

Babylon Fire Department

Anti-Sexual Harassment and Anti-Discrimination Policy

BABYLON FIRE DEPARTMENT is committed to providing and maintaining a work environment free from all forms of harassment and discrimination, including sexual harassment. Below is information on recognizing and reporting harassment and discrimination, as well as information regarding legal rights.

What Is Sexual Harassment?

Sexual harassment is a form of unlawful sex discrimination. It 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 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 reporting individual is not the intended target of the sexual harassment;
- Such conduct is made either explicitly or implicitly a term or condition of employment; or
- Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual's employment.

A sexually harassing hostile work environment includes, but is not limited to, words, signs, jokes, pranks, intimidation, or physical violence which are of a sexual nature or are directed at an individual because of that individual's sex. It may consist of unwanted verbal or physical advances, sexually explicit derogatory statements, or sexually discriminatory remarks that 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 also occurs 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.

Examples of Sexual Harassment

Examples of sexual harassment include:

- Physical acts of a sexual nature, such as:
 - Touching, pinching, patting, kissing, hugging, grabbing, brushing against another member's body or poking another member's 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 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, or jokes, or comments about a person's sexuality or sexual experience, which create a hostile work environment.
- Sex stereotyping, which occurs 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.
- 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 and the 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.

Who can be a target of sexual harassment?

Sexual harassment is not limited to women. Anyone can be a target of sexual harassment, regardless of sex or gender. New York Law protects members, paid or unpaid interns, and non-members (including independent contractors), and those employed by companies contracting to provide services in the workplace.

As for the harasser, it may be a superior, a subordinate, a coworker/peer, or anyone else in the workplace -- including an independent contractor, contract worker, vendor, client, customer, or visitor.

Where can sexual harassment occur?

Sexual harassment can occur in the workplace, but it can also occur elsewhere, such as on a business trip or at a company-sponsored event. It should be noted that sexual harassment does not always occur in face-to-face situations. Harassment can occur through calls, texts, emails, and social media usage, even if takes place away from the workplace premises, via personal devices, or during non-work hours.

Any member who feels harassed should report it so that any violation of this policy can be corrected promptly. Any harassing conduct, even a single incident, can be addressed under this policy. Procedures for reporting sexual harassment are discussed below under the heading "Reporting Sexual Harassment and Other Forms of Discrimination."

Other Forms of Prohibited Discrimination

Sexual harassment is one form of discrimination, but it is by no means the only form of discrimination a worker may experience. Unlawful discrimination may be based on an individual's race, color, religion, age, national origin, genetic information, familial status, citizenship status, marital status, disability, veteran status, domestic violence victim status or any other status protected by law or regulation. Such discrimination may be in the form of a hostile work environment based on the protected status, exhibited through offensive words, signs, jokes, pranks, intimidation, or physical violence. Discrimination may also consist of decisions or acts that impact a term, condition, or privilege of an individual's employment, based on or due to that individual's protected status.

Retaliation

No person covered by this policy will be subject to retaliation for reporting sexual harassment or other forms of discrimination prohibited by this policy. Unlawful retaliation is any adverse action that may discourage an individual from reporting sexual harassment or other discrimination. The adverse action may be job-related (e.g., disciplinary action, demotion, termination), or it may be non-job-related (e.g., threats of physical violence outside of work hours).

Whether an individual makes a complaint or assists in the investigation of a complaint, that individual need not fear retaliation. Not only would such retaliation violate this policy, it is also unlawful under federal, state, and (where applicable) local law.

The New York State Human Rights Law protects any individual from retaliation if that individual has engaged in “protected activity.” Protected activity occurs when a person has:

- made a complaint of sexual harassment or other discrimination, either internally or with any anti-discrimination agency;
- testified or assisted in a proceeding involving sexual harassment or other discrimination under the Human Rights Law or other anti-discrimination law;
 - opposed sexual harassment or other discrimination by making a verbal or informal complaint to management, or by simply informing a your Company Office or the Chief’s office of harassment;
- reported that another member has been sexually harassed or subject to other forms of discrimination; or
- encouraged a fellow member to report sexual harassment or other discrimination.

Even if the alleged harassment/discrimination does not turn out to rise to the level of a violation of law, the individual is protected from retaliation if the person had a good faith belief that the practices were unlawful. However, the retaliation provision is not intended to protect persons making intentionally false charges.

Reporting Sexual Harassment and Other Forms of Discrimination

Preventing sexual harassment and discrimination is everyone’s responsibility. Any member, paid or unpaid intern, or non-member who has been subjected to behavior that may constitute sexual harassment is encouraged to report such behavior to your Company Office or the Chief’s office. Anyone who witnesses or becomes aware of potential instances of sexual harassment should report such behavior to your Company office or the Chief’s office

Likewise, any member who experiences any other form of discrimination (besides sexual harassment) should report the incident or conduct to your Company office or the Chief’s office. Such reports may be made verbally or in writing. A form for submission of a written complaint is attached to this Member Handbook, and all members are encouraged to use this complaint form. The form can also be obtained by requesting it from your Company Office or the Chief’s office and online at <https://www.ny.gov/combating-sexual-harassment-workplace/employers>. Members who are reporting sexual harassment on behalf of other members should use the complaint form and note that it is on another member’s behalf.

Supervisory Responsibilities

Supervisors and managers **are required** to report to your Company Office or the Chief’s office any complaint or information about sexual harassment or discrimination that they receive, including information received from others or based on their own observations of harassing or discriminatory behavior. Failure to do so will subject a supervisor/manager to discipline.

Complaint and Investigation of Sexual Harassment and Other Forms of Discrimination

All complaints or information about sexual harassment or other discrimination will be investigated, whether it was reported verbally or in writing. Investigations will be conducted in a timely manner and will be confidential to the extent possible. All persons involved, including complainants, witnesses, and alleged harassers will be accorded due process, as outlined below, to protect their rights to a fair and impartial investigation.

Any member may be required to cooperate as needed in an investigation. BABYLON FIRE DEPARTMENT will not tolerate retaliation against members who file complaints, support another’s complaint, or participate in an investigation regarding a violation of this policy.

While the process may vary from case to case, investigations will generally include the following steps:

- Upon receipt of the complaint, BABYLON FIRE DEPARTMENT will conduct an immediate review of the allegations, and take any interim actions (e.g., instructing the respondent to refrain from communications with the complainant), as appropriate. If the complaint is verbal, the individual will be encouraged to complete the “Complaint Form” in writing. If he or she refuses, a Complaint Form will be prepared based on the verbal reporting.
- If documents, electronic communications (including emails and texts), or phone records are relevant to the investigation, take steps to obtain, review, and preserve them.
- Interviews of all parties involved, including any relevant witnesses.
- A written document of the investigation will be created (such as a letter, memo, or email), which contains the following:
 - A list of all documents reviewed, along with a detailed summary of relevant documents;
 - A list of names of those interviewed, along with a detailed summary of their statements;
 - A timeline of events;
 - A summary of prior relevant incidents, reported or unreported; and
 - The basis for the decision and final resolution of the complaint, together with any corrective action(s).
- BABYLON FIRE DEPARTMENT will keep the written documentation and associated documents in a secure and confidential location.
- BABYLON FIRE DEPARTMENT will promptly notify the individual who reported and the individual(s) about whom the complaint was made of the final determination and implement any corrective actions identified in the written document.
- BABYLON FIRE DEPARTMENT will inform the individual who reported of the right to file a complaint or charge externally as outlined in the next section.

Legal Protections And External Remedies

Members who have been sexually harassed or subjected to other forms of discrimination have the right to pursue legal remedies with certain governmental entities. While a private attorney is not required to file a complaint with a governmental agency, you may seek the legal advice of an attorney.

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 members, paid or unpaid interns, and non-members, 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 of sexual harassment may be filed with the DHR any time **within three years** of the alleged harassment. For other allegations of harassment and/or discrimination, the statute of limitations remains at one year after the alleged unlawful discriminatory practice. An individual who did not file with the DHR, can sue directly in state court under the HRL, **within three years** of the alleged sexual harassment. An individual may not file with the DHR if they have already filed a HRL complaint in state court.

Complaining internally to BABYLON FIRE DEPARTMENT does not extend your time to file with DHR or in court. The 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 (Title VII)

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 members to come within the jurisdiction of the EEOC.

An member 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. An individual should contact the county, city or town in which they live to find out if such a law exists. For example, members 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 Applicable

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

Reasonable Accommodations

We are required under the law to consider requests to reasonably accommodate members for reasons of disability, religious observances or beliefs or pregnancy unless doing so results in an undue hardship to BABYLON FIRE DEPARTMENT. This policy applies to all aspects of employment, including job selection, job assignment, compensation, discipline, termination, and access to benefits and training. Members seeking reasonable accommodations should discuss the request with your Company Office or the Chief's office.

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Complaint Form for Reporting Sexual Harassment

New York State Labor Law requires all employers to adopt a sexual harassment prevention policy that includes a complaint form 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 Company Office or the Chief's office. You will not be retaliated against for filing a complaint.

If you are more comfortable reporting verbally or in another manner, your employer should complete this form, provide you with a copy and follow its sexual harassment prevention policy by investigating the claims as outlined at the end of this form.

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

COMPLAINANT INFORMATION

Print Name:

Work Address:

Job Title:

Work Phone:

Email:

Select Preferred Communication Method: ☐ Email ☐ Phone ☐ In person

SUPERVISORY INFORMATION

Immediate Supervisor's Name:

Title:

Work Phone:

Work Address:

COMPLAINT INFORMATION

1. Your complaint of Sexual Harassment is made about:

Name:

Title:

Work Address:

Work Phone:

Relationship to you: ☐ Supervisor ☐ Subordinate ☐ Co-Worker ☐ Other

2. Please describe what happened and how it is affecting you and your work. 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 who may have information related to your complaint:

The last question is optional, but may help the investigation.

5. Have you previously complained or provided information (verbal or written) about related incidents? If yes, when and to whom did you complain or provide information?

If you have retained legal counsel and would like us to work with them, please provide their contact information.

Signature: _____

Date: _____