

SEXUAL HARASSMENT

POLICY & PROCEDURE

Hon. Janet DiFiore
Chief Judge of the State of New York

Hon. Lawrence K. Marks
Chief Administrative Judge of the State of New York

New York State Unified Court System
Office of Court Administration
25 Beaver Street, New York, NY 10004

Revised 11-17

MESSAGE FROM THE CHIEF ADMINISTRATIVE JUDGE

I am pleased to present this handbook on the Unified Court System's sexual harassment policy.

This handbook reaffirms the Unified Court System's commitment to ensure that any form of sexual harassment is not tolerated. It also offers guidance for recognizing conduct that violates the Unified Court System's sexual harassment policy and provides information about informal and formal procedures for investigating and resolving claims.

Thank you for your shared commitment to ensuring that the workplace environment is one in which everyone is treated fairly and with respect and dignity.



Lawrence K. Marks

Chief Administrative Judge
of the State of New York

What is the Unified Court System's sexual harassment policy?

The Unified Court System is committed to providing a safe work environment for all its employees free from discrimination and harassment including sexual harassment. The Unified Court System has a zero-tolerance policy for any form of sexual harassment and will promptly address all allegations of sexual harassment. No one will be retaliated against for making a complaint.

Who is covered by the Unified Court System's sexual harassment policy?

The Unified Court System's policy applies to all judges and court employees. It also applies to attorneys, litigants, witnesses, jurors, vendors and others who work or appear in the courts.

What is sexual harassment?

Sexual harassment is unwelcome sexual advances, requests for sexual favors, and other conduct of a sexual nature that tends to create a hostile or offensive work environment.

Sexual harassment can involve one or more incidents and actions constituting harassment may be physical, verbal and non-verbal. Examples of conduct or behavior which constitute sexual harassment include, but are not limited to:

Physical conduct

- Unwelcome physical contact including patting, pinching, stroking, kissing, hugging, fondling or inappropriate touching
- Physical violence, including sexual assault
- Physical contact, e.g., touching, pinching
- The use of job-related threats or rewards to solicit sexual favors

Verbal conduct

- Comments on a worker's appearance, age, private life, etc.
- Sexual comments, stories and jokes
- Sexual advances
- Repeated and unwanted social invitations for dates or physical intimacy
- Insults based on the sex of the worker
- Condescending or paternalistic remarks
- Sending sexually explicit messages (by phone or text or email)

Non-verbal conduct

- Display of sexually explicit or suggestive material
- Sexually-suggestive gestures
- Whistling
- Leering

What should I do if I think I am being sexually harassed?

If sexual behavior in the workplace occurs and you feel uncomfortable or you think it is inappropriate, the Unified Court System encourages you to address it.

Here is a checklist of steps you may take:

- Let the harasser know that the behavior is unwelcome and that you want it to stop.
- Report and discuss the behavior with your supervisor and enlist your supervisor's help.
- Discuss the problem with a supervisor or manager who does not oversee your work.
- Contact the Work-Safe Office. A member of this Office will assist you with addressing the situation.
- Make a formal complaint of sexual harassment to the Office of the Managing Inspector General for Bias Complaints.

What kind of records should I keep and how will it help?

Keep a contemporaneous log of what has happened. It may help you clarify what behavior occurred and what steps to take.

If you keep a log, you should record the date of any incident, describe what occurred, record your responses and note any witnesses.

What is the best way to make a formal written complaint asking the UCS to investigate harassment?

You have two possible routes for making formal, written complaints about sexual harassment.

You may tell any supervisor or manager that you want to make a complaint. That person will provide you with a copy of the complaint form, and you or the manager or supervisor will send it to the Office of the Managing Inspector General for Bias Matters.

Alternatively, you may go directly to the Office of the Managing Inspector General for Bias Matters yourself. You may write the Office of the Managing Inspector General for Bias Matters at 25 Beaver Street, New York, New York 10004. Or you may call the Office of the Managing Inspector General for Bias Matters at 646-386-3507 or the toll-free hotline at 1-877-2 END BIAS (1-877-236-3242).

A copy of the complaint and instructions for filing it are found at www.nycourts.gov.

What should I put in the complaint?

The complaint should be as specific as possible about what happened and how you responded. Be sure to describe each event and the date when it occurred (or as close to the date as you can remember). Providing names of people who know about the harassment, either because you told them or because they witnessed something, is also helpful. If you have kept a log of the harassment, now is the time to use it.

Don't feel confined to the space provided in the complaint form. Use additional sheets if you need them to complete your answers.

What will happen once I make the complaint?

Filing a formal complaint will start an investigation. You will be told by the Office of the Managing Inspector General for Bias Matters the name and telephone number of the staff member responsible for your case. During the investigation, you, the person you said harassed you and others who may have information about the harassment will be interviewed. The investigation will be handled with sensitivity and with the greatest degree of confidentiality practicable.

In most cases, the Office of the Managing Inspector General for Bias Matters will complete its investigation within 45 days, although unusual cases may take longer. A report of the investigation will then be sent to appropriate administrators, including your Administrative Judge, for review and then to the appropriate Deputy Chief Administrative Judge for a determination. You should receive a copy of the written determination within 60 days of the time the report is transmitted by the Managing Inspector General for Bias Matters Office, although more time also may be necessary at this stage.

In the determination, you will be told whether your charges have been substantiated, and, if so, what actions will be taken against the person who harassed you. Among the sanctions available are suspension without pay, termination, and referrals to the Commission on Judicial Conduct (for judges) or the Attorney Disciplinary Committees (for lawyers). The person about whom you complained also will receive a copy of the determination.

Will I have the opportunity to appeal the decision?

You and the person about whom you complained both have the right to appeal the determination of the Deputy Chief Administrative Judge. An appeal may be made by writing to the Chief Administrative Judge at 25 Beaver Street, New York, New York, 10004. Appeals must be made within 30 days of the date you receive the determination.

If you appeal, your case will be reviewed in its entirety. You should receive a written determination of your appeal within 30 days, although, as with all stages of the complaint process, more time may be necessary.

Is there any limit on the time for bringing a complaint?

If you are going to file a formal complaint, you should do so within one year of the time when the harassment occurred. If you wait longer, doing a fair and thorough investigation becomes more difficult.

I want to keep this as quiet as possible. Do I have a right to expect that my complaint will be treated confidentially?

All inquiries, complaints and investigations are treated confidentially. Information is revealed strictly on a need-to-know basis. However, the identity of the complainant is usually revealed to the respondent and witnesses. Steps will be taken to ensure that the complainant is protected from retaliation.

Are there outside agencies that can help me with a sexual harassment claim?

A number of governmental agencies have jurisdiction over charges of sexual harassment in the workplace.

Both the New York State Division of Human Rights and the federal Equal Employment Opportunity Commission investigate charges of sexual harassment.

www.dhr.ny.gov/complaint
www.eeoc.gov/employees/howtofile.cfm

If I file a complaint, how do I know I will not be treated unfairly?

The Unified Court System's policy is to protect employees against retaliation for making a complaint.

A retaliation claim could be an independent claim of harassment and will be investigated regardless of what happens with the original complaint.

Important References

Work-Safe Office

25 Beaver Street
New York, NY 10004
646-386-5464
work-safe@nycourts.gov

Office of the Managing Inspector General for Bias Matters

25 Beaver Street
New York, NY 10004
646-386-3507 or 1-877-2 END BIAS (1-877-236-3242)
nycourts.gov/admin/IG

Office of Workforce Diversity

25 Beaver Street
New York, NY 10004
212-428-2540
nycourts.gov/careers/diversity

Claim of Discriminatory Treatment Form

Please attach any additional information you may have about the claim and mail to:

Office of the Inspector General
Attention: Managing Inspector
General for Bias Matters
25 Beaver Street
New York, NY 10004

(646) 386-3507 or Toll Free (1-877) 2-END-BIAS

NEW YORK STATE UNIFIED COURT SYSTEM INSPECTOR GENERAL

Please complete this form to file a claim of discriminatory treatment with the Unified Court System's Inspector General. The Inspector General is committed to preserving your confidentiality. Any individuals contacted by the Inspector General's office will be asked not to disclose the facts or contents of your claim unless disclosure is necessary.

CLAIM OF DISCRIMINATORY TREATMENT

Please print or type all information.

Name: _____

Title: _____ Work Location: _____

City: _____ State : _____ Zip : _____ Work Phone:() _____

Home Address: _____

City: _____ State: _____ Zip: _____ Home Phone:() _____

1. I believe that I have been treated in a discriminatory manner based on my:

- | | | |
|--|---|--|
| <input type="checkbox"/> Race | <input type="checkbox"/> Color | <input type="checkbox"/> Sex (including Sexual Harassment) |
| <input type="checkbox"/> Age | <input type="checkbox"/> Disability | <input type="checkbox"/> Religion |
| <input type="checkbox"/> Marital Status | <input type="checkbox"/> National Origin | <input type="checkbox"/> Sexual Orientation |
| <input type="checkbox"/> Gender Identity or Expression | <input type="checkbox"/> Domestic Violence Status | <input type="checkbox"/> Genetic Status |
| <input type="checkbox"/> Other (please specify): _____ | | |

2. I believe that the act or treatment described below is discriminatory:

3. I believe that the following individual(s) has (have) acted in a discriminatory manner:

4. Date of act or treatment (or indicate if ongoing):

5. Witnesses (include names, work locations and telephone numbers):

I authorize the New York State Unified Court System's Inspector General to use my name in investigating this claim.

Signature: _____ Date: _____

Please attach any additional information you may have about the claim and mail this form or a copy of it to:

OFFICE OF THE INSPECTOR GENERAL

Attention: Managing Inspector General for Bias Matters

Office of Court Administration

25 Beaver Street, New York, NY 10004