

## Buffalo & Erie County Public Library

### PERSONNEL POLICIES AND PROCEDURES MANUAL

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**SUBJECT: Equal Employment Opportunity and Anti-Harassment Policy**

**CHAPTER: VIII**

**SECTION: 1**

**EFFECTIVE DATE: 4/20/2017**

**REVISION DATE: 7/2018, 12/20/2018, 11/21/2019, 1/19/2023**

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

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

The Buffalo & Erie County Public Library (B&ECPL) is committed to maintaining an 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, citizenship or immigration status, ancestry, religion, creed, age, disability, familial status, marital status, pregnancy, sexual orientation, gender identity or expression, 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, vendors, contractors, patrons and volunteers.

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

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, citizenship or immigration status, ancestry, religion, creed, age, disability, familial status, marital status, pregnancy, sexual orientation, gender identity or expression, 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, citizenship or immigration status, ancestry, religion, creed, age, disability, familial status, marital status, pregnancy, sexual orientation, gender identity or expression, 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, citizenship or immigration status, ancestry, religion, creed, age, disability, familial status, marital status, pregnancy, sexual orientation, gender identity or expression, 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 – See Sexual Harassment Prevention Policy.

## 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, trustees, public officials, appointed administrative officers, patrons or any other non-employee.
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 they 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. Such conduct may also be treated as a violation of the applicable library's Rules of Conduct.
4. Any harassment based on a protected class violates this policy regardless of whether such harassment would be considered severe or pervasive under legal precedent applied to harassment claims.

## II. **Procedure**

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

All employees, volunteers, patrons and other persons utilizing or working in 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 their 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 or contract Library Director.
- d. In the event that the circumstances of the situation make it inappropriate to report the incident to the individual's supervisor or to their Department Head or contract Library Director, or in the event the individual is not an employee, the incident should be reported directly to the Equality, Diversity and Inclusion Officer at [eeo@buffalolib.org](mailto:eeo@buffalolib.org).
- 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 Equality, Diversity and Inclusion Officer.
- f. In the event that the complaint is against a contract Library Director, the Equality, Diversity and Inclusion Officer will notify the applicable Board President.

## 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.
- d. Reports of harassment may be made verbally or in writing. A form for submission of a written complaint is attached to this policy, and all individuals are encouraged to use this complaint form. Individuals who are reporting harassment on behalf of another person should use the complaint form and note that it is on another person's behalf.

### 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 Equality, Diversity and Inclusion Officer for investigation.
- c. Upon receipt of a complaint under this policy, the Equality, Diversity and Inclusion Officer will complete a formal written report of the complaint, if not already done by the complainant or their 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 the Equality, Diversity and Inclusion Officer 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, the Equality, Diversity and Inclusion Officer will determine if the investigation will be completed internally or if it is more appropriate to forward the complaint to a third party for investigation.

### 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 Equality, Diversity and Inclusion Officer 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 individual because they opposed discrimination and/or harassment; 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 individuals (e.g. cold shoulder).

2. Making negative comments or unreasonably disciplining, reducing responsibility, denying a transfer, giving unfavorable evaluations, or scrutinizing the work, etc. of an individual because that individual 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.
6. Disclosing an employee's personnel files because they have opposed any practices forbidden under the New York State Human Rights Law ("NYS HRL"), filed a complaint, testified or assisted in any proceeding under NYS HRL, except where the disclosure is made in the course of commencing or responding to a complaint in any proceeding under the NYS HRL or any other civil or criminal action or other judicial or administrative proceeding as permitted by applicable law.

#### **IV. Legal Remedies**

Individuals 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 Equality, Diversity and Inclusion Officer, as described above. If an individual is dissatisfied with the response, they 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. Individuals 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). (Administration Revised July 2018 – updated phone number Section II.A.1.d). Amended December 20, 2018 per Resolution 2018-40. Amended November 21, 2019 per Resolution 2019-43. Amended January 19, 2023 per Resolution 2023-1.*