

CHAPTER 11

EMPLOYEE REGULATIONS

ARTICLE I – DRUG AND ALCOHOL POLICY

11-1-1 PROHIBITIONS.

(A) Employees of the Village shall not be under the influence of any alcoholic beverage or controlled substance while acting in the course of their employment with the Village. For the purpose of this policy, under the influence of alcohol means having a blood alcohol concentration of .00% or more, as measured by breath, blood or urine. For purposes means the presence of a drug metabolid in either the blood or urine in a positive level.

(B) Employees of the Village shall not use, possess or deliver any alcoholic beverages while they are acting in the course of their employment, operating a Village owned vehicle. Use upon any premises owned or operated by the Village shall have prior written approval by the Liquor Commissioner (Mayor) and Department Head.

(C) Employees of the Village shall not use, possess or deliver any controlled substance, except by prescription given by a licensed physician.

11-1-2 MEDICATIONS. While the Village prohibits the abuse of prescription medications, it does not prohibit the use or possession of over the counter medications or possession or recommended dosages of prescription medications pursuant to a valid prescription by a physician. Any employee taking any medication whose label warns that it may adversely affect the user’s ability to drive safely, operate machinery or maintain alertness, should report his or her usage to their Department Head. Such employee will be reasonably accommodated in accordance with the law.

11-1-3 TESTING.

(A) Any employee of the Village, who by virtue of their employment is required to submit to an annual physical, shall have as part of their physical a urinalysis to screen for the presence of controlled substance metabolids.

(B) Any employee of the Village whom a supervisor has reasonable suspicion of being under the influence of alcoholic beverage or controlled substance, shall be required to submit to testing for the presence of such alcoholic beverage or controlled substance by taking of samples of his or her breath, blood or urine.

For purposes of this policy, reasonable suspicion shall be based upon a belief that an employee is using, or has used, alcoholic beverages or controlled substances, from specific objective and articulable facts and reasonable inferences drawn from those facts in light of experience, and may be based upon, among other things:

- (1) Observe phenomena, such as direct observation of drug or alcohol use/or the physical symptoms or manifestations of being under the influence of a drug or alcoholic beverage,
- (2) Abnormal conduct or erratic behavior while at work, excessive absenteeism, excessive tardiness or deterioration in work performance,
- (3) A report of drug or alcohol use provided by reliable and credible sources and which has been independently corroborated,
- (4) Information that an employee has caused, or contributed to a severe accident while at work,
- (5) Evidence that an employee is involved in the use, possession, or delivery of an alcoholic beverage or a controlled substance while working or while on the Village's premises or operating the Village's vehicle, machinery or equipment.

(C) Any employee of the Village who during the course of his employment is involved in a serious accident which results in personal injury to himself, or other, or property damage shall be subject to testing for the presence of alcoholic beverages or controlled substance by the taking of a sample of his or her breath, blood or urine.

11-1-4 PROCEDURE.

(A) Any test administered to detect the presence of alcohol, by the taking of a breath sample, shall be administered in conformity with regulations promulgated by the Illinois Department of Public Health.

(B) Any test administered to detect the presence of alcohol or controlled substance by the taking of a blood sample, shall be administered by a hospital or reputable laboratory.

(C) Any test administered to detect the presence of an alcoholic beverage or controlled substance metabolid by the taking of a urine sample, shall be administered in such a manner as to provide the subject privacy in the giving of the sample, yet allowing sufficient security to prevent tampering with any such sampel. Such sample shall be tested by a hospital or reputable laboratory.

(D) Any sample of blood or urine shall be divided into **three (3)** separate containers of approximately equal quantities, if inital testing is by EMIT or similar method is to be used. If there is an initial positive test by EMIT or similar method, the second container test by EMIT or similar method, the second container of the sample shall be tested by Gas Chromatography or Mass Spectroscopy. The third container shall be reserved for independent testing upon the request of the employee.

If the initial test is by Gas Chromatography or Mass Spectroscopy, then only **two (2)** containers need to be obtained, the second to be retained for independent testing upon the request of the employee.

(E) The costs of all testing shall be borne by the Village and the employee shall be given a copy of the results of said testing.

(F) Positive blood and urine samples shall be retained by the Village for a period of **twelve (12) months**.

11-1-5 REFUSAL TO SUBMIT TO TESTING. Any employee who refuses to submit to a breath, blood or urine test shall be subject to any and all disciplinary actions which might be taken against any employee who submits to such a test with a positive result.

11-1-6 DISCIPLINARY ACTION.

(A) Any employee who refuses to submit to testing, who submits to testing with a positive result, or who tampers with a test sample may be subject to any disciplinary action up to and including termination.

(B) Any employee may appeal the disciplinary action taken against them by providing notice of such appeal, within **seventy-two (72) hours** to the Village Clerk. Upon the filing of a notice of appeal, a hearing in administrative review will be conducted in a timely fashion to review the disciplinary action taken against the employee.

11-1-7 REHABILITATION ASSISTANCE. Any employee who believes they have an alcohol or substance abuse problem is encouraged to promptly seek professional assistance with such problem and the Village will cooperate in that rehabilitation program. Notwithstanding the foregoing, where any such problem has resulted in a violation of this policy, said employee will still be subject to any appropriate disciplinary action.

Alcohol or chemically dependent employees, for whom inpatient treatment is recommended, will be placed on leaves of absence. Employees will be allowed to use any accrued sick or vacation pay during such leaves of absence. Employees, for whom outpatient treatment or counseling is recommended, may be reassigned to other positions, as the Village deems appropriate, if such position is available. Wherever practicable, the Village will reinstate employees who return from leaves of absence for treatment to the same position they held prior to the taking of such leave.

11-1-8 PROBATIONARY EMPLOYEES. Any person, who is hired by the Village, is hired on a probationary basis, subject to the subsequent receipt of urinalysis results from pre-employment physicals. If said urinalysis discloses a positive presence of a controlled substance metabolids, such probationary employee shall be subject to immediate termination.

11-1-9 **RECORDS.** Records relating to the request for voluntary help, positive test results or information disclosed pursuant to on-going treatment will be maintained in locked files by the Village Clerk. Access to such records shall be limited to the Village Clerk, the employee, the employee's supervisor and the Village Trustee assigned to such department.

11-1-10 **RANDOM TESTING.** Any Village Police Officer, or other employee of the Village Police Department whose employment brings them into contact with persons held in custody of the Village Police Department, or any other Village employee whose job touches upon the safety of the general public shall be subject to random testing for the presence of alcohol or controlled substances, by breath, blood or urine.

(Ord. No. 556; 11-13-06)

ARTICLE II – SEXUAL HARASSMENT POLICY

11-2-1 POLICY PURPOSE. This Article’s purpose is to define sexual harassment, and state the Village’s policy regarding such behavior.

11-2-2 GENERAL STATEMENT. The Board of Trustees finds and declares that sexual harassment is a violation of basic human rights and is to be neither encouraged nor permitted within the conduct of the Village’s business. Concurrently, false or malicious accusations of sexual harassment will not be tolerated. It is the Board’s directive that the Village shall provide and preserve a work atmosphere free from sexual harassment of any kind.

11-2-3 DEFINITIONS. For purposes of this Article, the following definitions and meanings shall apply unless the context would require otherwise:

(A) **Sexual Harassment.** Sexual harassment means Sexual Conduct by a Perpetrator which is:

- (1) made, either explicitly or implicitly as a term or condition of an individual’s employment.
- (2) the submission to or rejection of which by an individual is used as basis for employment decisions relative to the individual.
- (3) is performed for the purpose or with the resulting effect of substantially interfering with the subject individual’s work performance or creating an intimidating, hostile or offensive working environment.

(B) **Perpetrator.** The word Perpetrator means the individual performing Sexual Conduct contrary to this policy.

(C) **Sexual Conduct.** Sexual Conduct shall mean verbal or physical communication, conduct and activity of a sexual or sexually suggestive nature by an individual, termed a Perpetrator herein, toward another individual regardless of sex, including but not limited to the following:

- (1) **Verbal conduct** including sexual innuendoes, suggestive comments, insults, humor and jokes about sexual activities, humor or jokes about anatomy or gender-specific traits, sexual propositions, sexual threats, repeated requests for dates and statements of a sexual nature about other employees even outside the other employee’s presence.
- (2) **Non-verbal conduct** including suggestive or insulting sounds such as whistling, leering, obscene gestures, sexually suggestive bodily gestures, “catcalls”, “smacking” or “kissing” noises.

- (3) **Visual.** Posters, signs, pin-ups or slogans of a sexual or sexually suggestive nature.
- (4) **Physical.** Unwelcome touching, hugging or kissing, pinching, brushing the body, coerced sexual intercourse, or actual assault.
- (5) **Victim.** Victim means the individual toward whom sexual conduct is directed.

Sexual harassment most frequently involves a man harassing a woman. However, it can also involve a woman harassing a man or harassment between members of the same gender.

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. The trend in the courts is to assess sexual harassment by a standard of what would offend a "reasonable woman" or a "reasonable man", depending on the gender of the alleged victim.

An example of the most subtle form of sexual harassment is the use of endearments. The use of terms such as "honey", "darling", and "sweetheart", is objectionable to many women who believe that these undermine their authority and their ability to deal with men on an equal and professional level.

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 woman in the workplace.

"That's an attractive dress you have on."

"That's an attractive dress, it really looks good on you."

"That's an attractive dress. You really fill it out well."

The first statement appears to be simply a compliment. The last is the most likely to be perceived as sexual harassment, depending on the individual perceptions and values. To avoid the possibility of offending an employee, it is best to follow a course of conduct above reproach, or to err on the side of caution.

11-2-4 RESPONSIBILITY OF INDIVIDUAL EMPLOYEES. Each individual employee has the responsibility to refrain from sexual harassment in the workplace.

An individual employee who sexually harasses a fellow worker is, of course, liable for his or her individual conduct.

The harassing employee will be subject to disciplinary action up to and including discharge in accordance with the Authority's policy or a bargaining agreement, as appropriate.

An employee who either observes or believes herself/himself to be the object of sexual harassment is responsible for reporting the incident(s) to his/her supervisor or the EEO Officer.

11-2-5 RESPONSIBILITY OF SUPERVISORY PERSONNEL. Each supervisor is responsible for maintaining the workplace free of sexual harassment. This is accomplished by promoting a professional environment and by dealing with sexual harassment as you would deal with other forms of employee misconduct.

The courts have found that the organization as well as supervisors can be held liable for damages related to sexual harassment by a manager, supervisor, employee, or third party (an individual who is not an employee but does business with an organization, such as a contractor, customer, sales representative, or repair person).

Liability is either based on an organization's responsibility to maintain a certain level of order and discipline, or on the supervisor acting as an agent of the organization. As such, supervisors must act quickly and responsibly not only to minimize their own liability but also that of the agency.

Specifically, a supervisor must address an observed incident of sexual harassment or a complaint with seriousness, take prompt action to investigate it, report it and end it, implement appropriate disciplinary action, and observe strict confidentiality. This also applies to cases where an employee tells the supervisor about behavior considered sexual harassment but does not want to make a formal complaint. The agency's Equal Employment Opportunity (EEO) Officer will consult with supervisors on the proper procedures to follow.

Supervisors must report any incidents or complaints of sexual harassment to the Authority's EEO Officer on the date of the alleged occurrence, or the very next business day.

In addition, supervisors must ensure that no retaliation will result against an employee making a sexual harassment complaint.

11-2-6 PROCEDURES FOR FILING A COMPLAINT. An employee who either observes or believes herself/himself to be the object of sexual harassment should deal with the incident(s) as directly and firmly as possible by clearly communicating her/his position to both the supervisor and offending employee. It is not necessary for sexual harassment to be directed at the person making the complaint.

The following steps may also be taken: document or record each incident (what was said or done, the date, the time, and the place). Documentation can be strengthened by written records such as letters, notes, memos, and telephone messages.

No one making a complaint will be retaliated against even if the complaint made in good faith is not substantiated. In addition, any witness will be protected from retaliation.

The process for making a complaint about sexual harassment falls into several stages.

(A) **Direct Communication.** If there is sexually harassing behavior in the workplace, the harassed employee should directly and clearly express her/his objection that the conduct is unwelcome and request that the offending behavior stop.

The initial message may be verbal. If subsequent messages are needed, they should be put in writing in a note or a memo.

(B) **Contact with Supervisory Personnel.** At the same time direct communication is undertaken, or in the event the employee feels threatened or intimidated by the situation, the problem must be promptly reported to the Superintendent or the Mayor. If the harasser is the Superintendent, the problem should be reported to the Mayor or the Village Board.

(C) **Formal Written Complaint.** An employee may also report incidents of sexual harassment directly to the Mayor. The Mayor will counsel the reporting employee and be available to assist with filing a formal complaint. The Mayor will fully investigate the complaint and advise the complainant and the alleged harasser of the results of the investigation.

(D) **Resolution Outside Village.** It is hoped that most sexual harassment complaints and incidents can be resolved within the Village. However, an employee has the right to contact the Illinois Department of Human Rights (IDHR) or the Equal Employment Opportunity Commission (EEOC) about filing a formal complaint. An IDHR complaint shall be filed within **one hundred eighty (180) days** of the alleged incident(s) unless it is a continuing offense. A complaint with the EEOC shall be filed within **three hundred (300) days.**

An employee who is suddenly transferred to a lower paying job or passed over for promotion, after filing a complaint with IDHR or EEOC, may file a retaliation charge, also due within **one hundred eighty (180) days** (IDHR) or **three hundred (300) days** (EEOC) of the alleged retaliation.

An employee who has been physically harassed or threatened while on the job may also have grounds for criminal charges of assault and battery.

11-2-7 TRAINING. The Mayor is responsible for ensuring that Superintendents and staff are trained and made aware of the full range of practices that might constitute sexual harassment.

11-2-8 FALSE AND FRIVOLOUS COMPLAINTS. False and frivolous charges refer to cases where the accuser is using a sexual harassment complaint to accomplish some end other than stopping sexual harassment. It does not refer to charges made in good faith which cannot be proven. Given the seriousness for the accused, a false and frivolous charge is a severe offense that can itself result in disciplinary action.