

Sexual Harassment Policy and Investigation Procedure

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Section I: Policy on Sexual Harassment

Introduction

Elting Memorial Library (the Library) 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 the Library's commitment to a discrimination-free work environment. Sexual harassment is against the law¹ and all employees have a legal right to a work environment that is free from sexual harassment. Employees are urged to report sexual harassment by filing a complaint internally with the Library. Employees can also file a complaint with a government agency or in court under federal, state or local anti-discrimination laws.

Policy

1. The Library policy applies to all employees, Trustees, applicants for employment, interns (whether paid or unpaid), contractors, and persons conducting business with the library. This policy applies to all of the above, regardless of immigration status. In the remainder of this document, the term “employees” refers to this collective group. This policy replaces the current sexual harassment policy, located in the Employee Handbook, and brings the policy into compliance with New York State guidelines.
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 (e.g., counseling, suspension, termination).

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.

3. Retaliation Prohibition: No person covered by this Policy shall be subject to retaliation because the employee reports an incident of sexual harassment, provides information, or otherwise assists in any sexual harassment investigation. The Library will not tolerate such retaliation against anyone who, in good faith, reports or provides information about suspected sexual harassment. Any employee of the Library 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, volunteers or non-employees² working at the Library who believe they have been subject to such retaliation should inform a supervisor, manager, or 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 unlawful and offensive, is a violation of our policies, and may subject the Library to liability for harm to sexual harassment victims. 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. The Library will conduct a prompt and thorough investigation that ensures fairness for all parties, whenever management receives a complaint about sexual harassment or otherwise knows of possible sexual harassment. The Library 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, including managers and supervisors, are required to cooperate with any internal investigation of sexual harassment. (Procedures for Investigating a Sexual Harassment Complaint are detailed in Sections II-IV of this document.)
6. All employees are encouraged to report any harassment or behaviors that violate this policy. The Library will provide all employees a complaint form for employees

² 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.

to report harassment and file complaints. A complaint form is attached to this policy. Managers and supervisors are required to report any complaint that they receive, or any harassment of which they observe or become aware, to the President of the Board of Trustees. This report does not need to include details of the allegations but should include how the complaint was resolved.

7. This policy applies to all employees, Trustees, paid or unpaid interns, and non-employees, and all must follow and uphold this policy. This policy will be provided to all employees in the Employee Handbook and will 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. It 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.

Sexual harassment includes unwelcome conduct which is either of a sexual nature, or which 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.

A sexually harassing hostile work environment includes, but is 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 which are offensive or objectionable to the recipient, which cause the recipient discomfort or humiliation, or which interfere with the recipient’s job performance.

Sexual harassment also occurs when a person with supervisory 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 the harassment 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 describes 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 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 someone 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?

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. 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, on personal devices or during non-work hours.

All members of the staff and of the Board of Trustees will participate in an annual state-approved education program to learn about the issues which are the focus of this policy.

The Library Director is responsible for making such a program available to staff. The Board President is responsible for making this program available to trustees.

Retaliation

Unlawful retaliation can be any action that could discourage a worker from coming forward to make or support a sexual harassment claim. To violate this policy, the retaliation need not be job-related or occur in the workplace (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 rise to the level of a violation of law, the individual is protected from retaliation if he or she had a good faith belief that the practices were unlawful. However, the retaliation provision does not protect anyone making intentionally false charges of harassment.

Reporting Sexual Harassment

Preventing sexual harassment is everyone’s responsibility. The Library cannot prevent or remedy sexual harassment unless it knows about the harassment. 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 President of the Board of Trustees. Anyone who witnesses or becomes aware of potential instances of sexual harassment should report such behavior to a supervisor, manager or President of the Board of Trustees.

Reports of sexual harassment may be made verbally or in writing. All employees are encouraged to use the complaint form attached to this Policy. 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 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, who observe what may be sexually harassing behavior or who for any reason suspect that sexual harassment is occurring are required to report the suspected sexual harassment to the President of the Board of Trustees

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 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 treated fairly, 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. The Library will not tolerate retaliation against employees who file complaints, who support another's complaint or who 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:

- Upon receipt of complaint, the Library Director or a select committee appointed by the President of the Board of Trustees 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 individual who reported and the individual 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 the Library but is also prohibited by state, federal, and, where applicable, local law.

Aside from the internal process at the Library, 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.

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 a HRL complaint in state court.

Complaining internally to the Library 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.

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 the conclusion of its investigation, the EEOC will issue a "Right to Sue" letter permitting the individual to file a lawsuit 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.

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.

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.

Section II: Addendum to the Elting Memorial Library Policy on Sexual Harassment

This policy addresses behaviors between people associated with the Library as defined on the first page of the Elting Memorial Library Policy on Sexual Harassment (page one, Policy section, item one).

Claims of sexual harassment made by library personnel against a member of the public that have occurred on library property will be handled by the Director as a violation of the Patron Code of Conduct and dealt with at the discretion of the Director. This may include banning from the library for a period of time or reporting to the police.

Claims of sexual harassment made by a member of the public against library personnel may be considered a violation of the employee's contract and/or library policy as stated in the Employee Handbook. The complainant should complete a Library Incident Form, which is available at the front desk. If needed, disciplinary action will be taken by the Director and could include a reprimand, suspension, or dismissal.

Incidents of sexual harassment that occur between a member of the public and the Library Director will be referred to the President of the Board of Trustees.

Section III: Procedure for Investigating a Sexual Harassment Complaint

When a sexual harassment complaint is made, the Sexual Harassment Complaint Form (Section IV) must be completed before the rest of this procedure can be implemented.

The Sexual Harassment Complaint Form can be completed by:

1. The person making the complaint or
2. The Library Director on behalf of the person making the complaint or
3. The President of the Library Board of Trustees on behalf of the person making a complaint about the Library Director.

A complainant who does not wish to make a written complaint can make an oral complaint. The Library Director (or Board President) will record the details of the complaint using the Sexual Harassment Complaint Form and confirm the details in the Form with the complainant.

A. Sexual harassment complaints against library staff members

A sexual harassment complaint against library staff members will be investigated by the Library Director. The Director may seek assistance from the Library Board of Trustees or may request that an independent source be engaged for that purpose.

Within seven days of receiving a completed Sexual Harassment Complaint Form, the Library Director will make the completed Form available to the alleged harasser.

The alleged harasser will have seven days to submit a written response to the Library Director.

If the alleged harasser does not wish to contest the complaint, the written response must include an acknowledgment that the details in the Sexual Harassment Complaint Form are accurate. The Library Director and the alleged harasser will develop a plan, with benchmarks, to assist the alleged harasser in altering behavior in the future.

If the alleged harasser wishes to dispute the complaint, the written response must provide sufficient detail and evidence (including witnesses or documentation) for the Library Director to make an informed assessment.

An investigation will follow. See Part D.

B. Sexual harassment complaints against the Library Director

A sexual harassment complaint against the Library Director will be investigated by the President of the Board of Trustees. The Board President may ask the Executive Committee to investigate the claim. The President may also seek the assistance of an independent source engaged for that purpose.

Within seven days of receiving a completed Sexual Harassment Complaint Form, the Board President:

- Will assemble the Executive Committee or independent source.
- Will make the completed Form available to the Director.

The Director will have seven days to respond to the complaint in writing.

The Director's written response must provide sufficient detail and evidence (including witnesses or documentation) for the Board President to make an informed assessment.

An investigation will follow. See Part D.

C. Sexual harassment complaints against a Trustee of the Board

A sexual harassment complaint against a Trustee of the Board will be investigated by the President of the Board of Trustees. A sexual harassment claim against the Board President may be reported to any Board member but will be investigated by the First Vice President of the Board. The Board President or First Vice President may ask the Executive Committee to investigate the claim or may also seek the assistance of an independent source engaged for that purpose.

Within seven days of receiving a completed Sexual Harassment Complaint Form, the Board President or First Vice President:

- Will assemble the Executive Committee or independent source.
- Will make the completed Form available to the Trustee.
- Will inform the Library Director if the complaint is made by a library staff member.

The Trustee who is accused will have seven days to respond to the complaint in writing.

If the Trustee wishes to dispute the complaint, the written response must provide sufficient detail and evidence (including witnesses or documentation) for the Board President or First Vice President to make an informed assessment.

An investigation will follow (see Part D).

D. Investigating a sexual harassment claim.

An investigation will be completed within thirty days after a completed Sexual Harassment Complaint Form is received. An investigation will include:

1. Interviews of the complainant, the respondent and any witnesses.
Interviews will be confidential and should be recorded or described in written form. Written notes should be verified by the interviewee(s).
2. Review of all relevant evidence, written or electronic, relating to the claim.

After all evidence and testimony is presented, the individual or committee conducting the investigation will determine whether the Elting Memorial Library Policy on Sexual Harassment has been violated.

E. Resolving a sexual harassment claim

If it is determined that the Elting Memorial Library Policy on Sexual Harassment has not been violated, that fact will be registered in library records of the reported incident. If it is determined that the Policy on Sexual Harassment has been violated, the individual or committee conducting the investigation will prepare findings and recommend a penalty for the alleged harasser and relief for the complainant.

The library will maintain a record of all of the completed Sexual Harassment Complaint Forms, including the complainant and alleged harasser names, the outcome of investigation, and the sanctions imposed.

Section IV: Sexual Harassment Complaint Form Instructions for Employees

New York State Labor Law requires all employers to adopt a sexual harassment policy that includes a complaint form 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 either the Library Director or the President of the Board of Trustees. You will not be retaliated against for filing a complaint.

If you are more comfortable reporting verbally or in another manner, your employer should complete this form, provide you with a copy and follow the sexual harassment policy by investigating the claims as outlined at the end of this form.

[Additional resources: ny.gov/programs/combating-sexual-harassment-workplace](http://ny.gov/programs/combating-sexual-harassment-workplace)

Instructions for Employers

If you receive a complaint about alleged sexual harassment, follow your sexual harassment policy (Section I).

An investigation involves the following. See also Section III.

- Speaking with the employee
- Speaking with the alleged harasser
- Interviewing witnesses
- Collecting and reviewing any related documents

While the process may vary from case to case, all allegations should be investigated promptly and resolved as quickly as possible. The investigation should be kept confidential to the extent possible.

Document the findings of the investigation and basis for your decision along with any corrective actions taken and notify the employee and the individual(s) against whom the complaint was made. This may be done via email.

A. Complainant Information

Name (First Last):

Work Address:

Work Phone:

Job Title:

Email (work or personal):

Ok to contact via:

- Email YES / NO
- Work Phone YES / NO
- Personal Phone YES / NO
- In-person YES / NO
- Other (please provide)

B. Supervisory Information

Immediate Supervisor's Name:

Supervisor's Title:

Supervisor's Work Phone:

Supervisor's Work Address:

C. Complaint Information

1. Your complaint of sexual harassment is made about:

Name:

Title:

Work Address:

Work Phone:

Relationship to you:

- Supervisor
- Subordinate
- Co-Worker
- Other

2. Please describe what happened and how it is affecting you and your work. Please use additional sheets of paper if necessary and attach any relevant documents or evidence.

3. Date(s) sexual harassment occurred (month, day, year; time if known):

4. Is the sexual harassment continuing?

- Yes
- No

5. Please list the name and contact information of any witnesses or individuals who may have information related to your complaint. Use additional sheets of paper as necessary.

The last question is optional, but may help the investigation.

6. Have you previously complained or provided information (verbal or written) about related incidents? If yes, when and to whom did you complain or provide information?

If you have retained legal counsel and would like us to work with them, please provide their contact information.

Signature: _____ Date: _____

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