

Dear New Yorkers,

Unwelcome comments or advances; promises of advancement in exchange for sexual favors; offensive “jokes” — sexual harassment can take many forms. It affects not just the victim, but co-workers, families, and the workplace at large. We all have a stake in preventing it and stopping it when it happens.

Victims of sexual harassment are often too afraid or embarrassed to come forward. It is important that all workers know that there is help available for those who believe they are being illegally targeted. I am committed to equality in the workplace and to the enforcement of federal, state, and local laws that give employees the right to be free from sexual harassment. If you have questions about harassment and discrimination in the workplace, please contact my office’s Civil Rights Bureau.

All New Yorkers have the right to a workplace free from sexual harassment and discrimination. Let us know if you need help.

Sincerely,



Attorney General
of New York
Letitia James

Resources

Office of the NYS Attorney General Civil Rights Bureau

28 Liberty Street,
New York, NY 10005
(212) 416-8250
civil.rights@ag.ny.gov

U.S. Equal Employment Opportunity Commission

1-800-669-4000 1-800-669-6820 (TTY)
info@eEOC.gov eEOC.gov

NYS Division of Human Rights

1-888-392-3644
<http://www.dhr.ny.gov>

NYC Commission on Human Rights (NYCCHR)

311 or 212-306-7450
<http://www.nyc.gov/html/cchr/>

If You Need Support

**Being sexually harassed can be a traumatic experience.
Places to find support include:**

- Woman’s Justice NOW Helpline: (212) 627-9895
- Legal Momentum Equality Works Program: (212) 925-6635
- Safe Horizon Crime Victim’s Hotline: (866) 689-HELP (4357)
or Rape & Sexual Assault Hotline: (212) 227-3000

Sexual Harassment

In The Workplace: Know Your Rights



New York State Office
of the Attorney General
Letitia James



Sexual Harassment Defined

Sexual harassment is a form of gender-based discrimination. It involves unwelcome sexual conduct that:

- Is used as the basis for hiring or other employment decisions, such as promotions, raises or job assignments;
- Creates an intimidating, hostile or offensive work environment.
- The harasser can be a supervisor, a co-worker or someone who is not an employee, such as a client or customer. Harassment is illegal when it is so frequent or severe that it creates a hostile or offensive work environment or when it results in an adverse employment decision.

Sexual harassment may be verbal, visual and/or physical, including:

- Sexually offensive remarks or jokes;
- Unwanted touching or groping;
- Coerced sex acts;
- Requests for sexual favors of a sexually suggestive nature (e.g., asking employee to dig coins out of a supervisor's pants pocket);
- Displaying pornographic images;
- Comments (either complimentary or derogatory) about a person's gender or sexual preferences;
- Sexual gestures (e.g., pantomiming sex acts).

Sexual harassment is prohibited by Title VII of the 1964 federal Civil Rights Act, New York State Human Rights Law and, in some instances, local law (for example, the New York City Administrative Code). The NYS Human Rights Law also protects against harassment based on gender identity or transgender status. Harassment on the basis of actual or perceived sexual orientation is also prohibited by the New York State Orientation Non-Discrimination Act (SONDA). For more information on SONDA, visit ag.ny.gov/civil-rights/sonda-brochure.

Sexual Harassment Outside the Workplace

Sexual harassment can occur in contexts other than the workplace: in housing, school, or other public accommodations.

If you feel that you have been sexually harassed by, for example, a landlord, teacher, or service provider, you should consult with an attorney who can explain all the available options.

Filing Complaints

Follow Employer Procedures First

You should first contact the person or office who may have been designated by your employer to receive such complaints.

Consult an Attorney

Beyond reporting harassment to your employer, there is no one right answer about how to proceed. It is advisable to consult an attorney who can explain all of the available options. Note that there are deadlines or filing a complaint under each of the laws prohibiting sexual harassment. Ask the agencies listed about specific procedures and time limits that apply. You will find contact information for all the agencies on the back of this brochure.

Office of the New York State Attorney General (OAG) Civil Rights Bureau

The Civil Rights Bureau determines whether your experiences are evidence of a pattern, practice or policy of sexual harassment affecting a significant number of people. The Bureau may then commence an investigation and/or initiate legal action against the employer. NOTE: The Attorney General represents the People of the State of New York, not the individual making a complaint. Filing a complaint with the OAG is not a substitute for bringing a case in court, and it does not affect any of the filing deadlines or other administrative prerequisites for filing a case in court or with other government agencies.

NYS Division of Human Rights (SDHR)

Complaints of sexual harassment may be brought under the State Human Rights Law against an employer of any size. The State Human Rights Law allows individuals to file a complaint with the SDHR or proceed directly to court. The scope of and procedure for filing complaints under local human rights laws may differ from those of the State Human Rights Law. For instance, sexual harassment complaints under the NYC HRL may only be brought against an employer with more than 4 employees.

U.S. Equal Employment Opportunity Commission (EEOC)

Sexual harassment complaints under Title VII of the federal Civil Rights Act may only be brought against employers with more than 15 employees and must be filed with the EEOC before commencing litigation. The EEOC is a federal administrative agency that investigates employment discrimination complaints brought under federal law.

Filing a Lawsuit in State or Federal Court

Depending on the law on which a complaint is based, an individual may also have the right to file a lawsuit against their employer in state or federal court. Although a Title VII claim may only be brought in court after a charge is first filed with the EEOC, the NYS HRL does not require individuals to file a complaint with the SDHR or any other agency before bringing an action under the law in court.

If you believe that you have been a victim of sexual harassment, contact our office on the back of this publication.

Protections Against Retaliation

Retaliation for making a complaint about sexual harassment is prohibited by law. If this occurs, you may have a separate claim of retaliation in addition to any claim of sexual harassment. Retaliation occurs when the terms and conditions of one's work are unfavorably changed as a result of one's reporting sexual harassment or cooperating with the investigation of a sexual harassment complaint or lawsuit. If you believe you have suffered retaliation, you should consult with an attorney and inquire with the agencies listed above as to the specific time limits and procedures that apply.

Women, Men, and Third Parties are Protected

The law protects both men and women, and also covers incidents in which the harasser and the victim are of the same sex, regardless of sexual orientation. Third parties may complain when one or more of the following occurs: (1) submission to sexual demands is a general condition of employment; (2) harassment directed at others adversely affects the third party's work environment; or (3) offensive sexual conduct, even if consensual between the parties involved, is creating a hostile work environment for the third party.

Sometimes the Harassment Is Criminal

If the harassment involves physical touching, coerced physical confinement, or coerced sex acts, the conduct may constitute a crime. If you believe you have been the victim of a crime, you should file a report at your local police department. However, the conduct need not be criminal in nature to constitute unlawful gender-based discrimination.