

POLICY: Sexual Harassment	POLICY #: HR-01
DATE: September 28, 2018	SUBMITTED BY: Jonnie J. Dorothy
DEPARTMENT: HR	REVIEWED BY: Ruth Doyle, County Administrator Steve Button, County Attorney
REGULATION(S)	New York Human Rights Law § 296.1 Federal Civil Rights Act of 1964, Title VII (42 U.S.C. § 2000e)

Statement:

St. Lawrence County (SLC) is committed to maintaining a workplace free from sexual harassment. Sexual harassment is a form of workplace discrimination. Sexual harassment is against the law. SLC will not tolerate any form of sexual harassment, and all employees are required to work in a manner that prevents sexual harassment in the workplace. 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 SLC, with a government agency or in court under federal, state or local antidiscrimination laws.

Policy:

1. St. Lawrence County Policy applies to all employees, applicants for employment, interns, contractors and persons conducting business with SLC.
2. 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. SLC will not tolerate such retaliation against anyone who, in good faith complains or provides information about suspected sexual harassment. Any employee of SLC who retaliates against anyone involved in a sexual harassment investigation will be subjected to disciplinary action, up to and including termination. Any employee, intern, or non-employee working in the workplace who believes they have been subject to such retaliation should inform a supervisor, manager, or Human Resources. Any employee, 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, unlawful, a violation of our policies, and subjects SLC may be held liable for harm to victims of sexual harassment. Harassers may also be held individually liable. Any employee, including managers/supervisors, who engages in sexual harassment or who knowingly allows such behavior to continue, will be penalized for such misconduct.
5. SLC 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 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. SLC 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 Human Resources.
8. This policy applies to all employees, interns, and non-employees and all must follow and uphold this policy. This policy will 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 and state 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/condition of employment; or
- Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual’s employment.

There are two main types of sexual harassment:

Hostile Work Environment Sexual Harassment 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.

Quid Pro Quo (Tangible Employment Action) Sexual Harassment can occur 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 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, or other job benefits/ 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, print materials or other materials that are sexually demeaning or pornographic. This includes such sexual displays on computers or cell phones and sharing such displays 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 work area, tools/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, 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 and state law. The New York State Human Rights Law protects any individual who has engaged in "protected activity." Protected activities include:

- filing a complaint of sexual harassment (internally or with an outside agency);
- testifying or assisted in a proceeding involving sexual harassment under the Human Rights Law or other anti-discrimination law;
- opposing sexual harassment by making a verbal or informal complaint to management, or by simply informing a supervisor or manager of harassment;
- complaining that another employee has been sexually harassed; or
- encouraging a fellow employee to report harassment.

Reporting Sexual Harassment

Preventing sexual harassment is everyone's responsibility. SLC cannot prevent or remedy sexual harassment unless it knows about it. Any employee, intern or nonemployee who has been subjected to behavior that may constitute sexual harassment is encouraged to report such behavior to a supervisor/manager or Human Resources. Anyone who witnesses or becomes aware of potential instances of sexual harassment should report such behavior to a supervisor/manager or Human Resources. 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, 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/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 Human Resources. In addition to being subject to discipline if they engaged in sexually harassing conduct themselves, supervisors/managers will be subject to discipline for failing to report suspected sexual harassment or otherwise knowingly allowing sexual harassment to continue. Supervisors/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. 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, the supervisor/manager or Human Resources 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, steps will be taken to obtain and preserve them.
- All relevant documents will be reviewed, including all electronic communications.
- All parties involved, including any relevant witnesses will be interviewed.
- A written documentation of the investigation will be created, which will contain the following:
 - A list of all documents reviewed, and a detailed summary of relevant documents;
 - A list of names of those interviewed, and 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 action(s).
- All documents will be kept in the employer's records.
- The individual who complained and the respondent will be promptly notified of the final determination and any corrective actions identified will be implemented.
- The individual who complained will be informed of their right to file a complaint or charge externally as outlined below in the section on Legal Protections.

Procedure:

1. Employee makes report to their Manager/Supervisor. If the issue is with the Manager/Supervisor then the report should be made directly to HR
2. Manager/Supervisor will forward to HR for investigation.
3. Manager/HR will meet with employee for more information
4. Manager/HR will meet with respondent
5. Manager/HR will meet with witnesses
6. Manager/HR will make a determination
7. Manager/HR will take appropriate action.
8. HR will document and record sexual harassment claims/situations

HR can be reached at extension 2210 or at 315-379-2210 for outside calls
(The HR Director will be lead in all investigations unless contraindicated)

Legal Protections and External Remedies

Aside from the internal process at SLC employees may also choose to pursue legal remedies with the following governmental entities at any time.

1. New York State Division of Human Rights (DHR)

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 alleged discrimination. You do not need an attorney to file a complaint. 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. For more information contact: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, NY 10458, (888) 392-3644 or visit www.dhr.ny.gov.

2. United States Equal Employment Opportunity Commission (EEOC)

An individual can file a complaint with the EEOC anytime within 300 days from the harassment. You do not need an attorney to file a complaint. A complaint must be filed with the EEOC before you can file in federal court. For more information contact the EEOC at 1-800-669-4000 (1-800-669-6820 (TTY)) or visit their website at www.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.

3. Local Protections

Many localities enforce laws protecting individuals from sexual harassment and discrimination. Individuals should contact the county, city or town in which they live to find out if a law exists.

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.



St. Lawrence County 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 subjected to sexual harassment, you are encouraged to complete this form and submit it to your Manager/Supervisor or Human Resources. However, if you are more comfortable reporting verbally or in another manner please contact your Manager/Supervisor or Human Resources.

For additional resources, visit: www.ny.gov/combating-sexual-harassment

COMPLAINANT INFORMATION

Name: _____

Job Title: _____

Email: _____

Home Address: _____

Work Address: _____

Home Phone: _____

Work Phone: _____

Preferred communication method: (h)phone (w)phone e-mail US mail

SUPERVISOR INFORMATION

Immediate Supervisor's Name: _____

Title: _____

Work Address: _____

Work Phone: _____

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.

3. Date(s) sexual harassment occurred: _____

Is the sexual harassment continuing? Yes No

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

I request that St. Lawrence County investigate this complaint of sexual harassment in a timely and confidential manner and advise me of the results of the investigation.

Signature: _____

Date: _____