

# Sexual Harassment Policy

## Introduction

**Allegany County Industrial Development Agency (ACIDA)** (the “Company”) is committed to maintaining a workplace free from all unlawful harassment. One form of harassment prohibited by this policy is sexual harassment. Sexual harassment is unlawful, violates Company policy, and will not be tolerated. The law prohibits coworkers and third parties, as well as supervisors and managers, with whom employees come into contact with, from engaging in harassment.

Appropriate sanctions and/or disciplinary action, up to and including termination, will be enforced against individuals engaging in sexual harassment and against supervisory and managerial personnel who knowingly allow such behavior to continue.

While this specific policy addresses sexual harassment, harassment and discrimination against persons of all protected classes is prohibited. In New York State, such classes include age, race, religious denomination, color, national origin, sexual orientation, military status, sex, disability, marital status, domestic violence victim status, gender identity and criminal history.

## A. Sexual Harassment Definition

Sexual harassment is a form of sex discrimination and includes harassment on the basis of sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity and the status of being transgender. Sexual harassment includes unwelcome conduct which is either of a sexual nature, or which is directed toward an individual because of that individual’s sex, when:

1. 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;
2. Such conduct is made either explicitly or implicitly a term or condition of employment; or
3. Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual’s employment.

Sexual harassment known as “hostile 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. Hostile environment harassment also consists of unwanted verbal or physical advances, sexually explicit derogatory statements or sexually discriminatory remarks made by someone in the workplace which are offensive or objectionable to the recipient, which cause the recipient discomfort or humiliation, or which interfere with the recipient’s job performance.

Sexual harassment known as “quid pro quo” harassment occurs when a person in authority tries to trade job benefits for sexual favors. This can include hiring, promotion, continued employment or any other term, condition or privilege of employment.

Sexual harassment can occur between males and females, or between persons of the same sex. Sexual harassment that occurs because the target is transgender is also unlawful.

## B. Sexual Harassment Examples

The following describes some of the types of acts that may be unlawful sexual harassment:

- Physical acts of a sexual nature, such as:
  - Touching, pinching, patting, kissing, hugging, grabbing, brushing against another employee’s body or poking another employee’s body;
  - Rape, sexual battery, molestation or attempts to commit these acts.
- Unwanted sexual advances, propositions, or other sexual comments, such as:
  - Requests for sexual favors accompanied by implied or overt threats concerning the target’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 are sufficiently severe or pervasive to 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 or 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.
  - Sex stereotyping – When conduct or personality traits are considered inappropriate simply because they may not conform to other people's ideas or perceptions about how individuals of a particular sex should act or look.

The Company's policy also applies to harassment based on race, color, religion, national origin, ancestry, ethnicity, creed, age, disability, citizenship, veteran and military status, marital status, domestic violence victim status, genetic information, or any other characteristic protected by law. Such harassment often takes a similar form to sexual harassment and includes harassment that is:

- Verbal (e.g. epithets, derogatory statements, slurs, derogatory comments or jokes, or obscene language).
- Physical (e.g. assault or inappropriate physical contact).
- Visual (e.g. displaying derogatory posters, cartoons, drawings or making derogatory gestures).
- Online (e.g. derogatory statements in an e-mail or through any social media platform).

This list is illustrative only, and not exhaustive. No form of harassment will be tolerated.

### **C. Complaint and Investigation Procedure**

Preventing sexual harassment is everyone's responsibility. The Company cannot prevent or remedy harassment unless it knows about it. Anyone who witnesses, becomes aware of, or is subjected to behavior that may constitute harassment or otherwise violates this Policy is strongly encouraged to **immediately** report such behavior to a supervisor, or the executive director. If an individual is not comfortable reporting to his or her supervisor or the executive director, he or she should report to any Company board member.

Reports of harassment or any other violation of this Policy should be made in writing, though verbal reports will be accepted. A Complaint Form for the submission of reports of unlawful harassment or any other violation of this Policy may be found in Human Resources. Any report should be as detailed as possible and include the names of all individuals involved, a description of the incident(s) complained of, the names of all witnesses, and any documentation or other evidence that supports the allegations. If the report is verbal, the complainant will be asked to complete a written Complaint Form. If he or she declines, the Company may prepare a Complaint Form based on the verbal report.

All supervisors and managers who receive a report or information about, observe, or suspect any potential harassment or other violation of this Policy **must immediately** report it to the executive director. A supervisor or manager who fails to make such a report or otherwise knowingly allows harassing or retaliatory behavior to continue will be subject to disciplinary action, up to and including termination of employment.

The Company will conduct an investigation of any report or complaint of harassment or any other violation of this Policy that it receives. Investigations will be conducted in a prompt, thorough, and timely manner, and will be confidential to the extent possible. The Company will take prompt and appropriate corrective action whenever it determines that harassment or another violation of this Policy has occurred.

All persons involved in the Company's investigation will be accorded due process, as outlined below. While the process may vary from case to case depending on the circumstances, an investigation of a report of harassment or other violation of this Policy will generally include the following steps:

- Upon receipt of a report of harassment or other violation of this Policy, the Company will conduct an immediate review of the allegations, and take any appropriate interim action.
- Relevant information will be collected.
- Interview the complainant, witnesses, and the accused.
- Where appropriate, depending on the facts of each case, notify appropriate and/or involved parties about the investigation, its outcome, and/or relevant information.
- Implement any remedial measures.

Employees are required to participate and answer truthfully any questions posed in an investigation by the Company.

**D. Retaliation Prohibited**

The Company strictly prohibits and does not tolerate any retaliation against an individual because he or she has in good faith made a complaint of harassment or testified or assisted in a legal proceeding. Any employee who believes that he or she has been subjected to retaliation must immediately make a report to the executive director .

**E. For New York Employees, Redress Rights and Adjudication Forums for Sexual Harassment**

Sexual harassment is misconduct and will be grounds for discipline, including termination.

Sex harassment is unlawful under the New York Human Rights Law and the federal Civil Rights Act of 1964, Title VII. In addition, there may be applicable local laws that prohibit harassment and sex discrimination.

A complaint alleging a violation of the Human Rights Law may be filed with either the Division of Human Rights (DHR) or in New York State Supreme Court. DHR's main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, New York 10458. You may call (718) 741-8400 or visit: [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. A complaint alleging a violation of Title VII may be filed with the Equal Employment Opportunity Commission (EEOC) within three hundred days of the alleged harassment. Contact the EEOC by calling 1-800-669-4000 (TTY: 1-800-669-6820), visiting their website at [www.eeoc.gov](http://www.eeoc.gov) or via email at [info@eeoc.gov](mailto:info@eeoc.gov) if you wish to file a complaint with the EEOC.

The remedies available to victims of sexual harassment vary depending on the circumstances and the forum involved, but may include requiring the defendant(s) to take action to stop the harassment, or redress the damage caused, including reinstatement/instatement to a job, payment of monetary damages (e.g. back pay, out-of-pocket expenses), compensatory damages, punitive damages in certain circumstances, reasonable attorneys' fees, and civil fines.

If the sexual harassment involves unwanted physical touching, coerced physical confinement or coerced sex acts, the conduct may constitute a crime. Redress can be sought by contacting the local police department.

**G. Acceptance**

I have read, understand and agree to the terms of the preceding sexual harassment policies and procedures.

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Signature

**COMPLAINT FORM**

If you believe that you have been subject to unlawful harassment or retaliation, you are strongly encouraged to complete this form and submit it to the executive director. Please complete all aspects of this form in as much detail as possible. In particular, you are encouraged to include your name and contact information, as anonymous complaints may be very difficult to investigate. **The Company prohibits retaliation of any kind against an individual for making a complaint in good faith.**

Your Name: \_\_\_\_\_

Your Title/Position: \_\_\_\_\_

Your Address: \_\_\_\_\_

Your Email Address: \_\_\_\_\_

Your Phone Number: \_\_\_\_\_

Your Supervisor's Name: \_\_\_\_\_

**COMPLAINT INFORMATION**

1. Name and title of any alleged harasser or retaliator: \_\_\_\_\_

2. Details of the harassment or retaliation. Please include as much detail as possible, including what happened, how it is affecting you and your work, and your reasons for believing that the conduct is sexual or other harassment or retaliation.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Date(s) of harassment or retaliation: \_\_\_\_\_

\_\_\_\_\_

4. Please list the names and contact information of each witness or individual who may have information related to your complaint:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5. Identify any documents or other evidence that you believe substantiates your complaint of harassment or retaliation. Attach any relevant documents and evidence.

\_\_\_\_\_  
\_\_\_\_\_

*I certify that I have read (or have had read to me) the foregoing complaint and know the contents of this complaint; and that the foregoing is true and correct, based on my current knowledge, information, and belief.*

Signature: \_\_\_\_\_ Date: \_\_\_\_\_