

POLICY

Anti-Sexual Harassment

Policy Owner: Executive Direction

Approved By: Gerrard P. Bushell – President & CEO

POLICY STATEMENT

The Dormitory Authority (DASNY) does not tolerate and prohibits sexual harassment of or against our job applicants, contractors, interns, volunteers, or employees by another employee, supervisor, vendor, customer, or any third party. DASNY also prohibits retaliation in all situations including as defined below. DASNY has a separate policy that covers unprofessional conduct, discrimination, harassment and retaliation (for alleged conduct not based on sex or gender).

DASNY is committed to a workplace free of sexual harassment and retaliation. These behaviors are unacceptable in the workplace and in any work-related settings such as business trips and DASNY-sponsored social functions, regardless of whether the conduct is engaged in by a supervisor, co-worker, client, customer, vendor or other third party. In addition to being a violation of this policy, sexual harassment and retaliation are also unlawful. For example, sexual harassment and retaliation against an individual because the individual filed a complaint of sexual harassment or because an individual aided, assisted or testified in an investigation or proceeding involving a complaint of sexual harassment are unlawful.

POLICY

Sexual Harassment Defined

Sexual harassment includes harassment on the basis of sex or gender (including pregnancy, childbirth and related medical conditions), gender identity or gender expression (including transgender status), and/or sexual orientation. Sexual harassment includes unwelcome conduct which is either of a sexual nature or which is directed at an individual because of that individuals' sex or gender (including pregnancy, childbirth and related medical conditions), gender identity or gender expression (including transgender status), and/or sexual orientation when:

- Submission to that conduct or those advances or requests is made either explicitly or implicitly a term or condition of an individual's employment; or
- Submission to or rejection of the conduct or advances or requests by an individual is used as the basis for employment decisions affecting the individual; or
- The conduct or advances or requests have the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Sexual harassment can be verbal (including slurs, jokes, insults, epithets, gestures or teasing), visual (including offensive posters, symbols, cartoons, drawings, computer displays, text messages, social media posts or e-mails) or physical conduct (including physically threatening another) that denigrates or shows hostility or aversion towards an individual on the basis of sex or gender (including pregnancy, childbirth and related medical conditions), gender identity or gender expression (including transgender status), and/or sexual orientation. Such conduct violates this policy, even if it is not unlawful. Because

it is difficult to define unlawful sexual harassment, employees are expected to behave at all times in a manner consistent with the intended purpose of this policy.

Examples of conduct that violates this policy include:

- unwelcome sexual advances, flirtations, advances, leering, whistling, touching, pinching, assault, blocking normal movement
- requests for sexual favors or demands for sexual favors in exchange for favorable treatment
- obscene or vulgar gestures, posters, or comments
- sexual jokes or comments about a person's body, sexual prowess, or sexual deficiencies
- propositions, or suggestive or insulting comments of a sexual nature
- derogatory cartoons, posters, and drawings
- sexually-explicit e-mails or voicemails
- uninvited touching of a sexual nature
- unwelcome sexually-related comments
- conversation about one's own or someone else's sex life
- conduct or comments consistently targeted at only one gender, even if the content is not sexual
- teasing or other conduct directed toward a person because of the person's gender

Retaliation Defined

Retaliation means adverse conduct taken because an individual reported an actual or perceived violation of this policy, opposed practices prohibited by this policy, or participated in the reporting and investigation process described below. "Adverse conduct" includes but is not limited to: any action that would discourage an employee from reporting sexual harassment or retaliation; shunning and avoiding an individual who reports sexual harassment or retaliation; express or implied threats or intimidation intended to prevent an individual from reporting sexual harassment or retaliation; and denying employment benefits because an applicant or employee reported or encouraged another employee to report sexual harassment or retaliation or participated in the reporting and investigation process described below.

Reporting Procedures

If an employee believes someone has violated this policy, the employee should promptly bring the matter to the immediate attention of the Ombuds Officer/Affirmative Action Officer (AAO), 515 Broadway, Albany, NY at (518) 257-3255 or the Director, Human Capital, 515 Broadway, Albany, NY at (518) 257-3136. Written complaints can be submitted internally using the [form](#) provided with this policy. If the employee makes a complaint under this policy and has not received a satisfactory response within five (5) business days, the employee should contact the Vice President at (518) 257-3192 immediately.

Every supervisor who learns of any employee's concern about conduct in violation of this policy, whether in a formal complaint or informally, or who otherwise is aware of conduct in violation of this policy, **must immediately** report the issues raised or conduct to the Ombuds Officer/AAO, the Director, Human Capital or the Vice President.

Investigation Procedures

Upon receiving a complaint, DASNY will promptly conduct a fair and thorough investigation into the facts and circumstances of any claim of a violation of this policy to ensure due process for all parties. To the extent possible, DASNY will endeavor to keep the reporting employee's concerns confidential. However, complete confidentiality may not be possible in all circumstances. Employees are required to cooperate in all investigations conducted pursuant to this policy.

During the investigation, DASNY generally will interview the complainant and the accused, conduct further interviews as necessary and review any relevant documents or other information. Upon completion of the investigation, DASNY will determine whether this policy has been violated based upon its reasonable evaluation of the information gathered during the investigation. DASNY will inform the complainant and the accused of the results of the investigation.

DASNY will take corrective measures against any person who it finds to have engaged in conduct in violation of this policy, if DASNY determines such measures are necessary. These measures may include, but are not limited to, counseling, suspension, or immediate termination. Anyone, regardless of position or title, whom DASNY determines has engaged in conduct that violates this policy will be subject to discipline, up to and including termination. This includes individuals engaging in sexual harassment or retaliation, as well as supervisors who fail to report violations of this policy, or knowingly allow prohibited conduct to continue. Individuals who engage in conduct that rises to the level of a violation of law can be held personally liable for such conduct.

Legal Protections and External Remedies

Aside from the internal complaint process at DASNY, employees may choose to pursue external legal remedies with the following governmental entities:

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 DASNY 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. An individual should contact the county, city or town in which they 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 the local police department.

DASNY cannot remedy claimed sexual harassment or retaliation unless you bring these claims to the attention of management. Please report any conduct which you believe violates this policy.

HISTORY

Issued: 12/18/18