



## Sexual Harassment Policy

The Lindenhurst Memorial Library is committed to maintaining a workplace free from sexual harassment. Sexual harassment is a form of workplace discrimination. The Lindenhurst Memorial Library 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. This Policy is one component of Lindenhurst Memorial Library's commitment to a discrimination-free work environment.

Sexual harassment is against the law. 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 Lindenhurst Memorial Library, or with a government agency or in court under federal, state or local antidiscrimination laws.

### Policy:

1. Lindenhurst Memorial Library's Sexual Harassment Policy applies to all employees, applicants for employment, interns, whether paid or unpaid, contractors and persons conducting business with the Lindenhurst Memorial Library
2. 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.
3. Retaliation Prohibition: No person covered by this Policy shall be subject to adverse employment action including being discharged, disciplined, discriminated against, or otherwise subject to adverse employment action because the employee reports an incident of sexual harassment, provides information, or otherwise assists in any investigation of a sexual harassment complaint. Lindenhurst Memorial Library has a zero-tolerance policy for such retaliation against anyone who, in good faith complains or provides information about suspected sexual harassment. Any employee of Lindenhurst Memorial Library who retaliates against anyone involved in a sexual harassment investigation will be subjected 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 a supervisor, manager, or the Director. 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 below in the section on Legal Protections.
4. Sexual harassment is offensive, is a violation of our policies, is unlawful, and subjects the Lindenhurst Memorial Library to liability for harm to victims 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 knowingly allow such behavior to continue, will be penalized for such misconduct.
5. The Lindenhurst Memorial Library will conduct a prompt, thorough and confidential investigation that ensures due process for all parties, whenever management receives a complaint about sexual harassment, or otherwise knows of possible sexual harassment occurring. Effective corrective action will be taken whenever sexual harassment is found to have occurred. All employees, including managers and supervisors, are required to cooperate with any internal investigation of sexual harassment.
6. All employees are encouraged to report any harassment or behaviors that violate this policy. Lindenhurst Memorial Library will provide all employees a complaint form for employees to report harassment and file complaints.
7. Managers and supervisors are **required** to report any complaint that they receive, or any harassment that they observe to the Director or 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 posted prominently in all work locations and be provided to employees upon hiring.

## **WHAT IS SEXUAL HARASSMENT?**

Sexual harassment in the form of a "hostile environment" consists of 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 in the workplace which are offensive or objectionable to the recipient, which cause the recipient discomfort or humiliation, or which interfere with the recipient's job performance.

A type of sexual harassment known as "quid pro quo" harassment 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. Only supervisors and managers are deemed to engage in this kind of harassment, because co-workers do not have the authority to grant or withhold benefits.

Sexual harassment can occur between males and females, or between persons of the same sex. Sexual harassment that occurs because the victim is transgender is also unlawful.

A single incident of inappropriate sexual behavior may be enough to rise to the level of sexual harassment, depending on the severity of such incident. The law requires that the behavior be severe or pervasive, so that one joke or comment may not be enough to be sexual harassment. However, the courts have held that a single incident could be considered sexual harassment, depending on the circumstances.

## **DESCRIPTIONS AND EXAMPLES OF SEXUAL HARASSMENT**

For the legal definition of sexual harassment, see the above section What is Sexual Harassment? Further descriptions and examples include the following:

Sexual harassment includes unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, when:

- Such conduct is made either explicitly or implicitly a term or condition of employment,
- Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual's employment; or
- 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 intended target of the sexual harassment.

The following describes some of the types of acts that may be unlawful sexual harassment:

- Physical assaults of a sexual nature, such as:
  - Rape, sexual battery, molestation, or attempts to commit these assaults.
  - Intentional or unintentional physical conduct which is sexual in nature, such as touching, pinching, patting, grabbing, brushing against another employee's body, or poking another employees' body .
- Unwanted sexual advances, propositions or other sexual comments, such as:
  - Requests for sexual favors accompanied by implied or overt threats concerning the victim'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, jokes or comments about a person's sexuality or sexual experience which are sufficiently severe or pervasive to create a hostile work environment.

- 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, pornographic.

## **RETALIATION IS UNLAWFUL**

It is unlawful for any employer, or any agent or employee of the employer, to retaliate against an employee who has complained of sexual harassment.

The Human Rights Law protects any individual who has engaged in "protected activity." Protected activity occurs when a person has:

- filed a formal written complaint of sexual harassment, either internally with management or human resources, or with any anti-discrimination agency,
- testified or assisted in a proceeding involving sexual harassment under the Human Rights 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.

(For employers with four or more employees, retaliation also applies to opposition to any other actions forbidden by the Human Rights Law.)

If the employee has participated in a proceeding before the Division of Human Rights, or in a 'court of law, that complainant or witness is absolutely protected against retaliation for any oral or written statements made to the Division or a court in the course of proceedings, regardless of the merits or disposition of the underlying complaint.

Even if the alleged harassment does not turn out to rise to the level of a violation of the Human Rights Law, the individual is protected if he or she 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.

## **WHAT IS RETALIATION?**

Retaliation consists of an adverse action or actions taken against the employee by the employer. The action need not be job-related or occur in the workplace. Unlawful retaliation can be any action, more than trivial, that would have the effect of dissuading a reasonable worker from making or supporting a charge of harassment or any other practices forbidden by the Law.

Actionable retaliation by an employer can occur after the individual is no longer employed by that employer. This can include giving an unwarranted negative reference for a former employee.

## **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 perpetrator of sexual harassment 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 or not during work hours.

## REPORTING SEXUAL HARASSMENT

Preventing sexual harassment is everyone's responsibility. The Lindenhurst Memorial Library 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 or the Director. Anyone who witnesses or becomes aware of potential instances of sexual harassment should report such behavior to a supervisor, manager or the Director.

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 employees are encouraged to use this complaint form. 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.

Employees, paid or unpaid interns or non-employees who believe they have been a victim 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 Director.

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

Supervisors and managers will also be subject to discipline for engaging in any retaliation.

## COMPLAINT AND INVESTIGATION OF SEXUAL HARASSMENT

**ALL** complaints or information about suspected 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, and should be completed within 30 days. The investigation will be confidential to the extent possible. All persons involved, including complainants, witnesses and alleged perpetrators will be accorded due process 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. Employees who participate in any investigation will not be retaliated against.

Investigations will be done in accordance with the following steps:

- Upon receipt of complaint, the Director will conduct an immediate review of the allegations, and take any interim actions, as appropriate. If complaint is oral, encourage the individual to complete the "Complaint Form" in writing. If he or she refuses, prepare a Complaint Form based on the oral reporting.
- If documents, emails or phone records are relevant to the allegations, 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 final resolution of the complaint, together with any corrective actions action(s).
- Keep the written documentation and associated documents in the employer's records.
- Promptly notify the individual who complained and the individual(s) who responded of the final determination and implement any corrective actions identified in the written document.
- Inform the individual who complained of their right to file a complaint or charge externally as outlined below.

## LEGAL PROTECTIONS AND REMEDIES

Sexual harassment is not only prohibited by the Lindenhurst Memorial Library but is also prohibited by state, federal, and, where applicable, local law.

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

### NEW YORK STATE DIVISION OF HUMAN RIGHTS (OHR)

The Human Rights Law (HRL), codified as N.Y. Executive Law, art. 15, § 290 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 OHR 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 discrimination. An individual may not file with OHR if they have already filed a HRL complaint in state court.

Complaining internally to Lindenhurst Memorial Library does not extend your time to file with OHR 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 OHR, and there is no cost to file with OHR.

OHR will investigate your complaint and determine whether there is probable cause to believe that discrimination has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If discrimination is found after a hearing, OHR 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 main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, New York 10458, (718) 741-8400 [www.dhr.ny.gov](http://www.dhr.ny.gov)

Contact OHR 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 OHR. 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 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](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 physical touching, coerced physical confinement or coerced sex acts, the conduct may constitute a crime. Contact the local police department.



## Lindenhurst Memorial Library Sexual Harassment Complaint Form

New York State Labor Law requires all employers to adopt a sexual harassment prevention policy that includes a complaint form for employees to report alleged incidents of sexual harassment.

If you believe that you have been subjected to sexual harassment, you are encouraged to complete this form and submit it to the Director (or other supervisor). Once you submit this form, the Library must follow its sexual harassment prevention policy and investigate any claims.

If you are more comfortable reporting verbally or in another manner, the Library is still required to follow its sexual harassment prevention policy by investigating the claims as outlined at the end of this form.

For additional resources, visit: <http://www.ny.gov/combating-sexual-harassment>

### COMPLAINANT INFORMATION

Name: \_\_\_\_\_

Home Address: \_\_\_\_\_ Work Address: \_\_\_\_\_

Home Phone: \_\_\_\_\_ Work Phone: \_\_\_\_\_

Job Title: \_\_\_\_\_ Email: \_\_\_\_\_

Preferred Communication Method:

### SUPERVISORY INFORMATION

Immediate Supervisor's Name: \_\_\_\_\_

Title: \_\_\_\_\_

Work Phone: \_\_\_\_\_ Work Address: \_\_\_\_\_

### COMPLAINT INFORMATION

1. Your complaint of Sexual Harassment is made against:

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Work Address: \_\_\_\_\_ Work Phone: \_\_\_\_\_

Relationship to you: \_\_ Supervisor \_\_ Subordinate \_\_ Co-Worker \_\_ Other

2. Please describe the conduct or incident(s) that is the basis of this complaint and your reasons for concluding that the conduct is sexual harassment. Please use additional sheets of paper if necessary and attach any relevant documents or evidence.

3. Date(s) sexual harassment occurred: \_\_\_\_\_

Is the sexual harassment continuing? \_\_\_\_ Yes \_\_\_\_ No

4. Please list the name and contact information of any witnesses or individuals that may have information related to your complaint:

*The last two questions are optional, but may help facilitate the investigation.*

5. Have you previously complained or provided information (verbal or written) about sexual harassment at the Lindenhurst Memorial Library? If yes, when and to whom did you complain or provide information?

*Employees that file complaints with their employer might have the ability to get help or file claims with other entities including federal, state or local government agencies or in certain courts.*

6. Have you filed a claim regarding this complaint with a federal, state or local government agency?  
\_\_\_\_ Yes \_\_\_\_ No

Have you instituted a legal suit or court action regarding this complaint?  
\_\_\_\_ Yes \_\_\_\_ No

Have you hired an attorney with respect to this complaint?  
\_\_\_\_ Yes \_\_\_\_ No

*I request that the Lindenhurst Memorial Library investigate this complaint of sexual harassment in a timely and confidential manner as outlined below, and advise me of the results of the investigation.*

Signature: \_\_\_\_\_ Date: \_\_\_\_\_