

# Prohibition of Sexual and Other Workplace Harassment

NYCM Insurance strives and is committed to creating and maintaining a work environment in which people are treated with dignity, decency and respect. The environment of the company should be characterized by mutual trust and the absence of intimidation, oppression and exploitation. Employees and covered individuals should be able to work and learn in a safe yet stimulating atmosphere. The accomplishment of this goal is essential to the mission of the company. For that reason, NYCM Insurance will not tolerate unlawful discrimination, harassment or retaliation of any kind. Through enforcement of this policy and by education of employees, the company will seek to prevent, correct and discipline behavior that violates this policy. This policy is one component of NYCM's commitment to a discrimination-free workplace.

Violations of this policy are considered employee misconduct. If it is determined that discrimination, harassment, or retaliation in violation of this policy has occurred, appropriate disciplinary action will be taken. Based on the seriousness of the offense, disciplinary action may include training, referral to counseling, monitoring of the offender, verbal or written reprimand, withholding of a promotion or pay increase, temporary suspension without pay, or termination.

Discrimination, harassment, and retaliation are also strictly prohibited by a variety of federal, state and local laws, including, but not limited to, Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the Americans with Disabilities Act of 1990, and Section 296 of the New York State Executive Law (Human Rights Law). This policy is intended to comply with the prohibitions stated in these anti-discrimination laws.

## Goals of this Policy

As stated above, sexual harassment and discrimination is against the law. After reading this policy, employees will understand their right to a workplace free from harassment. Employees will also learn what harassment and discrimination look like, what actions they can take to prevent and report harassment, and how they are protected from retaliation after taking action. This policy will also explain the investigation process into any claims of harassment. Employees are encouraged to report sexual harassment or discrimination by filing a complaint internally with NYCM Insurance. Employees can also file a complaint with a government agency or in court under federal, state, or local antidiscrimination laws. To file an employment complaint with the New York State Division of Human Rights, please visit <https://dhr.ny.gov/complaint>. To file a complaint with the United States Equal Employment Opportunity Commission, please visit <https://www.eeoc.gov/filing-charge-discrimination>.

## Prohibited Conduct under this Policy

NYCM Insurance, in compliance with all applicable federal, state and local anti-discrimination and harassment laws and regulations, enforces this policy in accordance with the following definitions and guidelines:

- **Discrimination:** It is a violation of NYCM Insurance's Policy and illegal under the New York State Human Rights Law to discriminate in the provision of employment opportunities, terms, conditions, benefits or privileges; to create discriminatory work conditions; or to use discriminatory evaluative standards in employment if the basis of that discriminatory treatment is, in whole or in part, based on the person's race (including traits historically associated with race such as protective hairstyles), creed, color, national origin, citizenship, age, religion, disability (including pregnancy-related conditions), employee's or dependent's reproductive health decision making, sex/gender, sexual orientation, gender identity or expression, transgender status, genetic information, pre-disposing genetic characteristics, military or veteran status, marital or familial status, caregiver status, domestic violence victim status, criminal history, the employee's known relationship or association with any member of a protected class, or any other characteristic protected by applicable federal, state, or local law. Our different identities impact our understanding of the world and how others perceive us. For example, an individual's race, ability, or immigration status may impact their experience with gender discrimination in the workplace. While this policy is focused on sexual harassment and gender discrimination, the methods for reporting and investigating discrimination based on other protected identities are the same. The purpose of this policy is to teach employees

to recognize discrimination, including discrimination due to an individual's intersecting identities, and provide the tools to take action when it occurs. All employees, managers and supervisors are required to work in a manner designed to prevent sexual harassment and discrimination in the workplace.

- **Harassment:** NYCM Insurance prohibits harassment of any kind, including sexual harassment (as defined below), and will take appropriate and immediate action in response to reports of alleged or suspected violations of this policy. For purposes of this policy, harassment is defined as any unwelcome or offensive verbal, physical, or visual conduct (both overt and subtle) that demeans another person or shows hostility toward an individual that interferes in any way with such individual's working conditions or performance, or otherwise creates a hostile or intimidating work environment because of a protected characteristic (as defined above).

Examples of behavior that may constitute prohibited harassment includes, but are not limited to:

- Verbal conduct, such as taunting, threats, epithets, derogatory comments, or racial or ethnic slurs;
- Visual conduct such as derogatory posters, photographs, cartoons, drawings, or gestures;
- Written conduct such as authoring threatening, derogatory or offensive letters or correspondence (including emails, text messages, and social media posts); and
- Physical conduct such as assault, unwanted touching, or blocking normal movement.

The foregoing examples of harassment are intended to be guidelines and are not exclusive when determining whether there has been a violation of this policy.

### **Definition of Sexual Harassment**

Sexual harassment is a form of gender-based workplace 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 identity or expression, and the status of being transgender. Sexual harassment is often viewed simply as a form of gender-based discrimination, but discrimination can be related to or affected by other identities beyond gender. Sexual harassment includes all forms of gender discrimination including gender role stereotyping and treating employees differently because of their gender.

Understanding gender diversity is essential to recognizing sexual harassment because discrimination based on sex stereotypes, gender expression and perceived identity are all forms of sexual harassment. The gender spectrum is nuanced, but the three most common ways that people identify are cisgender, transgender, and non-binary. A cisgender person is someone whose gender aligns with the sex they were assigned at birth. Generally, this gender will align with the binary of male or female. A transgender person is someone whose gender is different than the sex they were assigned at birth. A non-binary person does not identify exclusively as a man or a woman. They might identify as both, somewhere in between, or completely outside of the gender binary. Some may identify as transgender, but not all do. Respecting an individual's gender identity is a necessary first step in establishing a safe workplace.

Sexual harassment is unlawful when it subjects an individual to inferior terms, conditions, or privileges of employment. Harassment does not need to be severe or pervasive to be illegal. It can be any harassing behavior that rises above petty slights or trivial inconveniences. Every instance of harassment is unique to those experiencing it, and there is no single boundary between petty slights and harassing behavior. However, the Human Rights Law specifies that whether harassing conduct is considered petty or trivial is to be viewed from the standpoint of a reasonable victim of discrimination with the same protected characteristics. Generally, any behavior in which an employee or covered individual is treated worse because of their gender (perceived or actual), sexual orientation, or gender expression is considered a violation of this policy. The intent of the behavior, for example, making a joke, does not neutralize a harassment claim. Not intending to harass is not a defense.

Sexual harassment includes, but is not limited to, any unwelcome conduct which is either directed at an individual because of that individual's gender identify or expression (perceived or actual), or is of a sexual nature when:

- Such conduct has the purpose or effect of this behavior 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 conduct has the purpose or effect of subjecting an individual to inferior terms, conditions, or privileges of employment, because of their gender, gender identify, gender expression (perceived or actual), and/or sexual orientation;
- Employment depends implicitly or explicitly on accepting such unwelcome behavior; or
- Decisions regarding an individual's employment are based on an individual's acceptance to or rejection of such behavior. Such decisions can include what shifts and how many hours an employee might work, project assignments, as well as salary and promotion decisions.

There are two main types of sexual harassment:

- Behaviors that contribute to a hostile work environment include, but are 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, gender identity, or gender expression. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory, or discriminatory statements which an employee finds offensive or objectionable, causes an employee discomfort or humiliation, or interferes with the employee's job performance.
- Sexual harassment also 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. This is also called quid pro quo harassment.

The following describes some of the types of acts that may be unlawful sexual harassment and that are strictly prohibited. This list is just a sample of behaviors and should not be considered exhaustive. Any employee who believes they have experienced sexual harassment, even if it does not appear on this list, should feel encouraged to report it:

- Physical conduct of a sexual nature, such as touching, pinching, patting, kissing, hugging, grabbing, blocking normal movement, poking, brushing or touching another employee's body; or rape, sexual battery, molestation or attempts to commit these assaults, which may be considered criminal conduct outside the scope of this policy (please contact local law enforcement if you wish to pursue criminal charges).
- Sexually orientated gestures, jokes or remarks, noises, or questions and comments about a person's sexuality or sexual experiences or romantic history which creates a hostile work environment. This is not limited to interactions in person. Remarks made over virtual platforms and in messaging apps when employees are working remotely can create a similarly hostile work environment.
- Unwanted sexual comments, 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; This can include sexual advances/pressure placed on a service industry employee by customers or clients, especially those service industries where hospitality and tips are essential to the customer/employee relationship; subtle or obvious pressure for unwelcome sexual activities; or repeated requests for dates or romantic gestures, including all gift giving.
- Sexual or discriminatory displays or publications anywhere in the workplace, such as threatening, derogatory or offensive letters, emails, text messages, social media posts, pictures, posters, calendars, graffiti, objects, promotional material, reading materials or other materials that are sexually demeaning or pornographic. This includes sexual displays on workplace computers, cell phones, or other electronic devices present in the workplace and extends to the virtual or remote workspace and can include having such materials visible in the background of one's home during a virtual meeting.
- Hostile actions taken against an individual because of that individual's sex, sexual orientation, gender identity or expression, or the status of being transgender. Examples include but are not limited to interfering with, damaging or destroying a person's workstation, tools or equipment, or

otherwise interfering with an individual's ability to perform the job, sabotaging an individual's work, bullying, yelling, or name-calling, intentional misuse of an individual's preferred pronouns; or creating different expectations for individuals based on their perceived identities such as dress codes that place more emphasis on women's attire or leaving parents/caregivers out of meetings.

- Unwanted verbal or physical advances, sexually explicit derogatory remarks or sexually discriminating remarks which are offensive or objectionable to the recipient, causing discomfort or humiliation which interfere with the recipient's job performance.
- Sex stereotyping, which occurs when conduct or personality traits are judged based on other people's ideas or perceptions about how individuals of a particular sex should act or look. Examples include but are not limited to remarks regarding an employee's gender expression, such as wearing a garment typically associated with a different gender identity; or asking employees to take on traditionally gendered roles, such as asking a woman to serve meeting refreshments when it is not part of, or appropriate to, her job duties.

Sexual harassment is prohibited irrespective of the sex/gender of the individual committing the harassment or the recipient of the harassment. Likewise, harassment is prohibited whether the perpetrator of the sexual harassment is a supervisor/manager, subordinate, coworker, or anyone else in the workplace, including independent contractors, contract workers, vendors, clients, customers, or visitors.

Any employee or covered individual who feels harassed is encouraged to report the behavior so that any violation of this policy can be corrected promptly. Any harassing conduct, even a single incident, can be discrimination and is covered by this policy.

Discriminatory harassment does not include petty slights or trivial inconveniences, but rather unwanted conduct that impacts the work environment as described above.

### **Retaliation**

Retaliation is unlawful and is any action by an employer or supervisor that punishes an individual upon learning of a harassment claim, that seeks to discourage a worker or covered individual from making a formal complaint or supporting a sexual harassment or discrimination claim, or that punishes those who have come forward. NYCM Insurance strictly prohibits retaliation against any individual who opposes a discriminatory practice, that punishes an individual upon learning of a harassment claim, that seeks to discourage a worker or covered individual from making a formal complaint or support a sexual harassment or discrimination claim, that punishes those who have come forward, or participates in an investigation or testifies in a proceeding related to a report or complaint of harassment or discrimination. These actions need not be job-related or occur in the workplace to constitute unlawful retaliation. For example, threats of physical violence outside of work hours or disparaging someone on social media would be covered as retaliation under this policy. No one should fear reporting sexual harassment if they believe it has occurred. So long as a person reasonably believes they have witnessed or experienced such behavior, they are protected from retaliation.

Examples of retaliation may include, but are not limited to: Demotion, termination, denying accommodations, reduced hours, or the assignment of less desirable shifts; publicly releasing personnel files; refusing to provide a reference or providing an unwarranted negative reference; labeling an employee as "difficult" and excluding them from projects to avoid "drama;" undermining an individual's immigration status; or reducing work responsibilities, passing over for a promotion, or moving an individual's desk to a less desirable office location.

Likewise, no individual covered by this policy shall be subject to adverse employment action for engaging in "protected activity." Protected activity occurs when a person has: made a complaint of sexual harassment or discrimination, either internally or with any government agency; testified or assisted in a proceeding involving sexual harassment or discrimination under the Human Rights Law or any other anti-discrimination law; opposed sexual harassment or discrimination, either internally or with any government agency; testified or assisted in a proceeding involving sexual harassment or discrimination under the Human Rights Law or any other anti-discrimination law; opposed sexual harassment or discrimination by making a verbal or informal complaint to management, or by simply informing a supervisor or manager of suspected

harassment; reported that another employee has been sexually harassed or discriminated against; or encouraged a fellow employee to report harassment.

Individuals who believe they are being subjected to retaliatory conduct, or individuals who observe or otherwise become aware of anyone engaging in retaliatory conduct prohibited by this policy should immediately report the matter to his/her Division Manager or to Denise R. Klein, Vice President of Human Resources. Any person covered by this policy who engages in retaliation will be subject to appropriate disciplinary action, up to and including termination of employment.

Even if the alleged harassment or discrimination 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. However, the retaliation provision is not intended to protect persons making intentionally false charges of harassment or discrimination.

### **Other Prohibited Conduct**

This policy not only prohibits behavior that constitutes unlawful harassment, but also other inappropriate or unprofessional behavior that may reasonably be considered offensive or otherwise inappropriate.

### **Individuals and Conduct Covered**

This policy and New York State Law protects and applies to all employees and applicants for employment, and interns, whether paid or unpaid. The policy also applies to additional covered individuals such as contractors, subcontractors, vendors, consultants, and other persons providing services in the workplace pursuant to a contract. These individuals 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 through a contract. This policy must be provided to all employees in person or digitally through email upon hiring and will be posted prominently in all work locations. For those offices operating remotely, in addition to sending the policy through email, it will also be available on the organization's shared network. Individuals are to abide by the policy guidelines as a condition of employment with NYCM. Individuals are protected from harassment or discrimination from all fellow employees, applicants for employment, customers, and any other person who does business with or is present at an NYCM facility.

This policy is not limited to the physical workplace. It also applies when individuals interact while traveling for business, at employer- or industry sponsored events or parties, or other interactions that take place out of work. This includes interactions by employees or covered individuals that may take place over the phone, or through text messages, emails, and social media, even if the interactions occur away from the workplace, on personal devices or during non-work hours-, they can still constitute unlawful workplace harassment.

Sexual harassment can occur when employees are working remotely from home as well. Any behaviors outlined that leave an employee feeling uncomfortable, humiliated, or unable to meet their job requirements constitute harassment even if the employee or covered individual is at home when the harassment occurs. Harassment can happen on virtual meeting platforms, in messaging apps, and after working hours between personal cell phones.

Employees of every level who engage in harassment, including managers and supervisors who engage in sexual harassment or who allow such behavior to continue, will be penalized for such misconduct.

### **Who Can be a Target of Sexual Harassment?**

Sexual harassment can occur between any individuals, regardless of their sex or gender. Harassment does not have to be between members of the opposite sex or gender. Harassers can be anyone in the workplace.

Sexual harassment does not happen in a vacuum and discrimination experienced by an employee can be impacted by biases and identities beyond an individual's gender. For example: Placing different demands or expectations on black women employees than white woman employees can be both racial and gender discrimination; an individual's immigration status may lead to perceptions of vulnerability and increased concerns around illegal retaliation for reporting sexual harassment; or past experiences as a survivor of

domestic or sexual violence may lead an individual to feel re-traumatized by someone's behaviors in the workplace.

Individuals bring personal history with them to the workplace that might impact how they interact with certain behavior. It is especially important for all employees to be aware of how words or actions might impact someone with a different experience than their own in the interest of creating a safe and equitable workplace.

### **Complaint Process**

Preventing harassment, discrimination, and retaliation in the workplace is everyone's responsibility. NYCM Insurance cannot prevent, or remedy prohibited conduct unless it knows about it. Therefore, any employee or covered individual covered by this policy who has been subject to harassment, discrimination, or behavior that may constitute a violation of this policy, or who witnesses or otherwise becomes aware of potential violation of this policy, should report the behavior to a supervisor or manager. If the individual believes that his/her supervisor or manager violated the policy or that the supervisor/manager to whom the report was made is not taking appropriate action, the individual should report the conduct to Denise R. Klein, Vice President of Human Resources.

Reports of suspected violations of this policy may be made verbally or in writing. Individuals who wish to put their complaint in writing may use the complaint form available in the Human Resources Division, but the complaint form is not required. Individuals who are reporting discrimination, harassment, or retaliation on behalf of another person may use the complaint form and should clearly state that the report is made on another person's behalf. If an individual is not comfortable putting their complaint in writing, the Human Resources Division will complete the complaint form based on the verbal complaint. A verbal or otherwise written complaint (such as an email) on behalf of oneself or another employee is also acceptable and will be treated with equal priority.

Individuals experiencing conduct in violation of this policy are not required to confront the harasser as a prerequisite to making a report pursuant to this policy. The availability of this reporting procedure, however, does not preclude individuals who believe they are being harassed, discriminated or retaliated against from promptly advising the offender that his or her behavior is unwelcome and requesting that it be discontinued.

Employees and covered individuals who believe they have been a target of sexual harassment may at any time seek assistance in additional available forums, as explained below in the section on Legal Protections.

### **Complaints and Investigations of Sexual Harassment and Discrimination**

All reports, complaints, knowledge, or other information about suspected harassment and discrimination will be investigated, whether that information was reported in verbal or written form. Investigations will be conducted in a prompt and thorough manner and started and completed as soon as possible commensurate with the nature of the complaint. The investigation will be kept confidential to the extent possible. NYCM Insurance also reserves the right to investigate other circumstances of inappropriate conduct occurring in its workplace or affecting the terms and conditions of employment for its employees or other individuals working in its workplace. All individuals involved, including those making a harassment claim, witnesses, and alleged harassers deserve a fair and impartial investigation.

NYCM Insurance recognizes that participating in a harassment investigation can be uncomfortable and has the potential to retraumatize an employee. Those receiving claims and leading investigations will handle complaints and questions with sensitivity toward those participating.

While the process may vary from case to case, upon receipt of a complaint, NYCM Insurance will conduct a fair and impartial investigation. Procedures will include due process protections as outlined below:

- Will conduct an immediate, prompt review of the allegations and interim actions (if appropriate) assessing the appropriate scope of the investigation, and taking any interim actions (for example, instructing the individual(s) about whom the complaint was made to refrain from communications with the individual(s) who report the harassment), as appropriate. If complaint is verbal, request that the individual completes the complaint form in writing. If the person reporting prefers not to fill

out the form, Human Resources Division will prepare a complaint form or equivalent documentation based on the verbal reporting;

- Will identify and stop the offending behavior, including preventing any retaliation for reporting such behavior or acting as a witness;
- Will obtain, review, and preserve all relevant documents sufficient to assess the allegations, including documents, emails or phone records that may be relevant to the investigation. The Human Resources Division will consider and implement appropriate document request, review, and preservation measures, including for electronic communications;
- Will seek to interview all parties involved, including any relevant witnesses and document findings;
- Will 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 any prior relevant incidents disclosed in the investigation, reported or unreported; and the basis for the decision and final resolution of the complaint, together with any corrective action(s).
- Will keep the written documentation and associated documents in a secure and confidential location;
- Will promptly notify the individual(s) who reported the harassment and the individual(s) about whom the complaint was made that the investigation has been completed and implement any corrective actions identified in the written document; and
- Will inform the individual(s) who reported of the right to file a complaint or charge externally as outlined in the Legal Protections and External Remedies section.

NYCM Insurance reserves the right to adapt and modify the investigatory procedure at its discretion based on the nature of the complaint and the conduct at issue.

All employees and other individuals covered under this policy, including managers and supervisors, are required to cooperate, as needed, in an investigation of suspected harassment or discrimination. Employees and other individuals who participate in any investigation are protected from retaliation (as discussed above). NYCM Insurance will take disciplinary action against anyone engaging in retaliation against employees who file complaints, support another's complaint, or participate in harassment investigations.

All persons involved in the reporting and investigation of harassment or discrimination will keep all information confidential to the maximum extent possible while the investigation is pending. Depending on the circumstances of the complaint, complete confidentiality of witnesses and participants in the investigation may be requested to protect the persons involved and/or evidence. Nothing in this policy, however, shall be interpreted or intended to restrict, infringe, or otherwise interfere with an employee's rights under Section 7 of the National Labor Relations Act, including filing a charge with the National Labor Relations Board ("NLRB") or participating in an investigation conducted by the NLRB.

If NYCM Insurance determines that this policy has been violated, it will take effective remedial action commensurate with the circumstances. Any employee who has been found by NYCM Insurance to have harassed or discriminated against another employee will be subject to corrective action, up to and including termination of employment. If it is concluded that a nonemployee has subjected an employee or other person protected by this policy to conduct in violation of this policy, prompt and effective action will be taken to stop the harassment or discrimination and deter any future harassment or discrimination. In addition to any required discipline, NYCM Insurance will also take steps to ensure a safe work environment for the employee(s) who experienced the discrimination or harassment.

NYCM Insurance will notify the individual about whom the reported conduct was filed and the person who filed the complaint of the conclusion of its investigation and will follow up with the individuals as appropriate under the circumstances.

Filing groundless, false or malicious complaints of harassment, discrimination or retaliation is an abuse of this policy and may be subject to appropriate disciplinary action up to and including termination.

If a party to a complaint does not agree with its resolution, that party has a right to appeal to NYCM Insurance's President within 30 days. The President's decision will be final.

### **Responsibilities of Supervisors**

Supervisors and managers have a responsibility to prevent sexual harassment and discrimination. Everyone must work toward preventing sexual harassment, but leadership matters. Supervisors and managers have a special responsibility to make sure employees feel safe at work and that workplaces are free from harassment and discrimination. Any supervisor or manager who receives a report or other information about suspected discrimination, harassment, or retaliation, observes conduct that may be sexually harassing or discriminatory behavior, or for any reason suspect that sexual harassment or discrimination is occurring in violation of this policy, are required to take appropriate steps to address the conduct and to report such conduct to Denise R. Klein, Vice President of Human Resources. Supervisors and managers can be disciplined if they engage in sexually harassing or discriminatory behavior themselves and those who fail to report suspected sexual harassment or allow sexual harassment to continue after they know about it, will be subject to disciplinary action. Managers and supervisors should not be passive and wait for an employee to make a claim of harassment. If they observe such behavior, they must act. Supervisors and managers will also be subject to discipline for engaging in any retaliation.

While supervisors and managers have a responsibility to report harassment and discrimination, supervisors and managers must be mindful of the impact that harassment and a subsequent investigation has on victims. Being identified as a possible victim of harassment and questioned about harassment and discrimination can be intimidating, uncomfortable and re-traumatizing for individuals. Supervisors and managers must accommodate the needs of individuals who have experienced harassment to ensure the workplace is safe, supportive, and free from retaliation for them during and after any investigation.

### **Bystander Intervention**

An employee witnessing harassment as a bystander is encouraged to report it. A supervisor or manager that is a bystander to harassment is required to report it. There are five standard methods of bystander intervention that can be used when anyone witnesses harassment or discrimination and wants to help.

- A bystander can interrupt the harassment by engaging with the individual being harassed and distracting them from the harassing behavior;
- A bystander who feels unsafe interrupting on their own can ask a third party to help intervene in the harassment;
- A bystander can record or take notes on the harassment indicated to benefit a future investigation;
- A bystander might check in with the person who has been harassed after the incident, see how they are feeling and let them know the behavior was not ok; and
- If a bystander feels safe, they can confront the harassers and name the behavior as inappropriate. When confronting harassment, physically assaulting an individual is never an appropriate response.

Though not exhaustive, and dependent on the circumstances, the guidelines above can serve as a brief guide of how to react when witnessing harassment in the workplace. Any employee witnessing harassment as a bystander is encouraged to report it. A supervisor or manager that is a bystander to harassment is required to report it.

### **Legal Protections and External Remedies**

Discrimination, harassment, and retaliation are not only prohibited by NYCM Insurance but are also prohibited by state, federal, and, where applicable, local law. The internal process outlined in the policy under the Complaints and Investigations of Sexual Harassment and Discrimination section is one way for employees to report sexual harassment. In addition to the procedures described in this policy, employees and covered individuals may 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 also seek the legal advice of an attorney.



New York State has established a free and confidential hotline for complaints of workplace sexual harassment. Call the DHR sexual harassment hotline at 1-800-HARASS-3 (1-800-427-2773) for more information about filing a sexual harassment complaint. This hotline can also provide you with a referral to a volunteer attorney experienced in sexual harassment matters who can provide you with limited free assistance and counsel over the phone.

An employee or covered individual who prefers not to report harassment to their manager or employer may instead report harassment to the New York State Division of Human Rights and/or the United States Equal Employment Opportunity Commission. Complaints may be made to both the employer and a government agency. The New York State Division of Human Rights (DHR) enforces the Human Rights Law (HRL), codified as N.Y. Executive Law, art. 15, § 290 et seq., and applies to all employers in New York State which prohibits discrimination, harassment, and retaliation in employment in New York State, and protects employees and covered individuals working in an employer's workplace, regardless of immigration status. A complaint alleging a violation of the Human Rights Law may be filed either with New York State Division of Human Rights (DHR), or in New York State Supreme Court.

Complaints of unlawful discriminatory practices and sexual harassment must be filed with DHR within three years after the alleged discriminatory practice or harassment. If an individual does not file a complaint with DHR, they can bring a lawsuit directly in state court under the Human Rights Law, within three years of the alleged unlawful discriminatory practice or sexual harassment. An individual may not file with DHR if they have already filed a HRL complaint in the state court. Complaining internally to NYCM Insurance does not extend your time to file with DHR or in court. The three years are counted from the date of the most recent incident of harassment.

The DHR will investigate the complaint to determine if there is probable cause to believe that sexual harassment has occurred. Probable cause cases receive a public hearing before an administrative law judge. If sexual harassment is found after a hearing, the DHR or the court may award relief, which may include requiring the employer to take action to stop the harassment, to repair the damage caused by the harassment, including reversing an unlawful employment action, and paying of monetary damages, punitive damages, attorneys' 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). Go to [drh.ny.gov/complaint](http://drh.ny.gov/complaint) for more information about filing a complaint with DHR. The website has a digital complaint process that can be completed on your computer or mobile device from start to finish. The complaint form can be downloaded, filled out, and mailed to DHR in addition to the form that can be submitted online. The website also includes contact information for DHR's regional offices across New York State.

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 within 300 days from the most recent incident of harassment. There is no cost to file a complaint with the EEOC. The EEOC also investigates complaints and determines whether there is reasonable cause to believe that discrimination has occurred. If the EEOC determines that the law may have been violated, the EEOC will try to reach a voluntary settlement with the employer. If the EEOC cannot reach a settlement, the EEOC (or the Department of Justice in certain cases) will decide whether to file a lawsuit. The EEOC will issue a Notice of Right to Sue permitting workers to file a lawsuit in federal court if the EEOC closes the charge, is unable to determine if federal employment discrimination laws have been violated or believes that unlawful discrimination occurred but does not file a lawsuit. Individuals may obtain relief in mediation, settlement, or conciliation. In addition, 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. The EEOC can be contacted by calling 1-800-669-4000 (1-800-669-6820 (TTY)), or at their website: [www.eeoc.gov](http://www.eeoc.gov) or via email at [info@eeoc.gov](mailto:info@eeoc.gov) If an

individual files an administrative complaint with New York State Division of Human Rights, DHR will automatically file the complaint with the EEOC to preserve the individual's right to proceed in federal court.

Many localities enforce laws protecting individuals from discrimination, harassment, and retaliation. 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 or discrimination with the New York City Commission on Human Rights. Contact their main office at Law Enforcement Bureau of the NYC Commission on Human Rights, 22 Reade Street, 1<sup>st</sup> 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). If the harassment involves unwanted physical touching, coerced physical confinement or coerced sex acts, the conduct may constitute a crime, and those wishing to pursue criminal charges are encouraged to report such conduct to the local police department.

### **Liability**

Discrimination of any kind, including sexual harassment, is a violation of our policies, is unlawful and may subject NYCM Insurance to liability for the harm experienced by targets of discrimination. Harassers may also be individually subject to liability and any employee who engages in conduct prohibited by this policy, including any supervisor or manager who knew about such conduct but took no action to stop it, may be subject to disciplinary action, up to and including discharge, and may also be held personally liable for aiding and abetting such behavior. NYCM does not consider conduct in violation of this policy to be within the course and scope of employment or the direct consequence of the discharge of one's duties. Accordingly, to the extent permitted by law, NYCM reserves the right not to provide a defense or pay damages assessed against employees for conduct in violation of this policy.

### **Conclusion**

This policy outlined above is aimed at providing employees at NYCM Insurance and covered individuals an understanding of their right to a discrimination and harassment free workplace. All employees should feel safe at work. Though the focus of this policy is on sexual harassment and gender discrimination, the New York State Human Rights Law protects against discrimination in several protected classes including a person's race (including traits historically associated with race such as protective hairstyles), creed, color, national origin, citizenship, age, religion, disability (including pregnancy-related conditions), employee's or dependent's reproductive health decision making, sex/gender, sexual orientation, gender identity or expression, transgender status, genetic information, pre-disposing genetic characteristics, military or veteran status, marital or familial status, caregiver status, domestic violence victim status, criminal history, the employee's known relationship or association with any member of a protected class, or any other characteristic protected by applicable federal, state, or local law. The prevention policies outlined above should be considered applicable to all protected classes.