

Development Authority of the North Country Governance Policies



Subject: Sexual Harassment Prevention Policy

Adopted: December 16, 2021

Resolution: 2021-12-129



1.0 INTRODUCTION

The Development Authority of the North Country is committed to maintaining a workplace free from sexual harassment. Sexual harassment is a form of workplace discrimination. The Authority has a zero-tolerance policy for any form of sexual harassment, and all employees are required to work in a manner that prevents sexual harassment in the workplace. This Policy is one component of the Authority's commitment to a discrimination-free work environment.

Sexual harassment is against the law. All employees have a legal right to a workplace free from sexual harassment, and employees can enforce this right by filing a complaint internally with the Authority, or with a government agency or in court under federal, state or local antidiscrimination laws.

Every employer in the State of New York is required to adopt a sexual harassment prevention policy pursuant to Section 201-g of the Labor Law.

2.0 POLICY

- 2.1 The Authority Policy applies to all employees, applicants for employment, interns, whether paid or unpaid, contractors and persons conducting business with the Authority.
- 2.2 Sexual harassment will not be tolerated. Any employee or individual covered by this policy who engages in sexual harassment or retaliation will be subject to remedial and/or disciplinary action, up to and including termination.
- 2.3 Retaliation Prohibition: No person covered by this Policy shall be subject to adverse employment action including being discharged, disciplined, discriminated against, or otherwise subject to adverse employment action because the employee reports a sexual harassment complaint. The Authority has a zero-tolerance policy for such retaliation against anyone who, in good faith, reports or provides information about suspected sexual harassment. Any employee of the Authority who retaliates against anyone involved in a sexual harassment investigation will be subjected to disciplinary action, up to and including termination. Any employee, paid or unpaid intern, or non-employee working in the workplace who believes they have been subject to such retaliation should inform a direct supervisor, Division Director, Human Resources, or the Executive Director.

- 2.4** Sexual harassment is offensive, is a violation of our policies, is unlawful, and may subject the Authority to liability for harm to victims of sexual harassment. Harassers may also be individually subject to liability. Employees of every level who engage in sexual harassment, including managers and supervisors who engage in sexual harassment or who knowingly allow such behavior to continue, will be penalized for such misconduct.
- 2.5** The Authority will conduct a prompt, thorough and confidential investigation that ensures due process for all parties, whenever management receives a complaint about sexual harassment, or otherwise knows of possible sexual harassment occurring. Effective corrective action will be taken whenever sexual harassment is found to have occurred. All employees, including managers and supervisors, are required to cooperate with any internal investigation of sexual harassment.
- 2.6** All employees are encouraged to report any harassment or behaviors that violate this policy. The Authority will provide a complaint form for employees to report harassment and file complaints.
- 2.7** Division Directors, Human Resources and supervisors are **required** to report any complaint that they receive, or any harassment that they observe or become aware of to the Executive Director.

3.0 DEFINITIONS

3.1 SEXUAL HARASSMENT

Sexual harassment is a form of sex discrimination and 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 includes unwelcome conduct which is 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, even if the reporting individual is not the intended target of the sexual harassment;
- 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 affecting an individual's employment.

A sexually harassing hostile work environment includes, but is 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. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory statements or sexually discriminatory remarks made by someone

which are offensive or objectionable to the recipient, which cause the recipient discomfort or humiliation, which interfere with the recipient'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 who feels harassed should report so that any violation of this policy can be corrected promptly. Any harassing conduct, even a single incident, can be addressed under 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:

- Physical acts of a sexual nature, such as:
 - Touching, pinching, patting, kissing, hugging, grabbing, brushing against another employee's body or poking another employees' body;
 - Rape, sexual battery, molestation or attempts to commit these assaults.
- Unwanted sexual advances or propositions, such as:
 - Requests for sexual favors accompanied by implied or overt threats concerning the victim's job performance evaluation, a promotion or other job benefits or detriments;
 - Subtle or obvious pressure for unwelcome sexual activities.
- Sexually oriented gestures, noises, remarks, jokes or comments about a person's sexuality or sexual experience, which create a hostile work environment.
- Sex stereotyping occurs when conduct or personality traits are considered inappropriate simply because they may not conform to others people's ideas or perceptions about how individuals of a particular sex should act or look.
- 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.
- Hostile actions taken against an individual because of that individual's sex, sexual orientation, gender identity and the status of being transgender, such as:
 - Interfering with, destroying or damaging a person's workstations, tools or equipment, or otherwise interfering with the individual's ability to perform the job;
 - Sabotaging an individual's work;
 - Bullying, yelling, name-calling.

3.2 RETALIATION

Unlawful retaliation can be any action that would keep a worker from coming forward to make or support a sexual harassment claim. Adverse action need not be job-related or occur in the workplace to constitute unlawful retaliation.

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:

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

4.0 APPLICABILITY

Sexual harassment can occur between any individual, regardless of their sex or gender. New York Law protects employees, paid or unpaid interns, and non-employees, including independent contractors, and those employed by companies contracting to provide services in the workplace. A perpetrator of sexual harassment can be a superior, a subordinate, a coworker or anyone in the workplace including an independent contractor, contract worker, vendor, client, customer or visitor.

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

5.0 REPORTING SEXUAL HARASSMENT

Preventing sexual harassment is everyone’s responsibility. The Authority cannot prevent or remedy sexual harassment unless it knows about it. Any employee, paid or unpaid intern or non-employee who has been subjected to behavior that may constitute sexual harassment is encouraged to report such behavior to a direct supervisor, Division Director, Human Resources or Executive Director. Anyone who witnesses or becomes aware of potential instances of sexual harassment shall report such behavior to a direct supervisor, Division Director, Human Resources or Executive Director.

Reports of sexual harassment may be made verbally or in writing. A form for submission of a written complaint is attached to this Policy, and all employees are encouraged to use this complaint form. Employees who are reporting sexual harassment on behalf of other employees should use the complaint form and note that it is on another employee’s behalf.

6.0 PROCEDURE

6.1 Supervisory Responsibilities

- All supervisors and Division Directors who receive a complaint or information about suspected sexual harassment, observe what may be sexually harassing behavior or for any reason suspect that sexual harassment is occurring, **are required** to report such suspected sexual harassment to the Executive Director. The Executive Director will report such complaint to Human Resources within one business day.
- In addition to being subject to discipline if they engaged in sexually harassing conduct themselves, supervisors and managers will be subject to discipline for failing to report suspected sexual harassment or otherwise knowingly allowing sexual harassment to continue.
- Supervisors and Division Directors will also be subject to discipline for engaging in any retaliation.

6.2 Complaint and Investigation of Sexual Harassment

- *All* complaints or information about suspected sexual harassment will be investigated, whether that information was reported in verbal or written form. Investigations will be conducted in a timely manner, and will be confidential to the extent possible.
- An investigation of any complaint, information or knowledge of suspected sexual harassment will be prompt and thorough, and should be completed as soon as possible. The investigation will be confidential to the extent possible. All persons involved, including complainants, witnesses and alleged perpetrators will be accorded due process to protect their rights to a fair and impartial investigation.
- Any employee may be required to cooperate as needed in an investigation of suspected sexual harassment. Employees who participate in any investigation will not be retaliated against.

6.3 While the process may vary from case to case, investigations shall be done in accordance with the following steps:

- Upon receipt of complaint, the Director of Human Resources will instruct human resources staff to conduct an immediate review of the allegations. The Director of Human Resources will speak with the employee and the alleged harasser and will coordinate with the Executive Director to take any interim actions, as appropriate. If complaint is verbal, encourage the individual to complete the "Complaint Form" in writing. If he or she refuses, prepare a Complaint Form based on the verbal reporting.
- In the event the complaint involves the Executive Director, the Director of Human Resources will contact the Authority General Counsel and the General Counsel shall conduct the investigation and report to the Governance Committee.

- In the event the complaint involves the Director of Human Resources, the Executive Director will contact the Authority General Counsel and the General Counsel shall conduct the investigation and report to the Executive Director.
- If documents, emails or phone records are relevant to the investigation, take steps to obtain and preserve them.
- Request and review all relevant documents, including all electronic communications.
- Interview all parties involved, including any relevant witnesses.
- Create a written documentation of the investigation (such as a letter, memo or email), which contains the following:
 - A list of all documents reviewed, along with a detailed summary of relevant documents;
 - A list of names of those interviewed, along with a detailed summary of their statements;
 - A timeline of events;
 - A summary of prior relevant incidents, reported or unreported; and
 - The basis for the decision and final resolution of the complaint; together with any corrective action(s).
- Keep the written documentation and associated documents in a secure and confidential location.
- Promptly notify the individual who reported and the individual(s) about whom the complaint was made of the final determination and implement any corrective actions identified in the written document.
- Inform the individual who reported of their right to file a complaint or charge externally as outlined below.

7.0 RESOURCES: LEGAL PROTECTIONS AND EXTERNAL REMEDIES

Sexual harassment is not only prohibited by the Development Authority of the North Country but is also prohibited by state, federal, and, where applicable, local law.

Aside from the internal process at the Development Authority of the North Country, employees may also choose to pursue legal remedies with the following governmental entities **at any time**.

7.1 New York State Division of Human Rights (DHR)

A complaint alleging violation of the Human Rights law may be filed either with Division of Human Rights or in New York State Supreme Court.

Complaints with DHR may be filed any time **within one year** of the harassment. If an individual did not file at DHR, they can sue directly in state court under the HRL, **within three years** of the alleged sexual harassment. An individual may not file with Division of Human Rights if they have already filed a HRL complaint in state court.

Complaining internally to Development Authority of the North Country does not extend your time to file with DHR or in court. The one-year or three years is counted from date of the most recent incident of harassment.

Contact DHR by calling **(888) 392-3644**, or visit their website at **www.dhr.ny.gov** for more information.

7.2 United States Equal Employment Opportunity Commissions (EEOC)
An individual can file a complaint with the EEOC anytime within 300 days from the harassment.

Contact the EEOC by calling **1-800-669-4000**, visiting their website at **www.eeoc.gov** or via email at **info@eeoc.gov**

7.3 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.

7.4 Contact the Local Police Department

If the harassment involves physical touching, coerced physical confinement or coerced sex acts, the conduct may constitute a crime. Contact the local police department.

REPORTING SEXUAL HARASSMENT

Complaint Form

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

If you believe that you have been subject to sexual harassment, you are encouraged to complete this form and submit it to your immediate supervisor, Division Director, Human Resources, or Executive Director. Once you submit this form, your employer must follow its sexual harassment prevention policy and investigate any claims.

If you are more comfortable reporting verbally or in another manner, your employer is still required to 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

COMPLAINANT INFORMATION

Name: _____

Home Address: _____

Work Address: _____

Phone: _____

Work Phone: _____

Job Title: _____

Email: _____

Preferred Method of Communication: Phone Email Mail

SUPERVISORY INFORMATION

Immediate Supervisor's Name: _____

Title: _____

Work Phone: _____

Work Address: _____

COMPLAINT INFORMATION

1 Your complaint of Sexual Harassment is made against:

Name: _____

Title: _____

Work Address: _____

Work Phone: _____

Relationship to you: Supervisor Subordinate Co-Worker Other

2 Please describe the conduct or incident(s) that is the basis of this complaint and your reasons for concluding that the conduct is sexual harassment. Please use additional sheets of paper if necessary and attach any relevant documents or evidence.

COMPLAINT INFORMATION cont.

3 Date(s) sexual harassment occurred: _____

Is the sexual harrassment continuing: Yes No

4 Please list the name and contact information of any witnesses or individuals that may have information related to your complaint:

The last question is optional, but may help facilitate the investigation.

5 Have you previously complained or provided information (verbal or written) about sexual harassment at the Development Authority of the North Country? If yes, when and to whom did you complain or provide information?

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

I request the Development Authority of the North Country investigate this complaint of sexual harassment in a timely and confidential manner, and advise me of the results of the investigation.

Signature: _____

Date: _____