

Sexual Harassment Prevention Policy

Effective Date: October 9, 2018
Supersedes: Sexual Harassment Policy
Policy Review Date: 1 year
Issuing Authority: Research Foundation President
Responsible Party: Vice President for Human Resources
Contact Information: 518.434.7080 , HRA@rfsuny.org

Reason for Policy

The Sexual Harassment policy is established to ensure a work environment that is free of Sexual Harassment, which is a form of workplace discrimination. The Research Foundation ("RF") does not tolerate any form of Sexual Harassment. All employees are required to work in a manner that prevents Sexual Harassment in the workplace. This policy is one component of the RF's commitment to a discrimination-free workplace environment.

Statement of Policy

This policy applies to all employees, applicants for employment, paid or unpaid interns, contractors, students, those with RF responsibilities or those who carry out business in the name of the RF, and persons conducting business with the RF.

The RF does not tolerate Sexual Harassment. Sexual Harassment is unlawful, contrary to our values, and is a form of employee misconduct. Any employee or individual covered by this policy who is found to have engaged in Sexual Harassment or Retaliation will be subject to remedial and/or disciplinary action, up to and including termination of employment.

RF Board Members, employees (including managers and supervisors), and those with RF responsibilities, who engage in Sexual Harassment or knowingly allow such behavior to continue, will be penalized pursuant to the [RF's Progressive Discipline Policy](#).

The RF will conduct a prompt, thorough, and confidential investigation that ensures due process for all parties whenever a complaint is received alleging Sexual Harassment, or if it is otherwise known that possible Sexual Harassment is occurring. Effective corrective action will be taken whenever Sexual Harassment is found to have occurred. RF Board Members, employees, and those with RF responsibilities, are required to cooperate with an internal investigation of Sexual Harassment, and must be empowered to do so without fear of retaliation.

Employees are encouraged to report any harassment or behaviors that violate this policy. Allegations or reports of Sexual Harassment, or other activities that may involve Improper Conduct or violations of RF policies may be reported to your supervisor, manager, your RF campus human resources office ("RF Campus HR"), your campus diversity office, your RF Operations Manager or Deputy Operations Manager, the RF Central Human Resources Office ("RF Central HR"), the Office of General Counsel, the Office of Internal Audit, the Office of Compliance Services, or anonymously through the [RF's Ethics Hotline](#).

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Managers and supervisors are required to report any complaint that they receive, or any harassment that they observe, to the Operations Manager, RF Central HR or their RF Campus HR.

Retaliation is prohibited. No person covered by this Policy shall be subject to any adverse employment action including being discharged from employment, disciplined, or discriminated against because the employee reports an incident of Sexual Harassment, provides information, or otherwise assists in any investigation of a Sexual Harassment complaint. The RF will not tolerate retaliation against anyone who complains or provides information about suspected Sexual Harassment. Any employee, paid or unpaid intern, student, or Non-Employee who believes they have been subjected to such retaliation should inform a supervisor, manager, Operations Manager, RF Central HR or RF Campus HR. The Retaliation provisions in this Policy, however, are not intended to protect persons making intentionally false charges of harassment.

To the extent this policy conflicts with other RF policies and procedures, this policy governs with respect to complaints of Sexual Harassment as defined by this policy (subject to the applicable exceptions set forth herein). Other allegations of wrongdoing are governed by the RF's [Equal Employment Opportunity and Antidiscrimination Policy](#), [Fraud & Whistleblower Policy](#), [Non Harassment in the Workplace Policy](#), [Resolving Discrimination, Harassment and Retaliation Complaints Procedure](#), [Solving Problems in the Workplace Policy](#), and the [Progressive Discipline Policy](#).

Reporting Sexual Harassment

Preventing Sexual Harassment is everyone's responsibility.

The RF cannot prevent or remedy Sexual Harassment unless it knows about it. Any employee, paid or unpaid intern, student, or nonemployee who has been subjected to behavior that may constitute Sexual Harassment is encouraged to report such behavior to a manager, supervisor, or their RF Campus HR. If the employee does not feel comfortable discussing his or her concerns with their manager, supervisor or RF Campus HR, or has already done so and the discrimination or retaliation persists, the employee should contact RF Central HR, the Vice President for Human Resources, or the Chief Compliance Officer. Employees may also utilize the [RF's Ethics Hotline](#) to anonymously report Sexual Harassment or other misconduct.

Reports of Sexual Harassment may be made verbally or in writing. A form for submission of a written complaint is linked to this Policy ("Complaint Form"), and all employees are encouraged, but not required, to use the [Complaint Form](#) to submit a written complaint of Sexual Harassment. Employees who are reporting Sexual Harassment on behalf of other employees should note that it is on another employee's behalf.

Employees may also choose to pursue legal remedies with the New York State Division of Human Rights or in New York State Supreme Court, with the United States Equal Employment Opportunity Commission, or with a local agency, such as the New York City Commission on Human Rights. Remedies may include, but are not limited to, monetary damages, attorneys' fees, civil fines, and other equitable relief.

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

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Sexual Harassment is occurring, are required to report such suspected Sexual Harassment to their Operations Manager, RF Central HR or RF Campus HR. Verbal allegations are serious and deserve the same treatment as those submitted in writing. Supervisors and Managers who receive a verbal allegation or report of Sexual Harassment are required to report the allegation.

Supervisors and managers must notify RF Campus HR or RF Central HR if any of the individuals involved are funded by a National Science Foundation ("NSF") grant or cooperative agreement.

In addition to being subject to discipline for engaging in sexually harassing conduct, 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.

Allegations of Sexual Assault

Immediately report allegations or complaints of Sexual Assault to local law enforcement and then to the Office of Compliance Services at RF Central Office. The Office of Compliance Services will investigate allegations of Sexual Assault pursuant to the [RF Fraud and Whistleblower Policy](#). Complaints of Sexual Assault should not be handled by Employee Relations or RF Campus HR personnel at campus locations, and if made aware of such complaints, Employee Relations or RF Campus HR employees should immediately notify the Central Office Compliance Office for investigation.

Complaint and Investigation of Sexual Harassment

All complaints or information about suspected Sexual Harassment involving RF Board Members, employees, and those with RF responsibilities will be investigated, whether reported in verbal or written form. Investigations of any complaint, information, or knowledge of suspected Sexual Harassment will be prompt and thorough. The RF will protect the confidentiality of the harassment complaint and investigation to the extent possible. All persons involved, including complainants, witnesses, and alleged harassers will be accorded due process to protect their rights to a fair and impartial investigation. RF Board Members, employees, and those with RF responsibilities, 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.

Where there is a discrimination, harassment, or Retaliation complaint against an individual who is a Non-Employee, or where there is more than one employer involved, the RF may, at its discretion, refer the complaint to the appropriate employer for review/investigation.

Investigations involving RF employees, Board Members and others with RF responsibilities may vary from case to case, but should include the following steps:

- Upon receipt of complaint, take any interim actions, as appropriate;
- Request and review all relevant documents and information;
- Interview all parties involved, including relevant witnesses;
- Keep relevant documents and information in a secure and confidential location;
- Promptly notify the individual who complained and the individual(s) about whom the complaint was made of the final determination and implement corrective actions, as appropriate;

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- Determine whether any individuals involved are funded by an NSF award or cooperative agreement to determine whether there are any reporting requirements.
- If a complaint alleges Sexual Assault, report to local law enforcement and to the Office of Compliance Services at Central Office for investigation pursuant to the [Fraud and Whistleblower Policy](#).

RF Campus HR must be available to respond to questions regarding the policy on Sexual Harassment.

Training

All employees at all operating locations must complete Sexual Harassment training annually and new hires must complete Sexual Harassment training as soon as possible after hire.

Responsibilities

The following table outlines the responsibilities for compliance with this Policy:

Responsible Party	Responsibility
Operations Manager	Responsible for ensuring that all RF employees and their supervisors are informed of the policy on Sexual Harassment. The OM is responsible for notifying RF Central HR of Sexual Harassment complaints.
Campus President or Designee	Overall responsibility and authority for their location's affirmative action efforts regarding Sexual Harassment.
All Employees	Report incidents of Sexual Harassment to a manager, supervisor, RF Central HR, RF Campus HR, or other appropriate contact as outlined in the "Reporting Sexual Harassment" section above.
Supervisors and Managers	Report complaints of Sexual Harassment, observations of any sexually harassing behavior, or suspicions that Sexual Harassment is occurring to RF Central HR, RF Campus HR, or other appropriate contact as outlined in the "Reporting Sexual Harassment" section above. Notify RF campus HR or RF Central HR if any of the individuals involved are funded by an NSF award.
RF Campus Human Resources Office	Daily responsibility and authority for the location's efforts regarding Sexual Harassment. Notify Central Office of complaints of Sexual Harassment. Assist in investigating complaints of Sexual Harassment involving RF employees or others with RF responsibilities. Notify RF Central HR if any individuals are funded by an NSF award. Notify local law enforcement and the Office of Compliance Services at Central Office of allegations involving Sexual Assault.
Human Resources at Central Office	Ensure that each operating location is complying with the requirements described in this policy. Provide guidance in conducting investigations.
Central Office of Compliance Services	Assist in conducting investigations of Sexual Harassment received through the RF's Ethics Hotline . Investigate allegations of Sexual Assault pursuant to Fraud and Whistleblower Policy .

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Definitions

Improper Conduct-

A deliberate act or failure to act with the intention of obtaining an unauthorized benefit or misleading an RF representative, government official, vendor or other entity doing business with the RF. Examples of such conduct include, but are not limited to:

- Commission of any crime or offense, including forgery or alteration of documents;
- Unauthorized alteration or manipulation of computer files;
- Fraudulent or otherwise deceptive financial reporting;
- Pursuit of a benefit or advantage in violation of the RF's Conflict of Interest Policy;
- Unauthorized disclosure of confidential or proprietary information;
- Misappropriation, unauthorized destruction, removal, or inappropriate use of the resources of the RF, its sponsors, or business partners. Resources includes supplies, equipment or other assets;
- Authorizing or receiving compensation for goods not received or services not performed;
- Any intentional or deliberate activity which results in violation of sponsor terms involving sponsor funds or sponsor reporting;
- Misconduct in science, misconduct in research, or other academic misconduct;
- Authorizing or receiving compensation for hours not worked; and
- Intentional violations of an RF policy.

Non-Employee-

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 State University of New York ("SUNY") employees and persons providing equipment repair, cleaning services, or any other services provided pursuant to a contract with the employer.

Sexual Assault-

Is defined as unwanted physical touching of a sexual nature, including but not limited to rape, coerced physical confinement, coerced sex acts, sexual battery, molestation, or attempts to commit these assaults.

Sexual Harassment-

A form of sex discrimination and is unlawful under federal, state, and some local laws, including the New York Human Rights Law (codified as N.Y. Executive Law, Art. 15 § 290 et seq.), Title VII of the 1964 Civil Rights Act (codified as 42 U.S.C. § 2000e et seq.), and the New York City Human Rights Law. Sexual Harassment includes harassment on the basis of sex, sexual orientation, gender identity, and the status of being transgender.

Sexual Harassment includes unwelcome conduct that 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 complaining individual is not the intended target of Sexual Harassment;
- Such conduct is made either explicitly or implicitly a term or condition of employment; or
- Submission to or rejecting of such conduct is used as the basis for employment decisions affecting an individual's employment.

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A sexually harassing hostile work environment consists of words, signs, jokes, pranks, videos, photographs, 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 images, 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 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 called "quid pro quo" harassment.

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 conduct of a sexual nature such as:
 - Intentional or unintentional physical contact which is sexual in nature, such as touching, pinching, patting, grabbing, brushing against another employee's body, or poking another employees' body;
 - Rape, sexual battery, molestation, or attempts to commit these assaults.
- Unwanted sexual advances or 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 jobs 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.
- Sex stereotyping occurs when conduct or personality traits are considered inappropriate simply because they may not conform to other people's ideas or perceptions about how individuals of a particular sex should act or look.
- Sexual or discriminatory displays or publications anywhere in the workplace, such as:
 - Displaying pictures, posters, calendars, graffiti, objections, promotional material, reading materials, or other materials such as videos or audio recordings that are sexually demeaning or pornographic. This includes such sexual displays on workplace computers or cell phones and sharing such displays in the workplace.
- Hostile actions taken against an individual because of the 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, property, or otherwise interfering with the individual's ability to do the job;
 - Sabotaging an individual's work;
 - Bullying, yelling, name-calling.

Sexual Harassment can occur between any individuals, regardless of their sex or gender. This policy applies to 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.

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Unlawful Sexual Harassment is not limited to the physical workplace itself. It can occur while employees are traveling for business or at RF-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.

Retaliation –

Unlawful retaliation can be any action that would keep a worker from coming forward to make or support a Sexual Harassment claim or participate in an investigation into a Sexual Harassment claim. Adverse action need not be job-related or occur in the workplace to constitute unlawful retaliation.

Such retaliation is unlawful under federal, state and some local laws, such as the New York City Human Rights 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 an anti-discrimination agency;

- testified or participated in an investigation (internal or external) or proceeding involving sexual or other harassment;
- 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.

Related Information

[Equal Employment Opportunity and Antidiscrimination Policy](#)

[Fraud & Whistleblower Policy](#)

[Non Harassment in the Workplace Policy](#)

[Resolving Discrimination, Harassment and Retaliation Complaints Procedure](#)

[Solving Problems in the Workplace Policy](#)

[Progressive Discipline Policy](#)

Forms

[Complaint Form](#)

Change History

Date	Summary of Change
October 9, 2018	Updated policy to include detailed information on Sexual Harassment, retaliation and complaint procedure pursuant to NYS requirements that became effective October 9, 2018.