

Sexual Harassment Prevention Policy

Introduction

The Brookhaven Free Library (hereinafter the “Library”) is committed to maintaining a workplace free from sexual harassment. Sexual harassment is a form of workplace discrimination. The Library has a zero-tolerance policy for any form of sexual harassment, and all employees are required to work in a manner that prevents sexual harassment in the workplace. This Policy is one component of the Library’s commitment to a discrimination-free work environment.

Sexual harassment is against the law. All employees have a legal right to a workplace free from sexual harassment, and employees can enforce this right by filing a complaint internally with the Library, or with a government agency or in court under federal, state or local antidiscrimination laws.

Policy:

1. The Library’s Policy applies to all employees, applicants for employment, interns, whether paid or unpaid, contractors and persons conducting business with the Library, regardless of immigration status. The term “employee” in this policy refers to this collective group.

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 including, but not limited to, counseling, suspension, or termination.

3. Retaliation Prohibition: No person covered by this Policy shall be subject to adverse employment action including being discharged, disciplined, discriminated against, or otherwise subject to adverse employment action because the employee reports an incident of sexual harassment, provides information, or otherwise assists in any investigation of a sexual harassment complaint. The Library has a zero-tolerance policy for 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. Any employee, paid or unpaid intern, or non-employee, working in the workplace who believes they have been subject to such retaliation should inform a supervisor, manager, or the Library Director. Any employee, paid or unpaid intern, or non-employee who believes they have been a victim of such retaliation may also seek relief in other available forums, as explained below in the section on Legal Protections.

4. Sexual harassment is offensive, is a violation of our policies, is unlawful, and may subject the Library to liability for harm to targets of sexual harassment. Harassers may also be individually subject to liability. Employees of every level who engage in sexual harassment, including managers and supervisors who engage in sexual harassment or who allow such behavior to continue, may be penalized for such misconduct.

5. The Library will conduct a prompt, thorough and, to the extent feasible, confidential investigation that ensures due process for all parties, whenever management receives a complaint about sexual harassment, or otherwise knows of possible sexual harassment occurring. Effective corrective action will be taken whenever sexual harassment is found to have occurred. All employees, including managers and supervisors, are required to cooperate with any internal investigation of sexual harassment.

6. All employees are encouraged to report any harassment or behaviors that violate this policy. The Library will provide all employees a complaint form for employees to report harassment and file complaints.

7. Managers and supervisors are required to report any complaint that they receive, or any harassment that they observe or become aware of to the Library Director.

8. This policy applies to all employees, paid or unpaid interns, and non-employees and all must follow and uphold this policy. This policy must be provided to employees upon hiring and shall be posted prominently in all work locations.

Sexual Harassment Prevention Team

The Library shall annually appoint the following members to its Sexual Harassment Team:

- Title IX Coordinator: This person shall be responsible for coordinating compliance efforts.
- Investigator: This person investigates formal complaints, and may also serve as the Title IX Coordinator.
- Facilitator: This person oversees the informal resolution process of a complaint if both parties agree to this process.
- Decision-Maker: This person makes a determination after the investigation is complete and the entire record has been reviewed.
- Appellate Decision-Maker: This person is authorized to make a determination upon an appeal.

The Title IX Coordinator and Investigator shall be an employee and may be the same person. The Facilitator, Decision-Maker, and Appellate Decision-Maker need not be an employee, but cannot be the person appointed as the Title IX Coordinator or Investigator.

What Is “Sexual Harassment”?

Sexual harassment is a form of sex 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 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 including, but 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, 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 also called "quid pro quo" harassment.

Any employee who feels harassed should report so that any violation of this policy can be corrected promptly. Any harassing conduct, even a single incident, can be addressed under this policy.

"Sexual Violence" means physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent. A person may be incapable of giving consent due to age, drug or alcohol use, or an intellectual or other disability. Sexual violence includes but is not limited to, acts such as rape, sexual assault, sexual battery and sexual coercion. All such acts of sexual violence are forms of sexual harassment.

"Dating Violence" means violence committed by a person (A) who is or has been in social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) the length of the relationship; (ii) the type of relationship; and (iii) the frequency of interaction between the persons involved in the relationship.

"Stalking" means engaging in a course of conduct directed at a specific person that would cause a reasonable person to (A) fear for his or her safety or the safety of others; or (B) suffer substantial emotional distress.

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 employees' 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, 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 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, 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?

Sexual harassment can occur between any individuals, regardless of their sex or gender. State and federal law protects employees, paid or unpaid interns, and non-employees, including independent contractors, and those employed by companies contracting to provide services in the workplace. A perpetrator of sexual harassment can be a superior, a subordinate, a coworker or anyone in the workplace including an independent contractor, contract worker, vendor, client, customer or visitor.

Where can sexual harassment occur?

Unlawful sexual harassment is not limited to the physical workplace itself. It can occur while employees are traveling for business or at Library-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-work hours.

What is "Retaliation"?

Unlawful retaliation can be any action that 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.

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 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.

Reporting Sexual Harassment

Preventing sexual harassment is everyone's responsibility. The Library cannot prevent or remedy sexual harassment unless it knows about it. Any employee, paid or unpaid intern or non-employee who has been subjected to behavior that may constitute sexual harassment is encouraged to report such behavior to a supervisor, manager or the Library Director. Anyone who witnesses or becomes aware of potential instances of sexual harassment should report such behavior to a supervisor, manager or the Library Director and/or a Title IX Compliance Officer.

Reports of sexual harassment may be made verbally or in writing. A form for submission of a written complaint is attached to this Policy, and all employees are encouraged to use this complaint form. Employees who are reporting sexual harassment on behalf of other employees should use the complaint form and note that it is on another employee's behalf. Such report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail.

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, observe what may be sexually harassing behavior or for any reason suspect that sexual harassment is occurring, are required to report such suspected sexual harassment to the Library Director and/or a Title IX Compliance Officer, irrespective of

whether the affected individual files a complaint. If the complaint involves the Library Director, the supervisor/manager must 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 suspected sexual harassment will be investigated, whether that information was reported in verbal or written form. Investigations will be conducted in a timely manner and will be confidential to the extent possible.

An investigation of any complaint, information or knowledge of suspected sexual harassment will be prompt and thorough, and should be completed within 30 days when possible. The investigation will be 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. The Library will not tolerate retaliation against employees who report and/or participate in any investigation.

Investigations will be done in accordance with the following steps to the extent feasible:

A. Initial Procedure

The Title IX Coordinator/Investigator, or designee will conduct a preliminary review when they receive a verbal or written complaint of sexual harassment, or if they observe sexual harassment. If the complaint is oral, the Title IX Coordinator/Investigator, or designee, will encourage the complainant or informant to complete the written complaint form, a copy of which is attached to this Policy. If he or she refuses, the Title IX Coordinator/Investigator, or designee, will prepare a complaint form based on the oral reporting. Except in the case of severe or criminal conduct, the Title IX Coordinator/Investigator or designee should make all reasonable efforts to resolve complaints informally. The goal of informal investigation and resolution procedures is to end the harassment and obtain a prompt and equitable resolution to a complaint. All persons involved in an investigation (complainants, witnesses and alleged harassers) will be accorded due process to protect their rights to a fair and impartial investigation. This investigation shall be prompt and thorough, and shall be completed as soon as possible.

Upon learning of potential sexual harassment, the Title IX Coordinator must promptly contact the complainant confidentially to discuss the availability of supportive measures, consider the complainant's wishes with respect to supportive measures, inform the

complainant of the availability of supportive measures with or without the filing of a formal complaint and explain to the complainant the process for filing a formal complaint. Examples of supportive measures may include, depending on the circumstances and job responsibilities, counseling, added supervision, modifications of work schedules, restrictions on contact between the parties, changes in work locations, leave of absence, and/or increased security and monitoring of certain areas of the Library. The Library also maintains the authority to place an employee on administrative leave, subject to any contractual considerations.

Immediately, but no later than two working days following receipt of a complaint, the Title IX Coordinator/Investigator shall begin an investigation of the complaint according to the following steps:

1. Interview the target and document the conversation. Instruct the target to have no contact or communication regarding the complaint with the alleged harasser. Ask the target specifically what action they want taken in order to resolve the complaint. Refer the target, as appropriate, to staff or appropriate outside agencies for counseling services.
2. Review any written documentation of the harassment prepared by the target. If the target has not prepared written documentation, ask the target to do so, providing alternative formats for individuals with disabilities who may need accommodation. If the complainant refuses to complete a complaint form or written documentation, the Title IX Coordinator/Investigator shall complete a complaint form based on the verbal report.
3. Request, review, obtain and preserve relevant evidence of harassment (e.g., documents, emails, phone records, etc.), if any exist.
4. Interview the alleged harasser regarding the complaint and inform the alleged harasser that if the objectionable conduct has occurred, it must cease immediately. Document the conversation. Provide the alleged harasser an opportunity to respond to the charges in writing. Inform the harasser that he/she is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the investigation process.
5. Instruct the alleged harasser to have no contact or communication regarding the complaint with the target and to not retaliate against the target. Warn the alleged harasser that if they make such contact with or retaliate against the target, they will be subject to immediate disciplinary action.
6. Interview any witnesses to the complaint. Where appropriate, obtain a written statement from each witness. Caution each witness to keep the complaint and their statement confidential. Employees may be required to cooperate as needed in investigations of suspected sexual harassment.
7. Review all documentation and information relevant to the complaint.
8. Where appropriate, suggest mediation as a potential means of resolving the complaint. In addition to mediation, use appropriate informal methods to resolve the complaint, including but not limited to:
 - a. discussion with the accused, informing them of the Library's policies and indicating that the behavior must stop;
 - b. suggesting counseling and/or sensitivity training;
 - c. conducting training for the department in which the behavior occurred, calling attention to the consequences of engaging in such behavior;

- d. requesting a letter of apology to the complainant;
 - e. writing letters of caution or reprimand; and/or
 - f. separating the parties.
9. Involvement and Notification
- b. A determination of responsibility shall be made in writing by a Decision-Maker(s), who is (are) not the Title IX Coordinator or the Investigator, by using the clear and convincing evidence standard to determine whether the alleged harasser is responsible for the alleged conduct. At the conclusion of the investigation, the Title IX Compliance Officer, or designee, will report the findings to the Library Director. Such written determination must be provided to all parties simultaneously. Furthermore, such determination becomes final on either (1) the date that the parties are provided with written determination of the result of the appeal, or (2) if no appeal is filed, the date on which an appeal would no longer be considered timely. If it is found that prohibited sexual harassment has, in fact, occurred, the Title IX Coordinator, or designee, will make a recommendation to the Library Director and appropriate corrective action will be taken.
 - c. The Library will also ensure that all individuals designated as a Title IX Coordinator, Compliance Officer, Investigator, Decision-Maker, and any person facilitating the informal resolution process has received training regarding the definition of sexual harassment and how to conduct an investigation and grievance process.
 - d. The Investigator will report back to both the target and the accused, notifying them in writing, and also in person as appropriate regarding the outcome of the investigation and the action taken to resolve the complaint. The Investigator will instruct the target to report immediately if the objectionable behavior occurs again or if the alleged harasser retaliates against them. The Investigator will notify the target that if they desire further investigation and action, they may request an investigation by contacting the Appellate Decision Maker. The Investigator will also notify the target of their right to contact the U.S. Department of Education's Office for Civil Rights, the U.S. Equal Employment Opportunity Commission, the New York State Division of Human Rights, and/or a private attorney.
10. Create a written documentation of the investigation, kept in a secure and confidential location, containing:
- a. A list of all documentation and other evidence reviewed, along with a detailed summary;
 - b. A list of names of those interviewed along with a detailed summary of their statements;
 - c. A timeline of events;
 - d. A summary of prior relevant incidents, reported or unreported; and
 - e. The final resolution of the complaint, together with any corrective action(s).

If the initial investigation results in a determination that sexual harassment did occur, the Title IX Coordinator/Investigator will promptly notify the Library Director, who will then take prompt disciplinary action in accordance with Library policy and/or state law.

If a complaint received by the Title IX Coordinator/Investigator contains evidence or allegations of serious or extreme harassment, such as criminal touching, quid pro quo (e.g., offering an employment reward or punishment as an inducement for sexual favors), or acts which shock the conscience of a reasonable person, the complaint will be referred promptly to the Library Director. In addition, where the Title IX Coordinator/Investigator has a reasonable suspicion that the alleged harassment involves criminal activity, they must immediately notify the Library Director, who will then contact appropriate law enforcement authorities. Where criminal activity is alleged or suspected by a library employee, the accused employee will be suspended pending the outcome of the investigation, consistent with all contractual or statutory requirements.

Any party who is not satisfied with the outcome of the initial investigation by the Investigator or the Title IX Coordinator may request an investigation to the Library's Title IX Appellate Decision Maker within 30 days.

B. Title IX Appellate Decision Maker Procedure

The Title IX Appellate Decision Maker will promptly investigate and resolve all sexual harassment complaints that are referred by the Title IX coordinator, as well as those appealed following an initial investigation by the Title IX Coordinator. In the event the complaint of sexual harassment involves the Title IX Appellate Decision Maker, the complaint will be filed with or referred to the Board President, who will refer the complaint to a trained investigator not employed by the Library for investigation.

The Appellate-Level Decision Maker investigation should begin as soon as possible but not later than three working days following receipt of the complaint by the Appellate-Level Decision Maker or Board President.

If a Library investigation results in a determination that sexual harassment did occur, prompt corrective action will be taken to end the harassment.

No later than 30 days following receipt of the complaint, the Title IX Appellate Decision -Maker (or in cases involving the Title IX Appellate Decision -Maker, the Board-appointed investigator) will notify the target and alleged harasser, in writing, of the outcome of the investigation. If additional time is needed to complete the investigation or take appropriate action, the Title IX Appellate Decision -Maker or Board-appointed investigator will provide all parties with a written status report within 30 days following receipt of the complaint.

The target and the alleged harasser have the right to be represented by a person of their choice, at their own expense, during sexual harassment investigations and hearings.

C. Title IX Facilitator Procedure

The Library shall offer the opportunity for an informal resolution of a formal complaint so long as both parties give voluntary, informed, and written consent. Such an information resolution shall be conducted by a library-appointed Facilitator, who must be well-trained and unbiased.

Training of Staff

This policy should be posted prominently in all work locations to the extent practical (for example, in a main office, but not an offsite work location). The Library will provide this policy to all employees and will provide this policy to new employees upon hire.

The Director/designee(s) shall affirmatively discuss the topic of sexual harassment with all employees in order to express the Library's condemnation of such conduct and explain the sanctions for harassment. All employees of the Library shall receive training on an annual basis which is interactive, and which includes:

- an explanation of sexual harassment;
- examples of conduct that would constitute unlawful sexual harassment;
- information concerning the federal and state statutory provisions concerning sexual harassment and remedies available to victims of sexual harassment; and
- information concerning employees' rights of redress and all available forums for adjudicating complaints.

The Title IX Coordinator, Investigator, Facilitator, Decision-Maker and Appellate Decision-Maker shall be trained in their roles and responsibilities.

Recordkeeping

All documentation from sexual harassment investigations along with training materials must be maintained for a period of seven (7) years. Additionally, all materials used to train Title IX coordinators, investigators, decision makers, appellate decision makers, and informal resolution process facilitators must be posted on the Library's website.

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 at any time.

New York State Division of Human Rights (DHR)

The Human Rights Law (HRL), codified as N.Y. Executive Law, art. 15, § 290 et seq., applies to employers in New York State with regard to sexual harassment, and protects employees, paid or unpaid interns and non-employees regardless of immigration status. A complaint alleging violation of the Human Rights Law may be filed either with 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 discrimination. 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 discrimination has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If discrimination 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 monetary damages, attorney's fees and civil fines.

DHR's main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, New York 10458, (718) 741-8400, www.dhr.ny.gov

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.

United States Equal Employment Opportunity Commission (EEOC)

The EEOC enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act (codified as 42 U.S.C. § 2000e et seq.). An individual can file a complaint with the EEOC anytime within 300 days from the harassment. There is no cost to file a complaint with the EEOC. The EEOC will investigate the complaint, and determine whether there is reasonable cause to believe that discrimination has occurred, at which point the EEOC will issue a Right to Sue letter permitting the individual to file a complaint in federal court.

The EEOC does not hold hearings or award relief, but may take other action including pursuing cases in federal court on behalf of complaining parties. Federal courts may award remedies if discrimination is found to have occurred.

If an employee believes that he/she has been discriminated against at work, he/she can file a "Charge of Discrimination." The EEOC has district, area, and field offices where complaints can be filed. Contact the EEOC by calling 1-800-669-4000 (1-800-669-6820 (TTY)), visiting their website at www.eeoc.gov 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.

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.

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