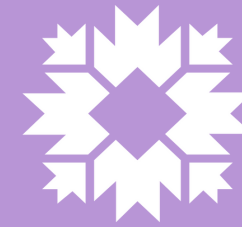


# RIGHTS STUFF

A Publication of The City Of Bloomington Human Rights Commission



CITY OF BLOOMINGTON

## BHRC Seeks Human Rights Award Nominations

**T**he Bloomington Human Rights Commission (BHRC) is seeking nominations for its 2021 Human Rights Award. Nominations of individuals or groups who have made specific, significant contributions to improving civil rights, human relations or civility in our community are due by 5 p.m. on Friday, April 30, 2021.

The BHRC especially welcomes nominations demonstrating success in ensuring rights to equal access to housing, employment or education, in ensuring equal access to community life for people with disabilities and nominations of people or organizations who have done exemplary work and advocacy in increasing civility in our community.

Ryne Shadday, chair of the BHRC, said that "While Bloomington continues to be a beacon of light in the State of Indiana, we know there is a long road ahead in order to become a more just community. Although we have earned hard fought victories in race relations, LGBTQ+ issues, women's rights, and many others, the time we live in is ever more reason to get our hands dirty and continue making Bloomington the best city in the state for everyone. We are proud

of those who have long served our community and wish to reward those who have made such an impact in Bloomington, the state, and our nation."

Some past recipients include PRIDE, the Downtown Resources Officers, Bloomington High School North, Bloomington United, New Leaf/New Life, Charlie Dupree and Virginia Hall, Clarence and Frances Gilliam, the Council for Community Accessibility, Congressman Frank McCloskey, WFHB Radio, Doug Bauder, Lillian Casillas, Helen Harrell, Cindy Stone and the Rev. Bill Breeden.

Bloomington's human rights record has received national recognition. For the last six years, Bloomington has been awarded a perfect score by the Human Rights Campaign on its Municipal Equality Index (MEI), the only city in Indiana to do so. The index evaluates how well a city supports the LGBTQ+ people who live and work there through its laws, policies and services.

The recipient(s) of the BHRC's Human Rights Award will be honored at a public ceremony. Nomination forms are available online or from the Bloomington Human Rights Commission, at [human.rights@bloomington.in.gov](mailto:human.rights@bloomington.in.gov) or 812 349-3429.

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# Both Employee and Employer Must Engage in Interactive Process

**K**athleen Stipe is a woman with dwarfism, spinal stenosis, scoliosis, arthritis and leg length discrepancy. She began working for university housing at South Illinois University in 2014. For three years, she worked in a cubicle in the inner office which accommodated her physical needs. But in the spring of 2017, her supervisor, Kim Watson, said she had to move to the outer office.

Stipe emailed the university's equal opportunity director and told him that the proposed new desk space and equipment did not meet her needs. He told her that the new work space would be modified to closely resemble her current workspace. Watson told Stipe in November that her new space would be ready the next day. Stipe said she did not want to move because she didn't think it was necessary and because she didn't think the new space would accommodate her needs or have the equipment she needed. She did not come to work the next day and was issued a notice of a pre-disciplinary hearing. The day after that, she was placed on unpaid leave for not coming to work. She received another write-up a few days later.

Stipe attended the disciplinary hearing and was told to report to work or be charged with having abandoned her job. That evening, she sent out emails describing her problems with the space. Her supervisor arranged for a carpenter to adjust the keyboard tray so it could be moved and manipulated, one of Stipe's requests. When Stipes got to work the next day, the carpenter was working on the keyboard. She left work instead of working elsewhere until the carpenter was done; he was done before 8 a.m.

When she did report to work, she submitted a supplemental list of proposed accommodations.

Stipe and her supervisors agreed on a list of five mutually agreeable accommodations. At the same meeting, Stipe was issued a final written warning for allegedly violating several directives.

Stipe filed a complaint with the EEOC saying that in August, 2017, she had reported an employee for violating the time and attendance policy. She said she was told to leave the issue alone or she would be disciplined. Three months later, she was told her work space was going to be moved. She said SIU retaliated against her for reporting the attendance violation by moving her work space and then failing to accommodate her disability.

By March of 2018, the agreed-to modified accommodations had been made, but Stipes still had issues with her new space. She said she was exposed to cold air and that she needed more changes to her work space. SIU gave her a final written warning and suspended her for three days in April for spreading paperwork on the floor to demonstrate her lack of work space. She was fired in August, allegedly for misuse and false time reporting, sick leave, leave accrual, vacation leave, unethical conduct, misconduct, unprofessional conduct and insolence.

She sued, alleging that she had been retaliated against for complaining about her coworkers and that SIU had failed to accommodate her disability.

The court said that to prove retaliation, Stipe had to show that she engaged in a statutorily protected activity, that she suffered an adverse employment

action and that there was a causal connection between the two. Her complaints about coworkers allegedly violating the attendance policy were not "statutorily protected activities."

SIU said that Stipe failed to participate in the ADA interactive process when it tried to provide her reasonable accommodations. The court said that the parties did discuss the necessary accommodations, "all while [Stipe] was being issued additional disciplinary processes and subjected to disciplinary hearings." The court said that a jury could conclude that Stipe did not participate in the interactive process, but it could also conclude that SIU "did not take an active, good faith role in the interactive process."

The case will now go to trial unless it is settled.

*The case is Stipe v. Southern Illinois University of Edwardsville, 2021 WL 391232 (S.D. Ill. 2021). If you have questions about your rights and responsibilities under civil rights laws, please contact the BHRC.*

## RIGHTS STUFF'S MISSION

*The purpose of Rights Stuff is to provide information about civil rights litigation as a way to encourage adherence to best practices for landlords, providers of public accommodations and employers. We do this by publishing relevant and timely articles from around the country. Please see the reports in this issue to learn more.*

# BHRC Here to Help Amid Increasing Asian American Hate and Bias Incidents

At its March meeting, the Bloomington Human Rights Commission unanimously agreed to support a petition from the Indiana Chapter of the National Asian Pacific American Women's Forum to Governor Eric Holcomb.

The petition asks the governor to do the following:

--Take official action to recognize and condemn acts of racism, xenophobia and intolerance against Asian American people, families, faith communities, businesses and institutions.

--Implement procedures and programs to help Asian American people, families, faith communities, businesses and institutions if they are targeted by acts of discrimination and hate, with a focus on restorative justice-based solutions.

--And establish a statewide advisory committee on Asian American and Pacific Islander Affairs to serve as a direct communication pipeline between Indiana's Asian Americans and Pacific Islanders and the governor's office.

Across the country, Asian Americans are facing rising bias and hate incidents amid the COVID-19 pandemic, according to PBS News Hour, NBC News and The New York Times.



Last month, Asian Americans were the target of a series of mass shootings at three spas or massage parlors in Atlanta, Georgia.

In August, 1990, the Bloomington Common Council unanimously approved an amendment to the Bloomington Human Rights Ordinance which gave the Bloomington Human Rights Commission the explicit authority to collect data and issue reports on hate incidents within our community. We accept reports from police departments, individuals, groups and the media. We also accept anonymous reports. Our goal is not to investigate these incidents, as we do not have the authority to conduct that type of investigation.

Rather, our goals are to serve as a referral resource and sounding board for victims, to work with community groups to coordinate responses to hate incidents when appropriate and to make our community more aware of the prevalence of hate incidents by updating this document on-line as we receive new reports.

Current and previous hate incidents reports can be found on the BHRC's website, <https://bloomington.in.gov/boards/human-rights>.

If you have been a victim of any type of bias incident call 911 or report it to the BHRC at 812-349-3429 or [human.rights@bloomington.in.gov](mailto:human.rights@bloomington.in.gov).



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City of Bloomington, IN - Human Rights Commission

# Restaurant Will Pay \$200,000 for Sexual Harassment and Retaliation

**A** restaurant in Michigan has agreed to pay \$200,000 to settle a sexual harassment and retaliation lawsuit.

According to the Equal Employment Opportunity Commission (EEOC), the owner of a restaurant repeatedly made lewd sexual comments to a female sous chef. She complained to a manager. The owner first stripped the sous chef of her authority in the kitchen, and ten minutes later, fired her. The EEOC said the owner subjected other female

employees to offensive conduct, including inappropriate touching, kisses without consent and continuous comments about how he wanted to have sex with them.

The restaurant, Georgina's, and its successor, Little G's, agreed to a consent judgment to settle the lawsuit. In addition to paying the women \$200,000 in back pay and compensatory and punitive damages, the restaurant will require all employees to receive two hours of interactive training on sexual harassment and retaliation. The

owner will have to attend the training.

According to Kenneth Bird, regional attorney for the Indianapolis office of the EEOC, "The owner's behavior was egregious and widespread. This consent judgment reflects the EEOC's commitment to stand up to such behavior."

*If you believe you have been subjected to harassment in the workplace, please contact the BHRC.*



## UPCOMING BHRC MEETING

Currently, the BHRC meets via Zoom. That link can be found on the City of Bloomington's online calendar at [bloomington.in.gov](http://bloomington.in.gov).

The next BHRC meeting will take place at 5:30 p.m. April 26, 2021. It will be a joint meeting with the Monroe County Human Rights Commission.