

NEW YORK STATE
Sexual Harassment
Prevention Training

October 2019 Edition



Combating
Sexual Harassment

Introduction



**Combating
Sexual Harassment**

Sexual Harassment in the Workplace



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Sexual Harassment in the Workplace

Sexual harassment will not be tolerated.

Today's training will:

- Help you better understand what is considered sexual harassment
- Show you how to report sexual harassment
- Show you external reporting options



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What is Sexual Harassment?

Sexual harassment:

- Is a form of sex discrimination and is unlawful
- Includes harassment on the basis of sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity and the status of being transgender.
- Is unlawful when it subjects an individual to inferior terms, conditions, or privileges of employment.

What is Sexual Harassment?

It includes unwelcome conduct, either of a sexual nature or which is directed at an individual because of that individual's sex when:

- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment;
- Such conduct is made either explicitly or implicitly a term or condition of employment; or
- Submission to or rejection of such conduct is used as the basis for employment decisions.

What is Sexual Harassment?

Under New York State law, harassment need not be “severe or pervasive” to be unlawful.

Any of the harassing conduct described in this training can be unlawful unless it is shown to be no more than “petty slights or trivial inconveniences.”

Hostile Environment

Sexual or discriminatory displays or publications anywhere in the workplace

Hostile actions taken against an individual because of that individual's sex



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Quid Pro Quo Sexual Harassment

Occurs when a person in authority trades, or tries to trade, job benefits for sexual favors.

Occurs between an employee and someone with authority, who has the ability to grant or withhold job benefits.



Who can be the Target?

Sexual harassment can occur between any individuals, regardless of their sex or gender.

The law protects employees, paid or unpaid interns, and non-employees who work in the workplace.



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Who can be the Perpetrator?

Anyone in the workplace:

- A coworker
- A supervisor or manager
- Any third-party (non-employee, intern, vendor, customer, etc.)



Where Can Workplace Sexual Harassment Occur?

Whenever and wherever employees are fulfilling their work responsibilities, including:

- Employer-sponsored events
- Conferences
- Office parties
- Off-site or during non-work hours



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Sex Stereotyping

Harassing a person because that person does not conform to gender stereotypes is sexual harassment.

Harassment because someone is performing a job that is usually or was previously performed mostly by persons of a different sex is sex discrimination.



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Retaliation



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Protected Activities

Any employee engaged in “protected activity” is protected by law from being retaliated against.

Protected activities include:

- Making a complaint about harassment or suspected harassment
- Providing information during an investigation
- Testifying in connection with complaint



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What is Retaliation?

Any action to alter an employee's terms and conditions of employment *because* that individual engaged in protected activities.

Examples:

- Sudden change in work schedule or work location
- Demotion



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What is Not Retaliation

A negative employment action is not retaliatory merely because it occurs after the employee engages in protected activity.



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Supervisor's Responsibility



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The Supervisor's Responsibility

Supervisors and managers are held to a high standard of behavior. They are:

- Required to report any harassment reported to them or which they observe.
- Responsible for any harassment or discrimination they should have known about.
- Expected to model appropriate behavior.



Mandatory Reporting

Supervisors must report any harassment that they observe or know of, even if no one is objecting to it.

- Harassment must be promptly reported to the employer.
- Supervisors and managers will be subject to discipline for failing to report suspected sexual harassment.
- Supervisors and managers will also be subject to discipline for engaging in retaliation.



What Should I Do If I Am Harassed?



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What Should I Do If I Am Harassed?

We will provide you with a complaint form to report harassment and file complaints. Submit it to:

HR Department or Compliance Officer

(585) 546-1600

Submit via email or in person

You may also make reports verbally.

What Should I Do If I Witness Sexual Harassment?

Anyone who witnesses or becomes aware of potential instances of sexual harassment should report it to a supervisor, manager or designee.

It is unlawful for an employer to retaliate against you for reporting suspected sexual harassment or assisting in any investigation.

Investigation and Corrective Action

- Anyone who engages in sexual harassment or retaliation will be subject to remedial and/or disciplinary action.
- An investigation of any complaint should be commenced immediately and completed as soon as possible.
- The investigation will be kept confidential to the extent possible.
- Any employee may be required to cooperate as needed in an investigation.



Investigation Process

- The HR Department and/or Compliance Officer will conduct an immediate review of the allegations, and take any interim actions
- Relevant documents, emails or phone records will be requested, preserved and obtained.
- Interviews will be conducted
- The individual who complained and the individual(s) accused of sexual harassment are notified of final determination and that appropriate administrative action has been taken.

Additional Protections and Remedies



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NYS Division of Human Rights (DHR)

A complaint alleging violation of the Human Rights Law may be filed either with DHR or in NYS Supreme Court.

- Complaints may be filed with DHR any time **within one year** of the alleged sexual harassment.
- You do not need to have an attorney to file.
- More information: **www.DHR.ny.gov**



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United States Equal Employment Opportunity Commission (EEOC)

- An individual can file a complaint with the EEOC anytime **within 300 days** from the alleged sexual harassment.
- You do not need to have an attorney to file.
- A complaint must be filed with the EEOC before you can file in federal court.
- More information: www.EEOC.gov.



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Local Protections

Many localities enforce laws protecting individuals from sexual harassment and discrimination.

- Contact your county, city or town to find out if laws exist.

Harassment may constitute a crime if it involves things like physical touching, coerced physical confinement or coerced sex acts.

- Contact the local police department.



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Summary



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Other Types of Workplace Harassment

Any harassment or discrimination based on a protected characteristic is prohibited in the workplace and may lead to disciplinary action against the perpetrator.

- Age, race, creed, color, national origin, sexual orientation, military status, sex, disability, marital status, domestic violence victim status, gender identity or expression, familial status, predisposing genetic characteristics and criminal history.

Much of the information presented in this training applies to all types of workplace harassment.

Summary

- How to recognize harassment as inappropriate behavior.
- Harassment because of any protected characteristic is prohibited.
- Why workplace harassment is employment discrimination.
- All harassment should be reported.
- Supervisors and managers have a special responsibility to report harassment.



Important Resources

Find the Complaint Form:

In the Common Drive

For additional information, visit:

www.ny.gov/programs/combating-sexual-harassment-workplace



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