

**MINUTES
BOARD OF TRUSTEES
THE SMITHTOWN LIBRARY
June 20, 2023**

A regular meeting of the Board of Trustees of The Smithtown Library was held at the Nesconset building, Nesconset, New York, on the 20th day of June, 2023. The meeting was called to order at 6:30 p.m. with the pledge of allegiance to the flag.

The following Library Trustees were present: Brianna Baker-Stines, Mildred Bernstein, Barbara Deal, Anita Dowd-Neufeld, Annette Galarza, Howard Knispel (entered the meeting at 6:37 pm) and Thomas Maher.

Also present were Library Director Robert Lusak, Assistant Library Director Patricia Thomson, Treasurer Kevin Miller, Clerk Lauren Gunderson and Secretary Linda Taurassi.

Brianna Baker-Stines, President of the Board of Trustees, acted as Chairperson of the meeting.

READING AND APPROVAL OF MINUTES

1. APPROVAL OF MINUTES

Library Board President Brianna Baker-Stines moved to approve the adoption of the following resolution:

- a. *RESOLVED, that the REGULAR MEETING MINUTES of May 16, 2023 be approved as presented.*

The motion was seconded by Trustee Anita Dowd-Neufeld and adopted 6-0 by the following roll call vote:

FOR—Baker-Stines, Bernstein, Deal, Dowd-Neufeld, Galarza, Maher; AGAINST—none

REPORTS OF OFFICERS, BOARDS, STANDING COMMITTEES & DIRECTOR'S REPORT

- 2. In the absence of Budget and Finance Committee Liaison Howard Knispel, the BUDGET AND FINANCE COMMITTEE report was presented by Library Board President Brianna Baker-Stines, who moved to approve the adoption of resolution "a":

a. TREASURER'S REPORT

RESOLVED, that the TREASURER'S REPORT for the month ended May 31, 2023 be approved for filing (copy of report appended to the original of these minutes).

The motion was seconded by Trustee Mildred Bernstein and adopted 6-0 by the following roll call vote:

FOR—Baker-Stines, Bernstein, Deal, Dowd-Neufeld, Galarza, Maher; AGAINST—none

b. WARRANTS

Library Board President Brianna Baker-Stines moved to approve the adoption of resolution “b”:

RESOLVED, that the following WARRANTS be approved for payment (copy of warrants appended to the original of these minutes):

<i>i. Warrant #23 - June (“L” fund) PREPAYS</i>	<i>\$ 7,195.45</i>
<i>ii. Warrant #23 - June (“L” fund) WARRANT</i>	<i>\$ 359,010.49</i>
<i>iii. Warrant #23 - June (“M” fund) WARRANT</i>	<i>\$ 14,950.00</i>
<i>iv. Warrant #23 - Payroll (#11 – 5/26/23)</i>	<i>\$ 272,604.58</i>
<i>v. Warrant #23 - Payroll (#12 – 6/9/23)</i>	<i>\$ 279,181.14</i>

The motion was seconded by Trustee Barbara Deal and adopted 6-0 by the following roll call vote:

FOR—Baker-Stines, Bernstein, Deal, Dowd-Neufeld, Galarza, Maher; AGAINST—none

Library Board President Brianna Baker-Stines moved to approve the adoption of resolution “c”, items i-iii:

c. BUDGET TRANSFERS

- i. RESOLVED, that the Business Manager be authorized to execute the budget transfer of \$11,450.00 (From/To) the following budget expenditure accounts:

BUDGET TRANSFERS			
ACCOUNT TITLE	ACCOUNT	FROM	TO
SCLS Member Support	L.4360	2,400	
Books	L.4100		2,400
Summer Reading Program	L.4290S	550	
Programs	L4290		550
Office & Library supplies	L.4300	8,500	
Insurance	L.4540		8,500
TOTAL		11,450	11,450

- ii. *RESOLVED, that the Business Manager is authorized to execute a budget transfer in the amount of \$14,712.00 from the Special Revenue Fund Disbursement Account to the General Fund Disbursement Account, as per the resultant 2022 Financial Independent Auditors Report.*
- iii. *RESOLVED, that the Business Manager is authorized to execute a budget transfer in the amount of \$3,259.75 from the Peter McCann-Gillard Donation Trust Fund to the General Fund Disbursement Account, to be spent at the Library's discretion, as per the signed letter of authorization from Rose Marie Gillard (wife of Peter McCann-Gillard).*

The motion was seconded by Trustee Anita Dowd-Neufeld and adopted 6-0 by the following roll call vote:

FOR—Baker-Stines, Bernstein, Deal, Dowd-Neufeld, Galarza, Maher; AGAINST—none

- 3. The PERSONNEL COMMITTEE report was presented by Personnel Committee Liaison Anita Dowd-Neufeld, who moved to approve the adoption of resolution “a”:

Note: Trustee Howard Knispel entered the meeting at 6:37 p.m.

a. PERSONNEL CHANGES

RESOLVED, that the following PERSONNEL changes be approved as presented:

Full-time Promotional Appointment:

- i. *Full-time promotional appointment of **Andrew Salomon** to the position of Librarian IV, Kings Park Building Head, Kings Park building, at an annual rate of pay of \$109,214.00, subject to a 12-week probationary period, effective July 5, 2023 (to fill the vacancy created by the resignation of Erin Kanelos, effective 5/23/23).*

Transfer:

- ii. *Transfer of **Sean Walls**, Librarian I, from The Smithtown Library to the Sachem Public Library, contingent upon Civil Service approval, subject to a 12-week probationary period, effective July 4, 2023 (note: anticipated start date at Sachem Public Library is July 5, 2023).*

Part-time Appointment:

- iii. *Release of **Isabella Ragona** from a part-time Library Clerk position, Reference Department, Smithtown building, and appointment into a part-time Librarian Trainee position, Children's Department, Smithtown building, at an hourly rate of pay of \$28.92, effective July 10, 2023 (to fill part of the vacancy created by the retirement of full-time staff member Elizabeth Coleman, effective 4/29/23).*

Resignations:

- iv. *Resignation of **Abigail Boehm**, Page, Kings Park building, effective June 21, 2023.*
- v. *Resignation of **Catherine Fabian**, Library Clerk, Circulation Department, Smithtown building, effective May 17, 2023.*

- vi. *Resignation of **John T. Hara**, Groundskeeper I, all buildings, effective May 22, 2023.*
- vii. *Resignation of **Megan Walton**, Page, Reference Department, Smithtown building, effective August 11, 2023.*

The motion was seconded by Trustee Thomas Maher and adopted 7-0 by the following roll call vote:

FOR—Baker-Stines, Bernstein, Deal, Dowd-Neufeld, Galarza, Knispel, Maher; AGAINST—none

4. The BUILDINGS AND GROUNDS COMMITTEE report was presented by Buildings and Grounds Committee Liaison Thomas Maher.

- a. PRESENTATION: EV Charging Stations – Architect John Tanzi

Architect John Tanzi presented his proposal for architectural and engineering services pertaining to EV charging stations. Following the presentation and discussion, Buildings and Grounds Committee Liaison Thomas Maher moved to approve the following resolution authorizing John Tanzi Architects to proceed with the evaluation:

- i. *RESOLVED, that the recommendation presented by Architect John Tanzi, to approve the Proposal for Architectural & Engineering Services related to EV Charging Stations Project for all Smithtown Library Buildings, with final costs to be determined by mutually agreed upon final project scope, be approved.*

The motion was seconded by Trustee Annette Galarza and adopted 7-0 by the following roll call vote:

FOR—Baker-Stines, Bernstein, Deal, Dowd-Neufeld, Galarza, Knispel, Maher; AGAINST—none

Buildings and Grounds Committee Liaison Thomas Maher moved to approve the following resolution:

- ii. *RESOLVED, that the Board of Trustees of The Smithtown Library does hereby authorize the Library Director to approve John Tanzi's Proposal for Architectural & Engineering Services related to Proposed Facility Upgrades – Evaluation & Report for All Buildings, for the purpose of long-term capital planning, in the amount of \$2,800 per building evaluation, for a total amount not to exceed \$11,200.00.*

The motion was seconded by Trustee Howard Knispel and adopted 7-0 by the following roll call vote:

FOR—Baker-Stines, Bernstein, Deal, Dowd-Neufeld, Galarza, Knispel, Maher; AGAINST—none

5. COMMUNICATIONS COMMITTEE Liaison Mildred Bernstein noted that the Communications Committee report to be presented at the July meeting would include information from the May and June Friends' meetings. Trustee Mildred Bernstein also noted that the following topics would be covered:

- Book sale
- Sneaker collection
- Concerts beginning July 6, 2023
- Scholarship winners
- Funding of Commack's outdoor activity area

6. DIRECTOR'S REPORT – Robert Lusak, Library Director

The Library Director had nothing new to add to his report that had been submitted previously to the Library Board (copy of report appended to the original of these minutes).

UNFINISHED BUSINESS

There was no unfinished business.

PUBLIC COMMENTS

In the time allotted for public comments one member of the public spoke.

NEW BUSINESS

7. REVISED POLICY – **Bylaws [Policy 100-10]** (1st reading)

[Note: revisions are noted in underlined bold font; deletions are noted with a strikethrough]

Library Board President Brianna Baker-Stines moved to waive the reading of the Bylaws Policy [Policy 100-10]. The motion was seconded by Trustee Thomas Maher and adopted 7-0 by the following roll call vote:

FOR—Baker-Stines, Bernstein, Deal, Dowd-Neufeld, Galarza, Knispel, Maher; AGAINST—none

The policy will be reviewed and voted on at the July regular board meeting.

ARTICLE IV - Meetings

1. **Regular meetings**

Regular meetings shall be held each month, at dates and times to be established by the Board of Trustees at the annual organizational meeting and shall be open to the public as required by Section 103 of the Open Meetings Law of the State of New York.

2. **Special Meetings**

Special meetings of the Board of Trustees may be called at any time by or at the request of the President or upon the request of three (3) trustees. The person or persons authorized to call special meetings of the Board of Trustees may fix the location for holding any special meeting of the Board of Trustees at a public place. Notice of any special meeting shall be in accordance with Section 103 of the Open Meetings Law of the State of New York.

3. **Manner of Acting**

*The act of the majority ~~of the trustees present~~ **of the “whole number” of (7) Trustees** at a meeting at which a quorum is present shall be ~~the~~ **deemed to be the** act of the Board of Trustees.*

4. **Electronic Meetings**

Members of the Board of Trustees, standing committees, and special committees are authorized to provide by telephone or through other electronic communications media information pertaining to the Library; provided that, such communications between or among individual trustees is not to constitute a collective decision regarding Library business.

5. **Quorum**

A majority of the designated number of the Board shall constitute a quorum.

6. **Order of Business**

The Order of Business for the Regular Monthly Meeting of the Board shall include, but not be limited to, the following items, which shall be covered in the sequence shown so far as circumstances will permit:

- a. *Reading and Approval of Minutes*
- b. *Reports of Officers, Board, Standing Committees and Director's Report*
- c. *Reports of Special Committees*
- d. *Unfinished Business*
- e. *Public Comments*
- f. *New Business*

7. **Annual Organizational Meeting**

An annual organizational meeting shall be held by the Board of Trustees at the beginning of the Library's administrative year, during the first week of January (day & time to be determined), and shall be open to the public as required by Section 103 of the Open Meetings Law of the State of New York. No general business will be discussed and no public comments will be heard at this meeting.

- a. *Administer the oath of office to newly elected trustees*
- b. *Nomination and election of officers*
- c. *Appointment of Clerk*
- d. *Appointment of Treasurer*
- e. *Appointment of Secretary*
- f. *Appointment of Library Director as financial clerk*
- g. *Establishment of bank depositories and funds as necessary*
- h. *Affirmation of Procurement Policy*
- i. *Affirmation of Investment Policy*
- j. *Appointment of legal professional*
- k. *Appointment of accounting firm*
- l. *Selection of district newspapers to be utilized for public notices of meetings*

8. **REVISED POLICY – Emergency Closings [Policy 600-10]** (1st reading)

[Note: revisions are noted in underlined bold font; deletions are noted with a strikethrough]

Library Board President Brianna Baker-Stines moved to waive the reading of the Emergency Closings Policy [Policy 600-10]. The motion was seconded by Trustee Barbara Deal and adopted 7-0 by the following roll call vote:

FOR—Baker-Stines, Bernstein, Deal, Dowd-Neufeld, Galarza, Knispel, Maher; AGAINST—none

The policy will be reviewed and voted on at the July regular board meeting.

EMERGENCY CLOSINGS

*It is the policy of The Smithtown Library to maintain and provide an optimum amount of accessible hours of service for the community. The decision to suspend service is the responsibility of the Library Director. If the Director is absent, the Assistant Director or the Director's designee shall be responsible to suspend service at a particular facility. Reasons for such suspension of service might include severely inclement weather, sustained power failure, fire, threat of violence against the facility, disturbance, serious accident, or heating/ventilation malfunction severe enough to cause endangerment. The Director shall notify the Board Chairperson **President** or designee regarding the decision to suspend service.*

Suspension of service will be made on a building-by-building basis since conditions prevailing at one site may not exist at another.

Such suspension of service may include a delayed opening, an early closing, a mid-day suspension of service, or a full day's closing, as may be warranted by particular conditions.

NOTE: ~~Regular hours of operation as of September 11, 2017; adopted by Board of Trustees on September 5, 2017.~~

Regular Operating Hours:

Smithtown Building	Commack Building	Kings Park Building	Nesconset Building
M - F: 9:30-9:00	M - THUR 9:30-9:00	M - THUR 9:30-9:00	M - THUR 9:30-9:00
SAT: 9: 30 -5:00	F 9:30-6:00	F 9:30-6:00	F 9:30-6:00
SUN: 1:00-5:00*	SAT 9: 30 -5:00	SAT 9: 30 -5:00	SAT 9: 30 -5:00
	SUN 1:00-5:00*	SUN Closed	SUN Closed

**Sunday hours are seasonal - September – May*

9. REVISED POLICY – **Unattended Children [Policy 700-30]** (1st reading)

[Note: revisions are noted in underlined bold font; deletions are noted with a strikethrough]

Library Board President Brianna Baker-Stines moved to waive the reading of the Unattended Children Policy [Policy 700-30]. The motion was seconded by Trustee Howard Knispel and adopted 7-0 by the following roll call vote:

FOR—Baker-Stines, Bernstein, Deal, Dowd-Neufeld, Galarza, Knispel, Maher; AGAINST—none

The policy will be reviewed and voted on at the July regular board meeting.

UNATTENDED CHILDREN

The Smithtown Library welcomes children of all ages to ~~use~~ **utilize** its facilities and services. **However, the Library cannot guarantee the safety of children nor can it assume responsibility for them.** ~~To guarantee the safety and well-being of children in the Library,~~ **The** following policy regarding the use of the Library by children and their parents, **guardians** or caregivers is adopted:

- Children, like all other library users, are required to abide by the Library's rules and regulations regarding appropriate behavior in the Library.
- Parents, **guardians** and caregivers are responsible for the conduct of their children in the Library and must provide such supervision of their children as is ~~appropriate~~ **warranted**.

- Any child ~~eleven years or younger~~ who has not yet completed fifth grade must have a parent/guardian/caregiver age 14 or older with supervising them at all times in all areas of the Library. Older youth may use the Library unattended provided they maintain proper Library behavior. Library staff will attempt to notify parents, guardians and caregivers if their minors are left unattended and/or require supervision. In the event a parent/guardian/caregiver cannot be contacted, the library will call for police assistance.
- Parents, guardians and caregivers must be aware of Library opening and closing times and make suitable arrangements to meet and/or transport their children.
- If a child is unaccompanied in the Library at closing time, every effort will be made to assist the child in calling his/her parent, guardian or caregiver to arrange for transportation.
- ~~In the event a parent or caregiver cannot be contacted, the library will call for police assistance.~~
- Under no conditions will Library staff transport children home or to any other destination.
- If a child is left remains after hours, two (2) Library staff members will stay accompany the child until arrangements are made his/her parent, guardian or caregiver arrives. If there is no parent, guardian or caregiver contact within 15 minutes, the Library staff will call for police assistance and will remain with the child until they arrive.

10. RESCIND POLICY – **Sexual Harassment Policy [Policy 500-90]** (1st reading)

Library Board President Brianna Baker-Stines moved to approve the adoption of the following resolution:

RESOLVED, that the Board of Trustees of The Smithtown Library does hereby rescind the Sexual Harassment Policy [Policy 500-90] adopted 7/21/1998; revised 12/20/2022.

The motion was seconded by Trustee Thomas Maher and adopted 7-0 by the following roll call vote:

FOR—Baker-Stines, Bernstein, Deal, Dowd-Neufeld, Galarza, Knispel, Maher; AGAINST—none

(Note: the above policy will remain in effect until the Library Board has voted to rescind policy after the second reading at the July regular board meeting).

11. RESCIND POLICY – **Sexual Harassment Complaint Form [Policy 500-90a]** (1st reading)

Library Board President Brianna Baker-Stines moved to approve the adoption of the following resolution:

RESOLVED, that the Board of Trustees of The Smithtown Library does hereby rescind the Sexual Harassment Complaint Form [Policy 500-90a] adopted 7/21/1998; revised 12/20/2022.

The motion was seconded by Trustee Mildred Bernstein and adopted 7-0 by the following roll call vote:

FOR—Baker-Stines, Bernstein, Deal, Dowd-Neufeld, Galarza, Knispel, Maher; AGAINST—none

(Note: the above policy will remain in effect until the Library Board has voted to rescind policy after the second reading at the July regular board meeting).

12. NEW POLICY - **Sexual Harassment Policy [Policy 500-90]** (1st reading)

Library Board President Brianna Baker-Stines moved to waive the reading of the new Sexual Harassment Policy [Policy 500-90]. The motion was seconded by Trustee Thomas Maher and adopted 7-0 by the following roll call vote:

FOR—Baker-Stines, Bernstein, Deal, Dowd-Neufeld, Galarza, Knispel, Maher; AGAINST—none

The policy will be reviewed and voted on at the July regular board meeting.

(Note: this policy was developed by New York State government for the purpose of allowing employers to meet the New York State Labor Law requirements for a sexual harassment prevention policy and has been tailored to meet the Library's needs).

Purpose and Goals

The Smithtown Library is committed to maintaining a workplace free from harassment and discrimination. Sexual harassment is a form of workplace discrimination that subjects an employee to inferior conditions of employment due to their gender, gender identity, gender expression (perceived or actual), and/or sexual orientation. Sexual harassment is often viewed simply as a form of gender-based discrimination, but The Smithtown Library recognizes that discrimination can be related to or affected by other identities beyond gender. Under the New York State Human Rights Law, it is illegal to discriminate based on sex, sexual orientation, gender identity or expression, age, race, creed, color, national origin, military status, disability, pre-disposing genetic characteristics, familial status, marital status, criminal history, or status as a victim of domestic violence. Our different identities impact our understanding of the world and how others perceive us. For example, an individual's race, ability, or immigration status may impact their experience with gender discrimination in the workplace. While this policy is focused on sexual harassment and gender discrimination, the methods for reporting and investigating discrimination based on other protected identities are the same. The purpose of this policy is to teach employees to recognize discrimination, including discrimination due to an individual's intersecting identities, and provide the tools to take action when it occurs. All employees, building heads, and supervisors are required to work in a manner designed to prevent sexual harassment and discrimination in the workplace. This policy is one component of The Smithtown Library's commitment to a discrimination-free work environment.

Goals of this Policy:

Sexual harassment and discrimination are against the law. After reading this policy, employees will understand their right to a workplace free from harassment. Employees will also learn what harassment and discrimination look like, what actions they can take to prevent and report harassment, and how they are protected from retaliation after taking action. The policy will also explain the investigation process into any claims of harassment. Employees are encouraged to report sexual harassment or discrimination by filing a complaint internally with The Smithtown Library. Employees can also file a complaint with a government agency or in court under federal, state, or local antidiscrimination laws. To file an employment complaint with the New York State Division of Human Rights, please visit <https://dhr.ny.gov/complaint>. To file a complaint with the United States Equal Employment Opportunity Commission, please visit <https://www.eeoc.gov/filing-charge-discrimination>.

Sexual Harassment and Discrimination Prevention Policy:

- 1. The Smithtown Library's policy applies to all employees, applicants for employment, and interns, whether paid or unpaid. The policy also applies to additional covered individuals. It applies to anyone who is (or is employed by) a contractor, subcontractor, vendor, consultant, or anyone providing services in our workplace. These individuals include persons commonly referred to as independent contractors, gig workers, and temporary workers. Also included are persons providing equipment repair, cleaning services, or any other services through a contract with The Smithtown Library. For the remainder of this policy, we will use the term "covered individual" to refer to these individuals who are not direct employees of the Library.*

2. *Sexual harassment is unacceptable. Any employee or covered individual who engages in sexual harassment, discrimination, or retaliation will be subject to action, including appropriate discipline for employees. In New York, harassment does not need to be severe or pervasive to be illegal. Employees and covered individuals should not feel discouraged from reporting harassment because they do not believe it is bad enough, or conversely because they do not want to see a colleague fired over less severe behavior. Just as harassment can happen in different degrees, potential discipline for engaging in sexual harassment will depend on the degree of harassment and might include education and counseling. It may lead to suspension or termination when appropriate.*
3. *Retaliation is prohibited. Any employee or covered individual that reports an incident of sexual harassment or discrimination, provides information, or otherwise assists in any investigation of a sexual harassment or discrimination complaint is protected from retaliation. No one should fear reporting sexual harassment if they believe it has occurred. So long as a person reasonably believes that they have witnessed or experienced such behavior, they are protected from retaliation. Any employee of The Smithtown Library who retaliates against anyone involved in a sexual harassment or discrimination investigation will face disciplinary action, up to and including termination. All employees and covered individuals working in the workplace who believe they have been subject to such retaliation should inform a supervisor, Building head, Library Administration and/or the Personnel Assistant in the Business Office. All employees and covered individuals who believe they have been a target of such retaliation may also seek relief from government agencies, as explained below in the section on Legal Protections.*
4. *Discrimination of any kind, including sexual harassment, is a violation of Library policies, is unlawful, and may subject The Smithtown Library to liability for the harm experienced by targets of discrimination. Harassers may also be individually subject to liability and employers or supervisors who fail to report or act on harassment may be liable for aiding and abetting such behavior. Employees at every level who engage in harassment or discrimination, including supervisors and Building heads who engage in harassment or discrimination or who allow such behavior to continue, will be penalized for such misconduct.*
5. *The Smithtown Library will conduct a prompt and thorough investigation that is fair to all parties. An investigation will happen whenever the Library receives a complaint about discrimination or sexual harassment, or when it otherwise knows of possible discrimination or sexual harassment occurring. The Smithtown Library will keep the investigation confidential to the extent possible. If an investigation ends with the finding that discrimination or sexual harassment occurred, The Smithtown Library will act as required. In addition to any required discipline, the Library will also take steps to ensure a safe work environment for the employee(s) who experienced the discrimination or harassment. All employees, including supervisors and Building heads, are required to cooperate with any internal investigation of discrimination or sexual harassment.*
6. *All employees and covered individuals are encouraged to report any harassment or behaviors that violate this policy. All employees will have access to a complaint form to report harassment and file complaints. Use of this form is not required. For anyone who would rather make a complaint verbally, or by email, these complaints will be treated with equal priority. An employee or covered individual who prefers not to report harassment to the Library may instead report harassment to the New York State Division of Human Rights and/or the United States Equal Employment Opportunity Commission. Complaints may be made to both the Library and a government agency.*

*Supervisors and Building heads are **required** to report any complaint that they receive, or any harassment that they observe or become aware of, to Library Administration and/or the Personnel Assistant in the Business Office.*

7. *This policy applies to all employees and covered individuals, such as contractors, subcontractors, vendors, consultants, or anyone providing services in the workplace, and all must follow and uphold this policy. This policy must be provided to all employees in person or digitally through email upon hiring and will be posted prominently in all work locations. For those offices operating remotely, in addition to sending the policy through email, it will also be available on the organization's shared network.*

What Is Sexual Harassment?

Sexual harassment is a form of gender-based discrimination that is unlawful under federal, state, and (where applicable) local law. Sexual harassment includes harassment on the basis of sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity, and the status of being transgender. Sexual harassment is not limited to sexual contact, touching, or expressions of a sexually suggestive nature. Sexual harassment includes all forms of gender discrimination including gender role stereotyping and treating employees differently because of their gender.

Understanding gender diversity is essential to recognizing sexual harassment because discrimination based on sex stereotypes, gender expression and perceived identity are all forms of sexual harassment. The gender spectrum is nuanced, but the three most common ways people identify are cisgender, transgender, and non-binary. A cisgender person is someone whose gender aligns with the sex they were assigned at birth. Generally, this gender will align with the binary of male or female. A transgender person is someone whose gender is different than the sex they were assigned at birth. A non-binary person does not identify exclusively as a man or a woman. They might identify as both, somewhere in between, or completely outside the gender binary. Some may identify as transgender, but not all do. Respecting an individual's gender identity is a necessary first step in establishing a safe workplace.

Sexual harassment is unlawful when it subjects an individual to inferior terms, conditions, or privileges of employment. Harassment does not need to be severe or pervasive to be illegal. It can be any harassing behavior that rises above petty slights or trivial inconveniences. Every instance of harassment is unique to those experiencing it, and there is no single boundary between petty slights and harassing behavior. However, the Human Rights Law specifies that whether harassing conduct is considered petty or trivial is to be viewed from the standpoint of a reasonable victim of discrimination with the same protected characteristics. Generally, any behavior in which an employee or covered individual is treated worse because of their gender (perceived or actual), sexual orientation, or gender expression is considered a violation of The Smithtown Library's policy. The intent of the behavior, for example, making a joke, does not neutralize a harassment claim. Not intending to harass is not a defense. The impact of the behavior on a person is what counts. Sexual harassment includes any unwelcome conduct which is either directed at an individual because of that individual's gender identity or expression (perceived or actual), or is of a sexual nature when:

- The purpose or effect of this behavior unreasonably interferes with an individual's work performance or creates an intimidating, hostile or offensive work environment. The impacted person does not need to be the intended target of the sexual harassment;*
- Employment depends implicitly or explicitly on accepting such unwelcome behavior; or*
- Decisions regarding an individual's employment are based on an individual's acceptance to or rejection of such behavior. Such decisions can include what shifts and how many hours an employee might work, project assignments, as well as salary and promotion decisions.*

There are two main types of sexual harassment:

- Behaviors that contribute to a **hostile work environment** include, but are not limited to, words, signs, jokes, pranks, intimidation, or physical violence which are of a sexual nature, or which are directed at an individual because of that individual's sex, gender identity, or gender expression. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory, or discriminatory statements which an employee finds offensive or objectionable, causes an employee discomfort or humiliation, or interferes with the employee's job performance.*
- Sexual harassment also occurs when a person in authority tries to trade job benefits for sexual favors. This can include hiring, promotion, continued employment or any other terms, conditions, or privileges of employment. This is also called **quid pro quo** harassment.*

Any employee or covered individual who feels harassed is encouraged to report the behavior so that any violation of this policy can be corrected promptly. Any harassing conduct, even a single incident, can be discrimination and is covered by this policy.

Examples of Sexual Harassment

The following describes some of the types of acts that may be unlawful sexual harassment and that are strictly prohibited. **This list is just a sample of behaviors and should not be considered exhaustive.** Any employee who believes they have experienced sexual harassment, even if it does not appear on this list, should feel encouraged to report it:

- *Physical acts of a sexual nature, such as:*
 - *Touching, pinching, patting, kissing, hugging, grabbing, brushing against another employee's body, or poking another employee's body; or*
 - *Rape, sexual battery, molestation, or attempts to commit these assaults, which may be considered criminal conduct outside the scope of this policy (please contact local law enforcement if you wish to pursue criminal charges).*
- *Unwanted sexual comments, advances, or propositions, such as:*
 - *Requests for sexual favors accompanied by implied or overt threats concerning the target's job performance evaluation, a promotion, or other job benefits;*
 - *This can include sexual advances/pressure placed on a service industry employee by customers or clients, especially those industries where hospitality and tips are essential to the customer/employee relationship;*
 - *Subtle or obvious pressure for unwelcome sexual activities; or*
 - *Repeated requests for dates or romantic gestures, including gift-giving.*
- *Sexually oriented gestures, noises, remarks or jokes, or questions and comments about a person's sexuality, sexual experience, or romantic history which create a hostile work environment. This is not limited to interactions in person. Remarks made over virtual platforms and in messaging apps when employees are working remotely can create a similarly hostile work environment.*
- *Sex stereotyping, which occurs when someone's conduct or personality traits are judged based on other people's ideas or perceptions about how individuals of a particular sex should act or look:*
 - *Remarks regarding an employee's gender expression, such as wearing a garment typically associated with a different gender identity; or*
 - *Asking employees to take on traditionally gendered roles, such as asking a woman to serve meeting refreshments when it is not part of, or appropriate to, her job duties.*
- *Sexual or discriminatory displays or publications anywhere in the workplace, such as:*
 - *Displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials, or other materials that are sexually demeaning or pornographic. This includes such sexual displays on workplace computers or cell phones and sharing such displays while in the workplace;*
 - *This also extends to the virtual or remote workspace and can include having such materials visible in the background of one's home during a virtual meeting.*
- *Hostile actions taken against an individual because of that individual's sex, sexual orientation, gender identity, or gender expression, such as:*
 - *Interfering with, destroying, or damaging a person's workstation, tools or equipment, or otherwise interfering with the individual's ability to perform the job;*
 - *Sabotaging an individual's work;*
 - *Bullying, yelling, or name-calling;*
 - *Intentional misuse of an individual's preferred pronouns; or*
 - *Creating different expectations for individuals based on their perceived identities:*
 - *Dress codes that place more emphasis on women's attire;*
 - *Leaving parents/caregivers out of meetings.*

Who Can be a Target of Sexual Harassment?

Sexual harassment can occur between any individuals, regardless of their sex or gender. Harassment does not have to be between members of the opposite sex or gender. New York Law protects employees and all covered individuals described earlier in the policy. **Harassers can be anyone in the workplace.** A supervisor, a supervisee, or a coworker can all be harassers. Anyone else in the workplace can also be harassers including a Library Board member, independent contractor, contract worker, vendor, patron, constituent, or visitor.

Sexual harassment does not happen in a vacuum and discrimination experienced by an employee can be impacted by biases and identities beyond an individual's gender. For example:

- Placing different demands or expectations on black women employees than white women employees can be both racial and gender discrimination;
- An individual's immigration status may lead to perceptions of vulnerability and increased concerns around illegal retaliation for reporting sexual harassment; or
- Past experiences as a survivor of domestic or sexual violence may lead an individual to feel re-traumatized by someone's behaviors in the workplace.

Individuals bring personal history with them to the workplace that might impact how they interact with certain behavior. It is especially important for all employees to be aware of how words or actions might impact someone with a different experience than their own in the interest of creating a safe and equitable workplace.

Where Can Sexual Harassment Occur?

Unlawful sexual harassment is not limited to the physical workplace itself. It can occur while employees are traveling for business or at employer or industry sponsored events or parties. Calls, texts, emails, and social media usage by employees or covered individuals can constitute unlawful workplace harassment, even if they occur away from the workplace premises, on personal devices, or during non-work hours.

Sexual harassment can occur when employees are working remotely from home as well. Any behaviors outlined above that leave an employee feeling uncomfortable, humiliated, or unable to meet their job requirements constitute harassment even if the employee or covered individual is at home when the harassment occurs. Harassment can happen on virtual meeting platforms, in messaging apps, and after working hours between personal cell phones.

Retaliation

Retaliation is unlawful and is any action by an employer or supervisor that punishes an individual upon learning of a harassment claim, that seeks to discourage a worker or covered individual from making a formal complaint or supporting a sexual harassment or discrimination claim, or that punishes those who have come forward. These actions need not be job-related or occur in the workplace to constitute unlawful retaliation. For example, threats of physical violence outside of work hours or disparaging someone on social media would be covered as retaliation under this policy.

Examples of retaliation may include, but are not limited to:

- Demotion, termination, denying accommodations, reduced hours, or the assignment of less desirable shifts;
- Publicly releasing personnel files;
- Refusing to provide a reference or providing an unwarranted negative reference;
- Labeling an employee as "difficult" and excluding them from projects to avoid "drama";
- Undermining an individual's immigration status; or
- Reducing work responsibilities, passing over for a promotion, or moving an individual's desk to a less desirable office location.

Such retaliation is unlawful under federal, state, and (where applicable) local law. The New York State Human Rights Law protects any individual who has engaged in "protected activity." Protected activity occurs when a person has:

- Made a complaint of sexual harassment or discrimination, either internally or with any government agency;
- Testified or assisted in a proceeding involving sexual harassment or discrimination under the Human Rights Law or any other anti-discrimination law;
- Opposed sexual harassment or discrimination by making a verbal or informal complaint to the Library, or by simply informing a supervisor or Building head of suspected harassment;
- Reported that another employee has been sexually harassed or discriminated against; or
- Encouraged a fellow employee to report harassment.

Even if the alleged harassment does not turn out to rise to the level of a violation of law, the individual is protected from retaliation if the person had a good faith belief that the practices were unlawful. However, the retaliation provision is not intended to protect persons making intentionally false charges of harassment.

Reporting Sexual Harassment

Everyone must work toward preventing sexual harassment, but leadership matters. Supervisors and Building heads have a special responsibility to make sure employees feel safe at work and that workplaces are free from harassment and discrimination. Any employee or covered individual is encouraged to report harassing or discriminatory behavior to a supervisor, Building head, Library Administration and/or the Personnel Assistant in the Business Office. Anyone who witnesses or becomes aware of potential instances of sexual harassment should report such behavior to a supervisor, Building head, Library Administration and/or the Personnel Assistant in the Business Office.

Reports of sexual harassment may be made verbally or in writing. A written complaint form is attached to this policy if an employee would like to use it, but the complaint form is not required. Employees who are reporting sexual harassment on behalf of other employees may use the complaint form and should note that it is on another employee's behalf. A verbal or otherwise written complaint (such as an email) on behalf of oneself or another employee is also acceptable.

Employees and covered individuals who believe they have been a target of sexual harassment may at any time seek assistance in additional available forums, as explained below in the section on Legal Protections.

Supervisory Responsibilities

Supervisors and Building heads have a responsibility to prevent sexual harassment and discrimination. All supervisors and Building heads who receive a complaint or information about suspected sexual harassment, observe what may be sexually harassing or discriminatory behavior, or for any reason suspect that sexual harassment or discrimination is occurring, are required to report such suspected sexual harassment to Library Administration and/or the Personnel Assistant in the Business Office. Supervisors and Building heads should not be passive and wait for an employee to make a claim of harassment. If they observe such behavior, they must act.

Supervisors and Building heads can be disciplined if they engage in sexually harassing or discriminatory behavior themselves. They can also be disciplined for failing to report suspected sexual harassment or allowing sexual harassment to continue after they know about it.

Supervisors and Building heads will also be subject to discipline for engaging in any retaliation.

While supervisors and Building heads have a responsibility to report harassment and discrimination, they must be mindful of the impact that harassment and a subsequent investigation has on victims. Being identified as a possible victim of harassment and questioned about harassment and discrimination can be intimidating, uncomfortable and re-traumatizing for individuals. Supervisors and Building heads must accommodate the needs of individuals who have experienced harassment to ensure the workplace is safe, supportive, and free from retaliation for them during and after any investigation.

Bystander Intervention

*Any employee witnessing harassment as a bystander is encouraged to report it. A Building head or supervisor that is a bystander to harassment is **required** to report it. There are five standard methods of bystander intervention that can be used when anyone is a witness to harassment or discrimination and wants to help.*

- 1. A bystander can interrupt the harassment by engaging with the individual being harassed and distracting them from the harassing behavior;*
- 2. A bystander who feels unsafe interrupting on their own can ask a third party to help intervene in the harassment;*
- 3. A bystander can record or take notes on the harassment incident to benefit a future investigation;*
- 4. A bystander might check in with the person who has been harassed after the incident, see how they are feeling and let them know the behavior was not ok; and*
- 5. If a bystander feels safe, they can confront the harassers and name the behavior as inappropriate. When confronting harassment, physically assaulting an individual is never an appropriate response.*

Though not exhaustive, and dependent on the circumstances, the guidelines above can serve as a brief guide of how to react when witnessing harassment in the workplace.

Complaints and Investigations of Sexual Harassment

All complaints or information about sexual harassment will be investigated, whether that information was reported in verbal or written form. An investigation of any complaint, information, or knowledge of suspected sexual harassment will be prompt, thorough, and started and completed as soon as possible. The investigation will be kept confidential to the extent possible. All individuals involved, including those making a harassment claim, witnesses, and alleged harassers deserve a fair and impartial investigation.

Any employee may be required to cooperate as needed in an investigation of suspected sexual harassment. The Smithtown Library will take disciplinary action against anyone engaging in retaliation against employees who file complaints, support another's complaint, or participate in harassment investigations.

The Smithtown Library recognizes that participating in a harassment investigation can be uncomfortable and has the potential to re-traumatize an employee. Those receiving claims and leading investigations will handle complaints and questions with sensitivity toward those participating.

While the process may vary from case to case, investigations will be done in accordance with the following steps. Upon receipt of a complaint, the Library:

- 1. Will conduct a prompt review of the allegations, assess the appropriate scope of the investigation, and take any interim actions (for example, instructing the individual(s) about whom the complaint was made to refrain from communications with the individual(s) who reported the harassment), as appropriate. If complaint is verbal, request that the individual completes the complaint form in writing. If the person reporting prefers not to fill out the form, the supervisor, building head, Library Administration or the Personnel Assistant in the Business Office will prepare a complaint form or equivalent documentation based on the verbal reporting;*
- 2. Will take steps to obtain, review, and preserve documents sufficient to assess the allegations, including documents, emails or phone records that may be relevant to the investigation. The Library will consider and implement appropriate document request, review, and preservation measures, including for electronic communications;*
- 3. Will seek to interview all parties involved, including any relevant witnesses;*
- 4. Will create a written documentation of the investigation (such as a letter, memo or email), which contains the following:*
 - a. A list of all documents reviewed, along with a detailed summary of relevant documents;*
 - b. A list of names of those interviewed, along with a detailed summary of their statements;*
 - c. A timeline of events;*
 - d. A summary of any prior relevant incidents disclosed in the investigation, reported or unreported; and*

- e. *The basis for the decision and final resolution of the complaint, together with any corrective action(s).*
5. *Will keep the written documentation and associated documents in a secure and confidential location;*
6. *Will promptly notify the individual(s) who reported the harassment and the individual(s) about whom the complaint was made that the investigation has been completed and implement any corrective actions identified in the written document; and*
7. *Will inform the individual(s) who reported of the right to file a complaint or charge externally as outlined in the next section.*

Legal Protections and External Remedies

Sexual harassment is not only prohibited by The Smithtown Library, but it is also prohibited by state, federal, and, where applicable, local law.

The internal process outlined in the policy above is one way for employees to report sexual harassment. Employees and covered individuals may also choose to pursue legal remedies with the following governmental entities. While a private attorney is not required to file a complaint with a governmental agency, you may also seek the legal advice of an attorney.

New York State Division of Human Rights:

The New York State Human Rights Law (HRL), N.Y. Executive Law, art. 15, § 290 et seq., applies to all employers in New York State and protects employees and covered individuals, regardless of immigration status. A complaint alleging violation of the Human Rights Law may be filed either with the New York State Division of Human Rights (DHR) or in New York State Supreme Court.

*Complaints of sexual harassment filed with DHR may be submitted any time **within three years** of the harassment. If an individual does not file a complaint with DHR, they can bring a lawsuit directly in state court under the Human Rights Law, **within three years** of the alleged sexual harassment. An individual may not file with DHR if they have already filed a HRL complaint in state court.*

Complaining internally to The Smithtown Library does not extend your time to file with DHR or in court. The three years are counted from the date of the most recent incident of harassment.

You do not need an attorney to file a complaint with DHR, and there is no cost to file with DHR.

DHR will investigate your complaint and determine whether there is probable cause to believe that sexual harassment has occurred. Probable cause cases receive a public hearing before an administrative law judge. If sexual harassment is found at the hearing, DHR has the power to award relief. Relief varies but it may include requiring your employer to take action to stop the harassment, or repair the damage caused by the harassment, including paying of monetary damages, punitive damages, attorney's fees, and civil fines.

DHR's main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, New York 10458. You may call (718) 741-8400 or visit: www.dhr.ny.gov.

Go to dhr.ny.gov/complaint for more information about filing a complaint with DHR. The website has a digital complaint process that can be completed on your computer or mobile device from start to finish. The website has a complaint form that can be downloaded, filled out, and mailed to DHR as well as a form that can be submitted online. The website also contains contact information for DHR's regional offices across New York State.

*Call the DHR sexual harassment hotline at **1(800) HARASS3** for more information about filing a sexual harassment complaint. This hotline can also provide you with a referral to a volunteer attorney experienced in sexual harassment matters who can provide you with limited free assistance and counsel over the phone.*

The United States Equal Employment Opportunity Commission:

The United States Equal Employment Opportunity Commission (EEOC) enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act, 42 U.S.C. § 2000e et seq. An individual can file a complaint with the EEOC anytime within 300 days from the most recent incident of harassment. There is no cost to file a complaint with the EEOC. The EEOC will investigate the complaint and determine whether there is reasonable cause to believe that discrimination has occurred. If the EEOC determines that the law may have been violated, the EEOC will try to reach a voluntary settlement with the employer. If the EEOC cannot reach a settlement, the EEOC (or the Department of Justice in certain cases) will decide whether to file a lawsuit. The EEOC will issue a Notice of Right to Sue permitting workers to file a lawsuit in federal court if the EEOC closes the charge, is unable to determine if federal employment discrimination laws may have been violated, or believes that unlawful discrimination occurred but does not file a lawsuit.

Individuals may obtain relief in mediation, settlement or conciliation. In addition, federal courts may award remedies if discrimination is found to have occurred. In general, private employers must have at least 15 employees to come within the jurisdiction of the EEOC.

An employee alleging discrimination at work can file a "Charge of Discrimination." The EEOC has district, area, and field offices where complaints can be filed. Contact the EEOC by calling 1-800-669-4000 (TTY: 1-800-669-6820), visiting their website at www.eeoc.gov or via email at info@eeoc.gov.

If an individual filed an administrative complaint with the New York State Division of Human Rights, DHR will automatically file the complaint with the EEOC to preserve the right to proceed in federal court.

Local Protections

Many localities enforce laws protecting individuals from sexual harassment and discrimination. An individual should contact the county, city or town in which they live to find out if such a law exists. Information regarding the Suffolk County Human Rights Commission can be found here: <https://hrc.suffolkcountyny.gov/Discrimination>

Contact the Local Police Department

If the harassment involves unwanted physical touching, coerced physical confinement, or coerced sex acts, the conduct may constitute a crime. Those wishing to pursue criminal charges are encouraged to contact their local police department.

Conclusion

The policy outlined above is aimed at providing employees at The Smithtown Library and covered individuals an understanding of their right to a discrimination and harassment free workplace. All employees should feel safe at work. Though the focus of this policy is on sexual harassment and gender discrimination, the New York State Human Rights law protects against discrimination in several protected classes including sex, sexual orientation, gender identity or expression, age, race, creed, color, national origin, military status, disability, pre-disposing genetic characteristics, familial status, marital status, criminal history, or domestic violence survivor status. The prevention policies outlined above should be considered applicable to all protected classes.

13. NEW POLICY - Sexual Harassment Complaint Form [Policy 500-90a] (1st reading)

Library Board President Brianna Baker-Stines moved to waive the reading of the Sexual Harassment Complaint Form Policy [Policy 500-90a]. The motion was seconded by Trustee Annette Galarza and adopted 7-0 by the following roll call vote:

FOR—Baker-Stines, Bernstein, Deal, Dowd-Neufeld, Galarza, Knispel, Maher; AGAINST—none

The policy will be reviewed and voted on at the July regular board meeting.

SEXUAL HARASSMENT COMPLAINT FORM

New York State Labor Law requires all employers to adopt a sexual harassment prevention policy that includes a complaint form to report alleged incidents of sexual harassment.

If you believe that you have been subjected to sexual harassment, you are encouraged to complete this form and submit it to your Supervisor, Building Head, Library Administrator and/or the Personnel Assistant in the Business Office. You will not be retaliated against for filing a complaint.

If you are more comfortable reporting verbally or in another manner, your employer should complete this form, provide you with a copy and follow its sexual harassment prevention policy by investigating the claims as outlined at the end of this form.

For additional resources, visit:

[ny.gov/programs/combating-sexual-harassment-workplace](https://www.ny.gov/programs/combating-sexual-harassment-workplace)

Complaint Information:

Name: _____ Job Title: _____

Work Address: _____

Work Phone: _____ Email: _____

Preferred Communication Method: Email Phone In-Person

Supervisory Information:

Immediate Supervisor: _____ Title: _____

Work Address: _____ Work Phone: _____

Adoption of this form does not constitute a conclusive defense to charges of unlawful sexual harassment. Each claim of sexual harassment will be determined in accordance with existing legal standards, with due consideration of the particular facts and circumstances of the claim, including but not limited to the existence of an effective anti-harassment policy and procedure.

Complaint Information:

1. Your complaint of sexual harassment is made about:

Name: _____ Title: _____

Work Address: _____ Work Phone: _____

Relation to you: Supervisor Supervisee Co-Worker Other (Specify)

2. Describe what happened in as much detail as possible. You may use additional sheets of paper if necessary. If you have relevant documents, please include them:

3. Date(s) sexual harassment occurred: _____

Is the sexual harassment continuing? Yes No

4. List the names and contact information of any witnesses or individuals who may have information related to your complaint:

The last question is optional, but may help the investigation:

5. Have you previously provided information (verbal or written) about related incidents? If yes, when and to whom did you provide information?

Optional: If you have retained legal counsel and would you like us to work with them, provide their contact information:

Signature: _____ **Date:** _____

Instructions for Employers:

If you receive a complaint about alleged sexual harassment, follow your sexual harassment prevention policy.

An investigation involves:

- Speaking with the employee
- Speaking with the alleged harasser
- Interviewing witnesses
- Collecting and reviewing any related documents

While the process may vary from case to case, all allegations should be investigated promptly and resolved as quickly as possible. The investigation should be kept confidential to the extent possible.

Document the findings of the investigation and basis for your decision along with any corrective actions taken and notify the employee and the individual(s) against whom the complaint was made. This may be done via email.

14. At 7:39 p.m. Library Board President Brianna Baker-Stines moved to enter executive session to discuss the employment history of a particular person. The motion was seconded by Trustee Thomas Maher and adopted 7-0 by the following roll call vote:

FOR—Baker-Stines, Bernstein, Deal, Dowd-Neufeld, Galarza, Knispel, Maher; AGAINST—none

The following Library Trustees were present and participating in executive session: Brianna Baker-Stines, Mildred Bernstein, Barbara Deal, Anita Dowd-Neufeld, Annette Galarza, Howard Knispel and Thomas Maher.

Also present were Library Director Robert Lusak, Assistant Library Director Patricia Thomson, Clerk Lauren Gunderson, Business Manager Jennifer Piano, Personnel Assistant Lori Mauceri and Secretary Linda Taurassi.

At 8:29 p.m. Library Board President Brianna Baker-Stines made a motion to reconvene in open public session. The motion was seconded by Trustee Thomas Maher and adopted by a unanimous 7-0 vote.

15. Library Board President Brianna Baker-Stines noted that the next "regular" meeting of the Board of Trustees would be held July 18, 2023 at 6:30 p.m. at the Commack building.
16. There being no further business, Library Board President Brianna Baker-Stines moved to adjourn the meeting at 8:30 p.m. The motion was seconded by Trustee Annette Galarza and adopted by a unanimous 7-0 vote.

Minutes approved this 18th day of July, 2023.



Brianna Baker-Stines, President
Smithtown Library Board of Trustees



Linda Taurassi
Secretary to the Board of Trustees