



## U.S. Equal Employment Opportunity Commission

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### Sexual Harassment

It is unlawful to harass a person (an applicant or employee) because of that person's sex. Harassment can include "sexual harassment" or unwelcome sexual advances, requests for sexual favors, and other verbal or physical harassment of a sexual nature.

Harassment does not have to be of a sexual nature, however, and can include offensive remarks about a person's sex. For example, it is illegal to harass a woman by making offensive comments about women in general.

Both victim and the harasser can be either a woman or a man, and the victim and harasser can be the same sex.

Although the law doesn't prohibit simple teasing, offhand comments, or isolated incidents that are not very serious, harassment is illegal when it is so frequent or severe that it creates a hostile or offensive work environment or when it results in an adverse employment decision (such as the victim being fired or demoted).

The harasser can be the victim's supervisor, a supervisor in another area, a co-worker, or someone who is not an employee of the employer, such as a client or customer.

#### Employer Coverage

15 or more employees

#### Time Limits

180 days to [file a charge](#)  
(may be extended by state laws)

Federal employees have 45 days to [contact an EEO Counselor](#)

For more information, see:

- ▶ [Facts About Sexual Harassment](#)
- ▶ [Title VII of the Civil Rights Act of 1964](#)
- ▶ [Regulations: 29 C.F.R. Part 1604.11](#)
- ▶ [Policy & Guidance](#)
- ▶ [Statistics](#)

# Sexual Harassment Policy for All Employers in New York State



## Combating Sexual Harassment

### Introduction

[Employer Name] is committed to maintaining a workplace free from sexual harassment. Sexual harassment is a form of workplace discrimination. [Employer Name] 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 [Employer Name'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 [Employer Name], or with a government agency or in court under federal, state or local antidiscrimination laws.

### Policy:

1. [Employer Name] Policy applies to all employees, applicants for employment, interns, whether paid or unpaid, contractors and persons conducting business with [Employer Name].
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.
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 an incident of sexual harassment, provides information, or otherwise assists in any investigation of a sexual harassment complaint. [Employer Name] has a zero-tolerance policy for such retaliation against anyone who, in good faith complains or provides information about suspected sexual harassment. Any employee of [Employer Name] 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<sup>1</sup> working in the workplace who believes they have been subject to such retaliation should inform a supervisor, manager, or [name of appropriate person]. Any employee, paid or unpaid intern or non-employee who believes they have been a victim of such retaliation may also seek compensation in other available forums, as explained below in the section on Legal Protections.
4. Sexual harassment is offensive, is a violation of our policies, is unlawful, and subjects [Employer Name] to liability for harm to victims of sexual harassment. Harassers may also be

<sup>1</sup> A non-employee is someone who is (or is employed by) a contractor, subcontractor, vendor, consultant, or anyone providing services in the workplace. Protected non-employees include persons commonly referred to as independent contractors, "gig" workers and temporary workers. Also included are persons providing equipment repair, cleaning services or any other services provided pursuant to a contract with the employer.

Adoption of this policy does not constitute a conclusive defense to charges of unlawful sexual harassment. Each claim of sexual harassment will be determined in accordance with existing legal standards, with due consideration of the particular facts and circumstances of the claim, including but not limited to the existence of an effective anti-harassment policy and procedure.

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.

5. [Employer Name] 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.
6. All employees are encouraged to report any harassment or behaviors that violate this policy. [Employer Name] will provide all employees a complaint form for employees to report harassment and file complaints.
7. Managers and supervisors are **required** to report any complaint that they receive, or any harassment that they observe to [person or office designated].
8. This policy applies to all employees, paid or unpaid interns, and non-employees and all must follow and uphold this policy. This policy must be posted prominently in all work locations and be provided to employees upon hiring.

### **What Is "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, 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 complaining 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 consists of 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 complain 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 assaults of a sexual nature, such as:
  - Touching, pinching, patting, 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.
- 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 workstation, tools or equipment, or otherwise interfering with the individual's ability to perform the job;
  - Sabotaging an individual's work;
  - Bullying, yelling, name-calling.

### **Who can be a target of sexual harassment?**

Sexual harassment can occur between any individuals, 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.

## **Where can sexual harassment occur?**

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.

## **What is “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;
- complained that another employee has been sexually harassed; or
- encouraged a fellow employee to report harassment.

## **Reporting Sexual Harassment**

**Preventing sexual harassment is everyone’s responsibility.** [Employer Name] 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 supervisor, manager or [person or office designated]. Anyone who witnesses or becomes aware of potential instances of sexual harassment should report such behavior to a supervisor, manager or [person or office designated].

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.

Employees, paid or unpaid interns or non-employees who believe they have been a victim of sexual harassment may also seek assistance in other available forums, as explained below in the section on Legal Protections.

### **Supervisory Responsibilities**

All supervisors and managers 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 *[person or office designated]*.

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 managers will also be subject to discipline for engaging in any retaliation.

### **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 within 30 days. 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.

Investigations will be done in accordance with the following steps:

- Upon receipt of complaint, *[person or office designated]* will conduct an immediate review of the allegations, and take any interim actions, as appropriate. If complaint is oral, encourage the individual to complete the "Complaint Form" in writing. If he or she refuses, prepare a Complaint Form based on the oral reporting.
- If documents, emails or phone records are relevant to the allegations, 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 final resolution of the complaint, together with any corrective actions action(s).
- Keep the written documentation and associated documents in the employer's records.
- Promptly notify the individual who complained and the individual(s) who responded of the final determination and implement any corrective actions identified in the written document.
- Inform the individual who complained of their right to file a complaint or charge externally as outlined below.

### **Legal Protections And External Remedies**

Sexual harassment is not only prohibited by [Employer Name] but is also prohibited by state, federal, and, where applicable, local law.

Aside from the internal process at [Employer Name], employees may also choose to pursue legal remedies with the following governmental entities **at any time**.

#### **New York State Division of Human Rights (DHR)**

The Human Rights Law (HRL), codified as N.Y. Executive Law, art. 15, § 290 et seq., applies to employers in New York State with regard to sexual harassment, and protects employees, paid or unpaid interns and non-employees regardless of immigration status. A complaint alleging violation of the Human Rights Law may be filed either with DHR 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 discrimination. An individual may not file with DHR if they have already filed a HRL complaint in state court.

Complaining internally to [Employer Name] 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.

You do not need an attorney to file a complaint with DHR, and there is no cost to file with DHR.

DHR will investigate your complaint and determine whether there is probable cause to believe that discrimination has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If discrimination is found after a hearing, DHR has the power to award relief, which varies but may include requiring your employer to take action to stop the harassment, or redress the damage caused, including paying monetary damages, attorney's fees and civil fines.

*Adoption of this policy does not constitute a conclusive defense to charges of unlawful sexual harassment. Each claim of sexual harassment will be determined in accordance with existing legal standards, with due consideration of the particular facts and circumstances of the claim, including but not limited to the existence of an effective anti-harassment policy and procedure.*



DHR's main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, New York 10458, (718) 741-8400 [appropriate other contact info], [www.dhr.ny.gov](http://www.dhr.ny.gov)

Contact DHR at (888) 392-3644 or visit [dhr.ny.gov/complaint](http://dhr.ny.gov/complaint) for more information about filing a complaint. The website has a complaint form that can be downloaded, filled out, notarized and mailed to DHR. The website also contains contact information for DHR's regional offices across New York State.

### **United States Equal Employment Opportunity Commission (EEOC)**

The EEOC enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act (codified as 42 U.S.C. § 2000e et seq.). An individual can file a complaint with the EEOC anytime within 300 days from the harassment. There is no cost to file a complaint with the EEOC. The EEOC will investigate the complaint, and determine whether there is reasonable cause to believe that discrimination has occurred, at which point the EEOC will issue a Right to Sue letter permitting the individual to file a complaint in federal court.

The EEOC does not hold hearings or award relief, but may take other action including pursuing cases in federal court on behalf of complaining parties. Federal courts may award remedies if discrimination is found to have occurred.

If an employee believes that he/she has been discriminated against at work, he/she can file a "Charge of Discrimination." The EEOC has district, area, and field offices where complaints can be filed. Contact the EEOC by calling 1-800-669-4000 (1-800-669-6820 (TTY)), visiting their website at [www.eeoc.gov](http://www.eeoc.gov) or via email at [info@eeoc.gov](mailto:info@eeoc.gov)

If an individual filed an administrative complaint with DHR, DHR will file the complaint with the EEOC to preserve the right to proceed in federal court.

### **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. For example, employees who work in New York City may file complaints of sexual harassment with the New York City Commission on Human Rights. Contact their main office at Law Enforcement Bureau of the NYC Commission on Human Rights, 40 Rector Street, 10th Floor, New York, New York; call 311 or (212) 306-7450; or visit [www.nyc.gov/html/cchr/html/home/home.shtml](http://www.nyc.gov/html/cchr/html/home/home.shtml)

### **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.



# Minimum Standards For Sexual Harassment Prevention Policies



## Combating Sexual Harassment

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. An employer that does not adopt the model policy must ensure that the policy that they adopt meets or exceeds the following minimum standards. The policy must:

- i) prohibit sexual harassment consistent with guidance issued by the Department of Labor in consultation with the Division of Human Rights;
- ii) provide examples of prohibited conduct that would constitute unlawful sexual harassment;
- iii) include information concerning the federal and state statutory provisions concerning sexual harassment, remedies available to victims of sexual harassment, and a statement that there may be applicable local laws;
- iv) include a complaint form;
- v) include a procedure for the timely and confidential investigation of complaints that ensures due process for all parties;
- vi) inform employees of their rights of redress and all available forums for adjudicating sexual harassment complaints administratively and judicially;
- vii) clearly state that sexual harassment is considered a form of employee misconduct and that sanctions will be enforced against individuals engaging in sexual harassment and against supervisory and managerial personnel who knowingly allow such behavior to continue; and
- viii) clearly state that retaliation against individuals who complain of sexual harassment or who testify or assist in any investigation or proceeding involving sexual harassment is unlawful.

Employers must provide each employee with a copy of its policy in writing. Employers should provide employees with the policy in the language that is spoken by their employees.

\* \* \*

*The adoption of a policy does not constitute a conclusive defense to charges of unlawful sexual harassment. Each claim of sexual harassment will be determined in accordance with existing legal standards, with due consideration of the particular facts and circumstances of the claim, including but not limited to the existence of an effective anti-harassment policy and procedure.*

- [Home \(http://www.labor.ny.gov\)](http://www.labor.ny.gov)
- [Legal \(legal/index.shtm\)](http://www.labor.ny.gov/legal/index.shtm)
- Anti-Discrimination/Harassment Guidance

### **Anti-Discrimination/Harassment Guidance**

Governor Andrew M. Cuomo signed legislation on October 21, 2015 (Laws of 2015, chapter 362) designed to prevent discrimination and harassment in the workplace. In accordance with that law, the guidance documents listed below are published on the websites of the New York State Department of Labor (DOL) and the New York State Division of Human Rights (DHR). They are part of a training initiative for New York State employers.

The legislation directed DOL and DHR to make training available to employers to help them develop policies, procedures, and their own training to address and eliminate discrimination and harassment in the workplace. The topics to be addressed include, but are not limited to, issues relating to pregnancy, familial status, pay equity and sexual harassment.

### **Guidance Documents for Employers in New York State:**

1. [Sexual Harassment \(http://dhr.ny.gov/sites/default/files/pdf/guidance-sexual-harassment-employers.pdf\)](http://dhr.ny.gov/sites/default/files/pdf/guidance-sexual-harassment-employers.pdf) (PDF)
2. [Pay Equity \(/formsdocs/factsheets/pdfs/p828.pdf\)](http://dhr.ny.gov/sites/default/files/pdf/p828.pdf) (PDF)
3. [Pregnancy Discrimination and Reasonable Accommodation of Pregnancy-Related Conditions \(http://dhr.ny.gov/sites/default/files/pdf/guidance-pregnancy-discrimination-employers.pdf\)](http://dhr.ny.gov/sites/default/files/pdf/guidance-pregnancy-discrimination-employers.pdf) (PDF)
4. [Familial Status Discrimination \(http://dhr.ny.gov/sites/default/files/pdf/guidance-familial-status-employers.pdf\)](http://dhr.ny.gov/sites/default/files/pdf/guidance-familial-status-employers.pdf) (PDF)
5. [Award of Attorney's Fees in Certain Cases Brought Under the Human Rights Law \(http://dhr.ny.gov/sites/default/files/pdf/guidance-attorneys-fees-nyshrl.pdf\)](http://dhr.ny.gov/sites/default/files/pdf/guidance-attorneys-fees-nyshrl.pdf) (PDF)

[The Laws Of New York \(/LEGISLATION/LAWS/ALL\) / Consolidated Laws \(/LEGISLATION/LAWS/CONSOLIDATED\) / Labor \(/LEGISLATION/LAWS/LAB\) / Article 7: General Provisions \(/LEGISLATION/LAWS/LAB/A7\) /](#)

[PREV](#)

[SECTION 201-F](#)

[Posting Regulations On Employment Of Persons  
Previously Convicted Of One Or More Crimes  
\(/Legislation/Laws/LAB/201-F/\)](#)

[NEXT](#)

[SECTION 202](#)

[Protection Of The Public And Of Persons  
Engaged At Window Cleaning And Cleaning Of  
Exterior Surfaces Of Buildings  
\(/Legislation/Laws/LAB/202/\)](#)

## Section 201-G

Prevention of sexual harassment

Labor (LAB)

SHARE



1. The department shall consult with the division of human rights to create and publish a model sexual harassment prevention guidance document and sexual harassment prevention policy that employers may utilize in their adoption of a sexual harassment prevention policy required by this section.

a. Such model sexual harassment prevention policy shall: (i) prohibit sexual harassment consistent with guidance issued by the department in consultation with the division of human rights and provide examples of prohibited conduct that would constitute unlawful sexual harassment; (ii) include but not be limited to information concerning the federal and state

statutory provisions concerning sexual harassment and remedies available to victims of sexual harassment and a statement that there may be applicable local laws; (iii) include a standard complaint form; (iv) include a procedure for the timely and confidential investigation of complaints and ensure due process for all parties; (v) inform employees of their rights of redress and all available forums for adjudicating sexual harassment complaints administratively and judicially; (vi) clearly state that sexual harassment is considered a form of employee misconduct and that sanctions will be enforced against individuals engaging in sexual harassment and against supervisory and managerial personnel who knowingly allow such behavior to continue; and (vii) clearly state that retaliation against individuals who complain of sexual harassment or who testify or assist in any proceeding under the law is unlawful.

b. Every employer shall adopt the model sexual harassment prevention policy promulgated pursuant to this subdivision or establish a sexual harassment prevention policy to prevent sexual harassment that equals or exceeds the minimum standards provided by such model sexual harassment prevention policy. Such sexual harassment prevention policy shall be provided to all employees in writing. Such model sexual harassment prevention policy shall be publicly available and posted on the websites of both the department and the division of human rights.

2. The department shall consult with the division of human rights and produce a model sexual harassment prevention training program to prevent sexual harassment in the

workplace.

a. Such model sexual harassment prevention training program shall be interactive and include: (i) an explanation of sexual harassment consistent with guidance issued by the department in consultation with the division of human rights; (ii) examples of conduct that would constitute unlawful sexual harassment; (iii) information concerning the federal and state statutory provisions concerning sexual harassment and remedies available to victims of sexual harassment; and (iv) information concerning employees' rights of redress and all available forums for adjudicating complaints.

b. The department shall include information in such model sexual harassment prevention training program addressing conduct by supervisors and any additional responsibilities for such supervisors.

c. Every employer shall utilize the model sexual harassment prevention training program pursuant to this subdivision or establish a training program for employees to prevent sexual harassment that equals or exceeds the minimum standards provided by such model training. Such sexual harassment prevention training shall be provided to all employees on an annual basis.

3. The commissioner may promulgate regulations as he or she deems necessary for the purposes of carrying out the provisions of this section.

**LOCAL LAWS  
OF  
THE CITY OF NEW YORK  
FOR THE YEAR 2018**

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**No. 96**

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Introduced by Council Members Cumbo, The Public Advocate (Ms. James), Rose, Rosenthal, Chin, Gibson, Powers, Constantinides, Lander, Ayala, Miller, Adams, Rivera and Koslowitz.

**A LOCAL LAW**

**To amend the administrative code of the city of New York, in relation to mandating anti-sexual harassment training for private employers**

*Be it enacted by the Council as follows:*

Section 1. Section 8-107 of the administrative code of the city of New York is amended by adding a new subdivision 30 to read as follows:

*30. Anti-sexual harassment training. (a) Definitions. For purposes of this subdivision, the following terms have the following meanings:*

*Interactive training. The term "interactive training" means participatory teaching whereby the trainee is engaged in a trainer-trainee interaction, use of audio-visuals, computer or online training program or other participatory forms of training as determined by the commission. However, such "interactive training" is not required to be live or facilitated by an in-person instructor in order to satisfy the provisions of this subdivision.*

*(b) Training. Employers with 15 or more employees shall annually conduct an anti-sexual harassment interactive training for all employees, including supervisory and managerial employees, of such employer employed within the city of New York. Such training shall be required after 90 days of initial hire for employees who work more than 80 hours in a calendar year who*

*perform work on a full-time or part-time basis. Such training shall include, but need not be limited to, the following:*

*(1) An explanation of sexual harassment as a form of unlawful discrimination under local law;*  
*(2) A statement that sexual harassment is also a form of unlawful discrimination under state and federal law;*

*(3) A description of what sexual harassment is, using examples;*  
*(4) Any internal complaint process available to employees through their employer to address sexual harassment claims;*

*(5) The complaint process available through the commission, the division of human rights and the United States equal employment opportunity commission, including contact information;*

*(6) The prohibition of retaliation, pursuant to subdivision 7 of section 8-107, and examples thereof; and*

*(7) Information concerning bystander intervention, including but not limited to any resources that explain how to engage in bystander intervention.*

*(8) The specific responsibilities of supervisory and managerial employees in the prevention of sexual harassment and retaliation, and measures that such employees may take to appropriately address sexual harassment complaints.*

*(c) Compliance. (1) Employers shall keep a record of all trainings, including a signed employee acknowledgement. Such acknowledgment may be electronic.*



*(2) Employers shall maintain such records for at least three years and such records must be made available for commission inspection upon request.*

*(3) The commission shall develop an online interactive training module that may be used by an employer as an option to satisfy the requirements of paragraph (b) of this subdivision, provided that an employer shall inform all employees of any internal complaint process available to employees through their employer to address sexual harassment claims. Such training module shall be made publicly available at no cost on the commission's website. Such training module shall allow for the electronic provision of certification each time any such module is accessed and completed. The commission shall update such modules as needed.*

*(4) The training required by this subdivision is intended to establish a minimum threshold and shall not be construed to prohibit any private employer from providing more frequent or additional anti-sexual harassment training.*

*(d) For purposes of this subdivision the term "employer" shall not apply to (i) the United States government; (ii) the state of New York, including any office, department, independent agency, authority, institution, association, society or other body of the state including the legislature and the judiciary; or (iii) the city of New York or any local government, municipality or county or any entity governed by section 92 of the general municipal law or section 207 of the county law.*

*(e) For purposes of this subdivision the term "employee" shall apply to interns.*

*(f) An employee who has received anti-sexual harassment training at one employer within the required training cycle shall not be required to receive additional anti-sexual harassment training at another employer until the next cycle.*

*(g) An employer that is subject to training requirements in multiple jurisdictions may assert that it is compliant with this subdivision provided that each provision in subparagraph b of this subdivision is fulfilled in an anti-sexual harassment training that such employer makes available to its employees on an annual basis and shall be allowed to provide proof of compliance.*

§ 2. This local law takes effect April 1, 2019. THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK,  
s.s.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on April 11, 2018 and approved by the Mayor on May 9, 2018.

MICHAEL M. McSWEENEY, City Clerk, Clerk of the Council.

CERTIFICATION OF CORPORATION COUNSEL

I hereby certify that the form of the enclosed local law (Local Law No. 96 of 2018, Council Int. No. 632-A of 2018) to be filed with the Secretary of State contains the correct text of the local law passed by the New York City Council and approved by the Mayor.

STEPHEN LOUIS, Acting Corporation Counsel.

# STOP SEXUAL HARASSMENT ACT NOTICE

All employers are required to provide written notice of employees' rights under the Human Rights Law both in the form of a displayed poster **and** as an information sheet distributed to individual employees at the time of hire. This document satisfies the poster requirement.

## The NYC Human Rights Law

The NYC Human Rights Law, one of the strongest anti-discrimination laws in the nation, protects all individuals against discrimination based on gender, which includes sexual harassment in the workplace, in housing, and in public accommodations like stores and restaurants. Violators can be held accountable with civil penalties of up to \$250,000 in the case of a willful violation. The Commission can also assess emotional distress damages and other remedies to the victim, require the violator to undergo training, and mandate other remedies such as community service.

## Sexual Harassment Under the Law

Sexual harassment, a form of gender-based discrimination, is unwelcome verbal or physical behavior based on a person's gender.

## Some Examples of Sexual Harassment

- unwelcome or inappropriate touching of employees or customers
- threatening or engaging in adverse action after someone refuses a sexual advance
- making lewd or sexual comments about an individual's appearance, body, or style of dress
- conditioning promotions or other opportunities on sexual favors
- displaying pornographic images, cartoons, or graffiti on computers, emails, cell phones, bulletin boards, etc.
- making sexist remarks or derogatory comments based on gender

## Retaliation Is Prohibited Under the Law

It is a violation of the law for an employer to take action against you because you oppose or speak out against sexual harassment in the workplace. The NYC Human Rights Law prohibits employers from retaliating or discriminating "in any manner against any person" because that person opposed an unlawful discriminatory practice. Retaliation can manifest through direct actions, such as demotions or terminations, or more subtle behavior, such as an increased work load or being transferred to a less desirable location. The NYC Human Rights Law protects individuals against retaliation who have a good faith belief that their employer's conduct is illegal, even if it turns out that they were mistaken.

## Report Sexual Harassment

If you have witnessed or experienced sexual harassment inform a manager, the equal employment opportunity officer at your workplace, or human resources as soon as possible.

**Report sexual harassment to the NYC Commission on Human Rights. Call 718-722-3131 or visit [NYC.gov/HumanRights](http://NYC.gov/HumanRights) to learn how to file a complaint or report discrimination. You can file a complaint anonymously.**

## State and Federal Government Resources

Sexual harassment is also unlawful under state and federal law where statutes of limitations vary.

To file a complaint with the New York State Division of Human Rights, please visit the Division's website at [www.dhr.ny.gov](http://www.dhr.ny.gov).

To file a charge with the U.S. Equal Employment Opportunity Commission (EEOC), please visit the EEOC's website at [www.eeoc.gov](http://www.eeoc.gov).



# STOP SEXUAL HARASSMENT ACT FACTSHEET

All employers are required to provide written notice of employees' rights under the Human Rights Law both in the form of a displayed poster **and** as an information sheet distributed to individual employees at the time of hire. This document satisfies the information sheet requirement.

## The NYC Human Rights Law

The NYC Human Rights Law, one of the strongest anti-discrimination laws in the nation, protects all individuals against discrimination based on gender, which includes sexual harassment in the workplace, in housing, and in public accommodations like stores and restaurants. Violators can be held accountable with civil penalties of up to \$250,000 in the case of a willful violation. The Commission can also assess emotional distress damages and other remedies to the victim, can require the violator to undergo training, and can mandate other remedies such as community service.

## Sexual Harassment Under the Law

Sexual harassment, a form of gender-based discrimination, is unwelcome verbal or physical behavior based on a person's gender.

## Some Examples of Sexual Harassment

- unwelcome or inappropriate touching of employees or customers
- threatening or engaging in adverse action after someone refuses a sexual advance
- making lewd or sexual comments about an individual's appearance, body, or style of dress
- conditioning promotions or other opportunities on sexual favors
- displaying pornographic images, cartoons, or graffiti on computers, emails, cell phones, bulletin boards, etc.
- making sexist remarks or derogatory comments based on gender

## Retaliation Is Prohibited Under the Law

It is a violation of the law for an employer to take action against you because you oppose or speak

out against sexual harassment in the workplace. The NYC Human Rights Law prohibits employers from retaliating or discriminating "in any manner against any person" because that person opposed an unlawful discriminatory practice. Retaliation can manifest through direct actions, such as demotions or terminations, or more subtle behavior, such as an increased work load or being transferred to a less desirable location. The NYC Human Rights Law protects individuals against retaliation who have a good faith belief that their employer's conduct is illegal, even if it turns out that they were mistaken.

## Report Sexual Harassment

If you have witnessed or experienced sexual harassment inform a manager, the equal employment opportunity officer at your workplace, or human resources as soon as possible.

**Report sexual harassment to the NYC Commission on Human Rights. Call 718-722-3131 or visit [NYC.gov/HumanRights](http://NYC.gov/HumanRights) to learn how to file a complaint or report discrimination. You can file a complaint anonymously.**

## State and Federal Government Resources

Sexual harassment is also unlawful under state and federal law where statutes of limitations vary.

To file a complaint with the New York State Division of Human Rights, please visit the Division's website at [www.dhr.ny.gov](http://www.dhr.ny.gov).

To file a charge with the U.S. Equal Employment Opportunity Commission (EEOC), please visit the EEOC's website at [www.eeoc.gov](http://www.eeoc.gov).

## **New York State: Effective NOW**

- New York State Human Rights Law expanded to provide protections against sexual harassment to employees and non-employees
- Expanded statute of limitations to 3 years
- Prohibition on NDAs in sexual harassment settlements unless it is the employee's request and must provide for 21-day review and 7-day revocation periods.
- Prohibition on arbitration provisions for sexual harassment claims (unclear whether this will withstand recent Supreme Court ruling and Federal Arbitration Act)



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# **Mandatory Anti-Sexual Harassment Training In The City and In The State**

**New York State:** Mandatory sexual harassment policy and training requirements take effect October 9, 2018.

- Applicable to all business with at least one employee.

**New York City:** Stop Sexual Harassment in NYC Act effective April 1, 2019

- Mandatory training requirements for employers with at least fifteen employees in New York City take effect April 1, 2019.



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# NEW YORK STATE SEXUAL HARASSMENT POLICY REQUIREMENTS

All employers in New York State are required to have a sexual harassment policy that at a minimum:

- Prohibits sexual harassment;
- Provides examples of prohibited conduct that would constitute unlawful sexual harassment;
- Includes information concerning the federal and state statutory provisions concerning sexual harassment, remedies available to victims of sexual harassment, and a statement that there may be applicable local laws;
- Includes a complaint form;
- Includes a procedure for the timely and confidential investigation of complaints that ensures due process for all parties;
- Informs employees of their rights of redress and all available forums for adjudicating sexual harassment complaints administratively and judicially;
- Clearly states that sexual harassment is considered a form of employee misconduct and that sanctions will be enforced against individuals engaging in sexual harassment and against supervisory and managerial personnel who knowingly allow such behavior to continue; and
- Clearly states that retaliation against individuals who complain of sexual harassment or who testify or assist in any investigation or proceeding involving sexual harassment is unlawful.



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# NEW YORK STATE ANTI-HARASSMENT TRAINING REQUIREMENTS

- Annual training for all employees; new hires must be trained within thirty days. ***All current employees must complete training by January 1, 2019.***
- Training must be interactive
  - Must include some level of participation by those being trained and should include as many of the following elements as possible: be web-based, with questions asked of employees; accommodate questions asked by employees; include a live trainer who can participate in a Q&A session; and require feedback from employees.
- Training content must include:
  - An explanation of sexual harassment consistent with guidance issued by the NYS Department of Labor;
  - Examples of conduct that would constitute unlawful sexual harassment;
  - Information concerning the federal and state statutory provisions concerning sexual harassment and remedies available to victims of sexual harassment;
  - Information concerning employees' rights of redress and all available forums for adjudicating complaints; and
  - Information addressing conduct by supervisors and any additional responsibilities of such supervisors.



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## **New York City: Effective NOW**

- New York City Human Rights Law which governs sexual harassment in the work place will now apply to all employers regardless of size.
- Statute of Limitations for sexual Harassment extended to 3 years.
- All employers must consciously post an anti sexual harassment poster and circulate a fact sheet (see materials).



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# NEW YORK CITY ANTI-HARASSMENT TRAINING REQUIREMENTS

## Effective April 1, 2019

- Required of employers with at least *fifteen employees in New York City*
- Annual training for all employees; *new hires must be trained within ninety days*
- Training must be interactive
  - participatory teaching whereby the trainee is engaged in a trainer-trainee interaction, use of audio-visuals, computer or online training program or other participatory forms of training.
- Training content must include
  - An explanation of sexual harassment as a form of unlawful discrimination *under New York City Human Rights Law* and a statement that sexual harassment is a form of unlawful discrimination under state and federal law;
  - A description of what sexual harassment is, using examples;
  - Information concerning any internal complaint process and the complaint process available through the New York City Commission on Human Rights, the New York State Division of Human Rights and the United States Equal Employment Opportunity Commission, including contact information;
  - *Information concerning the prohibition of retaliation under the NYCHRL and examples of protected activity under the law;*
  - *Information concerning bystander intervention; and*
  - The specific responsibilities of supervisory and managerial employees and measures that such employees may take to address complaints.



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# CODE OF CONDUCT ON SEXUAL HARASSMENT

2018

## CODE OF CONDUCT

Employers have a legal and contractual obligation to maintain a workplace free from sexual harassment. SAG-AFTRA is committed to holding employers accountable for meeting this obligation. We are prepared to work cooperatively with employers towards the achievement of this goal, but are also willing to use the union's enforcement powers to protect our members, including directing them not to work for employers who will not keep them safe.

This SAG-AFTRA Code of Conduct on Sexual Harassment ("Code of Conduct") marks our rededication to upholding professional standards and addressing the toxic and often unlawful workplace culture that many of our members face on a daily basis. We expect our members to live up to these standards, including in their dealings with other members and employees.

As a union that draws its strength from collective action, we also expect our members to uphold our collective responsibility, stop harassing conduct whenever possible, support those who speak up, and report the offensive conduct whenever possible. STOP. SUPPORT. REPORT.

This Code of Conduct is firmly grounded in established laws, contractual provisions, and policies that are articulated below. To ensure that this Code of Conduct provides practical guidance, we will be supplementing it with additional, scenario-specific guidance that outlines best practices and offers practical advice for members on how to avoid and/or address sexual harassment in the workplace and related environments.

### 1. UNDERSTANDING SEXUAL HARASSMENT: DEFINITIONS

Sexual Harassment is conduct of a sexual nature that unreasonably interferes with an individual's work by creating a pervasive sexually hostile or offensive work environment. It also occurs when a person's submission to or rejection of sexually offensive and unwelcome conduct is used as the basis for an employment decision.

Sexual Harassment takes many forms. It includes sexual assault (which is also a crime), unwanted sexual advances, requests for sexual favors, inappropriate use of nudity or sexual images in work areas, repeatedly sending sexually offensive texts or emails, and other unwelcome verbal, visual, or physical conduct of a sexual nature.

#### 1.1 Quid Pro Quo Sexual Harassment

Quid pro quo sexual harassment occurs when your job or work assignments depend on your submission to sexual or romantic requests from a superior, or you are denied work or given less favorable work assignments because of your unwillingness to engage in sexual or romantic behavior

#### 1.2 Hostile Work Environment Sexual Harassment

A hostile work environment is characterized by unwelcome verbal, visual, or physical conduct of a sexual nature that is severe

or pervasive and which creates a hostile, offensive or intimidating work environment. Conduct directed at others can nevertheless generate a hostile work environment.

### **1.3 Retaliation**

Retaliation in any form is also unlawful. Retaliation occurs when an employer takes an employment action against someone who makes a complaint of sexual harassment. Retaliation against someone who assists another in making a complaint or who participates in an investigation into inappropriate behavior is also unlawful. Retaliation can take many forms, including firing, denial of work assignments, loss of extra hours, offering less favorable work opportunities or exclusion. Report retaliatory behavior in the same manner you would harassment.

## **2. WHAT DOES THIS THIS MEAN FOR EMPLOYERS?**

### **2.1 Employers Are Obligated to Provide a Harassment Free Workplace**

The law imposes an affirmative obligation on employers to maintain a workplace free from all forms of discrimination including sexual harassment. The employer's obligation includes a requirement to train supervisors in sexual harassment prevention.

### **2.2 Non-Traditional Worksites**

The employer's obligation to maintain a harassment free work environment is not limited to a traditional worksite, whether it be an office, a booth or a set. The obligation extends to other locations where an employee is required to be in the course of the employee's employment. That might include, for example, a meeting, audition, wrap party, or networking event.

### **2.3 Child Performers**

Minors are uniquely vulnerable to abuse, including harassment and sexual assault, and require special attention and protections. There are specific rules in our collective bargaining agreements that govern the employment of minors, as well as federal and state laws designed to protect them. Employers should strictly comply with these rules and work with set teachers, parents and the union to ensure that any minor performer is protected.

### **2.4 Employees of Vendors and Third Parties**

The employer's obligation is not limited to controlling the behavior of its direct employees. The employer has an obligation to address harassing behavior of vendors and other affiliated companies.

### **2.5 Reporting Mechanism**

The employer is required to maintain a mechanism through which employees can report instances of sexual harassment and to communicate that mechanism to employees. Frequently, this information can be found on call sheets and, for permanent employees like broadcasters, employee handbooks or policy manuals.

In the entertainment industry, where the "employer" may be a short-lived production company that ceases to exist after a project is complete, it can be less obvious who to contact. This difficulty is one reason that SAG-AFTRA will be working with the industry to advocate for and help develop an industry-wide reporting mechanism. In the meanwhile, employees should contact the union if they have questions or concerns about the employer's reporting mechanism.

### **2.6 Non-Retaliation**

The employer may not retaliate against the employee for reporting instances of sexual harassment. Employers should endeavor to protect the confidentiality of a member who complains about sexual harassment to the greatest possible extent and ensure that the member is not subject to further unlawful retaliation or harassment.

### **2.7 Contract Compliance**

Various SAG-AFTRA collective bargaining agreements contain provisions that prohibit sexual harassment and sex discrimination. As a best practice, employers should communicate proactively with SAG-AFTRA in the event of instances of potential sexual harassment so that SAG-AFTRA can work together with the employer to ensure contractual compliance. As our members work in a variety of contexts (entertainment, broadcast news, music, etc.), employers should analyze this obligation on a case by case basis.

## **3. WHAT HAPPENS WHEN AN EMPLOYER FAILS TO KEEP AN ENVIRONMENT FREE FROM HARASSMENT?**

Employers who fail to maintain a harassment-free workplace face legal liability in court, state or local agencies and/or may also violate the terms of our collective bargaining agreement. The union will vigorously pursue contractual violations in this area including, where appropriate, directing

members not to report for work if they cannot work safely.

If you believe that your employer has not met this obligation, you may contact the union or consult your own attorney. The union can also refer you to additional resources.

## **4. WHAT DOES THIS MEAN FOR SAG-AFTRA MEMBERS?**

### **4.1 Harassment Prohibited**

When acting in the capacity of a producer or supervisor, members are subject to the same laws and rules as any employer. Beyond this, we all share the expectation that our members, and all professionals, will refrain from engaging in harassing conduct and support efforts to eliminate this scourge from the workplace.

### **4.2 Consequences for Harassment by Members**

Employers are responsible for preventing sexually harassing conduct by any of their employees, including those who are our members. SAG-AFTRA will pursue employers for failing to prevent harassing conduct by employees who are our members to the same extent as for failing to prevent harassing conduct by any other employee.

Sexually harassing conduct may also form a basis for member discipline.

Importantly, as a union it is our duty to help ensure that our members, including those who may be accused of harassment, receive fair treatment and due process by their employer. Members accused of sexual harassment may be entitled to union representation if their employer pursues discipline.

### **4.3 Reporting Harassment**

Members are encouraged to report instances of sexual harassment to the union. In order to report a non-emergency instance of sexual harassment a member should call their local office or contact the EEO & Diversity Department at (323) 549-6644 or (212) 827-1542. If it is an emergency, please contact (844) SAFER-SET (844-723-3773).

### **4.4 Intervening/Witnessing Harassment — STOP. SUPPORT. REPORT.**

Whether during work or at work-related activities, it is the collective responsibility of our members to act as active bystanders and supportive colleagues when we witness or learn of acts of sexual harassment or retaliation. To end the pervasive culture of inaction and silence, we must not look the other way. We must intervene to STOP the conduct when we can, SUPPORT those who speak up, and REPORT the conduct.

SAG-AFTRA EEO & Diversity  
Sexual Harassment Information  
Los Angeles: (323) 549-6644 / New York: (212) 827-1542  
diversity@sagaftra.org  
<http://www.sagaftra.org/content/non-discrimination-policy>  
24-Hour Hotline: (844) SAFER-SET / 844-723-3773

## **1. STATUTES OF LIMITATIONS AND FILING DEADLINES**

### **Filing Deadlines for Workplace Harassment + Discrimination**

Please be advised of the multiple deadlines for filing discrimination/harassment claims with federal and state agencies and courts. We recommend that you consult with a private attorney to discuss further options. State agencies have deadlines for filing complaints that can range from 180 days to one year, and the Federal EEO Commission has a 180-day deadline which can be extended to 300 days if a state or local agency enforces a law that prohibits employment discrimination on the same basis.

### **California Department of Fair Employment and Housing**

<http://www.dfeh.ca.gov/>

To file a complaint: <https://www.dfeh.ca.gov/complaint-process/file-a-complaint/>

### **New York City Commission on Human Rights**

[www.nyc.gov/html/cchr/home.html](http://www.nyc.gov/html/cchr/home.html)

Manhattan Contact Number: (212) 306-5070

## **Federal Equal Employment Opportunities Commission**

<https://www.eeoc.gov/>

(800) 669-4000 / [info@eeoc.gov](mailto:info@eeoc.gov)

## **Statute of Limitations for Sexual Assault**

<https://victimsofcrime.org/docs/DNA%20Resource%20Center/sol-for-sexual-assault-check-chart---final---copy.pdf?sfvrsn=>

## **2. SAG-AFTRA**

In order for SAG-AFTRA to understand what has happened and/or what is happening, please complete and return a Complaint Questionnaire. You can find this form, along with the SAG-AFTRA Policy Against Unlawful Discrimination & Harassment here: <http://www.sagaftra.org/content/non-discrimination-policy>.

If you choose to complete the complaint questionnaire, you and the EEO & Diversity staff can then review the details of your complaint in order to determine with you whether or not SAG-AFTRA should file a complaint on your behalf. If filing a complaint is determined to be the most appropriate course of action, SAG-AFTRA will send the producer a formal complaint along with a copy of our policy regarding discrimination and harassment. The complaint will require that the company investigate the complaint and take immediate action to remedy any inappropriate conduct. Upon completion of its investigation, the producer is required to provide SAG-AFTRA with a response as to the results of its investigation and any action taken to remedy the misconduct (i.e. suspension or another form of discipline against the person who engaged in the misconduct). We will then provide you with formal notice of the results and findings of the investigation and discuss with you the action(s) taken, if any.

Please note that member-to-member complaints are handled by the SAG-AFTRA Legal Department. To file a complaint against a fellow SAG-AFTRA member, contact Nicole Nakagawa at (323) 549-6641 or [nicole.nakagawa@sagaftra.org](mailto:nicole.nakagawa@sagaftra.org).

Complaints about professional representatives (agents and managers) should first be addressed with SAG-AFTRA's Professional Representatives Department. To obtain more information, please contact them at (323) 549-6745 or [agency@sagaftra.org](mailto:agency@sagaftra.org).

## **3. LAW ENFORCEMENT**

### **Los Angeles Police Department**

[http://www.lapdonline.org/detective\\_bureau/content\\_basic\\_view/6262](http://www.lapdonline.org/detective_bureau/content_basic_view/6262) (scroll down to Special Assault Section)

Commanding Officer: (213) 486-6850 / Special Assault Section: (213) 486-6910

### **New York City Police Department**

NYPD Switchboard: (646) 610-5000 / Detective DiGuadio, Special Victims Unit: (646) 391-8996

<http://www1.nyc.gov/site/nypd/about/about-nypd/contact-us.page>

NYC Sex Crimes Hotline: (212) 335-9373

## **4. RESOURCES**

Below please find free legal resources as well as relevant agency information:

### **The Actors Fund**

<http://www.actorsfund.org/services-and-programs/mental-health> (counseling)

### **SAG-AFTRA Federal Credit Union Free Legal Hotline for Members**

(800) 562-2929

### **TIME'S UP Legal Defense Fund**

<https://nwlc.org/legal-assistance/>



**Women In Film Sexual Harassment Help Line**

<https://womeninfilm.org/helpline/>

(323) 545-0333

Women In Film has formed a confidential support group for women in the entertainment industry who've experienced sexual harassment. The nonprofit advocacy group partnered with the Wright Institute Los Angeles to provide therapists who specialize in empowering survivors of trauma and abuse. Survivors requesting a referral to Safe Space can call the Women in Film Sexual Harassment Help Line at (323) 545-0333 from 10 AM-5 PM PT, Monday through Friday. After-hours calls will be returned during business hours.

**RAINN**

<https://rainn.org/> (anti-sexual violence organization)

*These legal options are provided to our members for their convenience or for informational purposes only. SAG-AFTRA does not guarantee or take responsibility for the content of the information provided by these resources or for the legal services to which members may be referred.*

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## 1. EMPLOYEE REPRESENTATIONS.

Employee hereby represents as follows: (i) except for those agreements identified under this Agreement, Employee is not a party to any other agreement or obligation for personal services that would interfere or conflict with his performance of his Services under this Agreement; (ii) there exist no impediments or restraints, contractual or otherwise on Employee's power, right or ability to enter into this Agreement or to perform Employee's Services hereunder; and (iii) Employee is not a party to any agreement or obligation for personal services that would prevent any member of Company Group from entering into and receiving full enjoyment of all the facets of the music entertainment (including music recording, music performance, and music publishing) business. In addition, Employee further represents and warrants to the Company that other than as previously disclosed in writing by the Employee to the Board, (a) Employee has not been a party to any settlement agreement, release or order concluding or settling any Action asserting any illegal or unlawful activity directed at, or sexual misconduct involving, or illegal or unlawful harassment of third persons by, Employee ("Improper Conduct" and any Action asserting Improper Conduct a "Covered Action"), (b) Employee has not committed any Improper Conduct that to Employee's knowledge has resulted in any former employer of Employee entering into any settlement agreement, release or order concluding or settling any Covered Action, (c) no such Covered Action is pending or, to Employee's actual knowledge, currently threatened against Employee, and (d) Employee has not committed any Improper Conduct that is reasonably likely to give rise to, or serve as a basis for (or when such event occurred could have reasonably served as a basis for) a Covered Action, in the case of this sub-clause (d), which, if generally known to the public, would be reasonably likely to have a material adverse financial effect on the business of the Company Group; it being understood that sub-clause (b) shall not require Employee to disclose any such settlement agreement, release or order, but shall require Employee to disclose the Improper Conduct resulting in any such settlement agreement, release or order. **The parties agree that the foregoing representations serve as a material inducement to the Company entering into this Agreement and that any violation of any of the foregoing could cause irreparable damage and reputational harm to Company Group.** For purposes of this Agreement, "Action" means any claim, action, demand, cause of action, lawsuit, arbitration, notice of violation, proceeding, litigation, citation, summons, subpoena or investigation of any nature, civil, criminal, administrative, regulatory or otherwise, whether at law or in equity.

## 2. TERMINATION.

Employee's employment with Company may be terminated at any time under the following circumstances:

(c) **Cause.** Company may terminate Employee's employment immediately for Cause by providing notice to Employee in accordance with Section 7 below. If Company terminates Employee's employment for Cause, Employee shall be entitled to receive solely the Accrued Obligations, other than the Prior Year Bonus, payable in the same manner provided under Section 6(a) of this Agreement following the Termination Date and in each instance less appropriate payroll deduction and all required withholdings required by applicable law.

(h) Definitions of Cause. For purposes of this Agreement, "Cause" shall mean: (i) Employee's failure to perform the Services required under this Agreement (other than by reason of Employee's physical or mental illness, incapacity or disability); (ii) Employee's failure to follow the lawful directives from the Board or Direct Report which directives are consistent with Employee's position with the Company; (iii) Employee's breach of any material obligation or provision of this Agreement (other than those contained under Section 4 of this Agreement) which breach is not cured (as provided herein) and results in, or could reasonably be expected to result in, any harm or damage to Company Group; (iv) any criminal conviction of, or plea of guilty by, Employee for either any felony or any criminal misdemeanor which misdemeanor involves Employee's commission of an act of dishonesty, theft, fraud, embezzlement, conversion or similar conduct; (v) Employee's breach of any obligation imposed under Section 4 of this Agreement; (vi) Employee engaging in any willful misconduct or willful violation of any law, rule or regulation applicable to any member of the Company Group; (vii) the Company's reasonable determination that Employee was or is in breach of any representation set forth in Section 5 of this Agreement which breach is not cured (as provided herein); or (viii) Employee's failure to comply in any material respect with the terms of any written policies or written procedures or written standards of conduct of the Company Group that have been provided to the Employee. Notwithstanding the foregoing, Employee shall not be terminated for any events, circumstances or occurrence described under sub-clauses (i), (ii), (iii), (vii), or (viii) of this paragraph and same shall not constitute Cause hereunder unless and until Employee receives written notice from Company specifying the applicable occurrence and, if reasonably susceptible to cure, such occurrence thereafter continues uncured for more than fifteen (15) days following Employee's receipt of such written notice. A termination by Company will not be for Cause unless and until: (1) Company provides Employee with written notice following the initial occurrence of the applicable Cause and (2) if Employee has failed to cure or correct the applicable Cause by the end of the cure period, Company actually terminates Employee's employment with Company within 180 days following the end of the cure period. No such right of cure shall apply to any second occurrence of the same or any substantially similar violation committed by Employee within one (1) year of the prior violation committed by Employee under any of the sub-clauses in this paragraph that are otherwise subject to cure hereunder.



#### Termination of Employment.

1. Either the Company or Employee may terminate this Employment Agreement at any time with or without Cause, as defined in Section 3.2 below; provided, however, that Employee must provide the Company with at least six (6) weeks' written notice ("Notice Period") prior to such termination. The Company may, in its discretion and at any time and for any reason (including, without limitation, where the Company considers it useful or necessary to facilitate the investigation of a complaint or allegation of misconduct or to otherwise protect the Company's business interests during Notice Period), and without providing any prior notice or reason therefor: (a) limit or modify Employee's job duties or require Employee to refrain from acting on behalf of the Company in any capacity; (b) require Employee to remain absent from the premises of the Company and refrain from accessing its facilities; (c) require Employee to exhaust Employee's available vacation days; and/or (d) require Employee to refrain from contacting or otherwise communicating with (whether in service of the Company or otherwise) anyone regarding the Company.

Employee's employment with the Company or the termination thereof, any business of the Company, any business competitive with that of the Company, or any business matters similar to those carried out, or reasonably expected to be carried out by the Company (subject only to the exceptions described in Section 6.3). During the Notice Period, the Company shall continue to provide Employee with Employee's Base Salary. Further, the Company may, either at the outset of the Notice Period or during such Notice Period, in its sole and absolute discretion, shorten or eliminate the Notice Period with immediate effect and with no further obligation to Employee except for payment of a sum equivalent to Employee's Base Salary for the remainder of the Notice Period as if the Notice Period had not been shortened or eliminated.

2. In the event of a termination with or without Cause, the Company shall pay to Employee all earned and unpaid wages to the extent required by law, including salary payable to Employee for the pay period in which such termination occurs, prorated to the day of termination. After such payment is made, the Company shall have no further financial obligation to Employee pursuant to this Employment Agreement if the termination was made by the Company with Cause. Upon such termination of this Employment Agreement by the Company without Cause, Employee shall be entitled to receive the severance benefits described in Section 4 below. For the purposes of this Employment Agreement, the term "Cause" shall mean: (i) Employee's material breach of the terms of this Agreement or any other agreement with the Company; (ii) Employee's fraudulent, gross or willful misconduct or breach of fiduciary duty; (iii) Employee's willful or continued refusal or failure to carry out his duties; or to follow the Company's lawful directives; (iv) Employee's material failure to comply with any (a) written Company compliance manual or written or unwritten policy or procedure of the Company of which Employee has been given written notice, or (b) any other rule, regulation, code, policy or procedure of any regulatory body; (v) Employee's engaging in, or his prior engagement in, conduct (whether or not connected with his employment, and whether or not constituting a lawful recreational

activity) that materially harms or could reasonably be expected to materially harm the business, interests or reputation of the Company; (vi) Employee's conviction of, plea of nolo contendere to, or any other adjudication that Employee has committed, a felony or any crime, offense or violation involving fraud, dishonesty, or breach of trust; (vii) in the event Employee is directly or indirectly prevented or substantially restricted (in the Company's good faith judgment) from performing all or a material portion of Employee's contemplated duties due to an adverse judgment, order, negotiated settlement or other similar circumstance involving a third-party claim against Employee; or (viii) Employee's death or Disability. If the Company elects to terminate Employee's employment for Cause under clauses (i), (iii) or (iv) of this definition, then Employee shall have fourteen (14) days after the Company delivers written notice thereof to cure the event or circumstances constituting "Cause" under such Sections, if curable. For purposes of this Employment Agreement, the term "Disability" shall mean a physical or mental disability that prevents the performance by Employee of Employee's duties under this Employment Agreement, with or without a reasonable accommodation, for a continuous period of 120 days or longer, or for 180 days or more in any 12-month period.

Commented [RM(1): Note that "(v)" above is not "curable".