



Discrimination & Sexual Harassment Prevention Training Program

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TOWN OF HAMMOND

St. Lawrence County, New York

A Few Notes

In order to
be in
compliance
please take
note of these
items:

- All employees should read and fully understand your municipality's Sexual Harassment and Discrimination policy
- Know who your compliance officers are at the municipality
- Know how to file a sexual harassment or discrimination complaint and where the complaint forms are located
- If you do not understand your policy or do not know who your compliance officers are at your municipality, please follow up with your municipality. Answers should be provided in a reasonable time.
- If someone participates in training at an alternate place of employment. All of the above.



This training program is compliant with the requirements specified in the NYS Sexual Harassment Legislation. It covers all forms of Discrimination as well as Sexual Harassment.


This presentation has been revised to include the broader standards and new model policy released by NYS Division of Human Rights (NYSDHR) in 2024


NYMIR highly recommends adopting ONE comprehensive policy that addresses all forms of discrimination and harassment





Objectives

- Discuss Prohibited Conduct (including Sexual Harassment)
 - Discuss Internal Complaint Procedure/Reporting Options/External Reporting Options
 - Discuss Internal Investigations and Possible Outcomes
 - Review Employee Responsibilities
 - Review Supervisor Responsibilities
 - Answer General Questions and Questions Regarding Policy Against Discrimination and Harassment
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Everyone has the right to come
to work and be treated with
dignity and respect.

It's on all of us.

Expanded Coverage

Effective February 8, 2020:

New York State Human Rights Law (NYSHRL) will apply to all New York employers, no matter workforce size, will protect non-employee service providers, such as independent contractors, consultants and vendors, from all forms of unlawful discrimination and harassment based on any protected characteristic under the NYSHRL.

Significant Laws

Title VII of the Civil Rights Act of 1964

- Prohibits discrimination based on race, color, religion, sex, and national origin
- Prohibits retaliation

Pregnancy Discrimination Act

- Prohibits discrimination based on pregnancy, childbirth, or a medical condition related to pregnancy or childbirth
- Prohibits retaliation

Age Discrimination in Employment Act

- Prohibits discrimination based on age (over 40 years)
- Prohibits retaliation

Americans with Disabilities Act

- Prohibits discrimination based on disability
- Prohibits retaliation

Significant Laws

Equal Pay Act

- Prohibits payment of different wages to men and women if they perform equal work in the same workplace
- Prohibits retaliation

Genetic Information Nondiscrimination Act

- Prohibits discrimination based on genetic information, including genetic tests, family members' genetic tests, and family medical history
- Prohibits retaliation

New York State Human Rights Law

- Prohibits discrimination based on race, color, gender, religion, religious creed, sex, familial or marital status, age, national origin or ancestry, physical or mental disability, genetic information/predisposition or carrier status, military or veteran status, sexual orientation, self-identified or perceived sex, gender expression, gender identity and the status of being transgender, pregnancy (including childbirth and related medical conditions, and including medical conditions related to lactation) citizenship, and domestic violence victim status
- Prohibits retaliation

Protected Statuses

- Race
- Color
- Gender
- Religion
- Creed
- Sex
- Pregnancy
- Sexual Orientation
- Self-Identified or Perceived Sex
- Gender Identity
- Gender Expression
- Transgender Status
- National Origin or Ancestry
- Citizenship
- Age
- Disability
- Military or Veteran Status
- Marital Status
- Familial Status
- Criminal or Arrest History
- Genetic Predisposition or Carrier Status
- Domestic Violence Victim Status



Important Reminders from NYMIR

- If you're watching as a group, retain your sign in for your municipality's documentation
- Certificates will be emailed within 2-3 weeks-check your spam
- NYMIR will have monthly webinars
- This training is available on LEARN

Gender Diversity- Definitions

- **Cisgender**-an individual whose gender aligns with the sex they were assigned at birth-generally with binary of male or female
- **Transgender**-an individual whose gender is different than the sex they were assigned at birth
- **Non-binary**- a person who does not identify exclusively as a man or a woman. They may identify as both, somewhere in between, or completely outside the gender binary. Some may identify as transgender but not all do.

Pregnancy Workers Fairness Act

- Requires Employer to provide accommodations to pregnant workers
- Pregnancy-related medical conditions
- through the postpartum period
- Including time off to recover
- Onus is on employers to work in good faith to provide accommodations.

Pregnant, Postpartum and Pumping Workers: KNOW YOUR RIGHTS IN THE WORKPLACE

Two new laws, the Pregnant Workers Fairness Act (PWFA) and the Providing Urgent Maternal Protections for Nursing Mothers Act (PUMP Act), provide expanded protections to workers who are pregnant, postpartum or pumping.

Federal Protections for Pregnant Workers

- The **Family and Medical Leave Act (FMLA)** provides eligible employees job-protected leave for prenatal care or when a pregnant worker is unable to work because of the pregnancy. The FMLA also provides a right to take leave for required counseling, court appointments and related travel prior to foster care placement or adoption.
- The **PWFA** requires covered employers to provide “reasonable accommodations” to a worker’s known limitations related to pregnancy, childbirth, or related medical conditions, unless the accommodation will cause the employer an “undue hardship.”
- **Title VII of the Civil Rights Act (Title VII)** prohibits discrimination and harassment based on pregnancy, childbirth, or related medical conditions in any aspect of employment including hiring, firing, pay, promotions, training and more.

Federal Protections for Postpartum and Pumping Workers

- The **FMLA** provides eligible employees of covered employers a right to unpaid, job-protected leave for their baby’s birth or placement of a child for adoption or foster care. This right is afforded for the birth or placement, and to bond with the child within the first year after birth or placement.
- The Fair Labor Standards Act (FLSA) as amended by the PUMP Act, requires most employers to provide covered **nursing workers reasonable break time** and a private space, other than a bathroom, to pump breast milk for one year after the baby’s birth.
- The protections of the **PWFA** and **Title VII** also apply to postpartum and pumping workers.
- It’s important that workers and employers also understand that **Title VII**, the **PWFA**, **FLSA**, and **FMLA** protect workers from discrimination or retaliation when they question employer practices or assert their rights.

More Information



or visit
dol.gov/agencies/whd/maternal-health
eeoc.gov/pregnancy-discrimination

What is Harassment?

Hostile Environment

FEDERAL STANDARD

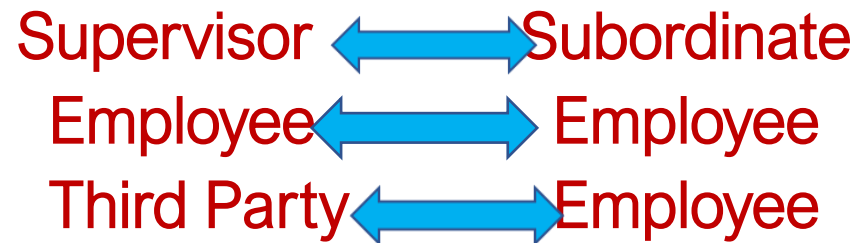
- Unwelcome Sexual conduct or conduct directed at a protected category; e.g. sex, race, age...)
Offensive to the recipient and to a 'reasonable person'
- Determined by a "totality of the circumstances"

NYSHRL STANDARD

- **Standard Lowered for establishing a hostile work environment**
 - **In 2019 the standard of severe or pervasive was eliminated**
- Unwelcome conduct directed at a protected class e.g., sex, race, age... of a nature that subjects an employee to inferior terms, conditions, or privileges of employment because of an individual's protected characteristics
- Harassment does not have to be severe or pervasive to be illegal or violate your policy.
- It can be any harassing behavior that rises above petty slights or trivial slights or trivial inconveniences.


What is Harassment?

- Hostile actions taken against an individual because of the individual's protected status
- In general examples include displays or publications in the workplace, jokes, noises, gestures, nicknames, comments on personal appearance, touching and other physical acts or assaults, interfering with an individual's workstation or equipment, or sabotaging an individual's work.

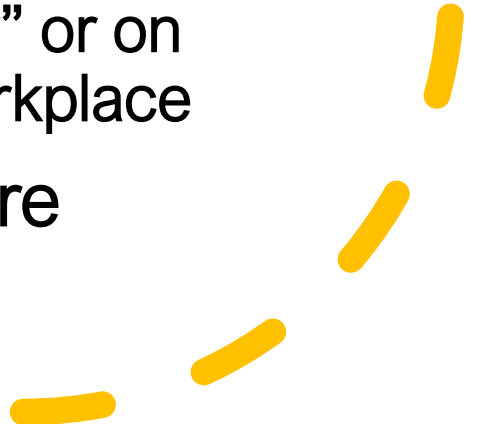




Sexual Harassment

- Harassment on the basis of sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity and the status of being transgender.
 - Sex Stereotyping – harassing a person because they don't conform to gender.
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Sexual Harassment

- Unwanted sexual advances, propositions, offensive comments, innuendos, sexual comments, noises, gestures or jokes
 - Sexual or discriminatory displays or publications such as pictures, posters, calendars, graffiti, objects, promotional material, reading materials, or other materials that are sexually demeaning or pornographic
 - Includes displaying in “hard copy” or on computers/cell phones in the workplace
 - Physical acts of a sexual nature
- 

Sexual Harassment & Harassment

Abusive verbal language-emails and messaging apps
(online abuse is a federal crime)

Demeaning materials being sent electronically (graphic
commentary based on a protected status)

Teasing or threats related to an individuals' protected
characteristic


Offensive, derogatory or insulting comments about
protected characteristics (racial or ethnic slurs)

Stalking/gawking -Staring at a person's body in
suggestive manner

Bullying, yelling or name calling

What is Harassment?

Quid Pro Quo

- “This for that” or “Something for Something”
- A form of Sexual Harassment
- Supervisor  Subordinate (sex or gender parties irrelevant) pressure for a date

Where Can Harassment Occur

- Working remotely
- Employee sponsored events or parties
- Traveling for business/Conferences
- Virtual Meetings-Microsoft Teams,Zoom, etc.
 - **-this can include materials visible in the background of one's space**
- Messaging applications-texts, emails, social media
 - **-this includes during NON-work hours**
- Personal Phone calls

What is retaliation

The anti-discrimination statutes prohibit discrimination against an employee or job applicant or closely associated 3rd party because they:

- Opposed a behavior or practice (intervention)
- Made a charge, testified, encouraged another employee to report discrimination, participated in an investigation, proceeding or hearing, even if not the target of the harassment or discrimination.

What is Retaliation?

Retaliation is any action taken to alter an employee's terms and conditions of employment (such as a demotion, termination, denial of accommodation, or harmful work schedule or location change).

Retaliation can be adverse action taken by the employer that could discourage an individual from coming forward to make a complaint or support a discrimination or harassment claim.

The negative action need not be job-related or occur in the workplace, and may occur after the end of employment, such as an unwarranted negative reference.

Retaliation Examples

Reduction of Hours

Less desirable work shifts

Labeling an employee as 'difficult'

Publicly releasing personnel files

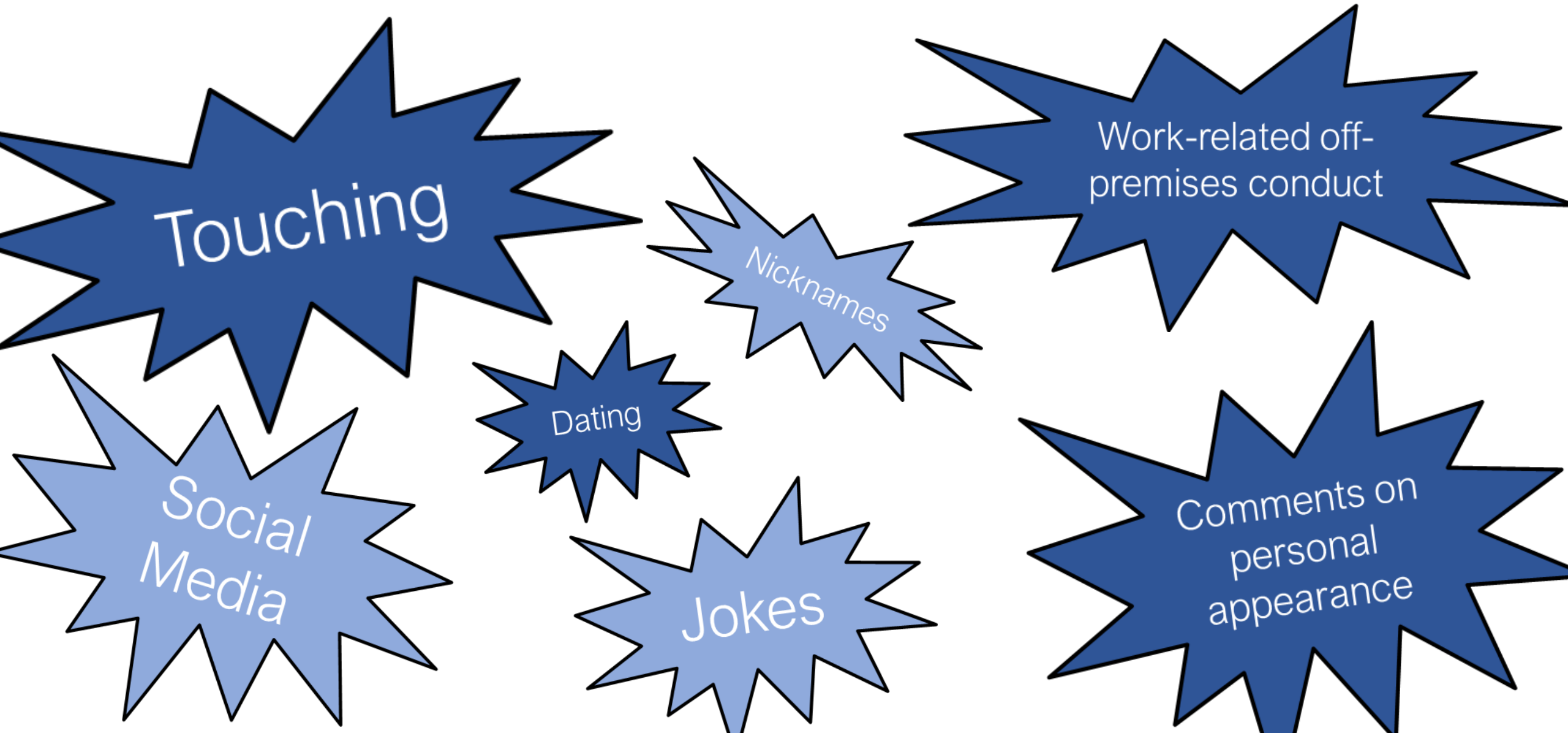
Refusal to provide a reference

Excluding from projects to avoid 'drama'

Undermining an individual's immigration status

Reduction of work responsibilities

Landmines Waiting to Explode



Litmus Tests



True or False?

Sexual harassment is only between the boss and subordinates

Sexual harassment has to be between opposite sexes

Men can't be victims

Unless the person tells me it's offensive, I don't have to stop and it's not harassment

What I do off duty can't be considered harassment



_____ has done that for years. Everyone knows it's a joke and doesn't mean anything

Complaint Procedure

1

Promptly Report Conduct

- Directly inform person engaging in offensive conduct to stop (if comfortable doing so – NOT REQUIRED) Do not (name behavior) that's harassment. 'That is not ok' "Don't speak to me like that"

2

Complete reporting form

- Preferred, but not required

3

Cooperate in Investigation

- Provide information and/or evidence

Employee Bystander Intervention

Interrupting through engagement with the individual being harassed-Distract

Ask a third party to intervene

Record the harassment to benefit future investigations

Follow up with the harassed individual

If safe, confront the harasser

RIGHT
TO
BE _____

THE 5Ds OF BYSTANDER INTERVENTION

DELAY

After the incident is over, check in with the person who was harassed



You can also say: "Can I sit with you? Can I accompany you somewhere? What do you need?"

RIGHT
TO
BE

THE 5Ds OF BYSTANDER INTERVENTION

DELEGATE

GET HELP FROM SOMEONE ELSE



RIGHT
TO
BE _____

THE 5Ds OF BYSTANDER INTERVENTION

DISTRACT

TAKE AN INDIRECT APPROACH TO DE-ESCALATE THE SITUATION



Start a conversation with the person being harassed or find another way to draw attention away from them. Ask them for directions or the time, or drop something.



Investigation Process

- The employer will investigate all claims of discrimination and harassment whether reported in writing or verbally.
- The investigation will be commenced and completed promptly;
- interim measures may be taken to mitigate and ensure against retaliation as necessary.
- The investigation will be kept as confidential as possible under the circumstances and handled with sensitivity to all participants.
- All employees are required to cooperate as needed in an investigation.
- The complainant(s) and the accused individual(s) are notified of the final determination and, as applicable, that appropriate corrective action has been taken.

WHY Investigate?

- Because the Law Requires It!
- Benefits of Investigations Figure out what happened
- Reinforce expectations for appropriate conduct
- Determine if discipline is necessary
- May deter others from engaging in similar behaviors
- Counteract potential negative publicity and public embarrassment
- Preparation/defense for potential litigation



Notification to Complaining Party



Investigation Results will be communicated in writing



Remind complainant of their legal rights of Legal Protections



Remind of External Remedies (part of your policy)




Possible Outcomes

1. No Prohibited Conduct Found
2. Prohibited Conduct Found
 - Reassignment
 - Counseling
 - Discipline, up to and including immediate termination
 - Training
 - EAP



Employee Responsibilities

- Treat all coworkers and third parties professionally, and with dignity and respect.
 - Read, ask questions and understand the Employer's Policy Against Discrimination and Harassment.
 - Commit to policies by word and example.
 - Stop and/or report potentially offensive behavior.
 - Cooperate in investigations and prevention initiatives.
- 

Supervisor Responsibilities

- Treat all employees with dignity and respect.
- Provide a good example by your own conduct.
- Intercede to stop potentially offensive behavior.
- Take necessary, immediate corrective action in response to inappropriate behavior.
- Assist employees regarding anti-discrimination/harassment policies, including complaint procedures.

Supervisor Responsibilities

- Report to Compliance Officers any discrimination/harassment/ retaliation reported or observed.
- Encourage employee cooperation in discrimination/harassment investigations and prevention initiatives.
- Ensure against retaliation.
- Note: Supervisors will be evaluated and/or disciplined for discriminatory/harassing/retaliatory conduct and/or on the basis of their action or failure to act.

**Stop and
Think...**

1

Don't do it!

2

Don't say it!

3

**Don't
tolerate it!**

Additional Protections and Remedies

NYS Division of Human Rights (DHR)-www.dhr.ny.gov --DHR has a digital complaint process and a complaint form

- A complaint alleging violation of the Human Rights Law may be filed either with DHR or in NYS Supreme Court.
- New Confidential Hotline for Workplace Sexual Harassment Complaints-1-800-HARASS3 can provide a referral for a volunteer attorney (limited free assistance)
- Complaints about discriminatory practices occurring on or after February 15, 2024 may be filed any time within **three** years of the alleged discrimination or harassment. Prior to February 15, 2024, complaints may be filed anytime within one year.
- Harassment complaints prior to February 14, 2024 may be filed within **one** year of the discrimination or harassment.
- Sexual harassment complaints prior to February 14, 2024 may be filed with DHR any time within three years of the alleged sexual harassment.
- If a complaint is filed with DHR, DHR will automatically file with EEOC to preserve the right to proceed in Federal Court.
- You do not need to have an attorney to file.



Know Your Rights: Workplace Discrimination is Illegal

The U.S. Equal Employment Opportunity Commission (EEOC) enforces Federal laws that protect you from discrimination in employment. If you believe you've been discriminated against at work or in applying for a job, the EEOC may be able to help.

Who is Protected?

- Employees (current and former), including managers and temporary employees
- Job applicants
- Union members and applicants for membership in a union

What Organizations are Covered?

- Most private employers
- State and local governments (as employers)
- Educational institutions (as employers)
- Unions
- Staffing agencies

What Types of Employment Discrimination are Illegal?

Under the EEOC's laws, an employer may not discriminate against you, regardless of your immigration status, on the bases of:

- Race
- Color
- Religion
- National origin
- Sex (including pregnancy and related conditions, sexual orientation, or gender identity)
- Age (40 and older)
- Disability
- Genetic information (including employer requests for, or purchase, use, or disclosure of genetic tests, genetic services, or family medical history)
- Retaliation for filing a charge, reasonably opposing discrimination, or participating in a discrimination lawsuit, investigation, or proceeding.

What Employment Practices can be Challenged as Discriminatory?

All aspects of employment, including:

- Discharge, firing, or lay-off
- Harassment (including unwelcome verbal or physical conduct)
- Hiring or promotion
- Assignment
- Pay (unequal wages or compensation)
- Failure to provide reasonable accommodation for a disability or a sincerely-held religious belief, observance or practice
- Benefits
- Job training
- Classification
- Referral
- Obtaining or disclosing genetic information of employees
- Requesting or disclosing medical information of employees
- Conduct that might reasonably discourage someone from opposing discrimination, filing a charge, or participating in an investigation or proceeding.

What can You Do if You Believe Discrimination has Occurred?

Contact the EEOC promptly if you suspect discrimination. Do not delay, because there are strict time limits for filing a charge of discrimination (180 or 300 days, depending on where you live/work). You can reach the EEOC in any of the following ways:

Submit an inquiry through the EEOC's public portal:
<https://publicportal.eeoc.gov/Portal/Login.aspx>

Call 1-800-669-4000 (toll free)
1-800-669-6820 (TTY)
1-844-234-5122 (ASL video phone)

Visit an EEOC field office (information at <https://www.eeoc.gov/fieldoffices>)

Additional Protections and Remedies

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.

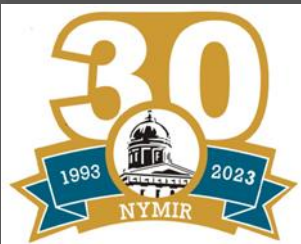
Additional Protections and Remedies

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.

QUESTION FOR YOU





Is it clear?

Questions?

Ask your Town Compliance Officers
or

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Stacey - syoumans@wrightinsurance.com



Thank You