

ORDINANCE NO. 18-01

AN ORDINANCE ESTABLISHING A POLICY TO PROHIBIT SEXUAL HARASSMENT FOR DUPAGE TOWNSHIP

WHEREAS, DuPage Township is a township operating and existing under the Illinois Township Code, Will County, Illinois; and

WHEREAS, the State Officials and Employees Ethics Act, 5 ILCS 430/70-5, was recently amended to require local government bodies approve by ordinance or resolution a policy on sexual harassment that: (1) prohibits sexual harassment, (2) details how an individual can report an allegation of sexual harassment, including options for making confidential reports; (3) prohibits retaliation for reporting sexual harassment allegations, including the availability of certain whistleblower protections; and (4) details the consequences for violating the sexual harassment policy and for knowingly making a false report; and

WHEREAS, in compliance with the State Officials and Employees Ethics Act, the Township Board, and the Township Supervisor, desire to adopt the DuPage Township Sexual Harassment Policy set forth in Exhibit A.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF DUPAGE TOWNSHIP AS FOLLOWS:

Section 1. Recitals. The preliminary paragraphs set forth above are incorporated herein as part of this Ordinance.

Section 2. Adoption of Sexual Harassment Policy. The Sexual Harassment Policy, attached as Exhibit A, is hereby adopted and approved by the Board of Trustees of DuPage Township. A copy of said Policy shall be provided to all existing and new Township employees and elected officials of the

Township. Violation of the Policy may result in discipline, including and up to termination of employment.

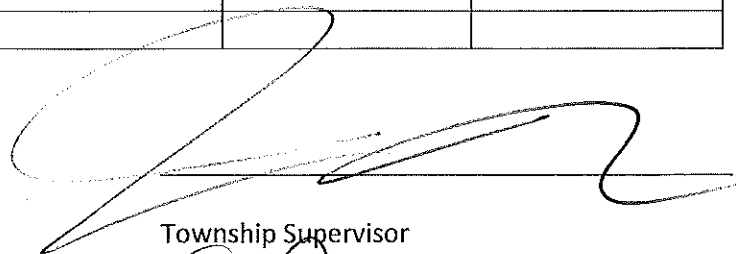
Section 3. Severability. In the event a court of competent jurisdiction finds this ordinance or any provision hereof to be invalid or unenforceable as applied, such finding shall not affect the validity of the remaining provisions of this ordinance and the application thereof to the greatest extent permitted by law.

Section 4. Repeal and Savings Clause. All ordinances or parts of ordinances in conflict herewith are hereby repealed, including any previously adopted policies on sexual harassment.

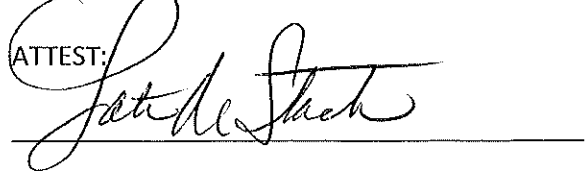
Section 5. Effectiveness. This ordinance shall be effective upon its passage and approval as provided by law.

SO ORDAINED this 23rd day of January 2018, by the Board of Trustees of DuPage Township, Will County, Illinois.

	YES	NO	ABSENT	PRESENT
SUPERVISOR	X			MAYER
TRUSTEE	X			BENFORD
TRUSTEE	X			BURGESS
TRUSTEE	X			RAGA
TRUSTEE			OLIVER	
TOTAL	4			



Township Supervisor

ATTEST: 

Township Clerk

EXHIBIT A

DUPAGE TOWNSHIP'S POLICY AGAINST DISCRIMINATION, HARASSMENT AND SEXUAL MISCONDUCT

I. STATEMENT OF POLICY

It is DuPage Township's policy that it will not tolerate or condone discrimination or harassment on the basis of race, color, religion, creed, sex, gender-identity, gender-expression, sexual orientation, pregnancy, childbirth, medical or common conditions relating to pregnancy and childbirth, genetic information, national origin, age, physical or mental disability, ancestry, marital status, military status, arrest record, unfavorable discharge from military service, order of protection status, citizenship status or any other classification protected under federal or state law. Sexual misconduct is also prohibited. The township will neither tolerate nor condone discrimination, harassment or sexual misconduct by employees, managers, supervisors, elected officials, co-workers, or non-employees with whom DuPage Township has a business, service, or professional relationship. "Employee," for purposes of this policy only, includes any individual performing work for DuPage Township, an apprentice, an applicant for apprenticeship, or an unpaid intern. DuPage Township has appointed Amy Albright as its ethics officer to receive and oversee investigations of complaints made pursuant to this policy and she is referred to in this policy as DuPage Township's "Ethics Officer." She can be contacted by email or phone at aalbright@dupagetownship.com or 630-759-1317. DuPage Township reserves the right to change the Ethics Officer from time to time.

Retaliation against an employee who complains about or reports any act of discrimination, harassment or misconduct in violation of this policy is prohibited. Retaliation against any employee who participates in an investigation pursuant to this policy is likewise prohibited. DuPage Township is committed to ensuring and providing a work place free of discrimination, harassment, sexual misconduct and retaliation. DuPage Township will take disciplinary action, up to and including termination, against an employee who violates this policy.

As set forth above, sexual harassment and sexual misconduct are prohibited. Sexual harassment includes unwelcome sexual advances, requests for sexual favors, or any other visual, verbal or physical conduct of a sexual nature when:

1. submission to or rejection of this conduct explicitly or implicitly affects a term or condition of individual's employment;

2. submission to or rejection of the conduct is used as the basis for an employment decision affecting the harassed employee or;
3. the harassment has the purpose or effect of unreasonably interfering with the employee's work performance or creating an intimidating, hostile or offensive work environment because of the persistent, severe or pervasive nature of the conduct.

Sexual harassment can occur in a variety of circumstances, including but not limited to the following:

- The employee as well as the harasser may be a woman or a man. The employee does not have to be of the opposite sex.
- The harasser can be the employee's supervisor, an agent of the employer, a supervisor in another area, a co-worker, or a non-employee.
- The employee does not have to be the person harassed but could be anyone affected by the offensive conduct.
- Unlawful sexual harassment may occur without economic injury to or discharge of the employee.
- The harasser's conduct must be unwelcome.

Each employee must exercise his or her own good judgment to avoid engaging in conduct that may be perceived by others as sexual harassment or harassment based on any status protected by law. The following are illustrations of actions that DuPage Township deems inappropriate and in violation of our policy:

1. Unwanted sexual advances.
2. Offering employment benefits in exchange for sexual favors.
3. Retaliating or threatening retaliation after a negative response to a sexual advance or after an employee has made or threatened to make a harassment complaint.
4. Visual conduct such as leering, making sexual gestures, displaying sexually suggestive objects or pictures, cartoons, calendars or posters.
5. Verbal conduct such as making derogatory comments, using epithets or slurs, making sexually explicit jokes or suggestive comments about a person's body or dress.
6. Written or electronic communications of a sexual nature or containing statements or images which may be offensive to individuals in a particular protected group, such as racial or ethnic stereotypes or stereotypes about disabled individuals.
7. Physical conduct such as unwanted touching, assaulting, impeding or blocking movements.

Sexual misconduct is strictly prohibited by DuPage Township and can include any inappropriate and/or illegal conduct of a sexual nature including, but not limited to, sexual abuse, sexual exploitation, sexual intimidation, rape, sexual assault, or ANY sexual contact or sexual communications with a minor (including, but not limited to, conduct or communications which are written, electronic, verbal, visual, virtual or physical).

II. RESPONSIBILITIES

A. Supervisors

Each supervisor shall be responsible for ensuring compliance with this policy, including the following:

1. Monitoring the workplace environment for signs of discrimination, harassment or sexual misconduct;
2. Immediately notifying law enforcement where there is reasonable belief that the observed or complained of conduct violates the criminal laws of the State of Illinois.
3. Immediately notifying the Department of Children and Family Services (DCFS) Hotline (1-800-25-ABUSE or 1-800-252-2873) if the observed or complained of conduct involves the abuse of a minor.
4. Immediately stopping any observed acts of discrimination, harassment or sexual misconduct and taking appropriate steps to intervene, whether or not the involved employees are within his/her line of supervision;
5. Immediately reporting any complaint of harassment, discrimination or sexual misconduct to the Township Supervisor, Assistant to the Supervisor, or to the Ethics Officer, and:
6. Taking immediate action to limit the work contact between the individuals when there has been a complaint of discrimination, harassment or sexual misconduct, pending investigation.

B. Employees

Each employee is responsible for assisting in the prevention of discrimination, harassment and sexual misconduct through the following acts:

1. Refraining from participation in, or encouragement of, actions that could be perceived as discrimination, harassment or sexual misconduct;
2. Immediately reporting any violations of this policy to the Township Supervisor, Assistant to the Supervisor, or the Ethics Officer, and law enforcement (if appropriate under the circumstances) and/or DCFS (if appropriate under the circumstances); Employees are obligated to report violations of this policy as soon as they occur. An employee should not wait until the conduct becomes unbearable before reporting the prohibited conduct. All employees are obligated to report instances of prohibited conduct even if the conduct is merely observed and directed toward another individual and even if the other person does not appear to be bothered or offended by the conduct. All employees are obligated to report instances of prohibited conduct regardless of the identity of the alleged offender (e.g. man, woman, supervisor, elected official, co-worker, volunteer, vendor, member of public).
3. Encouraging any employee who confides that he/she is the victim of conduct in violation of this policy to report these acts to a supervisor.

Failure to take action to stop known discrimination, harassment or sexual misconduct may be grounds for discipline.

There is a clear line most cases between a mutual attraction and a consensual exchange and unwelcome behavior or pressure for an intimate relationship. A friendly interaction between two persons who are receptive to one another is not considered unwelcome or harassment. Employees are free to form social relationships of their own choosing. However, when one employee is pursuing or forcing a relationship upon another who does not like or want it, regardless of friendly intentions, the behavior is unwelcome sexual behavior. An employee confronted with these actions is encouraged to inform the harasser that such behavior is offensive and must stop. You should assume that sexual comments are unwelcome unless you have clear unequivocal indications to the contrary. In other words, another person does not have to tell you to stop for your conduct to be harassment and unwelcome. Sexual communications and sexual contact with a minor are ALWAYS prohibited.

If you are advised by another person that your behavior is offensive, you must immediately stop the behavior, regardless of whether you agree with the person's perceptions of your intentions.

DuPage Township does not consider conduct in violation of this policy to be within the course and scope of employment and does not sanction such conduct on the part of any employee, including supervisory and management employees.

III. APPLICABLE PROCEDURES

DuPage Township takes allegations of discrimination, harassment and sexual misconduct very seriously. It will actively investigate all complaints.

It is helpful for the employee to directly inform the offending individual that the conduct is unwelcome and must stop. The employee should use DuPage Township's complaint procedure to advise DuPage Township of any perceived violation of this policy as soon as it occurs.

A. Bringing a Complaint

Any employee of DuPage Township who believes that there has been a violation of this policy may bring the matter to the attention of DuPage Township in one of the following ways:

1. Advising his or her supervisor or the Ethics Officer Amy Albright; or
2. Advising the Assistant to the Supervisor. In the event that the alleged harasser is the Assistant to the Supervisor, advise the Township Supervisor.

If the complaint involves someone in the employee's direct line of command, then the employee should go directly to the or the Ethics Officer Amy Albright.

The complaint should be presented as promptly as possible after the alleged violation of this policy occurs.

DuPage Township will take steps to ensure that complaints made are kept confidential to the extent permissible under the law. Individuals who are involved in an investigation under this policy are required to keep the matter confidential to the fullest extent permitted under the law.

B. Resolution of a Complaint

Promptly after a complaint is submitted, DuPage Township will undertake such investigation, corrective and preventive actions as are appropriate. In general, the procedure in resolving any complaints can (but will not necessarily) include any of the following items:

1. A meeting between the employee making the complaint and an individual

designated by DuPage Township to investigate such complaints. Important data to be provided by the complaining employee includes the following:

- a. A description of the specific offensive conduct;
 - b. Identification of all person(s) who engaged in the conduct;
 - c. The location where the conduct occurred;
 - d. The time when the conduct occurred;
 - e. Whether there were any witnesses to the conduct;
 - f. Whether conduct of a similar nature has occurred on prior occasions;
 - g. Whether there are any documents which would support the complaining employee's allegations;
 - h. What impact the conduct had on the complaining employee.
2. While not required, DuPage Township encourages anyone who makes a complaint under this policy to provide a written statement setting forth the above details and attaching any pertinent records.
 3. After a complaint is submitted by the employee, the alleged offending individual should be contacted by a designated representative of DuPage Township. The alleged offending individual should be advised of the charges brought against him or her, and may be provided with a copy of the written statement of complaint made by the complaining employee (if applicable). The alleged offending individual should have an opportunity to fully explain his or her side of the circumstances, and may also submit a written statement, if desired.
 4. After the alleged offending individual is interviewed, any witnesses identified by either the complaining employee or the alleged offending individual may be interviewed separately.
 5. Once this investigation is completed, DuPage Township will take such action as is appropriate based upon the information obtained in the investigation. In the event that DuPage Township finds merit in the charges made by the complaining employee, disciplinary action will be taken against the offending employee. This disciplinary action may, but need not

necessarily, include:

- a. Verbal or written reprimand;
 - b. Placing the offending employee on a corrective action plan for a period of time to be identified;
 - c. Delay in pay increases or promotions;
 - d. Suspending the offending employee from work without pay;
 - e. Demotion;
 - f. Immediate termination.
6. Upon completion of the investigation, DuPage Township will advise the complaining employee of the results of the investigation, including action taken, if any, against the offending individual.

When investigating alleged violations of this policy, DuPage Township looks at the whole record including, but not limited to, the nature of the allegations, the context in which the alleged incidents occurred, and the statements of the parties and witnesses. A determination on the allegations is made from the facts on a case-by-case basis.

Non-Retaliation

Under no circumstances will there be any retaliation against any employee making a complaint of discrimination, harassment or sexual misconduct. Any act of retaliation by any party directed against a complaining employee, an accused employee, witnesses, or participants in the process will be treated as a separate and distinct complaint and will be similarly investigated. Complaints of retaliation should be addressed to the Ethics Officer, Assistant to the Supervisor, or the Township Supervisor. Illinois law provides protections to whistleblowers as set forth in the Whistleblower Act, 740 ILCS 174/15 and the Illinois Human Rights Act, 775 ILCS 5/6-101.

False Reports Prohibited

It is a violation of this policy for an employee to knowingly make a false report of discrimination, harassment, sexual misconduct, or retaliation. An employee who is found to have knowingly made a false report is subject to disciplinary action, as set forth in Section III.B.5, above.

Additional Resources

If you have any questions concerning DuPage Township's policies on this matter, please see your supervisor, the Ethics Officer, or the Assistant to the Supervisor. Further information may also be obtained from the Illinois Department of Human Rights, 312-814-6200 or the Equal Employment Opportunity Commission (EEOC), 800-669-4000. Confidential reports of harassment or discrimination may also be filed with these state agencies. For matters involving the abuse of minors the Illinois Department of Children and Family Services (DCFS) may be contacted by dialing 800-25-ABUSE.

Please acknowledge receipt and review of this policy by completing the acknowledgment form at the end of this policy and returning it to Amy Albright.