

## **Equal Employment Opportunity and Anti-Harassment Policy**

*This policy is a system-wide policy for application to all libraries within the Buffalo & Erie County Public Library System.*

This policy is also part of the *Buffalo & Erie County Public Library Personnel Policies and Procedures Manual*.

### **I. Statement of Policy**

The Buffalo & Erie County Public Library (B&ECPL) is committed to maintaining a work environment free of discrimination and unlawful harassment.

#### **A. Equal Employment Opportunity**

It is the policy of the B&ECPL to provide Equal Employment Opportunity in every aspect of employment to all applicants and employees without regard to gender, race, color, national origin, ancestry, religion, creed, age, disability, familial status, marital status, pregnancy, sexual orientation, gender identity, military status, genetic predisposition, arrest or conviction status, domestic violence victim status, known relationship or association with member of a protected class, or any other basis protected by federal, state or local law.

The B&ECPL will take affirmative action as called for by all applicable federal, state and local laws and executive orders to ensure that underrepresented groups are introduced into the workforce and provided promotional opportunities. Employment decisions will be made without regard to unlawful considerations.

#### **B. Unlawful Harassment**

The B&ECPL will not tolerate unlawful harassment of its employees by any supervisor, coworker, volunteer, patron or any other person with whom employees may come into contact during work. Similarly, the B&ECPL will not tolerate its employees engaging in unlawful harassment of co-workers or of non-employees with whom they come into contact during work, including but not limited to job applicants, patrons and volunteers.

The B&ECPL prohibits all forms of unlawful harassment. Generally, unlawful harassment includes any unwelcome conduct, whether verbal, physical or visual, that is based upon a person's gender, race, color, national origin, ancestry, religion, creed, age, disability, familial status, marital status, pregnancy, sexual orientation, gender identity, military status, genetic predisposition, arrest or conviction status, domestic violence victim status, or any other basis protected by federal, state or local law. Such conduct is unlawful and prohibited whenever it:

1. Affects tangible job benefits,
2. Unreasonably interferes with an individual's work performance, or
3. Creates an intimidating, hostile or offensive working environment.

#### **C. Examples of Harassment**

1. Offensive comments such as racial or ethnic slurs, jokes, epithets and innuendo;
2. Verbal or physical kidding, teasing or practical jokes based on a person's gender, race, color, national origin, ancestry, religion, creed, age, disability, familial status, marital status, pregnancy, sexual orientation, gender identity, military status, genetic predisposition, arrest or conviction status, domestic violence victim status, or any other basis protected by federal, state or local law;
3. Harassing conduct based on gender, race, color, national origin, ancestry, religion, creed, age, disability, familial status, marital status, pregnancy, sexual orientation, gender identity, military status, genetic predisposition, arrest or conviction status, domestic violence victim status, or any other basis protected by federal, state or local law that unreasonably interferes with an employee's work performance or creates an intimidating, hostile, or offensive working environment; or
4. Any action taken because of an individual's gender, race, color, national origin, ancestry, religion, creed, age, disability, familial status, marital status, pregnancy, sexual orientation, gender identity, military status, genetic predisposition, arrest or conviction status, domestic violence victim status,

or any other basis protected by federal, state or local law that alters the terms, conditions and/or privileges of employment.

#### D. Sexual Harassment

1. Sexual harassment consists of unwelcome sexual advances, requests for sexual favors and other verbal, physical or visual conduct of a sexual nature whenever:
  - a. Submission to the conduct is made either an explicit or implicit condition of employment;
  - b. Submission to or rejection of the conduct is used as a basis for an employment decision affecting the harassed employee; or
  - c. The harassing conduct unreasonably interferes with an employee's work performance or creates an intimidating, hostile or offensive working environment.
2. Sexual harassment can involve an almost infinite variety of conduct and can occur between individuals of the opposite or same sex. Some examples include but are not limited to:
  - a. Unwelcome physical contact with sexual overtones such as touching, patting, pinching, repeatedly brushing up against someone or impeding the movement of another person;
  - b. Sexually offensive comments such as slurs, jokes, epithets and innuendo;
  - c. Sexually oriented kidding or teasing or sexually oriented practical jokes;
  - d. Suggestive or obscene written comments in notes, letters, invitations or e-mails;
  - e. Inappropriate, repeated, or unwelcome sexual flirtations, advances or propositions;
  - f. Offensive visual contact such as staring, leering, gestures or displaying obscene objects, pictures or cartoons;
  - g. Exchanging or offering to exchange any kind of employment benefit for a sexual concession (e.g., promising a promotion or raise in exchange for sexual favors);
  - h. Withdrawing or threatening the withdrawal of any kind of employment benefit for refusing to grant a sexual favor (e.g., suggesting that an individual will receive a poor performance review or be denied a raise unless s/he goes out on a date with a supervisor); or
  - i. Any action taken because of an individual's gender that alters the terms, conditions and/or privileges of employment.

#### E. Applicability of Policy

1. The prohibition against discrimination and unlawful harassment applies to everyone: managers, supervisors, salaried and hourly employees, temporary employees, volunteers, contractors, patrons, trustees, public officials and appointed administrative officers.
2. The B&ECPL will not allow unlawful harassment of any kind by anyone. This policy will be reviewed with all staff. It is the responsibility of each supervisor to ensure affirmative implementation of this policy to avoid discrimination, unlawful harassment or retaliation in employment and to report all violations s/he may become aware of. All employees are expected to be cognizant of this policy and cooperate with its implementation.
3. The B&ECPL has zero tolerance for the types of conduct described in this policy. The B&ECPL may treat instances of inappropriate conduct as a violation of this policy, regardless of the specific wording of this policy or technical definitions in the applicable laws; and the B&ECPL may deal with such conduct with disciplinary action or other forms of corrective action as deemed appropriate.

## II. Procedure

### A. Reporting Discrimination, Harassment or Other Violations of This Policy

All employees, volunteers, patrons and other persons utilizing B&ECPL facilities and services are encouraged to promptly report any conduct that they are subject to, or that they witness, which may violate this policy. If the B&ECPL does not know about the discriminatory or harassing conduct, it cannot act.

Prior to making a report, individuals who believe they have been discriminated against or harassed may choose to firmly and promptly notify the offender that his/her behavior is unwelcome. However,

the B&ECPL recognizes that such a confrontation may be uncomfortable or even impossible. Therefore, notifying the offender is not required.

To make a report, individuals should follow the steps set forth below:

1. Notify Appropriate Staff
  - a. Employees, supervisors and managers must report any incident of discrimination, retaliation, sexual harassment or other harassment.
  - b. Employees who believe they have been subject to or witnessed conduct which violates this policy should immediately report the incident to his/her direct supervisor.
  - c. If the supervisor is the alleged offender or the employee is uncomfortable reporting the incident of discrimination, harassment or retaliation to the supervisor, the incident should be reported directly to the Department Head.
  - d. In the event that the circumstances of the situation make it inappropriate to report the incident to the individual's supervisor or to his/her Department Head, or in the event the individual is not an employee and does not have a supervisor or Department Head, the incident should be reported directly to the Human Resources Officer at 858-6103.
  - e. Supervisors and managers must immediately report any incident or report of discrimination, retaliation, sexual harassment or unlawful harassment even if they are not the target or victim of such harassment to the Human Resources Officer.
2. Promptly Report Complaint
  - a. B&ECPL encourages the prompt reporting of complaints so that a rapid response and appropriate action may be taken.
  - b. Failure to promptly report a complaint can hinder an effective investigation.
  - c. A prompt report not only aids the complainant but also helps to maintain an environment free from discrimination for all employees.
3. Prepare Written Report of Misconduct
  - a. An accurate record of objectionable behavior or misconduct is needed to resolve a formal complaint of discrimination, retaliation and/or harassment.
  - b. Any and all verbal and written reports must be submitted to the Human Resources Officer for investigation.
  - c. Upon receipt of a complaint under this policy, Human Resources will complete a formal written report of the complaint, if not already done by the complainant or his/her supervisor.
  - d. Individuals who believe they have been or are currently being subjected to discrimination, retaliation or harassment should maintain a record of objectionable conduct in order to prepare effectively for the investigation.

## B. Investigating the Complaint

1. Confidentiality

Any allegation of discrimination, retaliation or unlawful harassment received by Human Resources will be investigated promptly. Confidentiality will be maintained throughout the investigatory process to the extent practical and appropriate under the circumstances.
2. Investigation Process
  - a. The B&ECPL will investigate thoroughly and quickly any incident of discrimination, retaliation or harassment and will make every effort to take the wishes of the complainant into consideration, keeping the complainant informed as to the status of the investigation.
  - b. Depending on the circumstances of the complaint, Human Resources will determine if the investigation will be completed internally by the Human Resources Officer or if it is more appropriate to forward the complaint to a third party for investigation.
  - c. The B&ECPL has an established relationship with the Erie County Equal Employment Opportunity Office (EEO) and may utilize their investigation services and procedures. As necessary, Human Resources will promptly forward the written report of discrimination, retaliation or harassment to the EEO Office and complainant will be advised of same.

### C. Corrective Action

#### 1. Employees

The B&ECPL will impose appropriate discipline or other corrective action, depending on the nature and seriousness of the offense, up to and including termination, against any manager, supervisor or employee found to have violated this policy, regardless of whether such conduct is considered under the law to constitute unlawful discrimination or harassment or retaliation.

#### 2. Non-employees

When a patron, volunteer or other person not employed by the B&ECPL is found to have engaged in unlawful harassment, discrimination or retaliation against a B&ECPL employee, the Human Resources Office will advise the person of the B&ECPL's policy against such conduct, and will take such other actions as are appropriate under the circumstances, up to and including suspension of library privileges.

### III. Protection Against Retaliation

The B&ECPL will not, in any way, retaliate against an individual who makes a complaint of discrimination or harassment or against any participant in the investigation; nor will it permit any manager, supervisor or employee to do so. Retaliation is defined as discriminating against an employee or applicant because s/he opposed an unlawful employment practice; made a charge, testified, assisted or participated in any manner in an investigation, proceeding or hearing related to prohibited conduct under this policy; or exercised any other legal right protected by federal, state or local law requiring equal opportunity.

Retaliation is a serious violation of this policy and should be reported immediately by following the reporting procedure set forth above. Depending on the nature and seriousness of the offense, the B&ECPL will impose appropriate discipline, up to and including termination, against any manager, supervisor or employee found to have retaliated against another individual for reporting discrimination and/or harassment.

#### A. Examples of Retaliation:

1. Treating someone who has reported an incident of discrimination and/or harassment or participated in an investigation differently from other employees (e.g. cold shoulder).
2. Disciplining, making negative comments, reducing responsibility, denying a transfer, giving unfavorable evaluations, or scrutinizing the work, etc. of an individual who has reported an incident of discrimination and/or harassment or participated in an investigation.
3. Subjecting an individual to any adverse employment action for reporting an incident of discrimination and/or harassment or participating in an investigation.
4. Encouraging or ordering other staff to retaliate against an individual who has reported an incident of discrimination and/or harassment or participated in an investigation.
5. Engaging in other behavior that can reasonably be construed to be retaliatory.

### IV. Legal Remedies

Employees or job applicants who believe they have been discriminated against, harassed or retaliated against in violation of this policy should first file an internal complaint with the B&ECPL's Human Resources Officer, as described above. If an employee or job applicant is dissatisfied with the response, s/he may file a complaint with the Equal Employment Opportunity Commission (EEOC) at (716)551-4441 and/or the New York State Division of Human Rights at (716)847-7632, which are authorized to investigate the allegations in the complaint. Employees or job applicants also may contact a private attorney or union representative should they believe they have been subjected to any form of discrimination, harassment or retaliation.

*Adopted April 20, 2017 per Resolution 2017-11 (supersedes independently adopted EEO Policy contained in the B&ECPL Employee Handbook and Personnel Policies and Procedures Manual on December 18, 2014 and the Anti-Harassment Policy last amended March 17, 2016).*