

ORDINANCE NO. 17-12-311

AN ORDINANCE ESTABLISHING AN UPDATED SEXUAL HARASSMENT POLICY FOR THE FRANKFORT SQUARE PARK DISTRICT IN ORDER TO COMPLY WITH PUBLIC ACT 100-0554

WHEREAS, the Frankfort Square Park District is a non-home rule unit of local government; and

WHEREAS, Public Act 100-0554 requires units of local government to adopt a resolution established the Local Government Travel Expense Control Act, which requires all non-home rule units of local government to adopt by resolution or ordinance a sexual harassment policy that complies with the new statutory requirements for such policies; and

WHEREAS, the Board of Commissioners of the Frankfort Square Park District desire to modify the Park District’s existing Sexual And Other Harassment Policy to comply with P.A. 100-0554 and to adopt by ordinance the updated sexual harassment policy as required by state law.

NOW, THEREFORE BE IT ORDAINED, by the Board of Commissioners of the Frankfort Square Park District that:

Section 1. The Board of Commissioners of the Frankfort Square Park District hereby adopts and establishes the updated policy regarding sexual and other harassment, as contained in the Section III. B. of the Frankfort Square Park District Employee Handbook and attached to this Ordinance as Exhibit A.

Section 2. The above “Whereas” recitals are incorporated into and made part of this Ordinance.

Section 3. All ordinances, resolutions, and regulations in conflict with this Ordinance are hereby repealed to the extent of such conflict.

Section 4. This Ordinance is effective immediately upon its passage and approval.

VOTE:

Ayes:

Nays:

Abstentions:

Adopted this 4th day of December, 2017.

Ken Blackburn
President of the Board of Commissioners

Jim Randall
Secretary

EXHIBIT A

B. Sexual and Other Harassment Policy

The Park District is committed to providing a work environment free of all forms of unlawful discrimination and harassment. It is the responsibility of each and every employee, official, Board Member, agent, volunteer and vendor of the Park District, as well as anyone using the Park District's facilities, to refrain from sexual or other harassment. Sexual or other harassment is illegal, unacceptable, and violates the policies of the Park District. Title VII of the Civil Rights Act, as well as the Illinois Human Rights ~~code~~ **Act and the State Officials and Employees Ethics Act** prohibit discrimination, harassment or segregation in terms and conditions of employment on the basis of race, color, religion, sex, sexual orientation, age, disability or national origin. Harassment of Park District employees by ~~or of~~ non-employees, such as customers, invitees, suppliers, and other third parties with whom our employees interact while performing their job duties, is also unlawful and will not be tolerated by the Park District. **It is the responsibility of each individual employee to refrain from sexual harassment and it is the right of each individual employee to work in an environment free from sexual harassment.**

~~As an example, Sexual harassment - both overt and subtle - is a form of employee misconduct that is demeaning to others and undermines the integrity of the employment relationship. Sexual harassment consists of: (1) making sexual advances, requesting sexual favors, or engaging in other verbal or physical conduct of a sexual nature, (2) conditioning any aspect of an individual's employment on his/her response to sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, or (3) creating an intimidating, hostile or offensive working environment by sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature.~~ **means any unwelcome sexual advances or requests for sexual favors or any conduct of a sexual nature when: (i) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; (ii) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or (iii) 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. For purposes of this definition, the term "working environment" is not limited to a physical location where an employee is assigned to perform his or her duties and does not require an employment relationship.** Sexual harassment is unlawful and prohibited regardless of whether it is between or among members of the same sex **or sexual identity** or opposite sexes **or sexual identities**.

The following non-exclusive list sets forth some examples of the conduct which violates the Park District's policy against sexual harassment:

Physical assaults of a sexual nature such as rape, sexual battery, molestation or other unwelcome physical contact (e.g., touching, pinching, patting, grabbing, rubbing or brushing against another employee's body);

Unwelcome sexual advances, propositions or other sexual comments, such as sexually-oriented gestures, sounds, remarks, jokes or comments about a person's sex, sexuality or sexual experiences;

Preferential treatment or promises of preferential treatment to an employee for submitting to sexual conduct; or subjecting or threatening to subject an employee to more onerous terms or conditions of employment because of that employee's sex or rejection of sexual advances, propositions or comments; and

Sexual or discriminatory displays or publications anywhere in the workplace, such as displays of pictures, posters, calendars, graffiti, objects, books or other materials that are sexually suggestive, demeaning or pornographic (**including through e-mail, text messages, and other workplace communications**), and other physical, verbal, or visual conduct of a sexual nature.

The Park District is committed to vigorously enforcing its policy against unlawful discrimination and harassment at all levels of the organization. All employees must conduct themselves in a way that ensures they do not engage in acts of unlawful discrimination or harassment. All supervisors and managers are responsible for making sure that the employees who report to them are aware of this policy, ensuring that their personnel decisions comply with this policy, and taking corrective actions (after consultation with the Park District's Executive Director, **or, if the Executive Director is the source of the problem or condones the offending behavior, the President of the Board of Park Commissioners**) when inappropriate behavior occurs. Conduct, which disregards or violates this policy will not be tolerated. Guilty parties will be subject to appropriate disciplinary action, up to and including termination.

1. Internal Complaint Procedure

~~Any employee who feels that he/she has been subjected to or has witnessed unlawful discrimination or harassment in the workplace should immediately report the matter (preferably in writing) to their supervisor, the Executive Director, or any Board Commissioner, who, in turn, will see that the matter is promptly investigated. This may include, but is not necessarily limited to, interviewing the complaining employee, the alleged harasser, supervisors, and other personnel, as necessary to obtain sufficient factual information upon which to base a decision. In all cases, the investigation will be conducted by persons who are not involved in the alleged harassment or discrimination. Confidentiality will be maintained to the extent it is consistent with the Park District's obligation to conduct a full and effective investigation.~~

~~Following the investigation, the Executive Director (or Park District Board of Commissioners) will evaluate the facts and reach a decision regarding the validity of the complaint. If the complaint is substantiated, appropriate corrective action will be taken, including termination or other disciplinary action. A written record of any such action taken will be placed in the employee's personnel file. In the case of unlawful harassment by a non-employee, the Park District will notify the person of the Park District's policy against harassment and take such other action as may be appropriate under the circumstances. If the complaint is not substantiated, the matter will be closed. In either case, however, the complaining employee will be advised of the results of the investigation and the decision reached by the Park District.~~

The Park District strongly urges the reporting of all incidents of sexual or other harassment or retaliation, regardless of the offender's identity or position. Early reporting and intervention have proven to be essential to the resolution of actual or perceived incidents of harassment. Therefore, while no fixed reporting period has been established, the Park 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 sexual harassment from promptly advising the offender that his or her behavior is unwelcome and requesting that it be discontinued.

If you experience or witness sexual harassment, you should deal with the incident(s) as directly and firmly as possible by reporting the incident(s) to your immediate supervisor, your department head, and/or the Executive Director. You 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). Written records such as letters, notes, memos, e-mails, and telephone messages can strengthen documentation. It is not necessary that the harassment be directed at you to make a complaint. Following are steps you can take in the reporting process:

- **Direct Communication with Offender:** If you experience or witness sexual harassment, you should directly and clearly express your objection to the offending person(s) regardless of whether the behavior is directed at you. If you are the harassed employee, 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. The initial message may be oral or written, but documentation of the notice should be made. If subsequent messages are needed, they should be put in writing.
- **Report to Supervisory and Administrative Personnel:** At the same time direct communication is undertaken, or in the event you feel threatened or intimidated by the offending person, you should promptly report the offending behavior to your immediate supervisor, department head or the Executive Director. If you feel uncomfortable doing so, or if your immediate supervisor and/or department head is the source of the problem, condones the problem or ignores the problem, report directly to the Executive Director. If the Executive Director is the source of the problem, condones the problem, or ignores the problem, you should contact the President of the Board of Park Commissioners.
- **Report to Executive Director/President of the Board of Park Commissioners:** An employee may also report incidents of harassment or discrimination directly to the Executive Director. The Executive Director or his designee will promptly investigate the facts and take corrective action when an

allegation is determined to be valid. If your complaint alleges harassment by the Director, or if the Director condones the problem or ignores the problem, you should immediately report the incident or incidents in writing directly to the President of the Board of Park Commissioners. An investigation will be conducted and appropriate action will be taken when an allegation is determined to be valid. At no time will personnel involved in the alleged harassment conduct the investigation.

2. Policy Against Retaliation

The Park District's policy prohibits retaliation against any ~~employee~~ **individual** who lodges a good faith complaint of unlawful discrimination or harassment in the workplace, or who participates in any related investigation conducted by the Park District, **or who files a charge of sexual harassment. Retaliation against an individual for reporting sexual harassment is a serious violation of this policy and, like sexual harassment itself, will result in disciplinary action, up to and including termination or removal from office, against the retaliator.**

Employees should use the above-referenced complaint procedure to report incidents of alleged retaliation. The same procedures will be followed in investigating and responding to such reports. The Park District wants to encourage the reporting of unlawful discrimination, harassment and retaliation and, at the same time, protect the reputation of any employee wrongfully charged with such conduct.

3. External Recourse

Any employee who believes that he or she has been the subject of harassment or retaliation for complaining about harassment also has the right to file a charge of civil rights violations with the Illinois Department of Human Rights and, if substantial evidence is found to support the charge, to have such an opportunity as is provided by law and applicable regulations to engage in conciliation with the Park District and/or to have the charge heard in a public hearing before an Administrative Law Judge of the Illinois Human Rights Commission or in a court of law, as provided by statute. For further information, you may call or write to the Illinois Department of Human Rights, 100 W. Randolph Street, Room 10-100, Chicago, Illinois 60631, (312) 814-6200. **If you have been subjected to retaliation for having complained about sexual harassment, having filed a charge regarding sexual harassment, or having participated in an investigation of allegations of sexual harassment, you may also have the right to file a civil action against the retaliator under the Illinois Whistleblower Act, and, in addition, you may have recourse under the State Officials and Employees Ethics Act.**

4. Complaints Against Non-employees and Third Parties

If you make a complaint alleging sexual harassment 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 reasonable efforts to protect you from further contact with such persons.

5. Responsibility of Supervisors and Witnesses

Any supervisor who becomes aware of any possible sexual or other harassment or discrimination of or by any employee should immediately advise the Executive Director who will investigate the conduct and resolve the matter as soon as possible. All employees are encouraged to report incidents of harassment, regardless of who the offender may be or whether or not you are the intended victim.

6. The Investigation

Any reported allegations of sexual harassment will be investigated promptly. The Park District will make every reasonable effort to conduct an investigation in a responsible and confidential manner. However, it is impossible to guarantee absolute confidentiality. 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 Park District serves notice that third parties, including attorneys for the Park District, may be used to investigate claims of sexual or other harassment.

7. False and Frivolous Complaints

Given the seriousness of the consequences for the accused, a false or frivolous charge of harassment is a major offense that can itself result in disciplinary action, up to and including discharge or, in the case of an officer, suspension or removal from an elected or appointed position. False and frivolous complaints are those accusations with respect to which the accuser is using a harassment complaint to accomplish an end than stopping the harassment. It does not refer to charges made in good faith that cannot be proved.

8. Responsive Action

Subject to legal guidelines, the Park District will make the initial determination as to whether sexual or other harassment or retaliation has occurred based on a review of the facts and circumstances of each situation. Misconduct constituting sexual or other harassment 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 or demotion, temporary suspension without pay, termination, or, in the case of an officer, removal from an elected or appointed position, as the Park District believes appropriate under the circumstances.