



**The Research
Foundation for**

The State University of New York

Sexual Harassment Prevention Policy

Effective Date:	November 1, 2019
Supersedes:	Sexual Harassment Policy dated April 2, 2019
Policy Review Date:	To be reviewed every 1 year from effective date
Issuing Authority:	Research Foundation President
Policy Owner:	Vice President for Human Resources
Contact Information:	518.434.7080 HRA@rfsuny.org

Reason for Policy

The Sexual Harassment Prevention Policy is established to ensure a safe, inclusive, and respectful work environment that is free of Sexual Harassment, and to provide a means to address such misconduct. The Research Foundation ("RF") does not tolerate any form of Sexual Harassment and all employees are required to conduct their 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, those who carry out business in the name of the RF, and third-parties conducting business with the RF.

The RF does not tolerate Sexual Harassment. Sexual Harassment is a form of unlawful workplace discrimination and employee misconduct, and is contrary to our values. Effective corrective action will be taken whenever Sexual Harassment is found to have occurred. RF Board Members, employees, and those with RF responsibilities (collectively "RF employees and representatives"), are required to cooperate with any internal investigation of Sexual Harassment, and should be empowered to do so without fear of retaliation.

Retaliation is unlawful and 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 review or investigation of a Sexual Harassment complaint. This protection from Retaliation is not intended to prohibit supervisors from taking action, including disciplinary action, in the usual scope of their duties and based on legitimate performance related or other non-retaliatory factors. The Retaliation provisions in this Policy are not intended to protect persons making intentionally false complaints of Sexual Harassment and any party who brings such an intentionally false complaint may be subject to disciplinary action.

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 pursuant to the RF's Progressive Discipline Policy.

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](#), [Resolving Discrimination, Harassment and Retaliation Complaints Procedure](#), and the [Progressive Discipline Policy](#).

Reporting Sexual Harassment

The RF encourages all RF employees and representatives, applicants for employment, paid or unpaid interns, contractors, students, and third-parties conducting business with the RF to report any occurrences of Sexual Harassment or Retaliation. 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, RF campus human resources office ("RF Campus HR"), campus diversity office, 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 [Speak Up RF – Ethics Hotline](#).

Individuals should not report suspected or actual Sexual Harassment to any individual suspected of engaging in that conduct, even if that person is identified as an avenue for reporting a complaint. For example, an employee who suspects their supervisor has engaged in a violation of RF Policy should not report their suspicions to their supervisor but should instead report through one of the other channels identified above.

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 RF supervisors and managers who receive a complaint or information about alleged Sexual Harassment, or Retaliation (whether verbal or in writing), observe what may be sexually harassing behavior, or for any reason suspect that Sexual Harassment or Retaliation is occurring, are required to report such suspected Sexual Harassment or Retaliation to their Operations Manager or designee, RF Central HR, RF Office of the General Counsel, or RF Campus HR. The RF will enforce disciplinary actions against supervisory and managerial personnel who fail to report or who knowingly allow Sexual Harassment, Retaliation, or other misconduct covered by this Policy to continue.

Supervisors and managers must also notify RF Campus HR or RF Central HR if a Principal Investigator ("PI") or Co-Principal Investigator ("Co-PI") is accused of violating this Policy and the PI or Co-PI is working under a National Science Foundation ("NSF") funded grant or cooperative agreement.

Complaints of Sexual Harassment will be investigated pursuant to the procedure outlined below. OM's, Deputy OM's, managers, or supervisors who become aware of suspected or improper conduct must not:

- Contact the person suspected to further investigate the matter or demand restitution, unless otherwise directed to do so by RF Central HR or the Office of Compliance Services;
- Discuss the case with outside attorneys, the media, or anyone other than RF Central HR, RF campus HR, the campus diversity office, RF Counsel, Internal Audit, or the Office of Compliance Services; or
- Report the case to an authorized law enforcement officer without first discussing the case with RF Central HR or the Office of Compliance Services, unless an ongoing act threatens the immediate health or safety of staff or facilities as set forth below.

Incidents Involving an Immediate Threat to Health and Safety or Facilities or Sexual Assault

RF employees and representatives experiencing or witnessing an incident that poses an immediate threat to an individual's health or safety, or to RF or campus facilities should immediately contact local law enforcement.

The Office of Compliance Services will investigate allegations of Sexual Assault involving RF employees or representatives as defined by and reported under this Policy pursuant to the RF Fraud and Whistleblower Policy. Complaints of Sexual Assault involving RF employees or representatives should not be handled by Employee Relations, RF Campus HR, or the campus diversity office and if Employee Relations, RF Campus HR, or campus diversity office employees are made aware of such complaints or otherwise suspect a Sexual Assault has occurred, they must immediately notify their Operations Manager or the Office of Compliance Services at RF Central Office.

Operations Managers, supervisors, and managers have an affirmative duty to immediately report allegations of Sexual Assault involving RF employees or representatives to the Office of Compliance Services.

Investigation of Sexual Harassment Allegations

Whenever a complaint is received alleging Sexual Harassment involving RF employees and representatives, whether reported in verbal or written form or if it is otherwise known that possible Sexual Harassment is occurring, the RF will conduct a prompt and thorough investigation in accordance with the procedure outlined below. The RF will protect the confidentiality of the harassment complaint and investigation to the extent possible under the circumstances.

All RF employees and representatives involved, including complainants, witnesses, and alleged harassers will be accorded the right to a fair and impartial investigation. RF employees and representatives may be required to cooperate as needed in an investigation of alleged Sexual Harassment. Retaliation against anyone who participates in any investigation is prohibited.

Where there is a Sexual 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 and Representatives will generally be performed by one of the following: RF campus HR, campus diversity office, the RF Central HR, the Office of Internal Audit, or the Office of Compliance Services. Investigations may vary from case to case, but the office responsible for the investigation should take the following steps:

- Upon receipt of complaint, take any interim actions, as appropriate (e.g., temporarily change schedules or reporting structures, place the alleged harasser on administrative leave pending investigation, if necessary, etc.);
 - If a complaint alleges Sexual Assault, report to the Office of Compliance Services at Central Office for investigation pursuant to the Fraud and Whistleblower Policy;
 - If the complaint involves allegations against a Board Member, immediately refer to the Chair of the Audit Committee for a determination on how to proceed;
 - If the complaint involves allegations against an Officer of the RF, provide notice to the Chair of the Audit Committee and the Chair will provide instruction on how to proceed.
- Determine whether the accused harasser is a PI or Co-PI who is working on an NSF award or cooperative agreement. If so, notify Central Office HR prior to taking any action against the PI or Co-PI, including any interim actions;
- Request and review all relevant documents and information;
- Interview all parties involved, including the complainant, the accused, and all relevant witnesses;
- Keep relevant documents and information in a secure and confidential location;
- Make findings and determinations after gathering and reviewing all relevant documents and information and interviewing relevant parties and witnesses;
- Promptly notify the individual who complained and the individual(s) about whom the complaint was made of the final determination; and
- Implement corrective or remedial actions, as appropriate.

Training

All employees at all operating locations must complete Sexual Harassment training annually. 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 Managers, Deputy Operations Managers	Ensure compliance with this policy. Ensure that all RF employees are informed of the Sexual Harassment Prevention Policy and have completed the required annual training.
Campus President or Designee	Overall responsibility and authority for their location's efforts to comply with the Sexual Harassment Prevention Policy.
All Employees	All employees are required to conduct their work in a manner that prevents Sexual Harassment in the workplace. Report incidents of Sexual Harassment in accordance with 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 in accordance with the "Reporting Sexual Harassment" section above.
RF Campus Human Resources Office	Ensure compliance with this Policy. Daily responsibility and authority for the location's efforts regarding Sexual Harassment prevention and compliance with this Policy. Notify Central Office of Sexual Harassment complaints. Assist in investigating Sexual Harassment complaints involving RF employees or representatives.
RF Central HR	Maintain corporate policy. Provide guidance on all aspects of the policy including conducting investigations. Provide a training solution for all employees and supervisors at all locations.
Central Office of Compliance Services	Assist in conducting investigations of Sexual Harassment reported to the Office of Compliance Services or received through the Speak Up RF- Ethics Hotline . Investigate allegations of Sexual Assault pursuant to Fraud and Whistleblower Policy .

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 that subjects an individual to inferior terms, conditions or privileges of employment.

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.

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, which interfere with the recipient's job performance, or which subjects the recipient to inferior terms, conditions or privileges of employment.

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 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, which subject employees to inferior terms, conditions, or privileges of employment, 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;
 - Denying requests for time off;
 - Giving a negative performance evaluation or imposing disciplinary action;
 - Sabotaging an individual's work;
 - Bullying, yelling, name-calling.

Sexual Harassment can occur between any individuals, regardless of their sex or gender. This can occur even if the derogatory behavior was not intended for a particular individual (i.e. comment directed at employee A (recipient) but offends employee B). 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.

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](#)

[Resolving Workplace Concerns Procedure](#)

[Progressive Discipline Policy](#)

[National Science Foundation Requirements Regarding Findings of Sexual Harassment](#)

Forms

[Complaint Form](#)

Change History

Date	Summary of Change
February 5, 2024	Updated Ethics Hotline name and links
January 7, 2020	Updated policy to reflect recent amendments to New York Human Rights Law.
April 2, 2019	Updated policy to streamline and make consistent with other related policies and procedures.
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.

Feedback

Was this document clear and easy to follow? Please send your feedback to webfeedback@rfsuny.org.

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