them.

Under the Illinois Human Rights Act, sexual harassment is defined as any unwelcome sexual advances or requests for sexual favors or any other verbal, physical or visual conduct of a sexual nature when:

- A. Submission to such conduct is made either explicitly or implicitly as a term or condition of an individual's employment;
- B. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or,
- C. Such conduct has the purpose or effect of substantially interfering with an individual's work performance or creates an intimidating, hostile, or offensive working environment.

Sexual harassment is a form of discrimination under Title VII of the U.S. Civil Rights Act of 1964, as amended, and the Illinois Human Rights Act. Some examples of conduct commonly considered to be sexual harassment include, but are not limited to:

Verbal:

Unwanted sexual advances, sexual innuendos, suggestive comments, insults, humor and jokes about sex anatomy or gender-specific traits, sexual propositions, threats, repeated requests for dates, or statements about other employees, even outside of their presence, of a sexual nature.

Non-Verbal:

Obscene gestures, or sexually suggestive bodily gestures.

Visual:

Posters, photographs, art work, signs, pin-ups, slogans, or internet or email communication of a sexual nature, or viewing pornographic material or websites.

Physical:

Unwelcome touching, hugging or kissing, coerced sexual intercourse or assault.

Textual/Electronic:

"Sexting" (electronically sending messages with sexual content, including pictures and video), the use of sexually explicit language, harassment, cyber stalking and threats via all forms of electronic communication (e-mail, text/picture/video messages, intranet/on-line postings, blogs, instant messages and social network websites like Facebook and Twitter).

RESPONSIBILITY OF INDIVIDUAL DISTRICT PERSONNEL

Each employee, officer, Board Member, agent and volunteer of the District has the responsibility to refrain from sexual and other harassment in the District workplace. Any such individual who sexually or otherwise harasses District personnel and/or patrons is liable for his/her individual conduct.

All District personnel are encouraged to report incidents of sexual or other harassment, discrimination or retaliation, regardless of whom the offender may be, or whether or not he/she is the intended victim. The harassing employee will be subject to disciplinary action, as appropriate, up to and including termination.

Employees are encouraged to report complaints so that prompt response and appropriate action may be taken. Early reporting and intervention have proven to be the most effective method of resolving actual or perceived incidents of harassment, discrimination, or retaliation. Therefore, while no fixed reporting period has been established, the District strongly urges the prompt reporting of complaints or concerns so that rapid and constructive action can be taken.

The availability of this reporting procedure does not preclude individuals who believe they are being subjected to harassing, discriminatory, or retaliatory conduct from promptly advising the offender that his or her behavior is unwelcome and requesting that it be discontinued. However, nothing in this policy shall require individuals who believe they are being subjected to harassing, discriminatory, or retaliatory behavior to so advise the offender.

No employee making a complaint will be retaliated against even if the complaint is not substantiated, provided the complaint was made in good faith. In addition, witnesses will not be retaliated against if their testimony is made in good faith.

The following is the process for making a complaint about sexual or other illegal harassment. Staff is encouraged to follow this process:

PROCEDURES FOR FILING A COMPLAINT

If staff witnesses or experiences sexual or other harassment or conduct, discrimination or retaliation, handle the incident(s) as directly and firmly as possible by clearly communicating disapproval of the conduct to the offending individual.

Staff should also document or record each incident (what was said or done, by whom, the date, time and place, and any witnesses to the incident). Documentation can be strengthened by written records, such as letters, notes, memos, texts, social media postings, tweets, and telephone messages. It is not necessary that the discrimination, harassment, or retaliation complaint be made by the staff member who is being harassed.

Your response to harassment in the workplace may include any or all of the following steps:

Direct Communication with Offender

If there is harassing, discriminatory, or retaliatory behavior in the workplace, and if you feel comfortable doing so, you should directly and clearly express your objection to the offending person(s) regardless of whether or not the behavior is directed at you. If you are the harassed employee, and if you feel comfortable doing so, you should clearly state that the conduct is unwelcome and the offending behavior must stop. However, you are not required to directly confront the person who is the source of your report, question or complaint before notifying any of those individuals listed below. Further, you are **not** required to directly confront the person who is the source of your report, question, or complaint if you feel uncomfortable doing so. Your initial response may be oral or written, but you should document your objection. If subsequent communication to the offending person is necessary, it should be made in writing.

Report to a Supervisor

At the same time that you communicate directly with the offending person, you

should promptly report the offending behavior to your and/or the offending employee's immediate Supervisor or the Executive Director, especially if you feel threatened or intimidated by the offending person. If you feel uncomfortable doing so, or your immediate Supervisor is the source of the problem, condones the problem or ignores the problem, you should report the problem to the next level of supervision, Human Resources, or the Executive Director. If the Executive Director is the source of the problem, condones the problem or ignores the problem, you should report the matter to the President of the Board of Park Commissioners. Any supervisor who receives a report of harassment, discrimination, or retaliation must immediately notify the Executive Director. The Executive Director, or his or her designee, will promptly investigate the complaint and take appropriate corrective action when the allegation is determined valid. All employees must cooperate with any investigation by the Executive Director, or his or her designee, of a complaint of harassment, discrimination, or retaliation.

Report to Executive Director/President of the Board of Park Commissioners

An employee may also report any incidents of harassment, discrimination, or retaliation that is prohibited by this policy directly to the Executive Director. The Executive Director or his or her designee will promptly investigate the facts and take appropriate corrective action when an allegation is determined to be valid. If your complaint alleges harassment, discrimination, or retaliation by the Executive Director, or the Executive Director condones the problem or ignores the problem, you should immediately report the incident or incidents in writing directly to the Board of Park Commissioners. One member of the Board of Park Commissioners, or the Board's designee, will conduct the investigation and appropriate action will be taken when an allegation is determined to be substantiated. At no time will the investigation be conducted by personnel involved in the alleged harassment, discrimination, or retaliation. All employees must cooperate with any investigation of workplace harassment, discrimination, or retaliation.

Nothing in this policy precludes a report of discrimination, harassment, or retaliation to the Illinois Department of Human Rights, which is the State agency responsible for enforcing the Illinois Human Rights Act. Further, the IDHR maintains a hotline for confidential reports of sexual harassment.

Harassment Allegations Against Non-Employees/Third Parties

If you make a complaint alleging harassment, discrimination, or retaliation against an agent, vendor, supplier, contractor, volunteer, or person using Park District programs or facilities, the Executive Director will investigate the incident(s) and determine the appropriate action, if any. The Park District will make a reasonable effort to protect you from further contact with such persons. Please recognize, however, that the Park District has limited control over the actions of non-employees.

IMPORTANT NOTICE:

Employees who have experienced conduct they believe is contrary to this policy have an obligation to take advantage of this reporting procedure. An employee's failure

to fulfill this obligation could affect his or her rights in pursuing legal action.

Responsibility of Supervisors and Witnesses

Any supervisor who becomes aware of any possible sexual or other harassment, discrimination, and/or retaliation of or by any employee should immediately advise the Executive Director, who will investigate the conduct and take prompt remedial action if the allegations are substantiated.

All employees are encouraged to report incidents of harassment, discrimination, and retaliation regardless of whom the offender may be or whether or not you are the intended victim.

The Investigation

Any reported allegations of harassment, discrimination or retaliation will be investigated promptly. The District will make every reasonable effort to conduct an investigation in a responsible and confidential manner. *However, it is impossible to guarantee absolute confidentiality as the Park District must be able to fully investigate and take prompt remedial action when necessary.* The investigation may include individual interviews with the parties involved, and where necessary, with individuals who may have observed the alleged conduct or may have other relevant knowledge. The District reserves the right and hereby provides notice that third parties may be used to investigate claims of harassment, discrimination, or retaliation.

Employees must cooperate in any investigation of workplace wrongdoing or risk disciplinary action, up to and including termination of employment. No employee/individual making a complaint will be retaliated against even if the complaint is not substantiated, provided the complaint was made in good faith. In addition, a witness will not be retaliated against if his or her testimony is made in good faith.

Responsive Action

After investigation, the District will determine whether a complaint of harassment, discrimination or retaliation has been substantiated or not based on a review of the facts and circumstances of each situation. Misconduct constituting harassment, discrimination or retaliation will be dealt with appropriately. Responsive action may include, for example, training, referral to counseling and/or disciplinary action such as warning, reprimand, withholding of a promotion or pay increase, reassignment, temporary suspension without pay or termination, as the District believes appropriate under the circumstances.

Retaliation Prohibited

The District prohibits retaliation against any individual who reports discrimination, harassment, or retaliation, who participates in an investigation of such reports, and/or who files a charge of discrimination, harassment or retaliation. Retaliation against an individual for reporting harassment, discrimination, or retaliation, for participating in an investigation of a claim of harassment, discrimination, or retaliation, or for filing a charge

of discrimination, harassment, or retaliation is a serious violation of this policy and, like harassment or discrimination itself, will be subject to disciplinary action, up to and including termination.

FALSE AND FRIVOLOUS COMPLAINTS

A false or frivolous charge refers to a situation where the accuser is using a sexual or other harassment, discrimination, or retaliation complaint to accomplish some end other than stopping harassment. Complaints to a Supervisor or the Executive Director concerning sexual or other harassment, discrimination, or retaliation that are unfounded and that are not made in good faith will be considered false and frivolous. Given the seriousness of the consequences for the accused, a false and frivolous complaint or a complaint made in bad faith is a severe offense that may result in disciplinary action, up to and including termination.

RESOLUTION OUTSIDE OF THE PARK DISTRICT

While the District hopes to be able to resolve any complaints of harassment, the District acknowledges the employee's right to contact the Illinois Department of Human Rights (IDHR) at the James R. Thompson Center, 100 West Randolph Street, Suite 10-100, Chicago, Illinois 60601, (312) 814-6200, (TDD 312-263-1579) or the Federal Equal Employment Opportunity Commission (EEOC), 1-800-669-4000 (TDD 1-800-669-6820) about filing a formal complaint. The IDHR also has a reporting hotline, which includes a method for the intake of anonymous phone calls regarding allegations of sexual harassment. If the IDHR determines that there is sufficient evidence of harassment to proceed further, it will file a complaint with the Illinois Human Rights Commission (HRC), 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 HRC between the 365th and the 395th day.