

Viable Options

Sexual Harassment Prevention Policy

Viable Options is committed to maintaining a workplace free from all forms of discrimination. Sexual harassment is a form of workplace discrimination, and all persons connected to the Organization are required to conduct themselves in a manner that prevents its occurrence in the workplace. This policy is one component of our commitment to a safe and healthy work environment. Sexual harassment is against the law¹ and all employees are urged to report potential incidents of such harassment by filling out the Viable Options Sexual Harassment Complaint Form. Employees can also file a complaint with a government agency or in court under federal, state, or local anti-discrimination laws.

Prevention Policy Summary

1. This policy applies to all employees, agents, and representatives (whether paid or unpaid) of Viable Options, as well as independent contractors and all persons connected to the Organization. In the remainder of this document, the term “employees” refers to this collective group.
2. Sexual harassment will not be tolerated in any form. Any employee or individual covered by this policy who engages in sexual harassment or retaliation for a complaint of such harassment will be subject to remedial and/or disciplinary action, up to and including immediate termination and due legal process.
3. No person covered by this policy shall be subject to adverse action for reporting or providing information related to an incident of sexual harassment, or for otherwise assisting in the investigation of a sexual harassment complaint. Viable Options will not tolerate such retaliation against anyone who, in good faith, reports or provides information regarding suspected sexual harassment. Any employee of Viable Options who retaliates against anyone involved in a sexual harassment investigation will be subject to disciplinary action, up to and including immediate termination and due legal process. Employees who believe they have been subject to such retaliation should immediately inform the CEO or board chair and may also seek relief in other available forums, as explained below in the section on Legal Protections.
4. Sexual harassment is offensive and unlawful, and is a flagrant violation of Viable Options’ policies and corporate culture. In addition, it may subject Viable Options to liability for harm to targets of sexual harassment. Harassers may also be individually subject to liability. Employees of every level, including supervisors, department heads, or executive staff who engage in sexual harassment, or

¹ While this policy specifically addresses sexual harassment, harassment and/or discrimination against persons of all protected classes is also 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.

who allow such behavior to continue, will be appropriately penalized for such misconduct.

5. Viable Options will conduct a prompt and thorough investigation that ensures due process for all parties whenever a complaint of sexual harassment is received or possible sexual harassment becomes apparent by other means. These investigations will be kept confidential to the extent possible, and effective corrective action will be taken wherever sexual harassment is found to have occurred. All employees, including supervisory and executive staff, are required to cooperate with any internal investigation related to potential sexual harassment.
6. Employees are encouraged to report all incidents of harassment or other behaviors which may violate this policy. Viable Options provides all employees a complaint form for the purposes of filing such reports, which is accessible in PDF form on the Viable Options Employee Resources page (viableoptions.org/employee-resources).
7. Supervisors are required to immediately report any complaint that they receive regarding an incident or potential incident of sexual harassment—or any such behavior that they observe and/or become aware of—directly to the CEO or the board chair.
8. This policy applies to all employees, agents, representatives (whether paid or unpaid), or non-employees, and must be strictly followed and upheld by all of the above. To ensure full clarity and awareness, this policy will be provided to all employees upon hiring, and will be accessible in PDF form on the Viable Options Employee Resources page (viableoptions.org/employee-resources).

What Is Sexual Harassment?

Sexual harassment is a form of sex discrimination which is unlawful under federal, state, and local law, and which 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 objectively 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.
- Submission to or rejection of such conduct is used as the basis for decisions affecting an individual's employment.

Sexual harassment includes, but is not necessarily 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 their sex. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit or derogatory statements, or sexually discriminatory remarks 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 related to employment. This is also called "quid pro quo" harassment.

An employee who feels they have been sexually harassed should immediately report the incident, in order for violations of this policy to be promptly and appropriately dealt with. All such confirmed conduct can and will be addressed in accordance with this policy.

Examples of Sexual Harassment

The following describes types of behavior that may qualify as unlawful sexual harassment, all of which 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 any comments about a person's sexuality or sexual experience which serve to create a hostile work environment
- Sex stereotyping (verbal or written) on the basis of a person's behaviors deviating from common ideas or perceptions regarding individuals of that particular sex
- Sexually discriminatory displays or publications in the workplace, such as:

- Pictures, posters, calendars, graffiti, objects, promotional materials, reading materials, or other materials that are sexually demeaning or pornographic, including such sexual displays on workplace computers or cell phones
- Hostile actions taken against an individual because of that individual's sex, sexual orientation, gender identity, or 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 their job responsibilities
 - Sabotaging an individual's work
 - Bullying, yelling, and/or name-calling

Who Can Be Involved in Sexual Harassment?

Sexual harassment can occur between any individuals, regardless of their sex or gender. New York State Law protects employees, agents, representatives (whether paid or unpaid), and non-employees, including independent contractors, and those employed by companies contracted to provide services in the workplace. A perpetrator of sexual harassment can be a superior, subordinate, coworker, or anyone in the workplace, including an independent contractor, contract worker, vendor, client, or visitor.

Where Can Sexual Harassment Occur?

Unlawful sexual harassment is not limited to the physical workplace itself. It can occur while employees are traveling for business or at employer sponsored events or parties. Calls, texts, emails, and social media usage by employees can constitute unlawful workplace harassment, even if they occur away from the workplace premises, on personal devices, or during non-working hours.

What Is Unlawful Retaliation?

Unlawful retaliation can be any action which could discourage a worker from coming forward to make or support a sexual harassment claim. Adverse action need not be job-related or occur in the workplace to constitute unlawful retaliation (e.g. threats of physical violence outside of working hours). Such retaliation is unlawful under federal, state, and local law, and the New York State Human Rights Law protects any individual who has engaged in "protected activity", such as:

- Filing a complaint of sexual harassment, either internally or with an anti-discrimination agency

- Testifying or assisting in a proceeding involving sexual harassment under the Human Rights Law or other applicable anti-discrimination law
- Opposing sexual harassment by making a verbal or informal complaint to the CEO or Board Chair
- Reporting that another employee has been sexually harassed
- Encouraging a fellow employee to report an incident of harassment

Even if the alleged harassment does not turn out to rise to the level of a violation of law, the reporting individual is protected from retaliation if the person had a good faith belief that the practices were unlawful. However, the retaliation provision does not protect persons making intentionally false or unfounded charges of harassment.

Reporting Sexual Harassment

Preventing sexual harassment is everyone's responsibility. We cannot prevent or remedy such behavior if it has not come to our attention. Any employee who has been subjected to behavior that may constitute sexual harassment, or who has witnessed or become aware of such behavior is admonished to promptly report it to the CEO or board chair.

Reports of sexual harassment may be made verbally or in writing. A form for submitting a written complaint is hosted in PDF form on the Viable Options Employee Resources page (viableoptions.org/employee-resources).

An employee who is reporting sexual harassment on behalf of another employee should do so via the complaint form and simply make note that it is on the behalf of another employee.

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

Supervisors who receive a complaint or information related to suspected sexual harassment, observe what may be designated as such, or for any reason suspect that sexual harassment is occurring, are required to immediately report the situation to the CEO or board chair.

In addition to being subject to discipline if engaging in sexual harassment themselves, supervisors will be also be subject to discipline for failing to report suspected sexual harassment, for knowingly allowing sexual harassment to continue, or for engaging in retaliation for reports of such conduct.

Complaint and Investigation of Sexual Harassment

All complaints and/or information (whether written or verbal) related to an incident of sexual harassment will be investigated. These investigations will be prompt, thorough, commenced immediately upon receipt of such a complaint or report, and kept strictly confidential to the extent possible. All persons involved, including complainants, witnesses, and alleged harassers will be accorded due process, as outlined below, to protect their rights to a fair and impartial investigation.

Any employee may be required to cooperate as needed in an investigation of suspected sexual harassment. Viable Options will not tolerate retaliation against employees who file complaints, support another's complaint, or participate in an investigation regarding a violation of this policy.

While the process may vary from case to case, investigations will be done in accordance with the following steps:

- Upon receipt of a complaint, the Executive Team will conduct an immediate review of the allegations, and take any necessary interim actions (e.g. instructing the respondent to refrain from communications with the complainant). If the complaint is verbal, the individual will be encouraged to complete and submit the Viable Options Sexual Harassment Complaint Form. If he or she refuses, a copy of the form will be prepared for them by a member of the executive staff based on the verbal reporting
- If documents, emails, or phone records are relevant to the investigation, steps will be taken to obtain and preserve them
- Relevant documents, including all electronic communications, will be requested and reviewed
- All parties involved, including any relevant witnesses, will be interviewed
- A written documentation of the investigation shall be created, containing the following:
 - A list of all documents reviewed, along with a detailed summary of each
 - A list of names for those interviewed, along with a detailed summary of their statements
 - A detailed timeline of events
 - A summary of prior relevant incidents

- The basis for the decision and final resolution of the complaint, together with any corrective action(s) taken
- All written documentation and associated documents will be kept in a secure and confidential location and accessed solely by members of the Executive Team, the CEO, and the board chair
- The individual who reported the incident(s) and the individual(s) about whom the complaint was made will be promptly notified of the final determination, and corrective actions will be implemented as detailed in the written documentation
- The reporting individual will be informed of their right to file a complaint or to charge externally as outlined in the next section

Legal Protections and External Remedies

Sexual harassment is not only prohibited by Viable Options, but is also prohibited by federal, state, and local law.

Aside from the internal process at Viable Options, 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, individuals may also seek the legal advice of an attorney.

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 an HRL complaint in state court.

Complaining internally to Viable Options does not extend the time provided to file with DHR or in court. The one year or three years is counted from the 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 do so.

DHR will investigate the complaint and determine whether there is probable cause to believe that sexual harassment has occurred. Probable cause cases are then forwarded to a public hearing before an administrative law judge. If sexual harassment is found to have occurred, DHR has the power to award relief, which varies, but may include requiring the individual's employer to take action to stop the harassment, or to 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 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 at no cost. The EEOC will then investigate the complaint and determine whether there is reasonable cause to believe that discrimination has occurred, at which point the EEOC will issue a Right to Sue letter permitting the individual to file a complaint in federal court.

The EEOC does not hold hearings or award relief, but may take other action, including pursuing cases in federal court on behalf of complaining parties. Federal courts may award remedies if discrimination is found to have occurred. In general, private employers must have at least 15 employees to come within the jurisdiction of the EEOC.

An employee alleging discrimination at work can file a "Charge of Discrimination." The EEOC has district, area, and field offices where complaints can be filed. Contact the EEOC by calling 1-800-669-4000 (TTY: 1-800-669-6820), visiting their website at eeoc.gov, or via email at info@eeoc.gov.

If an individual filed an administrative complaint with DHR, DHR will then file the complaint with the EEOC to preserve the right to proceed in federal court.

Local Protections

To report a claim of sexual harassment outside the workplace or law enforcement, an employee may contact the Clinton County Human Rights Commission at the Clinton County Government Center (c/o

Legislative Offices: Box 21), 137 Margaret Street, Suite 208, Plattsburgh, NY 12901. The Clinton County Human Rights Commission can also be reached via phone at (518) 565-4600.

Contact the Local Police Department

If the alleged harassment involves unwanted physical touching, coerced physical confinement, or coerced sex acts, the conduct may constitute a crime. In such cases, promptly contact the local police department.