

SEXUAL HARASSMENT PREVENTION

The Wallace Foundation (“Foundation”) has a zero-tolerance policy for any form of sexual harassment, and all employees are required to work in a manner that prevents sexual harassment in the workplace.

Sexual harassment is offensive, a violation of our policies, and against the law. It subjects the Foundation and individuals who harass to liability. Sexual harassment will not be tolerated. Any employee or individual covered by this policy who engages in sexual harassment or retaliation will be subject to remedial and/or disciplinary action, up to and including termination.

All employees have a legal right to a workplace free from sexual harassment, and employees can enforce this right by filing a complaint internally with the Foundation, with a government agency, or in court under federal, state or local anti-discrimination laws.

In this policy we define:

- Who is covered under this policy
- What sexual harassment is and provide examples
- Where sexual harassment can occur
- What retaliation is and the prohibition against it
- How to report behavior that may constitute sexual harassment
- Additional responsibilities for managers and supervisors
- How we conduct an investigation of a complaint
- Your legal protections and external remedies

Who is covered under this policy

Sexual harassment can occur between any individuals, regardless of their sex or gender. New York law protects employees, paid and unpaid interns, applicants for employment, and non-employees.

For purposes of this policy a non-employee is a member of our Board of directors, someone who is (or is employed by) a contractor, grantee, vendor, consultant, or anyone providing services in the workplace. Protected non-employees include persons commonly referred to as independent contractors, “gig” workers and temporary workers. Also included are persons providing equipment repair, cleaning services or any other services provided pursuant to a contract with the employer.

A complaint alleging sexual harassment may be filed against a manager, a subordinate, a co-worker or anyone in the workplace, member of the Board, independent contractor, contract worker, vendor, grantee, client, customer or visitor.

What is sexual harassment and examples

Sexual harassment is a form of sex discrimination and is unlawful under federal, New York State, and New York City law. Sexual harassment includes harassment on the basis of sex, sexual orientation, gender identity, pregnancy, 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 the 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 complaining individual is not the 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 decisions affecting an individual's employment.

A sexually harassing hostile work environment consists of words, signs, jokes, pranks, intimidation or physical violence which are of a sexual nature, or 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 which are offensive or objectionable to the recipient, which cause the recipient discomfort or humiliation, or which interfere with job performance.

Sexual harassment also occurs when a person in authority tries to trade job benefits for sexual favors. This can include hiring, promotion, continuing employment or any other terms, conditions or privileges of employment. This is called "quid pro quo" harassment.

Examples of conduct that may be unlawful sexual harassment include, but are not limited to:

- Physical assaults such as 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 any aspect of the individual's employment or job benefits, e.g., continued employment or promotion, or subtle or obvious pressure for unwelcome sexual activities.
- Inappropriate touching, pinching, patting, and brushing up against or poking another employee's body of a sexual nature.
- Hostile actions taken because of an individual's sex, sexual orientation, gender identity and status of being transgender such as: i) interfering with or destroying or damaging a person's workstation or otherwise interfering with the individual's ability to perform the job; ii) sabotaging an individual's work; and iii) bullying, yelling or name-calling.
- Sexually-oriented gestures, noises, remarks, jokes or comments about a person's sexuality or sexual experience, which create a hostile work environment.

- Sexual or discriminatory pictures, posters or displays, or materials that are sexually demeaning or pornographic anywhere in the workplace, including such displays on workplace computers or cellphones, or sharing such displays while in the workplace.

Where sexual harassment can 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 or not during working hours.

Retaliation

No person covered under this Policy shall be subject to any adverse employment action including being terminated or discriminated against because the employee reports an incident of sexual harassment, provides information, or otherwise assists in any investigation of a sexual harassment complaint.

The Foundation has a zero-tolerance policy for such retaliation. Any employee who retaliates against anyone involved in a sexual harassment investigation will be subject to disciplinary action, up to and including termination. Any employee, paid or unpaid intern, or non-employee working in the workplace who believes they have been subject to such retaliation should inform their manager, the Chief Administrative Officer, or the President. Any employee, paid or unpaid intern, or non-employee who believes they have been a victim of such retaliation may also seek compensation in other available forums, as explained in the section on Legal Protections.

Unlawful retaliation can be any action that would keep an employee from coming forward to make or support a sexual harassment complaint. Retaliation need not be job-related or occur in the workplace to constitute unlawful retaliation.

Such retaliation is unlawful under federal, New York State, and New York City law. The New York State Human Rights Law protects any individual who has engaged in “protected activity” which occurs when a person has:

- Filed 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 of 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;
- Complained that another employee has been sexually harassed; or
- Encouraged a fellow employee to report harassment.

Reporting Sexual Harassment

Preventing sexual harassment is everyone’s responsibility. The Foundation cannot prevent or remedy sexual harassment unless it knows about it. Any employee or individual covered under this policy who has been subjected to behavior that may constitute sexual harassment is encouraged to report

such behavior to a manager, the Chief Administrative Officer, or the President. Anyone who witnesses or becomes aware of potential instances of sexual harassment should report such behavior to a manager, the Chief Administrative Officer, or the President.

Reports of sexual harassment can be made verbally or in writing. To submit a written complaint, employees are encouraged to use the complaint form available on the intranet. Employees who are reporting sexual harassment on behalf of other employees should use the complaint form and note that it is on another employee's behalf. Alternatively, a complaint may be submitted to reporting@wallacefoundation.org.

Employees and individuals covered under this policy who believe they have been a victim of sexual harassment may also seek assistance in other available forums, as explained in the section on Legal Protections.

Additional responsibilities for managers

All managers who receive a complaint or information about sexual harassment, witness what may be sexually harassing behavior or for any reason suspect that sexual harassment is occurring, are **required** to report this to the Chief Administrative Officer or the President.

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

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

How we conduct an investigation of a complaint

All complaints of suspected sexual harassment will be investigated, whether reported in verbal or written form. All persons involved, including complainants, witnesses and individuals against whom a complaint is made have a right to a fair and impartial investigation.

Investigations will be conducted in as timely and confidential manner as possible, consistent with the need to conduct a thorough and effective investigation, and should be completed within 30 days.

Any employee may be required to cooperate as needed in an investigation of sexual harassment. Employees who participate in any investigation will not be retaliated against.

Upon receipt of a complaint, the Foundation will immediately begin an investigation which will include:

- If the individual has presented a verbal complaint, preparing a written record in conformance with the complaint form
- Taking appropriate interim actions during the investigation period based on the complaint
- Requesting, obtaining, preserving and reviewing all relevant documents (print and electronic) including emails, and phone records
- Interviewing all parties involved, including any relevant witnesses
- Creating written documentation of all aspects of the investigation

- Notifying the complainant and the person against whom the complaint was filed of the final resolution
- Implementing any corrective action, and
- Informing the individual of their right to file a complaint or charge externally as outlined in the Legal Protections section of this policy.

Your legal protections and external remedies

Sexual harassment is not only prohibited by the Foundation but is also prohibited by federal, New York State, and New York City law.

Aside from the internal process at the Foundation, employees may also choose to pursue legal remedies with the following governmental entities at any time.

New York State Division of Human Rights (DHR)

The Human Rights Law (HRL), codified as N.Y. Executive Law, art. 15 § 260 et seq., applies to 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 DHR or in New York State Supreme Court.

Complaints filed 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 discrimination. An individual may not file with DHR if they have already filed a Human Rights Law (HRL) complaint in state court.

Complaining internally to the Foundation does not extend your time to file with DHR or in court. The one year or three years is counted from the 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 discrimination has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If discrimination 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 monetary damages, attorney's fees and civil fines.

DHR's contact information (for employees of organizations located in Manhattan below 42nd Street) is: NYS Division of Human Rights, 65 Hanson Place, Room 1084, Brooklyn, NY 11217, telephone (718) 722-2385, InfoBrooklyn@dhr.ny.gov.

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

United States Equal Employment Opportunity Commission (EEOC)

The 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 a 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.

If an employee believes that he/she has been discriminated against at work, he/she 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 (1-800-669-6820 (TTY)), 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 - New York City

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 the 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.

Local Police Department

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

This policy statement is not a contract of employment. The Wallace Foundation reserves the right to change or revoke this policy statement at any time without notice.