

**SEXUAL HARASSMENT PREVENTION POLICY**

APPROVED BY POLICY COMMITTEE 1/31/2023

Effective Date 1/31/2023

(Impact Area – Dept Name)  SUNY Morrisville *Morrisville Campus *Norwich Campus *EOC	(General Subject Area)	(Specific Subject Area)
<b>Relates to Procedure #</b>	<b>Author:</b>	
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<b>SUNY MORRISVILLE</b>		

**Policy Summary**

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The State University of New York College of Agriculture and Technology at Morrisville, heretofore referred to as SUNY Morrisville, is committed to maintaining a workplace free from sexual harassment. Sexual harassment is a form of workplace discrimination. All employees are required to work in a manner that prevents sexual harassment in the workplace. This Policy is one component of SUNY Morrisville's commitment to a discrimination-free work environment. Sexual harassment is against the law<sup>1</sup> and all employees have a legal right to a workplace free from sexual harassment and employees are urged to report sexual harassment by filing a complaint internally with SUNY Morrisville. Employees can also file a complaint with a government agency or in court under federal, state, or local antidiscrimination laws.

All campus employees and student employees are required to attend annual Sexual Harassment Prevention Training, on preventing and addressing sexual harassment and sex discrimination, including knowledge of whom to contact with questions regarding this policy and how to report violations of this policy. Records will be maintained to ensure compliance with annual training, reporting and alternative supervision requirements.

<sup>1</sup> 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.

Adoption of this policy does not constitute a conclusive defense to charges of unlawful sexual harassment. Each claim of sexual harassment will be determined in accordance with existing legal standards, with due consideration of the particular facts and circumstances of the claim, including but not limited to the existence of an effective anti-harassment policy and procedure.

Policy Details:

1. SUNY Morrisville's policy applies to all employees, applicants for employment, interns, whether paid or unpaid, contractors and persons conducting business, regardless of immigration status, with SUNY Morrisville. In the remainder of this document, the term "employees" refers to this collective group.
2. Sexual harassment will not be tolerated. Any employee or individual covered by this policy who is determined to have engaged in behavior which would violate this policy may be subject to disciplinary measures, up to and including termination of employment.
3. Retaliation Prohibition: No person covered by this Policy shall be subject to adverse action because the employee reports sexual harassment, provides information, or otherwise participates in any investigation of a sexual harassment complaint. SUNY Morrisville will not tolerate such retaliation against anyone who, in good faith, reports or provides information about suspected sexual harassment. Any employee of SUNY Morrisville who is determined to have engaged in retaliation may be subject to disciplinary measures, up to and including termination of employment.
4. All employees, paid or unpaid interns, or non-employees<sup>2</sup> working in the workplace who believe they have been subject to such retaliation should inform a supervisor, manager, the Title IX Coordinator or Affirmative Action Officer. 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.
5. Sexual harassment is offensive, is a violation of our policies, is unlawful, and may subject SUNY Morrisville to liability for harm to targets of sexual harassment. Harassers may also be individually subject to liability. Employees of every level who are determined to have engaged in sexual harassment, including managers and supervisors who engage are determined to have engaged in sexual harassment or who allow such behavior to continue, are in violation of this policy and may be subject to discipline.
6. All reports and/or complaints of harassment, including sexual harassment, will be taken seriously and dealt with promptly. In cases where an investigation is warranted, SUNY Morrisville will keep the investigation confidential to the extent possible. In cases where an investigation confirms a violation of this policy, appropriate corrective action will be taken.
7. All employees are encouraged to report any harassment or behaviors that violate this policy.
8. Managers and supervisors are required to report any complaint that they receive, or any harassment that they observe or become aware of, to the Title IX Coordinator or Affirmative Action Officer.

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<sup>2</sup> A non-employee is someone who is (or is employed by) a contractor, subcontractor, 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.

9. 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 should be posted prominently in all work locations to the extent practicable (for example, in a main office, not an offsite work location) and be provided to employees upon hiring.

### **“What is Sexual Harassment?”**

Sexual harassment is a form of sex discrimination and is unlawful under federal, state, and (where applicable) local 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

In accordance with applicable law, sexual harassment is generally described as unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of employment or academic benefit; or
- Submission to or rejection of the conduct is used as the basis for an employment or academic decision affecting the person rejecting or submitting to the conduct; or
- The conduct has the purpose or effect of unreasonably interfering with an affected person’s work or academic performance, or creating an intimidating, hostile or offensive work or learning environment.

Sexual harassment can include physical touching, verbal comments, non-verbal conduct such as leering or inappropriate written or electronic communications, or a combination of these things. Examples of sexual harassment may include, but are not limited to:

- Seeking sexual favors or a sexual relationship in return for the promise of a favorable grade or academic opportunity;
- Conditioning an employment-related action (such as hiring, promotion, salary increase, or performance appraisal) on a sexual favor or relationship; or
- Intentional and undesired physical contact, sexually explicit language or writing, lewd pictures or notes, and other forms of sexually offensive conduct by individuals in positions of authority, co-workers or student peers, that unreasonably interferes with the ability of a person to perform their employment or academic responsibilities.
- Physical acts of a sexual nature, such as:
  - Touching, pinching, patting, kissing, hugging, grabbing, brushing against another employee's body or poking another employee'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 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 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. Harassers 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 a worker 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 employee has been sexually harassed; or
- encouraged a fellow employee 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.

### Reporting Sexual Harassment

Preventing sexual harassment is everyone's responsibility. SUNY Morrisville cannot prevent or remedy sexual harassment unless it knows about it. Any employee paid or unpaid intern or non-employee who has been subjected to behavior that may constitute sexual harassment is encouraged to report such behavior to a supervisor, manager, the Title IX Coordinator, or the Affirmative Action Officer. Anyone who witnesses or becomes aware of potential instances of sexual harassment should report such behavior to a supervisor, manager, the Title IX Coordinator, or the Affirmative Action Officer.

Reports of sexual harassment may be made verbally or in writing.

Employees, paid or unpaid interns 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 supervisors and managers 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 Title IX Coordinator or the Affirmative Action Officer.

Supervisors and managers who are determined to have engaged in sexual harassment, who fail to report suspected sexual harassment, or who otherwise knowingly allow sexual harassment to continue are in violation of this policy and may be subject to disciplinary action, up to and including termination.

Supervisors and managers determined to have engaged in retaliation may be subject to disciplinary measures, up to and including termination of employment.

### Complaint and Investigation of Sexual Harassment

All reports and/or complaints of harassment, including sexual harassment, will be taken seriously, and dealt with promptly. In cases where an investigation is warranted, SUNY Morrisville will keep the investigation 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. 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. SUNY Morrisville will not tolerate retaliation against employees 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 be conducted by the Title IX Coordinator, the Affirmative Action Officer or a designee of the institution and should be done in accordance with the following steps:

- Upon receipt of complaint, the Title IX Coordinator, the Affirmative Action Officer or a designee of the institution 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 complaint is verbal, encourage the individual to complete the "Complaint Form" in writing. If he or she 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 reporting individual and respondent of the final determination in writing and work with Human Resources and appropriate supervisors to implement any necessary corrective actions.
- 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 SUNY Morrisville but is also prohibited by state, federal, and, where applicable, local law.

Aside from the internal process at SUNY Morrisville, employees 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, you may seek the legal advice of an attorney.

In addition to those outlined below, employees in certain industries may have additional legal protections. Union employees at SUNY Morrisville should consult with their union representative for additional details.

#### New York State Division of Human Rights (DHR)

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 OHR may be filed any time within one year of the harassment. If an individual did not file at OHR, 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 SUNY Morrisville 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](http://www.dhr.ny.gov).

Contact DHR at (888) 392-3644 or visit [dhr.ny.gov/complaint](http://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

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](http://www.eeoc.gov) or via email at [info@eeoc.gov](mailto:info@eeoc.gov).

If an individual filed an administrative complaint with OHR, OHR 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](http://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, thus you may wish to contact the local police department.

**Related Policies:**

SUNY Morrisville

Sexual Assault Response Policy

<https://www.morrisville.edu/handbook/policies/sexual-assault-response>

Sexual and Romantic Relationship Policy

<https://www.morrisville.edu/human-resources/hr-105-sexual-and-romantic-relationship-policy>

Affirmative Action and Equal Employment Opportunity

<https://www.morrisville.edu/contact/offices/human-resources/affirmative-action-and-equal-employment-opportunity>

Title IX Formal Complaint Grievance Policy

<https://www.morrisville.edu/sites/default/files/entity-browser-files/Title%20IX%20Formal%20Complaint%20Grievance%20Policy%20revised%20101421.pdf>

SUNY

Sexual Harassment Response and Prevention Statement

[https://www.suny.edu/sunypp/documents.cfm?doc\\_id=878](https://www.suny.edu/sunypp/documents.cfm?doc_id=878)

Sexual and Romantic Relationship Policy

[https://www.suny.edu/sunypp/documents.cfm?doc\\_id=877](https://www.suny.edu/sunypp/documents.cfm?doc_id=877)

Equal Opportunity Access: Employment and Fair Treatment

[https://www.suny.edu/sunypp/documents.cfm?doc\\_id=533](https://www.suny.edu/sunypp/documents.cfm?doc_id=533)

Discrimination and Sexual Harassment Complaint Procedure

[https://www.suny.edu/sunypp/documents.cfm?doc\\_id=451&CFID=1656799&CFTOKEN=7a14503e523a13fb-5EE5E696-9C5F-692B-4AE1E93C69A77DED](https://www.suny.edu/sunypp/documents.cfm?doc_id=451&CFID=1656799&CFTOKEN=7a14503e523a13fb-5EE5E696-9C5F-692B-4AE1E93C69A77DED)

**Contact Information**

Human Resources Office  
Brooks Hall, 3<sup>rd</sup> Floor  
Morrisville, NY 13408

Phone: (315) 684-6038