



Sexual Harassment Policy

Introduction

Not only because it's the law, but also because we are committed to our community and our employees, the Roeliff Jansen Community Library (*RJCL*) opposes harassment of all sorts, including sexual harassment, bullying or harassment based upon any protected characteristic such as age, creed, race, color, sex, sexual orientation, gender identity, national origin, marital status, disability, military status, domestic violence victim status, criminal or arrest record, or predisposing genetic characteristic. The following sexual harassment policy applies to all types of harassment.

RJCL is committed to maintaining a space and a workplace free from sexual harassment. Sexual harassment is a form of workplace discrimination. All employees, volunteers, Library patrons, and others conducting business with the Library are required to behave in a manner that prevents sexual harassment in the workplace. This policy is one component of *RJCL*'s commitment to a discrimination-free work environment. Because sexual harassment is against the law¹ and persons have a legal right to a workplace free from sexual harassment, individuals are urged to report sexual harassment by filing a complaint internally with *RJCL*. Employees can also file a complaint with a government agency or in court under federal, state, or local antidiscrimination laws.

Policy:

1. *RJCL*'s policy applies to all employees, applicants for employment, interns, whether paid or unpaid, Library volunteers and trustees, contractors, library patrons and persons conducting business, regardless of immigration status, with *RJCL*. In the remainder of this document, the term "employees" refers to this collective group.

¹ While this policy specifically addresses sexual harassment, harassment because of and discrimination against persons of all protected classes is prohibited. In New York State, such classes include age, race, creed, color, national origin, sexual orientation, military status, sex, disability, marital status, domestic violence victim status, gender identity and criminal history.

2. Sexual harassment, or any other form of harassment, will not be tolerated. The Library will apply its anti-harassment policies to all forms of harassment. This document should be read with that in mind. Any employee or individual covered by this policy who engages in sexual harassment or retaliation will be subject to remedial and/or disciplinary action (e.g., counseling, suspension, termination, suspension of library privileges, or other appropriate action).
3. Retaliation Prohibition: No person covered by this policy shall be subject to adverse action because the individual reports an incident of sexual harassment, provides information, or otherwise assists in any investigation of a sexual harassment complaint. *RJCL* will not tolerate such retaliation against anyone who, in good faith, reports or provides information about suspected sexual harassment. Any employee of *RJCL* who retaliates against anyone involved in a sexual harassment investigation will be subjected to disciplinary action, up to and including termination. All employees, paid or unpaid interns, or non-employees² working in or visiting the Library who believe they have been subject to such retaliation should inform *the Library Director or the President of the Board of Trustees*. All employees, paid or unpaid interns, or non-employees who believe they have been a target of such retaliation may also seek relief in other available forums, as explained below in the section on Legal Protections.
4. Sexual harassment is offensive, is a violation of our policies, is unlawful, and may subject *RJCL* to liability for harm to targets of sexual harassment. Harassers may also be individually subject to liability. Employees of every level who engage in sexual harassment, including managers and supervisors who engage in sexual harassment or who allow such behavior to continue, will be penalized for such misconduct.
5. *RJCL* will conduct a prompt and thorough investigation that ensures due process for all parties, whenever management receives a complaint about sexual harassment, or otherwise knows of possible sexual harassment occurring. *RJCL* will keep the investigation confidential to the extent possible. Effective corrective action will be taken whenever sexual harassment is found to have occurred. All employees are required to cooperate with any internal investigation of sexual harassment.
6. All employees and all other persons are encouraged to report any harassment or behaviors that violate this policy. *RJCL* will provide all employees a complaint form for employees to report harassment and file complaints.
7. Employees are required to report any complaint that they receive, or any harassment that they observe or become aware of, to the Library Director or President of the Board of Trustees.
8. This policy applies to all employees, paid or unpaid interns, and non-employees and all must follow and uphold this policy. This policy must be provided to all employees and will be made available at the Library and be provided to employees upon hiring.

² A non-employee is a Library patron, volunteer, Board member, or someone who is (or is employed by) a contractor, subcontractor, vendor, consultant, or anyone providing services in the workplace.

What Is “Sexual Harassment”?

Sexual harassment is a form of sex discrimination and is unlawful under federal and state law. Sexual harassment 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 that is either of a sexual nature or that 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.

Contributors to a sexually harassing hostile work environment include, but are not limited to, 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. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory statements, or sexually discriminatory remarks made by someone that are offensive or objectionable to the recipient, that cause the recipient discomfort or humiliation, or that 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.

Any employee who feels harassed should report so that any violation of this policy can be corrected promptly. Any harassing conduct, even a single incident, can be addressed under this policy.

Examples of sexual harassment

The following describe some of the types of acts that may be unlawful sexual harassment and that are strictly prohibited:

- Physical acts of a sexual nature, such as:
 - Touching, pinching, patting, kissing, hugging, grabbing, brushing against another individual’s body, or poking another person’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 that 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, of 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 can occur between any individuals, regardless of their sex or gender. New York Law protects employees, paid or unpaid interns, and non-employees, including independent contractors and those employed by companies contracting to provide services in the workplace. A harasser can be a superior, a subordinate, a coworker, or anyone in the workplace, including an independent contractor, contract worker, vendor, client, customer, or visitor.

Where can sexual harassment occur?

Unlawful sexual harassment is not limited to the physical workplace itself. It can occur while employees are traveling for business or at employer-sponsored events or parties. Calls, texts, emails, and social media usage by employees can constitute unlawful workplace harassment, even if they occur away from the workplace premises, on personal devices, or during non-work hours.

Retaliation

Unlawful retaliation can be any action that could discourage an individual from coming forward to make or support a sexual harassment claim. Adverse action need not be job related or occur in the workplace to constitute unlawful retaliation (e.g., threats of physical violence outside of work hours).

Such retaliation is unlawful under federal, state, and (where applicable) local law. The New York State Human Rights Law protects any individual who has engaged in "protected activity." Protected activity occurs when a person has:

- made a complaint of sexual harassment, either internally or with any anti-discrimination agency;
- testified or assisted in a proceeding involving sexual harassment under the Human Rights Law or other anti-discrimination law;
- opposed sexual harassment by making a verbal or informal complaint to management, or by simply informing a supervisor or manager of harassment;
- reported that another individual has been sexually harassed; or
- encouraged another individual to report harassment.

Even if the alleged harassment 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 of harassment.

Reporting Sexual Harassment

Preventing sexual harassment is everyone's responsibility. *RJCL* cannot prevent or remedy sexual harassment unless it knows about it. Any employee, paid or unpaid intern, Library patron, or non-employee who has been subjected to behavior that may constitute sexual harassment is encouraged to report such behavior to the Library Director or President of the Board of Trustees. Anyone who witnesses or becomes aware of potential instances of sexual harassment should report such behavior to those officials.

Reports of sexual harassment may be made verbally or in writing. A form for submission of a written complaint is attached to this policy, and all individuals are encouraged to use this complaint form. Persons who are reporting sexual harassment on behalf of other individuals should use the complaint form and note that it is on another's behalf.

Employees, paid or unpaid interns, Library patrons, or non-employees who believe they have been a target of sexual harassment may also seek assistance in other available forums, as explained below in the section on Legal Protections.

Supervisory Responsibilities

All Library employees who receive a complaint or information about suspected sexual harassment, observe what may be sexually harassing behavior, or for any reason suspect that sexual harassment is occurring are required to report such suspected sexual harassment to the Library Director or President of the Board of Trustees.

In addition to being subject to discipline if they engaged in sexually harassing conduct themselves, Library employees will be subject to discipline for failing to report suspected sexual harassment or otherwise knowingly allowing sexual harassment to continue.

Library employees will also be subject to discipline for engaging in any retaliation.

Complaint and Investigation of Sexual Harassment

All complaints or information about sexual harassment will be investigated, whether that information was reported in verbal or written form. Investigations will be conducted in a timely manner and will be confidential to the extent possible.

An investigation of any complaint, information, or knowledge of suspected sexual harassment will be prompt and thorough, commenced immediately, and completed as soon as possible. The investigation will be kept 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 employee may be required to cooperate as needed in an investigation of suspected sexual harassment. *RJCL* will not tolerate retaliation against individuals 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 should be done in accordance with the following steps by the Library Director of the President of the Board of Trustees:

- Upon receipt of complaint, 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 complaint is verbal, encourage the individual to complete the "Complaint Form" in writing. If the complainant refuses, prepare a Complaint Form based on the verbal reporting.
- If documents, emails, or phone records are relevant to the investigation, take steps to obtain and preserve them.
- Request and review all relevant documents, including all electronic communications.
- Interview all parties involved, including any relevant witnesses;
- Create a written documentation of the investigation (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).

- Keep the written documentation and associated documents in a secure and confidential location.
- 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.
- 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

Sexual harassment is not only prohibited by *RJCL* but is also prohibited by state and federal law.

Aside from the internal process at *RJCL*, individuals may also choose to pursue legal remedies with the following governmental entities. While a private attorney is not required to file a complaint with a governmental agency, individuals 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 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 an HRL complaint in state court.

Complaining internally to *RJCL* does not extend the time to file with DHR or in court. The one-year or three-year period is counted from date of the most recent incident of harassment.

Individuals do not need an attorney to file a complaint with DHR, and there is no cost to file with DHR.

DHR will investigate the 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 the 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 of 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.

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.

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