

TOWN OF STILLWATER

SEXUAL HARASSMENT POLICY

Adapted by the Personnel Manual of 2013 and update 2018

Sexual Harassment is illegal and a violation of the Civil Rights Act of 1964. The Town is committed to the policy that sexual harassment is prohibited in each and every work place in which Town employees work or conduct business. Conduct which constitutes sexual harassment will not be tolerated from any Town employee or anyone else who is present in a Town workplace, and will be treated as an act of employee misconduct.

Sexual harassment is unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; OR
2. Submission to or rejection of such conduct by an individual is used as a basis for an employment decision affecting the person rejecting or submitting to the conduct; OR
3. The conduct has the purpose or effect of interfering with an affected person's work performance, or creating an intimidating, hostile or offensive working environment.

Sexual harassment is a form of sex discrimination which is a violation under Title VII of the Civil Rights Act of 1964, EEOC guidelines and the New York State Human Rights Law. Every Town employee is entitled to a work environment uninterrupted by sexual harassment.

(Note: See the Attached Sexual Harassment Training Power Point and below information.)

Guidelines:

- The Town will formulate and maintain a Sexual Harassment Policy, Training and Feedback program and Report Procedure. A copy of that policy shall be furnished to all employees by the Supervisor's Office upon an employee's commencement of employment in the Town.
- Each new employee will be advised of that policy and procedure at the employee orientation. Orientation is conducted by the Supervisor and Fiscal Manager.
- A copy of the Sexual Harassment Policy will be prominently displayed in the work place of each Town Building.
- All employees, including supervisory personnel, shall complete Sexual Harassment Training Annually.

Procedures:

- All complaints shall be made to one of the following persons: the Town Supervisor or

Deputy Supervisor. (Phone: 518-664-6148, press one for Supervisor)

- While complaints may initially be made either orally or in writing, all complaints will be reduced to writing on a complaint form provided by the Town for that purpose and be made available to the Town Supervisor or Deputy Supervisor.
- The employee must sign the complaint form.
- The person handling the complaint will inform the employee that the investigation will commence immediately; that discretion will be used but confidentiality cannot be promised; that the alleged offender will be questioned as to their side of the story; that witnesses and other employees of the Town may be questioned; and that appropriate action against the accused will occur if they are found to be guilty. The Town's Sexual Harassment Policy should be reiterated, and the employee should be advised to report additional incidents if the conduct continues.
- All complaints of sexual harassment will be reported to the Town Board.
- The employee shall be assured that retaliation for the reporting of complaints of sexual harassment will not be tolerated, and that any such retaliatory conduct should be reported.
- All investigations will be made promptly and thoroughly. The person investigating the complaint will prepare a written report of the investigation. At the conclusion of the investigation, a copy of the complaint and of the investigation will be furnished to the Town Supervisor.
- The investigatory procedure shall be fully documented, noting the date, time, place and remarks about the incident.
- The accused employee shall be notified privately of the charges against them and given the opportunity to respond to those charges.
- The person investigating the complaint shall interview witnesses and other personnel who may have knowledge of the complaint or other instances of sexual harassment.
- If the person conducting the investigation concludes, whether by the admission by the accused employee or by the facts disclosed by the investigation, that the conduct constituting sexual harassment has occurred, appropriate action shall be taken in accordance with the Town's disciplinary procedures and the New York State Civil Service Law.
- If the person conducting the investigation is unable to determine whether the actions alleged in the complaint occurred, the accused employee will be informed that the investigation was inconclusive, but that if the complaint is later proven true, or if similar activity to that alleged in the complaint is found to occur, appropriate disciplinary action will occur. The accused employee will also be advised that it is against Town policy for any acts of retaliation against the complaining employee to occur.
- If the person conducting the investigation determines that the conduct occurred, both the complainant and the offender will be advised of that determination and that appropriate action under the disciplinary policies of the Town will occur.
- Once the appropriate action to be taken has been determined, both the complainant and the offender shall be advised of the action, in writing.

NEW YORK STATE

Sexual Harassment Prevention Training

October 2018 Edition



**Combating
Sexual Harassment**

Introduction



Combating
Sexual Harassment

Sexual Harassment in the Workplace



Combating
Sexual Harassment

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



Combating
Sexual Harassment

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.



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.

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.



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



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.



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



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



What is Not Retaliation

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



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:

[*Supervisor Edward Kinowski*]

[*Town Hall: 518-664-6148*]

[*A form will be provided upon contact with the Supervisor*]

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 Town Supervisor or other appointee*] 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.



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 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

Training Feedback:

Submit training feedback questions or comments either verbally or in writing to the Supervisor. Call our office at 518-664-6148, press 1 for Supervisor or call 518-466-1901. Email tbrown@stillwaterny.org or write to the attention of: Town of Stillwater Supervisors Office, PO Box 700, Stillwater NY 12170

For additional information, visit:

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



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