

Introduction

New York State is a national leader in the fight against sexual harassment and is partnering with employers across the state to further our commitment to ending sexual harassment in the workplace.

This toolkit will provide you an overview of the changes and direct you to resources available through New York State and the relevant state agencies.

These resources are all available on the state's Combating Sexual Harassment in the Workplace website: www.ny.gov/programs/combating-sexual-harassment-workplace.

What are the New Requirements?

The 2019 New York State Budget includes the nation's strongest and most comprehensive sexual harassment package, including new resources and requirements for employers.

The new law establishes minimum standards for sexual harassment prevention policies and training. All New York State employers are required to either adopt and use the State's model policy and training as-is, or to use the models as a basis to establish their own policy and training.

Your employer is required to distribute their policy, in writing, to you and every other employee in your organization. They are also required to provide you with an interactive training about sexual harassment prevention.

If you believe that you have been subjected to sexual harassment, you are encouraged to complete your employer's Complaint Form and submit it to the person or office designated by your employer. If you are more comfortable reporting verbally or in another manner, your employer should still complete the complaint form, provide you with a copy and follow its sexual harassment prevention policy by investigating the claims.

Legal Protections and External Remedies

Sexual harassment is prohibited by your employer and by state, federal, and, where applicable, local law.

Aside from your employer's internal process, you may also choose to pursue legal remedies with the governmental entities listed on the following pages. While a private attorney is not required to file a complaint with a governmental agency, you may seek the legal advice of an attorney.

In addition to those outlined in the following pages, employees in certain industries may have additional legal protections.

State Human Rights Law (HRL)

The Human Rights Law (HRL), codified as N.Y. Executive Law, art. 15, § 290 et seq., applies to all 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 the Division of Human Rights (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 sexual harassment. An individual may not file with DHR if they have already filed a HRL complaint in state court.

Complaining internally to your employer 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 sexual harassment has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If sexual harassment 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 of monetary damages, attorney's fees and civil fines.

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.

Contact DHR at (888) 392-3644 or visit 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.

Civil Rights Act of 1964

The United States Equal Employment Opportunity Commission (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. In general, private employers must have at least 15 employees to come within the jurisdiction of the EEOC.

An employee alleging discrimination at work 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 (TTY: 1-800-669-6820), visiting their website at www.eeoc.gov or via email at 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. You may contact the county, city or town in which you 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.

Contact the Local Police Department

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

Where to Find Support

The following organizations provide resources and services related to sexual harassment and discrimination. This list is not a comprehensive list of New York organizations who provide resources and services related to sexual harassment and discrimination:

NOW NYC Helpline offers referrals for callers needing help with employment discrimination, divorce and custody, financial empowerment, intimate partner violence, and sexual assault. Contact them at <http://nownyc.org/service-fund/get-help/> or (212) 627-9895

A Better Balance's free, legal helpline offers confidential information about workplace rights, including sexual harassment, pregnancy discrimination, breastfeeding, and work-family issues. Contact them at (212) 430-5982 or info@abetterbalance.org.

New York State Bar Association Lawyer Referral and Information Service at www.nysba.org or (800) 342-3661

www.LawHelpNY.org: Legal information for New Yorkers who cannot afford an attorney.

Legal Momentum Equality Works Program: Litigation against employers who have maintained or practiced discrimination. Contact at www.legalmomentum.org or (212) 925-6635

City Bar Justice Center: <http://www.citybarjusticecenter.org> or (212) 626-7373 or 7383

Lambda Legal: www.lambdalegal.org or (866) 542-8336

Time's Up Legal Defense Fund, <https://nwlc.org/legal-assistance/>