

Introduction:

New York State is a national leader in the fight against sexual harassment and is committed to working with employers and workers to end sexual harassment in the workplace.

This toolkit will provide you an overview of the rights and protections you have as a worker in New York State. It will also direct you to resources available through New York State, the United States government, relevant state agencies and nonprofit organizations.

What's in this Toolkit?

- Know Your Rights Information
- Employer Requirement Checklist
- Guide to Filing Complaints with Government Agencies
- Resources & Support for Those Experiencing Harassment

Know Your Rights:

New York State Human Rights Law makes it illegal to discriminate against employees based on the following characteristics:

- Sex
- Sexual orientation
- Gender identity or expression
- Age
- Race
- Creed
- Color
- National origin
- Military status
- Disability
- Pre-disposing genetic characteristics
- Familial status
- Marital status

- Criminal history
- Domestic violence survivor status

Sexual harassment is a form of workplace discrimination. It is any behavior that subjects an employee to inferior conditions of employment due to their gender, gender identity, gender expression (perceived or actual), and/or sexual orientation

All workers have a right to a discrimination- and harassment-free workplace, and New York State recognizes that different identities might overlap to create different experiences for individuals in the workplace. While the sexual harassment policy is focused on sexual harassment and gender discrimination, the methods for reporting and investigating discrimination based on other protected identities are the same.

Employer Requirement Checklist:

As a worker in New York State, your employer is required to provide you with a sexual harassment prevention policy. This policy must meet certain standards outlined in the New York State Human Rights Law. Employers may adopt a model policy and training provided by the New York State Department of Labor and Division of Human Rights (NYS DHR) or create their own policy that meets state standards.

All employers must provide employees with:

- Annual sexual harassment and discrimination prevention training
- A copy of the organization's sexual harassment policy*
 - One copy must be provided on paper or by email at the time of hiring
 - A second copy must be provided every year at the annual sexual harassment training

*Please note, employers must provide employees with this notice, policy, and training information in English **and** in an employee's primary language if the language is Spanish, Chinese, Korean, Polish, Russian, Haitian-Creole, Bengali, French, Urdu or Italian. Starting in May 2023, these languages will expand to include Japanese, Hindi, Albanian, and Greek.

If you would like to view the New York State model documents, they are available at www.ny.gov/programs/combating-sexual-harassment-workplace.

How to File a Complaint with Government Agencies:

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

In addition to your employer's internal process for reporting harassment and discrimination, as outlined in their sexual harassment prevention policy, all workers in New York State have legal remedies available at state and federal government agencies.

A private attorney is not required to file a complaint with a government agency.

NYS DHR is able to provide guidance to filing a claim as well as connection to attorneys for limited legal advice through their Sexual Harassment Hotline: 1-800-HARASS-3

Filing a Complaint with the New York State Division of Human Rights

All employers, public and private, regardless of size, fall under the Human Rights Law of New York. All workers, including employees, domestic workers, paid or unpaid interns, independent contractors, gig workers, and other covered individuals are covered. Everyone is covered regardless of immigration status.

- There is no cost to file with NYS DHR
- You do not need an attorney to file with NYS DHR
- Sexual harassment complaints to NYS DHR may be filed anytime within **3 years** of the latest incident of harassment.
 - Please note, all other employment discrimination complaints beyond sexual harassment (for example racial discrimination) must be filed within 1 year of the latest incident.

To File a Complaint:

- Visit NYS DHR's website at www.dhr.ny.gov.
- Click on the "File a Complaint" tab.
- There are two ways to file a complaint. Individuals may submit a complaint online or, if preferred, they may print out a complaint form and mail it to NYS DHR.
 - Click on the "Online Complaint Form" button to submit online
 - Print the fillable employment complaint form if you wish to submit by mail

NYS DHR Process Following a Complaint:

1. NYS DHR will investigate the complaint.
2. NYS DHR will determine whether there is probable cause to believe sexual harassment occurred.
3. If NYS DHR finds there is probable cause to believe sexual harassment occurred, there will be a public hearing before an administrative law judge.
4. If sexual harassment is found after a hearing, NYS DHR may award relief, which can include:
 - a. Requiring employer to take action to stop harassment
 - b. Compensation for the damage cause including monetary damages, attorneys fees, and civil fines

If an individual does not file with NYS DHR, they can sue directly in state court under the Human Rights Law **within three years** of the last alleged incident of sexual harassment.

NYS DHR's main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, NY 10458. You may call (718) 741-8400 or visit www.dhr.ny.gov.

Filing a Complaint with the United States Equal Employment Opportunity Commission

The United States Equal Employment Opportunity Commission (EEOC) enforces federal anti-discrimination laws including Title VII of the 1964 federal Civil Rights Act.

- There is no cost to file a complaint with EEOC.
- EEOC complaints must be filed with **300 days** of the last alleged incidence of sexual harassment.
- If an individual filed a complaint with DHR, DHR will automatically file the complaint with the EEOC to preserve the right to proceed in federal court.

To file a complaint:

- Visit EEOC's website at www.eeoc.gov.
- Under the Employees and Job Applicants tab select "How to File a Charge of Discrimination."
- You may file online using the EEOC Public Portal:
www.publicportal.eeoc.gov/Portal/Login.aspx
- You may also schedule an intake appointment through the EEOC Public Portal if you prefer to make a complaint in person at an EEOC office. Please visit www.eeoc.gov/field-office to find an EEOC office near you.

- You may also file by mail by sending a letter. Please follow directions on the EEOC Public Portal for how best to submit your complaint

EEOC Process following a Complaint

1. The EEOC will investigate the complaint.
2. The EEOC will determine if there is reasonable cause to believe that discrimination has occurred.
3. If discrimination occurred, the EEOC will try to reach a voluntary settlement with the employer.
4. If the EEOC cannot reach a settlement, the EEOC (or the Department of Justice in certain cases) will decide whether to file a lawsuit.
5. The EEOC will issue a Notice of Right to Sue permitting workers to file a lawsuit in federal court if the EEOC closes the charge, is unable to determine if federal employment discrimination laws may have been violated, or believes that unlawful discrimination occurred by does not file a lawsuit.

Generally, private employers must have at least 15 employees to come within the jurisdiction of the EEOC.

EEOC's main contact information is 1-800-669-4000 or info@eeoc.gov.

Local Government Protections

Many local governments also have laws that protect against sexual harassment and discrimination. You may contact the county, city, or town in which you live to find out if such laws exist.

For those living in New York City, employees may file a complaint of sexual harassment with the New York City Commission on Human Rights (NYC CHR). The Commission's website includes a step-by-step guide to filing a complaint:

<https://www.nyc.gov/site/cchr/enforcement/steps-in-the-complaint-process.page>

NYC CHR is reachable at its main office located at 22 Reade Street, New York, NY 10007 or 212-306-7450.

If harassment involves unwanted physical touching, coerced physical confinement or coerced sex acts, the conduct may constitute a crime. If this is the case, anyone wishing to do so should contact their local police department.

Resources and Support

The following organizations provide resources and services related to sexual harassment and discrimination. This list is not exhaustive, but meant to provide support to the best of our knowledge:

New York State Division of Human Rights Hotline:

People experiencing sexual harassment in the workplace may use the free and confidential hotline to connect with pro-bono attorneys on sexual harassment issues or submit a complaint: 1-800-HARASS-3

A Better Balance

ABB offers a free, legal helpline providing confidential information to workers about workplace rights, including sexual harassment, pregnancy discrimination, breastfeeding, and work-family issues. Contact them at (212) 430-5982 or info@abetterbalance.org.

Legal Momentum Gender Equality Helpline

The helpline provides information and assistance for those who have experienced gender discrimination or gender-based violence in the workplace or school. You may reach out at 1-800-649-0297, help@LMHelpline.org, or by visiting www.legalmomentum.org.

Workplaces Respond

Workplaces Respond is a national resource center on sexual and domestic workplace violence, providing resources, training, and technical assistance to employers, survivors, co-workers, and advocates. It is a partnership of eight national legal organizations and violence prevention organizations led by Futures Without Violence. Visit <https://www.workplacesrespond.org> for more information.

New York State Domestic and Sexual Violence Hotline

You do not have to survive violence alone. Available through the New York State Office for the Prevention of Domestic Violence, the New York State Domestic and Sexual Violence Hotline will connect you with an advocate to provide you support and discuss potential options. These advocates understand different systems you might come to deal with including Criminal Justice, Law Enforcement, Family Court, Social Services, Healthcare, and Community Resources. The hotline can be reached by phone at 800-942-6906 or by text at 844-997-2121.

New York State Coalition Against Sexual Assault

NYSCASA has a page on its website dedicated to resources for survivors of sexual violence, which can include sexual harassment. These resources include links to self-

care and healing resources as well as survivor activism and organizing information. Please visit www.nyscasa.org/survivors for more information.

National Organization for Women - New York City

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

Safe Horizon

Safe Horizon is a victim assistance nonprofit that provides assistance, advocacy, and support to survivors of domestic violence, child abuse, sexual assault, stalking, human trafficking, youth homelessness, and more. Additional information is available at [/www.safehorizon.org](http://www.safehorizon.org).

Lambda Legal

Lambda Legal is a national nonprofit committed to achieving full recognition of the civil rights of lesbians, gay men, bisexuals, transgender people, and individuals living with HIV through impact litigation. This includes a legal help desk which provides information and resources related to discrimination based on sexual orientation, gender identity, and gender expression. Access the help desk by visiting www.lambdalegal.org/helpdesk.

New York State Bar Association

NYSBA's Lawyer Referral and Information Service will connect you with an attorney vetted by the Bar Association to consult on legal issues. There is a fee of no more than \$35 for the first 30 minutes of consultation. More information is available online at www.findalawyernys.org.