



# **VILLAGE OF MENANDS**

## **Sexual Harassment Policy**

# Sexual Harassment Policy for VILLAGE OF MENANDS

## Introduction

Village of Menands is committed to maintaining a workplace free from sexual harassment. Sexual harassment is a form of workplace discrimination. All employees are required to work in a manner that prevents sexual harassment in the workplace. This Policy is one component of the Village of Menands' commitment to a discrimination-free work environment. Sexual harassment is against the law<sup>1</sup> and all employees have a legal right to a workplace free from sexual harassment and employees are urged to report sexual harassment by filing a complaint internally with the Village of Menands. Employees can also file a complaint with a government agency or in court under federal, state, or local anti-discrimination laws.

## Policy:

1. The Village of Menands policy applies to all employees, applicants for employment, interns (whether paid or unpaid), contractors, and persons conducting business with the Village of Menands, regardless of immigration status. In the remainder of this document, the term "employees" 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 (e.g., counseling, suspension, termination).
3. Retaliation Prohibition: No person covered by this Policy shall be subject to adverse action because they report an incident of sexual harassment, provide information, or otherwise assist in any investigation of a sexual harassment complaint. Village of Menands will not tolerate such retaliation against anyone who, in good faith, reports or provides information about suspected sexual harassment. Any employee of the Village of Menands who retaliates against anyone involved in a sexual harassment investigation will be subjected to disciplinary action, up to and including termination. All employees paid or unpaid interns, or non-employees<sup>2</sup> working in the workplace who believe they have been subject to such retaliation should inform a supervisor, manager, Village Clerk, or Mayor. All employees paid or unpaid interns, or non-employees who believe they have been the target of such retaliation may also seek relief in other available forums, as explained in the section on Legal Protections below.
4. Sexual harassment is offensive, is a violation of our policies, is unlawful, and may subject the Village of Menands to liability for harm to targets of sexual harassment. Harassers may also be individually liable. Employees of every level who engage in sexual harassment, including

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<sup>1</sup> While this policy specifically addresses sexual harassment, harassment because of and discrimination against persons of all protected classes is 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.

<sup>2</sup> A non-employee is 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 persons providing equipment repair, cleaning services or any other services provided pursuant to a contract with the employer.

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

5. Village of Menands will conduct a prompt and thorough investigation that ensures due process for all parties whenever management receives a complaint about sexual harassment or otherwise knows of possible sexual harassment occurring. The Village of Menands will maintain the confidentiality of the investigation to the extent possible. 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 Village of Menands will provide all employees with a complaint form for employees to report harassment and file complaints.
7. Managers and supervisors are **required** to report any complaint they receive, or any harassment they observe or become aware of, to the Village Clerk and the Mayor.
8. This policy applies to all employees, paid and unpaid interns, and non-employees, and all must follow and uphold it. This policy must be provided to all employees. It should be posted prominently in all work locations to the extent practicable (for example, in a central office, not an off-site work location) and be provided to employees upon hiring.
9. In compliance with New York State law, the Village of Menands provides annual sexual harassment prevention training to all employees. Participation is mandatory and ensures employees understand their rights, reporting options, and responsibilities in maintaining a harassment-free workplace.

### **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 based on 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 includes, but is not limited to, words, signs, jokes, pranks, intimidation, or physical violence that are sexual 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 that are offensive or objectionable to the recipient, which cause the recipient discomfort or humiliation, and 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 it so that any violation of this policy can be corrected promptly. Any harassing conduct, even a single incident, can be addressed under this policy.

### **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 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 noticeable pressure for unwelcome sexual activities.
- Sexually oriented gestures, noises, remarks, jokes, or comments about a person's sexuality or sexual experience that 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, and/or name-calling.

### **Who can be a target of sexual harassment?**

Sexual harassment can occur between any individuals, regardless of their sex or gender. New York Law protects employees, paid or unpaid interns, and non-employees, including independent contractors and those employed by companies that contract to provide services in the workplace. Harassers can be a superior, a subordinate, a coworker, or anyone in the workplace, including independent contractors, contract workers, vendors, clients, customers, or visitors.

### **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 outside of workplace premises, on personal devices, or during non-work hours.

### **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 (e.g., threats of physical violence outside of work hours).

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 rise to the level of a violation of law, the individual is protected from retaliation if they 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 Village of Menands 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 Village Clerk. Anyone who witnesses or becomes aware of potential instances of sexual harassment should report such behavior to a supervisor, manager, or Village Clerk.

Reports of sexual harassment may be made verbally or in writing. A form for submitting written complaints is attached to this Policy, and all employees are encouraged to use it. Employees who report sexual harassment on behalf of other employees should use the complaint form and note that it is being reported on another employee's behalf.

Employees paid or unpaid interns, or non-employees who believe they have been the target of sexual harassment may also seek assistance in other available forums, as explained in the section on Legal Protections below.

## **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 Village Clerk.

In addition to being subject to discipline if they engage 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 sexual harassment will be investigated, whether that information was reported in verbal or written form. Investigations will be conducted promptly 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, commenced immediately, and completed as soon as possible. The investigation will be kept confidential to the extent possible. All persons involved, including complainants, witnesses, and alleged harassers, will be afforded due process, as outlined below, to ensure their rights to a fair and impartial investigation are protected.

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

While the process may vary from case to case, investigations should be done following the following steps:

- Upon receipt of a complaint, the Village Clerk will conduct an immediate review of the allegations and take any interim actions (e.g., instructing the respondent to refrain from communications with the complainant), as appropriate. If a complaint is verbal, encourage the individual to complete the "Complaint Form" in writing. If they refuse, prepare a Complaint Form based on the verbal report.
- If documents, emails, or phone records are relevant to the investigation, take steps to obtain and preserve them.
- Request and review all relevant documents, including all electronic communications.
- Interview all parties involved, including any relevant witnesses;
- Create a written documentation of the investigation (such as a letter, memo, or email), which contains the following:
  - A list of all documents reviewed, along with a detailed summary of relevant documents;
  - A list of names of those interviewed, along with a detailed summary of their statements;
  - A timeline of events;
  - A summary of prior relevant incidents, reported or unreported, and
  - The basis for the decision and final resolution of the complaint, together with any corrective action(s).
- Keep the written documentation and associated documents in a secure and confidential location.
- Promptly notify the individual who reported and the individual(s) about whom the complaint was made of the final determination and implement any corrective actions identified in the written document.
- Inform the individual who reported the right to file a complaint or charge externally, as outlined in the next section.

### **Legal Protections And External Remedies**

Sexual harassment is not only prohibited by the Village of Menands but is also prohibited by state, federal, and, where applicable, local law.

Aside from the internal process at Village of Menands, 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, you may seek the legal advice of an attorney.

In addition to those outlined below, employees in specific industries may have additional legal protections.

### **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 regarding 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 the New York State Supreme Court.

Complaints with DHR may be filed at 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 the Village of Menands does not extend your time to file with DHR or in court. The one-year or three-year period 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 associated with filing with DHR.

DHR will investigate your complaint and determine whether there is probable cause to believe that sexual harassment has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. Suppose sexual harassment is found after a hearing. In that case, DHR has the power to award relief, which may vary but could include requiring your employer to take action to stop the harassment or redress the damage caused, such as 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. You may call (718) 741-8400 or visit: [www.dhr.ny.gov](http://www.dhr.ny.gov).

Contact DHR at (888) 392-3644 or visit [dhr.ny.gov/complaint](http://dhr.ny.gov/complaint) for more information about filing a complaint. The website offers a downloadable complaint form that can be completed, 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 at any time within 300 days of 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 that 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; however, it may take other actions, including pursuing cases in federal court on behalf of complaining parties. Federal courts may award remedies if discrimination is found to have occurred. Generally, private employers must have at least 15 employees to fall 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 [www.eeoc.gov](http://www.eeoc.gov), or emailing [info@eeoc.gov](mailto:info@eeoc.gov).

If an individual files 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 reside to determine if such a law exists. For example, employees working in New York City can file complaints of sexual harassment with the New York City Commission on Human Rights. Contact the main office of the Law Enforcement Bureau at the NYC Commission on Human Rights, located at 40 Rector Street, 10th Floor, New York, New York. You can also call 311 or (212) 306-7450 or visit [www.nyc.gov/html/cchr/html/home/home.shtml](http://www.nyc.gov/html/cchr/html/home/home.shtml).

### **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 Menands Police Department.



# Village of Menands

## Reporting Sexual Harassment Form

New York State Labor Law requires all employers to adopt a sexual harassment prevention policy that includes a complaint form to report alleged incidents of sexual harassment.

If you believe that you have been subjected to sexual harassment, you are encouraged to complete this form and submit it to your Immediate Supervisor or the Village Clerk. You will not be retaliated against for filing a complaint.

If you are more comfortable reporting verbally or in another manner, your employer should complete this form, provide you with a copy, and follow its sexual harassment prevention policy by investigating the claims as outlined at the end of this form.

**For additional resources, visit: [ny.gov/programs/combating-sexual-harassment-workplace](https://ny.gov/programs/combating-sexual-harassment-workplace)**

### COMPLAINANT INFORMATION

Name: \_\_\_\_\_

Work Address: \_\_\_\_\_ Work Phone: \_\_\_\_\_

Job Title: \_\_\_\_\_ Email: \_\_\_\_\_

Select Preferred Communication Method: ☐Email ☐Phone ☐In person

### SUPERVISORY INFORMATION

Immediate Supervisor's Name: \_\_\_\_\_

Title: \_\_\_\_\_

Work Phone: \_\_\_\_\_ Work Address: \_\_\_\_\_

### COMPLAINT INFORMATION

1. Your complaint of Sexual Harassment is made about:

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Work Address: \_\_\_\_\_ Work Phone: \_\_\_\_\_

Relationship to you: ☐Supervisor ☐Subordinate ☐Co-Worker ☐Other

2. Please describe what happened and how it is affecting you and your work. Please use additional sheets of paper if necessary and attach any relevant documents or evidence.

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3. Date(s) sexual harassment occurred: \_\_\_\_\_

Is the sexual harassment continuing? ☐Yes ☐No

4. Please list the name and contact information of any witnesses or individuals who may have information related to your complaint:

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*The last question is optional but may help the investigation.*

5. Have you previously complained or provided information (verbal or written) about related incidents? If yes, when and to whom did you complain or provide information?

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If you have retained legal counsel and would like us to work with them, please provide their contact information.

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Signature: \_\_\_\_\_

Date: \_\_\_\_\_

## **Instructions for Employers**

If you receive a complaint about alleged sexual harassment, follow your sexual harassment prevention policy.

An investigation involves:

- Speaking with the employee
- Speaking with the alleged harasser
- Interviewing witnesses
- Collecting and reviewing any related documents

While the process may vary from case to case, all allegations should be investigated promptly and resolved as quickly as possible. The investigation should be kept confidential to the extent possible.

Document the findings of the investigation and the basis for your decision, along with any corrective actions taken, and notify the employee and the individual(s) against whom the complaint was made. This may be done via email.